



## Long Creek Watershed Management District Board of Director's Meeting

Minutes from April 28, 2022, Meeting

Location: Remote participation due to COVID-19; members of the public may participate in the meeting telephonically by calling (207) 352-4212 and entering conference ID: 757 586 996#.

1. **Call to Order:** Mr. Dillon call the meeting to order at 9:05a.m.
2. **Roll Call:**
  - a. Attendance: Curtis Bohlen, Fred Dillon, Sean Donohue, Brian Goldberg, Craig Gorris, Jason Kenney, Ed Palmer, Doug Roncarati
  - b. Absent: Angela Blanchette, Eric Dudley, Will Haskell, 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); Phill Sexton (WIT Advisers, Inc.)
3. **Review of Board Meeting Minutes:**
  - a. The Board reviewed the minutes from the January 19, 2022, meeting.
  - b. **Mr. Bohlen made a motion to approve the January 19, 2022, Board meeting minutes. Mr. Roncarati seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
  - a. Mr. Bohlen reviewed the March Financial Report.
  - b. Mr. Bohlen noted there was a large expenditure for BMP maintenance and waste management, which was unusual because this work is typically not carried out during the winter.
  - c. Mr. Brewer explained that the expenses are related to field work that was performed in 2021, but which was not invoiced until 2022. The expenses were expected, but just not billed during the 2021 inspection and maintenance season.
  - d. With respect to the Accounts Receivable report, Mr. Brewer noted that he and Mr. Carney recently met with staff from the Maine Department of Environmental Protection ("Maine DEP") to review outstanding permitting fees and licensing issues. Maine DEP is moving forward with compliance action on several matters.
  - e. Mr. Carney reminded the Board that the Fiscal Year 2023 budget will need to be approved before July.
5. **Conflict of Interest Discussion:**
  - a. Mr. Carney advised that Mr. Haskell, a District Board member (unable to attend today's meeting), inquired prior to the meeting whether it would be a conflict of interest for him, through his employer, Gorrill-Palmer Consulting Engineers, Inc., to take on a client seeking engineering services related to Long Creek watershed post-construction stormwater discharge permitting requirements.
  - b. Mr. Katsiaficas suggested bringing the issue to the Board for review to determine whether there was, in the Board's opinion, a conflict of interest under the District's Rules and Regulations.

- c. Mr. Katsiaficas advised that under the District's Rules and Regulations a conflict of interest may arise when a Board member has a direct or indirect financial interest, or a personal interest, in any transaction in which the District is participating.
- d. Mr. Katsiaficas further advised that under the District's Rules and Regulations a Financial Interest arises when a Board member or family member has a current or potential ownership or investment interest in, or compensation agreement with, an entity with which the District is participating in, or negotiating, a transaction, or a material financial interest in a transaction or potential transaction.
- e. Mr. Katsiaficas noted that Mr. Haskell has no ownership or investment interest in the potential client. While there is a compensation agreement contemplated with the potential client, the compensation agreement would not pertain to an entity with which the District is participating in, or negotiating, a transaction or potential transaction.
- f. Mr. Katsiaficas noted the under the District's Rules and Regulations a Personal interest arises when it could be reasonable questioned whether a Board member's action or decisions are determined primarily by consideration of personal gain, financial or otherwise, adverse to the interests of the Corporation.
- g. Mr. Katsiaficas suggested that Mr. Haskell's work for the potential client was typical of the type of work Mr. Haskell and his firm would perform for any other client, therefore, it is unlikely one could conclude that performing the work for the potential client would result in Mr. Haskell's decisions as a Board member being driven by consideration of personal gain.
- h. Mr. Katsiaficas further advised that Maine statute also requires that municipal officials attempt to avoid the "appearance" of a conflict of interest, by disclosure or abstention.
- i. Mr. Katsiaficas, therefore, suggested that should the Board need to act at some point in the future on an issue arising out of work performed by Mr. Haskell for the potential client Mr. Haskell should recuse himself from such vote to avoid any appearance of a conflict of interest.
- j. Mr. Dillon suggested that Mr. Haskell's recusal from any Board action arising out of work performed by Mr. Haskell for the potential client should resolve the issue.
- k. There was a consensus among the Board that situation does not constitute a conflict of interest, therefore, no action was required by the Board to consider approval of a conflict-of-interest transaction.

**6. Sterling Stormwater Maintenance Services, LLC; Change Order:**

- a. Mr. Carney asked the Board to turn its attention to the proposed change order with Sterling Stormwater Maintenance Services, LLC included in today's Board packet.
- b. Mr. Carney advised that this is an after-the-fact change order for non-routine maintenance work performed by Sterling Stormwater Maintenance Services, LLC during the 2021 BMP inspection and maintenance season.
- c. Mr. Carney advised that the work primarily relates to time-sensitive, field determinations to perform the work. Mr. Carney noted that these types of situations arise when the contractor is in the field performing routine maintenance and nonroutine maintenance issues are discovered that would most efficiently and economically be resolved at the time routine maintenance is being performed.

- d. Mr. Carney noted that this type of work would typically be approved on a situation-by-situation basis throughout the year through several smaller change orders, however, the 2021 BMP inspection and maintenance work was not invoiced until 2022.
- e. Mr. Carney noted that the contractor was aware that the value of work exceeding the Executive Director's authority to unilaterally approve change orders would be subject to Board approval. Because the aggregate of the 2021 work requiring a change order exceeded the Executive Director's authority to unilaterally approve change orders the change order is being brought for consideration by the Board.
- f. **Mr. Bohlen made a motion to authorize the Executive Director to enter into a change order with Sterling Stormwater Maintenance Services, LLC in the amount of \$15,873.58 to for non-routine BMP maintenance services. Mr. Donohue seconded the motion. The motion carried unanimously.**

**7. Presentation and Discussion, P.C. Sexton WIT Companies, LLC, Sustainable Winter Management Program:**

- a. Mr. Carney introduced Phill Sexton, principal of P.C. Sexton WIT Companies, LLC ("WIT"), with which the District has contractor for the past two winter season for consulting work to implement WIT's Sustainable Winter Management (SWiM®) Program focused on chloride reduction through reduced use of winter salt.
- b. Mr. Sexton related his experience from the winter of 2021/2022 of working with the three Participating Landowners that have been piloting the SWiM® project.
- c. Mr. Sexton advised that the 2021/2022 participants were at varying levels of implementation from installation of web cameras and GPS tracking equipment to being ready to move on to implementing site-specific chloride reduction measures during the 2022/2023 season should the Board decide to continue with the program.
- d. Based on the prior two seasons, Mr. Sexton suggested devoting more time in the 2022/2023 winter season to educating all levels of participants in winter maintenance activities as to why chloride reduction measures are needed and how they will be implemented.
- e. Mr. Sexton said that everyone involved in the winter maintenance process from top-level management to plow operators should have a mutual understanding of why chloride reduction measures are being implemented.
- f. Mr. Carney said there could be capacity to onboard additional participants during the 2022/2023 winter season depending on the level of cooperation to work with WIT, and the willingness to deploy monitoring equipment and measure salt output from snow removal equipment.

Mr. Gorris left the meeting.

**8. Discussion; Long Creek Watershed Management Plan — Status Update:**

- a. Mr. Carney initiated the discussion on general implementation of the Long Creek Watershed Management Plan.
- b. Mr. Carney provided insights into the 2021 Water Quality Monitoring Summary report prepared by GZA GeoEnvironmental, Inc., the District's water quality monitoring contractor, following conclusion of the 2021 monitoring season.
- c. Mr. Carney noted that the "stoplights" system developed by the District reflect an improvement in metals at several monitoring stations. In addition, habitat assessments

- performed to document the effectiveness of the Main Stem Restoration Project, performed in 2019, reflect that the stream habitat in the “restoration reach” of the Main Stem of Long Creek is now of equal quality to the habitat in the upstream “reference reach” of the Main Stem of Long Creek.
- d. Mr. Carney asked how the Board how the District should respond to several new developments, and potential development projects, within the Long Creek Watershed that will contribute, or potentially contribute, to increased impervious area in the watershed.
  - e. Mr. Carney noted that the District’s involvement in proposed development projects typically occurs in one of two ways; providing landowners with information on reducing development impacts on water quality in Long Creek as early in the design process as possible which involves the developer’s willingness to receive and use the information, and by providing comments on proposed projects during Maine Department of Environmental Protection and municipal permitting processes which typically occurs very late in the design process.
  - f. Several Board members suggested that the District continue with advocacy and educating landowners as early in the development process as possible, while maintaining neutrality.
  - g. In addition, the District should continue with providing objective comments during the state and municipal permitting processes, however, the preference remains to be involved with landowners earlier in the process when they are willing to do so.
  - h. Mr. Carney advised that there has still been no further progress on obtaining one of the easements for the South Branch BMP Retrofits projects, despite attempts to contact the landowner’s representative.
  - i. Several Board members noted that since the delay was likely resulting in increased costs due to the rising cost of construction and was preventing the Participating Landowners from collectively meeting permit requirements, Mr. Carney and Mr. Katsiaficas should prepare a letter to the landowner for the Board to sign stressing the need for the easement to be provided promptly.

**9. Discussion; 2022 Participating Landowner Meeting:**

- a. Mr. Carney noted that prior to COVID-19 pandemic, May had traditionally been the month during which the annual, in-person, Participating Landowner meeting was held.
- b. Mr. Carney inquired as to whether the Board would like to hold the Participating Landowner meeting this year.
- c. There was a consensus that Mr. Carney inquire with Mr. Palmer to see if there are dates available when the Sheraton at Sable Oaks could host the Participating Landowner meeting. If so, the Board could consider the COVID-19 situation at the time and decide whether to proceed.

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

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

**12. Adjourn:** The meeting adjourned at 10:58a.m.

Board attendance and voting record:

Board Member	Attendance	Approve January 19, 2022, Minutes	Sterling Stormwater Maintenance Services, LLC Change Order
Blanchette	N	—	—
Bohlen	Y	Y	Y
Dillon	Y	Y	Y
Donahue	Y	Y	Y
Dudley	N	—	—
Goldberg	Y	Y	Y
Gorris	Y	Y	Y
Haskell	N	—	—
Henderson	N	—	—
Kenney	Y	Y	Y
Palmer	Y	Y	Y
Roncarati	Y	Y	Y