

**MINUTES OF THE REGULAR MEETING OF THE  
COMFORT LAKE–FOREST LAKE WATERSHED DISTRICT  
Thursday, September 8, 2022**

**1. Call to Order**

President Schmaltz called the September 8, 2022, regular board meeting to order at 6:30 p.m. via online video conference.

Present: President Steve Schmaltz, Vice President Christopher Loth, Secretary Dave Bakke, Treasurer Jackie Anderson, Assistant Treasurer Douglas Toavs.

Absent: None

Others: Mike Kinney, Administrator; Bobbie Law, Office Manager; Jessica Lindemyer, Operations and Outreach Specialist; Garrett Miller, Watershed Assistant; Emily Heinz, Planning Coordinator; Beth Carreno, Senior Program Manager (CLFLWD staff); Cecilio Olivier, Rosie Russell, Jim Almendinger (Emmons & Olivier Resources); Chuck Holtman (Smith Partners)

**2. Setting of Meeting Agenda**

Manager Loth moved to approve the agenda as amended to include, as item 4(e), discussion of board meeting locations and, as item 5(c), a potential Lessard Sams Outdoor Heritage Fund grant application. Seconded by Manager Bakke. Upon a roll call vote, the motion carried 3-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke			X	
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson			X	
Stephen Schmaltz	X			

**3. Public Hearing: 2023 Draft Budget**

(Manager Anderson joined the meeting at this time.)

President Schmaltz opened the public hearing. Ms. Heinz presented the 2023 budget. She covered multiple topics including:

- Expense budget of \$4.9 million
- Estimated revenues
  - Levy
  - Clean Water Partnership Loan
  - Project grants
- Cash flow for the first six months of 2023

- Project fund balance
- Estimated expenses
  - Staff
  - Engineering
  - Project construction
  - Loan repayment
- Progress toward water quality goals by lake management district

Ms. Heinz noted that the budget and levy will be on the agenda of the board's December 15, 2022, regular meeting, at which time members of the public may address the board. Manager Schmaltz requested copies of the presentation be printed and available for managers to utilize. He thanked Ms. Heinz for her presentation.

Manager Anderson questioned where the listed phosphorus reductions are located. Ms. Heinz explained that the reduction is measured at the outlet to the receiving lake. Manager Anderson requested additional information be added to the slides regarding sediment, phosphorus, and algal growth reductions achieved via the District projects.

(Manager Bakke joined the meeting at this time.)

President Schmaltz determined that no members of the public were present, and closed the public hearing.

#### **4. New Business**

##### **a) Little Comfort Lake Gravel Pit DNR CPL Grant Application**

Mr. Kinney explained that the Little Comfort Lake Gravel Pit project location has a complex drainage system. He described that a parcel has been identified that would benefit the completion of this project. He noted the District staff's interest in utilizing a Conservation Partners Legacy grant from the Minnesota Department of Natural Resources (DNR). He explained that staff recently learned this grant could be utilized for both parcels of interest. He gave an overview of the need for board action to apply for the grant.

Manager Loth asked if there is an estimate on the value of the parcels in question. Mr. Kinney explained that a rough estimate has been acquired. The gravel pit parcel was also estimated. The upland was valued at \$12,000 per acre and the wetland area was valued at \$4,000 per acre. He noted that the other parcel is a farmstead that could easily be valued at \$500,000, not including the value of the buildings on the parcel. He noted that the property does have a small portion of shoreline property on Comfort Lake. He explained that pursuant to grant requirements, the District could not sell off portions of the property. Mr. Kinney explained that the gravel pit parcel is not accessible and/or is landlocked. He made clear that this is the reason the District is interested in the farmstead parcel as well. Mr. Kinney gave an overview of the property's location.

Manager Bakke moved to authorize the Administrator to apply to the Conservation Partners Legacy grant program for acquisition of the properties described above. Seconded by Manager Toavs. Upon a roll call vote, the motion carried 5-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

**b) Permitting Notification Requirement**

Mr. Kinney described a permit notification procedure that is in the District rules and advised that staff has not provided for this notification in recent years. The rule states that staff will notify landowners within 500 feet of a project proposed in a permit application. He gave two main options regarding this rule: implement the rule or direct staff to conduct a rulemaking review. He estimated the workload associated with this permitting notification process.

Manager Anderson asked for confirmation of the process and asked if staff is requesting permission to not send notifications to surrounding landowners when there is a land use change or permit application. Mr. Kinney clarified that this isn't for land use changes and only for District permit applications. Mr. Kinney stated that the rule could be modified or to eliminate notifications for all permits, to provide for notification for certain types of permit applications, or the present rule could be retained providing for notification for all permit applications. He noted that other watershed districts do not provide for notification. Notification on changes of land use would come from the city or other land use authority.

Manager Anderson requested legal input on the topic. Mr. Holtman explained that under statute there is no legal requirement for the District to notify individuals of a permit application in the area. He further expanded on the fact that the District rules have a notice requirement, and that notice should be implemented unless the language in the rules is changed. Mr. Holtman explained that of the six other metro watershed districts with which he works, two have notification requirements with certain exceptions; four do not provide for notice.

Manager Toavs stated that Option Two as it is outlined in the memo would be his preference. This option directs a review of the rules to consider whether to modify or eliminate (or keep) the notification requirement.

Manager Loth asked if notifications are being sent out, but not following the 500 ft. rule. Mr. Kinney clarified that no notification has been going out for the last several years.

Manager Bakke highlighted the relationship-building aspect of the rule. He noted that any staff burden could be offset by hiring an individual to take on the project. He said he thought this should be considered fully rather than backing away from it.

Manager Loth stated that he agrees with Manager Bakke’s statement. He noted that any time the District makes a connection with a landowner it supports the District’s best interest. He proposed staff look into modifying the rule to be more practical, but still make connections with landowners.

Managers discussed the local city’s involvement in sending out its permitted project notifications. Manager Schmaltz suggested staff investigate any possible overlap to ensure multiple notifications are not being sent out. He highlighted the fact that the District hasn’t been sending out notifications so far and hasn’t had any issues thus far. He suggested that the LGUs focus on these notifications. Manager Loth explained that there could be benefits to implementing the rule in a modified fashion.

Manager Loth moved to direct that staff return to the Board with more information regarding the proposed rule revision language based on the Board discussion. Seconded by Manager Anderson. Upon a roll call vote, the motion carried 5-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

**c) Comfort Lake Point-Intercept Surveys**

Mr. Kinney outlined the two options for the board to consider. He recommends option two, which includes a fund transfer to cover the cost of the Comfort Lake point intercept survey.

President Schmaltz clarified that this point intercept survey is only scheduled to be done once every five years, and now is being suggested to be done twice in the same year, out of the normal 5-year rotation. He noted that these point intercept surveys are needed due to a recent whole lake fluoridone treatment conducted by the Comfort Lakes Association. Manager Anderson stated that this is not new information to the District. She believes that the only option is option two. Managers discussed the research aspects of the fluoridone treatment on Comfort Lake. Manager Anderson explained that this was part of a DNR study and research project, and the DNR funded the treatment at 50%.

Managers discussed the surveying schedule for all District lakes. Mr. Kinney outlined what a point intercept survey entails. Manager Anderson stated the importance of conducting point intercept surveys and how they can be utilized by the District.

Manager Anderson moved to select Option 2 and to authorize a budget transfer from 3-004-D Community Grant Program to 3-011-29-F Comfort Lake Point-Intercept Macrophyte Survey. Seconded by Manager Schmaltz. Upon a roll call vote, the motion carried 3-1-1.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke				X
Christopher Loth		X		
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

**d) 2022 Mid-Season Monitoring Update**

Mr. Olivier gave a mid-season monitoring update presentation covering multiple topics including:

- April to July lake water quality monitoring data (some August) and to-date 2022 water quality trends
- Lakes included in the update: Moody, Bone, Shields, Forest (all basins), Little Comfort, and Comfort Lake
- Sources of data include CAMP, Met Council, CLFLWD staff, and Instrumental Research
- So far, 2022 water quality data are similar to those from 2021 – due to the dry conditions seen in both years

Managers discussed the effects of the recent drought on District lake water quality and other variables that can affect water quality. The presentation indicated that no final conclusions on 2022 lake water quality can be made until the full data set is analyzed at the end of the year. EOR will present on the full monitoring results from 2022 this winter when all data become available. Manager Anderson offered that the center basin of Forest Lake acts similar to a shallow lake, and that perhaps the three basins should be examined as distinct from each other.

Manager Anderson asked about the procedure to request that a lake be delisted as an impaired water. Mr. Olivier replied that status for delisting rests on several years of data and that the decision to request MPCA review for delisting rests on the board’s policy judgment.

**e) CLFLWD Board Meeting Location**

President Schmaltz advised that during the District tour a county commissioner suggested to him that the board should consider returning to in-person rather than virtual meetings.

Mr. Kinney explained that the Forest Lake City Hall would be available for District use even though it is not formally available to other organizations for meetings. Dates and availability still need to be confirmed. He noted that technology in the city has been changed and updated since COVID. There is a need for staff to have a meeting with the city for an overview of the new technology before going back to in-person meetings. Mr. Kinney stated that the District office is also a location to consider. He noted that he would like direction on whether the board prefers all staff to be in attendance or if the board would be comfortable having staff join virtually. He requested direction on how to proceed.

Managers discussed the regulations surrounding a manager's attendance of an in-person meeting remotely. Mr. Holtman made clear that presently the District is operating under a provision of the Open Meeting Law that allows for meeting virtually based on the COVID-19 pandemic, on the basis of a declaration by the board president that it is imprudent for the board to meet in person. He noted that if the declaration is withdrawn, meetings still may be held virtually, but with certain further constraints. At least one manager would be required to be present at the meeting location. If a manager were to participate remotely, he or she would have to be in a public space that is noted in the meeting notice posted 72 hours in advance of the meeting. Managers discussed what public space means. Managers discussed "hybrid" models. Mr. Holtman confirmed that the law doesn't have a "hybrid model." The Board either operates under the pandemic declaration and continues to meet remotely or the pandemic declaration is removed, and the Board must meet in person according to the Open Meeting Law.

Manager Anderson requested that the Forest Lake City Hall be utilized. She does not think the District office should be considered as an option for a meeting space.

Manager Bakke noted how the business of the District has been successfully conducted virtually and asked about the benefit of meeting in person.

Manager Loth explained that he has a full-time job, and he is not always certain where he will be on meeting dates. He noted that he occasionally attends meetings from his office when unable to make it back to Forest Lake.

Managers discussed whether the Open Meeting Law allows the board to continue to meet remotely under the pandemic provision. Mr. Holtman explained that to the extent that COVID-19 still exists and presents a risk, the board president in his judgment has a legal basis to continue the declaration by which the board meets remotely. He added that practically, however, as more public bodies return to in-person meetings, the board's continuing practice of meeting remotely may come under scrutiny and the managers will be subject to pressure to return to in-person meetings.

Managers discussed advancements in technology.

President Schmaltz asked that staff investigate the availability of the Forest Lake City Hall and gather data on what attendance at District board meetings has been, virtually versus in-person.

## 5. Old Business

### a) 2023 Draft Budget

Manager Toavs moved to adopt resolution 22-09-01. Seconded by Manager Anderson. Upon a roll call vote, the motion carried 5-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

### b) Website and Logo Update

Mr. Kinney noted that the item is informational and is a reminder to managers to complete the survey sent by staff. President Schmaltz believes the logo and website are coming along nicely.

### c) Bone Lake Wetland

President Schmaltz explained that the board needs to reaffirm its interest and support in the Bone Lake South Wetland project and discussed how that could be done (whether a letter or verbal support for Mr. Kinney to communicate). Mr. Kinney stated that the Lessard-Sams Outdoor Heritage Fund committee may not recommend full funding for the project and may give a partial award. He highlighted the many possible relationships and partnerships built through this project planning process. He noted that the landowner is working with a realtor and plans to list the property after crops are out (possibly this fall). He highlighted the multiple benefits this property may provide; the property is unique in its habitat and water treatment storage ability. He explained that he has also met with Xcel Energy to discuss its easements on the adjacent property. He explained how this parcel is high quality and of value to the District.

Manager Anderson agreed that the letters of support from the county support the District's mission and discussed the multiple benefits and opportunities, including green space and resiliency. She noted the importance of connecting the project to the bigger picture of the Lower St. Croix One Watershed One Plan. She noted the importance of highlighting the species (including endangered species) that would benefit from the proposed project. She asked if the managers are committed to this project enough to

fund in other ways and to consider how this project might be funded through other options.

Manager Bakke highlighted that development is taking place throughout the District and the importance of protecting property like this.

There was additional discussion of the process and the authority Mr. Kinney has to spend money on this process. Mr. Kinney also noted that he would be initiating the appraisal and land acquisition process with the District’s real estate attorney at Dorsey Whitney.

Manager Anderson moved to authorize the administrator to proceed with steps to explore the land acquisition process for the Bone Lake South Wetland property, to begin with an appraisal and coordination with the District’s legal team, subject to the administrator’s funds commitment limit of \$20,000 or budgeted funds, whichever less. Seconded by Manager Schmaltz. Upon a roll call vote, the motion carried 5-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

**6. Project Update – not discussed in meeting.**

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

Board direction was summarized

- Staff will prepare and print the budget presentation and have those copies available for managers to pick up at the District office.
- Staff will add figures regarding total phosphorus removal of all projects, algae prevention as a result of all projects, and sedimentation reduction details.

**8. Adjourn**

Before adjournment, Manager Anderson thanked EOR for bringing the water quality monitoring information to the board at this meeting and stated the importance of getting this information earlier (as opposed to into the following year) as one of the reasons the District brought this work in-house.

**a) Next regular board meeting – September 22, 2022**

Manager Anderson moved to adjourn the meeting. Seconded by Manager Schmaltz. Upon a roll call vote, the motion carried 5-0, and the meeting was adjourned at 9:20 p.m.



<b>Manager</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>	<b>Abstain</b>
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

Dave Bakke, Secretary \_\_\_\_\_