



Long Creek Watershed Management District Board of Directors Meeting

Minutes from June 27, 2023, Meeting

Location: Gorrill Palmer, 300 Southborough Drive, Suite 200, 2nd Floor, South Portland, Maine
or [Click here to join the meeting](#) on Microsoft Teams

1. **Call to Order:** Mr. Dillon call the meeting to order at 9:06a.m.
2. **Roll Call:**
 - a. Attendance: Curtis Bohlen, Fred Dillon, Cindy Dionne, Sean Donohue, Brian Goldberg, Craig Gorris, Will Haskell, Jason Kenney, Ron Lessard, Doug Roncarati
 - b. Absent: Angela Blanchette, Peter Connell, Eric Dudley, Richard Matthews
 - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District); Jim Katsiaficas, Esq., Joe Siviski, Esq. (Perkins Thompson); Chris Brewer (Cumberland County Soil & Water Conservation District); Phill Sexton (P.C. Sexton WIT Companies, LLC)
3. **Review of Board Meeting Minutes:**
 - a. The Board reviewed the minutes from the May 24, 2023, meeting.
 - b. **Mr. Haskell made a motion to approve the May 24, 2023, Board meeting minutes. Mr. Bohlen seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Bohlen reviewed the May Financial Report and summarized the current budget status.
 - b. Mr. Bohlen noted the \$4-million balance in the savings account and suggested that in addition to the South Branch gravel wetland project currently in progress we need to put more of this money toward restoring the stream.
 - c. Mr. Bohlen noted that we are almost at the end of the fiscal year and the May financial report reflects zero dollars spent on construction and engineering given the delay in the South Branch gravel wetland project. This should change as the gravel wetland project gets underway in the next fiscal year.
 - d. Mr. Brewer noted that accounts receivable are in good shape and the Maine Department of Environmental Protection (Maine DEP) is making progress toward resolving the larger outstanding fee matters.
 - e. Mr. Brewer advised he will create a new expense account for the Private BMP Incentive Program, so that the Board can track grants under the Program on a monthly basis.
 - f. In addition, Mr. Brewer agreed to add the Non-Routine Maintenance and Reserve Account, Account 111R, to the monthly financial reports as it is not currently reflected.
5. **Sustainable Winter Management Program: Status of Implementation:**
 - a. Mr. Carney provided a brief history of the implementation of the Sustainable Winter Management (SWiM) Program, which the District has implemented over the past three winters.

- b. Mr. Carney introduced Phill Sexton, the consultant that implements the SWiM program, who is presenting today on the past implementation of SWiM and the suggested scope of the program for next winter.
- c. Mr. Sexton provided a PowerPoint presentation to the Board summarizing past years of SWiM implementation and providing specific examples of implementing the Program on properties upon which the Program is being piloted.
- d. Mr. Sexton recounted his experience with the contractor with whom we have had the greatest success with in implementing the Program.
- e. Mr. Sexton suggested that the District highlight the SWiM program using this contractor and the associated properties on which they work as the “test case” to encourage additional landowners to join the Program.
- f. Mr. Goldberg asked how the contractor could continue to improve, given the success achieved so far.
- g. Mr. Sexton suggested the contractor would benefit from more advanced equipment and that the District could potentially subsidize equipment purchases for this contractor through the grants program.
- h. In addition, Mr. Sexton noted the possibility of the contractor using a non-chloride material to melt snow and ice, at least in areas close to buildings. This material is more expensive but would result in less degradation of buildings and immediately surrounding areas.
- i. On a larger scale, Mr. Sexton suggested the possibility of the District funding a shared brine tank for contractors as several contractors noted the lack of availability of brine as the reason it is generally not used by in the private sector.
- j. To further encourage investment in technologically advanced equipment, Mr. Sexton suggested longer-term winter maintenance contracts, typically at least five years, which would match a typical equipment depreciation schedule.
- k. Mr. Lessard suggested that developing a general problem statement and summary of the benefits of the Program would help to get the landowner he represents on board with the Program.
- l. Mr. Lessard noted that when bringing the Program to his management they will need want to know answers to questions such what the problem is that is trying to be solved, what are winter maintenance problems when viewed from the facility perspective, what issues facilities have in common, what are the suggested solutions to the problem, and the overall benefits of the Program.
- m. Mr. Lessard recommended outlining answers to these questions in a fact sheet or short PowerPoint presentation that could then be used by landowner representatives for internal presentations to their management.
- n. Mr. Roncarati suggested that as an incentive for participation it should be advocated that landowner driven solutions may result in avoidance of future regulatory requirements which would be more onerous than voluntary participation in SWiM.

6. Approve Fiscal Year 2024 Budget:

- a. Mr. Carney reminded the Board that it adopted a provisional budget for Fiscal Year 2024 in January and that the Board is required by the District’s organizational documents to approve the final budget for Fiscal Year 2024 no later than July 1.

- b. For consideration today is adoption of the final Fiscal Year 2024 budget in accordance with the Budget Narrative and associated documents included in today's Board packet.
- c. Mr. Carney noted that there are few significant changes from the January figures, except for a few accounts.
- d. Mr. Carney noted that Account 6271, for construction-related engineering, was increased from \$12,250 to \$21,746 to accommodate the change order approved at the last Board meeting for Acorn Engineering, Inc. to complete the permitting and construction oversight aspects of the South Branch Stormwater BMP Retrofits Project.
- e. Account 6272, for legal fees, decreased from \$25,000 to \$20,000. Mr. Carney advised that the provisional budget included \$5,000 in fees for finalizing the easements and reviewing the construction request for proposals related to the South Branch Stormwater BMP Retrofits Project; however, that work is either complete or will be completed by the end of the current fiscal year.
- f. Account 6275 for plan Implementation, which is the account for the Cumberland County Soil & Water Conservation District Services Agreement (CCSWCD), decreased from \$193,417 to \$172,509.78 as the result of adjusting staff hours to more closely match actual staff hours for Fiscal Year 2023 (as we are almost at the end of the fiscal year) and accounting for recent revisions to CCSWCD's fee schedule.
- g. Account 6278, for catch basin cleaning, increased from \$52,500 to \$55,500, to increase the budget for the number of basins to be cleaned in Fiscal Year 2024 from 700 (the estimated figure for 2023) to 740 (actual figure for 2023).
- h. Mr. Gorris asked whether we might be at a point where the District could consider reducing rates for annual fees, noting the significant savings account balance.
- i. Mr. Bohlen pointed out the cash flow projection, which suggests the District will have \$2-million dollars on hand at the end of Fiscal Year 2025.
- j. Mr. Katsiaticas reminded the Board that we do not have a new general permit yet from Maine DEP; without knowing the requirements of the next general permit it may make more sense to provide one-time credits or to expand the grant program rather than implement a general reduction in fees.
- k. Mr. Roncarati suggested that based on Maine DEP's direction with the municipal stormwater general permit currently under development we should expect that the next Long Creek General Permit will be more stringent.
- l. Mr. Carney suggested that the Board could consider credits against annual fees for landowners that participate in, or that become certified under, the SWiM Program, which would provide landowners with the opportunity to reduce fees while also addressing one of the more challenging water quality impairments to Long Creek.
- m. Mr. Carney noted that the grants program already acknowledges that the scope of the grants includes snow removal equipment and practices that will result in the use of less chlorides.
- n. Mr. Goldberg suggested that because not many landowners are taking advantage of the grant program, we should consider modifying the program to give the Board the discretion to award grants for up to 100% of eligible expenditures rather than the current 75% limit.
- o. Mr. Dillon noted that while the larger picture financial considerations warrant further discussion, we need to vote on the proposed budget today.

- p. Mr. Goldberg suggested that the Board proceed with a vote on the current budget as proposed, but that Mr. Carney and Mr. Brewer model several cash flow projection options for the Board for consideration at a future Board meeting including a one-time credit against annual fees, reducing fee rates for participation in the SWiM program, and grant awards for up to 100% of eligible project costs.
- q. Mr. Gorris noted that we should get together with winter contractors to explore expansion of the SWiM program and expressed support for modeling a rebate or credit similar to the credit provided during the early COVID era.
- r. Mr. Gorris further suggested that expanding the grant program to cover 100% of project costs would encourage participation given that landowners' limited capital expenditure funds may eliminate landowners from participating in the grant program.
- s. Mr. Brewer and Mr. Carney agreed to model several financial options for consideration at a future Board meeting.
- t. Mr. Bohlen expressed a desire for staff to perform the financial modeling and that if the Board recommends any changes based on the modeling that implementation those changes occur by the end of the calendar year.
- u. There was a consensus that a strategic planning committee be formed to consider the modeling that will be done by Mr. Brewer and Mr. Carney, with the committee making a recommendation to the full Board.
- v. Mr. Goldberg and Mr. Bohlen agreed to be members of the committee with an invitation being extended to any other Board members that would like to participate.
- w. **Mr. Bohlen made a motion to approve the Fiscal Year 2024 budget. Mr. Goldberg seconded the motion. The motion carried unanimously.**

7. Review of Board Member Duties and Obligations:

- a. Mr. Carney noted that the District's legal counsel periodically provides Board members with training on their duties and obligations as Board members.
- b. The District's counsel, Mr. Katsiaticas, and his colleague, Mr. Siviski, will be providing the Board with a presentation on these duties and obligations today.
- c. Mr. Katsiaticas provided a handout to the Board members attending the meeting in person.
- d. Mr. Carney advised he would circulate a copy of the handout by email after the meeting to Board members attending remotely.
- e. Mr. Katsiaticas advised the Board members that they are "public officials" as they oversee the Long Creek Watershed Management District, which is a quasi-municipal organization and a 501(c)(3) nonprofit organization.
- f. Mr. Katsiaticas advised that as "public officials" Board members are protected from claims arising within the scope of their roles as Board members under the Maine Tort Claims Act and are subject to Maine's Freedom of Access Act (FOAA), which provides for public access to public meetings and public records.
- g. Mr. Katsiaticas advised that the FOAA requires reasonable public notice of all meetings but does allow the Board to convene "emergency meetings" which should have at least 24 hours' notice.
- h. Mr. Katsiaticas noted that under the FOAA remote meetings are allowed provided that the subject body adopts a remote participation policy, which the District does have. Remote

meetings must provide for public participation in the same manner as participation by Board members. Roll call votes are required if a meeting is held remotely.

- i. Mr. Katsiaficas advised that in limited circumstances the Board may deliberate without the presence of the public in an “executive session,” but the topics that it is permissible to discuss in an executive session are limited. Examples include litigation, personnel matters, and negotiating contracts. Executive sessions must be held in the context of a properly noticed meeting. No final action may be taken in executive session, final actions may only be taken during the public portion of a meeting.
- j. With respect to public records, Mr. Katsiaficas advised that the FOAA provides the public with a right to inspect and copy records but does not require preparation of a record that does not already exist.
- k. Mr. Lessard asked whether a Board member can participate in a Board action where, for example, the landowner that the Board member represents may benefit from such action.
- l. Mr. Katsiaficas advised that the District has a “conflict of interests” policy under which the general rule is that a Board member may vote on a general program which benefits all landowners equally but should abstain from voting on issues that specifically benefit a Board member or their organization.

8. Public Comment(s): None.

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

10. Adjourn: The meeting adjourned at 11:14a.m.

Board attendance and voting record:

Board Member	Attendance	Approve May 24, 2023, Minutes	Approve Fiscal Year 2024 Budget
Blanchette	N	—	—
Bohlen	Y	Y	Y
Connell	N	—	—
Dillon	Y	Y	Y
Dionne	Y	Y	Y
Donahue	Y	Y	Y
Dudley	N	—	—
Goldberg	Y	Y	Y
Gorris	Y	—	Y
Haskell	Y	Y	Y
Kenney	Y	Y	Y
Lessard	Y	Y	Y
Matthews	N	—	—
Roncarati	Y	Y	Y