

**Cedar Meadow Lake Watershed District  
Minutes of Management Committee Meeting  
November 14, 2012**

The meeting commenced at 7:48 P.M. at the Leicester Police Department Community Room immediately following the Tax Classification Hearing.

In attendance: Paul Dufresne

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

Minutes of Previous Meeting

Previously distributed Minutes of the Management Committee meeting on September 10, 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:

- 10/11 receipt of Friends program contribution from Janet and David Goodnow
- 10/12 Thanks You notes from Clerk to Janet and David Goodnow and Rosie Nichols for Friends program contributions
- 10/12 draft Minutes of 10/10/12 Management Committee Meeting to elected District officials
- 10/12 e-mail from Clerk to plumbing contractor Tim Galvin requesting material to relocate siphons
- 10/12 - 10/16 exchange of e-mails between Clerk and Stiles family regarding Beaver trapping
- 10/13 - 10/15 exchange of e-mails between Clerk and Telegram and Gazette regarding publication of notice of tax classification Public Hearing
- 10/15 - 10/16 exchange of e-mails between Attorneys Egan and Nickless and between Attorney Nickless and Clerk regarding the passage of 40 year betterment payment legislation and the timing of judgement payment
- 10/15 e-mail from Clerk to Lenard Engineering providing contact information for Burncoat Pond and Sargent Pond officials
- 10/15 e-mail from Lenard Engineering to Clerk regarding dam repair permit progress at the Office of Dam Safety (ODS)
- 10/15 receipt of dues invoice from COLAP
- 10/16 e-mail exchange between Clerk and Lenard Engineering regarding draft permit clarification letter to ODS
- 10/17 - 10/18 exchange of e-mails between Clerk and Lenard Engineering regarding relocation of siphons
- 10/17 e-mail from Clerk to Lenard Engineering reporting that, with the water down 37 inches, there was no sign of any seepage through dam
- 10/17 e-mail from Clerk to Attorney Phillips advising that three District members were seeking Special Meeting to vote on change in method of apportioning the judgement
- 10/19 e-mail from Clerk to Attorneys Phillips and Nickless attached to approved 40 year betterment payment legislation

- 10/20 - 10/24 exchange of e-mails between Clerk and Attorney Phillips seeking legal opinion regarding equal payment method of betterments
- 10/22 e-mail from Clerk to Management Committee and Treasurer advising that siphons had been relocated
- 10/24 - 10/25 exchange of e-mails between Clerk and Tim Galvin regarding return of excess siphon material
- 10/24 - 10/28 exchange of e-mails between Attorneys Egan and Nickless regarding the timing of judgement payment
- 10/24 - 10/25 exchange of e-mails between Clerk and Mike Reis regarding acceptance by Clerk of petition
- 10/25 e-mail to Clerk from Attorney Phillips attached to rough draft of legal opinion regarding equal payment method of betterment payments
- 10/26 e-mail from Clerk to Attorney Phillips concerning language for Article on Warrant for Special Meeting proposed by members on Fairview Drive extension
- 10/26 - 10/29 exchange of e-mails between Clerk to Bob Dirsra of Burncoat Pond regarding their draw down plans
- 10/29 receipt of written legal opinion to Clerk from Attorney Phillips
- 10/31 Clerk's receipt of petition from members on Fairview Drive extension seeking Special Meeting
- 11/1 e-mail from Clerk to elected District officials providing updates on a number of issues including; petition to hold special meeting, legal opinion from Attorney Phillips, pressure being applied by Shea to receive judgment payment, Warrant for Special Meeting, draw down progress, DOR approval of Town assessments, progress on request for information from bond counsel, and progress on dam repair permit
- 11/5 Thank You note from Clerk to Rodgers for Friends program contribution
- 11/9 e-mail from Clerk to Mike Reis providing update on 11/28 Special Meeting
- 11/10 mailing of 88 Warrants and newsletters for Special Meeting
- 11/11 "Welcome" letter from Clerk to Radzik regarding 136 Charles Street
- 11/13 receipt of LA4 form from Board of Assessors
- 11/13 posting of Warrant for Special Meeting at Town Clerk's Office
- 11/13 receipt of approved dam repair (Chapter 253) permit from ODS
- 11/13 e-mail from Lenard Engineering attached to revised site plan of dam
- 11/13 - 11/14 exchange of e-mails between Clerk and Lenard Engineering regarding filing of Chapter 253 permit at Registry of Deeds
- 11/14 letter from Clerk to Conservation Commission covering Emergency Certificate

### Treasurer's Report

Mr. O'Coin presented a Treasurer's Report dated 11/14/12 showing that the District had \$13,585.40 on deposit in the Spencer Savings Bank and the Commerce Bank. He described entries for bank service charges, a check written to pay \$51.21 to the Telegram and Gazette for the Tax Classification Hearing Public Notice, and the receipt of several donations to the "Friends" program totaling \$165. He sought and received approval for Warrant #164.

Mr. O'Coin explained that, while awaiting completion of the annual audit and free cash certification, he started to put the District Fiscal 2014 tax package together. Early State certification of the Town's property assessments, and the early availability of the LA4 form should make it possible to get the first half of District tax bills out on time.

Mr. O'Coin also stated that he expected to receive the annual audit results soon and would call the District's auditor, Dan Haynes, for a status report.

## Old Business

### Siphon Installation:

Mr. Johnston reported that members Tommy Lee, Nate Cospo, Norman MacLeod and Norman's friend, Carl, charged the two 8 inch siphons on 11/11. Filling and making the siphons operational went very well. Forty-five degree elbows at the discharge points directs the water out over an existing pool to avoid erosion below the dam and spillway. A coupling on one outlet pipe cracked under the weight of the water and will be repaired at a later date.

### Lake Level Management:

Mr. Johnston reported that, as of this date, the lake elevation was at 36 inches below the spillway elevation, and that the low level outlet was working very well. The water level reached a low of minus 49 inches on 10/31 before the start of the Burncoat Pond annual draw down. Between 10/31 and 11/10, the level rose 15 inches. In the three days following the charging of the siphons, the water level dropped 2 inches, illustrating that, with the siphons in operation, the low level outlet and siphons can keep pace with the Burncoat draw down. The Burncoat draw down is nearing completion.

### Seepage Update:

Mr. Johnston reported that, on 10/17/12, when the water level was 37 inches below the spillway elevation, there was no seepage through the dam observed in any of the five monitored locations. This illustrates that the existing core wall (also referred to as a berm) within the dam is sound below this level. This information was communicated to Lenard Engineering.

### Repair Permit:

On 11/9, the Office of Dam Safety (ODS) approved the Chapter 253 dam safety permit necessary to perform Phase I repairs to the dam. This permit was received in Leicester on 11/13 and was filed, as required, by Mr. Johnston with the Registry of Deeds on 11/14. As was previously reported, the ODS granted the District's request to postpone the hydrologic and hydraulic (H&H) study and a dam stability study to future years so that current budgeted dam repair dollars can be devoted to dam repairs.

### Construction Planning:

A pre-construction planning meeting has been scheduled for 11/19 by Lenard Engineering and R. H. White Construction. Construction has tentatively been scheduled to begin on 11/28. Repairs in Phase I of a multi-year plan will be limited to restoring and supplementing the impervious material core wall within the dam between the gatehouse and spillway. Three known leaks are located in this 70 linear foot area. The crest of the dam will be excavated down approximately six feet to reach the existing core wall. Voids in the core wall will be repaired and an additional layer of impervious material will be added to ensure that the core wall is higher than the highest water levels experience on the lake.

### Lake Depth Survey:

Mr. Ridley suggested, and the Management Committee agreed, to seek a bid to survey the lake bottom through member Brian Waterman's employer, Waterman Design Associates of Westboro. This survey could be performed along the shoreline and through the ice during the winter and is necessary to measure the volume of water in the lake as part of an H&H study.

## Judgement Payment:

The District's bond counsel previously requested a number of documents and certifications from the Town and District. The last of these documents were signed on 11/14. Mr. Johnston shared a letter he planned to deliver to Clark Rowell, the District financial advisor, covering these documents by 11/19. Mr. Johnston also advised that he planned to meet with Steven Bonavita the USDA's rural development program loan officer too understand the final loan approval and fund disbursement process going forward to prevent any unnecessary delays.

Mr. Johnston also stated his intentions of quantifying all the fees and closing costs from the USDA, bond counsel, financial advisor, and attorney to arrive at the final amount to be financed. A firm number will be necessary to calculate individual 40 year betterment numbers in December for distribution to members in January along with communications concerning pre-payment and other payment options.

Mr. Johnston shared copies of e-mails between Attorneys Nickless for the District and Egan for Mr. Shea pertaining to efforts by Mr. Shea to speed up the payment of the judgement. Out of necessity, the distribution of the loan proceeds cannot occur until March. The District would otherwise find itself in the position of not being able to make the first annual loan payment without borrowing money to do so.

## New Business

### Special Meeting:

A Special Meeting of the District has been scheduled for 11/28 at the Knights of Columbus hall in response to a petition signed by a number of members at the behest of three members with homes on the Fairview Drive extension. This petition seeks a District vote to change the apportionment of the judgement and betterment from an assessed property valuation method to equal shares among members. The required Warrant was mailed to members, and posted on the Town Clerk's bulletin board 14 days in advance of the Special Meeting date. A newsletter explaining the reason for the Special Meeting was sent with the Warrants.

Mr. Johnston shared a copy of a letter from Attorney Deborah Phillips stating that, in her opinion, dividing the betterment assessment among all proprietors equally does not meet the legal standard of proportionality. She further states in this letter that property valuation is a method that is readily ascertainable and meets this standard. She also states that dividing the assessment equally will not survive a legal challenge. In addition, Attorney Phillips warns that, if the District votes to divide the assessment equally, and this decision is challenged, payment of the judgement would have to be delayed and the District would be engaged in expensive legal battles on two fronts, fighting a legal challenge of the assessment method, and fighting an effort by Mr. Shea to force the District to pay the judgement before provisions were in place to pay the first loan payment. It was agreed that a copy of this legal opinion would be distributed to members at the Special Meeting.

Mr. O'Coin shared copies of a schedule he prepared to illustrate the financial impact on individual members as a result of a vote to divide the assessment equally. This schedule shows each members' share of the \$1,800,000 USDA loan under the assessed valuation method compared to under the proposed equal share method and expresses the dollar difference between the two methods. It was agreed that this schedule would be distributed to members at the Special Meeting.

Mr. Johnston stated that he intended to oppose the proposed change at the Special Meeting as an individual member, not as the Clerk. He cited numerous reasons why the proposed change should not be made. He also advised that he would be making an effort, again as an individual member, to speak with every District member that would be harmed by the proposed change to encourage them to attend and vote at the Special Meeting.

#### Next Meeting

The next meeting of the Management Committee was scheduled for Wednesday, January 9, 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 9:05 P.M..

A True Copy Attest:

Richard D. Johnston  
District Clerk