



Long Creek Watershed Management District Board of Directors

Minutes from the August 30, 2017 Board Meeting

Location: South Portland Water Pollution Control Facility, 111 Waterman Drive,
South Portland, Maine

1. **Call to Order:** Mr. Dillon called the meeting to order at 9:02a.m.
2. **Roll Call:**
 - a. Attendance: Curtis Bohlen, Arthur Colvin, Fred Dillon, Brian Goldberg, Craig Gorris, Will Haskell, Susan Henderson, Peter Newkirk, Doug Roncarati, Sara Zografos
 - b. Absent: Angela Blanchette, Ed Palmer, Michael Vail
 - c. Staff/Guests: Peter Carney (LCWMD Executive Director), Scott Reynolds (Cumberland County Soil & Water Conservation District), Jim Katsiaficas, Esq. (Perkins-Thompson), Jeff Dennis (Maine DEP)
3. **Review of Board Meeting Minutes:** The Board reviewed the minutes from the July 26, 2017 meeting. Mr. Newkirk noted a misspelling in section 8(b), the word “facts” should be “fats.” Mr. Haskell made a motion to accept the minutes from the July 26, 2017 meeting with the correction offered by Mr. Newkirk. Ms. Zografos seconded the motion. The motion carried unanimously.
4. **Treasurer’s Report:**
 - a. The Board reviewed the July Financial Report which was included in today’s Board packet.
 - b. Mr. Bohlen noted that the report reflects that one-half of the District’s annual income has accrued despite the report being for only the first month of FY2018. This is because the first half of annual participating landowner assessments are due in July and, therefore, are accrued income as of July.
 - c. The Board discussed the status of past due accounts and the collection of these funds.
 - d. Mr. Goldberg stressed the importance of equitable treatment of all landowners.
 - e. Mr. Katsiaficas discussed the history of collection efforts. While LCWMD has the authority to pursue past due accounts, the thought was that Maine DEP should pursue these accounts so that LCWMD funds could be used on restoring the watershed rather than on litigation expenses.
 - f. Mr. Reynolds advised that Mr. Brewer, LCWMD’s Fiscal Agent, had provided an up-to-date accounts receivable report for the Board meeting and advised that Mr. Brewer would shortly be sending out approximately ten default notices.
 - g. Ms. Henderson suggested sending a post-payment letter to landowners thanking them for their payment and providing an update on the projects and maintenance for which the funds would be spent.
 - h. Mr. Goldberg suggested sending an email to participating landowners similar to the “What’s happening in Long Creek?” emails sent to Board members to keep participating landowners apprised of LCWMD’s work.

5. Main Stem Restoration, Sole Source Proposal:

- a. Mr. Carney provided a brief recap of the history of the restoration project for the Main Stem of Long Creek and the pursuit of a sole source contract with Field Geology Services, LLC for design, engineering, and permitting services to implement the project.
- b. Mr. Carney advised that he was requesting two determinations by the Board today: (1) to approve the sole source justification to pursue a sole source contract with Field Geology Services, LLC and (2) to authorize the Executive Director to enter into a sole source contract with Field Geology Services, LLC as reflected in the Request for Proposal ("RFP") and Proposal included in today's Board packet.
- c. Mr. Newkirk suggested that the two votes be taken up separately. At this point, Mr. Newkirk made a motion to approve the sole source justification as presented in the Board packet. Mr. Bohlen seconded the motion. The motion carried unanimously.
- d. The discussion then turned to the details of the contract.
- e. Mr. Newkirk noted that the scope of work contemplated installation of "gravel mounds," but Mr. Newkirk said he thought the gravel mounds had been removed from the design as part of the revised project developed by Mr. Field.
- f. Mr. Carney advised that based on the Board's interest in potentially building eliminated elements back into the project, if the budget permitted, Mr. Field indicated that the gravel mounds would be one of the first elements to be added back into the design.
- g. Mr. Newkirk noted that the scope of work identified the potential of using "root wads," but that the conceptual design reflects the use of "log jams" rather than "root wads." Mr. Newkirk suggested using the term "structural measures" which could include both root wads and log jams.
- h. With respect to revising the Kleinschmidt hydrologic and hydraulic report identified in the RFP, Mr. Newkirk advised that it was unlikely that there would be a revision of the "hydrologic" aspect of the model but only to the "hydraulic" aspect of the model, and that this should be clarified.
- i. With respect to the format of work product, the RFP requests that work product be provided in "AutoCAD 17" format, Mr. Newkirk suggested broadening the requirement to state "compatible with AutoCAD 17."
- j. Mr. Dennis advised that after meeting with Mr. Field he is comfortable with scope of revised project, although he noted the effects of the restoration project will take time.
- k. Mr. Carney raised the issue of what the trigger should be in the contract for expenditure of the \$32,000 of identified contingency funds, which is 20% of the base contract amount of \$160,000, that was included in the Proposal.
- l. Mr. Haksell noted that expenditure of contingency funds is typically handled by way of a change order to the contract.
- m. Mr. Colvin suggested awarding the contract at the base contract amount of \$160,000, with authorization for the Executive Director to execute change orders up to the value of \$32,000, reflecting the contingency amount, without having to seek further Board approval.
- n. Mr. Colvin made a motion to authorize the Executive Director to enter into a sole source contract with Field Geology Services, LLC in the amount of \$160,000, in addition, authorizing the Executive Director to enter into change orders in an amount up to \$32,000 without seeking further Board approval. Ms. Henderson seconded the motion. The motion carried unanimously.

6. Biddeford Savings Bank, Corporate Authorization Resolution:

- a. Mr. Carney advised that Biddeford Saving Bank, where LCWMD maintains its bank accounts, requested that the Board adopt the resolution included in today's Board packet as part of the process for authorizing Mr. Dillon as Board Chair, Mr. Bohlen as Treasurer, and Mr. Carney as Executive Director, to exercise the powers identified in the resolution related to LCWMD's bank accounts.
- b. Mr. Haskell moved to adopt the resolution. Mr. Gorris seconded the motion. The motion carried unanimously.

7. Report from Meeting with Maine DEP, August 14, 2017:

- a. Mr. Carney discussed the results of the August 14, 2017 meeting with the Maine Department of Environmental Protection ("Maine DEP"). Mr. Dillon, Mr. Katsiaficas, and Mr. Carney attended the meeting on behalf of LCWMD.
- b. It was agreed that LCWMD will submit revisions to the Long Creek Watershed Management Plan to Maine DEP to identify changes to the structural BMPs identified in the Plan versus what was constructed. In addition, changes to the schedule of in-stream and riparian projects identified in the Plan, which primarily consists of the elimination of several smaller projects in lieu of the larger scope of the Main Stem restoration project recommended by the Expert Review Panel that was convened in 2014 and 2015, will also be submitted to Maine DEP.
- c. LCWMD will directly approach U.S. EPA to reconsider its 2015 disapproval of the reclassification of the Main Stem of Long Creek in Westbrook from Class B to Class C, which was approved by the Maine Legislature in 2010.
- d. The issue of whether the details of the revised Inspection and Maintenance Plan are enforceable was resolved. It was agreed that the details included in the Inspection and Maintenance Plan are not directly enforceable, however, LCWMD agreed to modify the "note" at the end of the document to include a statement that the Plan does not release LCWMD, permittees, operators, or landowners from the requirements of the Long Creek General Permit, or associated attachments or plans.
- e. Mr. Carney advised that Maine DEP is expecting to receive the revised Long Creek Monitoring Plan ("Monitoring Plan") and associated Quality Assurance Project Plan ("QAPP") for review.
- f. Mr. Carney advised that Mr. Bohlen agreed to review the revisions to the Monitoring Plan and QAPP and make a recommendation to the Board on submitting the revisions to Maine DEP for approval.
- g. Mr. Bohlen advised that review of the Monitoring Plan and QAPP was underway. Mr. Bohlen said he may request revision of the details concerning the history of changes to the Monitoring Plan and QAPP, and the rationale behind those changes. Mr. Bohlen further said that he is reviewing the two documents and their attachments for consistency as there is some overlap among the documents.
- h. Mr. Katsiaficas advised that the Board should ultimately vote on submitting the revisions to Maine DEP for approval.
- i. Mr. Bohlen requested that a complete copy of Monitoring Plan be included in the Board packet for the meeting at which revisions will be considered by the full Board so that all Board members have a chance to see the full document.
- j. Mr. Katsiaficas advised that the Board should approve both the Monitoring Plan and QAPP for submission to Maine DEP.

8. South Branch Chlorides Presentation:

- a. Mr. Dillon presented the results of a chloride investigation that he and Mr. Dennis conducted in the South Branch of Long Creek on August 10, 2017.
- b. Mr. Dillon noted that a meter was used to measure “specific conductance,” which is used as a surrogate measurement for chlorides, at various points in the South Branch of Long Creek.
- c. Mr. Dennis advised that the Criterion Continuous Concentration at which chloride levels are likely to be lethal to macroinvertebrates in the subject section of Long Creek is roughly around 1,000 ($\mu\text{S}/\text{cm}$).
- d. Mr. Dillon advised that specific conductance readings collected in the South Branch were commonly between 1,500 ($\mu\text{S}/\text{cm}$) and 2,500 ($\mu\text{S}/\text{cm}$). In addition, several readings around 4,000 ($\mu\text{S}/\text{cm}$) were observed and one reading was close to 5,000 ($\mu\text{S}/\text{cm}$).
- e. Mr. Dennis said that if sources of future chlorides use could be eliminated it may not take long to flush out the aquifer that provides base flow to the South Branch.
- f. Mr. Roncarati suggested that the restoration project will likely not be able to tackle chlorides and that the focus of the project should be on other pollutants which may be more successfully impacted by LWCMD’s efforts.
- g. Mr. Carney suggested that, given the information presented today, the Board consider thinking about a plan for the South Branch given that there are less than three years remaining in the current permit cycle.
- h. Mr. Colvin asked what the consequences would be if the South Branch does not meet its water quality classification at the end of the permit cycle.
- i. Mr. Dennis advised that a Use Attainability Analysis or “UAA” could be conducted. Under a UAA, certain designated uses which a class of waterbody typically must meet may be removed if it can be shown that the use is not attainable based on a limited number of factors that may be considered.
- j. Mr. Dennis noted that chloride is extremely soluble and is, therefore, very difficult to remove.

9. Parcel Inspections, Status Update:

- a. Mr. Carney provided an update on the fat, oil, and grease impacted catch basins that were discussed at the July 26, 2017 Board meeting.
- b. At the July 26, 2017 meeting, there was a consensus to move forward with a two-pronged approach which included: (1) working with the City of South Portland to ensure a long-term resolution to the identified issues and (2) LCWMD undertaking cleaning of the impacted catch basin and drain lines to minimize impacts to water quality in Long Creek and to establish a baseline for future monitoring.
- c. Mr. Dillon advised that the City of South Portland had sent correspondence to the parties it identified as responsible for the fat, oil, and grease impacts and if the correspondence is unsuccessful in achieving the desired effect Notices of Violation would be issued.
- d. Mr. Carney advised that LCWMD is pursuing cleaning of the impacted catch basins and drain lines. As a first step, upon the advice of counsel, “Release and Indemnification” forms were sent to the relevant landowners for signature. The Release and Indemnifications forms release LCWMD from liability if damage is caused to stormwater infrastructure during the cleaning process.

10. Public Comment(s): None.

11. Next Meeting: The next meeting will be held on October 11, 2017 at 9:00a.m. with the location to be determined.

12. Adjourn: The meeting adjourned at 11:31a.m.