

**LOWER MINNESOTA RIVER WATERSHED DISTRICT  
MINUTES**

**WEDNESDAY, AUGUST 19, 2009**

**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 7:06 PM on Wednesday, August 19, 2009 in the Council Chambers at the City of Chaska, Chaska Minnesota.

**2. ROLL CALL**

Managers present: Len Kremer, Ed Schlampp, Larry Samstad, Don McCready, Kent Francis  
Also present: Travis Bistideau, Dakota County, Clint Gergen, CHS Harvest States,  
District's attorney Bruce Malkerson, staff members Terry Schwalbe and  
Joan Ellis

**3. APPROVAL OF MEETING AGENDA**

Manager Samstad requested 10 minutes to speak. President Kremer placed this item under 7. Presentations. **It was moved and seconded to approve the meeting agenda as amended. VOTE: Ayes 5; Nays 0.**

**4. CONSENT AGENDA**

President Kremer requested that the minutes and treasurer's report be separated for review. **It was moved and seconded to approve the meeting agenda as amended. VOTE: Ayes 5; Nays 0.**

**5. OPEN FORUM** No one spoke.

**6. JULY 15, 2009 MINUTES**

Item 11.b. Update on legislative resolution implementing a MN River Valley Basin Commission and for federal and state funding

President Kremer said the last sentence did not make sense. Mr. Schwalbe re-stated the sentence as follows: In our discussion with Representative Morrow he emphasized that the terminology "rate and volume control" not "runoff" should be used when discussing water quality issues. **It was moved and seconded to modify the language as stated by Mr. Schwalbe and approve the minutes as amended. VOTE: Ayes 5; Nays 0.**

**TREASURER'S REPORT AND PAYMENT OF BILLS**

**It was moved and seconded to hold the HDR check from the payment of bills as the managers did not receive their invoice before this evening that was supposed to be sent directly to them. VOTE: Ayes 5; Nays 0.**

**It was moved and seconded to approve the Treasurer's report and payment of bills as amended. VOTE: Ayes 5; Nays 0.**

**7. PRESENTATIONS**

**a. Conflicts of Interest, Manager Samstad**

Manager Samstad presented a statement of concerns about a potential conflict of interest regarding President Kremer's employment with Barr Engineering while serving as an elected official on the Board.

After a discussion among themselves and with the District's attorney, Bruce Malkerson, **Manager McCready moved and it was seconded by Manager Samstad to authorizing staff to contact an outside attorney and ask whether or not there is a conflict of interest with President Kremer's employment with Barr Engineering. Discussion: Manager Francis said that he thinks this is a non-issue and a waste of money. He said it has been debated. President Kremer asked for any other discussion on the motion. There was no further discussion. VOTE: Ayes 4; Nays 1. Manager Francis voted no. Motion carried.**

**8. PRESENTATIONS FOR BOARD ACTION** There were none.

**9. NEW BUSINESS**

**a. USGS proposed Clean Water grant for suspended solids, MN River**

**b. USGS proposed Clean Water grant for bed loading, MN River**

Mr. Schwalbe said the USGS contacted the District to participate on these two projects. He met with two representatives about these projects recently. The proposal for suspended solids proposal arrived last week and the bed loading grant proposal arrived today.

The USGS is willing to come to a board meeting and answer all questions. The board asked what percentage of the total amount would be the District's responsibility. Mr. Schwalbe did not know the answer. He said a partial amount would come from the Clean Water Act, the USGS would be 30%. Mr. Schwalbe said he would email the second proposal Thursday.

**10. OLD BUSINESS**

**a. I-35W and Cliff Road drainage, MN/Dot, maps and Bonestroo memorandum**

Mr. Schwalbe said the appropriate maps are in the board packets. He explained the project location as just south of Cliff Road at I-35W and explained the memorandum by Bonestroo maps. **It was moved by Manager Samstad and seconded by Manager Schlampp to send a letter to MN/Dot to recommend that the ponds that are created are dry pond drainage that drains down slowly vs.wet pond drainage and still remove 90% TSS and 60% phosphorus be included along with the other engineer's comments as the ponds drain to Black Dog fen area so even more reason for dry ponds.** Discussion: Manager McCready said it looks like this project has been well engineered and is a complicated project. **VOTE: Ayes 4; Nays 1 (Manager Francis)**

**11. ADMINISTRATOR REPORT**

**a. Seminary Fen**

Mr. Schwalbe said he has not received anything from the DNR.

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

Mr. Schwalbe said Representative Morrow is re-scheduling a meeting between Representative Hanson, Morgan and himself with Mr. Davidman and Mr. Schwalbe. Mr. Schwalbe was asked by the MRB to sit on a TAC steering committee. MRB is having a seminar and Representative

Lanning and Morrow are invited to talk about the basin bill. President Kremer said there are 10,000 direct discharges of waste to tributaries to the MN River.

**c. USACOE Navigation Channel and dredge sites**

The USACOE completed two dredges with the second dredging at Peterson Bar bringing 60,000 cubic yards to the site. However, they did not leave the site in good condition. Mr. Schwalbe met with the USACOE and their contractor on site the next day. Mr. Schwalbe said he is still awaiting a response from the USACOE's colonel. Apparently the District's letter was passed to another department. Steve Tapp forwarded his comments to the USACOE. Board directed staff to follow up to the first letter as the District needs a response. President Kremer inquired if there was testing by the USACOE. The District needs a copy of the permit and test results. **It was moved and seconded authorizing staff to get testing results, a copy of the permit, and previous letter to the USACOE. VOTE: Ayes 5; Nays 0.**

**d. MAWD 2010 Resolution Process**

Mr. Schwalbe explained the resolution process to the board. It was moved and seconded to develop a resolution for MAWD and the state to include the City of Eden Prairie's Study Area 3 in the bonding bill.

**12. DISTRICT'S ATTORNEY REPORT**

**a. City of Eden Prairie Study Area 3 resolution**

**It was moved and seconded for staff and Mr. Malkerson to draft a resolution to the USACOE similar to the City of Eden Prairie's requesting their assistance on the Study Area 3 erosion issues. VOTE: Ayes 5; Nays 0.** The board indicated that channel restoration of Study Area 3 should be scheduled to be part of the bonding bill and arrange to have the legislative committee look at the site in August or September. The board agreed that the City of Eden Prairie needs to reach out to their legislators.

**It was moved and seconded to send out an RFP to engineering firms to investigate Study Area 3 to determine the problem and recommendations for solving the problems. The proposals should be no longer than 25 pages and consultants should evaluate whether there is a risk to homeowners and potential failure of the bank. VOTE: Ayes 5; Nays 0.**

Board directed staff to contact Leslie Stovring in notifying residents. **It was moved and seconded to authorize Mr. Malkerson to contact the City of Eden Prairie's attorney to determine a joint letter to residents notifying them of work being conducted in the area and why and send the letter within 10 days. VOTE: Ayes 5; Nays 0.**

**b. Special assessment 5/0 vote update with BWSR**

Mr. Malkerson determined a special assessment or ad valorem general levy cannot be completed this year. **It was moved and seconded authorizing Mr. Malkerson to contact the Attorney General's office to find out if the District can borrow funds from the Administrative Fund for the Nine Foot Channel Fund. VOTE: Ayes 5; Nays 0.**

**14. ADJOURN**

**It was moved and seconded to adjourn the meeting at 9:04 PM. VOTE: Ayes 5; Nays 0.**