

**MINUTES OF REGULAR MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, November 19, 2015**

**1. Call to Order**

The President called the November 19, 2015 Regular Board meeting to order at 6:30 p.m. at the Council Chambers of the Forest Lake City Center, 1408 Lake Street South, Forest Lake.

Present: President Jackie Anderson, Treasurer Jon Spence, Secretary Wayne Moe, Assistant Treasurer Stephen Schmaltz

Others: Michael Kinney and Emily Schmitz (CLFLWD staff), Chuck Holtman (Smith Partners), Greg Graske, Cecilio Olivier, and Jay Michels, (EOR), Jerry Grundtner (CAC member), Laura Jester (Keystone Waters LLC)

**2. Manager Oath of Office**

The Washington County Board of Commissioners recently reappointed Manager Wayne Moe to the District's Board of Managers. Manager Moe was administered the Oath of Office.

**3. Setting of Meeting Agenda**

President Anderson requested that item 9(b) be moved to new business in order to accommodate a presenter that needed to get to another meeting later in the evening. The President called for approval of the November 19 agenda, as amended. Manager Moe moved to approve the agenda as amended. Seconded by Manager Schmaltz. Upon vote, the motion carried 4-0.

**4. Consent Agenda**

- a. Special Board Meeting Minutes – August 13, 2015
- b. Regular Board Meeting Minutes – August 13, 2015

Manager Moe moved to approve the consent agenda as presented. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

**5. Public Open Forum**

President Anderson asked for public comments. There were no public comments.

**6. Public Comments on 2016 Budget and Levy**

President Anderson noted that the levy can only be decreased from the figures presented and cannot be increased. No member of the public wished to offer comment.

**7. Citizen Advisory Committee Update**

Jerry Grundtner, chairman of the CAC, reported that the CAC has had two productive meetings and is making progress on several items. He noted that there are currently 7 active CAC members and hopes that another member is appointed at this meeting. He noted the CAC meets monthly and has established a list of eight areas to work on. Mr. Grundtner said three areas have been prioritized by the CAC including 1) native shorelines planting program, 2) AIS program, and 3) communication plan/education plan – which should work together. He reported that the CAC already drafted preliminary thoughts and recommendations on first two items. Recommendations will hopefully be finalized at their Dec 1<sup>st</sup> meeting and brought to the Board of Managers at their December meeting.

Managers thanked Mr. Grundtner and said it is good to see more activity with the CAC.

## **8. New Business**

### **MIDS Ordinance Phase 2 Scope of Work (moved from 9b).**

Mr. Michels with EOR, Inc. reminded the Board that at the September board meeting EOR presented the results of a study that reviewed and compared current CLFLWD rules and watershed community ordinances with the model ordinances developed as part of the statewide Minimal Impact Design Standards (MIDS) and the MIDS Community Assistance Package. At that meeting, EOR was requested to develop a work plan that would identify opportunities to streamline the CLFLWD development review and permitting process and develop a MIDS model policy document specific to the needs of the watershed for future presentation to the communities. Mr. Michels reported that this is a 4 step process and that the next step (Phase 2) will identify opportunities to streamline the CLFLWD development review and permitting process. Phase 3 involves developing a MIDS model policy document specific to the needs of the watershed and presented to the communities to facilitate discussion and gain support. Phase 4 involves pursuing Clean Water Legacy Accelerated Implementation Grant Program funds to work one-on-one with the communities to implement the MIDS model policy document.

There was discussion about how the District can be assured that MIDS would be adopted by communities. Manager Schmaltz indicated that the whole process is dependent on cities being willing to adopt MIDS but since most cities have more than one watershed within their boundaries that may have different rules, it may not be as easy as the District just changing rules.

Mr. Michels noted that it might be too early in process to sit down with cities right now. He noted that dealing with multiple watersheds in one city can get complicated but it is also an opportunity to find common ground.

Mr. Holtman reported that a city, through its local plan that the District has approved, can adopt and implement ordinances that the District has found to be as protective as District rules, or the city can implement ordinances that the District has not approved and allow the District to continue to apply its rules as well. He noted that cities do have other obligations under law; including the MS4 permit program (e.g., Forest Lake and Wyoming) but those are State standards. The District is not limited by state MS4 standards and may adopt and enforce rules as it determines warranted and appropriate. Mr.

Holtman noted that although the District doesn't have the authority to issue a fine for a permit violation, it can order that a development site come into compliance with District rules or could enter into a joint powers agreement with a regulating entity such as a city to utilize that city's enforcement authority. He reported there are different ways non-compliance can be handled including recording a compliance order on the deed and seeking State agency assistance if a state requirement also has been violated.

In response to Manager Anderson, Mr. Michels advised that the District could adopt the MIDS framework while still deviating from specific MIDS standards where watershed-specific needs dictate. Responding to Manager Schmaltz, Mr. Michels suggested that after Phase 2 would be a good time to consult with the District's local units to explore their interest. There was further discussion. President Anderson noted that whether or not the cities implement District rules, the process is worthwhile. Administrator Kinney added that it's best to provide input very early in development process and that this MIDS exploration process will enhance the District's relationship with cities and how the District is involved with developments.

Mr. Michels commented on the timeline of the next phases of the project. He suggested aiming at September 2016 as a time to secure something in the nature of letters of intent from local units and begin to seek grant support.

Manager Schmaltz moved to approve the next phase of the MIDS Community Assistance Package Project as presented. Seconded by Manager Moe. Upon vote, the motion carried 4-0.

**a) Salary Survey Proposal**

Administrator Kinney reported that meeting materials include a proposal from Noah & Associates to conduct a professional salary survey to determine fiscal impacts of additional staff and appropriately compensated staff. He noted this company has experience with other watershed districts in the area.

Manager Schmaltz noted that he already has a Minnesota Association of Watershed Districts salary survey from 2015 and he's not sure the salary ranges would change very much. He was hoping the proposal would include a development of guidelines on percent increases that staff should receive based on performance.

Manager Spence noted that this proposed survey is focused on this geographical area and these jobs and that he would rather get a more focused study. He agreed the final report should include information on appropriate salary increases. Manager Schmaltz added that data sources should also be included in the report.

Manager Moe moved to approve the salary survey proposal with the following additions: a report on appropriate performance-based salary increases and information on the data sources and dates. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

**b) CAC Appointment**

Administrator Kinney reported that one CAC member stepped down but that a resident on Comfort Lake is requesting appointment to the CAC.

Manager Moe moved to appoint Nicole Meis to the District's Citizen Advisory Committee. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

**c) MAWD Delegate Appointment**

Administrator Kinney noted that in order for the District to participate in the annual meeting of the Minnesota Association of Watershed Districts, the Board of Managers must appoint a delegate or delegates.

Manager Moe moved to appoint Managers Anderson and Schmaltz as District delegates at MAWD's annual meeting. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

**d) MAWD Resolutions**

Administrator Kinney indicated the proposed resolutions that will be presented at the annual meeting of the Minnesota Association of Watershed Districts (MAWD) are included in the meeting packet. He noted that he had reviewed them with Mr. Holtman. Mr. Holtman reminded the group that the purpose of the discussion tonight was procedural and meant for the Board to discuss and agree on the District's position on each resolution such that it can be carried to the MAWD meeting by appointed delegates.

The Board of Managers discussed each of the proposed resolutions and determined the District's position as follows:

Resolution #1: Consensus to support.

Resolution #2: There was some discussion about purpose of resolution including when and why a road would be raised. Mr. Holtman gave a brief explanation. Consensus to support.

Resolution #3: There was some discussion; Manager Schmaltz disagrees with resolution; other managers didn't have a strong opinion either way. Consensus that delegates will take position in their judgment after more information presented at meeting.

Resolution #4: Consensus to support.

Resolution #5: Consensus to support.

Resolution #6: There was some discussion about this resolution which would lobby the legislature to establish a Minnesota River Basin Commission. Managers discussed different watershed structures including watershed districts. After further discussion, the Board agreed it is in favor of the concept of a watershed-wide entity for the Minnesota River but isn't sure the "river basin" model is the best structure.

Resolution #7: Consensus to support concept.

**e) Permit 15-014 Scandia Solar Garden**

Mr. Graske described the project and its location. He noted the proposed project will install solar panels on 25 acres along with gravel access roads. He reported the entire site is landlocked which drains internally to existing wetlands. He said the site was historically a gravel pit with some wooded areas. He noted the solar panels installed on posts and the area will be revegetated with a pollinator seed mix. He reported that converting the land to a permanent cover is a vast improvement. He reported the project meets District requirements and the erosion and sediment control standards are also met.

There was discussion about possible wetland impacts. Mr. Graske noted there are minor incidental wetland impacts.

Mr. Todd Hubmer with WSB & Associates (engineers for the project), noted that wetlands were delineated and wetland buffers are incorporated into the project.

There were questions about the possible contamination risks to the surface waters or groundwater from leaking electrical components. Manager Moe noted that this area is just northeast of Sylvan Lake so the groundwater should be protected at all costs. Mr. Hubmer noted the transformers are fully contained and on cement pads. He noted the project will follow all State standards. He also reported the power generated will go back into electrical grid for use by the energy company.

Manager Schmaltz moved to approve permit 15-014. Seconded by Manager Moe. Upon vote, the motion carried 4-0.

**f) Buffer Law BWSR Guidance**

Administrator Kinney indicated this item was on the agenda because he anticipated that it would be a topic of much discussion at the MAWD meeting.

President Anderson noted that the last sentence in memo is important - cities are excluded from the law but that rural/unincorporated areas will be impacted.

Mr. Holtman noted that the buffer law has many ambiguities that will be worked out over time. He noted that a “buffer” is defined as perennial vegetation that would include grass; but it’s not necessarily a buffer of native vegetation. He noted that on agricultural land, a landowner can use an approved conservation practice rather than installing a buffer. He reported buffers on public waters are to be established by 2017 and that different entities have responsibilities within the rule including the DNR and soil and water conservation districts (SWCs). He noted that watershed districts are expected to revise their plans to include SWC buffer recommendations and that watershed districts or counties could be the enforcement authority or the Board of Water and Soil Resources (BWSR) could enforce if local entities do not wish to enforce. He noted BWSR developed draft guidance and is seeking comments by 11/20/15.

President Anderson commented that if the District is expected to enforce the rule, then funding should be provided for that activity. There was discussion with Mr. Holtman providing further explanation of enforcement options.

After further discussion, the Board directed the Administrator and Mr. Holtman to collaborate on a comment letter to BWSR and that comments should include the need for more explicit guidance on implementation and enforcement to the public and to watershed districts as well as implementation funding support to watershed districts. Draft recommendations will also be forwarded to managers for use in discussions at the MAWD meeting.

**g) 2016 CLFLWD Priorities**

Manager Schmaltz walked through materials in meeting packet that he and Mr. Graska developed regarding 2016 District priorities. He noted that there should be a process for setting priorities and metrics developed for measuring outcomes. The Board reviewed the spreadsheet and noted many high priority areas. Manager Schmaltz noted that these items should be considered and discussed at the next meeting.

Manager Schmaltz also reviewed the graphic depicting how funding fits together with spending. He noted there is little priority setting within administrative programs because there is less variability here. He noted that projects have high variability so this is where prioritization is needed.

The managers thanked Manager Schmaltz for his work and thought on this. President Anderson noted that the next meeting should include adequate time to further develop prioritization and acknowledged it may take many meetings to discuss or possibly a separate workshop.

**h) SWCD Contracts Presentation**

Administrator Kinney reviewed contracts with SWCDs including WCD, Chisago County SWCD and the East Metro Water Resources Education Program (EMWREP). He noted the EMWREP contract is a 3-year contract which was established by all entities participating in the program. Administrator Kinney reported that he would like to enhance the District's agricultural BMP program now that the diagnostic studies are complete. He noted that the Chisago Lakes Lake Improvement District (CLLID) and the Chisago County SWCD have a good process in place that could be considered for the CLFLWD agreement with Chisago County SWCD. He added that the WCD might be able to accommodate a similar contracting format.

President Anderson reported that SWCD contracts will be an item for the next Board meeting and wondered if the District was getting enough of a return for its investment in EMWREP, noting that the District doesn't own its material. Administrator Kinney noted the EMWREP annual report is broad and doesn't focus on specific areas. There was some discussion about how and if EMWREP newspaper articles are published. The group agreed EMWREP is a good model and acknowledged that some specific requests from the

District have been granted by EMWREP staff, but wondered if more information could be targeted locally and wondered how the EMWREP budget is determined.

The Board asked if CAC members would be willing to help get articles published. Mr. Grundtner commented that EMWREP staff had attended the last two CAC meetings and the CAC will be addressing the communication/education function of the District in the near future.

## 9. Old Business

### a) Bixby Park Construction Contract Award

Administrator Kinney gave praise and thanks to the District Engineer and legal counsel for patiently working with MnDOT regarding permit issues. He reported that after much discussion MnDOT is not requiring a permit for this project and the District is now prepared to award a construction contract.

Mr. Graske noted that 7 bids were received with a wide range in project costs. He recommended awarding the contract to the low bidder, Peterson Contracting, which the District Engineer finds to be a responsible contractor. There was discussion about specific aspects of the bid. The District Engineer will be inspecting the materials, providing construction oversight, and surveying pre and post excavation. Mr. Graske noted there is a construction management budget already approved.

There was further discussion about how much lower the low bid was than the rest of the bids. Mr. Grundtner expressed concern and indicated that when one bidder is 24% lower than all other bids, it could mean that a mistake was made within the bid. He noted that strong project oversight is very important. He noted the District might want to budget for contingency the event of unforeseen circumstances and noted 5 – 10% would be appropriate. Mr. Graske noted that with a project this size there may very well be change orders.

There was more discussion about the specifics of construction oversight and vegetation management after construction. The District Engineer reported that they would be on-site every day, for at least half a day.

Manager Spence moved to approve the resolution awarding the construction project for the Bixby Park Project to Peterson Contracting. Seconded by Manager Moe. Upon vote, the motion carried 4-0.

President Anderson noted that this is biggest project the District has undertaken, that it took a long time to develop, and will benefit the City of Forest Lake and rural citizens and along Sunrise River. She directed the Administrator to work with the Engineer and Keystone Waters to develop a feature story for local papers including Chisago County.

Administrator Kinney noted that communication with MnDOT is important, that the District made a commitment that the District would provide monitoring/reporting back to MnDOT to make sure modeling is correct. The District may need an MOU with MnDOT

although no formal reporting is required. Staff will bring back a monitoring/reporting plan to Board.

**b) MIDS Ordinance Phase 2 Scope of Work** – see notes under “8 New Business” above

**c) Keystone Waters Grant Information**

Ms. Jester of Keystone Waters LLC presented an overview of possible grants the District could consider pursuing. She noted some particular upcoming projects the District is planning and possible grant programs that might fit those projects. There was further discussion about different upcoming District projects and possible projects and the requirements of different grants. The Board indicated the memo from Ms. Jester was helpful and directed the Administrator and Ms. Jester to continue researching grant possibilities.

**d) Moody Lake Outlet**

Administrator Kinney provided an overview of the current situation regarding beaver dams and water levels. He reported that some beavers had been trapped but it will be an ongoing problem. He noted the need for ongoing access to the site and the need for an agreement with the landowner if a structure is proposed for private property. He also noted the need to reach out to all land owners on the lake, noting the process would ultimately establish a lake level. Administrator Kinney said he would report back regularly on progress and that this may need to be added as a program in the annual work plan and budget. Manager Anderson noted that if the District were to assume an ongoing management function, a means of local funding might be appropriate.

**e) PRAP Report and Comments**

Administrator Kinney reminded the Board that the PRAP report was presented by BWSR staff at the last meeting and the Board was offered an opportunity to provide comments on the report. There was agreement that overall, the report was appropriate and discussion by Board members about comments that should be provided including the fact that there are measureable criteria within the watershed management plan, and that several administrators over a short period of time was not due to District dysfunction and context would be appropriate. Board members agreed to send their comments directly to BWSR and copy the Administrator.

There was a suggestion that a Board training record be developed to keep track of training acquired by Board members. Administrator Kinney also noted that BWSR has some assistance grant funds available that may be pursued in the future.

**f) Recommendations on Consulting Services**

Administrator Kinney reminded the Board about the previous discussion related to this topic. He discussed a few different options for increasing consulting services to the District from various firms and including the SWCDs and the St. Croix Watershed Research Station.

President Anderson noted that SWCD contracts were discussed earlier in the agenda and wondered whether the District Engineer could find and coordinate RFPs for work that is needed or where additional expertise is needed. She noted that the District Engineer should be the advisor on the projects, not necessarily always being the consultant that executes all projects. She said the Board should be ready to discuss further at the December meeting.

## **10. Report of Staff**

### **a) Administrator**

Administrator Kinney reported on ongoing meetings with neighboring watershed district administrators and an initial meeting with Warner Nature Center. He also reported on contact with schools about working to develop projects on school grounds with an educational component. Administrator Kinney also mentioned possible signage in the District office lobby or in windows that face the street. Manager Schmaltz said the District should consider working with road authorities to put signs at watershed district boundaries.

### **b) Emmons and Olivier**

Mr. Graska reported the Moody Lake floating bogs are on the move with the recent high winds and rain.

### **c) Smith Partners – nothing to report**

## **11. Report of Treasurer**

### **a) Approval of Bills and Treasurer's Report**

Manager Spence presented the Treasurer's Report. There was discussion about the possible need to transfer funds from the administrative budget to the engineering budget. There was further discussion about how certain tasks get coded.

Administrator Kinney noted he and the District Engineer have made some improvements in that regard. Manager Spence recommended approval of the report but asked that the last two reports of the year include a project by project spending breakdown.

Manager Moe moved to accept the Treasurer's Report and pay the bills in the amount of \$143,794.74. Seconded by Manager Schmaltz. Upon vote, the motion carried 4-0.

## **12. Report of Officers and Managers – nothing to report**

## **13. Adjourn Next Meeting —December 17, 2015**

Manager Spence moved to adjourn the meeting at 9:53 p.m. Seconded by Manager Schmaltz. Upon vote, the motion carried 4-0.

Wayne S. Moe, Secretary \_\_\_\_\_