

**Cedar Meadow Lake Watershed District
Minutes of Management Committee Meeting
June 20, 2012**

The meeting commenced at 7:35 P.M. at 1 Maple Glen Lane, Leicester.

In attendance: Paul Dufresne

Wayne Ridley

Richard Johnston, Clerk

Terence O'Coin, Treasurer

Minutes of Previous Meetings

The previously distributed Minutes of the Management Committee meeting on May 4, 2012 were offered for approval. A motion was made, seconded and voted unanimously to accept the Minutes as written. Minutes of the Management Committee meeting held on May 16, 2012, immediately following the Annual Meeting, were offered for approval. A motion was made, seconded and voted unanimously to accept the Minutes as written.

Clerk's Report

Mr. Johnston reported the following communications since the last Management Committee meeting:

- 5/7 letter from USDA informing of approval of \$1,800,000 loan
- 5/7 Clerk returned signed agreement for services with Bond Counsel Rick Manley
- 5/7 e-mail from Bob Dirsa of Burncoat Pond district regarding open meeting laws
- 5/11 letter from Trident Insurance regarding liability insurance carrier change
 - 6/6 e-mail from Brailey and Wellington Insurance regarding same subject
 - 6/6 letter from Clerk to Trident Insurance authorizing transfer of coverage
- 5/12 "Realtor" letter from Clerk to Cornerstone Realty regarding 37 Lakeview Drive
- 5/12 "Realtor" letter from Clerk to ERA Realty regarding 136 Charles Street
- 5/14 invoice from Lenard Engineering
- 5/15 e-mail exchange between Attorneys Nickless and Egan stating Mr. Shea's position of not being willing to settle for amount less than full judgement
- 5/15 e-mail from Clerk to Clark Rowell regarding betterment timing and payment issues
- 5/16 exchange of e-mails with Lenard Engineering regarding repair drawings
- 5/17 and 5/18 exchange of e-mails with Lenard Engineering regarding pending dam inspection and trees below the dam
- 5/17 and 6/20 exchange of e-mails between Clerk and Darlene Eager and Clerk and Attorney Nickless regarding "spite strips" and betterment issues
- 5/17 Thank You e-mail from Tom Forsberg
- 5/18 Thank You e-mail from Steve Monahan
- 5/18 Thank You e-mail from Maria Parretti
- 5/18 e-mail from Clerk to Maria Parretti regarding flood insurance
- 5/19 Thank You e-mail from Jack Lacroix
- 5/21 Thank You e-mail from Jeremy Wooden
- 5/21 and 5/22 exchange of e-mail between Clerk and Attorney Nickless regarding betterments and bankruptcy proceedings
- 5/22 e-mail from Clerk to Kathy Pelley answering her question regarding the relative position of betterments vs. taxes in bankruptcy proceedings
- 5/25 telephone call from Clerk to thank anonymous guarantor of line-of-credit
- 5/31 e-mail from Clerk to Attorney Nickless in response to question from Attorney Egan regarding timing of judgement payment and timing to legislation

- 5/31 letter from Clerk to Members Mr. and Mrs. Boisjolie regarding Annual Meeting
- 5/31 e-mail from Clerk to prospective buyer of 136 Charles Street
- 6/1 e-mail from Clerk to Realtors Pam Crawford and Darlene Eager seeking input of revised Realtor letter
- 6/5 and 6/6 e-mail exchange between Clerk and Auditor Dan Haynes regarding tax deductibility of betterments
- 6/18 e-mail exchange between clerk and Representative John Binienda's office regarding proposed betterment legislation
- 6/18 follow-up e-mail from Clerk to Dan Haynes regarding tax deduction issue
- 6/20 telephone call from Representative Binienda's office advising the betterment legislation had been filed
- 6/20 e-mail from Clerk to Darlene Eager regarding spite strips and proposed Realtor letter (attached to 5/17 and 6/2 e-mails)
- 6/20 telephone call from Dan Haynes to Clerk advising that betterments may not be deductible

Treasurer's Report

Mr. O'Coin presented a Treasurer's Report dated 6/20/12 showing that the District had \$26,750.26 on deposit in the Spencer Saving Bank and the Commerce Bank. He described the highlights of his report including the transfer of \$2,500 from Commerce to Spencer Savings to open the Spencer Savings account, the receipt of two tax payment checks from the Tax Collector's office totaling \$19,116.57, the deposit of the \$100 donation from the Green Mountain Club, the payment of an invoice in the amount of \$1,835.45 to Lenard Engineering, and the payment of the Treasurer's Bond for FY13 in the amount of \$229. He also sought and received approval for Warrant #160.

Mr. O'Coin stated his intention to close the Commerce Bank account when the last check clears. He also presented a summary of tax payment receipts through April 30. He stated that, of the 92 tax bills sent, bills to 45 taxpayers, or 49%, were paid in full, 34, or 37%, had paid only the first half, and 13, or 14%, had made no payment. The total target collections for FY12 equaled \$48,721.43, and total collections through April 30, including a small amount of carry-over from FY10 and 11, totaled \$35,721.43.

Mr. O'Coin also reported an e-mail sent to the District's auditor, Dan Haynes, regarding a Federal requirement that future audits be expanded to meet the requirements of Office of Management and Budget Circular A-133 because the District would be receiving in excess of \$500,000 in Federal financial assistance. Mr. Haynes responded that his audits of school district's frequently include this requirement and that he did not expect that a large increase in fees associated with this additional work.

Mr. O'Coin pointed out that there were no enough funds remaining in the Dam Repair and Maintenance account to pay the current bill from Lenard Engineering and requested a transfer of funds from the Reserve account. A motion was made, seconded and voted unanimously to transfer \$2,500 from the Reserve account to the Dam Maintenance and Repair account.

Old Business

Draw Down Update:

Mr. Johnston reported that, while the low level outlet had remained wide open for a long period of time, the water level in the lake was still at the spillway elevation on 6/15 and had dropped to 2 inches below the spillway elevation on 6/17. There was discussion about possible causes of the reduced capacity of the low level outlet including the possibility that debris had accumulated around the lake side of the valve. Member Dan Beauvais, a dam inspector with the Office of

Dam Safety offered to loan the District two underwater cameras to inspect the low level outlet. One camera could be used to visually inspect the inlet of the valve and the other, a more sophisticated unit, could be run up the outlet pipe to determine whether there were any restrictions within the pipe. Mr. Ridley agreed to contact Mr. Beauvais to arrange to use a camera to inspect the inlet to the low level outlet. He and Mr. Johnston agreed to meet on the dam on Sunday 6/24 to work with the camera.

Mr. Johnston reported a telephone conversation with Member Mike Reis during which Mr. Reis expressed interest in learning more about, and participating in, dam control and maintenance. Mr. Johnston agreed to contact Mr. Reis to invite his participation in the camera work.

Dam Repair Update:

Mr. Johnston reported that the application for a Chapter 253 permit to perform work on the dam was submitted to the understaffed Office of Dam Safety ("ODS") on 5/21, and that there had, to date, been no response from the ODS. Mr. Johnston left a message with ODS Director William Salomaa, but did not receive a response. Karen Fung from Lenard Engineering made several calls asking for approval and was told that they are very busy. Mr. Ridley agreed to ask member Dan Beauvais to intervene if possible to expedite the approval.

Under ideal circumstances, the repair of the clay berm within the dam would require dropping the water level at least two feet below the spillway elevation. This drastic a drop in water level cannot be performed at this time of year because there would be no assurance that there would be sufficient new rainfall to refill the lake following repair. The leak near the gatehouse that caused the sinkhole to develop in August 2011 stops when the water level is dropped about 12 inches below the spillway elevation. Mr. Johnston asked Lenard Engineering's Roger Hurlbut to examine the current level of leakage as a prerequisite to 6/18 meeting to discuss repair options.

Mr. Johnston met with Lenard Engineering engineers Karen Fung and Roger Hurlbut on 6/18 as planned. Mr. Hurlbut, an engineer with a wealth of knowledge regarding dams and dam safety issues expressed concern regarding the amount of water leaking through dam near the gatehouse. He also noted the sound of water moving under the spillway cap and one or more leaks just east of the spillway. Mr. Johnston indicated that the water moving under the spillway cap was likely attributable to a small hole and cracks in the spillway cap, and that these were scheduled for repair in the Fall. The leaks just east of the spillway have been present for many years, and Mr. Hurlbut was not very concerned given that an attempt would be made soon to stop these leaks. With respect to the leak near the gatehouse, Mr. Hurlbut recommended removing one of the flash boards to drop the water level about six inches, and then to reevaluate the severity of the leak. If necessary, a second flash board could be removed to drop the water level another six inches. It was agreed that planned repairs to the berm would not occur until the lake level was drawn down in the Fall. A possible temporary repair would be considered to allow the water level to be restored after water stopped leaking.

USDA Loan Application:

The District received a letter dated 5/7/12 from the State Director of the USDA Rural Development program advising the District's loan application for \$1,800,000 had been approved. Representatives of the local Rural Development office in Holden have expressed a need to keep the process going and are seeking formal confirmation that the District voted to borrow the funds. This notification will be made following review of the voting process by Bond Counsel.

New Business

Betterments vs. Taxes:

Mr. Johnston reported that the legislation to allow betterment payments to be made over a period as long as 40 years was filed by Representative Binienda's office on 6/20. Mr. Shea's attorney had expressed concern that the legislation could be delayed due to this being an election year.

Mr. Johnston also reported that he found language in IRS publications indicating that the betterments might be tax deductible and asked the District's auditor for his opinion. Dan Haynes reviewed the issues and came to the conclusion that the IRS might not approved such deduction but suggested that the matter be considered by a CPA or attorney specializing in individual tax returns. It was agreed to continue to pursue the matter and that Mr. Ridley and Mr. Johnston would consult with their respective accountants.

Member Kathy Pelley raised a question with respect to the relative position of betterments to taxes in the event of personal bankruptcy filings by District members. Mr. Johnston posed the question to legal counsel and the Tax Collector. Attorney Nickless stated that both are municipal liens and have equal weight. Tax Collector Deb Kristoff stated the same thing. She has the same ability to collect either a tax or betterment.

Member concern was also expressed regarding the District's ability to collect member shares of the judgement between the time of the Annual Meeting vote and the issuance of betterments in January or February if members sell their homes during this period of time. All agreed that the Annual Meeting vote established an obligation for each member that would have to be paid by either the members or the parties that purchase the property of members.

Member John Halpin telephoned Mr. Johnston one or two day following the Annual Meeting to report that a number of people that he talked to on the Lakeview Drive side of the lake did not understand, or were confused about, what they were voting for on the betterment vs. taxes Article. He suggested that a special meeting be held to reconsider just this Article. Mr. Halpin was particularly concerned that he would not be able to deduct the betterments from his taxes. Mr. Johnston reported conversation with a number of members. None felt that they were confused or did not understand the issues. One member, Robin Huard, was adamant that a second meeting not be conducted. He felt that the vote was taken, and that only those people that did not like the outcome would be interest in a second meeting. Some members that Mr. Johnston talked to would have preferred the tax option, but were content that a vote was taken and it was time to move on. One member, Norman MacLeod, stated that he would have preferred taxes personally, but voted for betterments as being the best option for the District. Mr. O'Coin talked with the members in the Lake Shore Drive area to find that they, also, were not confused and fully understood the issues. Mr. Dufresne and Mr. Ridley stated that they, and the members they talked with, felt the same way. It was agreed that there would be no need for a special meeting to reconsider the betterment vote.

Draft Annual Meeting Minutes:

Mr. Johnston asked the Management Committee to pay particular attention to the Annual Meeting minutes concerning Article 8. They were written based on his recollection and were agreed to by the Moderator, Ruth Kaminski. He was awaiting a response to procedural questions posed to Attorney Phillips. The minutes will be shared with the District's Bond Counsel, Financial Advisor and the USDA after any outstanding questions, if any, are answered.

Draft Newsletter:

The newsletter drafted by Mr. Johnston was approved subject to the opinion of tax experts and resultant final language regarding the tax deductibility of betterments.

Realtor Letter Modifications:

The draft of a letter to be sent to Realtors listing houses for sale around the lake was approved. This letter contained language similar to previous letters, but was altered to include specific information regarding individual member shares of the judgement and future budgets. All agreed that sharing this information with potential buyers was very important.

Open Meeting Law Concerns:

Although not on the agenda for this meeting, Mr. Johnston shared an e-mail from the USDA to the Chairman of the Burncoat Pond Watershed District stating that the district would be in violation of open meeting laws if they continued to hold Management Committee meetings in member homes. Mr. Johnston was instructed to investigate the availability of public meeting spaces such as the Leicester Police Department community room and Town Hall meeting rooms.

Next Meeting

The next meeting of the Management Committee was schedule for Wednesday, August 8, 2012, at the Leicester Police Department community room unless notified otherwise.

Adjournment

A motion was made, seconded and voted unanimously to adjourn the meeting. The meeting adjourned at 9:18 P.M..

A True Copy Attest:

Richard D. Johnston
District Clerk