

**Cedar Meadow Lake Watershed District
Minutes of Management Committee Meeting
January 16, 2013**

The meeting commenced at 7:50 P.M. at the Leicester Police Department Community Room.

In attendance: Tommy Lee
Wayne Ridley
Richard Johnston, Clerk
Terry O'Coin, Treasurer

Minutes of Previous Meetings

Minutes of the previously distributed Management Committee meetings on January 19, 2011 were offered for approval. A motion was made, seconded and voted unanimously to accept these minutes as written.

Clerk's Report

See attached memorandum dated 1/16/13 for Clerk's communications for the period November 13, 2012 through January 16, 2013.

Treasurer's Update

Mr. O'Coin presented a Treasurer's Report dated 1/16/13 showing that the District had \$10,422.54 on deposit in the Spencer Savings Bank. He went through the report and highlighted a transfer of the \$5,933.99 balance from the Commerce Bank account to the Spencer Savings Bank account. He also discussed payments of \$40 for annual dues to COLAP, \$560.00 to Galvin Plumbing and Heating for PVC pipe used to complete the relocation of two siphons at the dam, reimbursement in the amount of \$511.92 to Mr. Johnston for the purchase of a Lorance depth finder, hall rental, and a Registry of Deeds dam safety permit filing.

The report also included the deposit of two Friends program donations totaling \$45, a \$195 recording fee at the Registry of Deeds to remove a bank lien associated with a paid loan, \$1,000 for the annual audit, \$725.51 in Clerk's expenses for the six months ending 12/31, and Treasurer's expenses totaling \$133.59.

Mr. O'Coin discussed favorable annual audit results by Dan Haynes. The only question of significance raised by Mr. Haynes was whether the District was subject to the same 5% debt limitations imposed on cities and towns.

Mr. O'Coin also discussed the need to transfer funds to the Administration account. Following discussion, a motion was made, seconded and votes unanimously to transfer \$420.02 from the Reserve account to the Administration account. Mr. O'Coin also sought and received approval for Warrant #165.

There was discussion regarding the need to increase the amount of the Treasurer's Bond as required by the USDA. The new amount must at least be equal to the amount of the annual loan payments plus the annual operating budget. Mr. O'Coin was instructed to pursue this matter soon to ensure that the higher bond amount was in place before closing the USDA loan.

Old Business

Dam Repair Update:

Mr. Johnston provided an update of dam repair activity that finally concluded for the winter after Christmas. He explained that the start of construction was delayed as a result of several issues including a delay in gaining Office of Dam Safety (ODS) permit approval, a misunderstanding with the Conservation Commission with respect to the approval of an Emergency Certificate, and difficulty in finding suitable dam core material. With respect to the core material, five sample from five different sources were tested until a clay-like material with very high permeability was found in the Springfield area. Getting this material delivered locally also caused a delay in completion of Phase 1.

An excavation in the crest of the dam, approximately seven feet wide and four feet deep was made to expose the existing core. The existing core was found to be approximately one foot below the spillway elevation. Lenard Engineering speculated that sometime, perhaps many years ago, the spillway elevation was increased to increase the amount of water behind the impoundment. Additional core material was added to bring the core up to within six inches of the dam crest, and well above the spillway elevation. This will ensure that the core elevation will be greater than the water level, even under extreme rain or melting conditions.

The excavation and core supplement work began the week before Christmas and went very slowly because the core material was very wet and had the consistency of "play dough." Compaction was limited to pushing the material down with the back side of the backhoe bucket because standard compaction devices sunk into the clay-like material. It was apparent that the new material bonded well to the existing material and that there were no voids in the new material. Core sampling will be performed in the Spring to verify this. Future stages of efforts to repair and supplement the dam core will not be undertaken until suitable dry core material is found and delivered locally. Phase 1 of the repair project, an area approximately 80 feet in length, from the spillway east to just beyond the gatehouse was completed over several days with the final work occurring after Christmas.

Dam Repair Work To Be Performed In the Spring:

A void approximately ten inches wide and three feet deep was discovered next to the gate house between the core and water side wall of the dam. Additionally, it was not possible to ensure a good bond between the new core material and the east spillway wall. Lenard Engineering is working with the ODS to develop a plan to pump concrete under pressure into the void near the gatehouse and along the east spillway wall in the Spring. R. H. White Constriction will bring in loam to install atop the above described trench, and will create a crown on the crest of the dam before seeding the area.

Mr. Johnston shared a schedule that included outstanding engineering and repair bills along with estimates additional charges to be incurred in the spring. Discussion regarding this schedule as it relates to amounts in the approved District operating budget resulted in the Management Committee decision to include \$45,000 in the USDA loan amount to ensure the ability to satisfy the USDA requirement that all outstanding contractor bills will be paid at the time of loan closing.

Stability Analysis:

The ODS has demanded that a stability analysis be performed as a condition of future dam repair activity. This analysis is intended to reveal the general stability of the dam structure and its ability to sustain the effects of an earthquake. Lenard Engineering has cautioned that there are very few gravity masonry dams in the Commonwealth with a vertical, unsupported down stream wall. Even fewer dams of this type will have the ability to sustain the effects of an earthquake. Lenard cautions that it may be necessary to bring in gravel material over time to form a sloped embankment on the downstream side of the dam.

Lake Level Management:

Mr. Johnston explained that his attention was diverted from closely following the lake draw down to prepare for the Special Meeting of the District. Consequently, water levels were dropped approximately one foot lower than planned to approximately six feet below the spillway elevation.

The low level outlet was closed in November. At this time, the stem of the low level outlet valve was approximately six inches above the water. Following completion of the dam repair, water began to slowly rise and, at the same time, freeze. See the ice removal plan described under New Business below. As of the date of this meeting, the water level increased to approximately four foot six inches below the spillway elevation which is about six inches above the valve stem.

Lake Depth Survey:

The ODS has requested a Hydraulics and Hydronics (H&H) survey. This survey will determine the amount of water being held back by the impoundment and calculate the amount of water flowing into the lake from the surrounding watershed under extreme weather conditions. This information will be weighed against the ability of the existing spillway and low level outlet to release water under these conditions. A significant portion of the expense associated with the H&H survey is that portion that measures the volume of water in the lake under normal spillway elevation conditions. Rather than to have this work performed by Lenard Engineering, less expensive alternatives were explored. An alternative was proposed by District member Brian Waterman, who is employed by Waterman Design Associates, to perform the survey work through the ice using Waterman Design surveyors. Waterman proposed to do this for a price not to exceed \$3,800, an amount substantially less than the \$4,500 to \$5,500 proposed by Lenard Engineering. With the approval of the Management Committee, Mr. Johnston signed this proposal on behalf of the District. A three man Waterman survey crew set up a survey station on the exposed "island" in the main portion of the lake, bore holes through the ice and surveyed the depth of the lake at 200 foot intervals. The results of this work have not as yet been made available.

USDA Loan Progress:

Mr. Johnston met with Steve Bonavita, Area Specialist (loan officer) with the USDA Rural Development office in Holden to better understand the process going forward. He shared copies of loan documents that the Management Committee will be expect to sign at a later date.

After extensive discussion, it was determined that the total amount of the USDA loan will be \$1,785,000 before any lump sum payments are made by members. The make-up of this amount is as follows.

•	12/15/2011 judgment with interest	\$1,711,000
•	Interest on judgment since 12/15/2011	4,475
•	Financial advisor's fees	4,000
•	Bond Counsel fees	5,000
•	Legal expenses	5,000
•	Dam engineering and repairs	45,000
•	Purchase of land below the dam	5,000
•	Contingency	<u>5,525</u>

Total

\$1,785,000

Purchase of Land Below the Dam:

Mr. Johnston reported the results of conversations with Field Resources, the civil engineers used by Lenard Engineering to define and establish elevations at the dam. Field Resources attempted to perform a survey of the land below the dam but found that the monuments around the dam were “out of wack.” Mr. Johnston authorized Field resources to go back into the the surrounding areas to find accurate monuments from which to base their survey work. Resultant work will produce an accurate plot plan to use when purchasing the land below the dam.

With respect to the purchase price of this land, Attorney Nickless has taken the position that the District is willing to offer \$5,000 and will not exceed this amount unless Mr. Shea shows justification for a higher amount. Mr. Shea has refused, to date, to discuss a selling price until a firm date is established to pay the judgement.

Phase I Dam Reinspection Plan:

The ODS has agreed to allow the District to postpone its Phase I reinspection until planned dam repair work, the lake depth survey, and H&H survey, are completed in the Spring. It is expected that, by then, the District will own the land immediately below the dam and will have completed a plan for cutting trees in close proximity to the dam.

Betterment Communication:

Mr. Johnston and Mr. O’Coin shared draft letters to members describing each individual members’ share of the judgement, and their options to repay their share over 10, 20, 30 , and 40 year time periods. These letters and schedules have been approved for distribution by Principal Assessor John Prescott. Mr. O’Coin described a mail merge that would produce letters with each members individual financial numbers.

New Business

Protecting the Low Level Outlet Valve From Ice Damage:

It is necessary to keep the low level outlet valve free of ice while the lake level increases to avoid ice damage to the valve. Mr. Johnston, who would ordinarily do this, was ill with bronchitis and contracted with Antanavica construction to send a workman to the dam once daily to break away ice from the area of the valve until the water level reaches eight inches above the valve. See a discussion regarding efforts to refill the lake following repair work above.

Title Insurance Challenges:

Some District members have expressed interest in seeking financial relief concerning their individual shares of the judgment against the district. The theory is that the title insurance companies should have examined the title of the lake and, if they had done this, they would have revealed the presence of the law suit against the District and the “Voluntary Restriction” filed at the Registry of Deeds by Shea.

5% Debt Question:

As reported in the Treasurer's Report section above, Auditor Dan Haynes raised the issue of whether the District is subject to the same debt limitations as a city or town. Mr. Johnston communicated with Attorney Phillips and she, in turn, communicated with Bond Counsel to find that the District is not subject to a debt ceiling when borrowing from the USDA.

Self Help Weed Control:

Mr. Johnston reported being in touch with Al Collings of COLAP who, in turn, directed him to Carl Nielson, VP of the ESS Group, a lake management organization with offices in Providence, Rhode Island. ESS has worked with the Quaboag and Quacumquasit lake associates to successfully experiment with self-help weed control programs. These programs have successfully used common, and safe, chemicals such as hydrogen peroxide to control aquatic weeds. Mr. Johnston will meet soon with Mr. Nielson to start a dialog about weed control at our lake.

Executive Session

No executive session was conducted.

Next Meeting

The next regular meeting of the Management Committee was scheduled for 7:45 P.M. on Wednesday, February 13, 2013 at the Leicester Police Department Community Room.

Adjournment

A motion was made, seconded and voted unanimously to adjourn the meeting. The meeting adjourned at 9:08 P.M..

A True Copy Attest:

Richard D. Johnston
District Clerk

**Cedar Meadow Lake Watershed
Memorandum**

Date: January 16, 2013

Subject: Clerk's Communications

To: Management Committee

From: District Clerk

District Clerk Richard Johnston reported the following communications for the period November 13, 2012 through January 16, 2013. This memorandum will be attached to the January 16, 2013 Management Committee Meeting minutes:

- 11/13 e-mail from Lenard Engineering to R H White Construction and Clerk regarding revised dam repair revisions
- 11/13 e-mail from Lenard Engineering to Clerk regarding approval of request for dam repair permit from Office of Dam Safety
- 11/15 letter from Clerk to Clark Rowell of UniBank covering response to Bond Counsel's Document Request
- 11/16 draft minutes of 11//14 Management Committee meeting from Clerk to Management Committee members
- 11/16 e-mail from Clerk to Tim Galvin regarding return of unused syphon material
- 11/19 e-mail from Clerk to Management Committee describing result of dam repair pre-construction meeting
- 11/20 exchange of e-mails between Clerk to Attorney Nickless providing update on USDA loan application and timing of same
- 11/20 e-mail from Lenard Engineering to Office of Dam Safety, R H White Construction and Clerk covering minutes of pre-construction meeting minutes
- 11/27 exchange of e-mails between Clerk and Ruth Kaminski regarding Ruth's inability to serve as Moderator of Special Meeting
- 11/27 e-mail from Clerk to Burncoat Pond district regarding their trial date
- 11/27 e-mail from Lenard Engineering regarding dam repair scheduling
- 11/29 Thank You note from member Eileen Clifford regarding the manner in which Special Meeting was conducted
- 11/30 e-mail from Clerk to Burncoat Pond district regarding Treasurer's Bond insurance
- 11/30 e-mail from Clerk to Treasurer regarding amount of Treasurer's Bond amount increase
- 11/30 e-mail from Clerk to Conservation Commission member JoAnn Schold seeking assistance in gaining approval of Dam repair Emergency Certificate
- 12/2 e-mail from JoAnn Schold to Clerk regarding Emergency Certificate approval
- 12/2 e-mail from Clerk to Lenard Engineering regarding Emergency Certificate approval
- 12/3 e-mail from Clerk to Lenard Engineering and Management Committee regarding status of Conservation Commission Emergency Certificate for dam repairs
- 12/3 e-mail from Clerk to Attorneys Nickless and Phillips providing update on Special Meeting and meeting with USDA

- 12/4 email from Clerk to Management Committee advising that dam repairs were delayed
- 11/26 e-mail from Clerk to Lenard Engineering providing draw down update
- 12/6 note and attachment from Clerk to Tim Galvin regarding return of unused syphon material
- 12/6 e-mail from Clerk to Management Committee regarding core material for dam repair
- 12/6 e-mail from Clerk to Management Committee regarding trash rack.
- 12/6 exchange of e-mails between Clerk, Lenard Engineering and R H White Construction regarding core material for dam repair
- 12/6 - 12/7 exchange of e-mails between Clerk and Lenard Engineering regarding survey of land below the dam
- 12/6 exchange of e-mails between Clerk and Management Committee regarding reconstruction of trash rack
- 12/7 exchange of e-mails between Clerk and Treasurer regarding closing Commerce Bank account
- 12/7 Thank you note from Clerk to Muscente and Triba for Friends contribution
- 12/8 e-mail from Clerk to Burncoat Pond district regarding liability insurance
- 12/8 exchange of e-mails between Clerk and Treasurer regarding tax information on website
- 12/8 exchange of e-mails between Clerk and Treasurer regarding completion of District tax package with DOR
- 12/8 - 12/9 exchange of e-mails between Clerk and COLAP and ESS Group regarding self help weed control
- 12/11 Thank You note to Conway for Friends contribution
- 12/11 exchange of e-mails between Clerk and member Thamel regarding the outcome of the Special Meeting
- 12/11 e-mail from Clerk to Clark Rowell seeking sample betterment repayment schedules
- 12/12 e-mail from Clerk to Management Committee regarding dam repair scheduling, betterment communications with members, and survey of land below the dam
- 12/12 exchange of e-mails regarding concern raised by auditor Dan Haynes for possible 5% debt limitation
- 12/12 Realtor letter regarding 19 Rawson Drive from Clerk to Vangos
- 12/12 e-mail from Treasurer to Clerk regarding question raised by District auditor Dan Haynes concerning whether District is subject to 5% debt limit.
- 12/14 exchange of e-mails between Clerk and Management Committee regarding decision to award depth survey to Waterman Design
- 12/14 e-mail from Clerk to Wayne Ridley attached to Waterman Design depth survey proposal
- 12/14 e-mail from Clerk to Waterman Design advising that depth survey proposal was acceptable to Management Committee
- 12/14 - 12/18 exchange of e-mails between Clerk and Waterman Design regarding depth survey proposal
- 12/15 e-mail exchange between Clerk and Treasurer regarding closing Commerce Bank account
- 12/16 e-mail from Clerk to Management Committee advising of delay in dam repair construction
- 12/17 email from Clerk to Management Committee advising the acceptable core material had been found for dam repair project
- 12/17 e-mail from Treasurer to Clerk providing DOR tax filing update
- 12/19 return of signed contract to Waterman Design regarding depth survey
- 12/24 e-mail from Clerk to Management Committee advising of problems

encountered during, and slowing down completion of, dam repairs.

- 1/1/13 letter from Clerk to Allworth Realty covering copy of Realtor Letter to George Russell Realty concerning 138 Charles Street
- 1/2 email from Clerk to Waterman Design attached to survey file from Lenard Engineering
- 1/2 e-mail from Waterman Design to Clerk seeking copy of previous lake survey by David Ross Associates
- 1/2 e-mail from Treasurer to DOR attached to tax package recap
- 1/2 e-mail from Attorney Nickless to Clerk seeking update on USDA loan progress
- 1/3 exchange of e-mails between Lenard Engineering, Waterman Design and Clerk regarding depth survey
- 1/4 e-mail exchange between Clerk and Waterman Design regarding depth survey
- 1/4 e-mail exchange between Clerk and Management Committee concerning whether to award depth survey contract to Waterman Design
- 1/4 e-mail from Clerk to Management Committee seeking approval to postpone Management Committee meeting due to illness
- 1/4 e-mail from Clerk to Lenard Engineering requesting assistance in getting survey work from Field Resources
- 1/7 e-mail from Waterman Design to Clerk regarding depth survey schedule
- 1/7 e-mail from Representative Binienda's office attached to proposed dam related legislation
- 1/7 exchange of e-mails between Clerk and Attorney Nickless providing status of USDA loan process
- 1/7 e-mail from Clerk to Attorney Nickless providing updates concerning purchase of land below dam and USDA loan progress
- 1/7 - 1/8 exchange of e-mails between Attorney Phillips and Clerk regarding any statutory debt limitations
- 1/7 letter from Clerk to Attorney Phillips seeking opinion regarding debt limitation
- 1/8 - 1/11 exchange of e-mails between Clerk and Attorney Phillips regarding debt limitation
- 1/9 e-mail from Lenard Engineering to Clerk covering budget update
- 1/10 e-mail from Clerk to Treasurer advising that Principal Assessor had forwarded approved tax package to Tax Collector
- 1/10 e-mail exchange between Clerk and member Tara Moore regarding title insurance issues
- 1/10 e-mail from Clerk to Management Committee attached to Lenard Engineering report to Office of Dam Safety regarding completion of planned dam repairs
- 1/11 exchange of e-mails between Clerk, Attorney Phillips, and Bond Counsel in response to Clerk's 1/7 letter pertaining to possible debt limit.
- 1/11 exchange of e-mails between Clerk and Management Committee members regarding sale of Clerk's home
- 1/12 - 1/13 exchange of e-mails between Clerk and Treasurer regarding betterment communications with members
- 1/13 e-mail from Clerk to Treasurer providing Spencer Savings Bank statement detail
- 1/13 e-mail from Clerk to Treasurer regarding need to review engineering and dam repair budgets at 1/16 Management Committee meeting
- 1/14 e-mail from Lenard Engineering to Clerk providing update of dam legislation