



## **Long Creek Watershed Management District Board of Directors**

Minutes from August 7, 2018 Meeting

Location: South Portland Water Pollution Control Facility, 111 Waterman Drive, South Portland, Maine

- 1. Call to Order:** Mr. Dillon called the meeting to order at 9:04 a.m.
- 2. Roll Call:**
  - a. Attendance: Curtis Bohlen, Fred Dillon, Brian Goldberg, Will Haskell, Susan Henderson, Peter Newkirk, Doug Roncarati, Michael Vail
  - b. Absent: Angela Blanchette, Arthur Colvin, Eric Dudley, Craig Gorris, Ed Palmer
  - c. Staff/Guests: Peter Carney (LCWMD Executive Director), Aubrey Strause (Cumberland County Soil & Water Conservation District), Jim Katsiaficas (Perkins-Thompson); Taylor LaBrecque (Maine DOT); Dan Hogan (City of South Portland Conservation Commission)
- 3. Review of Board Meeting Minutes:**
  - a. The Board reviewed the minutes from the June 26, 2018 meeting. Mr. Haskell made a motion to accept the minutes from the June 26, 2018 meeting, seconded by Ms. Henderson. The motion carried unanimously. No revisions were requested.
- 4. Treasurer's Report: June Financial Report**
  - a. Mr. Carney noted that the June Financial Report is also the end-of-Fiscal Year 2018 report.
  - b. Mr. Carney noted that LCWMD spent less than intended in Fiscal Year 2018, primarily related to moving the Main Stem Restoration Project construction costs originally budgeted in Fiscal Year 2018 entirely into Fiscal Year 2019.
  - c. Mr. Carney advised that the end-of-Fiscal Year 2018 figures include pavement sweeping and catch basin cleaning invoices that came in after July 1, 2019. Some of the work in these invoices may have been performed in Fiscal Year 2018 and some in Fiscal Year 2019. Mr. Carney noted that LCWMD's fiscal Agent, Mr. Brewer, posts costs back and forth between fiscal years depending on when the work was performed. Mr. Brewer considers this report the "unaudited" Financial Statement for Fiscal Year 2018. Final adjustments to the financial report will be made by Mr. Brewer as recommended by the auditors who prepare the annual audited financial statements for LCWMD.
  - d. Mr. Carney noted that catch basin cleaning will be over-budget in Fiscal Year 2018 and under budget in Fiscal Year 2019. The catch basin contractor was able to start work early this year, therefore, some of the work budgeted for Fiscal Year 2019 was performed in Fiscal Year 2018.
  - e. Mr. Carney noted that Smith & Associates, LCWMD financial auditor, recently started the Fiscal Year 2018 financial audit.
- 5. License and Indemnification Agreement: Inspection and Maintenance of Cummings Road Structural Best Management Practices (BMPs)**
  - a. Mr. Carney introduced the Cummings Road BMP project that pertains to the License and Indemnification Agreement.

- b. Mr. Carney noted that the project that was constructed in 2016 by the City of South Portland at the intersection of Cummings Road and Running Hill Road and includes several structural BMPs that require inspection, maintenance, and landscaping services.
- c. Prior to construction of the project, there was a verbal agreement between the City of South Portland and LCWMD that LCWMD would maintain the BMPs constructed as part of the project.
- d. A License and Indemnification Agreement that would provide LCWMD with the authority to inspect and maintain the BMPs was prepared around the time that the project was constructed but was never signed.
- e. The draft License and Indemnification Agreement was located and reviewed by Mr. Katsiaficas who revised the agreement as necessary to reflect current circumstances. The Agreement was approved and signed by the City of South Portland.
- f. Mr. Carney advised that the financial implications of taking on the inspection, maintenance, and landscaping of the BMPs is approximately \$3,200 per year.
- g. Mr. Carney advised that change orders will be entered into with LCWMD's contractors to add the BMPs to the landscaping and BMP inspection and maintenance contracts.
- h. Mr. Carney said he is requesting LCWMD Board authorization to sign the agreement on behalf of LCWMD.
- i. Mr. Katsiaficas advised that the concept of the License and Indemnification Agreement came from Maine DOT, which does not provide easements.
- j. Mr. Roncarati asked whether LCWMD would be taking on long-term capital cost for the BMPs identified in the License and Indemnification Agreement.
- k. Mr. Bohlen replied that LCWMD is not agreeing to take on long-term capital costs for the BMPs.
- l. Mr. Bohlen said that it was his recollection that the Agreement is exactly where LCWMD wanted this to end up, conducting inspection and maintenance, but not taking on responsibility for long-term capital costs for the subject BMPs.
- m. Mr. Haskell asked whether the BMPs had been maintained since they were constructed.
- n. Mr. Dillon replied that the BMPs had not been maintained since they were constructed.
- o. Mr. Roncarati moved to authorize the Executive Director to enter into the License and Indemnification Agreement with the City of South Portland to provide LCWMD with a license to maintain, inspect, and monitor the stormwater management structures identified in the Agreement. Mr. Haskell seconded the motion. The motion carried unanimously.

#### **6. Purchase Order for Replacement of Trees in Gorham Road Medians:**

- a. Mr. Carney distributed a draft Requisition for Sole Source Purchase Authorization for the purchase of seven replacement trees for the Gorham Road median project. See **Attachment A** to these minutes.
- b. Mr. Carney provided background on the Gorham Road median project noting that the project had been constructed by LCWMD in 2014. The project included the planting of trees along the median in Gorham Road in South Portland.
- c. Mr. Carney explained that several of the median trees had been lost, primarily as the result of automobile accidents.
- d. Mr. Carney noted that initially six trees were identified as requiring replacement.
- e. Mr. Carney advised that replacement trees will be the same as those specified in the original design and that Maine DOT approved replacing the trees in accordance with the original specification.

- f. Mr. Carney noted that Mr. Bohlen, LCWMD's Treasurer, previously approved a purchase order for six trees, which was within the Treasurer's authority to approved purchases between \$500 and \$2,500.
- g. The six replacement trees were subsequently ordered and reserved through LCWMD's vendor.
- h. It was subsequently determined that a seventh tree required replacement.
- i. The cost of seven trees, plus delivery, totaled \$3,205, which exceeds the Treasurer's unilateral approval authority.
- j. Mr. Carney advised that under LCWMD's financial controls document expenses greater than \$2,500 are subject to LCWMD's procurement policy
- k. Mr. Carney noted that under LCWMD's Rules and regulations, section C(5)(d), competitive bidding may be waived by the Board when it "otherwise is the most economical, effective and appropriate means of fulfilling a demonstrated need."
- l. Mr. Carney explained that a waiver of competitive bidding is warranted under the circumstances because LCWMD already has reserved six trees with the identified vendor and at this time of year the trees may no longer be available through other vendors.
- m. There then ensued a discussion on whether LCWMD should replace the trees if there is a risk that they will be damaged or destroyed by future automobile accidents.
- n. The Board ultimately decided that if the trees were part of the original design, they should be replaced.
- o. Mr. Goldberg moved to authorize the Executive Director to purchase the trees identified in the purchase order, which was seconded by Mr. Haskell. The motion carried unanimously.

#### **7. Main Stem Restoration Project:**

- a. Mr. Carney asked that two items be added to the agenda, both pertaining to the Main Stem Restoration Project.
- b. First, is whether LCWMD should conduct soil characterization of fill to be removed so that those results can be included in the construction Request for Proposals.
- c. Mr. Carney noted that Field Geology Services, LLC, the Main Stem Restoration Project's design consultant, had prepared a proposal for \$12,950 to conduct soil characterization. This includes \$8,000 for geoprobing and project management and \$4,950 for lab analysis.
- d. Mr. Carney distributed a letter from St. Germain Collins, the project engineer and subcontractor to Field Geology Services, LLC, dated June 28, 2018, outlining the proposal. See **Attachment B** to these minutes.
- e. Mr. Carney advised that the issue before the Board today is whether to approve a change order to the Field Geology Services, LLC contract in the amount of \$12,950 to conduct soil characterization in accordance with the proposal prepared by St. Germain Collins.
- f. There then ensued a discussion on whether there is value in LCWMD performing the soil characterization.
- g. Mr. Bohlen moved to perform the soil characterization assessment via change order to the Field Geology Services, LLC contract in the amount of \$12,950. Mr. Vail seconded the motion.
- h. Mr. Haskell noted that \$8,000 seems high to do five soil borings.
- i. Mr. Bohlen modified the motion to authorize Executive Director to enter into a change order in an amount up to up to \$12,950 with the understanding that Mr. Carney will attempt to negotiate a lower price for the soil borings. Mr. Vail seconded the motion. The motion carried unanimously.
- j. Secondly, Mr. Carney informed the Board, the design drawings, planting plan, and easements for the Main Stem Restoration Project need to be revised.

- k. Mr. Carney noted that the Main Stem committee reached a consensus to reduce the overall amount of floodplain fill removal because the culvert constrictions at Foden Road and the Portland Water District water main crossing below Foden Road result in ponding in the restoration area which limits the ability of Long Creek to take advantage of the originally planned extent of fill removal.
- l. As a result of reducing the fill removal, the 95% design drawings, planting plan, and easements need to be revised to reflect the reduction of fill removal.
- m. Mr. Carney advised that there is no estimate yet on the cost to bring the 95% design plans to 100% completion.
- n. Mr. Carney noted that the August 30, 2017 minutes reflect that the Board authorized the Executive Director to enter into change orders in an amount up to \$32,000 without seeking further Board approval “[f]or unpredictable changes to the statement of work resulting from conditions discovered in the field.”
- o. Mr. Carney noted that the changes in the design drawings, planting plan, and easements pertain to primarily to the culverts carrying Long Creek under the Portland Water District water main below Foden Road. These culverts were not identified in the previous Hydrologic and Hydraulic study performed by LCWMD that was provided as background in the Request for Proposal to Field Geology Service, LLC.
- p. Mr. Carney said he believes approval for the cost of the revisions fit the guidelines given by Board for the Executive Director to unilaterally approve these expenses.
- q. The Board agreed that Mr. Carney has this authority to enter into a change order for the costs required to revise the design drawings, planting plan, and easements without further Board action.

**8. Water Quality Monitoring Services Request for Proposals – Volunteers for Proposals Review Committee:**

- a. Mr. Carney noted that he is working with Mr. Bohlen and Jeff Dennis, of Maine DEP, on the final revisions to the Long Creek Monitoring Plan and QAPP.
- b. Upon final approval of the Monitoring Plan and QAPP, LCWMD can issue the Request for Proposals for a monitoring contractor for the 2019 and 2020 calendar years as the current monitoring contract expires at the end of 2018.
- c. Mr. Carney asked for volunteers to serve on the proposal review committee to make a recommendation to the Board on awarding the monitoring services contract.
- d. Mr. Bohlen, Mr. Dillon, and Mr. Haskell volunteered to serve on the proposal review committee.
- e. Mr. Bohlen expressed a preference that the committee meet in person to review proposals.

**9. Landscaping Services Request for Proposals – Volunteers for Proposals Review Committee:**

- a. Mr. Carney noted that he is close to issuing the landscaping request for proposals for a landscaping contractor for the 2019 and 2020 calendar years as the current landscaping contract expires at the end of 2018.
- b. Mr. Carney asked for volunteers to serve on the proposal review committee to make a recommendation to the Board on awarding the landscaping services contract.
- c. Mr. Goldberg, Mr. Roncarati, and Mr. Vail volunteered to serve on the proposal review committee.

**10. Public Comments:** None.

**11. Next Meeting:** The next meeting will be held on October 10, 2018 at 9:00 a.m. at the South Portland Water Pollution Control Facility, 111 Waterman Drive, in South Portland, Maine.

**12. Adjourn:** The meeting adjourned at 10:59 a.m.