



Long Creek Watershed Management District Board of Director's Meeting

Minutes from the October 28, 2020 Meeting

Location: Remote participation due to COVID-19; members of the public may participate in the meeting telephonically by call (207) 352-4212 and entering the conference ID: 565 216 717#.

1. **Call to Order:** Mr. Dillon called the meeting to order at 9:00a.m.
2. **Roll Call:**
 - a. Attendance: Angela Blanchette (joined during the meeting as indicated below), Curtis Bohlen, Fred Dillon, Sean Donohue (joined at 9:04a.m.), Brian Goldberg, Craig Gorris, Kerem Gungor, Will Haskell, Ed Palmer, Doug Roncarati
 - b. Absent: Arthur Colvin, Eric Dudley, Susan Henderson
 - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District); Chris Brewer (Cumberland County Soil & Water Conservation District); Jim Katsiaficas, Esq. (Perkins Thompson)
3. **Review of Board Meeting Minutes:**
 - a. The Board reviewed the minutes from the August 19, 2020 meeting.
 - b. Mr. Dillion offered minor, non-substantive edits.
 - c. **Mr. Haskell made a motion to approve the August 19, 2020 Board meeting minutes. Mr. Roncarati seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Bohlen reviewed the September Financial Report.
 - b. Mr. Bohlen noted that total assets have been reduced by the amount of funds not collected for July assessments, payment of which were forgiven by the Board in light of the financial impacts of COVID-19.
 - c. Mr. Brewer provided a summary of Accounts Receivable.
5. **Sole Source Agreement, GZA GeoEnvironmental, Inc., Geotechnical Engineering Services Agreement:**
 - a. Mr. Carney gave an overview of the change order which is for geotechnical engineering services related to the South Branch BMP retrofits construction project, specifically the proposed gravel wetland.
 - b. Mr. Carney noted that the proposed gravel wetland will be constructed adjacent to the existing T.J. Maxx store and parking lot. Furthermore, a proposed expansion of the existing T.J. Maxx store, if constructed, would result in the gravel wetland being in even closer proximity to the outer wall and foundation of the expanded building.
 - c. Mr. Carney explained that given the location of the proposed gravel wetland relative to existing and proposed structures the landowner requested that a geotechnical analysis be performed to determine slope stability for the side slopes of the gravel wetland adjacent to the structures.
 - d. Mr. Carney suggested that after a review of the landowner's request and the provisions of the parcel's participating landowner agreement in consultation with Mr. Katsiaficas, it would

- be reasonable for LCWMD to perform a geotechnical analysis for slope stability of the gravel wetland relative to the existing building and parking lot configuration.
- e. Mr. Carney further suggested that the geotechnical analysis for the future expansion be declined for two reasons, as follows:
 - i. it does not appear that the landowner currently has enough information to perform a geotechnical analysis for slope stability of the gravel wetland relative to the proposed building expansion; and
 - ii. the request to perform geotechnical analyses for speculative future development proposals is arguably outside the scope of the requirement of LCWMD's under the participating landowner agreement.
 - f. Given LCWMD's existing relationship with GZA GeoEnvironmental, Inc. as LCWMD's water quality monitoring contractor, GZA GeoEnvironmental, Inc. provided an initial consultation on the landowner's requested scope of work for the geotechnical analysis.
 - g. Mr. Carney is recommending a sole source contract with GZA GeoEnvironmental, Inc. because GZA GeoEnvironmental, Inc. is familiar with the landowner's request from the initial consultation, and from GZA GeoEnvironmental, Inc.'s other work with LCWMD we know GZA GeoEnvironmental, Inc. is familiar with the terms of LCWMD's Services Agreement and can meet LCWMD's insurance requirements.
 - h. Because the geotechnical analysis is holding up the easement from the landowner and time is of the essence in completing the geotechnical analysis, Mr. Carney suggested that GZA GeoEnvironmental, Inc.'s familiarity with the project and prior relationship with LCWMD will facilitate completing the analysis in the shortest time possible.
 - i. Mr. Carney noted that the sole source request is for the amount \$8,000 to provide geotechnical engineering services as detailed in the proposal from GZA GeoEnvironmental, Inc. included in today's Board packet.
 - j. Mr. Haskell suggested that the price looked reasonable but noted that the scope of work does not include performing borings which could easily double the price.
 - k. Mr. Carney noted that GZA GeoEnvironmental, Inc.'s proposal assumes that a 1994 geotechnical report in the Maine Department of Environmental Protection's Site Location permitting file for the development may provide sufficient information to perform the analysis, however, GZA GeoEnvironmental, Inc. has not had the opportunity to review the full report.
 - l. Mr. Dillon asked Mr. Haskell whether he thought the 1994 geotechnical report would still be valid.
 - m. Mr. Haskell offered that geologic conditions have probably not changed, but the 1994 report's validity would depend on whether the borings in the 1994 report are in applicable locations.
 - n. Mr. Carney noted that if the scope of work needs to be expanded LCWMD's financial controls allow the executive director to enter into change orders up to \$5,000.
 - o. Mr. Roncarati offered that he believed the scope of work strikes the right balance of satisfying LCWMD's obligations while not funding a private landowner's engineering costs.
 - p. Mr. Katsiaficas added that the gravel wetland project has been a known BMP since the inception of the *Long Creek Watershed Management Plan* in 2010, for which the landowner would be required to provide an easement. Furthermore, Mr. Katsiaficas noted that the Watershed Management Plan was amended in 2012 specifically to accommodate the proposed building expansion and that costs related to Plan amendments are to be born by the landowner or operator.

- q. **Mr. Gungor made a motion to authorize the Executive Director to enter into a sole source agreement with GZA GeoEnvironmental, Inc. in the amount of \$8,000 to perform geotechnical engineering services in accordance with GZA GeoEnvironmental, Inc's proposal. Mr. Bohlen seconded the motion. The motion carried unanimously.**

Ms. Blanchette joined the meeting.

6. Change Order; Maritime Farms & Land Management, LLC; Stormwater BMP Inspection and Maintenance Services Agreement:

- a. Mr. Carney noted that the proposed change order pertains to non-routine BMP maintenance.
- b. Mr. Carney provided an update on the status of previous change orders for non-routine BMP maintenance, specifically pertaining to cleaning out the subsurface chambers of the Maine Mall gravel wetland project, the cost of which was estimated to be in excess of \$20,000.
- c. Mr. Carney advised that he spoke with the gravel wetland project's design engineer, who recommended several methods for determining whether the subsurface chambers contained sediment before proceeding with lowering the water level to inspect and clean the chambers.
- d. Based on the engineer's recommendations, Mr. Carney and Chris Baldwin, CCSWCD's District Engineer, checked the chambers and determined that there is no evidence that the chambers need to be cleaned at this time. Therefore, we should save approximately \$20,000 from the previously approved change order for the Maine Mall gravel wetland.
- e. Mr. Carney noted that other work approved in the prior change order will move forward.
- f. With respect to today's request, Mr. Carney advised that the scope of work includes:
 - i. excavating and diagnosing a subsidence, repairing animal burrows, removing trees, and repairing fences and gates for the large underdrained soil filter project behind Dick's Sporting Goods; and
 - ii. repairing inspection ports and risers, removing trees from the embankment of, and removing biomass from the wetland for the Maine Mall gravel wetland project.
- g. **Mr. Haskell made a motion to authorize the Executive Director to enter into a change order with Maritime Farms & Land Management, LLC in the amount of \$10,230 to perform non-routine stormwater Best Management Practice maintenance in accordance with proposed Change Order No. 5. Mr. Gungor seconded the motion. The motion carried unanimously.**

7. Long Creek Private BMP Incentive Program, Approve Amendments to Rules and Regulations:

- a. Mr. Carney introduced the amendments to LCWMD's Rules and Regulation which would implement the "Private BMP Incentive Program" discussed at previous meetings.
- b. Mr. Carney noted that the Board allocated \$295,000 to the Private BMP Incentive Program in LCWMD's fiscal year 2021 budget. Under the proposed amendments to the Rules and Regulations, the allocated funds would be awarded through a request for proposals process.
- c. Mr. Carney noted that two previously discussed issues remain unresolved, they are the per award limit on funding and the percentage of the total cost of a project that could be funded. For discussion purposes, Mr. Carney noted the draft rules include a limit of \$50,000 per project and a cap of 75% on the total eligible project cost.

- d. Mr. Dillon asked whether municipalities could apply for funds to implement projects that might be required under the draft municipal MS4 permit currently under development by the Maine Department of Environmental Protection (“Maine DEP”).
- e. Mr. Carney advised that, as drafted, the rule amendments exclude projects that are otherwise required by other local, state, or federal permits.
- f. Mr. Roncarati offered that although municipalities may not be eligible to apply for funds to implement projects that may be required by the draft MS4 permit, Maine DEP may accept the Private BMP Incentive Program as one of the three BMPs municipalities would be required to implement in Urban Impaired Stream watersheds.
- g. Mr. Roncarati suggested that the per award cap of 75% of eligible project costs seems reasonable given the \$50,000 per award limit.
- h. Mr. Goldberg said he is okay with an “up to” 75% limit.
- i. Mr. Goldberg suggested the post-project reporting requirements may scare off some applicants with less technical backgrounds; applicants may not know how to implement water quality monitoring or biomonitoring requirements.
- j. Mr. Bohlen suggested that when the request for proposals is drafted it should indicate that post-project reporting requirements will be commensurate with the level of effort required for the project.
- k. Mr. Goldberg said that potential applicants should not be dissuaded from submitting proposals and that the request for proposals needs to be drafted to encourage participation.
- l. Mr. Katsiaficas suggested that the request for proposals include language that post-project reporting will be proportional to the scale of the project.
- m. Mr. Katsiaficas advised that if the Board wants the ability to award less than the requested total eligible project cost, the rules should include criteria to determine the level of award.
- n. Mr. Goldberg asked whether a vote on the amended rules is necessary today.
- o. The Board reached a consensus that given the changes recommended during today’s discussion a vote on this item should be tabled until the next meeting,
- p. Mr. Katsiaficas and Mr. Carney agreed to work on incorporating the Board’s recommendations into a revised draft of the Rules and Regulations.

8. Discussion, WIT Companies, LLC, Sustainable Winter Management (SWiM®) Program:

- a. Mr. Carney provided a summary of LCWMD’s long history of discussions on addressing high chloride levels in Long Creek.
- b. Mr. Carney noted that for years, LCWMD has investigated means of lowering chloride levels in Long Creek including stormwater treatment options, use of alternative materials, and education and outreach initiatives.
- c. Mr. Carney said that, at this point, the only known effective means of lowering chloride levels in stormwater is through reducing their use and application.
- d. Mr. Carney advised that throughout the past year he and Mr. Dillon have conducted research and attended trainings on chloride reductions efforts being undertaken by other entities in hopes of identifying a program that could be effectively implemented in the Long Creek Watershed.
- e. Mr. Dillon advised that while conducting this research, the manager of the New Hampshire Department of Environmental Services’ “Green Snow Pro” chlorides reduction program

- recommended talking to WIT Advisers, a private consulting firm, about its Sustainable Winter Management (SWiM®) Program.
- f. Mr. Carney and Mr. Dillon related to the Board their conversations with the principal of WIT Advisers, Phill Sexton, and suggested that the SWiM® program appeared to be a good fit for implementation in the Long Creek Watershed.
 - g. Mr. Carney noted that a large part of the SWiM® program focuses on cost savings for landowners implementing SWiM®, which would be a benefit to landowners and would provide an incentive for landowners to bring their contractors on board with the SWiM® program.
 - h. Mr. Carney noted that Mr. Sexton provided examples of metrics for documented cost savings for commercial and municipal clients as well as metrics for reductions in chloride applications.
 - i. Mr. Carney further noted that the SWiM® program differs from other reviewed programs in that other programs tend to focus on making recommendations and training, while the SWiM® program involves the consultant working directly with contractors to implement tailored chloride reduction measures on the ground. Furthermore, the SWiM® program undertakes to accurately measure chlorides application and reduction over a period of time.
 - j. Mr. Carney noted that the SWiM® program is currently being implemented by stakeholders in the Lake George Watershed in New York with documented success in reducing the amount of chlorides being applied.
 - k. Mr. Carney went through a brief PowerPoint presentation highlighting WIT Adviser's expertise, methodology, and results.
 - l. Mr. Carney suggested that given SWiM® appears to be good fit for the Long Creek Watershed, and the need to address chloride reduction sooner than later, the Board might consider a sole source contract with WIT Advisers to implement SWiM® in the Long Creek Watershed.
 - m. Mr. Carney noted that SWiM® would require multiple years to implement to be successful, directing the Board's attention to the proposed scope of work included in today's Board packet.
 - n. Mr. Carney suggested that the Board could take a staged approach to implementing SWiM® by authorizing incremental implementation of the SWiM® program.
 - o. Ms. Blanchette said the SWiM® program looked promising, however, she has general reservations about sole sourcing contracts and would require further information before being able to make a decision.
 - p. Mr. Gungor said that while he thought the economics of the program might work, he has reservations concerning the SWiM® program's ability to impact water quality.
 - q. Mr. Gungor noted that it appears that the ground water in the Long Creek Watershed appears to be heavily impacted by chlorides and it may take decades to flush chlorides from the groundwater.
 - r. Mr. Gungor questioned whether implementation of the SWiM® program would be enough to see tangible results in water quality, noting that while the SWiM® program may result in a reduction in the use of chlorides salt will still be used in the watershed.

- s. Mr. Katsiaficas advised the Board to consider how the suggested chloride reduction efforts might key in with the next version of the Long Creek General Permit, which is presently in the process of being revised by Maine DEP.
- t. Mr. Bohlen noted that the annual costs for the SWiM® program would equate roughly to what LCWMD spends annually on water quality monitoring, to put the cost in perspective.
- u. Mr. Carney agreed to contact Maine DEP to get information on when a draft of the revised Long Creek General Permit should be expected; and, in addition, will contact Mr. Sexton to determine the latest WIT Advisers would need a decision from LCWMD to begin to implement SWiM® for the 2020/2021 winter season.

9. Public Comment(s): None.

10. Next Meeting: The next meeting will be held in December with the date to be determined. Mr. Carney agreed to send a poll to the Board to determine the date of the next meeting.

11. Adjourn: The meeting adjourned at 11:07a.m.

Board attendance and voting record:

Member	Attendance	Approval of August 19, 2020 Minutes	Sole Source, GZA GeoEnvironmental, Inc., Geotechnical Services	Maritime Farms & Land Management, LLC, Change Order No. 5
Blanchette	Y (partial)	—	—	Y
Bohlen	Y	Y	Y	Y
Colvin	N	—	—	—
Dillon	Y	Y	Y	Y
Donahue	Y	Y	Y	Y
Dudley	N	—	—	—
Goldberg	Y	Y	Y	Y
Gorris	Y	Y	Y	N
Gungor	Y	Y	Y	Y
Haskell	Y	Y	Y	Y
Henderson	N	—	—	—
Palmer	Y	Y	Y	Y
Roncarati	Y	Y	Y	Y