



Long Creek Watershed Management District Board of Director's Meeting

Minutes from October 06, 2021 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: 709 825 612#.

- 1. Call to Order:** Mr. Dillon called the meeting to order at 9:03a.m.
- 2. Roll Call:**
 - a. Attendance: Angela Blanchette, Arthur Colvin, Fred Dillon, Sean Donohue, Brian Goldberg, Craig Gorris, Kerem Gungor, Will Haskell, Susan Henderson, Doug Roncarati
 - b. Absent: Curtis Bohlen, Eric Dudley, Ed Palmer
 - 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 August 25, 2021 meeting.
 - b. **Ms. Henderson made a motion to approve the August 25, 2021 Board meeting minutes. Mr. Colvin seconded the motion. The motion carried unanimously.**
- 4. Treasurer's Report:**
 - a. Mr. Brewer reviewed the July Financial Report.
 - b. Mr. Brewer noted that the current accounts payable includes \$45,000 to Contech Engineered Solution, LLC for replacement Filterra Media.
 - c. Mr. Brewer further noted there are only two unresolved accounts for which default notices were sent.
- 5. Services Agreement, Purdy Powers & Company, Insurance Requirements:**
 - a. Mr. Carney reminded the Board that it approved a sole source agreement with Purdy & Powers Company at the August 25, 2021 meeting.
 - b. Mr. Carney noted that Participating Landowner Agreements require parties with which the District enters into contracts to carry \$2,000,000 each of general liability and automobile liability insurance.
 - c. Purdy & Powers Company carries \$1,000,000 in General Liability coverage and \$1,000,000 in Umbrella coverage, which combined is sufficient to meet the \$2,000,000 General Liability limit.
 - d. Because Purdy & Powers Company does not own any autos it carries Hired & Non-Owned Auto coverage as an endorsement to its General Liability coverage. The Hired & Non-Owned Auto coverage liability limit is \$1,000,000, however, the \$1,000,000 Umbrella coverage limit also applies to the Hired & Non-Owned Auto coverage because the Hired & Non-Owned Auto coverage is an endorsement under the General Liability policy.
 - e. Mr. Carney advised that during his tenure we have not encountered this situation before, where the \$1,000,000 Umbrella coverage is available to either the General Liability coverage

or the Hired & Non-Owned Auto coverage, but would not be available to both in the event of simultaneous claims.

- f. Mr. Katsiaficas noted that the \$2,000,000 General Liability and Auto Liability limits were put in place in anticipation of the District's construction projects.
- g. Mr. Katsiaficas further noted that the Purdy Powers & Company contract at issue is for accounting services with a low risk for potential liability.
- h. Mr. Katsiaficas advised that the Board might find the proposed insurance arrangement acceptable in a low-risk situation such as in the case of the work of the Purdy Powers & Company contract, but not in situations such as a construction contract with a higher potential risk of liability.
- i. **Mr. Goldberg made a motion to authorize the Executive Director to enter into the previously approved sole source agreement with Purdy Powers & Company with per occurrence insurance limits of \$1,000,000 for General Liability, \$1,000,000 for Hired and non-Owned Auto Liability coverage under the General Liability policy, and \$1,000,000 in Umbrella coverage. Mr. Colvin seconded the motion. The motion carried unanimously.**

6. Status Update, South Branch BMP Retrofits Project

- a. Mr. Carney reminded the Board that Philbrook Avenue Associates LLC had requested that the District perform a geotechnical analysis of the gravel wetland component of the proposed BMP retrofit project before it would provide the easement necessary to construct the project.
- b. The District performed the geotechnical analysis, at a cost of \$27,000, which was provided to Philbrook Avenue Associates LLC on July 12, 2021.
- c. Following a call from Mr. Carney, Philbrook Avenue Associates LLC indicated on August 3, 2021, that Philbrook Avenue Associates LLC had completed a preliminary review of the geotechnical report and had a tentative call scheduled with its consultant to review the geotechnical analysis the following Friday.
- d. Mr. Carney noted that by mid-September there was still no response from Philbrook Avenue Associates LLC since the August 3, 2021 communication, despite follow up calls and emails.
- e. As a result, Mr. Carney consulted with Mr. Dillon and it was agreed that Mr. Dillon would send a letter to Philbrook Avenue Associates LLC on behalf of the Board requesting that the easement be provided promptly. The letter from Mr. Dillon was sent on September 16, 2021.
- f. Mr. Gorris advised that he knows the assets manager for the Philbrook Avenue Associates LLC property and would be willing to contact that person to arrange for a conference call to address the easement issue.
- g. There was a consensus among the Board to pursue the approach suggested by Mr. Gorris.
- h. Mr. Carney advised that the letter from Mr. Dillon also noted that the District needs the easement to establish title, right, or interest in order to submit permit applications to the U.S. Army Corps of Engineers and Maine Department of Environmental Protection.
- i. Mr. Donohue suggested asking the U.S. Army Corps of Engineers and Maine Department of Environmental Protection if the Participating Landowner Agreement from Philbrook Avenue Associates LLC would be sufficient to establish title, right, or interest.
- j. Mr. Carney said he would consider making this request if the easement issue is not timely resolved with Philbrook Avenue Associates LLC.

- k. Mr. Carney further noted that the letter from Mr. Dillon advised that the District needs to commence construction of the project by early February 2022 or otherwise the City of South Portland permit will expire.
- l. Mr. Haskell asked whether an extension could be requested from the City of South Portland.
- m. Mr. Carney advised the City of South Portland already granted a prior extension request, but that he would inquire with the City of South Portland about a further extension of time in which to commence construction of the project.

7. Public Comment(s): None.

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

9. Adjourn: The meeting adjourned at 9:49a.m.

Board attendance and voting record:

Board Member	Attendance	Approve August 25, 2021 Minutes	Approve Purdy Powers & Company Insurance Requirements
Blanchette	Y	Y	Y
Bohlen	N	-	-
Colvin	Y	Y	Y
Dillon	Y	Y	Y
Donahue	Y	Y	Y
Dudley	N	-	-
Goldberg	Y	Y	Y
Gorris	Y	Y	Y
Gungor	Y	Y	Y
Haskell	Y	Y	Y
Henderson	Y	Y	Y
Palmer	N	-	-
Roncarati	Y	Y	Y