



Long Creek Watershed Management District Board of Director's Meeting

Minutes from November 8, 2023, Meeting

Location: Cumberland County Soil & Water Conservation District, 35 Main Street, Suite #3, Windham, Maine or [Click here to join the meeting](#) on Microsoft Teams

1. **Call to Order:** Mr. Dillon call the meeting to order at 1:09p.m.
2. **Roll Call:**
 - a. Attendance: Fred Dillon, Cindy Dionne, Sean Donohue, Eric Dudley, Will Haskell, Jason Kenney, Doug Roncarati, Taryn Trefethen-Boileau
 - b. Absent: Angela Blanchette, Curtis Bohlen, Peter Connell, Brian Goldberg, Ron Lessard, Richard Matthews
 - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District); Jim Katsiaficas, Esq. (Perkins Thompson); Joe Siviski, Esq. (Perkins Thompson); Chris Brewer (Cumberland County Soil & Water Conservation District); Amren Frechette (Cumberland County Soil & Water Conservation District)
3. **Review of Board Meeting Minutes:**
 - a. The Board reviewed the minutes from the October 26, 2023, meeting.
 - b. **Mr. Roncarati made a motion to approve the October 26, 2023, Board meeting minutes. Mr. Haskell seconded the motion. The motion carried unanimously.**
4. **South Branch Stormwater BMP Retrofits Project:**
 - a. Mr. Carney advised that the start of construction for the District's South Branch Stormwater BMP Retrofits Project is nearing and there are two administrative issues that need the Board's authorization.
 - b. Mr. Carney noted that the District may need to make two different types of payments to the City of South Portland, one being performance guarantees and the other being escrow payments.
 - c. Mr. Carney noted that the District previously provided a performance guarantee payment to the City when commencement of the project was anticipated in 2021, however, additional funding may be required.
 - d. Mr. Carney further advised that the City requires an escrow payment to cover costs of the City's third-party erosion and sedimentation control inspections.
 - e. Mr. Carney noted the exact amount of these payments is unknown at this time, and is, therefore, seeking the Board's authorization for the Treasurer to approve expenses required by the City to start construction on the project and authorization for the Executive Director to sign checks for approved expenses.
 - f. Mr. Carney advised that the other administrative issue that needs attention is the signing of the Stormwater Management System Maintenance Agreement ("SMSMA"), which is an agreement required by the City pertaining to the long-term maintenance of the project once it is complete.

- g. Mr. Carney explained that, typically, the SMSMA is signed by the landowner. Signature by the landowner is the City's preference. Under the SMSMA the City has the ability to perform any necessary maintenance that the landowner fails to perform and related costs become a lien against the property upon which the stormwater maintenance system is constructed.
- h. Under the current circumstances, the District will own "project" and is responsible for long-term maintenance under the terms of the Participating Landowner Agreements. However, the District does not own the underlying land, therefore, there would be no property for the City to attach a lien if the District signs the SMSMA.
- i. Mr. Carney noted that the affected landowners may be reluctant to enter into the SMSMA's with the City as the District will own the "project" and is obligated to perform its maintenance under the Participating Landowner Agreements. Furthermore, the project is being constructed to serve a number of properties, not just the two properties upon which the project is situated.
- j. Mr. Carney further noted that the City's ordinance concerning the SMSMA states that where the "applicant" for a permit of a project proposes to retain ownership of a stormwater management system the "applicant" shall have the legal obligation to operate, repair, maintain and replace the system. Under the current circumstances, the District is the "applicant."
- k. Mr. Carney advised that a request has been submitted to the City to determine whether the SMSMA can be signed by the District or needs to be signed by the landowner.
- l. Mr. Carney requested the Board's authorization for the District's Secretary to sign a SMSMA on behalf of the District to move forward with construction of the project.
- m. **Mr. Roncarati made a motion to authorize the Treasurer to approve and the Executive Director to sign checks for any performance guarantees, escrow funds, and other expenses required by the City of South Portland to proceed with the project and to authorize the Secretary to sign a SMSMA on behalf of the District. Mr. Donohue seconded the motion. The motion carried unanimously.**

5. Private BMP Incentive Program Application, Longcreek Properties, LLC and S & J Properties, LLC, SWiM Equipment:

- a. Mr. Carney noted that a draft of this application, for the funding of low-chloride winter maintenance equipment for a Participating Landowners' winter maintenance contractor, was discussed at the October Board meeting.
- b. Mr. Carney noted that the draft proposal considered at the October meeting contemplated funding for the Participating Landowners' winter maintenance contractor to acquire three pieces of snow removal equipment necessary for the contractor to further implement low-chloride winter maintenance practices under the District's Sustainable Winter Management Program.
- c. Mr. Carney noted that the District has an interest in having the contractor acquire this equipment for the demonstration value it would provide for other landowners with respect to implementation of the Sustainable Winter Management Program.
- d. At the October Board meeting, the Board requested that revisions be made to the application before approval could be considered.

- e. The funding request considered at the October meeting included an amount of \$33,058.43 for 100% of the cost of a sidewalk plow and accessories, \$7,253.38 for 50% of the cost of a salt spreader, and \$3,300 for 100% of the cost of a live edge plow blade kit, for a total of \$43,611.81.
- f. At the October meeting, the Board had some reservations about awarding the total requested amount to a third-party contractor with which it had no formal arrangement to utilize the equipment as intended. In addition, the Board requested that the water quality problem related to chloride be better documented in the proposal.
- g. Mr. Carney advised that he worked with the Participating Landowners and their contractor to revise the proposal to address the Board's concerns from the October meeting.
- h. Mr. Carney noted that additional background information on the water quality problems associated with chlorides was further described in the revised proposal.
- i. Mr. Carney advised that under the revised proposal, the Participating Landowner would own the sidewalk plow and provide it to the contractor for use on the Participating Landowners' properties. The contractor would take ownership of the salt spreader and plow blade kit.
- j. Mr. Carney reminded the Board that the contractor is covering 50% of the cost of the salt spreader as the spreader will be used on properties other than the Participating Landowners' properties and that the plow blade has a limited lifespan.
- k. Mr. Carney further noted that under the application the respective owners of the equipment would be responsible for the equipment's ongoing maintenance.
- l. **Ms. Dionne made a motion to award \$33,058.43 to Longcreek Properties, LLC and S & J Properties, LLC and \$10,553.38 to Outdoor Service Company, Inc., for a total of \$43,611.81, for the purchase of winter maintenance equipment pertaining to low-chloride winter maintenance practices in accordance with the proposal and scoring sheet with conditions included as Attachment B to today's Board agenda. Mr. Dillon seconded the motion. The motion carried unanimously.**

Mr. Kenney left the meeting for another obligation at 1:45p.m.

6. **Executive Session – Personnel Matter (re: Annual Performance Review):** In the interest of time, this agenda item was tabled to the next meeting.
7. **Discussion, Financial Modeling:** In the interest of time, this agenda item was tabled to the next meeting.
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 2:08p.m.

Board attendance and voting record:

Board Member	Attendance	Approve October 26, 2023, Minutes	South Branch Stormwater BMP Retrofits Project; Performance Guarantees and Escrow; Stormwater Management System Maintenance Agreement	Private BMP Incentive Program Application, Longcreek Properties, LLC and S & J Properties, LLC, SWiM Equipment
Blanchette	N	—	—	—
Bohlen	N	—	—	—
Connell	N	—	—	—
Dillon	Y	Y	Y	Y
Dionne	Y	Y	Y	Y
Donahue	Y	Y	Y	Y
Dudley	Y	Y	Y	Y
Goldberg	N	—	—	—
Haskell	Y	Y	Y	Y
Kenney	Y	Y	Y	Y
Lessard	N	—	—	—
Matthews	N	—	—	—
Roncarati	Y	Y	Y	Y
Trefethen-Boileau	Y	Y	Y	Y