



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

Minutes from June 26, 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 9:07a.m.
- 2. Roll Call:**
  - a. Attendance: Angela Blanchette (arrived during discussion of FY2019 budget), Curtis Bohlen, Fred Dillon, Eric Dudley, Brian Goldberg, Will Haskell, Susan Henderson, Peter Newkirk, Doug Roncarati
  - b. Absent: Arthur Colvin, Craig Gorris, Ed Palmer, Michael Vail
  - c. Staff/Guests: Peter Carney (LCWMD Executive Director), Aubrey Strause (Cumberland County Soil & Water Conservation District), Chris Brewer (Cumberland County Soil & Water Conservation District), Jim Katsiaficas (Perkins-Thompson), Addie Halligan (City of South Portland), Taylor LaBreque (Maine DOT)
- 3. Review of Board Meeting Minutes:**
  - a. The Board reviewed minutes from the April 24, 2018 and May 14, 2018 meetings.
  - b. No revisions were requested.
  - c. Mr. Haskell made a motion to accept the minutes from the April 24, 2018 and May 14, 2018 meetings which was seconded by Ms. Henderson. The motion carried unanimously.
- 4. Treasurer's Report:**
  - a. Mr. Bohlen reviewed the May Financial Report, noting that there is now approximately \$2.6 million in the bank which would better be spent on water quality improvements.
  - b. Mr. Bohlen noted that May invoices looked low relative to other years.
  - c. Mr. Carney noted that the Maine Mall gravel wetland is now considered complete and expenditures related to the project have been moved on the Balance Sheet from "Construction in Process" to "Infrastructure" as the project is now considered a capitalized asset.
  - d. Ms. Strause noted that May spending is low because the first round of pavement sweeping has not yet been invoiced.
  - e. Mr. Goldberg asked, what will happen with Toys "R" Us given their pending bankruptcy, and what is the permitting status of the Duluth Trading Post store that is now under construction?
  - f. Mr. Katsiaficas advised that LCWMD can submit a claim for an administrative expense in the Toys "R" Us bankruptcy proceeding for annual assessments.
  - g. Ms. Strause noted that it is her understanding that the Duluth Trading Company store will be acquiring an individual permit for the discharge of post-construction stormwater.
  - h. Mr. Carney noted that the decision to acquire an individual permit or apply for coverage under the Long Creek general permit is usually the product of a cost-benefit analysis. Typically, new construction projects are more likely to acquire an individual permit because the projects need to meet Maine DEP Chapter 500 stormwater standards, thereby, obviating the need to consider the costs of retrofitting existing stormwater management infrastructure.

- i. Mr. Carney noted that prospective permittees under the general permit tend to request an estimated assessment from LCWMD for both the individual permit and general permit options to take into account during their decision-making process.
- j. Mr. Carney advised of three development projects of note in the watershed, based on information from municipal planning board agenda reviews, including:
  - a. Development of an additional structure on the Port Resources property;
  - b. A new memory care and assisted living facility on Running Hill Road;
  - c. and it appears that the Econolodge on Philbrook Avenue will remain under one acre of impervious acre despite the expansion happening there.

**5. Annual Nomination and Election of Board Officers: Chair, Vice Chair, Treasurer, and Secretary**

- a. The Board briefly discussed retaining the same slate of officers for the ensuing year.
- b. Mr. Newkirk noted that he may not be available as a Board member or officer for the full following year.
- c. Mr. Newkirk suggested that Mr. Roncarati would be a good candidate for vice chair and nominated him for the position.
- d. Mr. Roncarati accepted the nomination.
- e. **Ms. Henderson made a motion to nominate and elect as officers, Mr. Dillon for the position of Chair, Mr. Roncarati for the position of Vice Chair, Mr. Bohlen for the position of Treasurer, and Mr. Goldberg for the position of Secretary. Mr. Haskell seconded the motion. The motion carried unanimously.**

**6. Fiscal Year 2019 Budget Approval:**

- a. Mr. Carney noted that the Board provisionally adopted the Fiscal Year 2019 budget in February which was used as the basis for the estimate of expenditures provided to landowners for Fiscal Year 2019.
- b. Mr. Bohlen noted that that the only significant difference between the February estimate and the version of the budget before the Board today is shifting of funds due to changing the timing of the remaining construction projects.
- c. Mr. Carney summarized the revisions since February as:
  - i. moving construction costs for the Main Stem restoration project to Fiscal Year 2019, which had previously been allocated partially in Fiscal Year 2018 and partially in Fiscal Year 2018;
  - ii. moving design and construction costs for the Hannaford Basin BMP retrofit project from Fiscal Year 2019 to Fiscal Year 2020;
  - iii. adding \$15,000 for catch basin cleaning to reflect cleaning 800 catch basins, which is an increase from 600 in Fiscal Year 2018; and
  - iv. that the CCSWCD budget was revised from approximately \$300,000 to \$290,000 based on actual expenditures in Fiscal Year 2018.
- d. Mr. Carney noted that the long-term cash flow projection reflects that there will be approximately \$2.2 million in unallocated funds through the end of the current permit cycle in June 2020.
- e. Mr. Goldberg said this is too much money to have in the bank and that we need to decide what to do with it. This is other people's money and it should be given back if we have too much, we need to have a plan.
- f. Mr. Bohlen agreed we need to have a plan.

- g. Mr. Carney noted the Long Creek Watershed Management Plan contemplated constructing “Tier 3” projects following construction of “Tier 1” and “Tier 2” projects if water quality goals are not met.
- h. Mr. Roncarati suggested that addressing the chlorides issue may require an investment to which the unallocated fund could be applied.
- i. Mr. Bohlen suggested that we have not actually met the Long Creek Watershed Management Plan’s goal of treating 150 acres of impervious area. In addition, the salt issue remains, we need to resolve these issues with Maine DEP and get their buy-in. Future assessments could potentially be lower.
- j. Mr. Carney noted that based on the inventory submitted to Maine DEP, LCWMD will have met the Long Creek Watershed Management Plan’s goal of treating 150 acres of impervious area at the end of the permit cycle, provided that the Hannaford Basin BMP project is completed.
- k. Mr. Roncarati suggested that relative to their cost equipping catch basins throughout the watershed with hoods could go a long way toward reducing stormwater pollutants.
- l. Ms. Henderson asked, can LCWMD do heated pavement?
- m. Mr. Carney noted that the Chloride Committee identified doing a pilot project with heated sidewalks in association with a cooperative landowner.
- n. Mr. Bohlen noted that heated pavement works well for small areas such as sidewalks but does not work well for large spaces such as parking lots.
- o. Mr. Haskell inquired about whether we have information on the condition of culverts throughout the watershed, as they provide habitat and water quality benefits.
- p. Mr. Dillon noted that he, Mr. Newkirk, and Mr. Carney recently met with Jeff Dennis and Leon Tsomides from Maine DEP about the Foden Road culvert.
- q. Ms. Henderson asked, why don’t we want more trees at the Maine Mall for cooling?
- r. Mr. Dillon noted that the “Greening of the Maine Mall” project was indefinitely tabled because the South Branch cannot handle the current stream flow which leads to flooding issues that could damage installed BMPs. It was further noted that the nature of future development at the Maine Mall was uncertain.
- s. Mr. Katsiaficas noted that LCWMD prepared an estimate to dredge part of the South Branch and that project could be revisited.
- t. Mr. Newkirk raised the concept of adaptive management identified in the Long Creek Watershed Management Plan, noting the Expert Review Panel recommendations developed in 2014 and 2015.
- u. Mr. Newkirk suggested that we need to comprehensively analyze the water quality data that has been collected for almost ten years. LCWMD should hire consultants to work with the Board, Maine DEP, and U.S. EPA to get some definitive direction on the chloride issue. The Watershed Management Plan should then be adapted to address those things.
- v. Mr. Newkirk suggested our focus needs to be on what is going to get us to our final product to meet water quality standards.
- w. Mr. Dillon noted that several months ago he met with Mr. Carney and Mr. Katsiaficas to talk about some of these larger strategies and agreed that we should engage Maine DEP and U.S. EPA to discuss the long-term plan.
- x. Mr. Roncarati offered that it will be hard for LCWMD to unilaterally address chloride issues and that hydraulics and hydrology are another major unknown. We need to get a better hydraulic model.

- y. Mr. Newkirk said we need to conduct background research and analysis to determine what we should be doing and come up with firmer answers and direction.
- z. Mr. Katsiaficas noted that as the result of the Expert Review Panel process, some mid-course corrections were made. Mr. Katsiaficas asked, who would do the type of work we need to do, the UNH Stormwater Center?
- aa. Mr. Bohlen said there is no question LCWMD should convene another Expert Review Panel, or similar process, so we can take a good look at where we are and determine what we want the next steps to be.
- bb. Mr. Bohlen suggested that he was hearing a few things that should come together, including:
  - i. convening another Expert Review Panel;
  - ii. developing a plan to use our resources;
  - iii. determining what needs to be queued up for the next permit cycle;
  - iv. having the information to tell Maine DEP what we think the next steps are; and
  - v. to do this we should organize the information relevant to these issues.
- cc. Mr. Dillon asked, when is enough, enough? Mr. Dillon noted that many places do not attempt to restore watersheds above 30% impervious cover, we have 60% impervious cover in some places here.
- dd. Mr. Bohlen suggested that if we take something like that to Maine DEP we need to back it up. We need to put together a package that includes technical recommendations and finances.
- ee. Mr. Dillon said it sounds like we are heading for Expert Review Panel 2.0.
- ff. Mr. Bohlen agreed that a second Expert Review Panel would be a good idea and asked, whether LCWMD should hire a consultant or do the work in-house?
- gg. Mr. Roncarati asked, what do we need before we move into the new permit cycle? What do we need to know?
- hh. Mr. Bohlen suggested convening an Expert Review Panel and using the information to put into a proposal to submit to Maine DEP for the next permit cycle, ensuring there is a tighter connection between the Expert Review Panel and the desired results than there was during the first Expert Review Panel process.
- ii. Mr. Bohlen noted that the last Expert Review Panel recommendations did not plug in well to our ongoing operations. We need to tie the advice to actions much more solidly.
- jj. Ms. Blanchette noted that the chloride issue is much bigger than just Long Creek, suggesting that LCWMD should not just focus on chlorides. LCWMD needs to work on all issues, not just chlorides. We need to focus on implementation, not theory.
- kk. Mr. Bohlen agreed that chlorides may not be solvable at this scale. Mr. Bohlen suggested that if chlorides are not solvable, we need to go to Maine DEP and say that. We need the data to say that.
- ll. Mr. Roncarati said we know why the amounts of salt are being used, it is because of liability with landowners. LCWMD has no control over that issue and no control over how much salt gets put down. All we can do is pass chlorides through, not store them. We could use plant species that absorb chlorides and cut and remove the plants one to two times per year.
- mm. Mr. Dillon suggested in the interest of time that the Board turn its attention back to the budget.
- nn. Mr. Carney noted that the unallocated cash is not an issue that needs to be decided today.
- oo. Mr. Bohlen recommended approving the budget as presented, however, with the addition of allocating \$50,000 to start looking at the larger issues of revising the Long Creek Watershed Management Plan.

- pp. Mr. Carney asked Mr. Brewer where in the budget the additional \$50,000 should be allocated. It was agreed that the funds would be posted to "Plan Revisions."
- qq. **Mr. Golberg moved to approve the Fiscal Year 2019 budget as presented with the addition of allocating \$50,000 to start looking at the larger issues of revising the Long Creek Watershed Management Plan. Mr. Dudley seconded the motion. The motion carried unanimously.**

#### 7. GZA GeoEnvironmental, Inc.: Sole Source – Habitat and Macroinvertebrate Assessments

- a. Mr. Carney noted that this agenda item was previously tabled so that Mr. Bohlen could be present for the discussion.
- b. For way of related background, Mr. Carney noted that that there was a recent meeting between LCWMD and Maine DEP at which a consensus developed that construction of the Main Stem restoration project would not commence until May 2019.
- c. When the Habitat and Macroinvertebrate Assessments were previously discussed the Main Stem restoration project was slated for construction as early as August 2018, therefore, the "kick net" aspect of the macroinvertebrate assessments would have taken the place of the rock basket macroinvertebrate assessments for this year. Rock baskets are typically put in place in July and collected in August.
- d. Given that timing is no longer an issue, Mr. Carney asked Mr. Bohlen whether there is there still value in doing kick netting for macroinvertebrates if rock baskets are being done at the same location this year?
- e. Mr. Bohlen explained that many things change when you do a stream restoration project. The goal of the restoration project is to increase diversity in the system. Rock baskets get you a big picture, but they are not as accurate as kick nets that can sample different habitats. Kick net assessments pull out different information, although it is not quantitative.
- f. Mr. Bohlen noted that he is ambivalent about whether kick netting will benefit LCWMD landowners if it's not used for compliance, however, kick netting is not just theoretical.
- g. Ms. Strause asked whether kick netting could support a rock basket result, if the rock basket result was marginal?
- h. Mr. Bohlen responded that while kick netting results would not replace or support rock baskets results in a formal sense, the kick netting results could impact a discussion and decision on restoring macroinvertebrates. In other places around the county kick netting acts as an index and is used to determine water quality standards, but not in Maine.
- i. Mr. Goldberg asked whether having the kick netting information would help for the next permit cycle if we will not have results to compare in the Main Stem restoration reach until the next rock basket assessment in 2020?
- j. Mr. Bohlen answered that a round of kick netting shortly after completion of the Main Stem restoration project could yield results with respect to some species noting you would expect to see more of some species macroinvertebrates nearly right away. You will get a partial answer very quickly.
- k. Mr. Dillon said he thought restoration does not always work right away and that you may not always see the immediate impact.
- l. Mr. Bohlen said that you can see results fast in an otherwise healthy stream.
- m. Mr. Carney noted that the August 2018 rock baskets will be important because we will have that data before the end of 2018; the next rock baskets will not be placed until August 2020, after the current permit has already expired.

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- n. Mr. Carney noted that on a larger scale, the quality assurance/quality controls review of LCWMD's data set is proceeding and that should be finished soon.
  - o. Mr. Roncarati suggested that we get some flow monitoring data in the area where we are doing the Main Stem restoration, both pre-and-post-project.
  - p. Ms. Henderson said that it seemed that kick netting is not much money to spend to get some good data.
  - q. Mr. Bohlen suggested that we can get a lot of kick net data for the same amount as a single rock basket.
  - r. Mr. Roncarati asked whether protocols for kick netting are something that can be established in a QAPP?
  - s. Mr. Bohlen responded, yes, if we are clear about the goals.
  - t. Mr. Carney clarified that the funds in the sole source request are for a single kick netting event in the reference and restoration reaches. Additional funds would be required for a subsequent kick netting event, or events, to acquire data for comparison purposes.
  - u. Mr. Dudley asked whether the kick netting data would serve any purpose for Maine DEP?
  - v. Mr. Carney responded that such data would have no compliance impact, but it might be helpful for internal decision making. Maine DEP could consider the information from kick netting useful in an informal sense.
  - w. Mr. Dudley suggested that the Maine DEP focus is on rock baskets, and that macroinvertebrates sampled as the result of other methods are not of interest to Maine DEP. Mr. Dudley, asked what is the explanatory information that kick netting would provide?
  - x. Mr. Bohlen responded that it helps you understand the structure of the habitats that will be successful in returning macroinvertebrates. Kick netting allows you to get information on bugs that will not be in the rock baskets. We can go to the spots that we just built and see if we have the right bugs there.
  - y. Ms. Blanchette asked how the data from kick nets support us?
  - z. Mr. Bohlen responded that, for example, if there are no leaves, there is no food; kick netting samples different habitat types to see if parts of the food web are missing in the system.
  - aa. Mr. Dillon asked whether there is any parity between the two methods?
  - bb. Mr. Bohlen responded that we might identify places where hydrology is a problem, in that it is blasting food and habitat out of the stream.
  - cc. Mr. Bohlen offer that kick netting is not a path to a legal determination, but could influence regulators when it comes time to discuss future permit requirements. Kick netting may ultimately help us get more bugs into the baskets, noting that rock baskets are biased because it depends on where you put them.
  - dd. Mr. Bohlen said he thought the information would be useful in conversations with Maine DEP even if it is not formally or legally binding.
  - ee. Mr. Newkirk said he fully agrees that it is well worth the money. The information would be something to put on the table in conversations with Maine DEP and it is meaningful. Maine DEP put the rock basket in the worst place, just upstream of Foden Road.
  - ff. Mr. Newkirk offered that what rock baskets show is limited, we do not know what is going on in other habitats or in other locations.
  - gg. Ms. Blanchette asked why the sole source was with GZA?
  - hh. Mr. Carney noted that GZA had done similar habitat assessment work for LCWMD during the Expert Review Panel process.

- ii. Ms. Blanchette asked whether the same people that did the prior assessment are still with GZA. It was noted that Aimee Mountain and Tracy Tarr were with GZA and are still with GZA; furthermore Kate MacDonald, who is now with GZA, was with CCSWCD when the earlier assessment was performed.
- jj. Mr. Bohlen noted that, as an ecologist he would love to have this information, however, he believed it may be viewed as less important from a landowner perspective.
- kk. **Mr. Newkirk moved to authorize the Executive Director to enter into a sole source contract with GZA GeoEnvironmental, Inc. in an amount up to \$7,500.00 to conduct kick netting and habitat assessments of the Main Stem restoration reach, and a control reach, of Long Creek.**
- ll. **Ms. Henderson seconded the motion.**
- mm. **Mr. Bohlen, Mr. Dillon, Mr. Haskell, Ms. Henderson, Mr. Newkirk, and Mr. Roncarati voted in favor of the motion; Mr. Dudley and Ms. Blanchette were opposed; Mr. Goldberg abstained.**
- nn. **As a result, the motion carried based on two-thirds of the Board members present and voting having voted in favor of the motion.**

#### **8. Options for Expiring Monitoring and Landscaping Contracts**

- a. Mr. Carney noted that two significant contracts are expiring at end of 2018, including the landscaping contract which has an annual value of approximately \$80,000; and the water quality monitoring contract which has an annual value of between \$80,000 and \$95,000, varying with the scope of work in different years.
- b. Mr. Carney further noted that these contracts have typically been organized on a calendar year basis, despite LCWMD operating on a fiscal year, because of the seasonality of the work.
- c. Mr. Carney asked the Board to recall its discussion on the various options for these contracts from two or three meetings ago meetings ago which included a one-or-two-year sole source extension, or development of a full Requests for Proposal ("RFP") for bidding.
- d. Mr. Carney said he looked further into the details of those contracts and, today, is proposing RFPs for both contracts for calendar years 2019 and 2020.
- e. Mr. Carney noted that with the background materials that have been developed to manage the contracts the process for developing full RFPs should be efficient.
- f. Ms. Blanchette said she appreciated Mr. Carney looking back at that information.
- g. Mr. Bohlen asked, why would we not have a three-year term for the landscape contract?
- h. Ms. Blanchette suggested it is hard to get small contractors to buy into a long-term contract.
- i. Mr. Dudley noted that Westbrook typically does two-year contracts with an extension clause; Mr. Roncarati noted that Portland does the same.
- j. Mr. Carney said that we typically do two to three change orders a year, so it is nice to refresh the contracts every few years to accommodate those change orders.
- k. Mr. Carney noted that a two-year contract would put the next round of contracts into rhythm with the next permit cycle.
- l. The Board collectively offered its support of the RFP approach.

#### **9. Public Comment(s): None.**

#### **10. Next Meeting:** The next meeting will be held on August 7, 2018 at 9:00a.m. at the South Portland Water Pollution Control Facility, 111 Waterman Drive, in South Portland, Maine.

**11. Adjourn:** The meeting adjourned at approximately 11:10a.m.