



Long Creek Watershed Management District Board of Director's Meeting

Minutes from August 25, 2021 Meeting

Location: Portland Sheraton at Sable Oaks (outdoor gazebo),
200 Sable Oaks Drive, South Portland, Maine

1. **Call to Order:** Mr. Roncarati called the meeting to order at 9:04a.m.
2. **Roll Call:**
 - a. Attendance: Curtis Bohlen, Arthur Colvin, Brian Goldberg, Kerem Gungor, Will Haskell, Susan Henderson, Ed Palmer, Doug Roncarati
 - b. Absent: Angela Blanchette, Fred Dillon, Sean Donohue, Eric Dudley, Craig Gorris
 - 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 June 24, 2021 meeting.
 - b. **Mr. Haskell made a motion to approve the June 24, 2021 Board meeting minutes. Mr. Gungor seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Bohlen reviewed the July Financial Report.
 - b. Mr. Bohlen noted that the financial statements are as expected for the first month of the fiscal year.
5. **WIT Companies, LLC, Sustainable Winter Management (SWiM®) Program:**
 - a. Mr. Carney reminded the Board that it approved a sole source agreement with P.C. Sexton WIT Companies, LLC at the June 24, 2021 meeting.
 - b. Mr. Carney noted that Participating Landowner Agreements require parties with which LCWMD enters into contracts to carry \$2,000,000 each of general liability and automobile liability insurance.
 - c. Participating Landowner Agreements do not require that contractors carry professional liability insurance in any amount.
 - d. As a matter of practice, LCWMD has typically required contractors to carry professional liability insurance when professional services are involved in the amount of \$2,000,000, the amount being consistent with the general liability and automobile liability limits.
 - e. Mr. Carney advised that during discussions concerning the sole source agreement P.C. Sexton WIT Companies, LLC's insurance carrier was reluctant to provide \$2,000,000 in professional liability insurance because of the relatively low value of the services being provided.
 - f. P.C. Sexton WIT Companies, LLC asked if the professional liability limit could be set at \$1,000,000, and Mr. Carney tentatively agreed.
 - g. Mr. Carney noted that the Board approved the professional liability limit of \$1,000,000 in P.C. Sexton WIT Companies, LLC's agreement for the 2020/2021 winter season.

- h. **Mr. Goldberg made a motion to authorize the Executive Director to enter into the previously approved sole source agreement with P.C. Sexton WIT Companies, LLC with Professional Liability Insurance in the amount of \$1,000,000. Ms. Henderson seconded the motion. The motion carried unanimously.**

6. Public Hearing: Adoption of Remote Participation Policy In accordance with 1 M.R.S. § 403-B

- a. Mr. Roncarati opened the public hearing on the Board's adoption of the Remote Participation Policy.
- b. Mr. Katsiaficas provided a summary of the circumstances under which the Maine *Freedom of Access Act* permits remote public meetings and remote attendance of Board members at public meeting.
- c. Mr. Katsiaficas advised that the Board could consider the COVID-19 pandemic situation an "emergency or urgent issue" under the Remote Participation Policy that requires the Board to meet by remote methods.
- d. No members of the public were present to provide comment on the Remote Participation Policy.
- e. Mr. Roncarati closed the public hearing.
- f. **Mr. Haskell made a motion to adopt the Remote Participation Policy and to authorize the Chair to sign the Order on behalf of the Board. Mr. Colvin seconded the motion. The motion carried unanimously.**
- g. Subsequent to adopting the Remote Participation Policy the Board discussed whether the current COVID-19 circumstances constitute the existence of an emergency requiring the Board to meet by remote methods.
- h. **Mr. Goldberg made a motion that the current COVID-19 circumstances constitute the existence of an emergency under the Remote Participation Policy requiring the Board to meet by remote methods until the determination is rescinded by the Board. Mr. Haskell seconded the motion. The motion carried unanimously.**

7. Sole Source Agreement, Purdy Powers & Company, Financial Audit Services:

- a. Mr. Carney reminded the Board that pursuant to the District's *Documentation of Internal Financial Control Structure* a yearly audit is performed on the general-purpose financial statements of the District. The audit is a conducted by an independent Certified Public Accounting firm.
- b. The District's most recent Services Agreement for Financial Audit Services ran through the completion of the fiscal year 2020 audit, which concluded in November 2020.
- c. Annual audits typically commence immediately upon completion of each fiscal year, which ends on June 30 annually, with a final audit report being completed by October 31 of each year.
- d. In anticipation of the fiscal year 2021 and subsequent audits, a competitive Request for Proposals was publicly noticed on April 5, 2021 and June 21, 2021. No proposals were received in response to either issuance of the Request for Proposals.
- e. In light of having not received any proposals in response to the Request for Proposals (issued twice), and the need to engage a services provider to timely complete the fiscal year 2021 audit, the Executive Director reached out to Purdy Powers & Company to see if their firm would consider submitting a proposal based on a "sole source" Services Agreement award from the District.

- f. Purdy Powers & Company submitted one of two proposals received in response to the District's prior Request for Proposals for Financial Audit Services which was issued in 2019.
- g. Purdy Powers & Company agreed to submit a proposal for sole source consideration by the District's Board of Directors.
- h. Under the circumstances, the award of a sole source contract to Purdy Powers & Company is warranted under the present circumstances because no party came forward with a proposal in response to the District's Request for Proposals which was publicly noticed on two occasions, time is of the essence to complete the fiscal year 2021 audit, and, for those reasons, sole sourcing the contract is the most economical and effective means of completing the work.
- i. **Mr. Colvin made a motion to authorize the Executive Director to enter into a sole source agreement with Purdy Powers & Company in an amount not to exceed \$28,000 for financial audit services for fiscal years 2021, 2022, and 2023. Mr. Bohlen seconded the motion. The motion carried unanimously.**

8. Change Order, Sterling Stormwater Maintenance Services, LLC, Stormwater BMP Inspection and Maintenance Services:

- a. Mr. Carney noted that during its routine inspection of the twenty-two Contech Filterra units maintained by LCWMD, Sterling Stormwater Maintenance Services, LLC ("Sterling") expressed concern over the condition of the engineered filter media in the units.
- b. In order to determine the condition of the filter media, several hundred grab samples of the filter media were collected and sent to Contech, the manufacturer, for lab analysis. The analysis showed that the media in all twenty-two units should be replaced.
- c. The change order at issue today is for Sterling to perform non-routine maintenance to replace the engineered filter media in accordance with the proposal included in the Board packet.
- d. Under the Change Order, Sterling will perform the work on a time and materials basis calculated in accordance with the rates set forth in the attached proposal, which includes out of pocket costs and disposal of waste materials, with a not to exceed amount of \$144,775.
- e. The engineered filter media will be purchased directly from Contech to obtain the best price. A quote for cost of the filter media is attached. The cost of the filter media, in the amount of \$45,500, is included in the total cost of the change order.
- f. Disposal of waste materials will be made at Eco Maine. Both LCWMD and Sterling pay the same rate of \$110 per ton for disposal of waste material. Eco Maine disposal fees may be passed through to LCWMD as an expense without any markup if charged to Sterling's account or may be charged directly to the LCWMD account.
- g. The work in the proposal will take the place of a second round of routine maintenance that was to take place later this year, resulting in a savings of \$13,200 in routine maintenance costs.
- h. Mr. Gungor asked whether we should do more frequent lab tests to allow for earlier detection of degradation of the filter media.

- i. Mr. Carney noted the costs for lab analysis are \$250 for the first unit and \$50 for each unit thereafter, therefore, it would not be prohibitively expensive to conduct more frequent lab analysis of the filter media.
- j. Mr. Donohue noted that we may want to test underdrained soil filters too, as they use a similar filter media.
- k. Mr. Goldberg asked whether we should replace media on a rotation so that we do not have to incur the expense of replacing the media in all twenty-two units at once.
- l. Mr. Carney said that if we conduct more frequent lab analysis of the filter media the media could be replaced on a rotation as determined by the lab analyses.
- m. Mr. Gungor asked what type of testing was performed on the media.
- n. Mr. Carney said he would provide the lab reports to Mr. Gungor following the Board meeting.
- o. Mr. Golberg asked whether there are alternative to Filterra units that have lower maintenance costs.
- p. Mr. Haskell responded that other manufacturers make water quality treatment units that operate on a similar principle to the Filterra units, but the maintenance issues would likely be the same.
- q. **Mr. Haskell made a motion to authorize the Executive Director to enter into a change order with Sterling Stormwater Maintenance Services, LLC in an amount not to exceed \$144,775 for non-routine BMP maintenance services. Mr. Gungor seconded the motion. The motion carried unanimously.**

9. Public Comment(s): None.

10. Next Meeting: Mr. Carney agreed to send a poll to the Board to determine the date of the next meeting.

11. Adjourn: The meeting adjourned at 10:22a.m.

Board attendance and voting record:

Member	Attendance	Approve June 24, 2021 Minutes	Approve WIT Companies, LLC Insurance Requirements	Approve Adoption of Remote Participation Policy	Determine Existence of an Emergency Under the Remote Participation Policy	Approve Sole Source Agreement, Purdy Powers & Company, Financial Audit Services	Approve Change Order, Sterling Stormwater Maintenance Services, LLC
Blanchette	N	-	-	-	-	-	-
Bohlen	Y	Y	Y	Y	Y	Y	Y
Colvin	Y	Y	Y	Y	Y	Y	Y
Dillon	N	-	-	-	-	-	-
Donahue	N	-	-	-	-	-	-
Dudley	N	-	-	-	-	-	-
Goldberg	Y	Y	Y	Y	Y	Y	Y
Gorris	N	-	-	-	-	-	-
Gungor	Y	Y	Y	Y	Y	Y	Y
Haskell	Y	Y	Y	Y	Y	Y	Y
Henderson	Y	Y	Y	Y	Y	Y	Y
Palmer	Y	Y	Y	Y	Y	Y	Y
Roncarati	Y	Y	Y	Y	Y	Y	Y