

**MINUTES OF THE REGULAR MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, June 8, 2017**

**1. Call to Order**

Vice President Spence called the June 8, 2017 regular board meeting to order at 4:00 p.m. in the office of the Comfort Lake-Forest Lake Watershed District, 44 Lake Street South, Suite A, Forest Lake.

Present: Vice President Jon Spence, Secretary Wayne Moe, Treasurer Steve Schmaltz

Absent: President Jackie Anderson, Assistant Treasurer Jackie McNamara

Others: Mike Kinney, Jessica Lindemyer, Sam Duncanson (CLFLWD staff); Greg Graske, Carl Almer (Emmons & Olivier Resources); Chuck Holtman (Smith Partners).

**2. Setting of Meeting Agenda**

Manager Moe added item 4h MN Association of Watershed Districts (MAWD) resolution suggestion to the end of the agenda.

Manager Moe moved to approve the agenda as amended. Seconded by Manager Schmaltz. Upon a vote, the motion carried 3-0.

**3. Public Open Forum**

There were no comments.

**4. Old Business**

**a) Rule Revisions**

Greg Graske and Carl Almer led a discussion on major points regarding the suggested redlines to the District Rules.

Rule 2.0 Stormwater Management

Mr. Graske provided a general overview of the revisions to this section. The permit trigger thresholds are adjusted per input from the managers at the last board meeting. Another revision is to provide more flexibility for redevelopment and

road projects, and align more closely with Minimal Impact Design Standards (MIDS) while remaining stricter than MIDS. The objective of these revisions is to continue to protect water resources while reducing the amount of variance requests and trying not to create a barrier to redevelopment which the City of Forest Lake has expressed concerns about.

Mr. Almer led a discussion into greater detail of each highlighted board discussion point within the proposed revisions. There was discussion regarding Resolution 08-12-01, and the existing exemption for any activity with substantial local approval as of February 1, 2009, with a Board consensus to eliminate this exemption given the ensuing eight years. Consensus was to add a permit trigger for any project requiring a variance from city impervious surface zoning requirements, if it can be implemented without excessive cost or complication. Legal Counsel Holtman suggested removing the summary of permit requirements in section 1.2, suggesting that the rules speak for themselves and any summary is more appropriate in a separate guidance document. The Board agreed.

The Board concurred that if volume is not fully managed on-site under section 2.5.1, control of total solids should be managed to the “maximum extent practicable” or to a similar understood standard. There was discussion as to providing for offsite stormwater credit banking and City of Forest Lake staff requests for rule revisions particularly related to road projects where treatment options may be limited. One request from the City was to remove the volume control sequencing requirements and allow projects to skip straight to paying to the stormwater impact fund. There was discussion about potential issues with implementing this suggestion. Mr. Graske and Mr. Almer suggested that in some road cases treatment is feasible. There was discussion that in actual cases there may be political difficulties in a condition that requires the City to make a substantial payment to the District. Legal Counsel Holtman suggested that it may be very useful to ensure that the District rule allows a local unit of government or road authority to develop and operate under a plan approved by the District in which stormwater management can be addressed in advance and/or regionally to accommodate future road work or other public work.

Mr. Kinney handed out copies of additional written comments that were submitted by City staff earlier that day. Mr. Almer noted that there has been previous discussion with the City regarding all of the comments submitted and most of the comments can be incorporated without issue. Some of the comments indicate a misunderstanding of the rules. Manager Schmaltz stressed the importance of the City implementing its Municipal Separate Storm Sewer System (MS4) BMP maintenance requirements.

There was discussion regarding enforcement of rule 7.0 Floodplain and Drainage Alterations. Mr. Almer remarked that deferring to local floodplain regulation under the state floodplain program, as the present rule provides, omits certain wetland and landlocked depression floodplain that the District rule otherwise

would protect. It was agreed that rule adjustments should be explored so that floodplain storage capacity for these features is preserved.

### Rule 3.0 Erosion and Sediment Control

Mr. Grasko explained that the permit trigger for this rule was lowered from 200 cubic yards to 50 cubic yards of disturbance, and that the language was tightened up to be more consistent with that of MIDS.

### Rule 5.0 Shoreland and Streambank Alterations

Mr. Grasko explained that discussions at previous board meetings concerned deciding between enforcing this rule versus focusing on landowner education and outreach to protect shorelines. There was discussion regarding the DNR's involvement in permitting shoreline alteration activities, cost-benefit of the District getting into regulating shoreline alteration activities, and options for modifying this rule.

Manager Schmaltz moved to not modify and enforce Rule 5.0 Shoreland and Streambank Alterations, and to focus on landowner education and outreach and coordination with local government units instead. Seconded by Manager Moe.

Discussion: There was discussion regarding prioritizing between shoreland regulation and capital improvement projects, the District's authority and limitations with enforcement activities, and the District's improving coordination with local municipalities. Manager Schmaltz expressed a desire for the District to focus on capital projects that remove large amounts of phosphorus as opposed to regulating activities that have smaller impacts. There was discussion about state and city shoreland ordinances and lake association engagement. It was noted that most alteration activities come to the District's attention after they are already in progress. There was consensus that it would be more cost-effective for the District to focus on landowner outreach in order to prevent harmful shoreland alterations from occurring, as opposed to reactive enforcement measures and requiring permits.

Upon a vote the motion carried 3-0.

## **b) 2016 Progress Report**

Managers Spence and Schmaltz both noted that they have some comments on how to improve the progress report and evaluation metrics. It was agreed that these comments will be incorporated into the 2017 report. Mr. Kinney noted that staff compiled some additional metrics with regard to lake association communications.

Manager Moe moved to accept the 2016 Progress Report as presented. Seconded by Manager Schmaltz. Upon a vote the motion carried 3-0.

**c) MAWD Proposed Budget & Dues Structure**

Administrator Kinney asked that the Board provide some guidance on this matter to the managers that will be representing the District at the MAWD Summer Tour. MAWD is proposing several variations of revised structures that increase dues for watershed districts by varying degrees. There was discussion regarding the potential dues amounts for the CLFLWD and other watershed districts. Manager Schmaltz suggested that the maximum dues cap should be raised so that larger watershed districts pay a larger share of the total. It was clarified that MAWD is proposing a specific dues structure for 2018 and will elect a committee to evaluate structures for successive years. Manager Spence indicated that he and President Anderson should be able to accurately convey the Board's opinions on this matter at the MAWD board meeting.

**d) WJD6 Assessment Cost Estimate**

Administrator Kinney explained that at the last board meeting direction was given for EOR to produce a cost-estimate for monitoring within the Washington Judicial Ditch 6 (WJD 6) subwatershed. There was discussion about timing with respect to monitoring and Clean Water Fund grant applications.

Manager Schmaltz moved to approve the WJD6 monitoring scope of work. Seconded by Manager Moe. Upon a vote the motion carried 3-0.

**e) Governance Manual**

Manager Schmaltz explained that the purpose of this agenda item is to review and discuss the Governance Manual's guidance with respect to managers' authority to direct staff to complete special projects, the Board President's authority to speak on behalf of the District, and procedural requirements for adding items to meeting agendas.

Administrator Kinney explained the process for creating the meeting agenda prior to board meetings. There was discussion about priority setting including activities outlined in the Watershed Management Plan and annual budget and work plan. It was agreed that the proper procedure for adding desired item(s) to the agenda prior to the board meeting is that the manager should send an email to the Board President, copying the District Administrator, asking that an item be included on the agenda.

There was discussion regarding the provisions in the Governance Manual pertaining to managers' communications with the Administrator. Legal Counsel Holtman explained that managers should not give direction directly to the Administrator for specific tasks. He noted that only the board acting as a whole has the authority to direct staff activity, either through specific actions or through a general delegation to the Administrator to advance the District's work within the plan and budget framework. The Board President coordinates with the Administrator on day-to-day implementation matters. In this role, the President is representing the board by giving effect to the decisions and policies of the board as necessary to address the questions that arise. Managers are allowed to request information from the Administrator to support their performance of their responsibilities, but according to the board's adopted policy, if the time it takes to obtain that information will exceed 30 minutes, the board must approve the request.

There was further discussion about appropriate procedures for addressing new tasks, staff workload, and the Board President's authority to speak on behalf of the board and give directions. Manager Schmaltz asked about controlling costs associated with tasks that are assigned to staff and consultants by the President. Mr. Holtman explained that, depending on the circumstance, the President and/or Administrator each have authority to direct the engineers or legal counsel to perform an activity without having specific board approval of that activity as long as it is within reason and within a previously-approved budget or scope of work. There was discussion regarding the homeowner complaints surrounding the 3<sup>rd</sup> Lake Pond project and how the President and staff handled those. Mr. Holtman advised that in addition to specific authorizing actions of the board, there also is an implied delegation of authority to the President and Administrator to properly address matters that arise and require a response before the board can convene and act. This is not an authority to spend money or make a contractual commitment, but is an authority to represent the District. In doing so, it is up to the President and Administrator to exercise their judgment to best reflect the position of the board, and it is important to report back to the board.

Mr. Holtman explained that there should be a standard procedure for setting the meeting agenda prior to meetings. The President and Administrator should allow for any manager to submit requests for items to be added to the agenda. If the President makes a judgement that said item should not be added to the agenda for some reason, the President will communicate such to the requesting manager. If the manager still wishes to press the matter, at the meeting he or she may move to add that item to the agenda during the setting of the agenda at the beginning of the board meeting. Mr. Holtman added that it may be a good practice to notify the Administrator and other managers in advance of their intent to make such a motion and to transmit to the Administrator, for distribution to the other managers, any documents relevant to the matter.

**f) University of St. Thomas Project Summaries**

Administrator Kinney explained that staff attended presentations at St. Thomas University for the three research projects that undergraduate students completed earlier this spring. He was pleased with the results of the projects and indicated that the information will be useful to guide next steps with respect to each project area. Mr. Kinney anticipated continued coordination with St. Thomas and other local universities on similar research projects in the future. There was discussion about the advantages of such coordination including gathering of useful information, cost savings, and providing benefit to the students.

Manager Schmaltz suggested using the information from the projects to write a newspaper article. It was noted that the presentations will be added to the District website as well.

**g) Project Updates**

3<sup>rd</sup> Lake Pond (aka Forest Lake Wetland Treatment Basin)

Site restoration was completed by the contractor. Mr. Kinney hired a surveyor to establish the property lines. Wetland buffer marker signs have been ordered. Steps have been taken to address one homeowner's concerns about debris and mud on her lawn. There was discussion regarding fencing or other barrier placement to prevent children and pets from entering the pond, wetland buffer native vegetation establishment, and homeowner expectations of turf grass in place of a native buffer.

Hilo Lane Stormwater Retrofit Project

Mr. Kinney noted that this project is getting close to completion. There have been ongoing communications with surrounding homeowners, and some steps have been taken to modify the drainage in the area including culvert installation, unground drain tile installation, and check dam modification. The City of Forest Lake has been working on modifications to the stormwater outlet pipe to the lake.

Pioneer Point

Mr. Kinney explained that this has to do with a development and associated homeowners' association (HOA) on the south shore of the middle basin of Forest Lake. The District was initially contacted by some of the homeowners a couple of years ago and visited the site to consult on the installation of a native shoreline buffer. The homeowners requested additional assistance with localized flooding in a drainage swale. After several communications and site visits, including City of Forest Lake staff, it was concluded that the reported flooding issue was a private property concern and not a water quality issue. Mr. Kinney noted that the president of the HOA was dissatisfied with this conclusion, and that he plans to attend the

June 29 regular board meeting and ask the board for financial assistance. There was further discussion about stormwater drainage in the area.

#### Shields Lake Fish Barrier Retrofit

Smith Root Inc. recently performed its annual inspection of the existing electric fish barrier. Mr. Kinney noted that the District has until September 1 of this year to choose not to renew its contract with Smith Root for the electric barrier. The District received a grant from the DNR to remove the electric barrier and replace it with a mechanical barrier.

#### Shields Lake Stormwater Harvest and Irrigation Reuse System

Contract discussions with the Forest Hills Golf Club have slowed due to several factors. Mr. Kinney explained that there are some concerns with respect to coming to an agreement on the financial details of the contract. Manager Schmaltz suggested holding a separate workshop to discuss the District's options for proceeding with the project. There was discussion about communications with the golf club, project component costs, and groundwater pumping. Mr. Kinney noted that preliminary engineering work, including field surveying, is currently underway and will inform some of the next steps for the project. The managers emphasized the need to be sure the District is talking with the people who have the authority to make decisions on behalf of the golf club. Mr. Holtman agreed and also noted the importance of understanding the governance structure and procedural steps that the golf club must go through in order to make those decisions.

#### **h) MAWD Resolution**

Manager Moe suggested an idea for a resolution to bring to the legislative session next fall and ask that MAWD adopt. He noted that the federal farm bill will be revised in 2018 and suggested that a resolution be drafted to show MAWD's support of the Conservation Reserve Program (CRP). He explained that such a program would be beneficial to wildlife and attractive for hunters which subsequently boosts local economies. Mr. Holtman recommended discussing this with the Board of Water and Soil Resources (BWSR) as well.

### **5. Adjourn**

#### **a) Next regular board meeting – June 29, 2017**

Manager Schmaltz moved to adjourn the meeting at 6:59 p.m. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

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