

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

**Thursday, July 22, 2010**

**1) Call to Order**

The President called the July 22, 2010 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, Treasurer Tom Lynch, Manager Jon Spence

Absent: None

Staff: Chuck Holtman (Smith Partners) Lisa Tilman (EOR)

Other: Doug Thomas, Linda Nanko-Yeager (Wyoming City Councilmember)

**2) Open the Regular Meeting**

The President opened the regular Board Meeting.

**3) Reading and Approval of Agenda**

The President called for the reading and approval of the July 22, 2010 regular Board meeting agenda. Manager Anderson requested that an update by Lisa Tilman regarding the Bone Lake and Moody Lake fish barriers be added under old business. Motion to approve the agenda with additions was made by Manager Anderson and seconded by Manager Spence. Upon vote, the motion passed unanimously.

**4) Reading and Approval of Minutes**

The President called for the reading and approval of the minutes of the June 24, 2010 regular Board meeting. Following discussion on the draft minutes Manager Lynch noted on page 5 that the second paragraph needed to be changed to replace “o” with “do” in the first line and strike the word “and” and replace with “then” in the second sentence. Manager Anderson noted that she would like to see a bit more on the nature and character of discussion reflected in the minutes. Motion to approve the June 24, 2010 regular Board meeting minutes with edits was made by Manager Spence and seconded by Manager Moe. Upon vote, the motion passed unanimously. Manager Moe commented that votes on variances should state or acknowledge acceptance of terms and that the minutes should include more information on the discussion.

The President called for the reading and approval of the minutes of the July 1, 2010 Manager’s Special Meeting. Motion to approve the July 1, 2010 Special Meeting by Manager Anderson and seconded by Manager Lynch. Upon vote, the motion passed unanimously.

**5) Public Open Forum**

Nothing presented

## 6) New Business

### a) *BMP cost-share program*

- i) ***McAvoy Reimbursement*** - Manager Damchik noted staff memo and recommendation for reimbursement on the completed project. Project is a lakeshore planting on Forest Lake and was inspected on June 25, 2010 by District staff and determined complete. Staff recommended reimbursement of ½ of material and volunteer labor equal to \$ 459.27. Motion to approve payment in the amount of \$459.27 by Manager Moe, second by Manager Anderson. Upon vote, the motion passed unanimously. Manager Anderson commented that this is a good project and she liked to see the before and after pictures shown in the project profile.
  
- ii) ***Neudauer Application*** - Manager Damchik noted staff memo and recommendation of the review committee for approval. The project is a 75 foot shoreline buffer on Forest Lake (lake 3). The project will replace existing bluegrass and reed canary with native plants and will reduce runoff and nutrients into the lake. Washington Conservation District estimated cost is \$2,337.50 to \$3,652.00. The review committee recommends cost-share in the amount of 50% not to exceed \$3,000. Managers Anderson and Lynch commented that this is a good project. Motion by Manager Anderson to approve cost-share for 50% of materials and labor not to exceed \$3,000, second by Manager Spence. Upon vote, the motion passed unanimously.
  
- iii) ***Robinson Application*** – Manager Damchik noted staff memo and recommendation of the review committee for approval. The project involves approximately 70 linear feet of shoreline stabilization, a transition zone, and upland buffer plantings. Water quality protection comes from reduced shoreline erosion and the reduction of stormwater runoff and nutrients into the lake. Motion by Manager Anderson to approve cost-share for 50% of materials and labor not to exceed \$3,000, second by Manager Moe. Upon vote, the motion passed unanimously.

### b) *Permits and Reviews*

- i) ***10-005 35WMill & Overlay*** – District Engineer Tillman explained the project which is primarily a mill and overlay of I35 between US Highway 8 and the County line along with the lining of two culverts. The nature of the project triggers District rule 3.0 (erosion control, and rule 6.0 (watercourse and basin crossing). District Engineer is recommending approval of permit 10-005. Manager Anderson asked if there was anything in the water study about the quantity and/or quality of water going through the culverts that might suggest there would be an opportunity for possible improvements. District Attorney Holtman noted that in the watercourse rule the permittee must record an instrument that assures maintenance of hydraulic capacity. In the case of public entities a maintenance agreement is accepted. Consensus was to add this provision to the permit.

Motion by Manager Moe to approve permit 10-005 with the addition of a provision that requires MnDOT to execute a maintenance agreement to assure hydraulic capacity is

maintained, pursuant to Rule 6.0. Second by Manager Anderson. Upon vote, the motion passed unanimously.

Manager Lynch suggested that the District look at its long term monitoring and consider whether there would be value in establishing a site, in 2011, downstream of the new bridge at the freeway which is slated to start construction in 2010

***c) District Buffer Rule Applicability***

District Attorney Holtman reviewed a memo to the Board of Managers dated July 16, 2010 in response to the question posed by the Managers regarding the applicability of District Rule 4.0 “Lake, Stream and Wetland Buffer Requirements” and the meaning of primary use as it related to permit 10-004 (Runk Property, Bone Lake). Attorney Holtman framed the basic question as “what is considered a new primary use. He noted that the Board’s previous decision was to require the buffer. The memo is intended to 1) provide additional interpretation, 2) offer additional guidance on how the rule is applied, and 3) serve as a foundation for interpretation and implementation of the rule.

Attorney Holtman pointed out that the basic notion of the underlying rule is that a buffer is to require an encumbrance on the deed based on an action being more than trivial such as “impact on resource”. Attorney Holtman then went over a number of policy considerations including the types of actions which may have an impact on a downstream waterbody, what type of actions represent a change in property use and then walked the Board through a number of possible scenarios and then offered two interpretive statements for their consideration.

Manager Spence asked how this is done by rule or policy. Manager Anderson commented that she preferred the second interpretive statement and asked why we shouldn’t just change the rule versus doing it as a policy. Manager Lynch asked how would this apply in regards to a home office vs. adding a use such as auto repair and the property has enough area to handle it without any addition of buildings or hard surfaces. Manager Anderson commented that it is important for the District to take on these types of situations as they are not always addressed by the cities in their land use and zoning decisions as it relates to impacts on water resources. Attorney Holtman commented that the desire is to always have as much specificity however general language is often used in rules and regulations.

Motion by Manager Anderson to adopt the interpretive language in 4. (b) on page 3 of the memo to be used to amend the District’s buffer rule. Second by Manager Moe. Discussion, Administrator Thomas asked Attorney Holtman if a rule amendment were done does it require us to follow the same public notice and procedure that would be used for a rule adoption. Attorney Holtman responded that it did. Manager Anderson commented that she would rather err on the side of transparency and incorporating the interpretive language in rule would be the best way to go. Manager Moe asked what would happen if a person has a cabin and they erect a new structure on the same footprint. Attorney Holtman commented that although he is not familiar with the City of Scandia ordinance he felt that it would be allowed under the general principle of grandfathering. He noted that the “new primary use” criteria triggers a buffer under the District rule only if the land use authority requires a rezoning or variance. There was general discussion regarding permitting and the common use of variances and the role of the District in these situations in taking action to protect water resources. Upon vote, the motion passed unanimously

***d) Chisago County Children’s Water Festival Request for Funds***

Administrator noted the letter request from Chisago for financial participation by the District for the County’s 2010 Children’s Water Festival. Manager Spence commented that this is one of the few educational items we participate in Chisago County and that we have supported it in the past at \$500. Motion by Manger Spence to spend \$500 dollars for support of the Chisago County Children’s Water

Festival. Second by Manager Moe. Manager Anderson commented on the value of this event and recommended that the District's contribution be raised to \$1,000. Manager Spence amended his motion to raise the dollar amount to \$1,000. Second by Manager Moe. Upon vote, the motion passed unanimously.

***e) 2011 work plan and budget***

Manager Damchik asked Doug Thomas to review the preliminary 2011 work plan and budget. Thomas noted that he had a chance to meet with Randy Anhorn on three occasions before his last day of work. Based on those discussions the draft budget which was included in the Board agenda packet is a fair reflection of the projects and programs that are either currently underway or are being initiated in 2011 such as the Chisago County Petition project for the Sunrise River. He also noted that the levy will be held at \$755,000 for 2011 which is reflective of the Board's previous instructions. Thomas noted that the Board needs to set a day and time for the public hearing on the 2011 budget and levy. He also noted that if the Board does not want to hold a special meeting he recommended that the hearing be set for August 25<sup>th</sup> as part of the regular monthly board meeting. Motion by Spence to set the public hearing for the 2011 budget and levy for Thursday, August 26, 2010 at 6:30 pm Forest Lake City Hall. Second by Manager Moe. Upon vote, the motion passed unanimously.

**7) Old Business**

***a) Chisago County Petition Update***

Manager Spence informed the Board that he had attended the Chisago County Board meeting on Wednesday, July 21, 2010 where Jerry Spetzman, Chisago County Water Planner and himself presented the draft petition for a "Water Quality and Quantity Improvement Project to Address Stormwater Runoff Concerns along the Sunrise River". Manger Spence noted that Commissioner Montzka moved for county adoption of the petition which was passed unanimously. Once the signed petition from the county is received a resolution will be prepared to accept the petition and direct the District Engineer to prepare the required engineers report. Doug Thomas noted that once the resolution is adopted he would then work with the District Engineer to develop a scope of work/task order for Board approval.

***b) Water Management Plan Update***

Lisa Tillman, District Engineer reported that there are no new sections at this time to review with the Board of Managers. She also noted that they are still requesting information to update the land and water resources section of the plan update.

***f) Bone & Moody Lake Fish Barrier***

Lisa Tillman, District Engineer updated the Board on the estimated construction costs of the projects. Since the last update the design of the infiltration barriers has gotten much larger in order to handle the volumes of water going into and out of Bone Lake. For this reason the estimated cost is \$280,000 rather than the original estimate by DNR of \$40,000. At this time Engineer Tillman was looking to the Board for further direction. Manager Anderson asked where the original estimate came from. Engineer Tillman responded that it came from the DNR and most likely they did not have accurate information on the flow/volume of water coming into and out of the lake.

Engineer Tillman explained that the original proposal had three structures one at the outlet of Moody Lake, one at the inlet of Bone Lake and one at the outlet of Bone Lake. She then offered three possible options

for moving forward including 1) continue with the 3 structures with the District covering the extra cost, 2) modify the work plan and reduce the number of structures, and 3) cancel the grant agreement and return any money that the District has received. Engineer Tillman also explained the DNR recommended design capacity of the systems which were to handle, without overflow, a 10 year storm for the Bone Lake outlet and a 2 year storm event for the Bone Lake inlet and Moody Lake outlet structures. EOR has also looked at what other design options are available including velocity barriers which we do not have enough grade in the system to build, mechanical barriers which would be screens or grates, and electric.

Engineer Tillman noted that a final decision is not needed at this time but she did want to get this issue in front of the Board. Question about how much the DNR grant was for which is \$41,000. Manager Anderson commented that if we went with option 2, which is would be just Bone Lake, the estimated cost would be approximately \$118,000 less the DNR grant amount. Administrator Thomas asked about the use and cost of an electric barrier as an option. Manager Anderson commented that what we do must be an effective project and that she had heard a lot of comments on the controlling rough fish by residents and that an additional cost of \$60,000 would give us a project with a greater guarantee of long term success. If the revised estimate for option 2 is \$128,000 to \$133,000 less the \$41,000 from DNR then we would be looking at a District share of approximately \$88,000. Question if we postpone any decision until the next meeting can it still be done this year. Engineer Tillman responded that it is possible but noted that we had not applied for any of the required permits so it is a bit uncertain. Question if DNR will allow for a modification of the grant work plan and issue the necessary public waters permit. Comment was made that if the DNR can no longer do the work themselves as was envisioned in the original project work plan the construction will need to be bid out. Motion by Manager Anderson to table any decision on this project until the next meeting and to instruct staff to meet with DNR and gather additional information. Second by Manager Lynch. Upon vote, the motion passed unanimously.

## **8) Report of Staff**

### ***a) Administrator***

Manager Damchik noted Administrator's Report and 2010 Work Plan Update memo (a copy each is annexed and incorporated by reference).

### ***b) Emmons and Olivier Resources (EOR)***

Lisa Tilman presented the April, 2010 engineer's report (a copy is annexed and incorporated by reference). Ms. Tilman noted that the Six Lakes TMDL Implementation Plan has been approved.

### ***c) Washington Conservation District (WCD)***

No report.

### ***d) Smith Partners***

Chuck Holtman commented that he had nothing special to report on. He did note that the Board needed to pass a motion to authorize that Administrator Thomas is to be added as a signatory for banking transactions at the Central Bank in Forest Lake and the First State Bank of Wyoming.

Motion by Manager Lynch to approve Administrator Thomas as a signatory for District accounts. Manager Anderson offered an amendment to the motion that it be effective August 9, 2010. Manager

Lynch accepted language as a friendly amendment. Second by Manager Spence. Upon vote, the motion passed unanimously

**9) Report of Treasurer**

*a) Approval of Bills*

Treasurer Lynch discussed the Treasurer's Report (A copy which is annexed and incorporated by reference) and bills totaling \$4,883.10 for July 22, 2010.

Motion was made by Manager Lynch to approve the July 22, 2010 Treasurer's Report and pay the bills as presented. Manager Moe seconded the motion. Upon vote, the motion passed unanimously.

**10) Reports of Officers and Manager**

**Manager Anderson–**

Nothing to report

**Manager Damchik–**

Nothing to report

**Manager Moe –**

Nothing to report

**Manager Spence –**

Nothing to report

**11) Adjournment**

Motion to adjourn the CLFLWD regular Board meeting was made by Manager Anderson and seconded by Manager Moe. Upon vote, the motion carried unanimously.

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Wayne S. Moe, Secretary