

**MINUTES OF REGULAR MEETING  
OF THE  
COMFORT LAKE - FOREST LAKE  
WATERSHED DISTRICT  
Thursday, October 23, 2014**

**1. Call to Order**

The President called the October 23, 2014 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 Jon Spence and Manager Stephen Schmaltz

Others: Mike Kinney (CLFLWD District Administrator), Chuck Holtman (Smith Partners), Greg Graske and Cecilio Olivier (EOR), Jerry Grundtner (CAC member), Margie Schmidt (Scandia resident and Bone Lake Association), Aaron Parrish (City of Forest Lake) and Debbie Meister (MMC Associates)

**2. Setting of Meeting Agenda**

The President called for the reading and approval of the October 23, 2014 Regular Board meeting agenda.

Manager Moe moved to approve the agenda as presented. Seconded by Manager Schmaltz. Discussion. Upon vote, the motion carried 5-0.

**3. Consent Agenda**

- a) Special Board Meeting — September 15, 2014
- b) Regular Board Meeting — September 25, 2014

Manager Anderson stated that she has concerns with the September 25 minutes not representing the full flavor of the discussions.

Manager Moe moved to approve the minutes of the special meeting of Monday, September 15, 2014. Seconded by Manager Spence. Upon vote, the motion carried 5-0. Manager Moe moved to defer action on the September 25, 2014 regular meeting minutes to allow them to be supplemented. Seconded by Manager Anderson. Upon vote, the motion carried 5-0.

**4. Public Open Forum**

The President asked for public comments. There were no comments.

**5. New Business**

**a) BWSR Rule 8410 – Public Comment Memo**

At Administrator Kinney's request, Mr. Holtman drafted a summary of the proposed watershed planning rule changes proposed by the Board of Water and Soil Resources (BWSR). He summarized key points of the rule changes, areas that could be problematic and possible comments that the District could submit to BWSR. The present rules were adopted in 1992. The proposed rules would focus more on process than prescription.

Baseline watershed data would not be required since it is already available and stakeholders would be brought in at the beginning of the process to provide input on goals. From there implementation plans would be developed. BWSR acknowledges that plan amendments now take about seven months. The new rules would speed up the process by allowing plan amendments to occur through a minor, rather than major, amendment, if there are no substantial objections from stakeholders, in particular counties. BWSR review time would also be reduced. Under the current rule, local units of government (LGU) incorporate district implementation goals/responsibilities into their local water plans. Under the new rules there is language that could be read to weaken this hierarchy. Districts are to describe how they will enforce local plan commitments, but the legal tools to do so are very limited. Additionally, though LGUs will be required to revise their water plans every 10 years and incorporate them into their comprehensive plans, plan amendments in between 10-year revisions apparently will not be required. While this provides a link between local water and land use planning, it distances the LGU water plans from watershed districts' management plans. A different time schedule could be requested to more closely link these plans, for example by scheduling all watershed district plans for BWSR approval at a fixed time in advance of local water plan development. The new rules also appear to loosen regulatory mandates and minimum standards, with BWSR considering LGU stormwater (MS4) permits and the Wetland Conservation Act adequate to cover stormwater, erosion, illicit discharges and wetland management. However, the authority still remains with watershed districts to set standards and require LGU ordinances to meet them. Districts review LGU plans, before they go to the Metropolitan Council for approval.

Managers expressed concern that without requiring LGUs to amend their plans to correspond with watershed district plans, changes will not be incorporated at the local level. Manager Anderson suggested having easy to understand and implementation language that LGUs could adopt in their plans. Or she suggested, LGUs could adopt district rules by reference. She compared this to LGUs adopting Department of Natural Resources rule amendments. Mr. Holtman cautioned that through experience implementation is then tricky. Managers also expressed concern that watershed districts lack enforcement authority. Mr. Holtman stated that while districts are limited in enforcement, they can provide incentives to LGUs through programs such as the cost share. There is an expectation that districts will collaborate and there is money to be shared. LGUs are also aware of MS4 permits. If TMDL load allocations are assigned to an MS4 city, then those load allocations will become a requirement of the MS4 permit.

Manager Spence asked the purpose of the rules if they can't be enforced. Mr. Holtman replied that it establishes a process by which watershed organizations can raise revenue, identify priorities and involve stakeholders in defining how money will be spent, but with a limited amount of compulsion on how this will be implemented. Administrator Kinney stated that this is more about BWSR oversight with its intent to streamline amendments, make districts more visible to LGUs and make it easier for LGUs to work with districts.

Questions about rules arose: when watershed districts amend their rules, are they required to update their plans? And how are cities affected by district rule changes? Mr. Holtman

stated that Smith Partners is asking BWSR for clarification on these and other questions, but noted that the district can also respond. Because of the short timeframe Metro Minnesota Association of Watershed Districts will probably not take a position.

Manager Anderson expressed concern with cities not performing and raised concern with relying on others such as the Minnesota Pollution Control Agency (MPCA) to enforce MS4 permits. Mr. Olivier suggested, through years of experience, that to make a difference in your resources you 1. Do projects, 2. Enforce your rules, which can be as restrictive as you want as long as they are defensible and 3. Have good relationships with cities.

At Manager Spence's suggestion it was agreed that Managers would review Rule 8410 and provide comments to Administrator Kinney, who will compile and send to Mr. Holtman. A special meeting was scheduled for Wednesday, October 29 at 6:30 p.m. to consolidate comments.

**b) Six Lakes TMDL Review**

Mr. Graske, at Administrator Kinney's request, prepared and presented a memo for discussion on the Bixby Park project in relationship to Forest Lake's TMDL load allocations. The MPCA policy first applies reductions to upstream loads before assigning reductions downstream. Because Comfort Lake is close to achieving its load, the City of Forest Lake's waste load allocation requires not increasing its current pollutant load, but does not require a decrease. Also the District plan is more stringent than the state's and lists Bixby Park and other projects along the lake corridor in its Implementation Plan. The plan first addresses development and then alludes to a District-city partnership. For the city to hold its waste load constant—due to variability of loading and potential for unregulated development—it must pay attention to small projects and provide maintenance on current projects. This makes the Bixby Park project advantageous to the city.

Mr. Olivier stated that the MPCA loading policy of focusing on impaired upstream lakes was not in existence five years ago. The policy is supportable but has a flaw in that it does not take into account that beneficial reductions can be accomplished where opportunities exist, even where those opportunities are not directed at upstream lakes, such as a larger population and more development projects on downstream lakes. Once TMDLs are operative, he predicts that future MS4 permits will require LGUs to provide specifics on what they are doing to achieve their goals. Forest Lake could then point to collaboration with the District on Bixby Park. Manager Moe then asked Mr. Parrish if this is something that the city council wants. Mr. Parrish replied that through conversations with the District, he is trying to position the conversation to bring back to the city council. Issues are: 1. What is the impact on the use of the city property if an easement is provided; 2. How is our vision for Bixby Park, including the master plan and park improvements, appropriately integrated with this project; 3. How will water elevations change; 4. What is the wetland component of the project and 5. How can maintenance issues be addressed. He stated that the city is interested in doing projects, but it is a slow process and implementation must work for everyone. In response to

questions about the city's stormwater mapping that was expected in 2008 and maintenance issues, Mr. Parrish stated that the city allocated about \$40,000 for these issues, is working on a 20-year budget timeframe and is proposing a stormwater rate increase. Administrator Kinney stated that he is working with city staff to answer these questions and summarized what has been approved to date and the work plan. He is also providing an explanation to BWSR about why funds are being expended before there is a project agreement.

Mr. Olivier stated that another obstacle to the project is the city's request for wetland credits, which is not consistent with state grant funding for the project. To get stormwater credit, treatments must exceed regulatory requirements. He also noted that the project will have minimal impact on the city's park plans and explanations are covered in the report. Manager Anderson stated that she sees this as a collaborative project that helps the city with its discharge problem, brings in other funding, fits with the city's park vision, adds wildlife habitat and will be an enhancement. Mr. Parrish added that coordination meetings will be productive and the city and District are on a good track to be working together on this and other projects.

**c) Topics for Future City Council/WD Workshop**

Administrator Kinney stated that he and Manager Schmaltz met with City of Forest Lake staff to identify topics for city-District discussion. The overarching question is: the city has water quality improvements in its plan, but does it buy into the vision? Key questions and proposed accomplishments/projects have been drafted for the workshop. Manager Anderson stated that BWSR has a goal to have LGUs adopt watershed standards, while MS4 permits and TMDL load assignments are status quo. If the District has aggressive rules to bring water quality back to predevelopment, then how can we have a circumstance where pollutant loads to water bodies are increasing beyond the goals on which the District rules are based? Mr. Holtman replied that the District adopts its own permitting rules based on goals it wants to reach. But the regulatory process only applies to a small area of the District. And the TMDL is broader—looking at the goal and then implementation that allocates loading reductions. Administrator Kinney added that the rules address sites both up and downstream and that, had they been implemented, the city would have reached the District goals. He also noted that a lot of the city infrastructure is old and thus not functioning well. Mr. Graske stated that a change in federal or state statutes would be needed before watershed districts or other local entities could require more aggressive receiving water standards as a basis for state water quality requirements such as TMDLs.

Manager Schmaltz stated that we don't accept the state standard because lakes such as Forest Lake are failing in water clarity. It was agreed that the tools watershed districts can use to go beyond minimum standards are the ability to set goals, develop rules, levy money and collaborate with LGUs by building a common vision and bringing additional funds. It was also agreed to draft a joint workshop agenda for review in November and to work toward a joint workshop in the first quarter of 2015, after the new city council is seated.

## 6. Old Business

### a) Office Space

Administrator Kinney reported that he is working with a real estate agent who provided a summary of potential office sites. Managers Anderson and Schmaltz toured a few locations and provided pros and cons of several sites, with Kodiak, an office on Broadway and the Tower building as worth looking at. The District will need to move by late November or possibly early December. It was agreed that Administrator Kinney will work with the agent to select sites to tour at 5 p.m. on October 29 and will give public notice for the tour.

### b) Peshorn Iron Sand Project

Administrator Kinney reported that the contractor was in a bad motorcycle accident, but arranged for a subcontractor to do the repair work on October 30.

### c) Bone Lake Fish Barrier Management Plan

Mr. Graska reported that the draft management plan has not really changed. He met with contractor Roger Rydeen who will provide a firm quote, but estimates the cost to fabricate and install two grates to be about \$15,000. It is recommended to have the grates in place before the freeze to prevent adult carp from migrating in the spring. Monitoring of the structure was discussed including training the Conservation District, hiring Scandia maintenance or a resident on Bone Lake or having EOR or the Administrator monitor. Administrator Kinney and Mr. Graska will work on a maintenance protocol. Mr. Graska also discussed fixing the Forest Lake Outlet this winter.

Manager Moe moved to adopt the Bone Lake Fish Barrier Management Plan and authorize Mr. Graska to move forward with the contracting for fabrication and installation of the two grates not to exceed \$15,000. Seconded by Manager Anderson. Motion carried 5-0.

### d) Target Project

Administrator Kinney reported that, at request of Forest Lake, he signed the contract with Minnesota Conservation Corp for maintenance work. The city will arrange for collection and disposal of the debris and will complete the maintenance of the channel.

### e) AIS Update

Administrator Kinney reported that the Comfort Lake Association requested a meeting to discuss Eurasian watermilfoil. This ties in with the Six Lakes AIS Plan that Mr. McComas is working on. The flowering rush treatment on Forest Lake was successful with emergent plants, but not with submerged plants. Further discussion is needed with Mr. McComas to evaluate the success of this treatment. Managers Anderson and Moe reported purple loosestrife sightings on Sylvan Lake respectively for reporting to Mr. McComas.

### f) Hilo Lane Project Update

Administrator Kinney stated that an additional component was added to the project. The updated information will be provided to the principal property owner.

## **7. Report of Staff**

### **a) Administrator**

Administrator Kinney reported that this is the last day for receipt of professional proposals. He will bring copies of the proposals to the meeting on October 29.

### **b) Emmons & Olivier**

Mr. Graska reported that he and city staff met with a developer proposing to develop about 25 lots north of Forest Lake and updated him on District rules.

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

## **9. Report of Treasurer**

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

Treasurer Spence presented the Treasurer's Report and bills to be paid.

Manager Moe moved to approve the October 23, 2014 Treasurer's Report and pay the bills and payroll as presented in the amount of \$59,045.36. Seconded by Manager Schmaltz. Upon vote, the motion carried 5-0.

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

- Manager Spence reported that he is not planning to attend the Minnesota Association of Watershed District (MAWD) annual meeting, but suggested that someone should.
- Manager Anderson stated that she would like to attend a Friday session of MAWD. She also reported that Comfort Lake is rising due to a beaver dam upstream. The structure should be removed.

Manager Spence moved to authorize payment of MAWD registrations for managers and staff wishing to attend the conference. Seconded by Manager Anderson. Upon vote, motion carried 5-0.

## **11. Adjourn**

Manager Anderson moved to adjourn the CLFLWD regular Board meeting at 9:28 p.m. Seconded by Manager Moe. Upon vote, motion carried 5-0.

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