

**LOWER MINNESOTA RIVER WATERSHED DISTRICT
MINUTES**

WEDNESDAY, JUNE 17, 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, June 17, 2009 in the Council Chambers at the City of Chaska, Chaska, Minnesota.

2. ROLL CALL

Managers Present: Len Kremer, Ed Schlampp, Larry Samstad, Don McCreedy, Kent Francis
Also Present: Districts' Attorney Bruce Malkerson, Laura Jester, Dakota County SWCD, Leslie Stovring, City of Eden Prairie, Mark Gibbs, HLB Tautges Redpath, Jerry Hennen, Scott County Commissioner, staff members Terry Schwalbe and Joan Ellis

3. APPROVAL OF MEETING AGENDA

Manager Francis requested an item under New Business entitled Terry Schwalbe's annual review. President Kremer requested 7.a. Audits be moved to 7.c. Manager Schlampp requested that the election of officers be placed on the agenda. President Kremer placed the item under Old Business, 10.b. **It was moved and seconded to approve the agenda as amended. VOTE: Ayes 5; Nays 0.**

4. CONSENT AGENDA

It was moved and seconded to approve the Consent Agenda. **VOTE: Ayes 5; Nays 0.**

5. OPEN FORUM

No one spoke.

6. APPROVAL OF MINUTES

The minutes were approved under the Consent Agenda.

7. PRESENTATIONS

a. City of Eden Prairie Study Area 3, Leslie Stovring

Ms. Stovring reviewed the SRF proposal with the board. She indicated that she doesn't know if the city is getting funding. Mr. Dietz wants to see the LMRWD secure funding before participating in this project. President Kremer said that the board has discussed this and if the river is meandering then perhaps we should be participating in the project. If the problem is caused by an unstable slope above the river then the board would find itself less interested in participating in the project. There is still an unknown in that the instability is related to the meandering of the river and if it is not then the board feels strongly about not participating in the project. President Kremer said the first question for the board is whether or not they should be participating in the SRF proposal before them tonight. Ms. Stovring said that tonight they are not proposing participation by the LMRWD. She said that Mr. Dietz stated that until the city knows they can get funding then we should not be doing any additional work. President Kremer then said the question revised is should the LMRWD be proceeding on their own with the \$60,000 proposal. Mr. Dietz's concern is that historically the slope has been gradually eroding away and it's not going to stop. The city's then concern is who is going to pay for it and how is it going to get done. Ms. Stovring said that is something that the city can't do because it is too big a project. Mr. Malkerson said the city could do a special assessment for funding. Ms. Stovring said there is only one

land owner. President Kremer personally feels that the problem could be caused by the meandering of the river cutting into the slope causing instability. Manager Samstad's opinion is that they are studying too much and not determining the core of the problem then attacking it to solve. Ms. Stovring replied by saying at the last LMRWD board meeting the board requested a proposal. Manager Samstad said defining if there is a Mohr's Circle needs to be done in order to correct it. President Kremer personally feels this issue could be slope failure and erosion of the base of this slope being cause by increased flow of the river – the river is meandering. The flow of the river is increasing, not getting less. President Kremer feels we should be participating. If the slope fails and falls into the river then it will block the river and that is of great concern to him due to the potential for upstream home flooding. Also, if it is going to threaten homes, streets or sewers then those items are of great concern to him. Manager Schlampp is a land owner nearby and said there are horrible problems along the bluff and has been for years. Loss of the slope has occurred before and it's landed in the river with trees growing out of it. He continued by saying that a Mohr's Circle is very soft/mushy/delicate due to instability underneath. He believes the city should determine the percentage of a chunk coming off the slope again and said an engineering firm should be able to do that. Manager Samstad said we need to know what's happening underground and then ask the engineers what we can do about it.

Mr. Schwalbe indicated that this is such a huge project no one entity can afford to fix it. We need to go out for funding from several entities. Ms. Stovring said the project cost has grown quickly upwards from \$500,000. There are approximately 16 homes that could be at risk. Manager Schlampp said the south side of the road is eminent failure. The north side of the road could lose some of the earth also.

Mr. Schwalbe said the USACOE has the data from this location. The board asked staff to ask if the USACOE would be a partner and do an assessment using their geological engineers or the technical people at the DNR, Hennepin County and PCA. **It was moved and seconded to draft a letter to the DNR, PCA, BWSR and the USACOE to meet together at the site before the next meeting. .**
VOTE: Ayes 5; Nays 0. The board asked Mr. Schwalbe to have the dredge operators to look at altering the river at this site. President Kremer said the District could let the USACOE know that the City of Eden Prairie is concerned about the potential of a major failure. Ms Stovring agreed, but we just don't know when.

b. 2009 Legislative Summary, Jeff Davidman, Best & Flanagan

Mr. Davidman released to the board Best & Flanagan's 2009 Regular Session Legislation Review Report dated 06/17/09. He reviewed the report with the board including the River Basin legislation of which Representative Lanning is still the lead sponsor with Senator John Doll leading from the Burnsville-Savage area along with several senate co-sponsors shown on page four of the legislative report. Legislators within our District as well as those showing interest outside our District were met with and we received enthusiastic support. Due to the budget deficit this bill would not make it through this year, but it was introduced and the legislators said they would try and make this one of the first to go through in 2010. Mr. Davidman said the MRB bill is an attachment in his report for reference of content.

President Kremer inquired about the taxing authority of the Red River Basin Commission and the makeup of the commission board and asked staff to research that information and bring information back to the board in June.

Attachment D in the report is the entire bill interpretation from the Clean Water Act Appropriations and based on the earlier discussion with the City of Eden Prairie the District and the city may be interested in this funding through BWSR.

Mr. Davidman reported that the bonding process this year has a deadline for application submission is Thursday, June 25 through the Department of MN Management and Budget. This item will again be addressed later on in the meeting.

It was moved and seconded for Mr. Davidman to determine whether or not any of the \$4 Mil to the Port Authority Assistance Program would be available to the District and report back to the board. VOTE: Ayes 5; Nays 0.

c. Audits, Mark Gibbs, HLB Tautges Redpath

Mr. Gibbs explained the board's comments on the audit review standards to the board's satisfaction. It is a requirement for all 16 watershed districts to have certain language in the audit per pages 45 and 46 of the audit for financial statement preparation and inadequate finding of internal controls. District checks are reviewed and signed by the board, an outside bookkeeper prepares the checks, and an outside auditor prepares the audit so the District is well within requirements.

President Kremer asked if the fund balances were adequate. Mr. Gibbs stated that the Cooperative Projects budget, page 28 of the audit, is \$335,000, but you only spent \$33,000 so have more than 50% reserve.

9. NEW BUSINESS

a. T. Schwalbe review

Manager Francis stated he felt there was no reason to review four outside people to review Mr. Schwalbe. **It was moved and seconded to give Mr. Schwalbe a merit increase of 3.5%. VOTE: Ayes 5; Nays 0.**

10. OLD BUSINESS

a. MN/Dot 35W/62 Stormwater drainage

Mr. Schwalbe said he has not received drainage maps yet from Bruce Irish and he still needs to contact 9 Mile Creek and City of Richfield WMO.

b. Election of Officers, Manager Schlampp

It was moved and seconded to nominate the following officers for 2009:

Larry Samstad, President

Kent Francis, Vice President

Ed Schlampp, Treasurer

Don McCreedy, Vice Treasurer

Len Kremer, Secretary

Manager Francis said he is not interested in serving as Vice President due to his career situation.

It was moved and seconded to withdraw the motion. VOTE: Ayes 5; Nays 0.

It was moved and seconded to nominate the following officers for 2009:

Larry Samstad, President

Vacant, Vice President

Ed Schlampp, Treasurer

Don McCreedy, Vice Treasurer

Len Kremer, Secretary

Mr. Malkerson stated that MN Statutes 103d. 315. states there will be a President, Secretary and Treasurer. It was requested that staff supply the District's Bylaws to the board members. Manager

Francis said minutes from the last two years can also be found on the District web site to review discussions of election of officers in the past. Mr. Malkerson said under 103d.315, Subd 11 Administrative Bylaws states the District will have bylaws.

It was moved and seconded to table the election of officers until the board can review the bylaws.

VOTE: Ayes 2; Nays 1; 2 abstentions

11. ADMINISTRATOR REPORT

a. Seminary Fen/Assumption Creek

1. Update on negotiations, etc.

Mr. Schwalbe got no update on negotiations. The DNR just doesn't have the personnel to get this completed. The board requested that Mr. Schwalbe meet with the DNR Assistant Commissioner to discuss how to move forward on these acquisitions.

2. Mrs. Ellis requested an authorization of up to \$10,000 to complete a natural resource inventory of the complete Seminary Fen to prepare to protect and restore the fen. The total cost is estimated at \$30,000 for Barr Engineering to complete the inventory. The cost would be shared with the Cities of Chaska and Chanhassen. Unfortunately, the DNR cannot hold the contract and the District and the two cities would have to go out for two bids which is time consuming and the proposal includes a spring and summer inventory. No one is sure how to move forward at this time. Barr Engineering was chosen to complete the inventory since they had done a portion of the fen for T.H. 41 crossing so completing the fen inventory in the other areas would be less costly than a new firm starting from scratch. Manager Samstad stated the District is in the business of water resources. President Kremer said we are charged to preserve and to the extent that we can, restore rare resources. Also, the DNR cannot spare personnel right now to direct the 12 volunteers that Mrs. Ellis put together four months ago to pull invasives at the fen. **The board decided not to authorize up to \$10,000 at this time due to the issues involved.**

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

Mr. Schwalbe said that he and Jeff Davidman will be meeting with Shannon Fisher and one or two MRB members to discuss the basin commission bill.

c. Dredge Sites

d. USACOE and Navigation Channel

There has been no answer yet from the USACOE Colonel on the federal and state funding issues. Mr. Schwalbe did find out at the UMWA meeting the USACOE has changed their policy to be able to shift funds from the Mississippi River to the Minnesota River. He added that at the UMWA meeting he said that is good news but what's to stop them from reversing that next year or future years. He continued by saying he would like UMWA's support ensuring that this new policy does not reverse in the future. Last month Mr. Schwalbe misspoke when he stated that a letter had been sent to Oberstar's office about funding mechanisms. Actually UMWA spoke with his office and no letter was sent. He asked UMWA to copy the District on any written correspondence. UMWA confirmed that they would copy the District.

e. MN River Watershed Tour

No date has been set yet due to non-availability of barges currently. Mr. Schwalbe is hoping for a late August tour.

First 2010 Budget meeting

The board agreed to meet Tuesday, July 14, 10 AM at Chaska City Hall. Staff will set up space as is available.

It was moved and seconded to adjourn at 8:57 PM VOTE: Ayes 5; Nays 0.