

## ***Notes/Minutes from the July 30, 2008 Joint Manager - TAC/CAC meeting***

### **Topic:**

- Joint meeting of the District Board of Managers and TAC/CAC to go over compiled list of comments/recommendations from the TAC/CAC and resulting Board decisions on those comments/recommendations.
- General discussion on outstanding issues and next steps.

### **Attendance:**

Bruce Anderson-CLFLWD CAC/Comfort Lakes Association  
Jackie Anderson- CLFLWD Manager (President)  
Randy Anhorn- CLFLWD Administrator  
Doug Borglund- City of Forest Lake  
Phillip Elkin- WSB Engineering/City of Wyoming  
Jack Frost-Met Council  
Beryl Halldorson- CLFLWD CAC/Bone Lake Association  
Patrick Hollister-Chisago County  
Anne Hurlburt-City of Scandia  
Melissa Lewis-BWSR  
Tom Lynch- CLFLWD Manager (Secretary)  
Wayne Moe- CLFLWD Manager  
Jyneen Thatcher-WCD  
Lisa Tilman-EOR

### **Comments:**

Administrator Anhorn Administrator Anhorn went over the rule making and TAC/CAC meeting process to date, including five (5) TAC/CAC meetings and four (4) Manager Workshops. Anhorn stated that the meeting was meant to go over the compiled list of comments from the TAC/CAC and detail where changes were made to the draft rules and where the Board felt that the rules should remain as is. Anhorn also mentioned that in many cases the rules /standards have been modified to address TAC/CAC comments and the Board of Managers were in attendance to provide their thoughts on the specific comments and answer additional comments.

Administrator Anhorn then provided a timeline, or next steps the District would need to undertake in order to adopts its rules following the meeting, including:

- Potentially make some edits to rules (depending)
- Send draft to legal counsel for legal review
- Send out for 45-day comment period
- Compile, address and respond to comments
- Hold a Public Hearing
- Adopt rules

Anhorn further stated that throughout the process The District would continue to work on defining the permit program (fees, internal controls [administrative permits, variances, sureties, and enforcement]) as well as work with the communities on enforcement issues and crafting MOUs.

Lisa Tilman went through the summary table of comments and Board decisions on a rule by rule basis. The following is a

### ***Rule (1) Procedural Requirements***

Lisa Tilman went though TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

##### **Doug Borglund**

- Doug thought that 1.2.1b (2.2b) should be reworded to include the creation of new impervious as well and also agreed with Anne about the requirement for all impervious surface on the project site meeting requirements.
- Doug stated that the cities all currently require erosion control (1.2.2 and 3.0) on all projects and wondered if the District was duplicating efforts.

##### **Anne Hurlburt**

- Anne questions if 1.2.1b (2.2b) is just for disturbing existing impervious as it states, or if it should not also include creating new impervious as well.
- Anne also questioned the threshold resulting in all impervious surfaces on the project site meeting requirements.
- Anne asked for clarification on 1.2.3 (4.2.1) as to what “land adjacent to” meant. Did it mean any portion of the lot? (*Staff said it would clarify*).
- Anne asked the intent of 1.10 where it states that a permit is valid for a one year period from the date the approved permit. The section should clarify if work needs to be commenced or finished within one year. (*Manager Anderson asked what the Scandia permit program requires and Anne said commenced within one year. The Board of Managers direct staff to add the language that the work need to be commenced within one year*).
- Anne thought that the vegetative cover standard of ¼ acre under 1.2.2b (3.2.b) was too small and that the District should concentrate on projects 1 acre or larger. Staff stated that the ¼ acre threshold was just for projects within 1000 feet of public water and that it was 1 acre outside that area. Anne thought that it should be 1 acre throughout the watershed and that at a smaller scale was redundant to what most cities were already doing. (*Manager Anderson said that it was the Board’s thought to provide consistency throughout the watershed*). (*Staff stated that they would bring the question back to the Board*).

##### **Melissa Lewis**

- Melissa if mill/overlay projects would be included within 1.2.1b under “disturbance”. (*Staff stated that it would not and that land disturbance in the definition section states that mill/overlay was not considered a land disturbance*). Melissa thought that the District may want to consider incorporating land disturbance within 1.2.1b in order to eliminate confusion, or of adding disturbance to definitions. (*Staff stated that they would edit to specific point out that mill/overlay would not be considered a disturbance*)
- Melissa asked about a way to defer to cities if the city shows they can implement standards at least as restrictive to the Districts. Discussion centered on the legality of transferring authority, but staff thought it would be similar to past discussions about obtaining a general permit from

the DNR for projects below the OHW within the District. Permitting authority can be transferred if proven that standards are held to an “at least as restrictive” threshold. Manager Anderson stated that if the District would be more than willing to defer the permitting to the city if they can show they are fulfilling District requirements. Doug asked if this should be stated in the rules. *(Staff stated that they would better state this in the rules).*

### **Jyneen Thatcher**

- Jyneen thought the District could get improvements by allowing redevelopment of highly impervious areas.
- 1.2.1b (2.2b) includes two options for applicability that would be better separated by an "or" than "and" *(Staff will consider the edit).*
- 1.2.7 Wetland Management Permit should refer back to associated WD permits, such as WCA plus Floodplain and Buffer permits *(Staff will add that a permit for actions in a wetland may require a District permit (such as a floodplain and/or buffer permit) under other District rules)*
- 1.9 refers to 1.7, which is an incorrect reference *(Staff agrees and will make correction).*

Manager Anderson stated that it was the intent of the Board to leave the smaller things to the Cities who have more staff and already have permits in place) and have the District focus on larger projects.

### **Combination**

- Anne and Doug questioned 1.2.3b and linking the rezoning, special use permits and variances to the buffer requirements. They stated that simply stating that any variance or CUP was too broad and though they thought that 1.2.3b would be better off omitted and simply leaving 1.2.3a, maybe another option would be to be more clear about the specific variance (i.e. impervious).

Tom Lynch said that the Board was worried about being nibbled away (i.e. cumulative impacts), but also did not want to duplicate efforts that that cities were currently undertaking.

*(Staff linked specific activities (variances) to needs and said that they would work on better defining [reword]).*

## ***Rule (2) Stormwater Management***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

#### **Phillip Elkin**

- Phillip questioned the presented CN values for Type A and B soils under pre-development conditions. Phillip thought that they were very restrictive and unrealistic and would, in many cases result in zero runoff for the pre-development conditions.

Staff discussed the validity of the CN values and the need for a reduction in stormwater rate and volume to address water quality and water quantity issues within the watershed. Staff further mentioned that these are recommended in the MN Stormwater Manual. Staff also stated that the variance process and/or volume credit (also presented in the rules) was an option for

sites/projects which could not meet the standard.

*(Manager Anderson stated that these are good questions and that staff would research the pre-development CN values further and bring results back to the District's next Board meeting for discussion).*

- Phillip questioned the requirement for on-site rate control for a 2-, 5-, 10-, and 100-year storm. Phillip further discussed a sites potential to achieve the requirements and impacts on downstream resources which may depend on upstream water.

*(Staff stated that the requirement is similar to that of the City of Forest Lake and is also recommended in the MN Stormwater Manual).*

- Phillip questioned where the 50% reduction in phosphorus requirement came from and the potential hardships in reaching the standard (especially on-site). Phillip further questioned have one blanket reduction requirement as opposed to different requirements linked to different landuses and/or areas.

Staff and the Board of Managers stated that the reduction requirement comes from the District's recent watershed-wide load allocation modeling effort which calculated load reductions needed to reach state water quality standards, especially in its six (6) impaired waterbodies. In fact, staff/Board of Managers stated that because of internal loading issues, most lakes needed more than a 50% reduction and the Board's thoughts were to have District projects deal with past loads (which have resulted in the internal loading segment), and new and/or re-development (and District projects) cumulatively deal with the additional watershed load reduction needed to reach the standards. *(The staff/Board of Managers also said that the variance process was an option if models showed that a particular site/project could not meet the standard).*

### **Anne Hurlburt**

- Anne asked for clarification under 2.5.c(a) for the use of Stormwater Impact Funds from an LGU spent within that LGU. Anne wanted to know if this would also be the case for contributions for private sources. *(Staff said that it would follow the sequencing of within the same subwatershed, within an adjacent subwatershed of the project site, or finally within the CLFLWD for contributions from a private source)*

### **Melissa Lewis**

- Melissa suggested that the District should add shape files for drainage facilities to 2.6.16 requiring the submittal of exhibits in an electronic format. She stated that we really didn't just want .PDF files. *(Staff agreed and stated that they would make the change)*

### **Jyneen Thatcher**

- Jyneen mentioned that it may be worthwhile to look at regional stormwater facilities in some areas to address stormwater rate, volume, and nutrient reduction needs when they can not be reached. *(Staff/Board of Managers went over the Board's thought and future plans for a regional stormwater facility, volume banking, and the establishment of a Stormwater Impact Fund for sites unable to meet standards on-site)*

### ***Rule (3) Erosion Control***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

##### **Anne Hurlburt**

- Anne asked about the mechanics of issuing an erosion control permit. Staff stated that it was similar to that of other permits stated in section 1.0 procedural requirements and more precisely under 1.3 and 1.4. *(Staff further stated that much of the program will be worked out in upcoming Manager workshops and that an erosion control permit more than likely will end up being an administrative (staff) permit and would also reword per Melissa Lewis's earlier comment on Cities maintaining permitting if they had a District-approved erosion control plan and enforcement and both parties agreed).*

### ***Rule (4) Lake, Stream, and Wetland Buffers***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

##### **Anne Hurlburt**

- Anne the second to the last sentence in 4.1. Was the intention to protect the water resource or the buffer? *(Staff stated that the intention was to establish, protect and maintain buffers for the protection of water resources, and would edit the sentence)*
- Anne asked if it was the intention of the District for buffers to limit the stabilization of shorelines (i.e. the use of rip-rap) (4.5.1) *(Staff said that no, it was not the intention of the Board to limit such stabilization project if deemed necessary and staff would add language stating that shoreline projects that meet standards are allowed).*
- Anne thought that 4.5.1 all together was rather redundant and in particular, the cities all have a tree ordinance already (although theirs refer to 54 inches as opposed to 2 feet for "point above the ground". Anne also asked about the removal of trees that are a safety hazard. *(Staff stated that the rule referred just to trees within the established buffer, and that staff would change the rule to trees 54 inches above the ground as opposed to 2 feet and would add reference of safety hazard to 4.5.1c)*
- Anne asked about the buffer access standard under 4.8. The access width within the rules is 30 feet while Scandia's is 50 feet. The group asked Forest Lake's standard. Following research Forest Lake standard is an access 10 feet wide or 25% of the lot width is permitted to gain access to the water-body through a buffer. *(Staff that they would bring this back to the Board).*
- Anne asked what "land adjacent to" meant. *(Staff stated that they would better define).*

##### **Melissa Lewis**

- Melissa thought that because a-d of 4.5.1 lake and wetland buffers and 4.5.2 middle zone of stream buffers were identical, we could eliminate a-d in 4.5.2 and simply state a-d same as above. *(Staff stated that they would look into the edit)*

## **Jyneen Thatcher**

- 4.0 Buffers – Jyneen questioned if mitigation for buffer impacts or non-compliance will be required? *(Staff said yes it would)*
- 4.3.5 Does this mean that buffers are added together if a wetland or lake is adjacent to a stream? *(Staff said that it will reword the rule to state that it would require the most restrictive width not the two widths added together)*
- 4.4.5 Until the District does a comprehensive wetland inventory and assessment, who will evaluate whether the information provided by the applicant is correct? *(Staff stated that the comprehensive wetland inventory (function and value) will be on a case by case basis and evaluation of information provided will be done by staff and outside help if deemed necessary)*
- 4.5.4b Will cessation of mowing of turf grass is sufficient to meet buffer requirements? (staff research. *(Staff said it will research this more, but thought that it may be considered on a case by case basis depending on the condition of the site (i.e. existing erosion problems, no existing erosion problems, or the existence of trees and shrubs within the buffer))*)

## **Combination**

- Anne and Doug asked about 1.2.3b and the definition of specific activities as opposed to simply stating “rezoning and special use permits”. Anne and Doug went through each communities Conditional Use Permits and processes. *(Staff stated that they would bring this up at the next Managers meeting and could better define activities that would warrant the establishment of buffers).*
- Anne and Doug thought that the District should eliminate applicability 1.2.3b (4.2b) and simply go with 1.2.3a (4.2a). *(Staff stated that they would bring this back to the Board).*
- There was general discussion on recent legislation allowing reconstruction of existing homes on non-conforming lake lots if the using the same footprint (Minnesota Statute Chapter 462.357 Subd.1(c) and 117.184). Discussion centered on setbacks, lack of buffers, the site not changing in zoned use. *(Manager Anderson stated that maybe this is something that MAWD should look at for upcoming legislative sessions).*

## ***Rule (5) Shoreline and Streambank Alterations***

Lisa Tilman went though TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

## **Jyneen Thatcher**

- 5.11 The paragraph pertaining to fluvial morphology seems out of place here, but if it is intended to cover restoration of ditch systems into stable stream corridors (which require excavation and grading within floodplain and buffer areas) then maybe it's okay. *(Staff will research this more and edit accordingly)*

## ***Rule (6) Watercourse Crossing***

Lisa Tilman went though TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

None

### ***Rule (7) Floodplain Drainage***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

##### **Anne Hurlburt**

- Anne wanted to be sure that, as stated in the rule, if the City is covered by a State-approved floodplain ordinance, that the District's Floodplain Rule would not apply, only the City's ordinance would. *(Staff stated that yes, that was the case)*

##### **Jyneen Thatcher**

- 7.3.1 So the district will require 1:1 replacement/mitigation for lost volume? That applies to wetland impacts too, since they are within floodplains? *(Staff said that yes, volume replacement would be required)*

### ***Rule (8) Wetland Management***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

##### **Phillip Elkin**

- Phillip question the inclusion of a wetland management policy section in the rules since the District is not the WCA LGU. Jyneen Thatcher mentioned that she asked for it to be included as a place holder in case the District Does become the WCA LGU in the future and because often if not included applicants may not think to look for other rules wetland impacts may trigger. *(Manager Anderson stated that staff should add “, permit” to review of wetland impact and replacement/mitigation plans in the second to the last sentence in 8.2)*

##### **Jyneen Thatcher**

- 8.2 The District should require review of wetland impacts, for conformance with District Rules (see comment on 1.2.7 above), and the LGUs should seek District comment on WCA applications. *(Staff will add that a permit for actions in a wetland may require a District permit (such as a floodplain and/or buffer permit) under other District rules)*

### ***Rule (9) Fees***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

#### **Specific Board of Manager and TAC/CAC member comments:**

None

## ***Rule (10) Sureties***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

None

## ***Rule (11) Variances***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

#### **Anne Hurlburt**

- Similar to that mentioned above under 1.0, Anne asked the intent of 11.3 where it states that a variance becomes void after one year of being grants. The section should clarify if work needs to be commenced or finished within one year. *(Manager Anderson stated that similar to that in section 1.0, staff should add the language that the work need to be commenced within one year)*

## ***Rule (12) Enforcement***

Lisa Tilman went through TAC/CAC recommendations and Board decisions on the Rule

### **Specific Board of Manager and TAC/CAC member comments:**

#### **Phillip Elkin**

- Phillip asked who will do the enforcement on the District's rules. *(Manager Anderson stated that it was undecided at the moment and the District will work with the communities to see who can best do what and set up MOUs. It was further mentioned that it would be worthwhile to get back together a year and a half or two years after the District's program is up and running and determine what is working, what is not, and what could be changed).*

## **Other**

#### **Jyneen Thatcher**

- Jyneen provided some minor edits needed to the definitions section:
  - Manage 1, 2, 3 and Preserve wetlands- MnRAM is Minnesota Routine assessment method. Not rapid. And I still think these tables fit better in an appendix than in the definitions section.
  - Streams - add ditches to this definition
  - Wetland- refers to the 1987 Federal Manual as the standard for identifying wetlands in the field.

*(Staff said that they would make the edits to the rules)*