



Long Creek Watershed Management District Board of Directors
Minutes from September 26, 2019 Meeting
Location: ON Semiconductor, 333 Western Avenue, South Portland, Maine

1. **Call to Order:** Mr. Dillon called the meeting to order at 9:07a.m.
2. **Roll Call:**
 - a. Attendance: Arthur Colvin, Fred Dillon, Sean Donohue (arrived at 9:14a.m. subsequent to vote on minutes, present for all other votes), Brian Goldberg, Craig Gorris, Will Haskell, Taylor LaBrecque, Ed Palmer, Doug Roncarati, Michael Vail
 - b. Absent: Angela Blanchette, Curtis Bohlen, Eric Dudley, Susan Henderson
 - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District), Jim Katsiaficas, Esq. (Perkins Thompson), Chris Brewer (Cumberland County Soil & Water Conservation District)
3. **Review of Board Meeting Minutes:**
 - a. The Board reviewed the minutes from the August 15, 2019 meeting.
 - b. Mr. Roncarati noted that in Paragraph 5 , section t, "Presumpscot River Land Trust" should be "Friends of the Presumpscot River."
 - c. **Mr. Haskell made a motion to accept the minutes from the August 15, 2019 meeting. Mr. Vail seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Brewer reviewed the August Financial Report, noting that we are two months into fiscal year.
 - b. Mr. Brewer advised that most landowner assessments that were due in July have been received.
 - c. In addition, construction on the Main Stem Restoration Project has started so we will start seeing expenses for that draw down of the amount in the savings account.
 - d. Mr. Brewer noted that he and Mr. Carney are working on scheduling a meeting with Maine DEP to discuss any remaining outstanding landowner assessments.
5. **Documentation of Internal Financial Control Structure Revisions:**
 - a. Mr. Carney provided a summary of the changes proposed for LCWMD's Documentation of Internal Financial Control Structure, a draft of which is included in today's Board packet, as follows.
 - b. The original document, and subsequent revisions, identified individual board members and staff by name, so the document was out of date when any personnel changed. Specific name references were removed and replaced with titles.
 - c. Last year's financial audit recognized that LCWMD should be using government accounting standards known as "GASB", rather than non-profit accounting standards known as "FASB". This change resulted in very little substantive difference as to how we do accounting. The document was revised to reflect that LCWMD uses GASB standards.
 - d. Mr. Brewer noted that the list of statements prepared for the monthly financial reports was revised to reflect current practices.
 - e. Mr. Carney advised that employee and payroll files, which were not identified in previous versions of the document, were added to the list of "source documents."

- f. Mr. Carney suggested that because there is such a high balance in LCWMD's savings accounts it would be good practice to add a second signature requirement for checks over a certain amount. Therefore, the draft document proposes that two signatures be required for checks over \$250,000 which should be a high enough amount to exclude any regular expenses including invoices from construction contractors for projects such as the Main Stem restoration.
- g. With respect to the LCWMD credit card, Mr. Carney noted that the current document says that the cardholder must pay late fees and/or penalties related to the credit card. Mr. Carney recollected that this has happened twice, once when the check was sent late, and a second time when the monthly bill never showed up in the paper mail.
- h. Because the document said these expenses are the responsibility of the cardholder, Mr. Carney said he and Mr. Brewer would note the amounts and deduct the fees from any future reimbursements that were subsequently due to Mr. Carney (*e.g.* travel expenses). This process ended up being an administrative burden, so eliminating this provision is being proposed.
- i. Mr. Carney advised that he now receives email notices when credit card bills are issued, so we should avoid future situations where the paper invoice is lost in the mail or the bill is not timely processed.
- j. The draft includes a proposal to increase the Executive Director's unilateral spending limit to \$2,500. Presently, purchases over \$500 require that a purchase order to be signed by the Treasurer. This ends up being an administrative inefficiency as Mr. Brewer needs to prepare the purchase orders and then needs to have Mr. Bohlen sign the purchase orders. There are regularly day-to-day expenses between \$500 and \$2,500 (*e.g.* landscaping materials) which sometimes need to be approved on short notice.
- k. LCWMD no longer does carry-forwards from one budget to the next, so the current provision concerning carry-forwards is proposed to be eliminated.
- l. A new provision has been added to allow the Executive Director to dispose of LCWMD property (*e.g.* old monitoring equipment) up to a fair market value of \$2,500. Previously, requests for disposition of property of any amount were brought to the Board for approval.
- m. The formats of some standard forms have been revised to reflect current QuickBooks formats.
- n. Mr. Carney related that Mr. Bohlen, not in attendance, noted a spelling error on top of Page 12 where "Participating Landowers" should be "Participating Landowners."
- o. Mr. Bohlen also noted a missing verb or incorrect verb form on the bottom of Page 12 which states "and the Fiscal Agent reconcile the accounts..."
- p. Mr. Carney related that Mr. Bohlen said he also thought that banks are reluctant to enforce dual signature requirements. Mr. Bohlen requested that it would be worth making clear to the Board that the dual signature requirement is for our use and would strengthen a legal case for fraud after the fact, but probably would have little effect on preventing fraud.
- q. **Mr. Goldberg made a motion to approve the Documentation of Internal Financial Control Structure Revisions in accordance with the draft in today's Board packet, with the revisions noted by Mr. Bohlen. Mr. Haskell seconded the motion. The motion carried unanimously.**

6. Long Creek South Branch Stormwater BMP Retrofits, Request for Proposals, Scope of Work:

- a. Mr. Carney advised that he has been working on the engineering design services request for proposals (RFP) for the "Hannaford Basin" gravel wetland project, which we anticipate constructing in the first half of 2020.

- b. At present, the scope of the project is limited to the construction of a gravel wetland adjacent to T.J. Maxx.
- c. Mr. Carney noted that when he reviewed the RFP with Chris Baldwin, District Engineer from CCSWCD, Mr. Baldwin thought it would be a good idea to broaden the scope of the project to potentially include satellite stormwater BMPs in the “catchment” that will drain to this gravel wetland. The satellite BMPs could provide “upstream” storage or pretreatment.
- d. The catchment is roughly bounded by Maine Mall Road, Gorham Road, the Hannaford/TJ Maxx parcel, and the new Jordan’s Furniture store, which contains approximately 47 acres of impervious area. A diagram identifying the catchment area is included in today’s Board packet.
- e. At this point, the RFP is drafted to at a minimum require a design for the gravel wetland, but also to prepare a feasibility study for other stormwater BMPs that may be beneficial to the gravel wetland project by providing “upstream” storage or pretreatment.
- f. The feasibility study will need to take into account other considerations, such as not being inconsistent with potential Maine Mall redevelopment, potential Macy’s redevelopment, and the Maine Mall Transportation Oriented Design concept plan being prepared by the Greater Portland Council of Governments.
- g. Mr. Carney noted that there is also a possibility to partner on a pilot project for heated sidewalks with the Maine Mall.
- h. Mr. Haskell asked what size storm event the gravel wetland project was intended to hold, .5” , 1”?
- i. Mr. Carney advised he would need to review the Stormwater Management Plan to answer Mr. Haskell’s question.
- j. Mr. Roncarati suggested the use of deep sump catch basins.
- k. Mr. Donohue noted that the project is located adjacent to Long Creek and construction may impact wetlands. Mr. Donohue offered that the Army Corps generally does not favor filling wetlands in order to create stormwater treatment projects.
- l. Mr. Donohue said the Army Corps or Maine DEP may require an alternatives analysis, so it may be beneficial to have upstream storage or treatment to show that alternatives were considered.
- m. Mr. Donohue suggested that prior to issuing the RFP we should meet with the Army Corps and Maine DEP to get their thoughts on what permits are required and what might be allowed under those permits.
- n. Mr. Roncarati said that the consultant will also need to determine whether current permits exist for the affected properties and, if so, whether those will need to be amended.
- o. Mr. Carney said that a vote was not required for any action related to the RFP at this point. However, Mr. Carney said he is looking for a consensus on whether to proceed with the RFP based on the original scope of only the design for the gravel wetland, or whether the RFP should be issued with the expanded scope of providing a feasibility study for satellite stormwater BMPs.
- p. There was a consensus among the Board to proceed with broader scope RFP.

7. Memorandum RE: Participating Landowner Assessment Credits for BMPs Requiring Maintenance, Repair, or Replacement:

- a. Mr. Katsiaficas provided background on the memorandum included in today’s Board packet, noting that at prior Board meetings the Board had questions about how credits against Participating Landowner assessments are calculated. These questions arose particularly in the

context of what happens when BMPs on which the credits are based age and are reduced in function or must be rebuilt, maintained, or replaced.

- b. Mr. Katsiaticas noted that Participating Landowner Agreements provide for several different types of credit, one of which is credit for privately-owned BMPs that existed at the inception of the Watershed Management Plan in 2009 and that provide varying levels of on-site stormwater treatment. These “treatment” credits are based on whether the BMP is functioning and at what level.
- c. Another class of credit identified in Participating Landowner Agreements is for “provision of BMPs in-lieu of payment” which apply in cases where construction of BMPs identified in the Watershed Management Plan is performed with private funds. An example of this is the credit received by Maine DOT for the porous pavement project on Maine Mall Road, whereby Maine DOT received a credit for construction costs related to the project which was applied to future assessments until the credit was exhausted.
- d. Treatment credits and in-lieu credits are intended to facilitate and encourage private investment in the construction of stormwater BMPs.
- e. With respect to treatment credits, questions have arisen as to whether treatment credits should be adjusted to reflect reductions in the effectiveness of BMPs as they age and are reduced in function. Furthermore, if credits should be adjusted how should a determination about their level of functioning be made.
- f. In the case of treatment credits, it was suggested that adjustments be made to the amount of credit being received based on annual BMP inspection reports which Participating Landowners are responsible for providing to LCWMD annually.
- g. Mr. Brewer noted that LCWMD requests BMP inspection reports as part of LCWMD’s annual parcel inspection process, but the rate of return is quite low. If continuation of treatment credit is tied to submission of annual BMP inspection reports it may encourage more Participating Landowners to submit reports, however, in other cases Participating Landowners may not submit inspection reports and then lose credits which they have been receiving since this inception of the program.
- h. Mr. Vail suggested that LCWMD should consider performing private-BMP inspections and completing annual inspection reports so that LCWMD has the information it needs to fully understand how private BMPs are functioning on Participating Landowner parcels.
- i. With respect to in-lieu credits, the question has arisen as to whether credits should be extended when a project for which in-lieu credits were provided for its original construction requires a significant capital expense to maintain, repair, or replace.
- j. In the Maine DOT context, projects with a life expectancy of ten years or more are considered capital projects. Mr. Katsiaticas suggested that LCWMD could adopt this distinction to determine whether a project is a “capital expense” for which in-lieu credit would be received, or maintenance or repair for which credit would not be received.
- k. Mr. Vail suggested that there needs to be a process for applying to the Board for credit requests.
- l. There then ensued a brief discussion on the draft memorandum and a consensus developed among the Board that Mr. Katsiaticas should develop a draft policy consistent with today’s discussion.

8. Public Comments: None.

9. Next Meeting: The next meeting will be held on October 30, 2019 at 9:00a.m. with the location to be determined.

10. Adjourn: The meeting adjourned.