



Long Creek Watershed Management District Board of Directors

Minutes from March 29, 2017 Meeting

Location: Maine Turnpike Authority, Administration & Public Safety Building, 2360 Congress Street,
Portland, Maine

- 1. Call to Order:** Mr. Bacon called the meeting to order at 9:09 am.
- 2. Roll Call:**
 - a. Attendance: Dan Bacon, John Branscom, Fred Dillon, Brian Goldberg, Will Haskell, Susan Henderson, Peter Newkirk, Ed Palmer, Michael Vail
 - b. Absent: Curtis Bohlen, Arthur Colvin, Craig Gorris, Adam Pitcher, Doug Roncarati
 - c. Staff/Guests: Peter Carney (LCWMD Executive Director), Aubrey Strause (Cumberland County Soil & Water Conservation District), Jim Katsiaficas (Perkins-Thompson)
- 3. Review of Board Meeting Minutes:**
 - a. The Board reviewed minutes from the February 28, 2017 meeting. Mr. Haskell made a motion to accept the minutes from the February 28, 2017 meeting, seconded by Ms. Henderson.
 - b. Prior to a vote, Ms. Strause offered the following typographical correction: on Page 3 of the minutes, in the first full bulleted paragraph, the word "Branch" is missing after the word "South"
 - c. In addition, Mr. Dillon offered the following typographical correction: the phrase "Greening of the Maine" is missing the word "Mall" in more than one location in the document.
 - d. The motion carried unanimously, with the offered typographical corrections.
- 4. Board Chair's Report:**
 - a. Dan Bacon, the Board's Chair, informed the Board that due to a change in employment he will no longer be eligible to serve on the Board as a municipal representative of the Town of Scarborough and was, therefore, tendering his resignation as a Board member. Mr. Bacon said he was proud of the work accomplished by LCWMD. Several of the Board members thanked Mr. Bacon for his service to the Board, particularly in the capacity of Board Chair.
 - b. Given the pending resignation of Mr. Bacon, the Board discussed the election of new Board Chair.
 - c. Mr. Katsiaficas advised the Board that it could elect a Board chair on an interim basis and wait to elect a full-term chair until the Board's annual meeting in May 2017, which is when the Board holds its annual election of officers.
 - d. Mr. Goldberg moved to elect Mr. Dillon interim Board Chair. Mr. Vail seconded the motion. The motion carried unanimously.
- 5. Treasurer's Report:**
 - a. A copy of the February Financial Report was included in the Board packet for today's meeting.
 - b. Mr. Bohlen, the Treasurer, was not in attendance at the meeting. Ms. Strause provided a brief update on the status of accounts receivable advising the Board that several payments were expected shortly on due accounts related to assessments that were due in February.

6. Executive Director's Report:

- a. Mr. Carney provided an update on the progress of revising the three documents required under the Long Creek General Permit that are subject to review and approval by Maine DEP, there are: (1) the *Long Creek Watershed Management Plan*; (2) the "inspection and maintenance details" of the *Long Creek Watershed Management Plan*; and (3) the "monitoring and assessment details" of the *Long Creek Watershed Management Plan*.
- b. Mr. Carney reserved discussion of the "inspection and maintenance details" of the *Long Creek Watershed Management Plan* for later in the meeting.
- c. Mr. Carney provided a brief history on the "monitoring and assessment details" of the *Long Creek Watershed Management Plan* which are manifested in the *Long Creek Monitoring Plan* ("Monitoring Plan") and *Quality Assurance Project Plan* ("QAPP").
- d. Mr. Carney advised that revisions to the Monitoring Plan and QAPP are underway taking into account revisions that have accumulated since the last revision date and incorporating recommendations from recent meetings of the Technical Advisory Committee. Mr. Carney advised that once the drafts are complete they will sent to the Technical Advisory Committee for review. Mr. Carney said he anticipated bringing the drafts of the Monitoring Plan and QAPP to the next Board meeting for approval to submit the document to Maine DEP for its review and approval.
- e. Mr. Carney advised that he had been invited, and has accepted, an invitation from the Maine Turnpike Authority to participate as a member of a Public Advisory Committee for the "Portland Area Mainline (PAM) needs assessment," which concerns safety and capacity issues on the section of the Maine Turnpike from exits 44 to 52. The affected section of the Maine Turnpike crosses Long Creek in two places including one crossing of the South Branch and one crossing of the Main Stem.
- f. Mr. Carney advised that he would be on vacation during the week of April 17, 2017.

7. Designation of "Public Access Officer" Pursuant to 1 M.R.S.A. § 413(1):

- a. In his review of Maine's *Freedom of Access Act* at the February Board meeting, Mr. Katsiaficas advised that the Board should designate a "Public Access Officer" for LCWMD pursuant to 1 M.R.S.A. § 413(1) which requires that political subdivisions designate an employee as public access officer.
- b. Mr. Palmer made a motion to designate Mr. Carney as LCWMD's Public Access Officer pursuant to 38 M.R.S.A. § 413(1). Mr. Branscom seconded the motion. The motion carried unanimously.

8. Committee Reports:

- a. Mr. Carney reviewed the notes from the Main Stem Committee meeting on March 15, 2017, a copy of which were included in the Board packet for today's meeting. Mr. Carney advised that the there was a consensus among the Main Stem Committee that the Main Stem restoration project should be the LCWMD's next construction priority subject to the several qualifications described in the committee notes.
- b. Mr. Carney advised that the committee had recommended pursuing the services of Field Geology Associates, the firm that prepared the "conceptual design" for the Main Stem restoration project, to further refine the conceptual design.
- c. Mr. Carney advised that the committee had also identified a need to conduct an analysis of chloride data for the affected reach of the Main Stem and that this analysis had already been started by Mr. Newkirk.

- a. Mr. Carney advised that once the Field Geology Services conceptual design was refined further work would be done to revise the construction estimate for the project and to develop estimates for design and permitting which have not been done to this point. The design, permitting, and construction estimates would then be reviewed by the Finance Committee to make a recommendation to the Board.
- b. Mr. Newkirk added that LCWMD may need to involve more than Field Geology Associates in refining the conceptual design. Mr. Newkirk advised that John Field of Field Geology Associates may want to bring more people in on this project.
- c. Mr. Goldberg suggested that since LCWMD has no hard deadlines driving this project, we need to take the time to make sure we are doing it right. Mr. Goldberg also offered support for an “a la carte” bidding process so that LCWMD can adjust the scope of the project to the available budget once proposals are received.
- d. Mr. Carney advised that the timeline we need to be aware of now is for finalizing the FY2018 budget, which needs a design and construction figure for the Main Stem restoration project.
- e. Mr. Goldberg offered that for budgeting purposes we should anticipate that the Main Stem restoration project may carry over to future fiscal years.
- f. Mr. Dillon asked Mr. Newkirk who else he thinks LCWMD should consider involving in the Main Stem project.
- g. Mr. Newkirk suggested potentially Rob Dudley from USGS, Tracy Tarr from GZA GeoEnvironmental, Inc., and Leon Tsomides and Tom Danielson from Maine DEP.
- h. Mr. Newkirk said he would call Mr. Field to discuss the scope of who should be involved in this process and would get back to Mr. Carney on the outcome of that call.
- i. With respect to construction scheduling, Ms. Strause offered that an access road could be constructed this fall or winter and that mature trees could be dropped for habitat this winter.

9. Contracts:

- a. With respect to the proposed A Partner in Technology (“API”) Services Agreement, Mr. Carney reviewed the draft motion that was include in the Board packet for today’s meeting concerning the Automobile Insurance limit for the API agreement.
- b. The proposed motion would allow the Automobile Insurance limit in API’s contract to be adjusted from \$2,000,000 combined single limit to \$1,000,000 combined single limit based upon API representing and warranting as a term under the agreement that the work under the agreement will be performed remotely and that no automobiles will be used in performance of the work under the agreement.
- c. Mr. Goldberg made a motion to authorize the contract with the revised Automobile Insurance limit. Mr. Palmer seconded the motion. The motion carried unanimously.
- d. Mr. Carney requested that action on proposals received in response to the Stormwater BMP Inspection and Maintenance Services Request for Proposals be tabled until the next Board meeting as reissuing the Request for Proposals was under consideration to solicit more bids. Mr. Carney advised that no bids had been received for pavement sweeping services.
- a. Given that no bids were received for pavement sweeping services under the Stormwater BMP Inspection and Maintenance Services Request for Proposals, Mr. Carney requested that the Board consider a Sole Source contract authorization to conduct the initial spring sweeping that typically commences in mid-April.
- b. Mr. Carney requested that the Board authorize a sole source contract with a yet-to-be-identified contractor to conduct the initial spring sweeping event. Mr. Carney suggested that

- the value of the contract be the per acre price paid for the initial spring sweeping in 2016, which was \$215 per acre, plus an additional five percent.
- c. There then ensued a discussion that a ten percent premium over the 2016 per acre price should be authorized to provide more room for negotiating the sole source contract.
 - d. Mr. Palmer moved to authorize the Executive Director to enter into a Sole Source contract to conduct the initial spring sweeping event with the per acre price not to exceed \$215 per acre, plus up to an additional ten percent per acre. Mr. Vail seconded the motion. The motion carried unanimously.
 - e. Mr. Carney requested that discussion of the Maritime Farms & Land Management, LLC Change Order be tabled until the next Board meeting. Mr. Carney advised that he and Cumberland County Soil & Water Conservation District (“CCSWCD”) staff were still trying to recreate history on prior change orders from documentation in the contract file.
 - f. With respect to the CCSWCD services agreement, Mr. Carney advised the Board that he was seeking clarification on scope of work and budget for the South Branch sediment sampling investigation that was conducted in fall 2016.
 - g. Mr. Carney advised that the Board had previously authorized \$10,000 for South Branch sediment sampling investigation, however, the discussion on the “scope of work” predated his involvement with LCWMD.
 - h. Mr. Carney advised that depending on how the scope of work was characterized, LCWMD was invoiced between \$13,418.78 and \$18,410.00 for the South Branch sediment sampling investigation.
 - i. Mr. Carney advised that Because there had previously been so much discussion about this project he did not feel comfortable paying over \$10,000.00, therefore, \$8,410.00 from a prior CCSWCD invoice was not paid.
 - j. Mr. Carney advised that he was not doubting that work was done, only that the amount exceeded that which was authorized.
 - k. Ms. Strause reviewed the work that was conducted by CCSWCD and requested that the Board take their efforts into consideration in considering in authorizing payment in excess of \$10,000.00 for the project.
 - l. There then ensued a discussion on how to resolve the outstanding balance of \$8,410.00 from which emerged a resolution that LCWMD would pay one half of the outstanding amount and receive a credit from CCSWCD for one half of the outstanding amount.
 - m. Mr. Dillon moved to pay CCSWCD one half of the \$8,410.00 at issue. Mr. Newkirk seconded the motion. The motion carried unanimously.

10. Monitoring Database:

- a. Mr. Carney advised that there are ongoing issues with respect to accessing data in LCWMD’s water quality monitoring database, which resides on the server of the contractor that developed the database for LCWMD.
- b. Most recently, LCWMD received an instruction manual from the contractor providing protocols by which LCWMD could establish an open database connection to the database tables on the contractor’s server. Upon receipt of the manual, it was discovered that an open database connection could not be established because the security settings on the contractor’s server would not permit such a connection to be established.
- c. Mr. Carney advised he had conducted preliminary research on how this issue could be resolved and identified three options: (1): maintain the status quo and keep a contract open to maintain the database and respond to data requests, (2) move the database from the

- contractor's server, and (3) keep the database on the contractor's server, but "sync" a copy of the data tables to a server outside of the contractor's firewall for LCWMD's use.
- d. Mr. Carney advised that he had spoken to Board members with database expertise and collectively it was thought that LCWMD should investigate moving the database from the contractor's server.
 - e. Mr. Carney outlined a potential process by which the database could be moved from the contractor's server and identified potential storage and software licensing costs.
 - f. Mr. Branscom suggested that a detailed proposal on the process and costs of moving the database be prepared for the Board's consideration.
 - g. Mr. Carney suggested he could work with LCWMD's current information technology contractor, A Partner in Technology, to develop a detailed solution and pricing. Mr. Carney agreed to bring a detailed proposal for moving the database to a future Board meeting for the Board's consideration.

11. Standard Operating Procedures.

- a. Mr. Carney reviewed the background behind the draft *Standard Operating Procedure: Implementation of the Inspection and Maintenance Program Under the Long Creek Watershed Management Plan* which was included in the Board packet for today's meeting.
- b. Mr. Carney advised that as a requirement of the *General Permit – Post Construction Discharge of Stormwater in the Long Creek Watershed* (W-9052-5Y-B-N) issued by Maine DEP on April 15, 2015, the LCWMD is required to implement the details of the "Operation and Maintenance Plan" approved under the *Long Creek Watershed Management Plan*.
- c. The current Operation and Maintenance Plan was approved by Maine DEP on, and has not been amended since, August 4, 2010. A copy of the current Operation and Maintenance Plan was also included in Board packet for today's meeting.
- d. Mr. Carney asked the Board to recall that many issues were raised during the last parcel inspection season culminating in the Board asking Mr. Katsiaticas to do a legal review of the Management Plan and associated documents and to provide an opinion on LCWMD and Participating Landowner responsibilities. Mr. Katsiaticas provided and presented a memorandum to the Board on this matter at the Board's October 27, 2016 meeting.
- e. Mr. Carney advised that the Operation and Maintenance Plan needs to be revised to provide greater detail, reflect current practices, and for consistency with Mr. Katsiaticas's legal memorandum.
- f. Mr. Carney advised that he was seeking approval to apply to Maine DEP to replace the current Operation and Maintenance Plan with the attached draft *Standard Operating Procedure: Implementation of the Inspection and Maintenance Program Under the Long Creek Watershed Management Plan*.
- g. Mr. Carney advised that the draft *Standard Operating Procedure: Implementation of the Inspection and Maintenance Program Under the Long Creek Watershed Management Plan* had been reviewed by: Scott Reynolds, CCSWCD, who conducts parcel inspections for LCWMD; by Mr. Vail and Paul Pettengill, Operations Manager at GGP-Maine Mall, LLC, for a participating landowner perspective; and by Mr. Katsiaticas to ensure the document was consistent with his legal review and opinion.
- h. Mr. Carney clarified that the request did not include approval of the "Facility Inspection and Maintenance Program Report" or "Active Discharge Report" forms also included in the Board packet and that these forms were included for illustrative purposes only.

- i. Mr. Dillon move to authorize the Executive Director to submit the draft *Standard Operating Procedure: Implementation of the Inspection and Maintenance Program Under the Long Creek Watershed Management Plan* to Maine DEP for approval pursuant to Condition 3 of the Long Creek General Permit, W-9052-5Y-B-N, with the effective date of the standard operating procedure being the Maine DEP approval date. Mr. Haskell seconded the motion. The motion carried unanimously.

12. Annual Participating Landowner Meeting, May 15, 2017, Draft Agenda

- a. Mr. Carney noted that a revised agenda was included in the Board packet for today's meeting reflecting suggestions received at the last Board meeting.
- b. Mr. Carney will be working with the meeting host, Portland Marriott at Sable Oaks, on an estimate for information technology services and hors d'oeuvres for the meeting. A cash bar will also be available for attendees.

Prior to adjournment of the meeting, Mr. Bacon advised that he had contacted the City of Westbrook concerning its vacant "municipal official or employee" seat on the Board and that the City will be looking into filling this vacancy.

13. Public Comments:

- a. None.

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

15. Adjourn: The meeting adjourned at 11:57a.m.