



Sunrise River WMO

2241 – 221st Ave
Cedar, MN 55011

APPROVED MINUTES

Sunrise River Water Management Organization Meeting

Thursday August 2, 2023

Meeting was held in person at the East Bethel City Hall

1. Call to Order

Ms. Hegland called the meeting to order at 2:33 pm.

2. Roll Call

Present: Janet Hegland, Brian Mundle, Kevin Kelly, Jonn Olson, Tim Melchior (arrived 2:35), Troy Wolens, Leon Mager

Audience: Jamie Schurbon, SRWMO Administrator
Kathy Berkness, acting Recording Secretary
Troy Gilchrist, Kennedy & Graven (the SRWMO JPA attorney)
Michelle Jordan, BWSR Board Conservationist
Denise Webster, Ham Lake City Administrator
Tom Collins, City of Ham Lake consulting engineer
Jack Davis, East Bethel City Administrator
Pam Olson, Linwood Township Clerk
David Pedersen, Anoka Co Attorney's office
Nancy Norman-Sommer, Anoka Co Attorney's office
Brian Kirkham City of Ham Lake Mayor
Gary Kirkeide, City of Ham Lake council member
Mark Berglund, Berglund, Baumgartner & Glaser, LLC (City of Ham Lake attorney)

3. Approval of Agenda

Mr. Mundle moved to approve the agenda and Mr. Kelly seconded this motion. The motion carried with all in favor.

4. Approval of Minutes for April 6, 2023

Ms. Hegland provided a minor edit to Mr. Schurbon for section 10a (legislative updates) to clarify a statement about open meeting law. The edit was to clarify remote participation from a non-public or undisclosed location.

Ms. Hegland moved to approve the minutes with that edit and Mr. Mundle seconded this motion. Mr. Mundle and Mr. Kelly voiced their intent to abstain from the vote because they

were not SRWMO board members at the time of the meeting. **The motion carried with all remaining members in favor.**

5. Financial Reports

A. Treasurer Reports

Due to a vacancy at the treasurer position, Mr. Schurbon provided an overview of the July bank statement. There was a beginning balance of \$48,122.34, deposits of \$1,000 each from East Bethel & Columbus for the JPA amendment process, and no debits. The ending balance was \$50,122.34. Mr. Schurbon projects that the SRWMO general fund will have a balance of <\$5,000 at year-end given know upcoming invoices.

Mr. Melchior moved to accept the treasurer's report and Mr. Wolens seconded. The motion carried with all in favor.

6. SRWMO JPA amendment , dissolution and reformation

A. Approval of response to BWSR's Letter

Ms. Hegland directed attention to the letter to the MN Board of Water and Soil Resources (BWSR) drafted by Mr. Gilchrist. The letter responds to two questions from a July 10, 2023 BWSR letter. Mr. Gilchrist outlined the questions in the letter: "How does SRWMO see the BWSR review period relating to the dissolution and reestablishment of a new SRWMO?" and "How does the new SRWMO propose to map the area of Ham Lake that is within the watershed?" Also included in the letter was encouragement for BWSR to actively engage. He reviewed responses and invited input.

Board Conservationist Ms. Jordan stated BWSR has put in a request for an opinion to the Attorney General office specific to the proposed SRWMO dissolution and reformation. Ms. Jordan stated she can't give specific timelines for a response but understands it is expected in weeks and rather than months. Ms. Jordan said at this point BWSR is trying to determine discretion they have within statute.

Ms. Hegland said it seems like the legal questions are about reformation more than dissolution, to which Ms. Jordan replied affirmatively.

Ms. Hegland is concerned about the timeline. Dissolution and reformation needs to move forward swiftly because member communities are certifying their 2024 levies and need to include funds for SRWMO JPA update processes. Those processes are dependent upon direction from BWSR. Communities do not want to levy if it will be unneeded. There is concern that the situation could get complex and additionally expensive if Ham Lake does not participate in the SRWMO and also does not consent to the county doing so for the Ham Lake area. Need to have a pathway forward. The SRWMO has been working on this for a long time. Ms. Hegland expressed frustration that the City of Ham Lake has not been present or engaged.

Mr. Kirkham stated that if the City of Ham Lake had the 2024 budget in front of them, using the current funding formula, they would ratify it. Ham Lake is growing its land area inside the SRWMO through an ongoing boundary change.

Ms. Hegland said the two big sticking points the approval of SRWMO budgets have been the funding formula and unanimous ratification. The City of Ham Lake has wanted the funding formula changed. They have not ratified budgets to try to force funding formula changes. This has happened many years and there have been meetings of all the cities to try to address this with Ham Lake. Mr. Schurbon clarified that problems have arisen both because Ham Lake has stated in some years they will not ratify a budget with the current funding formula, and also has not responded to some budget ratification requests in a timely manner.

Mr. Berglund stated that he has previously said that if the other communities have a JPA revision to offer, Ham Lake would consider it. Several board members explained that the four communities engaged in multiple meetings in late 2022 to develop proposed JPA revisions. It included multiple options explored for the funding formula. Mr. Hegland said that the City of Ham Lake sent an email about 30 minutes before the last of those meetings, when most decisions were made, stating they would not attend. Mr. Gilchrist explained that in December 2022 a proposed revised JPA was provided to all the communities including Ham Lake. Mr. Schurbon, Ms. Hegland, and Mr. Gilchrist clarified that the same documents with proposed revisions were re-sent to Ham Lake staff multiple times.

Mr. Berglund asked if that revised JPA included the new funding formula? Mr. Schurbon replied that it did not. The new funding formula, non-unanimous ratification of budgets, and requirement to have a city council person on the SRWMO Board were agreed upon at the final meeting of the three communities. However Mr. Gilchrist was instructed not to revise the JPA with those edits because an apparent stalemate was developing due to Ham Lake's objections. Others recalled that they did not want to spend money on making the change until it was known it would be workable.

Mr. Melchior explained in the meetings he has attended there have been complaints by the representative of Ham Lake about the funding formula, including equal sharing of operations expenses that are universal. Mr. Melchior expressed frustration that he is hearing different messages from the Ham Lake SRWMO representative and the mayor. Mr. Wolens countered that at the July SRWMO meeting he stated that Ham Lake wanted the status quo. Mr. Kirkeide stated Ham Lake will do everything they can to move things forward.

Ms. Hegland asked how disagreement over the unanimous budget ratification requirement can be addressed? She stated that for Columbus, and she believes Linwood and East Bethel, this is a non-negotiable item. Budgets cannot be required to be unanimously ratified because that has been weaponized and could be used by any of the communities to hold the whole organization from moving forward. Mr. Gilchrist suggested sideboards on non-unanimous ratification, such as capping the amount of budget increase that can occur without unanimous ratification. Mr. Schurbon suggested including a process by which those who have budget concerns can have those concerns heard and the group consider a budget revision. Ms. Hegland asked Mr. Kirkham if Ham Lake might be agreeable to unanimous ratification with sideboards? Mr. Kirkham replied that would need to be decided by city council.

Ms. Olson asked Mr. Kirkham if Ham Lake's desire for the status quo meant using the current funding formula – the one used in past years? Mr. Kirkham replied yes. Ms. Olson asked Ms. Hegland if Columbus would be willing to use that formula? Mr. Hegland replied that she thought yes, in order to move this forward and considering the small financial difference that Columbus could likely accept that. However she would not be agreeable to unanimous budget ratification.

Ms. Hegland asked Mr. Kirkham if Ham Lake would be willing to pay an equal share of operating expenses, or as Ms. Hegland likes to think of them, "fixed expenses?" Mr. Kirkham replied yes.

Mr. Kirkham stated that Ham Lake would be willing to consider having a city council person on the SRWMO board.

Mr. Pedersen explained that the county does not wish to take on Ham Lake's role in the SRWMO and if it had to do so the actions it would need to take would be much more expensive. Ham Lake would lose control but still have expense. Mr. Kirkham is concerned if the county took over it would be more expensive for all entities and would like to come to an agreement.

Mr. Kirkeide asked if Ham Lake could see a side-by-side comparison of the current JPA and proposed revisions? Mr. Schurbon replied that this is immediately available. A redline version of the JPA changes was what the four communities met to produce in late 2022. Mr. Schurbon stated he will re-send it to Ham Lake and others participating in this meeting.

Mr. Kirkeide stated that the group could develop proposals that Ham Lake would consider. Ms. Norman-Sommer said it may be better for Ham Lake to propose a solution that will be acceptable to them. Several participants made similar statements and expressed frustration that the group had been trying to develop a proposal that Ham Lake would accept but each has been met with a negative response or no response from Ham Lake.

Mr. Gilchrist stated there is a tight timeline to turn around these changes. If the changes cannot be negotiated, some of the parties are ready to move forward another direction.

Ms. Olson questioned whether continuing with the status quo is the current JPA or the updated JPA? Discussion ensued that many of the JPA changes were housekeeping and important to do. The matters for negotiation are the funding formula and budgeting process.

There was discussion about alternative ways for the City of Ham Lake to tax residents so that the levy for watersheds is not included in the city levy or is shown separate. Mr. Kirkeide said this would solve some problems. Ms. Hegland said that Columbus levies in this way and information that Ham Lake staff have provided indicating it is not possible is incorrect. Mr. Gilchrist noted that is an issue for the City of Ham Lake, and a matter the SRWMO cannot address.

Mr. Gilchrist and Mr. Berglund can work together on the JPA sticking points. A goal is to have a revised JPA and proposals for the sticking points ready for the Ham Lake City Council meeting on Monday, August 7. Mr. Gilchrist asked if that doesn't work, will Ham Lake consent to the county taking their place on the SRWMO? Mr. Kirkham replied no.

Mr. Melchior moved to authorize Mr. Gilchrist to work & negotiate with the Ham Lake attorney and the folks at Ham Lake to a proposed revised JPA.

Hegland made a friendly amendment to have Gilchrist work on updating the language in the JPA that would address the concerns of unanimous budget ratification with sideboards, having a city council member on the SRWMO board, funding formula, and others discussed today.

Mr. Melchoir did not object to the friendly amendment.

Mr. Mundle seconded this motion. The motion carried with all in favor.

Mr. Hegland moved to have Mr. Gilchrist finalize the response letter to BWSR as presented and send it. Mr. Melchior seconded the motion. The motion carried all in favor.

The following departed the meeting: Tom Collins, Denise Webster, David Pedersen, Nancy Norman-Sommer, Gary Krikeide, Mark Berglund.

B. Next Steps

Hegland directed attendees to a handout with a list of upcoming tasks for JPA updates, and dissolution and reformation. She noted which tasks are needed only if the City of Ham Lake opts out of the revised JPA or continues a "wait and see" approach.

C. Funding of JPA amendment/dissolution/reformation process

Mr. Schurbon stated that so far each community has contributed an initial \$2,000 and a second \$1,000 has been contributed by Columbus, East Bethel, and Linwood. These funds are about to be exhausted. He estimates that additional process may cost \$10,000 however there is a high amount of uncertainty. He suggested the communities each contribute \$2,000 each at this time, or some other amount that they are comfortable with. Then, they can re-evaluate the additional need in the future. Ms. Hegland noted that if not all funds are used they would be returned to the communities. Mr. Kirkham indicated that Ham Lake would consider paying the additional \$2,000 plus the \$1,000 that was previously requested but not yet paid by their city.

Ms. Hegland moved to direct Mr. Schurbon to send a request to the communities for \$2,000 additional for JPA processes, plus the additional \$1,000 from Ham Lake. Mr. Melchior seconded the motion. The motion carried with all in favor.

The following departed the meeting: Michelle Jordan, Brian Kirkham.

7. Unfinished Business

A. SRWMO –Coon Creek Watershed District boundary update

Schurbon presented the petition for boundary amendment prepared by the Coon Creek Watershed District (CCWD). The City of Ham Lake has concurred with the petition. There is no change

outside the City of Ham Lake. Mr. Kirkham asked if there were also boundary inaccuracies to correct along the SRWMO boundary in Columbus? Ms. Hegland replied that there were, but those were corrected in recent years through a process led by the Rice Creek Watershed District. It was asked if there are people who may object to this boundary change? Mr. Schurbon replied that owners of parcels moving from the SRWMO to CCWD may be disappointed due to the likely higher tax, however those parcels do properly belong in the CCWD based on hydrology.

Ms. Hegland moved to Approve Resolution 2023-1 to concur with the CCWD petition for boundary change between CCWD and SRWMO and authorize the chair or vice chair to sign. Mr. Melchior seconded the motion. The motion carried with all in favor.

B. 2024 Budget Process

The Board briefly discussed that the 2024 budget adoption is needed by year end. No action taken.

8. New Business

A. Resignation of Tim Harrington

Mr. Mundle moved to accept the resignation of Tim Harrington and Mr. Mager seconded the motion. The motion carried with all in favor.

B. Election of vacant office positions

Mr. Mundle moved to nominate Ms. Hegland as the SWRMO Chairperson. Mr. Melchior seconded. The motion carried with all in favor.

Ms. Hegland moved to nominate Mr. Mundle as treasurer. Mr. Melchior seconded. The motion carried with all in favor.

Discussion ensued about authorized check signers. Current signers are Mr. Mager and Ms. Hegland. Mr. Olson was authorized at the last SRWMO meeting to become a check signer, but has not yet gone to the bank to do that because it was unclear if that was appropriate since he is an alternate. The board may wish to have three people as check signers so dual signature checks can be completed even when one person is not available.

Ms. Hegland moved to rescind authorization for Mr. Olson to be a check signer and add Mr. Mundle as an authorized check signer at First Bank and Trust. Seconded by Mr. Melchior. The motion carried with all in favor.

No nominations were voiced for vice-chair. The board discussed whether to leave the position vacant, noting that in the absence of the chair there is a chain of command to lead the meetings from chair to vice chair to secretary to treasurer. New officer elections will occur again in early 2024 at the annual meeting. It was decided to hold off electing a vice chair.

C. Clean Water Fund Grant Application by ACD for Lake Shore Stabilization

Schurbon stated ACD plans to apply for a Clean Water Fund Grant for lakeshore stabilizations

in the SRWMO. ACD contracted time by the SRWMO will pay for application preparation. This would be a “phase 2” of an application that was successful last year. Construction funds from that grant are now encumbered toward projects and additional landowner interest exists. While the SRWMO generally provides match for these grants, Mr. Schurbon did not see that as feasible at this time given that the organization may dissolve and reform. Also, this grant now requires 10% match instead of 25% and this amount could be covered by landowner contributions. If the grant is secured, SRWMO funds would be welcomed to accomplish more and the SRWMO does have funds for this in its Watershed Plan. Schurbon stated ACD will be the applicant. The board expressed support.

9. Mail
None
10. Invoice(s) approval
 - A. Recording Secretary services for June 2023 meeting (\$200)
Mr. Mundle moved and Mr. Melchoir seconded to pay the invoice for \$200 for recording secretary services on 6-1-2023. The motion carried with all in favor.
 - B. Kennedy and Graven
Mr. Melchior moved and Mr. Mundle seconded to pay invoice #175305 from Kennedy and Graven \$1,219.63 for JPA update legal services. The motion carried with all in favor.
11. Other
NA
12. Adjourn
Ms. Mundle moved to adjourn the meeting and Mr. Wolens seconded. The motion carried and Ms. Hegland adjourned the meeting at 4:22PM.

Upcoming Meeting Dates: September 14, November 9, Jan 4 (2024), Feb 1 (2024)

Submitted by:
Kathy Berkness and Jamie Schurbon