

**LOWER MINNESOTA RIVER WATERSHED DISTRICT
MINUTES
November 18, 2009 7:00 PM**

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, November 18, 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
Also Present: Clint Gergen, CENEX Harvest States, Laura Jester, Dakota SWCD, District's Attorney, Bruce Malkerson, staff members Terry Schwalbe and Joan Ellis

3. APPROVAL OF MEETING AGENDA

Mr. Schwalbe requested adding Old Business item e. Re-scheduling workshop. Manager Kremer requested adding Old Business item f. Lessard Heritage and g. Hennepin County. Mr. Schwalbe then requested 11. Administrator's Report item e. Kraemer Mining PUD new application. **Manager Schlampp moved and Manager McCready seconded to approve the agenda as amended. VOTE: Ayes 4; Nays 0.**

4. CONSENT AGENDA

Manager Kremer requested the minutes and Treasurer's Report be removed from the Consent Agenda.

Minutes: Manager Kremer stated he would like to insert the following directly after the Title: "Manager Kremer asked the District's Attorney Malkerson if bills to agencies like the watershed district should have disclaimers and Attorney Malkerson did say that they are required to have disclaimers". Manager Kremer said on page 3. item g. MAWD resolutions after the words "and they approved a resolution" insert "that would require" and omit "requiring". **Manager Kremer moved and Manager Schlampp to approve the minutes as amended. VOTE: Ayes 4; Nays 0.**

Treasurer's Report: Manager Kremer said he didn't get a copy of the Wenck bill before the board meeting tonight. The other managers didn't as well. **Manager Kremer moved and President Samstad seconded to approve the Treasurer's Report with the Wenck condition that they email bills to managers. VOTE: Ayes 4; Nays 0.**

5. OPEN FORUM

No one spoke.

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

All approved with amendments under the Consent Agenda.

7. PRESENTATIONS

No one spoke.

8. PRESENTATIONS FOR BOARD ACTION

No one spoke.

9. NEW BUSINESS

a. Appoint two 2009 MAWD Conference delegates

Manager Schlampp moved and President Samstad seconded to appoint President Samstad and Manager McCready as the district's delegates to the 2009

MAWD Convention. VOTE: Ayes 4; Nays 0.

b. Conservation Partners Legacy Grant Letter of Support for 75-acre Savage Fen (Credit I & II) conveyance to the MN DNR as an addition to the existing SFSNA, Scott County

Mr. Schwalbe explained to the board he had gotten a call from the Trust for Public Land asking for letters of support and they needed the letter by the next day. He has toured the property a year ago with Mr. Bohn, property owner. Mr. Bohn has the approval of the DNR and would like to pursue it to expand the Savage Fen area to include portions of his property (map is in the board packets). Mr. Schwalbe wrote the letter of support for conveyance to the MN DNR. President Samstad asked is this watered down our easements. Mr. Schwalbe replied that it doesn't affect our easements as they are on the west side of Highway 13 near Boiling Springs and this property is on the east side of Highway 13.

c. Dry ponds versus wet ponds discussion, President Samstad

President Samstad said he received a call from a property owner recently about wet ponds stagnating with pollutants and algae. President Samstad requested that as a part of our updated water resource plan that we recommend dry ponds versus wet ponds to increase the capacity of flows. Manager Kremer said there is something in the plan and will be part of our discussions. It all depends on what the criteria needs to be. President Samstad requested the board members to all think about the criteria.

e. Manager/industry meetings discussion, President Samstad

President Samstad said since the district has a responsibility to work with the U.S. Army Corp of Engineers (USACE) on the Nine-Foot Channel and support the Four-Foot Channel he thinks the district should have the managers and the industries that use the channel meeting with each other. He has two choices of how to proceed:

1. individual managers, when they find time, have a meeting with the users of the channel
2. full meeting of all the managers and invite the industry to the meeting for informational purposes only, not to draw conclusions or have any motions.

Manager Kremer agreed with President Samstad and suggested an informal workshop with the managers and people from the industry to discuss the channel issues and concerns.

10. OLD BUSINESS

a. Wenck Associates Inc. request for additional budget for purchase of an additional inclinometer for City of Eden Prairie stream bank stabilization study

Mr. Schwalbe said Wenck has determined the need for an additional inclinometer at a cost of \$7,459.50 bringing their total contract to \$69,359.50 for Phase I. Their memorandum to the board and cost estimate budget is in the board packets explaining. Wenck expects to present some of their findings to the board at the December meeting. The inclinometer data will not be presented at the meeting because it is going to take a year to collect enough data to do any kind of analysis. **Manager Kremer moved and President Samstad seconded a motion to increase the amount of the contract by \$7,459.50 to purchase the second inclinometer changing the total contract for the first year to \$69, 359.50 and that readings for the first year be presented on a quarterly basis be included in the \$7,459.50. VOTE: Ayes 4; Nays 0.**

Manager Schlamp said he receives resident calls about the repair of the stream bank and doesn't know what to tell them. Manager Kremer said the contract was set up to give the board a formal report at the December 2009 board meeting and we hope to learn what the extent of the repairs are and what are the costs of the repairs. Mr. Schwalbe said to the board that a letter from Wenck Associates, Inc. will be going out to the residents in the area letting them know they will be working on the bank installing inclinometers using the same mailing list the city used when the joint letter about the bank stabilization went out. Manager Kremer moved Old Business, item g. Hennepin County to the next item as it is

related to this study.

g. Hennepin County, Manager Kremer

Hennepin County develops their legislative agenda near the end of November the start of December and he received a call from one of the staff people asking whether or not there was anything he wanted on their legislative agenda because he works for several watersheds. Manager Kremer recommends that the District send our county representatives saying that we would like them to include some of the money that we will need for this stream bank erosion in the City of Eden Prairie. Mr. Kremer said he assumes the District is going to the Capitol Bonding Bill and request money out of that bill and right now the best estimate is that the repair is going to cost over \$1 million. We would like Hennepin County to support our quest for Capitol Bonding Bill money. **Manager Kremer moved and Manager McCready seconded that we send a letter to Hennepin County Commissioners with a copy to the City of Eden Prairie from within our District requesting their support for Capitol Bonding Bill monies for the stream bank erosion repairs and that they place that on their legislative agenda.**

VOTE: Ayes 4; Nays 0.

b. City of Eden Prairie silting basin and erosion gully repairs

There is a stilling basin just off of Riverview Road across from where Mr. Tony Phillippi resides and he's also the owner on the other side of the road where water off of Riverview Road is directed into a pipe which goes into this silting basin and they have had some problems and they hired H.T.P.O. engineers to come up with a solution for the problem. Mr. Schwalbe received the information from H.T.P.O. last week and forwarded it to Bonestroo for their review. We do not have Bonestroo's review yet. In the interim Mr. Phillippi has called Mr. Schwalbe and had his attorney email him stating that Mr. Phillippi had hired his own engineer to look at Eden Prairie's plans and that engineer stated he didn't think the plans he reviewed were a good enough solution. Mr. Schwalbe told the attorney that our engineering firm is reviewing the data and as soon as we receive their comments and recommendations he will forward the information to the City of Eden Prairie and Mr. Phillippi. The board requested Mr. Schwalbe to bring a map to the next meeting showing all the affected areas. Manager Schlampp explained the history of the issues and the city's solution. He said he will take some pictures for the board when he goes to the affected areas. The city has asked the District to comment after the District engineer's review.

c. Conflict of Interest Attorney Review

President Samstad said he received communication late today and didn't have time to address it and will be finishing this off with Mr. Malkerson and Mr. Hoff.

d. Crosstown/ 35W drainage

Mr. Schwalbe explained President Samstad's concerns with the WMO at this area with the drainage. The map handed out shows the area in yellow and red. Grass Lake outlet, Wood Lake and out of Wood Lake and down Interstate 494 into our District. President Samstad is concerned about excess water surges coming down 494. Mr. Schwalbe said he will try to meet with the administrator of the Richfield Bloomington WMO to discuss our relationship and express that we are concerned about this because ultimately the water comes into our District. Manager Kremer said that if we were looking to include boundary changes for everything that runs into and through our District that is a pretty big job. Manager Kremer inquired whether Mr. Schwalbe meets with adjacent WMOs. Mr. Schwalbe responded saying he meets with adjacent watershed district but not this particular WMO.

e. Re-schedule the updated water resource plan workshop

Mr. Schwalbe said he and Della Young, HDR, felt they needed more time at a workshop with no time frame with a focus by the board to get the plan correct the way the board wishes to be ready

to send in to BWSR. The board agreed on Friday, December 18, 2009, 8:00 AM, at a place staff determines, possibly Turtles.

f. Lessard Heritage grant for Seminary Fen, Manager Kremer

Manager Kremer talked about Lessard Heritage grants and that out of 40 applications 23 are being recommended for funding for an estimated total cost of \$175 million. There are two programs on the list that Manager Kremer thinks we could qualify for. One is Metro Big Rivers habitat being focused on areas along the Minnesota and Mississippi rivers in the amount of \$4.5 million and that's the MN Natural Wildlife Trust. Second is the Conservation Partners Legacy Program that Mr. Schwalbe talked about earlier tonight in the amount of \$4.6 million for enhancement, restoration and protection of forests, wetlands prairies and habitat. Manager Kremer believes the District would qualify for both of these. Mr. Schwalbe told the board he is meeting with Peggy Booth and one of her staff, DNR, the first part of December to form a strategy as to what funding they would want to go after for Seminary Fen. Peggy Booth said that Metro Greenways had put in an application for next time for Seminary Fen on the second program mentioned.

11. ADMINISTRATOR'S REPORT

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

Mr. Schwalbe said that negotiations are not complete. Peggy Booth is concerned that the negotiations come in at or below what the Wetterlin's appraisals was. Otherwise the money might not be there.

b. Update on legislative resolution implementing a MN River Valley Basin Commission

Mr. Schwalbe said we have sent off the resolutions. He just received a copy from Shannon Fisher, MRB, of the conclusions they came to of the watershed professionals meeting in Redwood Falls which he forwarded to Jeff Davidman tonight and Mr. Davidman is setting up meetings in the next two weeks on a Friday with Representatives Morrow and Hanson to talk the results of the MRB's conclusions.

Nine-Foot Channel insert by Mr. Schwalbe

Mr. Schwalbe said he and Jeff Davidman would like the board to decide if they wish to have a bill written that says the Nine-Foot Channel should be funded by the state to us but operated similarly to the interstate transportation system. A draft bill could be before the board in December.

President Samstad moved and Manager Schlampp seconded a motion authorizing Jeff Davidman, who is the District's specialist in lobbying the legislature, to draft a bill to ask the legislature to transfer to the watershed district "X" dollars to pay ourselves back for costs incurred to date on the Cargill site and have some money in the fund to maintain it going forward. Mr. Malkerson and Mr. Schwalbe will draft a memo to the board saying here is the amount of money that staff thinks should be in the bill and why and at the next meeting the board can decide whether or not you want to move forward. Mr. Davidman will provide a cost for writing the bill and walking it through the legislature.

VOTE: Ayes 4; Nays 0.

11c. USACOE, Navigation Channel and dredge sites testing protocol/MPCA permit combined with 12.c. Meeting with MPCA on dredge materials issues

Mr. Malkerson said he and Mr. Schwalbe met with the Dale Thompson, MPCA, and Marty Long, Minnesota Soils on November 5, 2009. Mr. Long is kind of a specialist in this area as he has 4 or 5 sites with dredge materials he has taken and has a usable product. He has been working with the PCA and various engineering firms in town to determine what to do with the dredge materials. He said he feels it was a very good meeting and feels better than ever about

the type of materials we have. There will be a follow up meeting. He said Metropolitan Council is working with Wenck to come up with a protocol for dredge materials and find an insurance company that will insure materials.

11.d. Dredge site materials insurance discussion

Mr. Schwalbe contacted Mr. Hoffman our insurance agent to get a list of coverage we have which is in the board packet. Need to ask for a Certificate of Insurance from all contractor's and firms who do work for the District

e. Kraemer Mining PUD application

The City of Burnsville sent the District a new PUD application. Mr. Malkerson was asked to review the application. He made no comments. Staff sent Bonestroo the application for comment and recommendations and asked them to hold onto it until additional engineering funding approved to review. **Manager Kremer moved and Manager McCready approved additional dollars to review the new application. VOTE: Ayes 4; Nays 0.**

12. DISTRICT'S ATTORNEY REPORT

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

No opinion yet but when received will send to the board

b. 9 Foot Channel funding options and directions for the operations

This was covered by Mr. Schwalbe under "Insert by Mr. Schwalbe" on bottom of page four.

c. Meeting with MPCCA on dredge material issues

Covered under 11.c. and 12.c. where these two items were combined.

13. UPCOMING MEETINGS AND TOURS

a. MAWD December 3-5 2009 Conference

Appointed delegates Samstad McCready will attend the conference.

FYI materials: **1.** Washington County again for the 3rd time going to the legislature to try and get budget approval for counties in regards to watershed district budgets. **2.** The USACE is moving forward with an integrated study of the Minnesota River. We will be kept involved. **3.** Jeff Davidman's draft to be introduced as a paper "Why Minnesota River Needs a River Basin Management": Formulate a cover letter to the legislators that this will be introduced by Representative Lanning and we think they should support it for the reasons attached. **Manager Kremer moved and President Samstad seconded to send a copy of Davidman's draft to the Scott, Hennepin Carver and Dakota representatives on the MRB. VOTE: Ayes 4; Nays 0.**

14. ADJOURN **Manager Samstad moved and Manager McCready seconded to adjourn the meeting at 8:45 PM. VOTE: Ayes 4; Nays 0.**