

LOWER WISCONSIN STATE RIVERWAY BOARD

202 N. Wisconsin Avenue
P.O. Box 187
Muscodia, WI 53573
(608) 739-3188 or 1-800-221-3792

MINUTES OF THE JANUARY 29, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Tuesday, January 29, 2013, at the village hall in Muscodia to conduct a special business meeting. The meeting was called to order at 5:00 p.m. by Chairman Don Greenwood. All members were present with the exception of Greg Greenheck. (NOTE: One vacancy exists.) Greenwood noted that the special meeting of the LWSRB was being held to confer with legal counsel regarding nonmetallic mining regulations in the Riverway and the applications of Pattison Sand Company and four landowners to establish a frac sand mine in the Town of Bridgeport, Crawford County. He noted that public comment would not be on the agenda for the special meeting. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Fred Madison, seconded by Melody Moore. **MOTION CARRIED.**

F. Mark Bromley, Assistant Attorney General from the Wisconsin Department of Justice, was introduced. Bromley said he was assigned to the LWSRB pursuant to the board's request for legal counsel. He said any correspondence or communications would be protected under attorney/client privilege. Bromley said the board could convene in closed session pursuant to Wis. State. Sec. 19.85(1)(g) for the purpose of conferring with legal counsel for the LWSRB, who is rendering oral or written advice concerning strategy to be adopted by the LWSRB with respect to litigation in which it is likely to become involved. Bromley noted that no action should be taken at the special meeting regarding the permit applications for nonmetallic mining currently before the board.

Leys said the board may confer in closed session with the attorney but is not required to do so and asked for Bromley's confirmation on that point to which Bromley replied in the affirmative. Greenwood asked Bromley to review the specific statute that allowed the board to convene in closed session. Bromley reviewed s. 19.85(1)(g), Stats., related to conferring with legal counsel. Greenwood noted the board had discussed the merits of meeting in an open session versus a closed session. He said he and Leys, as former journalists, have a strong interest in the open meetings law. Greenwood asked Cupp if he was aware of any pending lawsuits. Cupp said he had nothing in writing. Bromley noted that potential litigation may simply be "reasonably foreseen" and said a closed session would foster more open discussion. Leys said that is always true and said the open meetings laws are on the books for a reason. George Arimond asked Bromley if the information to be shared by him to the board would be the same if the board met in open session instead of closed. Bromley said he would be constrained in sharing information in an open meeting due to the potential for litigation.

A motion to convene in closed session pursuant to Wis. State. Sec. 19.85(1)(g) for the purpose of conferring with legal counsel for the LWSRB, who is rendering oral or written advice concerning strategy to be adopted by the LWSRB with respect to litigation in which it is likely to become involved was made by Moore, seconded by Madison. A roll call vote was taken.

Dorscheid – aye
Moore – aye
Leys – nay
Madison – aye
Brown – aye
Arimond – aye
Greenwood – nay

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The **MOTION CARRIED** on a vote of 5 “ayes” to 2 “nays” with one member absent and one vacancy.

Greenwood then asked the public in attendance to clear the room. Cupp and Marsha Nachtigal, LWSRB Office Associate, were invited to stay for the closed session as board staff.

Following discussion in closed session, a motion to reconvene in open session was made by Madison, second by Moore. **MOTION CARRIED.**

A motion to adjourn was made by Arimond, seconded by Moore. **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:

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