

**MINUTES OF THE REGULAR MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, December 13, 2018**

**1. Call to Order**

President Anderson called the December 13, 2018 regular board meeting to order at 6:30 p.m. in the Council Chambers of the Forest Lake City Center, 1408 Lake Street South, Forest Lake.

Present: President Jackie Anderson, Secretary Wayne Moe, Treasurer Steve Schmaltz

Absent: Vice President Jon Spence, Manager Jen Oknich

Others: Mike Kinney, Jessica Lindemyer, Erin Edison (CLFLWD staff); Greg Graske, Meghan Funke, Cecilio Olivier, Emily Johnson (Emmons & Olivier Resources); Chuck Holtman (Smith Partners); Angie Hong (East Metro Water Resources Education Program); Bill Lentsch (Comfort Lake Property LLC); Gregg Radefeldt (Rock Builders LLC); Adam Heathcote (St. Croix Watershed Research Station); Laura Clarens (Kimley-Horn)

**2. Setting of Meeting Agenda**

President Anderson requested that item 6g 2019 Sediment Core Proposal – Phase II be moved up to 6a.

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

**3. Consent Agenda [moved to item 9]**

**a) Regular Board Meeting Minutes – November 15, 2018**

President Anderson indicated that she had some requested revisions and suggested this item be moved down on the agenda after Report of Staff.

**4. Public Open Forum**

There were no comments.

**5. Citizen Advisory Committee Update**

Watershed Assistant Jessica Lindemyer reported that the CAC met earlier this month and discussed 2019 projects including supporting the District tour again and bringing the Adopt-A-Drain program to the Forest Lake area. She noted that CAC Chair Jerry Grundtner will be stepping down from the Chair position after the January CAC meeting. It was clarified

that Mr. Grundtner would remain on the committee and a new Chair would be elected in January.

President Anderson requested some revisions to the latest CAC meeting notes. She called attention to Curt Sparks' suggestion that thank-you notes be sent to attendees of the realtor workshop. She agreed that this should be done and asked if they'd like to be added to the District's distribution list.

## **6. New Business**

### **a) 2019 Sediment Core Proposal – Phase II**

Dr. Adam Heathcote, Research Scientist with the St. Croix Watershed Research Station (SCWRS), noted that SCWRS completed the first phase of the sediment core project last year and that the phase 2 proposal focuses on School Lake and Bone Lake which were not included in phase 1. There was discussion about the project timeline and report ETA. President Anderson asked whether the report could be produced more quickly than the phase 1 report required. Dr. Heathcote replied that the analysis requires about six months, but that the SCWRS will do its best to expedite the process.

Manager Schmaltz noted Bone Lake's proximity to and similar surrounding land use as Moody Lake, which was a phase 1 lake. He asked if the Bone Lake core results would be similar to Moody's, and thus perhaps not worth the cost. Dr. Heathcote explained that the in-lake dynamics may differ between the two lakes and therefore show different core results. There was discussion about the benefits of taking the cores and why these two lakes are recommended for phase 2. Mr. Kinney explained that staff originally planned to take cores on Birch Lake and School Lake, but after further analysis decided that there was more value in replacing Birch with Bone Lake in the study. The cores will help the District make cost-effective management decisions for these two lakes.

President Anderson asked if there is a difference with lakes that are located along a river system. Dr. Heathcote explained that they can be more difficult, as SCWRS experienced with a study of Lake St. Croix. The difficulty is that more riverine systems have lower confidence levels that the sediment is being deposited uniformly which violates some of the assumptions in the study.

Manager Moe moved to approve the phase two deep sediment core study of Bone Lake and School Lake for a not to exceed amount of \$44,250 and direct the Administrator to enter into a contract with the St. Croix River Watershed Research Station. Seconded by Manager Schmaltz. Upon a vote, the motion carried 3-0.

### **b) 18-023 Shoreview 1 Variance Request**

Engineer Graske explained that this permit involves splitting a lot to create two new buildable lots. There was some associated clearing and soil disturbance which has already occurred without a permit. The project is located on the west side of Comfort

Lake. The MN Department of Natural Resources issued a restoration order for the clearing and soil disturbance along the shore requiring native seeding on the shoreline.

The District's Lake and Wetland Buffer rule is triggered by the subdivision of the lot and the minimum required buffer for Comfort Lake is 25 feet. The wetland abutting the site requires a 50-foot buffer. The applicant is requesting a variance to the minimum buffer width because the wetland is currently being managed as a landscaped stormwater pond and it is not located on the parcel on which the building will occur. Mr. Graske referenced his review of historical photos of the property and noted that the wetland is a natural wetland that was likely altered by excavation some years ago. He explained that the applicant is also citing difficulty with designating the necessary septic area without encroaching on the 50-foot buffer. Mr. Graske explained that buffer averaging is allowed, so it may still be possible to meet the minimum width and include the septic field, but the resulting buffer configuration might not be most functional. There was discussion about parcel ownership and the legal status of the wetland. Engineer Graske explained that the wetland is not man-made; it is legally classified as a wetland, not a stormwater pond. There was discussion about options for the applicant to meet the District Rules, therefore not needing a variance. The applicant's authorized agent, Gregg Radefeldt, explained that the building pad is sized according to the City's requirements; the City didn't want it to be any smaller given the value of the lakeshore lot.

Attorney Holtman reviewed the criteria relevant to the Board's judgment as to a variance. He noted that wetland function and value and the likelihood of restoration are relevant, and also that the District can require that the applicant comply with the buffer requirement to the extent that feasibly can be done.

Mr. Radefeldt offered that the wetland has no surface connection to the lake. He noted too that the City does not want the septic area closer to the lake or wrapped around the house pad. He offered that it is better from a water quality risk standpoint to locate the septic mound closer to the basin than the lake. He stated that he is receptive to providing a buffer to at least partly meet the rule requirement.

There was discussion about the water quality benefits of requiring the wetland buffer and flow patterns on the site. President Anderson emphasized that the Board should be reticent in granting variances. She expressed concern that the City did not direct the property owner to the District in a timely way. Manager Schmaltz found it relevant that the wetland has limited function in its present state and that this state is not likely to change in the foreseeable future. Manager Anderson noted the utility easement on the lot boundary and asked if placing buffer here would be useful. Mr. Radefeldt noted that there is no ditch or observable swale within the easement. Manager Moe asked if adding extra width to the buffer along the lake to offset the loss of square footage around the wetland could be a viable solution. Engineer Graske indicated that a larger buffer along the lake would likely provide more water quality benefit than having the larger buffer around the wetland. The managers agreed that an increase in the lake buffer and reduction in wetland buffer is an acceptable condition of the variance.

Manager Moe moved to approve the variance, with the wetland buffer reduced to 25 feet and the remaining square footage of that buffer redistributed along the lakeshore.

Discussion: There was discussion about the city's drainage easement, and about exactly where along the shoreline the additional lake buffer square footage would provide the most benefit.

The pending motion was withdrawn by unanimous consent.

There was further discussion about drainage patterns on the site and how to position the additional lake buffer square footage so as to maximize water quality benefit.

Manager Moe moved to direct the District Engineer to work with Mr. Radefeldt to redraw the buffers as discussed then bring the variance request back to the January 10<sup>th</sup> board meeting for consideration. Seconded by President Anderson.

Discussion: Manager Schmaltz suggested changing the lot lines so as to allow different buffer dimensions. Mr. Radefeldt indicated that the lot legal descriptions have already been created, therefore changing the lot lines is not ideal.

Upon a vote, the motion carried 3-0.

### **c) 18-041 Forest Lake Retail Permit Application**

Engineer Graske explained that this project is located in Forest Lake on Broadway Avenue near the Taco Bell. There is an existing gas station on the property which will be demolished and a new retail-restaurant building will be constructed. A portion of the site flows to the existing iron-enhanced sand filter system on the north side of Broadway. This system was designed to meet District rules. The remainder of the site that drains to the west will require treatment. The applicant is proposing a biofiltration system which will meet the rules. Erosion and sediment control measures are incorporated into the plan. Mr. Graske indicated that the proposed project meets the District's rules. He recommended approval pending the conditions described in the engineer's memo.

Manager Moe moved to approve permit application 18-041 contingent upon the conditions in the December 6, 2018 engineer's memo. Seconded by Manager Schmaltz.

Discussion: There was discussion regarding wetland impacts and how the District is not the Wetland Conservation Act Local Government Unit. Mr. Graske explained that water flowing into a wetland is regulated by the District's Stormwater Management rule (2.0), not its Wetland Management rule (8.0). Once the project is complete, water flowing from the site into nearby wetlands will have been treated by stormwater best management practices first.

Upon a vote, the motion carried 3-0.

#### **d) 2019 Board Meeting Schedule**

There was discussion about manager availability for 2019 board meetings. President Anderson asked if the Forest Lake Lake Association might consider moving its annual meeting in April so as to avoid conflicting with the District's April regular board meeting. Manager Schmaltz indicated that he would talk to the lake association about it. Three events on the proposed 2019 meeting schedule were left blank for Board discussion and agreement. The Board agreed on the following:

- January 10<sup>th</sup> regular board meeting: start time of 6:30 pm
- Annual Public Meeting: wait until staff brings back more information regarding venue availability
- Annual District Tour: set as first Saturday in May. The planned meeting location and time will be the District office at 8:00 a.m. (May 4, 2019)

President Anderson asked staff to confirm if the November CAC meeting date conflicts with a voting day.

Manager Schmaltz moved to approve the 2019 Board meeting schedule as revised and approve the CAC meeting schedule conditioned on the CAC's approval. Seconded by Manager Moe. Upon a vote, the motion carried 3-0.

#### **e) 17-003 Woods on Comfort Lake Letter of Credit**

Administrator Kinney indicated that, since the last board meeting, staff met with the City of Wyoming and the permittee, Bill Lentsch, to go over next steps in order to allow the release of the City's letter of credit for the development. Engineer Graske explained that the District separately holds a bond specifically for erosion control, and that it is his recommendation that the District keep the current erosion control bond in place until the permit is closed out. He indicated that this is a simpler option than releasing it and lumping the remaining necessary amount into a new financial assurance. He noted that the permit must stay open until the District can perform a final inspection of all vegetation and stormwater facilities. Given the current snow cover, the final inspection will need to wait until spring. Mr. Lentsch requested that the erosion control bond be reduced in accordance with the lots that are no longer under his ownership. There was discussion about drainage on the site, permit transfers, and erosion control requirements. Engineer Graske indicated that for reasons of administrative cost, it is not common District practice to reduce financial assurances; the entire assurance is typically held until the development permit is closed out. Mr. Lentsch indicated that some of the lots in the development are now sold and no longer under his control. He expressed that he should not be held responsible for activity on those lots, therefore the portion of the financial assurance for those lots should be released.

It was clarified that the City has already released the majority of its letter of credit, as most of the City's requirements for the project have been met. Mr. Graske explained that the project is very close to closeout, but it is prudent for the District to wait until

spring to confirm all requirements have been met, then close out at that time. In the meantime, the District should hold some financial assurance for the remaining requirements. It was clarified that the purpose of the assurance would be to pay for seeding and repair of damages (e.g. sedimentation) to the stormwater facilities that may occur due to the current exposed soil surrounding the facilities.

Engineer Graske recommended that the District hold \$10,000 as an erosion control assurance and allow the City of Wyoming to reduce that part of its letter of credit applicable to stormwater management facility completion to \$15,000. This provides \$25,000 in financial assurance for the development until closeout.

President Anderson moved to authorize the District Administrator to approve the City of Wyoming reduction of its development financial assurance maintained for stormwater management purposes to \$15,000, to sign an amendment of the joint agreement accordingly, and to reduce the District's Grading and Alteration bond to \$10,000. Seconded by Manager Moe. Upon a vote, the motion carried 3-0.

Legal Counsel Holtman clarified that an additional step between now and the spring will be to complete a permit amendment to remove the unsold lots from the permit scope. The amendment will allow Mr. Lentsch's permit to be closed out once Mr. Lentsch's remaining lots are stabilized and the stormwater facilities are inspected and in order.

#### **f) Washington Conservation District 2019 Service Agreement**

Administrator Kinney explained staff's communications with Emmons & Olivier Resources (EOR) and Washington Conservation District (WCD) regarding the 2019 water monitoring plan. He noted that WCD recently produced the 2018 water quality summary for Bone Lake in advance of the normal schedule in response to a request by the District on behalf of the Bone Lake Association.

President Anderson moved to approve the 2019 Service Agreement between the Washington Conservation District and the Comfort Lake-Forest Lake Watershed District in the amount of \$158,598 and authorize its execution by the Board President. Seconded by Manager Moe.

Discussion: President Anderson expressed that she is confused by the contract language. She wishes to ensure that the District's funding of \$30,000 for technical services is solely for District purposes and not underwriting general WCD activities. She suggested that she could meet with Administrator Kinney at a later time to discuss potential revisions to the contract language. Mr. Kinney noted that the WCD receives funding from the county to cover initial cost-share site visits, so the District does not pay for those. He added that the District typically sends a staff member to all the site visits with WCD and communicates throughout the process that it is a CLFLWD program. There was discussion about specific water monitoring locations for 2019.

Upon a vote, the motion carried 3-0.

**g) EMWREP 2019-2021 Service Agreement**

In response to a question from President Anderson about in-kind matching described in the agreement, Mr. Kinney explained that the WCD contributes \$12,800 each year to East Metro Water Resources Education Program (EMWREP). It was clarified that 85% of the contributions will go toward shared, multi-jurisdiction benefit educational activities for all partners. EWMREP Coordinator, Angie Hong, explained that 15% of staff time goes toward partner-specific services. The contract suggests a contribution for CLFLWD of \$19,300. Mr. Kinney reminded the Board that during a 2019 budget discussion earlier this year, the managers had agreed to limit the EMWREP contribution to the amount that Carnelian-Marine-St. Croix Watershed District pays, which is \$12,700. This would allow more funding to go toward CLFLWD-specific activities, as carried out by District staff. Manager Schmaltz expressed that it would be good to get EMWREP's help with implementing the Adopt-A-Drain program in the City of Forest Lake.

Manager Moe moved to approve the 2019-2021 Service Agreement between the East Metro Water Resource Education Program and the Comfort Lake-Forest Lake Watershed District in the amount of \$19,300 and authorize its execution by the Board President. Seconded by Manager Schmaltz. Upon a vote, the motion carried 3-0.

Manager Moe asked about education focused on chlorides and effects on groundwater. Ms. Hong explained that there is quite a bit of education going on, but no required training for applicators at this point. EMWREP has been working with Fortin Consulting to host trainings in our area for the last 7 years or so. The cities, counties, school districts etc. regularly send their staff, but they've had a hard time reaching private contractors. Legislation was introduced last year to extend certain liability protection to applicators and property owners for slip and fall accidents so that there is less incentive to over-apply road salts in parking lots and such. She noted that cities that have implemented chloride application best practices learned in the trainings do end up reducing materials costs.

**h) Castlewood Ag BMP Agreement**

Mr. Kinney explained that he spoke with the landowner this morning to discuss a dollar amount for a 3-year rental period. He reviewed the property location and past farming practices. The discussed rental cost to be paid by the District is \$3,400 for the first year, then increasing \$100 each year. After the third year, it would become a year-to-year agreement. It was clarified that the property is 51 acres in size.

Manager Moe moved to delegate authority to the District Administrator to execute a landowner agreement, upon advice of legal counsel. Seconded by Manager Anderson. Upon a vote, the motion carried 3-0.

**i) 2019 Sediment Core Proposal – Phase II [moved to item 6a]**

**j) Banta Property – Assessment Results**

Dr. Meghan Funke explained that the property appears to have high potential for a water quality improvement project and several different options exist. There is a range of project scope and cost outlined in the property assessment report. Mr. Kinney indicated that he has been in communication with the City of Wyoming regarding this property and has found that splitting the parcel in order to sell a portion to the District should be a straightforward process. President Anderson expressed that this would be an ideal property for the District to own, as it could be part of the Sunrise River Water Quality project.

President Anderson moved to convene in closed session in order to discuss valuation and a potential offer for the Banta Property. Seconded by Manager Schmaltz. Upon a vote, the motion carried 3-0.

The Board reconvened in open session. Administrator Kinney noted that Lakes Area Television is currently broadcasting the meeting. The Board agreed to move the closed session discussion to the end of the meeting so that the broadcast can be terminated prior to the closed session discussion.

President Anderson moved to discuss the Banta Property at the end of the agenda. Seconded by Manager Moe. Upon a vote, the motion carried 3-0.

**k) McCullough Property [moved to item 13]**

There was agreement that this item would be discussed during the closed session at the end of the meeting.

**l) Board of Water and Soil Resources 2019 Grant Recommendations**

Administrator Kinney reported that two Clean Water Fund (CWF) grant requests were submitted this year: Bone Lake SWA Implementation (\$144,000) and Comfort and Little Comfort Lake BMP Scenario Modeling (\$124,000). The first of these was approved and the second was not.

**7. Old Business**

**a) 17-003 Woods on Comfort Lake Letter of Credit [moved to item 6e]**

**b) Bone Lake Wetland Restoration – Edell Project**

Mr. Kinney reported that the District is mostly finished with the Edell project which is one of the larger wetland restorations as part of the overall Bone Lake Wetland Restoration Project. This is a Clean Water Fund grant project. EOR surveyed the final



berm elevations and found them to be slightly inconsistent with the design. It is the District Engineer’s recommendation that the District retain 5% of the full payment amount of \$24,154.55, therefore withholding \$1,207.73 from Shoreline Landscaping and keeping the project open until a reevaluation of work is completed by EOR in the spring of 2019. Mr. Kinney indicated that the berm issue is minor, that the project went well overall, and that the landowner is pleased with how it turned out.

Manager Anderson moved to accept the Engineer’s recommendation of partial payment to Shoreline Landscaping in the amount of \$22,946.82. Seconded by Manager Moe.

Discussion: It was clarified that the first check to Shoreline Landscaping for the full contract amount would be voided and a new check for the approved amount will be issued.

Upon a vote, the motion carried 3-0.

**c) Shields Lake Fish Barrier Contract Award**

Mr. Kinney recapped that the contractor originally awarded the contract declined to sign the construction agreement due to a rise in steel prices making the quoted price no longer achievable for the contractor. The District has since resolicited quotes with a construction deadline of July 1, 2019.

Manager Schmaltz moved to adopt resolution 18-12-01 awarding the contract to Dunaway Construction in the amount of \$27,265. Seconded by Manager Moe.

Discussion: Mr. Kinney explained that this contract is roughly \$7,000 higher than the original contract amount. It is still within the grant budget.

Upon a roll call vote, the motion carried 3-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Jackie Anderson	X		
Wayne Moe	X		
Stephen Schmaltz	X		
Jon Spence			X
Jen Oknich			X

**d) 2019-2020 Professional Services Contracts**

Mr. Kinney recapped that this was discussed at a previous meeting at which time the Board was in agreement on which professional service providers to select for the upcoming biennium. The purpose of this agenda item is to authorize the Administrator to execute the contracts.

Manager Anderson moved to authorize the Administrator to enter into professional service agreements with the following companies for their respective services in

accordance with the submitted proposal and on advice of counsel: Smith Partners (legal services), Abdo, Eick & Meyers (audit services), CliftonLarsonAllen (accounting and payroll services), and Emmons & Olivier Resources (engineering services). Seconded by Manager Moe.

Discussion: Legal Counsel Holtman noted that Smith Partners contract is simply an extension of the existing legal services agreement with an adjustment of the hourly fees.

Upon a vote, the motion carried 3-0.

#### **e) 2019 Work Plan**

Mr. Kinney noted that the work plan that was distributed is reflective of the final revised 2019 budget. He added that the work plan is flexible and adaptive as priorities develop throughout the year. President Anderson asked about funding for the Carnelian-Marine-St. Croix Watershed District (CMSCWD) staff sharing program: since CLFLWD is getting reimbursed for those costs, shouldn't the work plan indicate a cost of \$0 for those line items? Mr. Kinney noted that it is a net zero since the District is paying its employees directly but getting reimbursed by CMSCWD.

Manager Anderson moved to approve the 2019 work plan with the correction to indicate a net zero cost for the CMSWCD items. Seconded by Manager Moe. Upon a vote, the motion carried 3-0.

### **8. Report of Staff**

#### **a) Administrator**

Administrator Kinney reported that the recently-hired part-time Administrative Assistant has resigned due to health reasons. The replacement, Debra Flohr, has been hired and will start next week. President Anderson indicated that she would talk to Permitting Coordinator Erin Edison after the meeting about questions regarding the permit update. President Anderson expressed that EMWREP's handout for the realtor workshop is a good template for future District outreach materials.

Mr. Kinney presented some photos of the Shields Lake Stormwater Reuse Project construction that occurred in November. He reported that construction went smoothly despite inclement weather. Construction is now complete and the site has been stabilized for the winter with erosion control blanket and straw mulch.

#### **b) Emmons & Olivier Resources**

Dr. Meghan Funke reported that, given the length of this meeting's agenda, all of the assessment and feasibility study reports have been postponed until January. The reports for Little Comfort Phosphorous Source Assessment and Washington Judicial Ditch 6 have been distributed for early Board review. The effectiveness monitoring results will

be presented at the January meeting. The Hayward Avenue and Castlewood reports will be brought to a future meeting in 2019.

**c) Smith Partners**

Nothing to report.

**9. Consent Agenda [moved]**

**a) Regular Board Meeting Minutes – November 15, 2018**

President Anderson described in detail several requested revisions to the minutes.

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

**10. Report of Treasurer**

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

Treasurer Schmaltz reported income for the period of \$17,383.32 and expenses of \$168,591.03. He asked if the District is expecting additional billing for the Shields Lake project, as that budget line item is far under budget. Mr. Kinney explained that the invoice for the recently-completed Shields Lake Stormwater Reuse project will be received within the next month. He clarified that the invoice can be recorded as a 2018 expense even if it's paid in January 2019.

Manager Anderson moved to accept the Treasurer's Report and pay the bills in the amount of \$168,591.03. Seconded by Manager Moe. Upon vote, the motion carried 3-0.

**11. Report of Officers and Managers**

Nothing to report.

**12. Summary and Approval of Board Direction**

Mr. Kinney indicated that the meeting produced no new items to be added to the list.

President Anderson moved to approve the Summary of Board Direction. Seconded by Manager Moe. Upon a vote, the motion carried 3-0.

**13. Administrator Review, Banta Parcel, McCullough Parcel**

President Anderson moved to convene in closed session to discuss the following topics: valuation and potential offer to acquire the Banta parcel and the McCullough parcel, and performance evaluation of the Administrator. Mr. Kinney affirmed that he is not requesting

that the evaluation occur in open session. Seconded by Manager Moe. Upon a vote, the motion carried 3-0, and the Board convened in closed session.

The Board reconvened in open session. Manager Anderson summarized the Management By Objectives (MBO) criteria which the Board had set for the Administrator earlier in the year as well as the summary of the scoring of the MBO by the Board as a whole. The resulting score was thus calculated to provide an incentive pay for the year end.

#### **14. Adjourn**

**a) Next regular board meeting – January 10, 2019**

Manager Moe moved to adjourn the meeting. Seconded by Manager Schmaltz. Upon vote, the motion carried 3-0, and the meeting was adjourned at 10:24 p.m.

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