

**MINUTES OF THE REGULAR MEETING  
OF THE  
COMFORT LAKE -FOREST LAKE  
WATERSHED DISTRICT**

**THURSDAY, AUGUST 23, 2007**

1) **Call to Order**

The President called the August 23, 2007 meeting to order at 6:30 p.m. at the Forest Lake City Offices, 220 North Lake Street, Forest Lake, Minnesota

Present: President Jackie Anderson, Vice President Richard Damchik, Secretary John Lynch, Treasurer Jon Spence, Manager Wayne Moe

Staff: Randy Anhorn, Brett Emmons (EOR), Dan Fabian (EOR), John Thene (Wenck & Assoc.), and Lisa Tilman (EOR)

Others: Deb Anderson, Amanda Goebel, Ron Harnack

2) **Reading and Approval of Agenda**

The motion to approve the agenda was accepted by consensus.

3) **Reading and Approval of Minutes**

The President called for the reading and approval of the minutes of the water quality workshop of August 2, 2007. The motion to approve the August 2, 2007 water quality workshop minutes as is, was accepted by consensus.

The President called for the reading and approval of the minutes of the regular meeting of August 2, 2007. The motion to approve the August 2, 2007 regular meeting minutes with changes was accepted by consensus.

4) **Matters of Public Interest**

Ms. Deb Anderson stated that she was happy to see the progress the watershed district has made and feels that her tax dollars are going to good use. Ms. Anderson further praised the Board and Administrator for their work in 2007.

The Board thanked Ms. Anderson for her kind words.

5) **New Business**

- a) **Ron Harnack (formerly of BWSR) to discuss funding options under Minnesota Statute 103D.**

The Board welcomed Mr. Harnack and thanked him for attending the District meeting.

The President provided a history of the District to Mr. Harnack stating the District's formation, goals presented in the District's watershed management plan (WMP), and recent studies.

Manager Anderson then discussed the Board's proposed budget, work plan and resulting levies. The Board is looking at using the results of the Wenck design services portion of the watershed-wide load allocation model to amend the Implementation/Capitol Improvement Plan section of the WMP, and then use the preliminary fund under MN Statute 103D.905, subd. 6 and the implementation fund ad valorem tax levy authority for project implementation for projects in an approved Watershed Management Plan under 103D.905 subd. 5a (3).

The Board held discussion with Mr. Harnack on the use of ad valorem tax under 103D.905, subd. 3 and subd. 5 to fund projects. Mr. Harnack said that while we would be pushing the envelope on the interpretation of the levy authority of these funds, he thought that there could be an argument made for both. A watershed district can not be the project initiator for the use of the preliminary fund. If a project was petitioned by the County, however, the preliminary fund according would work according to Mr. Harnack.

Mr. Harnack further discussed the use of the implementation fund (103D.905 subd. 5) and the differences between 103D and 103B. Harnack stated that 103B is much more flexible and suggested looking at getting legislative action to change from 103D to 103B and stated what was needed for the change.

Mr. Harnack said the use of the implementation fund all depends on how the District established it.

Manager Moe asked specifically if a non-metro watershed (103D) could actually use the fund to collect ad valorem tax.

Mr. Harnack said that if we had specific projects defined in the WMP, he thought we could. Mr. Harnack said that as part of amending the current WMP to include an updated Capital Improvement Plan (CIP), the District would have to hold public hearings for the projects.

The Board discussed the timing of submitting the levies to the County, finishing the CIP, amending the WMP and holding public hearings on the projects.

Again, Mr. Harnack mentioned the pros to becoming a metro watershed and changing to 103B. He stated that there is some concern about moving forward under 103D with projects which are too specific as opposed to something defined as a common benefit to all. Discussion was held about common benefit, and projects of common benefit petitioned by political subdivision.

Manager Anderson went over the current implementation plan listed in the District's WMP. Mr. Harnack said that the challenge with the implementation plan in the WMP seems rather generic and something that could be in any District's Plan.

Discussion was held about moving forward on amending the plan to include the list of projects defined in the water quality modeling and design services study to be completed in October 2007 as a CIP, and further define the waters within the watershed boundaries as common features, and any improvement to the quality of those waters as a common benefit to all within the District.

There was discussion on the general levy cap of \$250,000 potentially increasing in the future.

Administrator Anhorn inquired about seeking Mr. Harnack's services as a consultant to help the District through the funding maze. The Board requested that the Administrator get a proposal from Mr. Harnack for said services.

Mr. Harnack commended the Board for "picking themselves up by the proverbial bootstraps" after the Office of the Legislative Auditors report, and moving forward and starting to get things accomplished.

#### **b) Comfort Lake Association Request on Lake Level**

Administrator Anhorn presented the letter from the Comfort Lake Association (CLA) which requested the Board of Managers include the Comfort Lake level issue as part of the scope of the load allocation design services study by Wenck & Associates. Anhorn stated that the lake level issue is not currently part of the scope of the study and the study is near completion. Manager Damchik stated that he thought it, the lake's level, is a DNR issue not a watershed issue.

Manager Anderson provided a synopsis of the lake level issue as well as the determination of the height of the outlet weir and the change of Chisago County Road 22 as the beginning of the perceived problems. Manager Anderson stating that the lake's quick bounce (as much as a foot in a couple days), is the main issue of concern. Manager Anderson also said that the CLA questioned if the level of the weir is still at the right height and questioned if the culverts under the newer bridge on County road 22 have caused the problem.

Lisa Tilman (EOR) stated that the District could use its Hydrologic and Hydraulic study and put the older culvert size and height at the outlet and compare it to that of the newer bridge.

Manager Anderson said that the DNR would be in favor of a permanent weir as opposed to the rock weir which currently maintains the lakes outlet level. The rock weir has had a history of being manipulated.

Travis Thiel (WCD) stated that he thought that the weir was being manipulated again with branches, rocks and mud being added.

Manager Damchik again stated that he thought it was a DNR issue not a watershed issue. Damchik said that if a permanent weir was to be constructed, the watershed should not be responsible for the payment of it.

Manager Anderson wanted clarification from Wenck on if the bounce on Comfort Lake causes a water quality problem.

6) **Old Business**

*a) Discussion on Legal Service Interviews (August 2, 2007)*

The chair called for the Managers opinions of the interviews the Board had with Ray Marshall of Lawson, Marshall, McDonald, Galowitz & Wolle, P.A, and Louis Smith and Chuck Holtman of Smith Partners.

Manager Damchik and Manager Spence stated that they liked Smith Partners.

Manager Lynch said that he had a problem with changing legal representation when the District currently had good representation with their current lawyer Paul Haik. Lynch further stated that we asked Mr. Haik to stop coming to meeting because of costs and now it seems as though the new attorneys may cost more that what Mr. Haik was charging. Lynch said that we never should have quit having Mr. Haik come to the meetings, we need advice as to project funding and our pushing the envelope, manager Paul Haik should be here. Manager Lynch said that his vote is for Paul Haik.

Manager Damchik said that while he didn't disagree, Paul didn't submit a proposal to the post RFP. Manager Lynch asked why he would have to, he was/is our currently legal representation and we know what he is charging.

Manager Moe stated that he also liked Mr. Haik's knowledge of water law.

Manager Spence stated that not only was money an issue, but as the watershed tries to move forward, there are philosophical differences as well. Spence further asked where the District would be right now if Paul was still here.

Manager Anderson stated that she had problems with Paul's comments in the Office of the Legislative Auditors Report on Watershed Management. She found Paul's comments and suggested edits to the District's case study within the report as self serving and not representing the Board. Manager Anderson also mentioned that she had problems with the timing and way Paul dramatically increased his rates (after the Boards budget process was complete). Anderson further stated that it was simply time to move on.

Manager Moe said that maybe Paul was somewhat right in questioning if the District's budget could handle hiring a full-time administrator.

Manager Anderson stated that 2007 was a transitional year and while budgets are determined on a 12-month basis, they need to sustain 18 months.

Manager Moe made motion to keep Paul Haik as the District's Attorney. The motion was seconded by Manager Lynch. Upon vote the motion failed 2 ayes to 3 nays, with Managers Anderson, Damchik, and Spence voting against the motion.

Manager Anderson then made motion to select Smith Partners as the District's new Attorney. Manager Spence seconded the motion. Upon vote, the motion passed 4 ayes to 1 nay, with Manager Lynch voting against the motion.

***b) Draft Rules***

Before the Board went through the permitting option of the draft rules, (as opposed to the review and comment option discussed at the Board's August 2, 2007 meeting), Manager Anderson asked EOR to check on the state regulations on structure set-back prior to finalizing that section of the District's draft rules.

The Board then went through the presented permitting option of the rules and provided edits to staff. Staff was directed to make edits and send out the revised draft prior to the District's September 27, 2007 Board meeting. The Board will then review the draft rules one more time prior to going forward with the next stage in the rule development process (the passing out of the final draft to members of the District's local communities and advisory committees and the initiation of the technical and citizen advisory committee TAC/CAC meeting process).

***c) 2008 Budget***

The Board held discussion on the District's 2008 budget which was presented at the Board's August 21, 2007 budget workshop.

Manager Spence stated that he was concerned about the amount of the levy and that maybe the District should look at doing fewer projects than proposed in the presented budget and focus on maybe one or two, lower the levy and get the projects right. Manager Spence said that because we have not done similar projects to date, it may be worthwhile to "walk before we run."

Manager Anderson said that the District has water resources in dire shape and we do not have time to sit back any longer. Anderson said it was time to act and she thought it should be done in a two phase process with three projects in 2008 and the initiation on three to four more in 2009. Manager Anderson provided a recap of the Board's discussion at the budget workshop and the unanimous vote to move forward with the proposed 2008 budget.

Manager Anderson made motion to use of the implementation fund to fund projects listed in the District's Capitol Implementation Plan including Rules and Permitting to improve the water quality of the water resources within the entire District. Manager Lynch seconded the motion.

Discussion was held on the District defining the waters within the watershed boundaries as common features, and any improvement to the quality of those waters is a common benefit to all within the District. Manager Anderson mentioned the Wenck study which should show that improving one waterbody would have a positive effect on others downstream.

Manager Anderson made motion to approve the proposed budget for 2008 which includes a General Fund levy (103D.905 subd. 3) and the Implementation Fund levy (103D.905 subd. 5a

(3) for a combined total of \$757,500. Upon roll call vote, the motion carried 4 ayes to 1 nay. The roll call vote was as follows;

	<u>AYE</u>	<u>NAY</u>
Jackie A. Anderson	X	
Richard P. Damchik	X	
John T. Lynch	X	
Wayne S. Moe		X
Jon W. Spence	X	

***d) 2007 Work Plan & Projects Update***

Administrator Anhorn provided the Managers with a copy of the 2007 proposed work plan with progress updates on each of the items listed. A copy of the update is annexed and incorporated by reference.

**7) Report of Administrator**

Administrator Anhorn presented an Administrator's report memo (a copy of each report is annexed and incorporated by reference). The Administrator's report detailed recent correspondence, permit and plan submittals for review, and recent meetings with local stakeholders.

Administrator Anhorn highlighted a recent meeting he had with Craig Affeldt of the MPCA discussing the District's TMDL work plan as well as recent meetings with Great River Greening (GRG) about partnering with the City of Forest Lake and GRG on the planting of native vegetation buffers and construction of infiltration practices in the Cities right-of-way on numerous streets which abruptly end on the shoreline of Forest Lake.

Anhorn then mentioned that he was in the process of preparing a DNR grant application "shoreline vegetation grant" in order to help fund projects such as the Forest Lake street and Bone Lake shoreline restoration projects as well as fund an overall cost-share program.

**9) Report of Engineer**

***a) Emmons and Olivier Resources (EOR):***

Lisa Tilman asked the Board for some direction on the request made at the August 21<sup>st</sup> workshop for EOR to look into a LCCMR grant.

Manager Anderson mentioned that the purpose of the grant was to look at innovative programs and projects which could be used statewide. Anderson thought that the District's draft buffer

rule was fairly innovative, requiring certain properties to meet the buffer rule. Anderson was wondering if there were aspects of the rule, determination of the effectiveness of the rules, or implementation of the rule which could fit into the grant process.

Ms. Tilman said that she would continue to work on the grant application and see what may be applicable.

***b) Washington Conservation District (WCD)***

Travis Thiel (WCD) discussed the continual vandalism at the Comfort Lake Outlet monitoring site as well as mentioning that he had forwarded on the District's phone number to a Forest Lake High School teacher whose students may have interest in getting involved in certain District programs (i.e. stormsewer stenciling and volunteer monitoring).

***c) Wenck & Associates***

John Thene handed out the list of projects that the Board had decided at the August 21, 2007 workshop to have Wenck prepare initial design and cost estimates for. Mr. Thene asked the Board to review the list and let him know if the list was accurate.

**10) Report of Treasurer**

***a) Approval of Bills***

Manager Spence discussed the Treasurer's Report and bills for August 2007.

Motion was made by Manager Lynch to pay the bills as presented. Manager Damchik seconded. Motion carried unanimously.

***b) Approval of Treasurer's Report***

Motion was made by Manager Lynch to approve the August Treasurer's Report. Manager Damchik seconded. Motion carried unanimously.

Administrator Anhorn presented reallocation of 2007 project monies in order to create a budget item line for rules development as well as the mentioning the suggestion from the District's insurance agent that it maybe worthwhile to the increase the aggregate of the commercial general liability policy from one million to two million. The increase in cost for the extra aggregate was roughly \$ 200 annually (an increase of less than 4%).

**11) Reports of Officers and Manager**

**Manager Anderson –**

Manager Anderson stated that because the Board hired Administrator Anhorn not only as an Administrator, but for his background as a limnologist (Lake Scientist); she thought he should

add limnologist to his title (Administrator/Limnologist). The Board was asked if it agreed and without objection the members agreed by consensus.

Manager Anderson also mentioned that former Manager Ken Banta had a great old map of the area from the late-1800's. The map showed the shallow pond area in its natural condition pre-ditching. She thought it would be worthwhile to contact Mr. Banta and try to borrow the map and make a copy of it.

**Manager Damchik –**

No report

**Manager Lynch –**

No report

**Manager Moe-**

Manager Moe mentioned the recent Forest Lake Times article highlighting a prairie restoration project in the Forest Lake Area. Manager Moe mentioned that it may be a valuable education tool for the District to highlight such projects on the District website or even have an annual watershed award for project(s) which meet our goals of improving and protecting our water resources.

Manager Anderson thought it was a great idea, and asked Manager Moe to put together a letter to the editor of the Forest Lake Times thanking those involved and how such projects help improve water quality.

**Manager Spence –**

No report

**Adjournment**

Motion to adjourn the CLFLWD regular Board meeting was made by Manager Anderson and seconded by Manager Spence. Motion carried unanimously.

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John T. Lynch, Secretary