

MEMORANDUM
Comfort Lake-Forest Lake Watershed District

To: Board of Managers

Date: March 15, 2017

From: Mike Kinney

Subject: Washington Judicial Ditch 6 Resolution

Background/Discussion

The purpose of this agenda item is for the Board to review and act on Resolution 17-03-01 *Supporting Special Legislation Transferring WJD 6 Drainage Authority*. Since the adoption of Resolution 17-01-01 *Approving Boundary Change Petition and Supporting Resolution of Washington County Board of Commissioners Transferring WJD 6 Drainage Authority*, it has been determined that a procedure involving the County Board under MN Statutes §103D.625 is not likely to be feasible, and the drainage code affords no other specific procedure to effect the drainage authority transfer. Therefore, special legislation is the next step in completing the drainage authority transfer.

Recommended Action

Adopt Resolution 17-03-01.

Attached: Briefing on Legislation to Transfer Drainage Authority (prepared by Chuck Holtman), Resolution 17-03-01

Legislation to Transfer Drainage Authority for Washington Judicial Ditch 6 from the Rice Creek Watershed District (RCWD) to the Comfort Lake-Forest Lake Watershed District (CLFLWD)

The Problem: The RCWD is the drainage authority for Washington Judicial Ditch (WJD) 6. A pending correction of the legal boundary between the RCWD and the CLFLWD would cause the area drained by WJD 6 to lie entirely within the CLFLWD. In conjunction with the boundary correction, the two watershed districts would like to transfer responsibility for WJD 6 from the RCWD to CLFLWD. However, the drainage code (Minn. Statutes 103E) does not specify a procedure for drainage system authority to be withdrawn from one watershed district and assigned to another.

The Need: Washington County Judicial Ditch (WJD) 6 is a public drainage system established in 1921. It consists of a single main line about 2.0 miles in length, part tile and part ditch. The land that WJD 6 drains lies entirely within the City of Forest Lake, and is largely undeveloped or subject to rural residential use. WJD 6 flows northward, outlets into Forest Lake and contributes phosphorus and sediments to the lake. Forest Lake is not designated as impaired, but water quality data indicate that active management is required to avoid its becoming so.

The RCWD is the drainage authority for WJD 6 pursuant to a 1974 order of the Washington County District Court. The land that it drains all lies within the hydrologic boundary of the CLFLWD. The CLFLWD is responsible to manage these lands for the benefit of Forest Lake water quality. The RCWD and CLFLWD boards of managers have resolved to petition the Minnesota Board of Water and Soil Resources (BWSR) to correct their common legal boundary so that all land that drains to Forest Lake is placed within CLFLWD jurisdiction. This boundary correction is noncontroversial and should be effective, through BWSR order, by late May. However, if this were done, the RCWD would remain the drainage authority with statutory responsibility to manage a drainage system not within its hydrologic boundary or legal jurisdiction. In conjunction with the boundary correction, both watershed districts would like to transfer the WJD 6 drainage authority from the RCWD to the CLFLWD so that the CLFLWD can manage all lands draining to Forest Lake on a watershed basis, for both drainage and water quality.

The Forest Lake City Council has adopted a resolution supporting this transfer of WJD 6 drainage authority. RCWD is holding no WJD 6 assets that would need to be transferred.

The Solution: Uncodified legislation stating: ***“The Comfort Lake-Forest Lake Watershed District is the drainage authority for Washington Judicial Ditch 6 pursuant to Minnesota Statutes §103E.005, subdivision 9, as amended.”***

Other Interested Parties: The Hardwood Creek Wildlife Management Area lies within the area to be transferred. The parties have not conferred with the Minnesota Department of Natural Resources. There has been very little WJD 6 maintenance over the past 40 years. The parties do not expect substantial landowner interest in the boundary correction, although the BWSR petition has not yet been published for public notice.

RESOLUTION 17-03-01

COMFORT LAKE-FOREST LAKE WATERSHED DISTRICT
BOARD of MANAGERS

SUPPORTING SPECIAL LEGISLATION
TRANSFERRING WJD 6 DRAINAGE AUTHORITY

Manager _____ offered the following resolution and moved its adoption, seconded by Manager _____:

WHEREAS on January 26, 2017, the Comfort Lake-Forest Lake Watershed District Board of Managers adopted Resolution 17-01-01 authorizing the Board President to sign a petition to the Board of Water and Soil Resources, to be submitted jointly with the Rice Creek Watershed District (RCWD), to adjust the common boundary within the City of Forest Lake to conform to hydrologic boundaries;

WHEREAS under the drainage code, Minnesota Statutes chapter 103E, the RCWD is the drainage authority for Washington Judicial Ditch (WJD) 6, a public drainage system consisting of a single main line about 2.0 miles in length, but the benefitted area of WJD 6 lies entirely within the area that would be transferred to the CLFLWD;

WHEREAS in adopting Resolution 17-01-01, the Board supported adoption of a resolution by the Washington County Board of Commissioners, pursuant to Minnesota Statutes §103D.625, withdrawing the WJD 6 drainage authority from the RCWD and conferring it on the CLFLWD;

WHEREAS subsequently it has been determined that a procedure involving the County Board under Minnesota Statutes §103D.625 is not likely to be feasible, and the drainage code affords no other specific procedure to effect the drainage authority transfer;

THEREFORE BE IT RESOLVED that the Board supports special legislation transferring the WJD 6 drainage authority from the RCWD to the CLFLWD;

BE IT FURTHER RESOLVED that the boundary change petition may be modified to reflect this adjusted process and that the Board President and CLFLWD Administrator may take all steps necessary or convenient, in their judgment and on advice of counsel, to complete the boundary change and transfer of drainage authority.

The question was on the adoption of the resolution and there were __ ayes and __ nays as follows:

	<u>AYE</u>	<u>NAY</u>
Jackie A. Anderson		
Jackie McNamara		
Wayne S. Moe		
Stephen Schmaltz		
Jon W. Spence		

The Chair declared the resolution adopted.

Dated: March 23, 2017

Wayne S. Moe, Secretary

* * * * *

I, Wayne S. Moe, Secretary of the Comfort Lake - Forest Lake Watershed District Board of Managers, do hereby certify that I have compared the above resolution with the original thereof as the same appears on record and on file in the District's offices and find the same to be a true and correct copy thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 23rd day of March, 2017.

Wayne S. Moe, Secretary