



Long Creek Watershed Management District Board of Directors Meeting

Minutes from August 3, 2023, Meeting

Location: University of Southern Maine, Wishcamper Center, Room 327, 34 Bedford Street, Portland, Maine or [Click here to join the meeting](#) on Microsoft Teams

1. **Call to Order:** Mr. Dillon call the meeting to order at 9:02a.m.
2. **Roll Call:**
 - a. Attendance: Curtis Bohlen, Fred Dillon, Cindy Dionne, Sean Donohue, Brian Goldberg, Craig Gorris, Will Haskell, Jason Kenney, Doug Roncarati
 - b. Absent: Angela Blanchette, Peter Connell, Eric Dudley, Ron Lessard, Richard Matthews
 - 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 27, 2023, meeting.
 - b. **Mr. Roncarati made a motion to approve the June 27, 2023, Board meeting minutes. Mr. Haskell seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Bohlen reviewed the June Financial Report and summarized the current budget status.
 - b. Mr. Brewer noted that the June Financial Report is the end-of-fiscal year report for Fiscal Year 2023.
 - c. Mr. Brewer advised that the Maine Department of Environmental Protection obtained court orders to resolve two outstanding licensing and annual assessment matters.
5. **Award Long Creek South Branch Stormwater BMP Retrofits Project Construction Services Agreement:**
 - a. Mr. Carney noted that LCWMD issued a construction services request for proposals for the South Branch Stormwater BMP Retrofits Project on June 9, 2023, which includes construction of a gravel wetland and associated stormwater BMPs.
 - b. Mr. Carney advised that an addendum was issued on June 30, 2023, in response to questions received from potential bidders.
 - c. One addendum response clarified that if contaminated soils are encountered during excavation for the project the characterization, transportation, and disposal of contaminated soils would be considered a reimbursable expense to the contractor.
 - d. A second addendum response clarified that soil excavated from beneath the stream corridor and an existing detention basin should be considered "dredge materials" as defined by the Maine Department of Environmental Protection's Solid Waste Management Rules, and the disposal cost of such dredge materials should be included in base bids.
 - e. Mr. Carney advised that three proposals were received in response to the Request for Proposals with costs ranging from approximately \$2 million to \$2.7 million dollars.
 - f. Mr. Carney noted that LCWMD's budget allocates \$1,446,640 to construction of the project.

- g. Mr. Carney noted that a review team was formed to review and score the proposals, which included himself as well as Mr. Dillon, Mr. Donohue, Mr. Haskell, and Mr. Roncarati.
- h. Mr. Carney advised that while reviewing the proposals it was apparent that the three bidders applied varying methods to determine disposal costs of dredge materials, which led Mr. Carney to follow up with each bidder to clarify their method of calculating disposal costs for dredge materials.
- i. As a result of clarifying the processes used by the bidders to calculate disposal costs of dredge materials, it was apparent that two bidders underestimated disposal costs, and one bidder overestimated disposal costs.
- j. In an effort to normalize costs among the three bidders, Mr. Carney advised that when considering proposal costs, he estimated an approximate \$15,000 to \$20,000 increase in costs for the two low bids and estimated an approximate \$70,000 decrease in cost for the high bid. These estimated costs did not result in any change in the order of the costs for the three bids received from low to high.
- k. Mr. Carney advised that he passed this information on to the others on the review team for their consideration while scoring the proposals.
- l. Mr. Carney asked the Board to turn its attention to the scoring summary included in today's Board packet, which identifies the three bidders, the cost proposed by each, and the average score awarded by the scoring team for each bidder.
- m. Mr. Carney advised that R.J. Grondin & Sons was both the low bidder and highest scoring bidder, noting that R.J. Grondin & Sons scored highest in not only the cost category but also in the other scoring categories considered by the scoring team. As a result, the scoring team's recommendation to the Board is to award the contract to R.J. Grondin & Sons.
- n. Mr. Goldberg asked what the timeframe is for construction of the project.
- o. Mr. Carney responded that the R.J. Grondin & Sons proposal estimated a construction period of October 2023 to June 2024.
- p. Mr. Donohue suggested that we pin down the cost for disposal of dredge materials and include the cost in any contract award.
- q. Mr. Donohue noted that some bidders substituted a different specification drainpipe for certain applications and that their proposal costs were based on the cost of the substituted pipe as indicated in their proposals.
- r. Mr. Carney explained that the drainpipe specification in the request for proposals is for "SDR 35." Apparently, there is an "HDPE" drainpipe that could suitably be substituted for SDR 35.
- s. Mr. Carney advised that he had followed up with bidders on the SDR 35 versus HDPE issue during the bid process, with some bidders indicating that SDR 35 was either difficult to source or was significantly more expensive than HDPE.
- t. Mr. Carney noted that R.J. Grondin & Sons clarified that its pricing was based on SDR 35, without substitutions, whereas the other two bidders substituted HDPE for certain applications.
- u. Mr. Dillon said he supported Mr. Donohue's suggestion that an estimate of disposal costs for dredge materials should be identified and built into the contract.
- v. Mr. Katsiaficas noted that the volume of dredge materials may not be known until excavation for the project is underway, therefore, it would be more appropriate to agree upon a unit price cost for disposal rather than establishing a fixed total cost of disposal in the contract.

- w. **Mr. Roncarati made a motion to authorize LCWMD’s Executive Director to enter into a Services Agreement with R.J. Grondin & Sons in an amount not to exceed \$1,999,776.35, plus a to-be-agreed upon unit price for disposal of dredge materials, to perform construction services in accordance with the Long Creek South Branch Stormwater BMP Retrofits Project Construction Services Request for Proposals issued by LCWMD on June 9, 2023. Mr. Donohue seconded the motion. The motion carried unanimously.**

6. Sole Source Agreement, P.C. Sexton WIT Companies, LLC, Sustainable Winter Management (SWiM®) Program:

- a. Mr. Carney introduced the next agenda item which is the award of a contract to P.C. Sexton WIT Companies, LLC to implement the Sustainable Winter Management (SWiM®) Program in the winter of 2023/2024.
- b. Mr. Carney noted that the goal of the SWiM® program is to reduce the use of chloride-based deicers to address documented high chloride levels in Long Creek and that the SWiM® program has been implemented by LCWMD during the past three winters.
- c. Mr. Carney noted that consideration of this contract award is being made under the “sole source” provisions of LCWMD’s procurement policy, whereas most contract awards are subject to a competitive bidding process.
- d. Mr. Carney noted that three previous “sole source” contracts have been awarded to P.C. Sexton WIT Companies, LLC based upon a review of other programs that tend to focus only on making recommendations and training, whereas the SWiM® program involves the consultant working directly with contractors to implement tailored chloride reduction measures on the ground.
- e. Mr. Carney noted that the scope of work in the proposal under consideration today differs from previous years in that more cost is allocated for an outreach campaign to onboard new landowners and less cost is attributed to equipment acquisition costs.
- f. Equipment acquisition costs are provided in the proposal on a unit price basis and can be approved by future change order as new landowners are onboarded.
- g. Mr. Carney advised that implementation of the program so far has resulted in varying levels of participation with the initial three participants, with one participant’s implementation evolving of establishing the “test case” for successful implementation on other properties.
- h. Mr. Carney noted that a meeting was held in June with Phill Sexton, the principal of P.C. Sexton WIT Companies, LLC, representatives of LCWMD, the City of South Portland, the City of Portland, past program participants, and prospective program participants, to discuss expanding the SWiM® program for the winter of 2023/2024.
- i. Mr. Carney noted that past contracts with P.C. Sexton WIT Companies, LLC for implementation of the SWiM® program have been made on a year-by-year basis, whereas today’s proposal encompasses up to a two-year term, for convenience if the Board so desires.
- j. Mr. Goldberg asked for Mr. Carney’s assessment of the program so far.
- k. Mr. Carney responded that overall participation in the program is less than originally anticipated, but that two significant areas of progress have been made. One being establishing a “test case” for success upon which other landowners can be encouraged to

- participate, and the other being the identification of a reasonable rate of application of road salt based on data collected in prior years.
- l. Mr. Roncarati noted that the SWiM® program is designed to achieve incremental decreases in chloride use and there are not a lot of other options to address the chloride issue.
 - m. Mr. Bohlen suggested that we need more participants for the program to be effective, and, therefore, suggested a one-year renewal of the contract to see if participation can be increased during the winter of 2023/2024.
 - n. Mr. Goldberg suggested that one-on-one meetings may be needed with individual landowners to get them on board with the program.
 - o. Mr. Goldberg asked why the proposal includes a cost to “certify” properties in SWiM® implementation.
 - p. Mr. Carney responded that during the budget discussion at the June Board meeting Board members suggested exploring the idea of reducing the rate of annual assessments. One means of reducing annual assessments could be providing a credit against assessments for implementation of SWiM®, the certification was included as it could be used as the threshold for receiving a potential future SWiM® credit.
 - q. Mr. Carney noted the SWiM® certification was provided on a unit price basis, per site, and can be utilized at LCWMD’s discretion.
 - r. Mr. Bohlen suggested that LCWMD’s grant program should be utilized by landowners for capital costs incurred by landowners and contractors to knock down financial barriers to acquire equipment necessary that may be necessary for implementing low-chloride practices.
 - s. Mr. Roncarati suggested that we need to continue with the SWiM® program to get a step ahead of the next Long Creek General Permit, we need to show a continuing effort to address the problem otherwise we could end up with a TMDL.
 - t. **Mr. Bohlen made a motion to authorize the Executive Director to enter into a sole source agreement with P.C. Sexton WIT Companies, LLC for one year in an amount not to exceed \$62,500 to implement the Sustainable Winter Management (SWiM®) program in the winter of 2023/2024 in accordance with the attached proposal. Mr. Haskell seconded the motion. The motion carried unanimously.**

7. Revisions to Private BMP Incentive Program:

- a. Mr. Carney noted that at the June Board meeting, the Board requested a proposal to amend the Private BMP Incentive Program to provide the Board with the discretion to award up to 100% of eligible project costs, as the program currently limits awards to 75% of eligible project costs.
- b. This proposal was requested by the Board to encourage increased landowner utilization of the program.
- c. Mr. Carney advised that today’s proposal is to restructure the scale in Section J(7)(e) of LCWMD’s Rule and Regulations, which addresses the Private BMP Incentive Program, to provide the Board with the discretion to award up to 100% of eligible project costs.
- d. Ms. Dionne noted that there appears to be an inconsistency in Section J(3)(c) which as proposed reads that 100% of eligible project costs may be awarded, but later states in the paragraph that separate applications for phased projects are limited to 75% of eligible project costs.

- e. Mr. Carney responded that it was an oversight that the 75% limitation for phased projects was not changed to 100%, awards for phased projects should also be for up to 100% of eligible project costs.
- f. Mr. Goldberg asked how we might fund snow removal equipment for a contractor under the program.
- g. Mr. Carney suggested this may present an awkward situation as the program is for landowners, not their contractors, and that contractors may use snow removal equipment on a multitude of properties within or outside of the Long Creek watershed.
- h. Mr. Carney suggested that if applications are made for awards to cover the cost of equipment used by landowner contractors, the benefit to the watershed could be taken into account when scoring applications based on such factors as how often the equipment would be used in the Long Creek watershed and what demonstration value use of the equipment would have.
- i. **Mr. Roncarati made a motion to approve the revisions to the Private BMP Incentive Program in accordance with the draft included in today's Board packet, with the addition of changing 75% in to 100% in Section (J)(3)(c) as noted by Ms. Dionne. Mr. Bohlen seconded the motion. The motion carried unanimously.**

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 10:26a.m.

Board attendance and voting record:

Board Member	Attendance	Approve June 27, 2023, Minutes	Long Creek South Branch Stormwater BMP Retrofits Project Construction Services Agreement	Sole Source Agreement, P.C. Sexton WIT Companies, LLC, Sustainable Winter Management (SWiM®) Program	Revisions to Private BMP Incentive Program
Blanchette	N	—	—	—	—
Bohlen	Y	Y	Y	Y	Y
Connell	N	—	—	—	—
Dillon	Y	Y	Y	Y	Y
Dionne	Y	Y	Y	Y	Y
Donahue	Y	Y	Y	Y	Y
Dudley	N	—	—	—	—
Goldberg	Y	Y	Y	Y	Y
Gorris	Y	Y	Y	Y	Y
Haskell	Y	Y	Y	Y	Y
Kenney	Y	Y	Y	Y	Y
Lessard	N	—	—	—	—
Matthews	N	—	—	—	—
Roncarati	Y	Y	Y	Y	Y