

**MINUTES OF THE REGULAR MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, November 15, 2018**

**1. Call to Order**

President Anderson called the November 15, 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, Vice President Jon Spence, Secretary Wayne Moe, Treasurer Steve Schmaltz, Manager Jen Oknich

Others: Mike Kinney, Jessica Lindemyer, Erin Edison, Rachel Funke (CLFLWD staff); Greg Graske, Meghan Funke, Cecilio Olivier, Jason Naber (Emmons & Olivier Resources); Chuck Holtman (Smith Partners); Bill Lentsch (Comfort Lake Property LLC); Vincent Lauer (local resident); Greg Wilson, Steve Klein (Barr Engineering)

**2. Setting of Meeting Agenda**

President Anderson noted that agenda item 7e is changed to “Administrator Evaluation.” Administrator Kinney recommended moving the Professional Service RFP presentations up to agenda item 7b.

Manager Moe moved to approve the agenda as amended. Seconded by Manager Spence. Upon a vote, the motion carried 5-0.

**3. Consent Agenda**

- a) **Special Board Meeting Minutes – October 11, 2018**
- b) **Regular Board Meeting Minutes – October 25, 2018**

President Anderson indicated that she has a clarification to the October 11<sup>th</sup> minutes on page 3, second paragraph under item 4: revise this paragraph to make it clear that President Anderson wanted to have a project prioritization framework that could be used for other pollutants such as total suspended solids and nitrogen.

Manager Moe moved to approve the consent agenda as revised. Seconded by Manager Spence. Upon a vote, the motion carried 5-0.

**4. Public Comments on 2019 Budget & Levy**

There were no comments.

**5. Public Open Forum**

There were no comments.

## **6. Citizen Advisory Committee Update**

Watershed Assistant Jessica Lindemyer reported that the CAC discussed the Watershed Champion award program and 2019 outreach projects at its last meeting. The CAC plans to bring a final list of proposed 2019 activities to the December board meeting. President Anderson requested that the meeting notes include the time of the meeting so as to record that it was in compliance with Election Day public meeting laws.

## **7. New Business**

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

Administrator Kinney explained that the permittee, Bill Lentsch, has requested that his letter of credit for his CLFLWD permit be released in full. District staff has been in communication with Mr. Lentsch and the City of Wyoming regarding this matter.

Mr. Lentsch explained that the District permit requires two financial assurances - \$17,400 for grading and alteration and \$70,000 for stormwater management. The stormwater management assurance requirement was satisfied through demonstrating that Mr. Lentsch provided at least that much to the City in the form of a letter of credit. The City's letter of credit was for a larger amount and to address development matters beyond simply stormwater. Therefore, the District and City entered into an agreement requiring the City to retain at least \$70,000 to be available to the District for stormwater purposes until the District's permit is closed out. He explained that, instead of having a homeowners' association, the City is taking responsibility for maintenance of the roads, ponds, and ditches upon completion of the project. The City has indicated that its checklist of requirements has been met, and it is now ready to release its letter of credit. However, the District's requirements for stabilization of exposed soils have not yet been met, therefore the District is not yet ready to release its financial assurance requirement. He believes this issue arises because of a new District policy to require permits for the development of individual building lots.

Mr. Lentsch indicated that on transfer of responsibility, the City is requiring a 2-year bond of approximately \$300,000 for potential maintenance needs. He explained that there are several factors contingent upon the release of the City's letter of credit. He also requested further explanation for the costs listed on the permit fee balance sheet so that he can better understand why there is a balance that needs to be paid. There was discussion about past issues onsite and associated inspections and staff time.

Legal Counsel Holtman clarified that the District's policy has always been that, when there is a subdivision permit, the permit continues to encompass the development of all the individual building lots, unless the permit explicitly excludes them. The recent policy change that Mr. Lentsch notes was to create an administrative mechanism to effect a partial transfer of the development permit to a lot owner when the developer sells the lot, by which the District Administrator can approve the transfer. Previously,

Board approval was required for partial permit transfer to each new lot buyer. Mr. Holtman explained the process, which is described in the board memo, by which the District, in its discretion, may reduce the financial assurance amount and the City may release its letter of credit on Mr. Lentsch's submittal to the District of a new letter of credit in the reduced amount, which the District will hold until all permit stipulations have been met. The District Engineer has recommended that the original financial assurance amount required at permit issuance is no longer needed, but the site is not yet ready for full release. Based on site conditions, the Engineer recommended that a financial assurance of at least \$46,600 should be held in the meantime while final permit stipulations, both to complete stormwater facility installation and to stabilize the site, are satisfied. Mr. Holtman further clarified that the District's rules require that the financial assurances are held until the permitted work is completed. The permitted work is defined by the plans and other such documents that were submitted as part of the permit application, which in this case specified construction of houses on each of the eight lots. The permittee may apply for a permit amendment in the event that the scope of the permitted work changes, e.g., to reduce the permit scope to the existing built lots and provide for permanent stabilization of the remainder. It was clarified that four out of the eight lots in the subdivision have been sold. There was discussion regarding the stabilization status of each lot.

Engineer Graske explained the reasoning for the recommended \$46,600 financial assurance, as described in the board memo. He noted that normally the District does not approve financial assurance reductions; it holds the entire financial assurance until the project is complete and the permit is closed out. Mr. Graske explained that the stormwater features appear to be functioning properly. However, some seeding is still required. Additionally, there is some concern about the filtration bench becoming clogged if surrounding soils are not adequately stabilized. An assurance of \$35,000 would suffice for the District to replace the filtration bench and stabilize the site, if needed. Mr. Lentsch suggested that the District could revise its agreement with the City to address the discussed matters.

Manager Moe moved to postpone further discussion and potential action until the December 13<sup>th</sup> regular board meeting so that staff may have time to meet with the City of Wyoming. Seconded by Manager Spence.

Discussion: Mr. Holtman noted to Mr. Lentsch that the proposed steps outlined in the memo - a replacement letter of credit and an amended permit - are offered with the idea that this approach is more efficient, and would involve less District counsel and engineering time, than having the District work out an amended agreement with the City for stormwater and grading assurances.

Upon a vote, the motion carried 5-0.

#### **b) 2019-2020 Professional Services RFP – Engineering Presentations**

Steve Klein and Greg Wilson presented an overview of Barr Engineering's services, highlighting the topics of billing, developing a client service plan, staff qualifications,

and how they would approach the transition process. President Anderson noted Barr's longevity with other clients and asked how frequently staff are changed out. Mr. Klein indicated that staff-client assignments are not changed frequently, but changes can be made in order to accommodate clients' needs and desires. In response to a question from Manager Moe, there was discussion regarding Barr's experience with alum treatments and treating external phosphorus loading prior to conducting the alum treatment. Responding to a question, Mr. Klein advised that there are 500 employees in Barr's Minneapolis office. He stressed that, though Barr is a large company, it still provides a personalized level of service to its clients. President Anderson noted that Barr's fee schedule provides a range for each position's hourly rate. She asked how the specific rates are determined for billing purposes. Mr. Klein explained that each employee has their own specific billing rate; the ranges provided pool employees into groups. There was further discussion regarding billing rates and how Barr staff members are assigned to clients. Mr. Klein affirmed that the proposed rates will remain the same for 2019 and 2020.

Administrator Kinney asked how Barr employs the 80/20 rule and cost-effectiveness evaluation in its project planning process. Mr. Klein described Barr's process of using modeling and cost estimates to create a project benefit scoring system and a project priority list.

Dr. Meghan Funke and Greg Graska presented on EOR's history, qualifications, billing rates, and past projects and successes. President Anderson asked for clarification on EOR's notation that it doesn't markup subcontractor costs or reimbursable expenses. Mr. Graska gave an example of when EOR recently used an outside firm to assist with an element of the Shields Lake Stormwater Reuse Project; EOR billed the District for the exact costs it incurred from the subcontractor. This is the same for lab work and other analyses. In response to a question from Manager Schmaltz, Mr. Graska stated that, out of the five current watershed district clients, the District is probably the second largest as relates to total billing amount. He added that EOR has some larger non-watershed district clients as well, such as the Minnesota Department of Natural Resources.

There was general consensus to hold the Board discussion and action on this item until later in the meeting in order to get through the other agenda items sooner and allow attendees to leave if they wish.

### **c) 2019 Budget Revisions**

Administrator Kinney explained that there was general consensus on the 2019 budget revisions at a previous meeting, and that the purpose of this agenda item is to distribute the final revised budget and obtain a formal motion to approve the revisions. Manager Schmaltz indicated that he thoroughly reviewed the revised budget and it is consistent with the discussion at the last meeting.

Manager Schmaltz moved to approve the 2019 budget revisions, reflecting line item changes from the October 11, 2018 special board meeting. Seconded by Manager Spence. Upon a vote, the motion carried 5-0.

**d) MAWD Delegate Appointments**

It was determined that Managers Anderson and Spence are the only two managers planning to attend the MN Association of Watershed Districts (MAWD) Annual Meeting and Conference this year.

Manager Moe moved to appoint Managers Anderson and Spence as District delegates at the MAWD annual meeting. Seconded by Manager Schmaltz. Upon a vote, the motion carried 5-0.

President Anderson noted that the draft 2019 staff work plan was included in the board packet this month. Mr. Kinney explained that staff will bring the final work plan to the December 13<sup>th</sup> board meeting for consideration of approval.

**e) MAWD Resolutions – Delegate Instructions**

Nine resolutions will be brought to the MAWD Board meeting this year. Eight are recommended by the MAWD resolutions committee for approval, and one is recommended to be brought forward to the membership for a vote (resolution title: Recommend Administrators for Clean Water Council Appointments).

Manager Oknich indicated that, in lieu of having more time to review resolution #8, she will choose to abstain from the vote on that resolution. In response to input provided by Legal Counsel Holtman there was discussion regarding resolutions #4 and #7.

President Anderson moved to support the position of the MAWD resolutions committee as to proposed resolutions #1-7 and 9, with additional recommendations with respect to resolutions #4 and #7 as suggested by counsel. Seconded by Manager Spence. Upon a vote, the motion carried 5-0.

There was discussion regarding resolution #8 and Manager Oknich's reservations regarding the resolution.

Manager Moe moved to direct the delegates to listen to the discussion at the MAWD meeting concerning resolution #8, and use their best judgment to decide whether to support it. Seconded by Manager Schmaltz. Upon a vote, the motion carried 5-0.

**8. Old Business**

**a) District Office Space**

Manager Schmaltz indicated that President Anderson, Mr. Kinney, and he would continue to evaluate the current list of properties, as well as some additional options.

President Anderson expressed that there is a surprising lack of available space within the District boundaries.

Manager Spence moved to authorize Manager Schmaltz to execute the agreement with the real estate agent, contingent upon review by legal counsel. Seconded by Manager Moe. Upon a vote, the motion carried 5-0.

**b) State of the Watershed Annual Public Meeting & Watershed Champion Award**

President Anderson explained that the purpose of the State of the Watershed Annual Public Meeting is to allow the District a chance to connect with the public and review both its past projects as well as upcoming initiatives for the current year. She expressed that a public meeting may be a better communication tool than a newsletter. The Watershed Champion framework is included in the board materials packet. President Anderson noted that the CAC minutes indicate that the CAC recommended that the award review committee be composed of one manager, one District staff member, and three CAC members. Manager Schmaltz asked if any other watershed districts have awards programs and/or annual public meetings such as these. Ms. Lindemyer explained that the award program framework is based on other watershed districts' awards programs. She explained that more information on the Board's desired format for the annual public meeting is necessary in order to do meaningful research on that topic. The managers agreed that a public meeting would be a more appropriate format than an open house. President Anderson explained that the first meeting would be a starting point from which to build each year thereafter. Manager Moe recommended posting a notice in the newspaper with links to find more information.

**c) Watershed Champion Award [combined with item 8b]**

Manager Spence moved to direct staff and CAC to move forward with the Watershed Champion Award Program, and with holding a State of the Watershed Annual Public Meeting. Seconded by Manager Moe. Upon a vote, the motion carried 5-0.

**d) Administrator Evaluation**

President Anderson explained that the purpose of this agenda item is to select a replacement for Manager McNamara on the Administrator Evaluation review team. She noted that the 2018 review materials should be completed by December 10<sup>th</sup> so that the Board and Administrator can go over them at the December 13<sup>th</sup> regular meeting. Manager Oknich volunteered to be on the review team with President Anderson. Manager Oknich indicated that she has been on review committees in the past.

**9. Report of Staff**

**a) Administrator**

Administrator Kinney explained that the first implementation phase of the Bone Lake Drained Wetland Restorations project was completed last week on the Edell property. The next step will be to implement another project downstream toward Bone Lake. Mr. Kinney explained his landowner outreach and communications for this project. He provided an update on the Shields Lake Stormwater Reuse Project, for which construction is currently about 70% complete and is scheduled to conclude by the end of the month. Mr. Kinney noted that he recently met with Washington County Commissioner Fran Miron, who was complimentary of the District's work and its partnership with Carnelian-Marine-St. Croix Watershed District. He encouraged the District to continue these shared services going forward. There was discussion regarding the One Watershed-One Plan cost tracking sheets and the permitting update format.

**b) Emmons & Olivier Resources**

Dr. Funke reported that EOR is finishing its monitoring efforts for the year and will present results at the next meeting. She noted that EOR finished its review of the Liberty Ponds stormwater features and shared its conclusions with the City of Wyoming in the form of a memo. Overall, the features are at their design capacity and there don't appear to be any sedimentation issues.

**c) Smith Partners**

Nothing to report.

**10. Report of Treasurer**

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

Treasurer Schmaltz reported income for the period of \$6,400. The District's levy payment should arrive in December which will bring the fund balance to over \$1.5M.

Manager Spence moved to accept the Treasurer's Report and pay the bills in the amount of \$66,495.20. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

**11. 2019-2020 Professional Services RFP – Board Discussion & Action**

Manager Oknich said that she is familiar with both engineering firms and would feel comfortable selecting either one. She noted that she was impressed by EOR's presentation and the amount of effort taken to show its relationship with the District. Manager Moe expressed that EOR's past assistance with grant applications makes it a very strong candidate. Manager Schmaltz indicated that he was impressed with Barr's presentation and that it seems well-qualified. He expressed that Barr would be a good firm to continue to work with on some projects in order to tap into its depth of expertise. Manager Schmaltz recommended renewing the contract with EOR due to several factors: being employee-owned, being a small company that gives the District very personalized service, and its past record of grant writing and providing excellent service to the District. Manager Spence noted how flexible and responsive EOR has been and recommended renewing its service

contract. He is satisfied to keep Barr in the engineering pool. President Anderson expressed that EOR has come into its own in the past years with the most recent projects. She expressed that past projects seemed to always have some sort of unforeseen issue that EOR hadn't planned for, for example, the Peshorn project. President Anderson indicated that she was troubled by EOR's turnover for lead engineer over the years, but it seems to be stabilizing now with Dr. Funke taking the lead role recently. She expressed that Barr and EOR appear to have the same philosophy and approach to projects and that Barr would be able to handle the transition well. She also likes the fact that Barr is willing to negotiate a flat meeting attendance rate and that its billing rate range is lower than EOR's overall which, it appears, will result in savings for the District. She also noted that Barr's proposal does not include a rate increase for 2020 while EOR's proposal includes a rate increase based on the consumer price index or 3% for 2020. Manager Spence expressed that he was more concerned about the value of the time and relationship with the firm, than the hourly rates, and that it would be a mistake for the District to switch firms at this time.

Manager Spence moved to select and authorize preparation of a professional service contract with Emmons & Olivier Resources for engineering services. Seconded by Manager Moe. Upon a vote, the motion carried 4-1 (President Anderson).

President Anderson moved to retain Barr and Wenck in the engineering pool for 2019-2020. Seconded by Manager Spence.

Discussion: Manager Moe expressed concern regarding Wenck due to a past study in which Wenck failed to include animal farming practices in one of its phosphorus loading studies. He explained that Wenck had indicated that including the animal units in the study would be an extra cost.

Upon a vote, the motion carried 5-0.

## **12. Report of Officers and Managers**

President Anderson asked if the District received any feedback from the DNR regarding the recent DNR shoreline survey work on Comfort Lake. Administrator Kinney indicated that staff has not yet received a response.

## **13. Summary and Approval of Board Direction**

There was discussion regarding the format of the board direction table. No new items were discussed.

## **14. Adjourn**

### **a) Next regular board meeting – January 24, 2019**

Manager Spence moved to adjourn the meeting. Seconded by Manager Moe. Upon vote, the motion carried 5-0, and the meeting was adjourned at 9:22 p.m.



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