



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, November 15, 2023

Carver County Government Center, 602 East 4th Street, Chaska, MN 7:00 p.m.

Approved \_\_\_\_\_

#### 1. CALL TO ORDER

##### A. ROLL CALL AND ELECTION OF OFFICERS

On Wednesday, November 15, 2023, at 7:00 PM CST, in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Barisonzi called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD).

President Barisonzi asked for the roll call to be taken. The following Managers were present: Manager Laura Amundson, President Joseph Barisonzi, Manager Jesse Hartmann, Manager Theresa Kuplic and Manager Lauren Salvato. In addition, the following attended the meeting in-person: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Consultant; John Kolb, Rinke Noonan Attorneys at Law, LMRWD Legal Counsel, and Eric Evenson, resident.

Manager Ben Burnett, Prior Lake Spring Lake Watershed District, and Scott County Commissioner Jody Brennan, attended the meeting virtually.

#### 2. APPROVAL OF THE AGENDA

President Barisonzi introduced this item.

**Manager Kuplic made a motion to approve the agenda with the deletion from the Consent Agenda of the invoice from TimerSaver Off Site Secretarial for preparation of the October 18, 2023, meeting minutes and Item 4. J. Authorize removal of Manager Hartmann and addition of President Barisonzi as signatory to LMRWD financial accounts. Manager Salvato seconded the motion. Upon a vote being taken the motion carried unanimously.**

#### 3. CITIZEN FORUM

Eric Evenson, 223 Carver Creek Place, Carver, came forward and shared that he is in attendance this evening to listen and hear about what is going on with the proposed levee, as well as the One Watershed One Plan for the Lower Minnesota River East. He encouraged the Board to take on a leadership role in the One Watershed One Plan. He noted that he has not seen the issues with sedimentation downstream or recreational use of the river being addressed in the plan. He stated that this is an opportunity that does not come around often. He recommended that the Plan should address the many issues identified in other studies, such as the MN River TMDL and WRAPS.

**4. CONSENT AGENDA**

President Barisonzi introduced the item.

- A. Approve Minutes October 18, 2023, Regular Meeting minutes**
- B. Receive and file October 2023 Financial Report**
- C. Approval of Invoices for payment**
  - i. Clifton Larson Allen (CLA) - Financial services through October 2023**
  - ~~**ii. TimeSaver Off-Site Secretarial – Preparation of October 2023 meeting minutes**~~
  - iii. Rinke Noonan, Attorneys at Law – October 2023 Legal Services**
  - iv. Daniel Hron – December 2023 office rent**
  - v. US Bank Equipment Finance – November 2023 payment on copier lease**
  - vi. Young Environmental Consulting Group, LLC – October 2023 technical, and Education and Outreach services**
  - vii. Naiad Consulting, LLC – October 2023 administrative services, mileage, and expenses**
  - viii. 106 Group – October 2023 services related to Area #3**
  - ix. 106 Group – October 2023 services related to Vernon Avenue**
  - x. Bolton & Menk – September 2023 services related to Vernon Avenue**
  - xi. WSB – Property acquisition services for Area #3**
  - xii. Scott County SWCD – Q3 2023 monitoring, TACS & Education Services**
  - xiii. Metropolitan Council Environmental Services – 2023 Ike’s Creek monitoring services**
  - xiv. HDR Engineering – website updates and maintenance**
  - xv. Newman Sign, Inc. – Fabrication of Riley Creek Signs**
  - xvi. Barr Engineering Co. – October 2023 engineering services related to Area #3**
  - xvii. Inter-Fluve – October 2023 Design services related to Area #3**
  - xviii. 4M Fund – September 2023 financial service charges**
- D. Report on Citizen Advisory Committee**
- E. LMRWD Permit Renewals**
- F. LMRWD Permit Program Summary**
- G. Authorize execution of Addendum to Recording Secretary Agreement**
- H. Authorize reimbursement request for Appletree Condominiums Cost Share**
- I. Approve Cost Share Application for 1880 Christy Drive, Carver**
- ~~**J. Authorize removal of Manager Hartmann and addition of President Barisonzi as signatory to LMRWD financial accounts**~~

Manager Hartmann made a motion to approve the Consent Agenda as amended. Manager Salvato seconded the motion. Upon a vote being taken the motion carried unanimously.

**5. NEW BUSINESS/PRESENTATIONS**

- A. Boundary Adjustment at MSP airport between LMRWD and Minnehaha Creek Watershed Districts**

President Barisonzi introduced this item and asked Administrator to provided background on this item. She noted that the airport has been working on a stormwater management plan for the entire airport. She stated that the airport and Minnehaha Creek are on board with this boundary adjustment. She added that Manager Kuplic had asked her about the cost of additional property coming to the watershed district and the tax base. She explained that because this is a unit of government there is no impact to the tax base in either of the watershed districts and there is not an expense to the watershed district to manage this additional property. She noted that this is more of a housekeeping issue so that boundaries between watershed districts follow actual hydrologic boundaries.

**Manager Salvato made a motion to approve Lower Minnesota River Watershed District Petition for Boundary Change and adopt Resolution 23-14 - Resolution Supporting Change of Boundary Between Minnehaha Creek Watershed District and Lower Minnesota River Watershed District. Manager Kuplic seconded the motion. Upon a vote being taken the motion carried unanimously.**

**B. Water Resource Restoration Fund Program**

President Barisonzi introduced and asked Administrator Loomis to provided background on this item. She reviewed the history of the Water Restoration Resource Fund and that the Board expressed concern that the use of the Fund did not seem equitable. In response to the Board's concern, the team at Young Environmental Consulting Group, LLC developed an application and a process associated with the application to ensure that all LMRWD partners were aware funding was available and partners had opportunities to apply for funds.

Manager Salvato asked what date they would like to have all of the applications in by. Ms. Della Schall Young explained how the process would work and the timing. She stated that they are looking at distributing this information as soon as possible with an evaluation period that would close in February and have the applications prepared for the March meeting.

Manager Amundson asked if this is giving people enough time to apply or if it will be a longer time frame in the future. Ms. Young stated that if this is approved this evening it would give organizations two and a half months to apply. She shared that they have municipal coordination meetings scheduled where the LMRWD will be sharing this information with its partners if the Board approves the application process.

**Manager Kuplic made a motion to approve Water Resource Restoration Fund Grant Application Process and authorize implementation. Manager Amundson seconded the motion. Upon a vote being taken the motion carried unanimously.**

**C. Set 2024 Meeting Schedule**

President Barisonzi introduced this item and shared the recommended 2024 meeting schedule with changes to bring the November meeting a week forward due to Thanksgiving.

**Manager Kuplic made a motion to set the 2024 meeting calendar, changing the date of the November meeting to Wednesday, November 13, 2024. Manager Salvato suggested that the**

**December meeting be moved up a week to Wednesday, December 11, 2024, as well. Manager Kuplic accepted the suggestion as a friendly amendment to her motion. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

President Barisonzi asked that a meeting poll be distributed to managers to set the date of the workshop that is part of the Education and Outreach workplan. The Board agreed. Manager Salvato noted that she will be on maternity leave for a few meetings in 2024.

## **6. OLD BUSINESS**

### **A. 2021/2022 Financial Audit**

President Barisonzi introduced this item and asked if the Administrator had any more to add. She shared that the 2021 audit is complete and they should have it by the end of the week. She stated that she can invite the auditor to the December meeting if the Board of Managers would like or the audit can just be distributed to the managers for review. Manager Barisonzi suggested inviting the auditor to the December meeting if there are any red flags found in the audit. The Board was in agreement.

### **B. Lower Minnesota River East One Watershed One Plan Governance**

President Barisonzi introduced this item and asked if Administrator Loomis had anything specific to share. She shared that the One Watershed One Plan is currently in draft form and has gone out to the State agencies and committee members for review. She reiterated some of the concerns of Mr. Evenson who spoke earlier in the meeting.

President Barisonzi asked about the process of the Board giving formal feedback as a stakeholder in this. Administrator Loomis shared that she and Manager Kuplic have provided comments. She added that there will be other opportunities for comments as this is just the first look at the plan. She noted that it must go out for a 60-day review at which time they can offer additional comments.

President Barisonzi stated that he would like to plan on having a formal letter that has been prepared by Staff based on the comments and feedback of the managers. The Board was in agreement.

Administrator Loomis added that Young Environmental Consulting Group, LLC could review the plan and prepare comments on behalf of the LMRWD.

Manager Amundson thought that Young Environmental has done 1W1P plans and is able to review the plan. She noted that these documents are very formulaic; however, it was public driven and the public was not concerned about recreation on the river as the public never commented on this.

Manager Salvato asked if there have been any recreational surveys done on the Minnesota River. Administrator Loomis stated she is not aware of any.

Manager Salvato stated that there were a number of people at the County Fairs who told them how they recreate on the river.

President Barisonzi noted sometimes the public that provides feedback may not be the public that uses the river, such as those that are fishing for sustenance. He said the LMRWD should address barriers to participation in planning. He suggested that the LMRWD make sure that when they are looking at their work plan at the workshop next year that this becomes one of the issues that they want to talk about. He added that they should also discuss the coordination of the feedback letter to make sure it solicits the feedback from the different managers with technical support as needed.

Manager Salvato added that in the recreation survey for the Upper Mississippi River they included fishing for sustenance as an environmental justice tie-in. President Barisonzi reiterated his desire to have this addressed in LMRWD workplans.

**C. City of Carver Levee**

President Barisonzi introduced this item and shared that the City of Carver will be at the December Board Meeting and asked if there was additional information that needed to be brought to the attention of the Board.

**D. Dredge Management**

President Barisonzi introduced this item and said that the Board received good information in the meeting materials. Administrator Loomis noted that there are a lot of project going on in this corridor. She stated that the Corp. of Engineers is having to re-bid the Continental Grain Marsh Repair project. She added that if the Corp. of Engineers couldn't get into the site when they were conducting reconnaissance for the Continental Marsh project. They contacted the LMRWD about accessing the site, to deliver material for the Continental Marsh Project. It was not clear why access to the site was closed. Administrator Loomis coordinated contacts for all the projects planned in this corridor; MnDOT, USACE and Eureka Fiber Optic and the LMRWD.

**i. Dredging at mouth of MN River**

No update on this item.

**ii. Sale of Dredge Material**

No update on this item.

**iii. Private Dredge Material Placement**

No update on this item.

**iv. Vernon Avenue reconstruction and culvert replacement project**

No update on this item.

**E. Watershed Management Plan**

No new information to report since the last update.

**F. 2023 Legislative Action**

No new information to report since the last update.

**G. Education and Outreach Plan**

President Barisonzi introduced this item. He noted that the \$500 for Redtail Ridge Elementary School was for water testing equipment which Friends of the Minnesota Valley has and is part of what the Board paid for their program. He added that the school could use this equipment for free.

**Manager Hartmann made a motion to approve the recommendations of the CAC and awards educator mini-grants as follows: Nicollet Middle School Green Team - \$500; Pilot Knob STEM Magnet School - \$300; Chaska High School - \$500; and Redtail Ridge Elementary School - \$500. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

#### **H. LMRWD Projects**

***(Only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)***

##### **i. Area #3**

President Barisonzi introduced and asked Administrator Loomis to walk them through the information. She noted that the LMRWD received an appraisal for the property at Area #3 necessary to construct the project. The LMRWD is interested in securing a portion of the property, either by easement or property ownership. She noted that the Board was provided with hard copies of the information received.

Attorney Kolb noted that the information was just received the day of the meeting. He stated that there are options and prices associated with a partial fee purchase in the package. He added that there is also the price associated with just an acquisition of an easement over this property. He noted that they are in the process of posturing the LMRWD for a voluntary acquisition. He noted that he had not seen the information yet. He added that he is not sure if there will be additional costs with land use or governance restrictions on subdividing this parcel to facilitate the partial acquisition. He shared that this is a pre-decisional, information document and is not yet public information. He said the LMRWD will need the City to determine if there are additional costs to be considered to comply with the Cities land use requirements. He added that when they revisit this they will need to discuss if an easement or a fee acquisition makes more sense then decide how they want to approach this landowner. He noted that it was the landowner's suggestion that they consider an easement as opposed to a fee purchase.

Manager Amundson asked why they would buy this land. Attorney Kolb shared that he had this discussion with the acquisition consultant and Young Environmental. He stated that it comes down to the level of control and the risk to the project if the LMRWD only has an easement versus ownership, as ownership would give them much greater control of the property. He stated that they should be able to get everything done that they need to under an easement, but future access for maintenance must be considered.

##### **i. Spring Creek**

No update on this item.

#### **I. Permits and Project Reviews**

##### **i. ACE Rent a Car (LMRWD No. 2022-022) – After the Fact Permit**

President Barisonzi introduced and asked for a motion before discussion. He then asked Administrator Loomis to provide background on this item. She stated that Manager Salvato had asked why a stop work order was not placed on this project by the LMRWD. She explained that the intent of the owner was not to circumvent the rules, ACE Rent a Car just did not understand and were very cooperative once they were notified. She added that they also notified the airport as they owned the land that this was being built on.

Manager Salvato stated that she was trying to understand the coordination that led to this permit. Ms. Young explained that they have been in contact with ACE quite a bit and they

provided most of the information necessary and then assumed that they had approval since they had been in constant contact. She stated that it was a misunderstanding. She explained that his occurrence is very different from other circumstances of work without a permit.

Manager Amundson asked if this occurrence would influence the decision as to whether the MAC should be granted a Municipal LGU permit. Ms. Young believes that this was an innocent mistake and that it should not be considered as a reason to deny a permit to MAC. She noted that they will be making sure that there are clear lines of responsibility for permits moving forward.

**Manager Amundson made a motion to approve an After-the Fact permit for ACE Rent a Car. Manager Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**ii. Vernon Avenue Improvements and Access Road Culvert Replacement Project (LMRWD 2023-023)**

President Barisonzi introduced and asked for a motion before discussion. He asked for additional information. Administrator Loomis wanted to make clear to the Board that the LMRWD is the applicant on this project and that because of Young Environmental Consulting Group's activity preparing the application, Barr Engineering was asked to conduct the application review and provide a recommendation to the Board.

**Manager Hartmann made a motion to conditionally approve a permit for Vernon Avenue Improvements and Access Road Culvert Replacement (LMRWD 2023-023) subject to receipt of the contact information for the contractor and the person(s) responsible for inspection and maintenance of erosion and sediment control features, and a copy of all other required permits including the NPDES Construction Stormwater Permit and the City of Savage Right of Way permit. Manager Amundson seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**iii. 535 Lakota Lane, Chanhassen – work without a permit**

President Barisonzi introduced this item and asked legal counsel to update the Board. Attorney Kolb stated that the property owner has provided them with a detailed survey of the site; however, it is not certified. He noted that because it is not certified the consultants are hesitant to evaluate this in the light of the after the fact permit application received. He added that there are also issues with the permit application as it may not contain sufficient detail on what the restoration activities are that are being proposed. He explained that this process could move forward pretty quickly. He discussed what this process will look like moving forward, including showing up to court with the restoration plan to have the court confirm it and give the LMRWD the authority to make the landowner do what needs to be done by a certain date, or if it is not done by that date, the LMRWD would go in and do it and assess the cost to the landowner as a lien on the property.

Ms. Young explained that this is on a steep slope and the property owner has a retaining wall on the property. She noted that the LMRWD rules require that a professional engineer certifies that the slope can withstand the situation, which is what they are missing.

President Barisonzi asked if they had to act quickly on this if they have the authority and budget provided to get a third party assessment to go in with the restoration plan. Attorney Kolb stated that the Board's resolution authorizing the enforcement action included that the enforcement would be funded by the district so no further authorization would be required.

## 6. COMMUNICATIONS

- A. **Administrator Report:** Administrator Loomis shared that the MPCA released its draft 2024 Impaired Waters list and added that they are taking comments through January 12. She added that there is a new impairment for PFOs in fish tissues, as well as, a new impairment for sulfites in wild rice lakes. She noted that the LMRWD has quite a few lakes that are on the list for wild rice lakes. She shared that the Upper Mississippi River Waterway Association has a meeting tomorrow. She added that they just received notice that the Minnesota Aquatic Invasive Species Research Center is celebrating its 10th anniversary on December 7th.

Manager Salvato requested a copy of the Carver County WMO chloride fact sheet.

President Barisonzi asked if Administrator Loomis could send out information that the Board should be reading in preparation for Carver County's levee presentation next month.

- B. **President:** No report
- C. **Managers:** Manager Hartmann shared that the December meeting will be his last meeting with the LMRWD. He stated that this was a bittersweet decision. Manager Amundson and Manager Salvato shared that they will both be attending the next meeting remotely.
- D. **Committees:** No report
- E. **Legal Counsel:** Attorney Kolb shared that Minnesota Watersheds has reached out again to say that they would like to become a member. He noted that the end of their conference is this month and they will typically review a series of resolutions that have been vetted by a committee within their organization. He stated that there is nothing in this that is of consequence to the LMRWD in terms of the priorities that are in the LMRWD plan. He added that Minnesota Watersheds is working on some substantial changes to enabling legislation for watershed districts 103D. He noted that these revisions are intended to streamline the project development, establishment, and implementation process. He added that there are also proposed changes to the BWSR planning rules to try to make the planning process more watershed and public driven rather than agency driven. He shared that the Board should take time to prioritize the resource concerns that they want to comment on for the One Watershed One Plan as the money will follow priorities.

Manager Amundson asked if Attorney Kolb has reviewed the MOU recently. Administrator Loomis noted that she had not given it to him yet. Attorney Kolb added that he has not seen the governance document.

Manager Amundson asked if they are to a point that Attorney Kolb should take a look at this. Administrator Loomis stated that a part of the reason that she has not given it to him is that she has not been confident that it will not be changed substantially. She stated that she can have Attorney Kolb take a look at it and he can offer guidance as to how they may want to move forward.

Attorney Kolb stated he would be happy to take a look at this.

Manager Salvato requested a copy of the current draft.

Manager Amundson asked if Ms. Young should also do a technical review of this.



Attorney Kolb shared that the value of having Ms. Young look at this with a technical eye is to see if there are any red flags or direct conflict between how this Board has its own planning organized and its own objectives and what is being pushed outside. He feels that Ms. Young would have a better idea of any conflict between the planning priorities of the 1W1P and the LMRWD plan and how to reconcile those conflicts.

F. **Engineer:** No report

**7. ADJOURN**

**At 8:10 pm, Manager Kuplic made a motion to adjourn the meeting. Manager Salvato seconded the motion. Upon a vote being taken, the motion carried unanimously.**

**The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, December 20, 2023, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

Attest:

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Lauren Salvato, Secretary

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Linda Loomis, Administrator