

The Vadnais Lake Area Water Management Organization

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MINUTES OF THE VLAWMO BOARD OF DIRECTORS - August 28, 2024 REGULAR BOARD MEETING

Attendance		Present	Absent
Jim Lindner, Chair	City of Gem Lake	Х	
Grover Sayre	City of North Oaks		Х*
Rob Rafferty	City of Lino Lakes	Х	
Tom Riedesel	White Bear Township	X**	
Andrea West	City of White Bear Lake	Х	
Katherine Doll Kanne	City of Vadnais Heights	Х	
Phil Belfiori	Administrator	X	
Brian Corcoran	Water Resources Mgr.	Х	
Dawn Tanner	Program Development Coord.	Х	
Nick Voss	Education & Outreach Coord.		X*
Lauren Sampedro	Watershed Tech & Program Coord.	Х	

^{*=} with prior notice

Others in attendance: Troy Gilchrist (Town Law Center), Ben Meyer (BWSR), Erik Suchy (Press Publications), Nolan Wall (City of Vadnais Heights), Kevin Watson (City of Vadnais Heights), Greg Wilson (Barr Engineering), Travis Fristed (Braun Intertec), Paul Keenan (Reuter Walton Companies), Andrew Lipstein, Fredrick Gaetz, John and Connie Hoye, Carol Josuval, Sandra Mansee, Alexis Lipstein (RCSWCD), Joseph Perrone, Emily Dunn, Becky Olson, Diane Zitzer, Mike Krachmer

I. Call to Order

The meeting was called to order at 7:00 pm by Chair Lindner.

II. Approval of Agenda 🥸

The agenda for the August 28, 2024, Board meeting was presented with the proposed change by Chair Lindner: to move item VI. A. WCA 1. to follow VI. C. Financial/Administrative 1

A motion was made by Director Rafferty and seconded by Director Riedesel to approve the revised August Board meeting agenda. Vote: all: aye. Motion passed.

III. Approval of Minutes 🥸

The minutes from the June 26, 2024 Board meeting were placed on the agenda for approval. The minutes from the February 28, 2024 Board meeting were also placed on the agenda for approval, as moved at the April 24, 2024 Board meeting. Director Rafferty, Director Doll Kanne, and Chair Lindner were present at the February 28, 2024 Board meeting and able to vote on approval.

A motion was made by Director West and seconded by Chair Lindner to approve the June 26, 2024, Board meeting minutes.

^{**=} alternate

<u>Vote: Chair Lindner: aye, Director West: aye; Director Rafferty: abstain, Director Riedesel: abstain, Director Doll Kanne: abstain. Motion did not pass, so minutes will need to be reviewed at the October 23, 2024 Board meeting.</u>

A motion was made by Chair Lindner and seconded by Director Doll Kanne to approve the February 28th meeting minutes.

Vote: Director Rafferty, Director Doll Kanne, and Chair Lindner: aye, Motion passed.

IV. Visitors and Presentations

A. TEC Report and Financials for August

Commissioner Terry Huntrods was unable to attend the Board meeting. Administrator Belfiori provided the synopsis of bill payments; cost-share projects considered and approved for smart irrigation controllers, and project updates including spent lime, Tamarack alum, and invasive flowering rush removal from the August TEC meeting in the Report to Board.

B. Public Visitors - Non-agenda items

None requested.

V. Consent Agenda 🥸

Chair Lindner asked if any Board members wished to speak on any of the consent agenda items. No requests were made from directors.

Consent items on the agenda and included in the August Board packet were as follows:

- A. Update on TEC Approved Spent Lime Demonstration Project final invoice
- B. Consider RCWD proposed boundary change concurrence resolution 3
- C. Consider Landscape Level 2 Grant Program Applications (4)
 - 1. LL2 2024-04 City of Vadnais Heights Smart Irrigation Controllers
 - 2. LL2 2024-05 Villas of Wilkinson Lake HOA Smart Irrigation Controllers
 - 3. LL2 2024-06 City of Gem Lake Smart Irrigation Controller
 - 4. LL2 2024-07 Pine Meadow HOA Smart Irrigation Controllers
- D. Consider Transfer of LL1 Program Funding to LL2 Program Budget 🔌
- E. Consider biannual RFP for required solicitation for Engineering services 🔌
- F. Consider biannual RFP for required solicitation of Legal services 🔌
- G. Consider Rotary Park CPL grant application submission
- H. Update on TEC approved scope of work for Wilkinson Project Enhancement with NST
- I. Consider authorizing hiring process for Communication and Outreach Coordinator Position
- J. Consider Authorizing Nick Voss severance payment 🔌
- K. Update on Amelia invasive flowering rush treatment with RCSWCD
- L. Update on BWSR Accelerated Implementation Grant Application
- M. Update on Wilkinson possible meander project feasibility with SEH and RCSWCD

A motion was made by Director Rafferty and seconded by Director Riedesel to approve the consent agenda.

Vote: all aye, Motion passed.

VI. Business

B. Projects and Studies/Plans

1. Consider Tamarack Alum Project Recommendation from Barr

Dawn Tanner gave the presentation included in the Board packet. She covered background on the project including project partners, existing nutrient impairment and conditions, Tamarack lake's difficult access, and a completed 2023 feasibility study. She discussed VLAWMO didn't receive quotes in April due to difficult access and staging challenges. Staff and Barr Engineering continued discussions to investigate other options, such as using solid alum and using only alum instead of alum with a buffer. She explained the project may need to be extended for multiple years without a buffer due to potential pH changes. pH will need to be monitored continuously during the project and bi-weekly during the monitoring season.

A temporary access agreement with Ramsey County Parks will need to be extended, if the project goes into 2025 and beyond, as is anticipated.

One quote was received from the August RFQ, which was from Lake Restoration, Inc., Lake Restoration, Inc., has committed to providing a quarter of the full dose by this fall. Barr Engineering confirmed this dose is appropriate to keep the project moving into next year.

Lake Restoration, Inc., is not able to commit to a price for the additional project phases. Staff, upon counsel with legal, added that VLAWMO will make good-faith negotiations with the contractor for additional project phases beyond Phase 1.

A contract signed by Lake Restoration, Inc., was provided to the Board by email prior to the Board meeting on August 28.

An additional scope from Barr, also included in the supplemental packet sent by email on August 28, was provided. This includes additional oversight, monitoring, and inspection, especially due to the increased monitoring needs for the project. Tanner stated that the Phase 1 project cost is \$33,080 for the contractor's work and \$22,500 for Barr Engineering.

Staff presented Barr's recommendation to accept the quote from Lake Restoration, Inc., and authorize a 15% contingency. Staff also recommended authorizing the contract, notifying partners, and continuing to negotiate with the contractor and engineer for additional phases as deemed appropriate based on monitoring data.

Discussion:

Director Doll Kanne asked if VLAWMO has worked with Lake Restoration, Inc., before. Tanner said Barr has worked with them in the past. They provided experience examples with their quote.

Director Lindner asked if winter and ice might affect the alum, following the fall dose and as we head into spring. Tanner said alum used to be done as a split treatment before the buffer method and is found to be effective. Fall is an optimal time to apply the first dose.

Director Rafferty asked if VLAWMO has an attorney reviewing our contracts. Tanner confirmed that attorney Troy Gilchrist has reviewed it.

It was moved by Director Doll Kanne and seconded by Director West to authorize the recommendation from Barr to: 1) Accept the quote received from Lake Restoration, Inc. for Phase 1 of the Project for a total of \$25,580 (\$14,000 for alum + \$11,580 for one mobilization/demobilization + \$5,000 for insurance) to be completed by October 23, 2024. 2) Authorize 15% contingency for unforeseen circumstances that may occur in project implementation.

And the recommendation from VLAWMO staff to: 1) Authorize the Board to sign the attached contract with Lake Restoration, Inc., as reviewed and recommended by Barr Engineering and VLAWMO legal counsel, and return the fully executed version to Lake Restoration, Inc. 2) Request staff to notify project partners, including Tamarack Nature Center and Ramsey County Parks & Recreation staff, regarding Phase 1 expectations. 3) Accept the amended contract with Barr Engineering to provide remaining contract administration and engineering oversight, monitoring, inspection through the end of Phase 1 of the Project in the amount of \$19,500. 4) Request staff to negotiate with Barr and the contractor to initiate amendments when monitoring data show that conditions are appropriate for additional phases of the Project.

Vote: all: aye. Motion passed.

2. Consider LL2 2024-08 City of WBL 2024 Curb Cut Raingardens 🔌

Lauren Sampedro gave the presentation included in the Board packet. She described the LL2 2024-08 application for five curb cut raingardens and showed an aerial of the project with raingarden locations indicated. The project is being done in partnership with the City of White Bear Lake, in conjunction with street improvement projects. The parcels in this project proposal drain to Lambert Creek, which is impaired for bacteria. The TMDL Implementation Plan that includes Lambert Creek recommends installing infiltration basins to improve water quality in the creek, which supports the proposed project.

Sampedro described the proposed designs for the raingardens. Three bids were received for the project. The low bid was received from Sandstrom Land Management. Payment for the project would also utilize grant funds from BWSR, because of the project type, water quality benefits, and priority subwatershed location.

Discussion:

Director Rafferty asked if VLAWMO has a history/experience working with Sandstrom. Sampedro confirmed work with Sandstrom on previous projects and positive experiences and results. Director Lindner asked how the raingarden locations were determined. Sampedro responded that RCSWCD and the City of White Bear Lake used BMP design

principals to determine which locations would provide optimal water quality improvement. Chair Lindner asked who would be responsible for the maintenance of the raingardens. Sampedro replied the homeowners would be responsible. Director Doll Kanne asked if there are issues with maintenance once grant projects are installed. Sampedro replied she has not observed issues thus far. She noted that VLAWMO provides additional support through workshops and grant program emails on maintenance. Director Doll Kanne asked if the City takes care of structural maintenance. Sampedro confirmed.

It was moved by Director West and seconded by Director Doll Kanne to approve the Landscape Level 2 grant application 2024-08 at 90% of eligible project expenses, not to exceed \$34,533 in accordance with VLAWMO staff's recommendations and established VLAWMO and BWSR WBIF program guidelines, and to authorize staff to sign grant agreement with the City of White Bear Lake.

Vote: all aye, Motion passed.

3. Consider Wilkinson Deep-Water Wetland Project Final Payment to Northern Escrow 🥸

Dawn Tanner presented the final payment memo from Houston Engineering, Inc. (HEI) recommending final payment to Northern Escrow for Arnt Construction. Tanner showed a final project video that was created by HEI to highlight the project and its results and pointed out key project components during the video. She mentioned that the video is posted on the VLAWMO website and will be featured on the HEI website as well.

A motion was made by Director Doll Kanne and seconded by Director Rafferty to authorize signing the final pay request for \$12,489.00 to Northern Escrow (for Arnt Construction) and issuing payment.

Vote: all: ave. Motion passed.

C. Financial /Administrative

1. Consider 2025 SSU rates 3

Administrator Belfiori presented the SSU rates, as included in the PowerPoint presentation included in the Board packet. In June, VLAWMO Board approved the budget for 2025. VLAWMO partners are involved in the process to identify projects, programs, and areas for funding need. Rates reflect the approved increase in revenue needed for the Board-approved budget. The standard residential parcel cost is \$67.56 for 2025. This is a 4.6% pay increase to generate these unit prices. Comparisons with neighboring watersheds was shown to highlight the value that VLAWMO provides. The property tax levy for neighboring watershed organizations was shown (as has been done in previous years) for the overall levy collected for each and the rate for a standard median value home in Ramsey County (VLAWMO is the lowest). Rates per land use class were shown for 2025. The timeline for the SSU process was described. SSUs must be submitted to counties by November.

Discussion:

Director Rafferty commented that he appreciates using smaller, incremental increases that allow VLAWMO to maintain and conduct activities rather than keeping the rate flat and falling behind.

A motion was made by Director Rafferty and seconded by Director Doll Kanne to approve Resolution 04-2024 setting the Storm Sewer Utility Rates for 2025.

A. WCA

1. Consider WCA replacement plan for proposed Vadnais Heights Apartments.

Brian Corcoran presented the PowerPoint included in the Board packet. Reuter Walton Companies proposed building a 58-unit apartment building on a 1.75-acre site with 0.69 acres of wetland in Vadnais Heights. The project would include 0.61 acres of permanent fill and 0.08 acres of temporary impact. Corcoran described the location and proposed footprint for the project and showed where delineated wetland areas are located. He provided background about Wetland Conservation Act (WCA) goals, rules, and procedures. He highlighted that VLAWMO is the Local Government Unit (LGU) for WCA, working with the Technical Evaluation Panel (TEP) to make technical recommendations to the Board. Corcoran stated that Ben Meyer (BWSR) and Alexis Lipstein (RCSWCD) from the TEP were in attendance at the meeting. Corcoran provided background on the criteria related to sequencing as defined in the WCA. The timeline was provided including key dates for proposal, submission, consideration, and Finding of Facts (FOF) /applicant responses in three rounds (attached in the packet and linked for the Board). The third and final FOF, which was sent to the Board on 8-22- 2024 and was linked on page 58 and linked at Exhibit A of Resolution 03-2024, reviewed each element of Subp. 3 (sequencing -avoidance) and Subp.4 (sequencing – minimization). The TEP in this FOF determined that 14 of the 16 previous TEP comments had not been addressed. The FOF provided the TEP recommendation to the Board, which was to deny the application. Corcoran identified that draft Resolution 03-2024 as provided in the packet was for the Board's review and consideration.

Discussion:

Chair Lindner acknowledged that all Board members consider zoning in their City and Township roles and that VLAWMO's focus is the WCA and wetland consideration and protection.

Corcoran mentioned that Ben Meyer is in attendance to respond to questions. Attorney Troy Gilchrist is also in attendance and able to respond to questions. Director Rafferty requested the letter received from the City of Vadnais Heights to be highlighted and included up-front in the packet. Director Doll Kanne stated that a letter from the applicant was also provided to the VLAWMO Board with responses regarding ways that the applicant felt they responded appropriately to the most recent TEP comments. The letter was sent to the Board on 8-28-2024. Director Doll Kanne asked if the applicant could speak in the meeting to have an opportunity to share how they felt they had addressed comments.

Chair Lindner stated that the VLAWMO Board meetings are not public hearings, but also said that he would allow the applicant to speak as requested.

Director Doll Kanne stated that allowing the applicant to speak supports due process.

Director Lindner asked anyone speaking from the audience to state their name for the record.

Travis Fristed and Paul Keenan approached the podium and presented together. They highlighted their items of concern and provided a response to the August 20th TEP comments. In their response, they felt that they had met the areas that the TEP identified as not addressed. They stated that they felt that avoidance and minimization considerations were included in their response. The project would include a focus on avoidance and minimization. They identified that two alternatives to the project had been considered in the proposed application. They stated that a no build alternative was not deemed feasible. The project would include reduced surface parking from the pre-application design and an alternative layout was provided to shift the building and reduce fill. The other main topic of concern mentioned in comments was regarding stormwater. They stated the wetland currently receives stormwater runoff and is degraded, and the proposed design included stormwater treatment. Those are aspects of avoidance and minimization incorporated, which they felt are reasonable and justify the criteria.

Director Doll Kanne stated that there was a section in the applicant's latest submittal sent to the Board that included a table that was three pages in length and included specific language that focused on attempting to address the TEP findings. She referenced numbers 7 and 9, noting for the record that the applicant received legal counsel that there may be differences in interpretation of MN WCA rules.

Keenan stated that he felt there is confusion as to which aspects of the project require mitigation and the extent to which mitigation is required.

Director Doll Kanne asked the applicant to comment on their statement regarding a degraded wetland description that was part of their response. She stated that the Board was not provided delineation details of wetland quality and asked to understand the value of the wetland from an ecological standpoint.

Fristed re-stated that the wetland is degraded. He stated that he felt its primary function is to serve as stormwater treatment for properties in the area. He noted surrounding properties direct stormwater into this wetland. He also stated that as part of the project, \$200,000 was allocated to enhance function of the parcel. That includes: installing a stormwater treatment system and a control that reduces the amount of stormwater that is entering the City system. He stated that the project would build 58 units, while improving the functionality of the parcel for stormwater management.

Director Lindner asked how the wetland performed as far as flooding on the street during 2024.

Corcoran responded that he conducted a site visit in June 2024. He observed standing water in the wetland. There is an outlet into the stormwater system from the wetland. Flooding on the street was not observed by staff.

Director West commented on the status of the wetland as degraded and stated interest in how the project team plans to improve the system by putting money and infrastructure into the project to treat stormwater.

Fristed responded that the plan is to treat stormwater to the requirements and reduce the amount of stormwater delivered into the City system.

Director West stated that sounds like a good deal.

Director Riedesel asked when the parcel was acquired by the City and why.

Corcoran said that it was part of the Arcade Street construction project from 1994 and Goff townhome construction. The parcel was acquired for wetland replacement due to wetland impact from both Arcade Street and Goff townhome construction.

Director Doll Kanne said that she understood that it was nearly 30 years ago.

Fristed said it was the mid-90s as he understood.

Riedesel asked why the City acquired the parcel; was it for development or because it was a wetland?

Corcoran stated that it was acquired for the Arcade Street development project to create a wetland on this parcel to mitigate wetland impacts for that City project.

Director Doll Kanne asked what documents establish that.

Corcoran responded that there is no declarations of restrictions recorded on the parcel, but the VLAWMO has Board minutes approving the mitigation plans and City of Vadnais Heights most likely approved the plans as well, and there are City engineer-signed plans that identify that these are mitigation wetlands.

Director Lindner stated that there are other members of the TEP present and asked if other members would like to present.

Corcoran introduced Ben Meyer (BWSR) and Alexis Lipstein (RCSWCD) who are the other two members of the TEP in attendance.

Meyer stated that he is a wetland specialist from BWSR and provides oversight of the LGU. He stated that he didn't want to start a back and forth debate but would share statements. He responded to the question regarding the degraded wetland status; he said that's an opinion of the applicant. Wetlands provide a myriad of functions: habitat, aesthetics, in addition to stormwater treatment. Accurate labeling would require a functional assessment through MnRAM or another equivalent tool, which is not usually required of an applicant. He stated another dispute is the numbers and acreage of impact. The applicant is proposing 0.5 acres of fill, 0.11 acres of excavation. Excavation is also an impact. He noted that essentially the entire wetland is impacted by this project. The TEP has not received a satisfactory reply on 0.08 acres of temporary impact. He said that the proposed temporary impact area would be degraded by surrounding land use and there would not be much left of it. He stated that the entirety would have been more accurately considered as an impact which would be the entire 0.69 acres.

Lipstein provided that the statement of degraded wetland is an opinion that cannot be defined without a MnRAM assessment. She emphasized that a constructed stormwater pond does not provide the same functions and values as a wetland, especially a wetland that has been in place for many years/historically. The hydrology of the site includes the road and neighborhood with a high groundwater table. The TEP is concerned about excavation of a pond with high groundwater and also sustaining wetland hydrology to keep impacts temporary instead of permanent.

Director Lindner asked if there were other questions or comments.

Director Rafferty said that impacts seem to be a result of development itself and that there may be a difference of opinion.

Director Doll Kanne said that the VLAWMO Board wasn't provided with the stormwater management plan. She asked if that was provided as part of the review and asked if there are concerns.

Corcoran responded that VLAWMO's role in this consideration is acting as the LGU for the WCA. A full stormwater management plan was not provided in the replacement plan application.

Meyer commented that the WCA was a very new law in the early 1990s and the 1994 Arcade Street development should be considered with a historical view toward WCA administration. Hand-drawn maps and sketches were used back then, compared to a much more sophisticated process where we are now. Taking that history into account supports Corcoran's comments about the history of wetland creation on this parcel.

Riedesel said Meyer and staff answered his question of when the wetland was created.

Director Lindner said that he wanted to mention that VLAWMO's mission is to protect wetlands, as defined with the WCA. He noted that he walked past the area before the meeting tonight. He stated that if ponding occurred on Arcade Street in the future, people would look at the VLAWMO Board's decision tonight. He said his second comment is regarding VLAWMO staff. The Board works to support staff as they go about doing their work. They have provided their recommendation based on their expertise and experience. He stated that the TEP are the subject matter experts.

Director Doll Kanne stated she supports staff but asked for consideration because of professional roles and differences in interpretation of existing laws. She stated that she knows that sometimes there are differences of opinion and has questions and doubts. She questions the interpretation of WCA and why this project is not meeting the requirement. She stated projects impact wetlands all of the time and meet WCA. She said she is not sure that the sequencing was not met, but thinks avoidance and minimization were met. Sometimes subject matter experts can be called out as wrong and the Board needs to give people the opportunity. She stated that the Resolution in the packet has more content than what was shown in the PowerPoint. She also noted that she understood that the case law referenced in the Resolution involved a situation that was overturned on a due process issue, which is not the case here.

Director Doll Kanne stated she cannot vote for the Resolution as it has been written.

Director Lindner responded that these decisions aren't easy.

Director Rafferty provided that we have professionals before us and would like to make a motion.

Director Doll Kanne asked that the full Resolution be put in front of the Board for consideration.

Director Rafferty re-stated that he would like to make the motion to approve the Resolution.

Director Doll Kanne asked for an explanation of item g. in the Resolution.

Attorney Gilchrist explained that the draft Resolution is written strongly to support the TEP recommendation. It isn't trying to compel or intimidate. In a Resolution, the goal is to put forward the strongest case to support the decision. As legal counsel, his job is to support and defend VLAWMO if VLAWMO is challenged. The particular case referenced in the resolution (item g.), is not an exact parallel, but illustrates the process if the Board doesn't support the recommendation. The Board has the right as the LGU to make a decision. If the Board makes the decision to not support the Resolution, he would ask that the Board consult with him first to discuss process. In the referenced case (in item g.), it was the TEP member from BWSR that appealed and BWSR heard the appeal. The case demonstrates the path that this could go and the importance of the Board supporting its decision. If the decision isn't supported, it could end up following a similar process and outcome (as the case in item g).

A motion was made by Director Rafferty and seconded by Director Lindner to approve Resolution 03-2024 that resolves as follows:

- <u>1. The attached TEP Recommendation is hereby adopted and incorporated into this Resolution.</u>
- 2. The Applicant's Application for a wetland replacement plan for the Property is hereby denied.
- 3. VLAWMO staff are authorized and directed to, within 10 business days, mail the Applicant the notice of decision and a copy of this Resolution, and to send a summary of the decision to those required to receive notice of the Application.

Vote: Lindner: aye, Rafferty: aye, Riedesel: aye; Doll Kanne; nay, West: nay. Motion passed.

VII. Discussion/Admin communication

Administrator Belfiori highlighted that Nick Voss is leaving VLAWMO after 8 years to go to the private sector as a senior water resources scientist at an engineering firm. He said that VLAWMO is sad to see Voss go and wishes him well. Card signing and optional gift contribution were offered to the Board.

Chair Lindner wished Nick well in his new position and stated that it's important to take chances and continue to grow.

Administrator Belfiori apologized for any information that may have been provided as a link that Board members may have liked to see directly attached in the packet. Links versus included documents are decided in an effort to keep the packet at a reasonable size, while providing full and clear information. Belfiori greatly appreciated staff involvement and extra time preparing this packet.

Director Rafferty requested more time to read and review material, recognizing that two emails were sent on the day of the Board meeting.

XI. Adjourn

A motion was made by Director Rafferty and seconded by Director Riedesel to adjourn at 8:22 pm.

Vote: all: aye. Motion passed.