



## Long Creek Watershed Management District Board of Directors

Minutes from July 26, 2017 Meeting

Location: Marriott at Sable Oaks, 200 Sable Oaks Drive, South Portland, Maine

1. **Call to Order:** Mr. Dillon called the meeting to order at 9:09a.m.
2. **Roll Call:**
  - a. Attendance: Arthur Colvin, Fred Dillon, Brian Goldberg, Will Haskell, Peter Newkirk, Ed Palmer, Doug Roncarati, Michael Vail, Sara Zografos
  - b. Absent: Angela Blanchette, Curtis Bohlen, Craig Gorris, Susan Henderson, Adam Pitcher
  - c. Staff/Guests: Peter Carney (LCWMD Executive Director), Aubrey Strause (Cumberland County Soil & Water Conservation District), Julie Ray, Esq. (Perkins-Thompson)
3. **Review of Board Meeting Minutes:**
  - a. The Board reviewed the minutes from the June 21, 2017 meeting included as Attachment A to the Board packet. Mr. Vail made a motion to accept the minutes from the June 21, 2017 meeting, which was seconded by Mr. Palmer. Mr. Colvin abstained having not attended the June 21, 2017 meeting. The motion carried unanimously.
4. **Main Stem Restoration: Sole Source Proposal**
  - a. Mr. Carney provided a brief review of the history of the main stem restoration project.
  - b. The Board and staff had discussed the possibility of a “design/build” contract for this project, but Mr. Carney advised that he had researched design/build contracts and they appeared to be too complicated for this project.
  - c. Mr. Carney advised that he had investigated the possibility of a sole source contract with Field Geology Services, LLC whereby Field Geology Services, LLC’s work would potentially be supplemented by other service providers.
  - d. Having completed the “conceptual design” for the main stem restoration project pursuant to a prior sole source contract with LCWMD, Field Geology Services, LLC has already performed a significant amount of work upon which the final project design could be developed. This would likely result in a significant cost-savings to LCWMD. Furthermore, John Field, the principal of Field Geology Services, LLC, has specialized knowledge in the type of in-stream restoration work being pursued by LCWMD.
  - e. Mr. Carney and Mr. Newkirk met with Mr. Field to determine how much of the project design, engineering, and permitting could be completed by Field Geology Services, LLC. Mr. Field suggested that he might be able to find suitable subcontractors to work with him to supplement his work.
  - f. Mr. Field agreed to put an outline of a proposal together to complete as much of the design, engineering, and permitting work for the project as possible with the goal of providing LCWMD with complete permit applications and a complete set of construction plans and specifications that LCWMD could use as the basis for competitive bidding for construction of the project.
  - g. Mr. Field provided an outline proposal for today’s Board meeting included as Attachment C to the Board packet. Mr. Field proposed that LCWMD contract with Field Geology Services, LLC, and that Field Geology Services, LLC would then directly contract with three identified

- subcontractors to provide engineering services, a planting and invasives management plan, and permitting services.
- h. Mr. Carney advised that the Fiscal Year 2018 budget collectively allocates approximately \$288,000 to the main stem restoration project for design, engineering, and permitting. Field Geology Service, LLC's draft proposal provided an estimate of \$144,000 to complete design, engineering, and permitting for the project.
  - i. Mr. Carney advised, however, that the Field Geology Services, LLC proposal excluded a full assessment of LCWMD's insurance requirements and consideration of two embankment failures along the subject reach of Long Creek that may impact the project. Mr. Carney advised that he would need to work with Field Geology Services, LLC's insurance agent on the insurance issues and that Mr. Field advised that addressing the embankment failures may have a small impact on the design and engineering costs for the project, but could significantly impact the construction cost of the project.
  - j. Mr. Carney advised that a vote to authorize a sole source contract was not necessary, but that he is seeking a consensus of the Board on whether to proceed with developing a sole source contract with Field Geology Services, LLC or to put design, engineering, and permitting services for the main stem restoration project out to competitive bid.
  - k. Mr. Roncarati said that given the potential savings on the design, engineering, and permitting costs that he would like to see some of the floodplain restoration that was eliminated during the June budget revision for the project brought back into the design for the long-term benefits that those aspects of the project would bring to Long Creek.
  - l. Ms. Strause expressed that she would like CCSWCD to have opportunity to provide pricing on those aspects of the sole source sub-contractor services that CCSWCD might be able to provide.
  - m. Mr. Carney advised that if the Board supports the sole source concept with Field Geology Services, LLC he could discuss CCSWCD's potential role with Ms. Strause and Mr. Dillon.
  - n. The consensus among the Board was to proceed with the development of a full sole source proposal with Field Geology Services, LLC for consideration by the Board at its next meeting.
  - o. Mr. Carney agreed to work with Mr. Field to prepare a full sole source proposal for consideration at the next Board meeting.

## 5. Treasurer's Report:

- a. June Financial Report
  - i. Mr. Carney briefly reviewed the June Financial Report, included as Attachment B to the Board packet, which contains figures for the end of fiscal year 2017, except for possibly the catch basin account. The catch basin cleaning contractor may have performed some work in June 2017, but LCWMD is waiting to receive the invoice from the contractor.
  - ii. Mr. Carney advised that Account 5047, Inspection and Maintenance, was over budget, which was primarily related to work outside the scope of the original contract in early fiscal year 2017.
  - iii. Mr. Carney further advised that Account 6275, which reflects the Services Agreement with Cumberland County Soil & Water Conservation District ("CCSWCD"), appears to indicate that account was 114% of the budgeted amount for fiscal year 2017. However, the figure posted to Account 6275 in FY2017 includes several adjusting journal entries necessary to account for capitalization of prior year construction projects, as well as the indefinite tabling of the "Greening of the Maine

Mall” project. Exclusive of the journal entries, the amount paid to CCSWCD for services incurred in FY2017 was less than 1% over budget.

#### **6. Water Quality Monitoring Database: Sole Source Proposal**

- a. Mr. Carney presented the sole source contract request with Amec Foster Wheeler Environment & Infrastructure, Inc. (“Amec”), included as Attachment D to the Board packet, pertaining to the water quality monitoring database maintained by LCWMD.
- b. Mr. Carney advised that the LCWMD presently has limited access to data in the database given the database’s location on Amec’s server and behind Amec’s firewall.
- c. Mr. Carney identified two additional issues that would be addressed under the scope of the contract including an upload error when attempting to upload “field” data into the database. In addition, LCWMD has identified a potential issue with respect to the “stoplight” function of the database. It was recently noticed that the stoplights produced by the Amec database do not necessarily match the stoplights generated by previously-used methods for the same location and parameter. It is not clear why the results are not consistent.
- d. Mr. Carney noted that the sole source authorization also requests funds for technical support through the end of 2017.
- e. Mr. Carney advised that it is necessary for Amec to provide the requested services because the database incorporates proprietary elements developed by Amec and the database presently resides on an Amec cloud-based server, behind Amec’s security firewall, to which only Amec has access.
- f. Several Board members expressed that if the funds are authorized LCWMD must have full functionality of, and unfettered access to, the database and data, as well as an explanation of how the database operates.
- g. Mr. Carney advised that Amec has previously provided an instruction manual for the structure and operation of the database as well as an instruction manual for operation of the web-based interface.
- h. Mr. Goldberg questioned what the migration ultimately accomplishes and asked if there were modifications that could be made to the database in its current location to give LCWMD the access that it needs to the data.
- i. Mr. Carney advised that there from time-to-time LCWMD has a need to extract data from the database in formats what the present database format does not permit, for example, LCWMD would like extract data from the database to use with the WRBD modeling tool. Also, Mr. Carney explained that it was his understanding, based on conversations with Amec staff, that the location of the database behind Amec’s firewall precludes unfettered access to the database and data tables.
- j. Mr. Haskell express a desire to minimize the costs attributable to ongoing database operations and management, of which up to 16 hours at a cost of \$1,620 are included in the Amec proposal.
- k. Mr. Roncarati moved to approve the sole source authorization, which was seconded by Mr. Vail. The motion carried unanimously.

#### **7. Meeting with Maine DEP: August 14, 2017**

- a. Mr. Carney advised that he and Mr. Katsiaticas from Perkins Thompson will be meeting with staff from Maine DEP on August 14, 2017 to discuss a number issues related to the Long Creek watershed restoration project and Long Creek General Permit.

- b. The discussion will include revisions to the Long Creek Watershed Management Plan. Mr. Carney advised that based on an inventory of structural BMP retrofits LCWMD is on track of meeting the Long Creek Watershed Management Plan's goal of treating 150 acres of impervious cover. However, there needs to be consensus on modifications to the LCWMP' original list of in-stream and riparian projects which were modified as a result of the Expert Review Panel's recommendation to pursue a larger main stem restoration project in lieu of several smaller in-stream or other restoration projects throughout the watershed.
- c. Another item to be discussed will be the 2010 reclassification of the 0.3-mile segment of the main stem of Long Creek in Westbrook from Class B to Class C. In 2010, the Maine legislature reclassified this segment of Long Creek from Class B to Class C, however, the 2010 statutory change was disapproved by the U.S. EPA in 2015 under the authority of its Clean Water Act oversight.
- d. Also under discussion will be finalizing the Inspection and Maintenance Plan previously submitted to Maine DEP.
- e. The process for submitting comprehensive revisions to the Long Creek Monitoring Plan and associated Quality Assurance Project Plan will be addressed.

#### **8. Parcel Inspections: Status Update**

- a. Mr. Carney brought to the attention of the Board several grease discharge issues that were identified by either LCWMD's catch basin cleaner during its most recent round of catch basin cleaning or through the annual parcel inspection process being carried out by CCSWCD staff on behalf of LCWMD.
- b. Several catch basins were identified as being heavily impacted by fats, oil, and grease.
- c. Mr. Carney advised that LCWMD is working with CCSWCD and representatives of the City of South Portland to investigate and resolve these issues.
- d. Mr. Carney advised that he intended to contract with LCWMD's catch basin cleaner to clean these basins and the stormwater drain lines between impacted basins. Mr. Reynolds of CCSWCD would then be routinely dispatched to inspect the basins to determine if grease discharges were recurring.
- e. Mr. Carney said this work needs to be done to mitigate potential discharges to Long Creek and to clear the basins, some of which were so heavily impacted that it was difficult to fully investigate the sources of the discharges.
- f. Mr. Palmer questioned whether LCWMD should be incurring the expense to clean the impacted catch basins and lines as other landowners in the watershed are incurring expenses to properly maintain their systems and conduct good housekeeping measures to prevent these types of discharges. Mr. Palmer related that is, in fact, the case with the business that he manages which has a restaurant.
- g. Mr. Roncarati also expressed concern over LCWMD paying these expenses as landowners or tenants who are not properly maintaining their systems or conducting good housekeeping measures would be rewarded for not doing so by LCWMD paying for the services. Mr. Roncarati expressed that it should be incumbent upon the respective municipality to take regulatory action and require those responsible for these issues to clean them up and to ensure that they do not happen again. Mr. Roncarati thought that undertaking this type of cleaning work was not an obligation of LCWMD because this work is beyond the scope of routine catch basin cleaning. Mr. Roncarati thought that if LCWMD cleaned the basins it might encourage future discharges as it might be perceived that this type of activity could be

engaged in without consequence, and possibly to a discharger's benefit, by LCWMD paying the bill to clean up their messes.

- h. Ms. Zografos added that her experience with elected officials from the City of South Portland City indicates that the City would be interested to know of these incidents and would be in a position to address them.
- i. Mr. Dillon raised the issue of the difficulties that municipalities encounter when trying to carry out enforcement for issues such as the subject grease discharges.
- j. There then ensued a lengthy and spirited discussion of balancing the practicalities of LCWMD taking on the cleaning of the impacted catch basins, which could be done very quickly through LCWMD's catch basin contractor, versus waiting for the outcome of a municipal, or perhaps, state enforcement matter.
- k. Mr. Carney said that he considered this a one-time expense and was not considering providing this type of service on an ongoing basis. Furthermore, cleaning the impacted basins would permit a full investigation of the sources of the discharges and would establish a baseline upon which the basins could be monitored against for Mr. Reynolds's future inspections. This would allow for a record to be built for potential municipal or state enforcement actions.
- l. A relative consensus was arrived at whereby LCWMD would pay to have the impacted catch basins and lines cleaned on a one-time basis, Mr. Reynold's would then monitor the basins on a regular basis, while simultaneously LCWMD will bring these matters to the attention of City of South Portland municipal officials.
- m. Mr. Goldberg, joined by Mr. Roncarati, voiced that those responsible for the discharges should be invoiced for the additional cleaning costs as well as for staff time related to the investigation.

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

**10. Next Meeting:** The next meeting will be held on August 30, 2017 at 9:00a.m. with the location to be determined.

**11. Adjourn:** The meeting adjourned at 11:43a.m.