

**LOWER MINNESOTA RIVER WATERSHED DISTRICT
MINUTES
Wednesday, October 21, 2009**

1. CALL TO ORDER

President Samstad called the regular meeting of the Board of Managers of the Lower Minnesota River Watershed District to order at 7:03 PM on Wednesday, October 21, 2009 in the Council Chambers at the City of Chaska, Minnesota.

2. ROLL CALL

Managers present: Len Kremer, Don McCready, Larry Samstad, Ed Schlampp
Also present: Laura Jester, Greg Genz, UMWA, Clint Gergen, CHS Harvest States,
District's attorney Bruce Malkerson, staff members Terry Schwalbe and
Joan Ellis

3. APPROVAL OF MEETING AGENDA

Manager Schlampp moved and Manager McCready seconded approval of the meeting agenda. VOTE: Ayes 4; Nays 0. Motion passed.

4. CONSENT AGENDA

Manager Kremer removed the Treasurer's Report, Payment of Bills and September 2009 minutes from the Consent Agenda.

5. OPEN FORUM

Ms. Laura Jester was invited to speak about her work with the City of Eden Prairie. Ms. Jester said she is on the Conservation Commission and serves as its Chair and she understands that the Conservation Commission may be working with city staff on reviewing the information collected for the bank stabilization project.

6. SEPTEMBER 2009 REGULAR MEETING MINUTES, TREASURER'S REPORT AND PAYMENT OF BILLS

MINUTES: Manager Kremer indicated that on page three, fourth paragraph down at the board motion it was Manager Samstad not Manager Schlampp that moved the motion. Manager Kremer indicated that on page five, under 12.c. USACOE Navigation Channel and dredge sites, first sentence that the word "bed" should be "bank". **Manager Kremer moved and President Samstad seconded a motion to approve the amended minutes. VOTE: Ayes 4; Nays 0. Motion passed.**

TREASURER'S REPORT & PAYMENT OF BILLS: Manager Kremer said that he thinks the District should have invoices with a disclaimer like Mr. Malkerson's. Staff was directed to contact consultants to assure invoices are received with a disclaimer. Manager Kremer said that in the Treasurer's Report under account numbers 4412, 4413, 4414 they all have monies in them when only one, 4412, has a budget. Staff was directed to place all lobbyist fees under 4412. Manager Kremer also indicated that he had not received Best & Flanagan's and Wenck's invoice

at home before the board meeting. Staff was directed to contact both firms to have them send their invoices to the board members' homes in advance of the board meetings.

President Samstad pulled the George Hoff invoice from the payment of bills packet and requested staff to have Mr. Hoff attend the next board meeting to discuss his invoice.

Manager Kremer moved and Manager McCready seconded a motion to approve the Treasurer's Report and Payment of Bills as amended. VOTE: Ayes 4; Nays 0. Motion passed.

7. PRESENTATIONS

There were none.

8. PRESENTATIONS FOR BOARD ACTION

There were none.

9. NEW BUSINESS

a. Braun Intertec Dredge Site Sediment Sampling Results Discussion

Mr. Schwalbe explained the sampling results report in the board packet showing the resulting representative sampling from H 1, 2, 3, in 2008 dredge materials and HA 4, 5, 6 dredge materials in 2009. There were good results.

The board directed staff to have Judy Mader, MPCA, to ask their Risk Assessment Group, based on her offer in her October 19, 2009 letter, last paragraph, to do further investigation. Have them include worst case scenario, state laws violated. PCA has adopted dredge guidelines that say if 93% of a sample does not pass through the 200 sieve it does not have to be tested. Those guidelines are posted on their web site if the board wishes to review. The board requested staff to go to the USACOE with PCA's letter and find out their stance on the issue. Manager Samstad said to find out where the two agencies agree. Have them specify fine and coarse materials between them and what they are saying to each other. Manager Kremer said we should ask the USACOE and PCA if they would hold us harmless. The board directed staff to set up a meeting between the USACOE, MPCA, Mr. Malkerson and Mr. Schwalbe.

Mr. Schwalbe met with John Hoffman, the District's insurance agent. He said that Mr. Hoffman estimated that Dredge Pollution Liability Insurance for minimum coverage would be \$20,000 a year. The board requested staff to contact our insurance company to find out what is covered, what's not with D & O and general insurance between 10 years ago and today and complete a memo to the board.

10. OLD BUSINESS

a. Eden Prairie Bank Stabilization

Mr. Schwalbe indicated that the City Council of Eden Prairie has requested him to attend a meeting to update on what the District is currently working on to help with the bank stabilization issues.

1. Grant Application Hennepin County Riparian and Stream Bank Stabilization Program

Mr. Schwalbe said he has submitted a grant application to Hennepin County for the Eden Prairie bank stabilization issue for \$100,000 with a \$10,000 match from the District. Manager Kremer said he feels the District should have asked for more funding and we should do so with future grant applications.

2. BWSR Clean Water Grant Due 12/1/09

Mr. Schwalbe recommended Wenck to complete the grant application as they did the testing at the bank stabilization site and are educated about the issues at the site.

Manager Kremer moved to hire Wenck Associates to complete the BWSR Clean Water Fund grant application for a not to exceed amount of \$3,000. Due to a lack of a second the motion failed. President Samstad moved and Manager McCready seconded hiring Wenck Associates at a not to exceed amount of \$2,500 to complete the BWSR Clean Water Fund grant application. VOTE: Ayes 4; Nays 0. Motion passed.

11. ADMINISTRATOR REPORT

a. Seminary Fen/Assumption Creek update on negotiations, etc.

Mr. Schwalbe indicated it would be approximately two weeks before the appraisal results will be completed. The funding cycle for the Lessard Outdoor Heritage funds managed through the DNR are November 15, 2009 and second round March 10, 2010. Manager Kremer said there are two sets of funding. One set through the DNR and one set through the Heritage Council and requested staff to look at this set of grant funding. He believes the deadline is November 6, 2009.

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

Mr. Schwalbe directed the board toward Jeff Davidman's memo dated October 14, 2009 in their board packet. Mr. Davidman presented the bill at the MN River Basin Water Resource Professional group. The majority of the people there became very defensive and questioned why the District is doing this bill. It was not received well. A couple of legislators told Mr. Schwalbe not to get discouraged as their response is a typical one and understandable. Manager Kremer was also at that meeting and said Mr. Davidman did a nice job in presenting but stating why the legislation is needed was not presented well. He believes the District needs to demonstrate clearly why we need this bill. He added that Representative Lanning has not made it clear as well. Board directed staff to be ready for the MAWD conference clearly answering this question.

c. USACOE Navigation Channel and dredge sites testing protocol/MPCA permit

This was previously discussed under 9. New Business.

Mr. Schwalbe said the dredge site silt fence has been repaired and includes the addition of hay bales

d. Dredge site materials insurance discussion

This was previously discussed under 9. New Business

e. USACOE Legislative proposal

The resolution to the USACOE is ready and being signed by the president tonight.

Also the resolution to the state is ready and being signed by the president tonight.

f. Grants potential

This was previously discussed under 10. Eden Prairie Bank Stabilization a. and b.

g. MAWD resolutions

Mr. Schwalbe reviewed received emails with the board. Manager Kremer said he attended the Metro MAWD meeting and they approved a resolution requiring all state agencies to get permits from watershed districts.

12. DISTRICT'S ATTORNEY REPORT

a. Resolutions update

This was previously discussed under 11.e. USACOE Legislative proposal

b. Attorney General's opinion on moving monies from one fund to another

Mr. Malkerson said he has sent his letter to Jim Haertel at BWSR for his review before it goes to the Attorney General's office. It could impact watershed districts throughout the state.

c. Nine Foot Channel options for the operations funding

The board determined they should have a workshop before the November 18, 2009 regular board meeting to discuss this item and any other item necessary.

Mr. Schwalbe said he would send out the memo from Bruce to the managers from last month.

13. UPCOMING MEETINGS/TOURS/EVENTS

a. BWSR Academy November 2,3,4 for staff

Mr. Schwalbe has registered for this meeting.

b. MAWD December 3,4,5 registration/reservations/new policy

Mr. Schwalbe indicated staff has registered President Samstad, Manager McCready and Manager Schlampp for this conference and their confirmations were in front of them.

Mr. Schwalbe brought the board's attention to the section of the registration indicating that wives meals cannot be paid for by watershed districts and that they should reimburse the District for that portion. Staff was directed to email those managers attending with the cost for wives to attend so they can write the District a check.

President Samstad said to place delegate elections for the MAWD conference on the November agenda.

14. ADJOURN

Manager Schlampp moved and Manager McCready seconded to adjourn the meeting at 8:45 PM. VOTE: Ayes 4; Nays 0. Motion passed.