

# LOWER WISCONSIN STATE RIVERWAY BOARD

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## MINUTES OF THE JUNE 13, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, June 13, 2013, at the Rhinelander Cabin on the Riverway's Black Hawk Unit in the Town of Mazomanie, Dane County, to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chairman Donald Greenwood. All members were present with the exception of Fred Madison. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Melody Moore, seconded by Jerry Dorscheid. **MOTION CARRIED.** The minutes of the May 9, 2013, meeting were considered. A motion to approve the minutes was made by Dorscheid, seconded by George Arimond. **MOTION CARRIED.** The minutes of the special meeting held on June 1, 2013, were considered. A motion to approve the minutes was made by Dorscheid, seconded by Arimond. **MOTION CARRIED.**

The Executive Committee report was given by Chairman Greenwood who reviewed correspondence. Cupp reported the appointments of Jerry Dorscheid as Iowa County representative and Dave Martin as Richland County representative had been approved by Governor Scott Walker. Dorscheid has served on the board since 2004 and Martin previously served as Richland County representative.

A letter from the Wisconsin Department of Transportation was reviewed. The letter indicated that the aesthetic treatments on the STH 60 Bridge at Prairie du Sac would include the rail design and color favored by the village. The painting of the girders and parapets will be the brown color recommended by the LWSRB.

Greenwood noted he had asked board members to consider the type of strategic planning session they would like and suggested a fall session may work best for scheduling purposes. The matter will be discussed again at the July 11<sup>th</sup> meeting. Cupp said he would follow-up with John Exo of University of Wisconsin – Extension for a possible facilitator to assist with the process if the board chooses to go in that direction.

The scoping statement associated with the proposed revision of RB 2.07, Wisconsin Administrative Code, was discussed. Greenwood said the document is the third draft and appears to be correct. Martin asked for an explanation of the document. Cupp explained the action is necessary to make the administrative rule consistent with Wisconsin Statutes. A motion to approve the scoping statement was made by Dorscheid, seconded by Arimond. **MOTION CARRIED.**

Greenwood said the LWSRB boat tour of the proposed Pattison Sand Company (PSC) industrial sand mine that took place on June 1<sup>st</sup> was worthwhile and enabled LWSRB members to view the site from the river. He said the field inspection confirmed some areas are visible from the Wisconsin River during leaf-on conditions. Greenwood said the boat tour helped in "ground truthing" the maps created by the State Cartographer's Office and the surveyor under contract with PSC. He said, in general, both mapping products appear fairly accurate. Arimond asked if there was a difference of opinion regarding the accuracy of the maps provided by the State Cartographer's Office. Greenwood said he and Cupp had conducted a conference call with Kyle Pattison and Beth Regan regarding the mapping products. He said Pattison would not firmly commit to avoiding sites visible from the river that are outside the boundary. He noted Pattison expressed frustration with the length of time the LWSRB was taking to review the permit application. Greenwood said the LWSRB should direct Cupp to attempt to overlay the information from the recent maps on the PSC mining phase maps as the next step in the process. Arimond asked about the process and end product of the overlay task. Greenwood said the process would further identify the mining areas that are visible from the river, both within and without the boundary, to further assist the LWSRB in the decision making process. Martin said he has learned that other landowners in the area may be interested in frac sand mining. Dorscheid asked if the applications would be considered at the July meeting. Greenwood said Cupp should develop a product using the mining phase maps and then present that to the board at the July 11<sup>th</sup> meeting. A motion to direct Cupp to undertake the project was made by Ron Leys, seconded by Moore. **MOTION CARRIED.** Arimond then stated he would like to have someone from the State Cartographer's Office present when the board discusses mapping in case there are questions. Greenwood said the more empirical data available the better and efforts to eliminate subjective review to greatest extent possible are preferred.

The possible next step in the application review was discussed further. Greenwood said the Executive Committee had considered calling a special meeting to address the matter because the applications are such an important item. Cary noted public comment is important and encouraged an additional public comment session. Leys requested the special meeting, if one is held, be conducted in Crawford County. He suggested a public comment session be held prior to board action. Greenwood said the process may move along if the level of disagreement between the board and the applicant(s) is minimal but said the board should be deliberate in considering the applications. He said this is one of the most important issues, if not the most important, ever to have been faced by the board.

The Operations Committee report was presented by Chairman Dorscheid. No action regarding the frac sand mining permit applications submitted by Pattison Sand Company and four landowners from the Town of Bridgeport, Crawford County, was taken.

The permit request of Art Donaldson for a timber harvest in the Town of Wyoming, Iowa County, was considered. Mark Berg of Nelson Hardwoods is the consultant. Dorscheid said a field inspection was conducted by Cupp on May 8, 2013. Cupp said Mr. Berg and Nick Morehouse, DNR Riverway Forester, also were present for the field inspection. He noted Dorscheid, Cary and Cupp had viewed the site from the river prior to the board meeting. Cupp said one harvest area includes the area around the former Wintergreen Ski Hill and the other site is near the golf course at the House on the Rock Resort. He said portions of the harvest areas are highly visible from the Wisconsin River during leaf-on conditions. Cupp thanked Morehouse for his help in marking out the areas visible from the river. He said the trees slated for harvest have not been marked. No new roads are anticipated due to the network of roads that exists at both sites. Cupp said he and/or Morehouse will visit the site to review the marking of trees prior to initiation of the harvest. Cupp said he recommended issuance of a permit with the standard conditions.

Dorscheid made a motion, seconded by Ritchie Brown, to approve issuance of a permit with the following conditions

- The harvest shall comply with the basal area limits for the residual stand in the Bluff Zone and Riverview Zone, as detailed in Chapter NR 37, Wisconsin Administrative Code;
- In the Bluff Zone and Riverview Zone, all trees selected for harvest shall be appropriately marked and reviewed by the LWSRB for compliance with the applicable performance standards prior to initiation of the harvest;
- In the Bluff and Riverview Zone, the harvest shall be limited to the times when the ground is frozen or dry and the leaves are off the deciduous trees;
- The LWSRB shall review the location and design of all new logging roads, if any, in the Bluff Zone and Riverview Zone;
- The new logging roads, if any, shall comply with the applicable performance standards regarding grade and erosion control and shall be re-seeded upon completion of the harvest;
- The LWSRB shall review the location and design of all small regeneration cuts, if any, in the Riverview Zone to assure compliance with the applicable performance standards;
- The Bluff Zone and Riverview Zone shall be delineated prior to initiation of the harvest, if necessary; The landowner or his/her agent shall notify the LWSRB within 10 working days upon completion of the harvest and, if necessary, the LWSRB shall conduct a post-harvest field inspection; and,
- The LWSRB shall review modification of the plans, as submitted, for compliance with the applicable performance standards.

Greenwood expressed reservations about approving a permit before the trees have been marked. He also said any roads that may be needed in the future should be identified prior to issuance of the permit. Martin asked Cupp if there had been problems with the process currently in place. Cupp said he couldn't think of any major issues off the top of his head. He said a person violating the conditions of a permit could be considered to be a "knowing violation" of the Riverway law with fines or forfeitures of up to \$1000/day for each day of the violation. Cary said he is comfortable with the level of review and staff expertise in evaluating the permit application. A vote on the motion was taken and the **MOTION CARRIED on a vote of 7 "ayes" to 1 "nay" with one member absent.**

Cupp reported on permits he had issued since the last meeting. Permits for timber harvests on lands not visible from the river during leaf-on conditions were issued to:

- Mike Kieler for a site in the Town of Buena Vista, Richland County, Steve Smith of Riverside Sawmill is the consultant;
- Harold Gies for a site in the Town of Clyde, Iowa County, Joe Bagnowski is the consultant; and,
- Dan Goltz/DNR for several sites where management activities are planned as described at the May meeting.

The Budget Committee report was given by Acting Chairman Cary who reviewed the status of the FY 13 budget. Martin asked if there was still a month to go until the end of the fiscal year to which Cupp replied in the affirmative.

The Personnel Committee report was given by Chairman Moore. She said the committee to function as the Nominating Committee and developed a slate of officer candidates for FY 14. Moore said the committee recommended Don Greenwood as Chair. She called three times for nominations from the floor. Hearing none, Moore made a motion to elect Greenwood as LWSRB Chair, seconded by Arimond. **MOTION CARRIED.** Moore then offered the name of Fred Madison as Vice-Chair. She called three times for nominations from the floor. Hearing none, Moore made a motion to elect Madison as LWSRB Vice-Chair, seconded by Dorscheid. **MOTION CARRIED.** Moore then turned the committee chair over to Ritchie Brown. Brown put forth the name of Melody Moore as Secretary. He called for nominations from the floor three times. Hearing no other nominations, he made a motion to elect Moore as LWSRB Secretary, seconded by Greenwood. **MOTION CARRIED.**

Moore reported that the Department of Administration (DOA) had informed the board that the requested reclassification of the Office Associate position had been denied. She said DOA indicated the position did not meet the minimum requirements associated with "confidential" or other parameters. Moore said there appear to be no other options for reclassification at this time. Arimond said he disagreed with the outcome.

The Executive Director's report was given by Cupp who reviewed the materials in the board members' packets. Cupp said river flow remains well above normal for this time of year and said sandbars are virtually nonexistent. He said the schedule for the voyageur canoe trips sponsored by the board has been released. Cupp said a non-profit organization is seeking establishment of a monkey sanctuary in the Town of Muscoda, Grant County. The land is outside the Riverway boundary and will not be visible from the river.

Under board members' business, there were no items to discuss.

The DNR report was given by Matt Seguin who said the DNR had hired Travis Anderson as a wildlife biologist to be stationed at Spring Green and Nate Fayram as the State Natural Areas Manager for the Riverway. Seguin said the crew is working on boundary signage, road maintenance, trail maintenance and litter pick up. He said high water is adversely impacting nesting trumpeter swans. The wet spring made the burning season difficult according to Seguin. Morehouse reported the harvest at the red pine plantation on Leone Road in the Town of Spring Green, Sauk County was underway.

During the public comment session, Dorothy Stroschein of LaCrosse, attorney for Pattison Sand Company, said much of the area identified as visible from the river by the State Cartographer's Office includes the tree line and said it is important that both sides are in agreement on what is visible. She suggested the board should approve the permit for the Rodney Marfillius property since the site is not visible from the river. She said Pattison has attempted to minimize the visual impact of the mine on the Earl Pulda, whether the site is within the boundary or not. She said the landowners have a right to expand their agricultural operations under the Riverway law and should be allowed to conduct mining activities before creating an agricultural field. Greenwood suggested the agricultural use concept sounds like an "end run" around the Riverway regulations. Stroschein said the LWSRB and the applicants need to be on the same page regarding the regulations and the visibility issue. Greenwood said the LWSRB will consider all the tools available when making a decision including computer modeling, topographic maps, aerial photographs, digital images and site visits. Arimond again suggested it would be important to have a representative from the State Cartographer's Office present when the board discusses mapping.

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Joan Bula of Bridgeport said she has been unable to sell her home because of the proposed mine. She has lost prospective buyers when they find out about the mine and recently found a buyer but the bank wouldn't approve the loan because of the mine. She asked the board if they could consider noise, air quality and other factors in the decision making process. Greenwood said the LWSRB doesn't have jurisdiction over noise and air quality and said the Town of Bridgeport officials could have considered those items during the local review process.

Timm Zumm of Spring Green, Friends of the Lower Wisconsin State Riverway (FLOW) President, said FLOW will sponsor a Paddle in the Park event on June 30<sup>th</sup> at Governor Dodge State Park with canoe/kayak safety instruction. Fire on the River at Prairie du Sac will be held on July 6<sup>th</sup> and the annual Rhythm on the River event is slated for the Saturday before Labor Day.

A motion to adjourn until July 11<sup>th</sup> was made by Arimond, seconded by Brown. **MOTION CARRIED.**

END

For further information, corrections, additions or deletions to the minutes, contact Mark Cupp, Executive Director, at (608) 739-3188 or 1-800-221-3792.

Minutes submitted by:

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Mark E. Cupp, Executive Director  
Lower Wisconsin State Riverway Board