

**Cedar Meadow Lake Watershed District
Minutes of Management Committee Meeting
October 10, 2012**

The meeting commenced at 8:00 P.M. at the Leicester Police Department Community Room..

In attendance: Paul Dufresne

Wayne Ridley
Richard Johnston, Clerk
Terry O'Coin, Treasurer

Minutes of Previous Meeting

Previously distributed Minutes of the Management Committee meeting on September 19, 2012 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 correspondence since the last Management Committee meeting:

- 9/19 e-mail from Clerk to Lenard Engineering advising that Sargent Pond would be on board with group Phase I dam inspection, and advising of problems with depth survey
- 9/20 mailing of 135 newsletters to members and "Friends"
- 9/19 and 9/20 exchange of e-mails between Clerk and Lenard Engineering concerning the cost of a lake depth survey
- 9/24 and 9/25 exchange of e-mails between Attorneys Egan and Nickless
- 9/26 note to Management Committee advising of correction in Minutes of 9/19 meeting
- 9/27 mailing of 40 solicitation letters and current newsletters to past contributors to Friends program
- 9/27 e-mail from Clerk to Attorney Nickless advising that House had enacted betterment legislation
- 9/27 exchange of e-mails between Clerk and member Michelle Reis regarding flood plain issues
- 9/27 and 10/2 exchange of e-mails between Clerk and James Nicas regarding group purchase of Phase I dam re-inspections
- 10/2 exchange of e-mails between Clerk and John Murphy of Representative Binienda's office and Julie Del Sobral of Senator Moore's office regarding passage of 40 year betterment legislation
- 10/2 e-mail from Clerk to Management Committee and Attorneys Nickless and Phillips advising that 40 year betterment legislation had passed
- 10/3 e-mail from Clerk to USDA and UniBank advising of passage of legislation
- 10/3 letter from Clerk to Attorney Nickless describing timing issues concerning loan proceeds and judgement payment
- 10/3 e-mail from Clerk to Burncoat Pond District containing reminder to send in Phase I dam re-inspection agreement to Lenard Engineering
- 10/3 invoice from R. H. White for test pit excavations performed in April
- 10/4 exchange of e-mails between Clerk, Lenard Engineering and Office of Dam Safety regarding the need to postpone the H&H study until next year
- 10/5 \$50 Friends contribution from Bob Wright
- 10/5 \$25 Friends contribution from Ray Osowski

- 10/5 e-mail from Clerk to Lenard Engineering regarding seepage status
- 10/6 Thank You notes to Wright, Osowski and Wilder
- 10/6 \$50 Friends contribution from Rosie Nichols
- 10/8 e-mail from Clerk to Treasurer asking that R. H. White invoice be included on next warrant
- 10/8 and 10/9 exchange of e-mails between Clerk and members Phil and Paula Stiles regarding Beaver problems

Treasurer's Report

Mr. O'Coin presented a Treasurer's Report dated 10/10/12 showing that the District had \$13,482.41 on deposit in the Spencer Savings Bank and the Commerce Bank. He described entries for bank service charges and for checks written to pay \$76.46 for water testing lab services, \$500 to O'Connor and Maloney accountants for tax research, and \$2,057 to R. H. White Construction to dig test pits on the dam in April 2012. He sought and received approval for Warrant #163.

Mr. O'Coin discussed the need to borrow against the line-of-credit to pay upcoming engineering and dam repair invoices.

Old Business

Lake Level Management:

As part of the annual draw down, Mr. Ridley opened the low level outlet on 9/30 and removed the flash boards from the spillway channel on 10/8. In nine days, the lake water level dropped to 23 inches below the spillway elevation. The Burncoat Pond Watershed District plans to start their annual draw down on October 28. It will be necessary to supplement the capacity of the low level outlet with siphons to keep up with the Burncoat draw down to achieve the desired water level to complete needed dam repairs.

Seepage Update:

Mr. Johnston stated that he is monitoring five known leaks in the dam throughout the annual draw down and is sharing this information with Lenard Engineering. He shared an e-mail sent to Lenard on 10/5 summarizing his findings with the water 14 inches below the spillway elevation. A significant leak detected for the first time by Lenard in the Summer is located on the west end of the spillway. Water could be seen flowing below the spillway when the spillway cap was dry and water could be heard flowing under the spillway cap. On 10/5, there was no sign of this leak. Two additional leaks, that exit the dam structure 13 and 25 feet east of the spillway, respectively, were still flowing, but at a reduced rate from those observed when the lake is full. The leak that caused the sinkhole to develop just west of the gatehouse was dramatically reduced to the point where the only sign of seepage was a few wet stones at the toe of the dam. Lastly, the leak that causes the small pool of water to accumulate between the dam and Charles Street was also reduced to just a trickle.

Roger Hurlbut, an expert dam engineer with Lenard, responded that these seepage reductions confirmed his findings regarding the height of the existing impervious material core within the dam.

Lake Depth Survey:

Mr. Johnston described his frustration in attempts to gather the lake depth data through the use of member volunteers. This information is required for Lenard Engineering to determine the

volume of water within the lake to complete the H&H (Hydronic and Hydrologic) study requested by the Office of Dam Safety. Lenard normally charges \$5,500 to \$6,500 for this service. When the inexpensive (\$200) depth finder/GPS unit purchased for the District failed to perform consistently, Mr. Johnston consulted with member Brian Waterman. Brian attempted, unsuccessfully, to line up an out-of-work surveyor that would be interested in renting equipment and working with District volunteers to perform the depth survey. Brian then consulted with his employer, Waterman Design Associates to estimate the cost of a survey by their surveyors. When it became apparent that a large expenditure would be required, Mr. Johnston spoke with William Salomaa, Director of the Office of Dam Safety, and ODS engineer Mark Geib. He explained that the District had only a limited amount to spend on dam engineering and repairs and could not afford to do an H&H study this year, and asked for approval to postpone this study. After gaining a further understanding regarding dam repair plans, Mr. Salomaa agreed that the H&H study would not be required this year.

Engineering and Dam Repair Permitting:

Mr. Johnston reported that Lenard Engineering was in the process of planning or performing two other less expensive studies requested by the ODS as a condition of dam repair permit approval. The first provides more detail regarding the size and construction of the dam. The second is a seepage survey.

Dam Repair Planning:

Mr. Johnston has been in contact with Lenard Engineering and R. H. White Construction, and it is expected that Phase I dam repairs will be completed in November. Phase I repairs will be confined to repairing and supplementing the impervious core between the spillway and gatehouse. The expectation is that this will stop three of the five know leaks.

The remaining two leaks are of lesser concern. The leak under the spillway cap is flowing through an area that was washed clean of material (fines) during the years that the previous dam owner allowed large volumes of water to flow under the spillway cap. This area has also previously been pressure grouted with concrete. The leak that causes the pool to form near Charles street is small and in an area where the dam holds back only three feet of water.

Phase I Dam Re-inspection:

The managers at Sargent Pond and Burncoat Pond have agreed to join our District in the group purchase of required five year Phase I dam re-inspections. Participants will realize a \$200 discount off the expected \$2,800 cost of each inspection. These inspection are scheduled to be performed in late October by Lenard Engineering.

40 Year Betterment Legislation:

State Representative John Binienda and State Senator Michael Moore and their staffs were very helpful in securing passage of the necessary legislation to allow betterments to be billed over a period as long as 40 years, rather than the statutory maximum 20 year period. Language crafted by Attorney Deborah Phillips, and approved by members at the 2012 Annual Meeting, was modified slightly by House and Senate committees, and the bill (H4319) was passed and signed into law by the Governor on 10/2/12.

The District can now move forward to work with the Board of Assessor's office to prepare specific communications with members regarding payments options.

Special Meeting:

Based on the results of the Annual Meeting, the cost of paying and financing the judgement through betterments will be apportioned through District members on an assessed valuation basis. The Corby, Moisan, and Reis families, all District members with property located off the extension of Fairview Driv, proposed to the Management Committee at its last meeting that apportionment based in assessed property valuation was not fair and that a more equitable method would be to apportion the expense on per member basis, or some combination of assessed valuation and a per member basis. It was suggested that approval by the members was highly unlikely. Mr. Moisan stated that he would prefer to hear this from the members. The Management Committee voted to hold a Special Meeting of the District to determine whether the members would vote to adopt a different means of apportioning the cost of the judgment and financing. Mr. Johnston agreed to draft the language for a Special Meeting Warrant.

This draft Warrant was reviewed at this meeting. Mr. Johnston also related a telephone conversation with member Robin Huard. Mr. Huard called Mr. Johnston to advise him that he was contacted by Mr. Moisan who was promoting the idea of a Special meeting and betterment apportionment on a per member basis. Mr. Huard stated, although he would benefit by such a change, he was very much against a Special Meeting and change of apportionment. Mr. Johnston stated that he, too, was opposed to a change in apportionment and planned to speak against the change at any Special Meeting.

As stated previously, there is a lot of language in Federal tax publication favoring the ability to take our type betterment payments as tax deductions. One clear bit of favorable language is the need to bill the betterments on an assessed valuation basis. If billed on a per member basis, members would loose any ability they might have to deduct betterment payments.

Mr. Ridley asked Mr. Johnston to contact the District's municipal law attorney, Deborah Phillips to determine the legalities of holding a Special Meeting to consider other betterment apportionment options. Mr. Johnston also agreed to speak directly with the, Corby, Moisan, and Reis families to determine whether, after reflection, they still wanted to go ahead with a Special Meeting.

USDA Loan and Judgement Payment:

Mr. Johnston stated that he has been in contact with bond counsel's office and was gathering information to satisfy their request for documents. He also stated that he advised Attorney Nickless, Steve Bonavita at the USDA office and the District's financial advisor, Clark Rowell, that the 40 year betterment legislation had been approved.

He shared copies of e-mail exchanges between Attorney Nickless and Mr. Shea's attorney John Egan in which Attorney Egan is pressuring the District for payment of the judgement. Mr. Shea apparently heard rumors that the District did not plan to pay him until May, and threatened to take actions to sell the dam if we did not pay by December 1. Attorney Nickless has kept Attonrey Egan informed regarding the progress of the 40 year betterment legislation, and made it clear that the District was not intentionally causing any delay in payment. Mr. Johnston also shared a letter he sent to Attorney Nickless laying out the timing associated with the billing and payment of betterments leading to the need to delay payment of the judgement until March 2013.

New Business

Beaver Problems:

Four members, Steve Monihan, Tom Zemaitis, John Moisan and Dick Johnston reported significant Beaver damage of shrubs and trees on their property. Mr. Johnston consulted the MassWildlife website and made a phone call to a local licensed trapper who put him in touch with trapper Malcolm Speicher of Spencer (508 868-8896). Mr. Speicher launched a canoe on the lake and found that all the Beaver were located in the swampy area north of Rawson Street. Mr. Johnston brought the possible interest in trapping Beaver to the attention of members Phil and Paula Stiles via e-mail. Mr. and Mrs. Stiles made it clear that they opposed the trapping and killing of the Beaver that they have "co-exist" with for a long time. Given this opposition to Beaver trapping by a member, it was agreed that this matter would require a full vote of the membership and would be tabled until the next Annual Meeting.

Tax Classification Hearing:

Mr. Johnston sought and received approval to conduct a Tax Classification hearing just prior to the start of the next Management Committee meeting on November 14. Although the District has only one class of property, residential, statute requires that a hearing be conducted annually to determine the number of tax classifications to be utilized when preparing tax filings with the Department of Revenue.

Siphon Relocation:

Mr. Johnston reported meeting with member Norman MacLeod on the dam to discuss moving the siphons to a permanent location next to the spillway. Norman, his friend Carl, and members Tommy Lee and Nate Cospers temporarily installed these siphons last year. Mr. MacLeod put together a list of additional material that will be required. Mr. Johnston sought and received Management Committee approval to order the necessary material.

Next Meeting

The next meeting of the Management Committee was scheduled for Wednesday, November 14, 2012 at 7:45 P.M. at the Leicester Police Department Community Room.

Adjournment

A motion was made, seconded and voted unanimously to adjourn the meeting. The meeting adjourned at 9:20 P.M..

A True Copy Attest:

Richard D. Johnston
District Clerk