

LOWER WISCONSIN STATE RIVERWAY BOARD

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MINUTES OF THE DECEMBER 12, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, December 12, 2013, at the Muscodia village hall to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chair Don Greenwood. All members were present with the exception of Ritchie Brown. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Ron Leys, seconded by Fred Madison. **MOTION CARRIED.** A motion to approve the minutes of the November 14, 2013, meeting was made by Madison, seconded by Bob Cary. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Greenwood. The board meeting schedule for 2014 was reviewed. Cupp said meetings will be held on the second Thursday of each month at 5:00 p.m. The proposed locations for each month are the same as 2013.

January 9, 2014	Muscodia	Kratochwill Memorial Building
February 13, 2014	Muscodia	Kratochwill Memorial Building
March 13, 2014	Muscodia	Kratochwill Memorial Building
April 10, 2014	Sauk City	Public Library
May 8, 2014	Boscobel	City Hall
June 12, 2014	Mazomanie	Black Hawk Unit (Rhinelander Cabin)
July 10, 2014	Muscodia	Kratochwill Memorial Building
August 14, 2014	Spring Green	Public Library
September 11, 2014	Prairie du Chien	Wyalusing State Park
October 9, 2014	Wauzeka	Village Hall
November 13, 2014	Avoca	Village Hall
December 11, 2014	Muscodia	Kratochwill Memorial Building

Jerry Dorscheid made a motion to approve the 2014 meeting schedule, seconded by Melody Moore. **MOTION CARRIED.**

Greenwood asked Cupp for an update on the petition for judicial review filed by Pattison Sand Company regarding the board decision to deny the nonmetallic mining applications in the Town of Bridgeport, Crawford County. Cupp said oral arguments will be heard in Crawford County Circuit Court by Grant County Circuit Court Judge Craig Day on March 20, 2014.

The recent strategic planning session conducted by the board and summary document from the meeting produced by facilitators Jenny Erickson and John Exo (University of Wisconsin – Extension) was discussed. Greenwood said he felt the document should be incorporated into the existing strategic plan rather than serve as a standalone plan. George Arimond said a strategic plan should include the answers to three questions, “Where we’ve been, who we are, where we’re going.” He requested time at the January meeting to make a presentation related to the board’s strategic planning efforts. Moore said she felt the Erickson/Exo document represented an

accurate summary of the strategic planning session but said the board should continue efforts and discussion to implement the items identified at that session. Greenwood noted “strategic planning” will continue to be an item on board meeting agendas in 2014.

Cupp then gave a presentation on the legislative and administrative rule processes in Wisconsin. He noted a major change in administrative rule promulgation now requires approval from the Governor and Department of Administration before initiating the rule making process. He reviewed the various steps and committees involved in law enactment and administrative code approval. Dave Martin noted that administrative rules are the method for “putting the meat on the bones” of enabling legislation.

The draft report to the Legislature on the effectiveness of the Riverway’s nonmetallic mining regulations, authored by Chair Greenwood, was discussed. Greenwood described the board’s authority to inform the Legislature on the effectiveness of the Riverway law and the need for changes related to nonmetallic mining regulations pursuant to the board’s recent experience with the frac sand mining applications in Crawford County. He then asked for feedback on the document. Leys and Madison concurred the draft document accurately portrayed the board’s role and the issues confronted as related to nonmetallic mining in the Riverway. Moore offered suggestions to improve the flow of the document. Martin said it is a fact that sand and sandstone suitable for frac sand and other uses are located in the Riverway. He said the currently law contains no size limits on a nonmetallic mining operation. Martin said a discussion must be held on whether the law should be tweaked or whether there should be an absolute ban on large operations but said there needs to be compensation available to landowners. He said the Riverway is a special place with special rules to protect it and, if needed, a special compensatory program or method should be available. Martin said there should be a unified front from LWSR counties to approach area legislators and the Governor. He suggested arranging a meeting with county board chairs from the Riverway to discuss the matter. Cupp noted the Natural Resources Board’s change in policy to disallow purchase of scenic easements without public access in the Riverway represents a break from promises made to landowners when the Riverway was enacted that compensation through scenic easements would be available. He noted state budget decisions regarding bonding authority for the Stewardship Fund have decreased the ability to increase public land acquisitions (fee title or easement) in the Riverway. Matt Seguin, DNR Riverway Manager, agreed the ability to acquire lands has been diminished. Leys said, in principle, public access should be allowed if taxpayer dollars are expended but noted the Riverway is different because the public accrues benefits from aesthetic protection. Madison agreed and said scenic protection is an inherent Riverway concept and the purchase of scenic easements is an important tool to be used in achieving the project’s goals. Timm Zumm, President of the Friends of the Lower Wisconsin State Riverway (FLOW), said FLOW has supported the purchase of scenic easements in the Riverway in an appearance before the Natural Resources Board. George Arimond said he has begun exploring other options for protection and recently met with the Minnesota DNR to discuss their wild and scenic rivers program. Greenwood suggested the draft report to the Legislature discussion carry over to the January meeting.

The Operations Committee report was presented by Chairman Dorscheid. The permit request of Mike Leibfried for a new structure in the Town of Woodman, Grant County, was considered. Dorscheid said a preliminary field inspection was conducted by Cupp and the Operations Committee and a second field inspection was conducted by the committee on December 12, 2013. He noted the landowner was present for both field inspections. Plans call for construction of a barn/garage/storage shed. The bluff top site overlooks the Wisconsin River west of Woodman near the Big Green River boat landing. The board issued a permit for a large log home at the site many years ago. The new structure will be located on the same contour and will take advantage of existing screening vegetation. The committee determined height was acceptable. The slope of the site complies with the applicable performance standard. The amount of glass or other reflective material is appropriate. The structure will be 42 ft. x 48 ft. x 23 ft. (height). Dorscheid said exterior colorization is an issue. The landowner wishes to use a red color, such as a traditional red barn, that does not appear on the LWSRB Standardized Color Chart. Cupp showed the LWSRB Standardized Color Chart and the proposed red color for the exterior walls. He noted the color

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doesn't fall within the spectrum of "harmonizing colorization during leaf on conditions" as demonstrated by the color chart. The roof and trim color are acceptable. Cupp said that alternate wall colors were discussed with the landowner and that a brown color, similar to the house, is an alternative. Leys said the red color should not be approved and the landowner should provide the board with a substitute. The consensus of the board was to disallow the red color.

Dorscheid made a motion, seconded by Leys, to approve issuance of a structure permit with the following conditions:

- The existing screening vegetation shall be maintained and replaced if damaged or destroyed;
- The height of the structure shall be limited so that the structure does not become visible from the Wisconsin River during leaf-on conditions and shall not exceed 24 feet;
- **The exterior colorization of the structure (including roof color) shall harmonize with the natural surroundings during leaf-on conditions and shall be approved by the LWSRB prior to initiation of construction;**
- There shall be a limited amount of glass or other reflective material;
- The LWSRB shall review any modifications to the plans, as submitted, for compliance with the applicable performance standards;
- The landowner or his/her agent shall notify the LWSRB upon completion of the project; and,
- The activity shall comply with all other federal, state and local regulations.

MOTION CARRIED.

The permit request of Quentin Hurtz for an extension for timber harvesting in Towns of Boscobel and Marion, Grant County was considered. Dorscheid noted a field inspection was conducted by Cupp in conjunction with previous permit activity at the site. Plans call for the selective harvest of oak, walnut and miscellaneous other species in conjunction with a timber stand improvement project. Poor quality trees will be removed to enhance the vigor of the woodlot. The harvest is being conducted under an MFL plan and the landowner is working with consultant Jeff Christie on the harvest. The parcel is 200 acres in size and most of the ownership is outside of the Riverway boundary and is not visible from the Wisconsin River. The Riverway harvest area is about 60 acres. No new roads will be constructed. No clearcuts are planned although an area of oak wilt in the Resource Management Zone may be addressed. A field inspection will be conducted by Nick Morehouse, DNR Riverway Forester, on December 17, 2013, to review marking of the trees slated for harvest.

Dorscheid made a motion, seconded by Cary, to approve a two-year extension to the permit with retention of 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, 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 approve of the location and design of all small regeneration cuts or shelterwood cuts, if any, in the Riverview Zone;
- The LWSRB shall approve 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;
- If necessary, the Bluff Zone, Riverview Zone and Resource Management Zone shall be delineated prior to initiation of the harvest;

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- All trees selected for harvest in the Bluff Zone and Riverview Zone shall be appropriately marked and approved by the LWSRB prior to initiation of the harvest;
- The landowner or his/her agent shall notify the LWSRB within 10 working days upon completion of the harvest and the LWSRB shall conduct a post-harvest field inspection; and,
- The LWSRB shall review modifications to the plans, as submitted, for compliance with the applicable regulations.

MOTION CARRIED.

The permit application submitted by the Frank Lloyd Wright Foundation/Taliesin was considered. Dorscheid said a field inspection was conducted by Cupp and the Operations Committee on October 10, 2013. Morehouse was present for the field inspection as were Taliesin representatives, Jim Erickson, Dan Vernon and Mike Degen. The board approved a management plan for the slope at the main house at the November 14, 2013, meeting. The board tabled action on a second management activity that would seek to enhance vigor of historic oaks estate wide by removing the understory. Benefits of the activity were questioned by Morehouse. A meeting and subsequent field inspection with Taliesin representative Mike Degen was conducted on December 12, 2013. Cupp said the objective of the vegetative removal is to restore the Taliesin viewshed to the time when Frank Lloyd Wright lived at the property. Part of the viewshed restoration is protection of large, open grown oaks. Plans call for removal of woody vegetation to restore the oak savanna aesthetic. Morehouse concurred that the aesthetic appeal of the open grown oaks is the objective. He said removal of the small trees growing into and around the large oaks will be a step in restoring the oak savanna habitat. Leys noted the activity is appropriate for the site. Cary noted long term plans call for additional regeneration of oak at the site.

Dorscheid made a motion, seconded by Leys, to approve a two-year management permit with the following permit conditions:

- No existing structure(s) shall become visible from the river as a result of the activity;
- The LWSRB shall approve of any modification to the plans, as submitted; and,
- The landowner or his/her agent shall notify the LWSRB upon initiation and completion of the activity.

MOTION CARRIED.

Cupp noted Morehouse had completed review of the trees slated for harvest at the Wintergreen property near Spring Green. Morehouse said the logger had marked the trees slated for harvest in accordance with the Riverway regulations. Greenwood asked if there would be a post-harvest field inspection. Cupp replied in the affirmative. Greenwood reiterated his concerns regarding permit approval prior to final approval of the marking of trees slated for harvest.

Cupp said the request for alternative colorization for trim and roof related the permit issued to Kim and Andrew Bangert for a new structure near Lone Rock had not been answered. He will contact the contractor and landowners to determine if additional information from the board is required.

Cupp said he had approved timber harvest activity at the Joe Dremsa property in the Town of Marietta, Crawford County, after Morehouse had met onsite with the logger, Clay Bunders. He noted the board had provided authorization to proceed at the November meeting if the field inspection determined the activity would comply with the applicable performance standards. Morehouse said the removal of about 100 aspen trees would occur in the Bluff Zone, Riverview Zone and Resource Management Zone. He said compliance with the applicable basal area for the residual stand would be achieved. He said the logs would be used in construction of a new log home and would be used in construction in a "green" state.

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Cupp said he was processing a permit for DNR Wildlife Biologist Travis Anderson for a management plan near Sauk Prairie that would address removal of non-native invasive species.

The Budget & Office Committee report was presented by Chair Cary who reviewed the FY 14 budget.

The Personnel Committee report was given by Chair Moore who noted the annual performance evaluation for Office Associate Marsha Nachtigal had been completed by Cupp. Nachtigal had received “satisfactory” to “exceeds expectations” ratings for all categories. Moore noted Cupp recommended the board consider issuance of a discretionary merit compensation (DMC) award to Nachtigal for her performance during the difficult frac sand mining permit application process in 2013. Moore said the Personnel Committee will meet in January to discuss the DMC recommendation. She noted the annual evaluation of Cupp’s performance as Executive Director also will be conducted and asked board members to complete the form and return to her by the end of the year.

The Executive Director’s report was presented by Cupp who reviewed the materials in the board members’ packets. Cupp thanked Morehouse for the additional technical assistance provided on forestry matters during Cupp’s recent recovery from knee surgery.

Under board members’ business, Madison pointed out the difference between “phosphorous” and “phosphorus” in an article regarding pollution of Riverway backwaters.

The DNR report was given by DNR Riverway Manager Matt Seguin who said deer harvest totals were down. He said pheasant stocking was done for the season. He noted plowing to popular ice fishing sites will continue. Seguin said a new fence will be installed at the Blue River Sand Barrens State Natural Areas in an attempt to curtail illegal off-road vehicle damage to the fragile ecosystem. Seguin noted hours for access to the beach at the Mazomanie Unit will continue with the area being closed during the week.

During the public comment session, Timm Zumm, Friends of the Lower Wisconsin State Riverway (FLOW) President, gave an update on FLOW activities. Ernie Wittwer, Democrat candidate for the 17th Senate District, introduced himself to the board. Forest Jahnke, Crawford Stewardship Project Co-Chair, asked if they report to the Legislature on frac sand mining was available to the public. Greenwood said the report remains in draft form and will be released once formal board action is taken to approve the document.

A motion to adjourn was made by Madison, seconded by Arimond. **MOTION CARRIED.**

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:

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