

1                   **DRAFT MINUTES OF THE REGULAR MEETING OF THE**  
2                   **COMFORT LAKE–FOREST LAKE WATERSHED DISTRICT**  
3                   **Thursday, April 27, 2023**  
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5   **1. Call to Order**  
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7           President Schmaltz called the April 27<sup>th</sup>, 2023, regular board meeting to order at 6:30 p.m.  
8           via online video conference.  
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10   **Managers Present:**

11   Steve Schmaltz, President  
12   Christopher Loth, Vice President  
13   Dave Bakke, Secretary  
14   Jackie Anderson, Treasurer  
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16   **Absent:**

17   Douglas Toavs, Assistant Treasurer  
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19   **Staff Present:**

20   Mike Kinney, Administrator  
21   Aidan Read, Land Management Specialist  
22   Bobbie Law, Office Manager  
23   Beth Carreño, Senior Program Manager  
24   Emily Heinz, Planning Coordinator  
25   Jessica Lindemyer, Operations and Outreach Specialist  
26   Mike Sandager, Permitting Coordinator  
27   Victoria D'Amico, Water Resources Technician  
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29   **Others Present:**

30   Greg Graska, Emmons & Olivier Resources  
31   Kyle Crawford, Emmons & Olivier Resources  
32   Chuck Holtman, Smith Partners  
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34   **2. Setting of Meeting Agenda**

35   Item 6e) City of Forest Lake Wetland Banking Ordinance and item 7c) Pandemic Status  
36   & Meeting Practices were added to the agenda.  
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38   Manager Anderson moved to approve the agenda as amended. Seconded by Manager  
39   Bakke. Upon a roll call vote, the motion carried 3-0.  
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Manager	Aye	Nay	Absent	Abstain
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Dave Bakke	X			
Christopher Loth			X	
Doug Toavs			X	
Jackie Anderson	X			
Stephen Schmaltz	X			

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**3. Consent Agenda**

- a) Regular Board Meeting Minutes – February 23, 2023
- b) Regular Board Meeting Minutes – March 9, 2023
- c) Regular Board Meeting Minutes – March 23, 2023

Manager Bakke moved to approve the consent agenda as presented. Seconded by Manager Anderson. Upon a roll call vote, the motion carried 3-0.

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

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**4. Public Open Forum**

Administrator Kinney introduced Victoria D’Amico, the District’s new Water Resources Technician. Ms. D’Amico indicated she has a degree in environmental engineering and will be starting full-time on Monday. Managers welcomed her.

**5. Citizen Advisory Committee Update**

Aidan Read indicated the Citizen Advisory Committee (CAC) will plan another field day sometime this year. Mr. Read noted the next meeting is May 16<sup>th</sup> at 5pm. Manager Anderson indicated she is available to attend that CAC meeting, as a representative of the Board. Manager Anderson requested that the Board be notified of the CAC field trip date so that managers can join.

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**6. New Business**

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**a) 2022 Audit Report and Presentation**

Administrator Kinney stated that the audit process begins at the end of the year and continues throughout the months of January, February, and into March. He noted that President Schmaltz and Treasurer Anderson recently met with staff, the District Accountant, and the Auditor to review the draft report.

A pre-recorded presentation by Justin Nilson with Abdo was displayed. Mr. Nilson noted there are no legal compliance findings, but there are two auditor’s opinion

72 findings. One finding is related to authorized bank signatories; one of the District's  
 73 bank signer lists still contained the name of a prior manager. The second finding is a  
 74 material audit adjustment related to loan revenues and a fiscal year 2023  
 75 expenditure being categorized incorrectly. Mr. Nilson reported a net decrease in the  
 76 fund balance at year-end. Overall, ending expenditures were close to the budget.

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 78 Manager Bakke asked if the bank signatory issue has been corrected. Manager  
 79 Anderson noted this has been corrected. Mr. Bakke asked if it would be possible for  
 80 an Abdo representative to attend the meeting next year so that they can answer  
 81 questions. Mr. Kinney noted he would contact Abdo about this. He noted that Abdo  
 82 began pre-recording its presentation at the start of the pandemic.

83  
 84 Manager Anderson moved to accept the Abdo prepared Management Letter and  
 85 Annual Financial Report of the Comfort Lake Forest-Lake Watershed District for the  
 86 year ended December 31, 2022, and direct staff to forward the information to the  
 87 State of MN as required. Seconded by Manager Schmaltz. Upon a roll call vote, the  
 88 motion carried 3-0.

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

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 91 **b) Forest Lake Curly-Leaf Pondweed Treatment Contract**

92 Administrator Kinney indicated this is a regular recurring action, and this activity is  
 93 part of the approved 2023 Aquatic Invasive Species (AIS) Management Plan.

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 95 Manager Schmaltz moved to authorize the Administrator, on advice of counsel, to  
 96 enter into a contract with Lake Management Inc. for treatment of curly-leaf  
 97 pondweed on Forest Lake in an amount not to exceed \$35,000. Seconded by  
 98 Manager Anderson. Upon a roll call vote, the motion carried 3-0.

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

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 101 **c) 2024 Budget Schedule**

102 Emily Heinz explained the proposed budget involves scheduling three workshops,  
103 separate from the regular board meetings, to discuss the budget. President Schmaltz  
104 encouraged managers to review the 10-year Watershed Management Plan prior to  
105 the budget process.

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107 Manager Anderson moved to approve the 2024 budget schedule and direct staff to  
108 prepare a preliminary proposed budget that is consistent with the Watershed  
109 Management Plan. Seconded by Manager Bakke. Upon a roll call vote, the motion  
110 carried 3-0.

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

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**d) Sunrise Highway 61 Wetland Engineering Scope of Work**

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Kyle Crawford explained that additional utilities were found on the project site that did not appear on the utilities locate maps that were provided by the utility companies. In order to complete the project, the contractor needed to re-locate the utility lines. This required additional engineering time for review and oversight. Manager Anderson asked if weather played a role in the engineering budget overage. Mr. Crawford said the contractor started work later than planned because of a warm start to the winter, but that didn't impact the engineering costs.

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Manager Anderson asked if the District could request additional grant funds from the Board of Water and Soil Resources (BWSR) for the additional cost incurred. Ms. Heinz explained that staff asked BWSR staff about this, but there is no mechanism in place for BWSR to grant additional funds beyond the grant award that was approved by the review committee. However, the District was able to obtain two more grants in order to ensure the project can move forward: Section 319 Small Watershed Focus and Lower St. Croix Partnership Watershed Based Implementation Funding. Ms. Heinz noted the rest of the project cost is funded by levy/reserves. She explained that the District uses a zero interest Clean Water Partnership loan to finance these costs.

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(Manager Loth joined the meeting at 7:00 p.m.)

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Manager Anderson moved to authorize the administrator, on advice of counsel, to amend the agreement with EOR for the Sunrise River Highway 61 Wetland Enhancement project in the amount of \$15,688, for a total contract amount not to

137 exceed \$205,904. Seconded by Manager Bakke. Manager Loth indicated he would  
 138 abstain from the vote because he did not hear the entire discussion on the topic.  
 139 Upon a roll call vote, the motion carried 3-0-1.

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

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**e) City of Forest Lake Wetland Banking Ordinance**

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Administrator Kinney provided background information on the proposed ordinance, which would ban wetland banks within the boundaries of the City of Forest Lake, except wetlands that are located in a Conservancy zoning district. Mr. Kinney explained that other government units are involved in this conversation as well, including Rice Creek Watershed District, Board of Water and Soil Resources (BWSR), and Washington Conservation District. There is more information still coming out with respect to this complex topic. Mr. Kinney explained the ecosystem services value that wetlands provide, water quality benefits, and flood storage. BWSR is assessing whether such an ordinance is permissible with respect to Minnesota Wetland Conservation Act rules.

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President Schmaltz and Manager Anderson indicated they are encouraged by the amount of communication occurring between the District, City, and other government units. Manager Bakke asked for clarification on the definition of wetland banks. Mr. Kinney explained that wetland mitigation banking is the restoration, creation, or enhancement of wetlands for the purpose of compensating for unavoidable impacts to wetlands at another location. In other words, a property owner may purchase wetland credits to offset wetland impacts the owner may occasion as a result of land development.

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Manager Loth asked if there are any requirements for a developer or a transportation department to purchase wetland bank credits in the same watershed vs going outside of the watershed or locale. Legal Counsel Holtman answered that the state is divided into a number of "Bank Service Areas" that are hydrological but measurably larger than just the CLFLWD. Replacement needs to be from within the same Bank Service Area. Mr. Kinney noted that there currently aren't any credits available for purchase within the District's Bank Service Area.

171 President Schmaltz suggested communicating with city council members on this  
172 matter. Manager Anderson posited if wetland mitigation banking is a funding option  
173 that she should recommend to the Lower St. Croix Watershed Partnership.  
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175 Legal Counsel Holtman summarized the outcome of the discussion, stating it  
176 appears the board is comfortable with President Schmaltz working with  
177 Administrator Kinney to convey the District's opinions on the matter to the City.  
178 President Schmaltz noted Manager Anderson will work with him as well. Manager  
179 Bakke indicated he would like to lend his support to President Schmaltz and Manager  
180 Anderson on this matter. There was general consensus with this outcome.  
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## 182 7. Old Business

### 183 a) 2022 Year in Review, Annual Report, Progress Summary

184 Administrator Kinney indicated that Jessica Lindemyer led the completion of the  
185 Year-In-Review, and Emily Heinz led the completion of the Annual Report and  
186 Progress Summary.  
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189 Manager Bakke moved to approve the 2022 Year-in-Review, Annual Report and  
190 Progress Summary. Seconded by Manager Anderson. Upon a roll call vote, the motion  
191 carried 4-0.  
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Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs			X	
Jackie Anderson	X			
Stephen Schmaltz	X			

### 193 b) 2022 Water Monitoring Report

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196 Manager Anderson moved to accept the 2022 Water Quality Monitoring Report as  
197 presented in this memo. Seconded by Manager Bakke.  
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199 Manager Anderson indicated it is helpful to have the impaired waters delisting  
200 summary.  
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202 Upon a roll call vote, the motion carried 4-0.  
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Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			

Doug Toavs			X	
Jackie Anderson	X			
Stephen Schmaltz	X			

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**c) Pandemic Status & Meeting Practices**

Administrator Kinney referenced a recent news article indicating COVID-19 is still the leading cause of death in the United States. He noted that the District is a very data-driven organization. The purpose of this agenda item is to consider the April 13 discussion and potentially re-consider the action taken at the April 13<sup>th</sup> board meeting on this matter.

Manager Anderson asked if the Forest Lake City Hall council chambers were available for the District to use as a meeting space. Mr. Kinney explained the City still doesn't want other organizations to utilize the council chambers or other larger rooms in the building. Manager Anderson indicated CLFLWD is one of the only organizations still meeting remotely. She suggested holding one meeting per month in person, and one meeting per month remotely. Mr. Kinney explained that, unless there is some form of emergency order in place, managers must post their location and make it publicly available in order to participate and vote in a meeting remotely.

Manager Anderson moved to reconsider the previous action on this subject. Seconded by Manager Loth.

Manager Bakke stated he is in favor of continuing with the remote meeting format. He indicated he is not in favor of meeting in person because of health implications. He indicated that remote work is the new normal. He encouraged managers to reconsider this topic.

Upon a roll call vote, the motion carried 4-0.

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

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Manager Loth stated he favors returning to in-person meetings, but he also wants to be respectful of other managers' health concerns and comfort levels. He asked if there is an option for managers to attend a hybrid meeting remotely without being required to post their location and make it available to the public. Mr. Holtman explained that under the Open Meeting Law, there are two separate sections

237 authorizing a manager to attend a meeting remotely. Only the section that provides  
238 for remote meeting under a pandemic declaration allows the manager to connect  
239 from a private location.

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241 Mr. Holtman further explained that President Schmaltz may sign a revised pandemic  
242 declaration that is more nuanced than the existing one and takes into account the  
243 current level of risk. It is possible to set up the type of framework that Manager Loth  
244 is suggesting, where managers can attend either in-person, or remotely without  
245 making their location public. This option would allow members of the public to attend  
246 the meetings in-person or remotely as well. In this case, the District would still be  
247 operating under a pandemic declaration, but it would be a new, slightly revised  
248 declaration. Mr. Holtman noted, as Manager Anderson had noted earlier, almost all  
249 other government entities in the area have returned to in-person meetings.

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251 President Schmaltz noted that the reasoning for the declaration would be that  
252 members of the CLFLWD board are older and/or may be more at-risk for getting sick.  
253 He added that the District office space, where meetings would be held, is a small,  
254 confined space. The District office is currently the only space available because  
255 meetings must occur within District boundaries, unless BWSR has approved a  
256 location outside of the boundaries. BWSR has authorized the board to meet in Forest  
257 Lake City Hall, but the City does not want outside entities using its facilities at this  
258 time.

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260 Manager Bakke asked for clarification if managers attending remotely are still able  
261 to vote on agenda items without making their location public. President Schmaltz  
262 indicated this is possible, as long as the District is operating under a pandemic  
263 declaration.

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265 Manager Loth asked if this topic was spurred by the lifting of the pandemic status at  
266 the federal level. He indicated he is concerned about public perception surrounding  
267 continuing under a pandemic status when the pandemic status has been lifted at  
268 the federal level. Manager Anderson noted that while it is no longer the height of the  
269 pandemic, COVID-19 is still a concern for certain members of the population,  
270 especially senior members of this board.

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272 Manager Anderson moved to amend the April 13<sup>th</sup> motion to extend the Board  
273 president's pandemic declaration to provide for a physical meeting location for  
274 board members, and members of the public, who make the judgment that they may  
275 meet in person. Seconded by Manager Bakke.

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277 President Schmaltz noted that under this scenario, managers may participate  
278 remotely without making their location public. Manager Loth indicated he still has  
279 concerns about maintaining a pandemic declaration given the current state of the

280 pandemic. Manager Anderson indicated she is concerned about the public  
 281 perception as well, but there are some managers willing to attend in-person, and  
 282 members of the public are able to participate in-person as well. She noted that  
 283 public attendance at board meetings has historically been low. She further explained  
 284 that it is difficult to get people to serve on the board, and proceeding as the board is  
 285 doing helps encourage managers to serve on the board. Manager Anderson and  
 286 Manager Bakke noted how commonplace remote work has become.

287  
 288 Mr. Kinney reiterated that the District is a data-driven, scientifically minded  
 289 organization. He stated that the District has done a variety of things differently than  
 290 other organizations for a long time based on data analysis. The impacts of COVID-19  
 291 are still being reported, and these data are what is driving this decision. Manager  
 292 Anderson expressed support for the hybrid meeting route, as long as legal counsel is  
 293 confident that there is a path forward that is compliant with statute.

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 295 Upon a roll call vote, the motion carried 4-0.  
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Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs			X	
Jackie Anderson	X			
Stephen Schmaltz	X			

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 298 **8. Report of Staff**

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 300 **a) Administrator**

301 Administrator Kinney noted there is a lot of project outreach coming up in the future,  
 302 particularly at lake association meetings. Manager Bakke asked for an update on the  
 303 Bone Lake South Wetland Acquisition Lessard-Sams Outdoor Heritage Fund grant  
 304 application. Mr. Kinney noted that funding is still not officially approved by the  
 305 legislature, but the process is continuing to move forward. He noted the District's  
 306 grant award, in both bills, remains at \$1.942 million. He indicated he and other staff  
 307 are still communicating with the landowner to seek an agreement on selling price.  
 308 Mr. Kinney noted that staff are preparing another application to the Lessard-Sams  
 309 grant program for Phase II on this site, which entails environmental restoration work.

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 311 **b) Emmons & Olivier Resources**

312 Mr. Graske provided updates on the two capital improvement projects currently  
 313 under construction:

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- County Road 50 Iron Enhanced Sand Filter: the pump controls will be installed next week, then electrical controls will be installed. Most of the seeding is done, and some trees will be planted in May.
- Sunrise River/Highway 61 Wetland Enhancement: the guardrail was installed last Friday. Once the west side of Highway 61 dries out, the subcontractor can access the west ditch line and bore the pit into the wetland. Plantings will occur in early summer.

**c) Smith Partners**  
Nothing to report.

**9. Report of Treasurer**

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

Treasurer Anderson reported income for the period of \$302,392.91 and expenses in the amount of \$162,479.47.

Manager Anderson moved to accept the Treasurer’s Report and pay the bills in the amount of \$162,479.47. Seconded by Manager Bakke. Upon vote, the motion carried 4-0.

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

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**10. Report of Officers and Managers**

President Schmaltz and Manager Bakke had nothing to report.

Manager Loth suggested renewing the conversation about installing signage on major roads at the District’s borders indicating the presence of the District. He indicated the project signage near the road for the Sunrise River/Highway 61 Wetland Enhancement Project has been a good idea.

Manager Anderson agreed such signage is a good idea. She indicated the District needed to update its logo prior to beginning this effort. Now that the new logo is complete, the District should renew its work on this effort.

Manager Anderson reported:

- She attended the Lower St. Croix Watershed Partnership Policy Committee meeting on Monday.
- The meeting included a presentation on agricultural practices and outreach in the basin. She suggested managers review the presentation slides which are available at [www.lsc1wlp.org](http://www.lsc1wlp.org).
- She noted the Policy Committee also discussed holding a field trip for projects and wanted to start with CLFLWD's Sunrise River Highway-61 Wetland Enhancement Project. She indicated that apparently several people have driven past the project and are excited about it.
- Manager Anderson indicated that, at the Policy Committee meeting, the Board of Water and Soil Resources (BWSR) stated that this One Watershed One Plan partnership is getting the most work done in the state. Manager Anderson noted this is good to hear.
- She explained that CLFLWD is slated to give a presentation on the Sunrise River Highway-61 Wetland Enhancement Project at a future Policy Committee meeting.
- Manager Anderson indicated she will be working with staff to review the East Metro Water Resource Education Program (EMWREP) contract amount.
- She noted that Chisago County has approved a lake association aquatic invasive species grant program.

## 11. Summary and Approval of Board Direction

- Manager Anderson requested that staff inform the managers about the Citizen Advisory Committee field trip.
- Manager Bakke asked that, next year, the audit firm attend the board meeting to present its findings, as opposed to solely pre-recording the presentation.
- There was general board consensus that staff will look into signage on major roadways entering the District.

## 12. Adjourn

### a) Next regular board meeting – May 11, 2023

Manager Anderson moved to adjourn the meeting. Seconded by Manager Bakke. Upon a roll call vote, the motion carried 4-0, and the meeting was adjourned at 8:26 p.m.

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

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

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