

Draft
CARNELIAN-MARINE-ST. CROIX WATERSHED DISTRICT
Regular Meeting Minutes October 11, 2017

Managers Present: Wade Johnson, Kristin Tuenge, Joel Stedman, Dave De Vault, Eric Lindberg, Tom Polasik and Andy Weaver

Others Present: Jim Shaver (administrator), Susannah Torseth (Galowitz • Olson), Carl Almer (EOR), Mike Isensee (WCD), Steve and Bobby Grogan (Kelly Farms), Diane Rohan, Allen Larson, John Lennes, Dave and Carolyn Griffith, Steve Carlson and Florence Musenbrock (Long Lake Association) and Debbie Meister (MMC)

Manager Johnson called the meeting to order at 6:33 p.m.

1) Approve Agenda

Manager Tuenge moved to approve the agenda as amended. Seconded by Manager De Vault. Motion carried 7-0.

2) Minutes from September 13, 2017

Manager Polasik noted that there was a motion to suspend the regular meeting, but no motion to open the public hearing. Ms. Torseth stated that that was okay.

Manager Johnson moved to approve the September 13, 2017 minutes as amended. Seconded by Manager Stedman. Motion carried 6-0-1.

3) Treasurer's Report

Manager Tuenge presented the Treasurer's Report.

Manager Tuenge moved to accept the Treasurer's Report. Seconded by Manager Stedman. Motion carried 7-0.

4) Public Comments

There were no public comments.

5) Agenda Items Subject to Public Comments

a) Access onto Outlet Channel at 155th Street

Administrator Shaver stated that it has been three or four years or longer when the District first did channel maintenance at 155th Street intersecting at Kelly Farms. Mr. Grogan complained because it enabled hunters to access the channel and asked if the District could restrict access. According to the District attorney, there is state legislation allowing watershed districts to restrict access to wetlands. At last month's meeting there was no consensus on restricting public access and the Board wanted more information. The Grogans were invited to discuss the issue.

Mr. Grogan stated that there are legal ramifications if someone drowns or shoots someone. Safety is the main concern. Last week I had dog trainers out there and there were hunters. My lawyer assures me that I will not be sued, but the District will be. We granted the District an easement to maintain the channel through Kelly Farms. The

easement stated it is just for maintenance and there was no hunting. The aforementioned waterway before was a swamp that no one could access or hunt. In the early 1980s, the property owners paid to add water to the flowage. There was a determination of the benefits to add to the flow. As District attorney, Ms. Torseth stated that there is no clear-cut answer, but the District does have liability. Can an attorney make a causal relation: after the channel was cleared the area is accessible. The District would be within its right to restrict access for safety issues. If there were another way to access the marsh, the District's liability would be lessened. No trespassing signs are up now, but the county and sheriff will not enforce this because a law must be broken before there is enforcement. Someone can say they jumped from the road to the water. If the District has an ordinance, then it tightens the legal argument. There are questions about the property line, the right-of-way and the water flow.

Discussion included: The easement is for maintenance and not public access. It is unclear how many duck hunters access the area. There are times when boards are in that a kayaker could ride over the top of the weir to gain access. The culvert is not navigable. Landowners cannot gate or close off public access. Managers Lindberg and Weaver stated that generally they support public access, but noted safety and liability are issues. This is a gray area. Manager De Vault stated that an ordinance would protect the District whether or not it is enforced.

Manager De Vault moved to direct the District attorney to draft an ordinance restricting access to the public with a focus on public safety and to direct Administrator Shaver to provide a map highlighting the area for next month's meeting. Seconded by Manager Tuenge. Motion carried 6-1.

Administrator Shaver will share the draft ordinance with May Township. Manager Johnson thanked the Grogans for providing access for maintenance.

b) Long Lake Aquatic Invasive Species (AIS) Treatment

Administrator Shaver stated that Long Lake was delisted as impaired because it is a shallow lake. The District added the lake to its focused plan a few years ago to pursue improved water quality. Curly leaf pondweed reduction is one approach to reducing phosphorus. During the lake assessment, Eurasian watermilfoil (EWM) was found. The District asked the Minnesota Department of Natural Resources (DNR) for permission to chemically treat the lake, not only to control invasives, but also to protect water downstream. The DNR granted a variance to treat 15 percent of the littoral zone or 10.5 acres. Mr. Almer reported that last month two treatment options were presented. Option 1, based on EOR's recommendation that 16.9 acres need treatment, would be to ask the DNR for another treatment variance. The treatment cost is just under \$14,000. Option 2: treat 10.5 acres—the larger infested areas and the south area near the outlet—plus harvest EWM for three to five years and release native milfoil weevils. The Wisconsin DNR has had success with this approach, especially in areas with undeveloped shoreline. Pricing is about \$13,000. EOR recommends this option. Cost estimates for both options include writing a Lake Management Plan, soliciting a contractor for chemical treatments and pre- and post-plant surveys. A chemical treatment only approach would probably require

treatments forever. In Option 2, weevils would be disbursed after treatment into untreated areas.

Comments from the lake association:

- Diane Rohan, who has lived on the lake for 15 years, stated that she can speak for some of the association. We are unhappy to hear that Long Lake is only being treated to protect other lakes. The treatment areas you are proposing are areas where people don't live. They are areas to treat for Warner Nature Center's lakes, but not to help us. Mr. Almer replied that the treatment area could be reconfigured a bit. But he recommends treating the two lower areas.
- A resident on the bay asked about the spread of EWM. She also noted that the bay is full of lily pads and curly leaf. Mr. Almer replied that mapping would have to be redone before the actual treatment. The current mapping is a snapshot of what was found last summer. The treatment would hit the heaviest infected areas with weevils being released in the lesser-infected areas.
- Association president Mr. Larson stated that he was a licensed applicator. Treatments need to be done at two different times. The weevils will not affect curly leaf. Of all the lakes we treated, we never got eradication of EWA. Treatments must be ongoing. Bugs are a better idea, if they work.
- John Lennes stated that he is a former District board member and state agency head who wrote regulations. Mr. Almer's treatment memo is excellent. Though he recommends treating all infected areas, the DNR is not allowing this. The District could make an argument to the DNR that treatment of all 16.9 acres is needed because the District is really treating four lakes, three of which are downstream. If weevils are not already there, introducing a new species might not turn out well. A lot of us have been feeling like Diane Rohan, but at this level we have been heard. Doing something is better than doing nothing. One advantage of intense herbicide treatment now is that we know it will work.

Further discussion included:

- Manager Polasik suggested treating all acres and maintaining with weevils.
- Mr. Almer stated that this is a first stab with two approaches for the initial management. It is not long-term management.
- Administrator Shaver stated that there are two choices laid out. And Mr. Lennes put forth a third option. If weevils are not used, the lake would need to be treated every year. The District has a cost-share program. Although this might not have been a formal position, the Board has said it is protecting the Warner property.
- Ms. Rohan and Mr. Carlson asked if Warner would be willing to contribute to protect their lakes.

Manager Weaver moved to direct the District engineer to further investigate a DNR variance to treat the entire acreage with calculations including the three downstream lakes and to direct the Administrator to look into funding for the weevils. Seconded by Manager Johnson. Motion carried 6-0-1, with Manager Lindberg abstaining because he has a client on Long Lake.

6) Project Updates

a) Log House Landing Ramp

Administrator Shaver reported that there will be on-going maintenance and the ditch checks keep silting in. Manager Lindberg stated that there is still a lot of erosion up the road, the trap rock is holding on the ramp better and the upper road sediment is flowing across the parking lot into the water.

b) 197th Street

Administrator Shaver reported that we got the no-loss decision and reseeding. He will talk to Scandia about using their excavator and hopes to complete the work this fall.

c) Marine Stormwater

Mr. Almer reported that the contractor plans to start on the iron-sand filter next week, with plans to finish on October 22 and seed when everything is dormant.

d) Goose, Hay and South Twin Implementation

Mr. Isensee reported that he finally reached Goose Lake resident Ellen St. Sauver to let her know that the project is moving forward. Jay Riggs will be doing the wetland delineation next week and identifying the type of easement needed so that design work can be started. A resident who is in the Comfort Lake-Forest Lake Watershed District (CLFLWD), has a broken drain tile about 300 feet from Goose Lake. There is erosion from the tile, but the tile location and ownership is unknown. These issues and fixes are being investigated. Angie Hong will be making a site visit to an agriculture landowner on Hay Lake about the buffer law.

e) 133rd Street

Administrator Shaver reported that he and Mr. Almer met with the property owner in the low area on Panorama about his future plans. Mr. Almer will look at the quantity of stormwater that could be handled with a future project after the roads are paved.

f) Marine Ravine and Wetland Reconstruction

Mr. Almer reported that he is completing preparatory work for the grant including charting the wetland boundary and completing the topographic survey. Including this and other Marine projects on the October 21 District tour was discussed. The Arcola cost share, 155th Street project and the Zavoral solar garden were also suggested for the tour.

g) Lake Assessments

Mr. Almer reported that the Alice and German lakes macrophyte surveys were completed. St. Mary's University completed the fish surveys.

7) New Business

a) Permits

i) Conditional Approval

Manager Tuenge moved conditional approval of permit numbers 17-028, 17-029, 17-030, 17-031, 17-032 and 17-033 pending the District engineer's review and approval. Seconded by Manager De Vault. Motion carried 7-0.

ii) Surety Return

Manager De Vault moved to return the surety on permit number 17-005. Seconded by Manager Stedman. Motion carried 7-0.

iii) Zavoral Off-site Dewater Plan

Mr. Almer reported that he reviewed and commented on a Zavoral dewatering plan, which is in the DNR purview. Dewatering is needed in order to do the restoration work, which includes dredging the basins. Based on comments, Zavoral revised its plan, proposing to dewater the area through a pipe running over the south end of the former reclaimed gravel pit to a ravine south of Zavoral's cabin. EOR recommended extending the pipe or providing more stabilization. Manager Tuenge stated that the original permit required dewatering to happen onsite and the new foreman was told to move the project along. Administrator Shaver stated that he would talk to Jenifer Sorensen of the DNR.

b) MAWD Annual Meeting

Administrator Shaver reported that the meeting is coming up. He and Manager Johnson plan to attend. Administrator Shaver will attend the administrator meeting and is on the Resolution Committee.

c) Stillwater Township Local Water Plan

Administrator Shaver reported that the governor did not attend the "25 by 25" water initiative meeting to hear from the public about recommended community efforts to improve water quality. At the meeting, Administrator Shaver suggested citizens talk to local officials to see if they are willing to spend money to implement local water plans. The next day, at a meeting with some Met Council staff, he volunteered this comment. Subsequently, he heard from Stillwater Township that in the eleventh hour of approval of its Water Management Plan, the Met Council asked for budgetary commitments tied to the plan. In the past, the council has let budget requirements slip for smaller towns. Administrator Shaver stated that he would like to write a letter to the Met Council stating it is too late to require a change to the township plan and asked for Board guidance on how to proceed. He noted that Marine, probably the smallest entity in the District, is putting \$25,000 annually into its stormwater management budget.

Manager De Vault, with agreement from Manager Weaver, questioned if it is the District's place to write a letter to say it is too late for the township plan. Manager Polasik suggested that maybe the Met Council should contact all communities and say this will be required. Manager Lindberg stated that it is his understanding that Administer Shaver made a comment about actions the public can take and was not necessarily representing the District. Manager Johnson suggested that the Met Council be encouraged to apply policies consistently. Mr. Almer noted that the District approves the local water plan. The Met Council is making comments to the District. EOR prepared comments on plans from this and other watershed districts and the districts have never insisted that townships have stormwater capital improvement plans. Manager Stedman stated that the District has always viewed these as guidelines and has not required small communities to do this.

Administrator Shaver stated that he will write a letter to the Met Council and copy the Board. He and Manager Tuenge noted that grants are easier to get when more stakeholders contribute to a project. Ms. Torseth warned against implying that the Met Council is not enforcing policy.

8) Old Business

a) CD Renewal Rate and Penalty

Administrator Shaver reported that he met with Marine Bank personnel about certificates of deposit and penalties for early withdrawal of CDs.

Manager Johnson moved to authorize the administrator and treasurer to meet with Marine Bank personnel to renew the Outlet Pipe certificate of deposit for a period of 72 months at the highest negotiated rate offered. Seconded by Manager Stedman. Motion carried 7-0.

b) Payroll Disclosure and Allocation on Financial Statements

Administrator Shaver presented an option on the General Ledger to aggregate administrator salary and benefits. He noted that for budgeting, the numbers can be presented in an Excel spreadsheet to make it more understandable to the public.

c) Channel Maintenance Update

Administrator Shaver reported that he still plans to get Roger Rydeen out for channel maintenance. The water level at Big Marine is up and water is draining.

d) Planning Updates

i) 1Watershed1Plan Preliminary Meeting Update

Administrator Shaver reported that he will attend the pre-planning meeting for the Lower St. Croix Watershed Partnership.

ii) CMSCWD Plan Scheduling Update

Administrator Shaver stated that this is a two-year process and suggested holding a kickoff board workshop before beginning the formal process.

e) Shared Staff with CLFLWD

Administrator Shaver reported that Administrator Kinney is hiring another individual and asked if CMSCWD would like to share a person. Administrator Shaver suggested using money in the Management Plan line item for data gathering on the plan and possibly some inspections. The cost would be about \$30/hour. Administrator Shaver will provide a full proposal next month. Manager De Vault recommended having a very firm agreement with CLFLWD.

9) Pay Bills

Manager Tuenge moved to pay the bills in the amount of \$42,625.12. Seconded by Manager De Vault. Motion carried 7-0.

10) Next Meeting is November 8, 2017

11) Adjourn

**Manager Johnson moved to adjourn at 9:19 p.m. Seconded by Manager De Vault.
Motion carried 7-0.**

Submitted by
Debbie Meister, MMC Associates