

**LOWER MINNESOTA RIVER WATERSHED DISTRICT  
MINUTES  
WEDNESDAY, JANUARY 21, 2009, 7:00 PM**

**1. CALL TO ORDER**

President Kremer called the regular meeting of the Board of Managers of the Lower Minnesota River Watershed District to order at 7:00 PM on Wednesday, January 21, 2008 in the Council Chambers at the City of Chaska, Chaska, Minnesota.

**2. ROLL CALL**

Managers Present: Len Kremer, Ed Schlampp, Larry Samstad, Kent Francis  
Also Present: Travis Bistoideau, Dakota SWCD, Clint Gergen, CHS, Districts'  
Attorney, Bruce Malkerson, staff members Terry Schwalbe and Joan Ellis

**3. APPROVAL OF MEETING AGENDA**

Manager Samstad requested the following items be placed on the agenda:

- 1) Professional Ethics placed under New Business a.
- 2) Conflict of interest placed under Old Business b.
- 3) Mr. Malkerson's invoice placed under Consent Agenda or Treasurer's Report
- 4) Sever Peterson's machine shed placed under New Business b.
- 5) Coleman Lake placed under Old Business c.

**It was moved and seconded to approve the agenda as amended. VOTE: Ayes 4; Nays 0.**

**4. CONSENT AGENDA**

President Kremer stated the December 2008 minutes were handed out this evening and will be postponed until the February 2009 meeting so members can review them. Manager Samstad said he had just received Mr. Malkerson's bill where there were discussions with President Kremer and the rest of the board members were not informed about those discussions. Manager Samstad wants the balance of the board to be informed before the board meetings. President Kremer apologized to Manager Samstad and said that because of the December 17, 2008 fire drill at City Hall he and Mr. Malkerson did not get a chance to discuss those items in question with the board. President Kremer went on to state that one of the board members with BWSR at the MAWD convention suggested that we petition to expand the District's boundaries to include some of the areas that are adversely affecting us. President Kremer then asked if anyone had any problem with paying Mr. Malkerson's bill. Manager Francis replied no. Manager Schlampp said that President Kremer does have a habit of doing things without informing the board that he is doing it and said he has told President Kremer this before at other meetings. President Kremer explained that he asked Mr. Malkerson to talk to one of the BWSR staff members about expanding the District's boundaries and bring the information to the board for discussion at the December meeting. The reason he asked Mr. Malkerson to do that was so the board could talk about it at the December meeting rather than coming here and saying can we have Mr. Malkerson look at that is that it made sense to move expeditiously on it if we could do something because it would influence decisions that are going to be made at the legislature. Mr. Malkerson said in the future he will carbon copy the rest of the board when he is asked to do something. Manager Schlampp asked President Kremer to let the rest of the board know when he is doing

something, how he is doing it. Manager Schlampp said if this is followed this should solve the problem in the future.

Moving on, President Kremer said that in the past we have asked staff to provide copies of the engineers' bills before we pay them and we have HDR's first bill for work on the plan that we didn't receive a bill for. Also, we have a bill from Best & Flanagan that we didn't receive copies of in advance. Please provide copies of this months' bill and any subsequent bills in the board packets. On page 5 of the budget report dollars for work on the Watershed Management Plan were posted in General Engineering and they should be posted in #10-550 Watershed Management Plan. **It was moved and seconded to approve the Consent Agenda as amended consisting of the Treasurer's Report and payment of bills. VOTE: Ayes 2; Nays 2.**

**Motion failed.**

**It was moved and seconded all information requested by any of the managers for work in the District that passes through Mr. Malkerson, staff or consultants has to be sent out to the other managers before the meeting so they are all informed. VOTE: Ayes 2; Nays 2.**

**Motion failed.**

**It was moved and seconded to approve the Treasurer's Report and payment of bills minus Mr. Malkerson's bill until he sends out the background information to the entire board to explain the charges billed. VOTE: Ayes 4; Nays 0.**

**It was moved and seconded to approve a new procedure of disclosure that regardless of which board member communicates with consulting staff that the information is to be shared with all board members. VOTE: Ayes 2; Nays 2. ROLL CALL VOTE: Manager Samstad, No; Manager Schlampp, No; Manager Kremer, Aye; Manager Francis, Aye. Motion failed.**

## **5. OPEN FORUM**

No one spoke.

## **6. APPROVAL OF MINUTES**

President Kremer said that since the December 17, 2008 minutes were just handed out this evening by Mr. Malkerson we will postpone approval until the board can review them.

## **7. PRESENTATIONS**

There were no presentations.

## **8. PRESENTATIONS FOR BOARD ACTION**

There were no presentations for board action.

## **9. EDUCATION**

a. Metro Blooms Rainwater Garden Workshop Contract, Joan Ellis

President Kremer said that Mrs. Ellis placed a memorandum in the board packets. Mrs. Ellis reviewed the memo with the board. Three cities in 2009 are interested in having rain garden workshops, Bloomington, Chanhassen and Savage. The District would help fund the workshops for \$6,850.00. Metro Blooms would partially fund and promote the workshops. Savage will provide the location at the new Environmental Center for the workshops and promote the workshops. **It was moved and seconded to approve \$6,850.00 towards the Metro Blooms**

**rain garden workshops held with the cities of Bloomington, Chanhassen and Savage in 2009. VOTE: Ayes 4; Nays 0.**

**10. NEW BUSINESS** none

**11. OLD BUSINESS**

a. 2008 MAWD Resolution for Proposed Amendment to WCA and/or Rules, Mgr. Samstad  
Manager Samstad said the board needs to know what the MAWD board is planning to do with this amendment.

b. Machine Shed, Sever Peterson, property owner

The owner located across the street from Lion's Tap wants to put up a big machine shed on the south side of 169. Under 169 he has a cattle pass. Manager Samstad recommended he add some fill on the south side of 169. The owner will be coming before the board to ask for a permit to fill. It is a courtesy visit to the board as permits are issued by the city but he wants to explain the fill issue.

c. Coleman Lake

Manager Samstad said that possibly this subject may cause a conflict of issue with President Kremer. Manager Samstad talked with Bob Obermeyer, Barr Engineering, and several times years ago as Coleman Lake is deteriorating and it's been filled in. He suggested that Nine Mile Creek work with the District and re-claim Coleman Lake. The fill and boulders are from Nine Mile Creek. The FMRV said re-claiming shouldn't be done as that work would not be natural. This is a positive project. Mr. Schwalbe said he did talk with Mr. Obermeyer several years ago and he did say there apparently is a rare frog in the lake according to the DNR and that halted the project. It is in our 1999 plan to look at re-claiming Coleman Lake. President Kremer asked him to find this project in the plan and identify what kind of priority it had.

**12. ADMINISTRATOR REPORT**

A. Seminary Fen/Assumption Creek update

Mr. Schwalbe met with the Moe family and John Koenigs, a representative from the DNR. The Moe's have signed the proper paperwork to allow DNR to start work on acquisition starting with an appraisal. They have one year (end date December 31, 2009) to complete this acquisition. The property is approximately 40 acres just north of Wetterling's pristine area. They also own some property on the east side of Bluff Creek Drive and the DNR is looking at that also. The DNR is short on negotiators due to the economy.

b. Update on legislative resolution implementing a MN River Valley Basin Commission and for federal and state funding

Mr. Schwalbe met two weeks ago with Mr. Davidman and several Senators and Representatives of our District at the Capitol. Six people remain to be met with. Those that we have met with have been welcoming, positive and open to talking about the basin legislation even a few are open to sponsoring the bill. Also, Mr. Schwalbe educated the legislators about our District and the projects and programs in the District. They left stating that the District is available for any help they might need with water related issues. Representative Lanning has invited Mr. Schwalbe and Mr. Davidman to be part of the work group on his basin bill. Mr. Schwalbe has attended two meetings so far. The Redwood board and Ray Bohn said they couldn't support the

latest language in Representative Lanning's bill that says there needs to be 50% elected officials on the board. The reason is that only elected officials can handle the monetary funds. Without this language the bill will not proceed. Mr. Schwalbe and Mr. Davidman are still both working on the bill alongside legislative staff.

Mr. Schwalbe continues to talk with legislators and county board members and staff in Dakota County to help us find a qualified board member.

c. Dredge Sites There is nothing to discuss on this item.

Mr. Schwalbe was requested to call the weather service, get a copy of the report they issued on potential flooding and send to the managers.

d. Fifth Generation Plan

The first TAC meeting will be held on January 28, Chanhassen Community Center, Conference Room A from 11:00 AM – 1:30 PM. Mr. Schwalbe is meeting with Mrs. Young to go over the materials she has put together for the presentation and workshop. This is the information gathering section of the updating of the plan. Notes on the workshop will be sent out to the managers along with the TAC and staff.

### **13. ATTORNEY FOR THE DISTRICT**

The HDR contract is ready to sign. The contract is for \$177,581.00. The contract is set up so that at some point the District can change the plan or direction of the plan if they so choose. The budget for 2009 is \$150,000.00. **It was moved and seconded to approve the revised contract with HDR for \$177,581.00. VOTE: Ayes 4; Nays 0.**

President Kremer said he was talking with a BWSR staff member suggested that to address upstream issues we could look at expanding our District up to and including the Le Sueur River. There are major sub-watersheds there. The packet from the last meeting included a map that showed the watershed boundaries of that river. President Kremer showed the board the map of those boundaries. It was suggested to petition the BWSR board to expand the District's boundaries to include the rest of the Minnesota River and the Le Sueur River watershed. The BWSR staff member said that 90% of the District's sediment in the MN River is coming from that area. That would reduce the amount and cost of dredging needed. Mr. Malkerson investigated to find out the procedure to put together a petition to expand the District to include the area discussed. Mr. Malkerson said the District needs approval from the upstream jurisdictions before going to the BWSR board. President Kremer asked Mr. Malkerson and Mr. Schwalbe to draft a letter to the counties that would be involved: Waseca, Blue Earth, Faribault, Le Sueur, Scott and Carver. The letter would say the District is considering expanding its boundaries because we have huge issues with the amount of sediment coming into the District and asking the counties if they would be interested in signing a petition to expand the District's boundaries. It would, at least, raise their awareness. Let's hold on the letter and the issue until close to the end of the legislative session. This was the discussion on Mr. Malkerson's invoice. **It was moved and seconded to pay Mr. Malkerson's invoice. VOTE: Ayes; 3; Abstain, 1.**

**15. ADJOURN It was moved and seconded to adjourn at 8:35 PM. VOTE: Ayes 4; Nays 0.**