

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

**Thursday, February 23, 2012**

**1. Call to Order**

The President called the February 23, 2012 regular Board meeting to order at 6:30 p.m. at the Forest Lake City Offices, 220 North Lake Street, Forest Lake, Minnesota

Present: President Richard Damchik, Vice President Jackie Anderson, Secretary Wayne Moe, and Manager Jon Spence

Absent: Tom Lynch (excused with prior notice)

Others: Doug Thomas (CLFLWD), Lisa Tilman (EOR), Chuck Holtman (Smith Partners), Mark Lobermier (Wyoming), Jessica Theil (WCD), Rod Negus (CAC), Dan Fabian & Jason Naber (EOR).

**2. Setting of Agenda**

The President called for the reading and approval of the February 23, 2012 regular Board meeting agenda. President asked if there were any changes or additions. Manager Spence asked to have an item added under new business to discuss a variance request on Comfort Lake that he had recently been made aware of. Motion to approve the agenda as amended was made by Manager Moe and seconded by Manager Anderson. Discussion. Upon vote, the motion passed.

**3. Reading and Approval of Minutes**

The President called for the reading and approval of the minutes of the January 26, 2012 regular Board Meeting. Motion to approve the January 26, 2012 regular Board meeting minutes was made by Manager Anderson and seconded by Manager Moe. Discussion. Upon vote the motion passed.

**4. Public Open Forum**

Manager Damchik opened the floor to anyone in attendance wishing to comment on items that are not already scheduled to be discussed as part of the meeting agenda.

**5. Public Hearing – Bone Lake Rough Fish/Barrier Project**

Manager Damchik recessed the regular meeting and called to order the public hearing on the proposed Bone Lake Fish Barrier Project at 6:35 pm. He noted that the purpose of the hearing is to hear comments and take testimony from persons having an interest in the Comfort Lake Forest Lake Watershed District's plan for the construction of two fish barriers on Bone Lake. He then asked Administrator Thomas to give an overview of the proposed project. Upon completion of the project overview Manager Damchik asked if there was anyone in wishing to comment on the proposed project. Hearing none Manager Damchik closed the public hearing at 6:45 pm and reconvened the regular meeting.

## 6. New Business

### a) Bone Lake Rough Fish Control – Project Order

Administrator Thomas noted his staff memo in the Board packet. He then described what the next steps are in the process now that the public comment period has ended and the public hearing has been held. He noted that having received no written comments and hearing no objections at tonight's hearing to the project, staff recommended the Board order the project and direct the engineer to prepare the final plans, specifications and related construction documents. These will then be brought back to the Board in March for approval and authorization to go out for bids. He pointed out the EOR Work Order in the packet which includes tasks and costs for completing the final plans and documents, overseeing the bidding process, and providing construction management and observation of the project.

Manager Anderson offered resolution 12-02-02 and moved for its adoption. The motion was seconded by Manager Moe. Discussion. President called for roll call vote on the resolution. Anderson yes, Damchik yes, Lynch (absent), Moe yes, Spence yes. With a vote of 4 yes and 0 no the President declared resolution 12-02-02 adopted.

### b) 2012 Forest Lake Projects – Blue Water Science Work Order

Administrator Thomas noted his staff memo in the Board packet. He pointed out that the work order from Blue Water Science, which was included in the staff memo, is to conduct a curly leaf pondweed assessment, collect lake bottom soil samples, and complete a zebra mussel vulnerability assessment for Forest Lake in 2012. He also noted that all of the activities included in the work order are in the District's 2012 work plan and budget.

Manager Anderson moved to authorize the Administrator to develop and execute a contract with Blue Water Science for an amount not to exceed \$8,040 from the District's Lake & Stream Fund to conduct a curly leaf assessment, lake sediment survey, and a zebra mussel vulnerability assessment for Forest Lake in 2012. Motion was seconded by Manager Spence. Discussion. Upon vote the motion passed.

### c) Comfort Lake Variance

Manager Spence commented that he had been made aware by another resident on Comfort Lake that the City of Wyoming was going to be considering a variance for a property on Comfort Lake and that he wanted to make sure District staff was aware of it and if necessary be able to provide comments to the City. He noted that he had spoken with Administrator Thomas about this prior to the meeting and that Administrator Thomas had explained that the variance, which is a request to build a deck closer to the steep slope/bluff, did not trigger the District's buffer rule requirement. He also pointed out that Administrator Thomas had told him that the District and the Chisago SWCD had been working with the new property owner to develop a shoreline restoration and critical area planting for the property. Manager Spence said that at this time he along with others are interested in knowing if the septic system is up to code as this is an older area of development on the lake and there have been concerns in the past with failing septic systems in this area. Administrator Thomas commented that he would contact the City of Wyoming to find out the status of the septic system and get back to Manager Spence with what he is able to find out.

## 7. Old Business

### a) 2012 Residential BMP Cost-Share Program – Criteria and Guidelines

Administrator Thomas noted his memo in the Board packet. He commented that this item had been on the January meeting agenda and that although the Board agreed with the new criteria and guidelines and with granting some authority to the Administrator to make amendments to approved cost-share agreements they were not comfortable with the proposed grant of authority language and had directed staff to go come back in March with new language. Administrator Thomas noted that in response to the Board's direction he had checked with the Chisago SWCD, Washington CD, and the MN Board of Water and Soil Resources, State Cost-Share Manual to come up with language that would restrict administrative amendments of cost-share agreements to those items that are technically required and necessary for successful completion of the conservation project/practice.

Administrator Thomas read the proposed language change which was "Administrative Amendments shall be limited to circumstances outside the control of the landowner and District such as, but not limited to, unforeseen soil conditions, availability of construction materials, field changes in practice design, and weather." Manager Anderson commented that the added language addressed the concern that she had about the grant of authority being too open ended.

Administrator Thomas then recommended Board approval of the revised criteria and guidelines and adoption of resolution 12-02-01 which provides authorization for the Administrator to amend agreements up to \$500 and that do not cause the \$3,000 cost-share cap to be exceeded for circumstances that are outside the control of the landowner and District and which are necessary to insure the success of the conservation practice/project.

Manager Moe made the motion to adopt the Comfort Lake-Forest Lake Watershed District Residential Cost-Share Incentive Program, Criteria & Guidelines dated January 2012. Motion was seconded by Manager Spence. Discussion. Upon vote the motion passed.

Manager Anderson offered resolution 12-02-01 and moved for its adoption. The motion was seconded by Manager Moe. Discussion. President called for roll call vote on the resolution. Anderson yes, Damchik yes, Lynch (absent), Moe yes, Spence yes. With a vote of 4 yes and 0 no the President declared resolution 12-02-01 adopted.

#### b) Sunrise River Petition Project Update

Administrator Thomas noted that the purpose of this agenda item is to provide the Board with a thorough presentation of the draft Engineer's Report prior to the April meeting at which time the Board could consider its formal adoption. He briefly discussed what will be happening in March and early April including, meetings with potentially affected landowners, a meeting with wetland regulators, and time for the Managers to review and provide comments on the draft report.

Jason Naber, EOR Project Manager, started the presentation with an overview of the project. He commented that:

- It has been approximately one year since the Board of Managers authorized preparation of the Engineer's Report.
- The Board's input on the project scoping process and feasibility phase has helped shape the final report.
- The initial scoping and feasibility phase led to the focus for the final report being placed on the Bixby Park, and tax-forfeit sites.
- Shallow Pond was added to the final report after water quantity and quality modeling showed that partial restoration of the basin was both feasible and had the potential to provide a large reduction in phosphorus.

- The need to develop an overall carp management plan was also introduced into the final report.

Lisa Tilman, EOR & District Engineer, provided a section by section overview of the draft report. Points made in her presentation included:

- The new analysis of phosphorous concentrations in the report has led EOR to the observation/conclusion that higher peak discharges in the system that are preceded by periods of dry weather and low flow conditions are often responsible for the high peak concentrations that are being observed in the monitoring data. This is significant as it points to the importance of reducing this wetting and drying phenomena in the partially drained wetlands in the project area.
- Pointed out and discussed the new fisheries section in the report and the conclusion that project features need to take into account carp so as to not create additional breeding habitat which could lead to greater populations and/or problems with carp in Forest Lake and Comfort Lake than what occurs today.
- Summarized the new survey work that was done as part of the area investigations done in preparing the report.
- Evaluation of the Sunrise River between the outlet of Shallow Pond and Comfort Lake and the determination that there is not a high potential for stream restoration in this section of the river.
- The work done to delineate wetlands that could be affected by the project.
- The updating of the District's hydrology and hydraulics model with new data from the surveying of wetland and ditch cross sections and the smaller culverts in the system along with adding the new stormwater features that have been constructed as part of the Broadway Ave. Project. This analysis was critical so that the engineers could accurately define and set critical flood elevations for any proposed project feature. The additional analysis also included incorporating small storm events and estimating what the impacts from those events would be.
- The report includes a summary of the lateral effect analysis of the ditches in the system.
- Overviewed the overall phosphorus reduction estimates for the various project components.
- Noted Section 10 in the report which is where the individual project features that are being recommended are found.
- Noted that the report now includes a section on carp management and a section on the retrofit projects that were analyzed and presented to the Board previously in separate Engineer Memos.

Manager Anderson pointed out a discrepancy in the phosphorous reduction numbers in the draft report. Engineer Tilman commented that the correct number is 109 pounds for the project that Manager Anderson was referring to. Manager Anderson asked about review and commenting on the draft report. Administrator Thomas noted that the idea was to present the draft report at tonight's meeting, have the report on the March meeting to discuss Manager comments, and then have the report finalized and ready for the Board to accept in April.

Dan Fabian, EOR Engineer, presented and walked through the project features/components. He emphasized that the report is written to present all of the components as the overall project but that the project is broken down into project areas/components knowing that they are likely to be implemented over a period of years rather than all at once.

Bixby Park – Dan pointed out on the map where the project area was and the individual features of the project in this area including:

- Additional main ditch diversion of flows into the Bixby Park wetlands.
- Removal of existing ditch spoil banks to increase interaction of storm flows with the adjacent wetland areas.
- Enhancement of existing ditch spoil berm and outlet control structure, designed to allow storage of additional water in the upstream wetland areas.

- An iron enhanced sand filter that will work in conjunction with the outlet control structure to increase the removal of dissolved phosphorus from storm flows.

Manager Anderson commented that if the area originally was a large diffused wetland complex why do we need to keep/improve the internal ditches as shown the map. Dan Fabian responded that it is not the intent to make the ditches themselves larger but rather to remove some of the spoil bank areas to improve the connection with the wetlands to improve interaction with them. Manager Anderson then asked if there is a concern about upstream effects from the new outlet. Administrator Thomas asked Dan to clarify the purpose of the outlet structure and how it functions in relation to upstream properties. Dan Fabian made the clarification and also mentioned that concern about upstream properties was the reason that high points above 889.0 are planned for removal from the ditch through Bixby Park to the proposed outlet. Manager Anderson asked if water levels of Comfort Lake would be altered by holding water back. Engineer Tilman responded that based on the hydrologic modeling completed it would not alter water levels. Administrator Thomas noted how a project on the McCullough property could add to what is being done with the Bixby Park land but that the project shown on the McCullough property is not by itself needed to achieve the overall goals of the project. Therefore if it is never constructed it does not jeopardize the project being proposed for the Bixby Park area.

Tax-Forfeit/Wyoming Wetland Enhancement – Dan Fabian provided an overview of this component of the project. He pointed out that its design would allow for the flows from the Heims Lake drainage area to be diverted to the north into the District owned property referred to as the tax-forfeit land. An additional feature is the diversion of partial former JD1 flows from the Forest Lake drainage area into a restored wetland on a separate parcel of District (tax forfeit) property and on the DuCharme property. This project component would involve:

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- A ditch block on the east-west ditch on the south side of the tax-forfeit land along with building up of the ditch spoil bank on the north side of the ditch to keep water that is diverted onto the tax-forfeit land on it. Then construction of a berm with an outlet structure along the east property line to retain water in the tax forfeit wetland area.
- The treatment area could be expanded by continuing the east-west berm and constructing the outlet control structure on the Banta (and adjacent landowners’) property to regulate the flow out of the wetland treatment area back into the Sunrise River.
- A diversion structure just upstream from the confluence of the Forest Lake outlet channel and former JD1 diverting partial flows from the former JD1 into a restored wetland. An outlet control structure allows for manipulation of water levels on the restored wetland.
- An area of working wetland for District to experiment with techniques to raise a crop that by harvesting would remove n from the system.

Manager Anderson asked if we anticipate enough water for waterfowl to congregate in the areas adjacent to Highway 61 as shown on the map. Dan Fabian commented that waterfowl habitat was given some consideration by providing the undulating bottom and shallow seasonally flooded basins that are attractive to waterfowl but that water depth will also be dependent on control structure operation. For now the excavations are not designed for water depths sufficient to maintain a permanent pool of open water. That decision was primarily based on the cost to over excavate the areas as discussed but the grading plan could be re-worked in final design to provide areas of deeper water. Dan Fabian wrapped up his presentation on the tax-forfeit project component by going over the estimated construction costs and noted for this component it is broken down into three parts which represent 3 distinct phases that could be built over time.

Shallow Pond – Dan Fabian gave an overview of the Shallow Pond component. He reminded the Board that this is a late addition to the report as it was not initially identified in the feasibility/scoping phase of the engineers report. As EOR began doing the review of potential floodplain corridor improvements they determined that the potential existed to partially restore the hydrology of Shallow Pond by modifying the ditch outlet with some type of weir system. Subsequent hydrologic modeling indicated that the restoration could be done without increasing upstream 100-yr flood elevations. Since this component has only recently been included, it does not have the same detail of engineering plans completed but it is also a relatively simple design to complete. Dan then discussed remaining items that need to be determined prior to implementing the shallow Pond component of the project. He noted that the estimated phosphorous reduction is 234 pound per year based on an average water depth of an additional 1.5 feet in the pond. EOR estimates that the cost to construct an outlet to be \$105,000.

Administrator Thomas pointed out that the cost of \$105,000 is only for construction and does not include any land acquisition which could be in the form of easement or purchase. He also noted that Shallow Pond would involve the most number of landowners and as such could be the most difficult to get constructed. Dan Fabian added that all of the estimated costs he has given were for construction only and do not include any land acquisition, legal, construction observation & administration, contingencies or future maintenance costs.

Manager Moe asked if people use Shallow Pond for anything. Jason Naber commented that the wetland has some fen like characteristics which would need to be evaluated and considered in any final design. He also noted that there is a walking trail and small observation area on the southeast side. Manager Anderson commented that the trail and open space was all part of the development of the area in the 1990's and was created to meet the park dedication requirements at the time. Manager Moe asked if there is any use that would have to be compensated for. Administrator Thomas commented that the area is already wetland but because we would be proposing to make it wetter we would most likely need to acquire flowage and drainage easements from affected property owners. The easements or possible acquisition in some instances could be acquired through either voluntary donation or purchased.

Manager Anderson commented that the Board's discussion all along was to look at this as a bigger project which could involve the cities, counties and possibly others for things like recreation, education, trails, etc...

Dan Fabian concluded his presentation by pointing out the critical 100 year flood elevation of 893 and some of the impacts and considerations that will need to be made and/or addressed with a couple of properties.

Jason Naber handed out a storyboard which he explained had been asked for by Administrator Thomas to have to be able to convey in one place the overall purpose of the project but also to show some of the multiple benefits that can be derived by building and bringing others into the project. Administrator Thomas commented on the need to have a document such as this to include as part of grant applications and for making presentations to outside groups. Manager Anderson commented that this is a great tool and that we should create stand alone concept statements from the concepts that are on the storyboard to aid us in working with the cities, counties and others to help build these concepts into the project areas such as Bixby Park. She noted the importance of making sure that the concept/vision of working together with the cities and counties is highlighted; along with what are the pieces and how to fit them together.

Manager Anderson asked Administrator Thomas to contact the cities and counties in the near future to set up meetings with them to explore concepts for broader involvement in recreation, open space, and educational opportunities. She commented that these types of meetings would be good to assign to a Board

sub-committee to participate in. She asked that Administrator Thomas report back on this at the April meeting.

Update on Project Timeline and Further Proceedings – Chuck Holtman reviewed a memo that he prepared and which was handed out prior to the meeting to the Board regarding the next steps in a project by petition and how to incorporate the project into the Board’s 103B authorities to allow for the use of ad-valorem funding. He noted that from his point of view it makes sense to move a plan amendment to the District’s Watershed Management Plan (WMP) parallel to the petition process as a way to facilitate a step wise process to implement projects over a period of time which is in contrast to the petition project process which is usually seen as doing a single project at a single point in time.

In going through the steps of a petition project process he pointed out the funding part, which if done in the traditional manner would use the method of determination of benefits and damages, which can be seen as complicated but given the intent to date to use ad-valorem authority the process is simple and only needs to be documented.

Moving on to the noticing requirements Attorney Holtman pointed out the specific requirements required for affected landowners that would need to be done if eminent domain is being used. He noted it is much less controversial if the intent is to do projects after acquiring land rights voluntarily.

He then went on to describe that the tricky part is that this is not a project with a specific location, type, and cost, with construction managed by the District, but is an array of projects and used the retrofit projects as an example of what he meant by this. For that reason he proposes that a WMP amendment be used as it can be used to set up a process within the capital improvement plan that BWSR would approve and which then can be used over the life of the WMP to implement the various components of the project when funding and or land rights become available. He noted that this is relatively simple to do and it would incorporate the engineers report by reference and propose a process that will be used to implement projects over time. He briefly discussed the timing differences depending on whether BWSR would see the WMP amendment as minor or not. The timeline he had laid out represented the worst case scenario and would be completed by the end of 2012. If BWSR agrees that the plan amendment is minor, it could be ready for Board adoption at the same time as the Board orders the petitioned project. In either event the Board would be able to levy in September 2012 for work in 2013..

Manager Anderson asked why we do not have to do a plan amendment for all of projects when they get to this stage. Attorney Holtman commented on how the WMP has a capital improvement program in it and that in this case the WMP did not go into enough detail as to the features and cost of all features of this project as compared to the fish barrier project that was just ordered. He noted that when a project may encompass a number of activities with respect to a specific hydrologic area, incorporating the hydrologic program into the plan is particularly useful.

## **8. Report of Staff**

- a) Administrator Thomas noted his written report in the Board packet. He also pointed out a number of announcements for upcoming conferences and the MAWD Legislative Day. He also noted that he will be gone on vacation during the week of March 12<sup>th</sup> and that the board packet mailing will go out on March 9<sup>th</sup> and the treasurer’s report and financials will be sent out just prior to the March 22<sup>nd</sup> Board meeting. Manager Anderson asked if he knew if Chisago County or Chisago SWCD had a rain-barrel program similar to what the Washington CD offers. He said he did not but would check.
- b) Emmons and Olivier Resources (EOR) – Nothing new to report

c) Smith Partners – Nothing new to report

## **9. Report of Treasurer**

a) Approval of Bills

Manager Spence presented the Treasurer's Report (A copy of which is annexed and incorporated by reference) and bills and payroll totaling \$83,206.15.

Motion was made by Manager Moe to approve the February 23, 2012 Treasurer's Report and pay the bills and payroll as presented. Manager Anderson seconded the motion. Discussion. Upon vote, the motion passed.

## **10. Reports of Officers and Manager**

Manager Damchik – Nothing to report.

Manager Lynch – Absent

Manager Spence – Nothing to report.

Manager Anderson – Nothing to report

Manager Moe – commented that the Bone/Moody Lake informational meeting held on February 8<sup>th</sup> in Scandia was pretty well attended and went well.

## **11. Adjournment**

Motion to adjourn the CLFLWD regular Board meeting at 8:35 pm was made by Manager Anderson and seconded by Manager Spence. Upon vote, the motion passed.

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Wayne S. Moe, Secretary