

**MINUTES OF REGULAR MEETING
OF THE
COMFORT LAKE – FOREST LAKE
WATERSHED DISTRICT
Thursday, June 18, 2015**

1. Call to Order

The President called the June 18, 2015 Regular Board meeting to order at 6:30 p.m. at the Council Chambers of the Forest Lake City Center, 1408 Lake Street South, Forest Lake.

Present: President Richard Damchik, Vice President Jackie Anderson, Treasurer Jon Spence, Secretary Wayne Moe and Assistant Treasurer Stephen Schmaltz.

Others: Michael Kinney and Emily Schmitz (CLFLWD staff), Ryan Peterson (CLFLWD summer intern), Chuck Holtman (Smith Partners), Greg Graske and Cecilio Olivier (EOR), Mark Lobermeier (Wyoming), Jerry Grundtner (CAC member) and Margie Schmidt (Bone Lake Association).

2. Setting of Agenda

The President called for approval of the June 18 agenda. Manager Moe moved to approve the agenda with the addition of action on the annual LMCIT liability waiver as item 5(f) and update on Hilo Lane, Third Lake, Shields Lake and office signage matters as item 6(f). Seconded by Manager Schmaltz. Upon vote, the motion carried 4-0.

3. Consent Agenda

a) Lichtscheidl Cost-Share Application

Manager Moe moved to approve the consent agenda. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

4. Public Open Forum

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

5. New Business

a) **9th Street SW and 15th St. Restoration Project Property**

Administrator Kinney reported that a property owner recently approached the District about the availability of a property in an anticipated 2016 project area.

Manager Moe moved to move this item to the end of the agenda. Seconded by Manager Spence. Upon vote, the motion carried 4-0.

b) **Budget Schedule Discussion**

Administrator Kinney reported that in preparation for the budget process, he has started a number of conversations with the City of Forest Lake and preliminary conversations with EOR. Meetings are anticipated with Chisago Soil and Water Conservation District (CSWCD). There will probably be some revisions to the budget format.

c) Joint Watershed District Workshop

Administrator Kinney confirmed that the date of the workshop is July 14 at 6:30 p.m. at the Scandia Community Center. The proposed agenda includes small groups, comprising one or two managers from each district, to share top projects and possible projects for collaboration such as aquatic invasive species (AIS). The administrators will provide an overview of their districts including size, capital improvement projects (CIP) and budgets.

d) Potential Office Stormwater Project

Administrator Kinney reported a rain garden in front of the office is not suitable given space constraints. Instead the WCD suggested installing native plants and an interpretive sign on native plants, their root systems and their relationship to water quality. The landlord approved the planting and agreed to split the plant cost of \$500. The District has already lined up the Minnesota Conservation Corps for installation. Staff will work with Angie Hong on developing a sign. Expenses are part of the move-in and/or education budget. Mr. Holtman advised that although this is a low-risk undertaking, by taking responsibility for design and installation the District will be assuming any liability risk associated with a native planting or rain garden.

In response to a question about the target date to use the office building for the District's regular meetings, Administrator Kinney stated that the easiest approach is to finish the boundary revisions so the building is in the District. The other option is to approve a resolution and hold public hearings.

(Manager Anderson arrived at 6:45 p.m.)

e) Enforcement Authority Resolution 15-06-01

Mr. Holtman stated that at the last meeting the Board discussed permit violations and enforcement authority. As it currently stands, the Board has the authority to issue stop-work and compliance orders to permit violators after due notice and hearing. For a quicker response time, the Board discussed giving authority to the administrator to issue a stop-work or compliance order in the field. Mr. Holtman presented a resolution delegating that authority. He noted that the resolution specifies three criteria for the administrator's exercise of authority, because there is a tendency in court decisions to be careful of the authority a decision-making body delegates to its staff. This resolution gives the administrator the authority to issue orders when there is a need for the status quo to be maintained or certain actions to be taken until such time as the Board can schedule a hearing. At that time, the alleged violator could come to the Board to plead their case. Also included is an order format that provides for the District representative to clearly identify the violation and the perceived harm. Manager Schmaltz recommended that where the criteria stipulate use of the authority to address "substantial" harm, the term "substantial" should be removed so that it is not the basis for an order recipient to contest the order.

Manager Anderson suggested that the authority may be exercised when any one of the three criteria is met, rather than all three. Mr. Holtman summarized the reasoning for

the exercise to rest on all three. If work is a violation and there is harm or threatened, the administrator can issue a stop-work order. If the administrator determines work was completed and there is no harm, he then would issue an after-the-fact permit. The District wants to be in the position, if a decision is questioned, that the delegated authority was addressed to a situation in which actual harm to water resources was occurring or threatened to occur in a timeframe too near for the Board to notice and hold a hearing.

Manager Schmaltz moved to adopt Resolution 15-06-01 delegating compliance authority to the administrator as proposed, with the word “substantial” removed. Seconded by Manager Anderson. Upon roll call vote, the motion carried 5-0.

Manager Anderson moved to adopt the compliance order template as presented by the attorney and implement it through the administrator. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

- f) **League of Minnesota Cities Insurance Trust Liability Coverage Waiver Form**
Administrator Kinney reported that the waiver form is required on an annual basis. This is the standard form and provided the recommended action.
Manager Spence moved to indicate that the District “does not waive” the statutory liability limit. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

6. Old Business

a) **Shields Lake Fish Barrier**

Administrator Kinney reported that work on the transfer has been ongoing for almost a year. There was a question of ownership of the land on which the barrier and generator are located. The land is Minnesota Department of Transportation (MnDOT) right of way, the MnDOT permit has been obtained and the Department of Natural Resources (DNR) has notified that DNR permits are not required. The city will sign next year’s service contract with Smith-Root, Inc., which the District will go through the process to assume. The last two inspection reports cited deficiencies. The District asked the city to fix the signage. Legal counsel drafted an agreement for the transfer. Discussion focused on the need for maintenance and equipment replacement, which is why the city is happy to relinquish ownership; if it occurs, the need to document the city’s discontinuation of paying for power to the facility and the generator; a request to the city to continue mowing the site; a yearly maintenance cost of \$12,000-\$15,000; evaluation of the system by EOR; inspection costs that are now up to \$3,000 annually and have been increasing by 10% a year; mechanical plates for use as a barrier are not effective; the barrier is needed to keep carp out of both Shields and Forest Lakes and spawning habitat will be investigated by St. Mary’s University, as well as EOR and Steve McComas.

Manager Anderson moved to approve the ownership transfer and access agreement; authorize the Board President to sign the agreement if he finds the terms of the maintenance agreement reasonable and with further non-substantive changes on advice of counsel; and authorize the District engineer to examine the benefit area. Seconded by Manager Moe. Discussion. Upon vote, the motion carried 5-0.

Mr. Holtman clarified that the current contract is a five-year contract that is extended annually as the District elects. The Managers suggested the inspector's travel costs should be prorated across all the contracts in the area and requested EOR reevaluate inspection options.

b) City Ordinance Evaluation Work Order

Mr. Graske, at the Board's request, prepared and presented a work order to review ordinances of the cities of Forest Lake, Wyoming and Scandia and Chisago Township compared to the Minnesota Pollution Control Agency ordinance package. Jay Riggs is already evaluating the city of Chisago's ordinances, so Chisago was not included in the scope. Although EOR will make recommendations, there is no guarantee that the municipalities will accept them. Mr. Graske agreed to include within the not-to-exceed a review of each entity's attention to the District's regulatory role in the course of its permit processing. He will also let the municipalities know that Legacy funds could be available to help rewrite ordinances.

Manager Anderson moved to approve the city ordinance evaluation work order. Seconded by Moe. Upon vote, the motion carried 5-0.

c) Forest Lake EWM

Administrator Kinney reported that a week ago, while Mr. McComas was out doing a site assessment for Eurasian watermilfoil on Forest Lake, he found four sites with curly leaf pondweed. Some follow-up is scheduled for next Wednesday and at Mr. Lund's recommendation, Mr. Johnson, an aquatic lakes specialist has been contacted. Mr. Johnson uses underwater removal of AIS followed by spot treatments in newly infested areas. This method has been successful in a lake in Hennepin County. The Forest Lake Lake Association, along with the city, is interested in pursuing something with the District. Manager Schmaltz stated that speed is the biggest advantage we have and the District should take the lead coordinating a joint project with the city and lake association. A meeting should be scheduled for next Thursday or Friday, after the delineation. Mr. Johnson and EOR should be included. Discussion included contacting the DNR for permission to rope off infested areas to keep boats out, taking action before the July 4 weekend, applying the District's AIS rapid response process to this situation, as well as to all lakes, including Bone Lake, as the situations arise. It was agreed that Mr. Graske/EOR and Administrator Kinney will implement the rapid response including calling key stakeholders.

d) AIS Update

Ms. Schmitz reported that she, along with EOR, has been coordinating AIS work and updating the spreadsheet to track planning efforts. Sixteen homeowners on Big Comfort Lake were asked to treat for milfoil. A decision about roping the infected areas off should be made by EOR and Mr. McComas, instead of waiting for Board action. Manager Anderson asked about filamentous algae and stated that residents on Little Comfort Lake are concerned. The algae is moving into Big Comfort. Manager Anderson asked that the team provide information on where it comes from and what can be done.

Ms. Schmitz reported that although the DNR denied a permit to treat curly leaf on Moody Lake because of its classification, they will allow mechanical pulling. Administrator Kinney added that the DNR might grant a permit to treat, but with conditions including addressing nutrient loads and applying an alum treatment. Mechanical pulling is more expensive and less effective. Other options discussed were hiring a contractor to pull and cleanup the weeds, using harvesters, as is being done on a lake in Wisconsin and on Lake Minnetonka, or limit the lake to non-motorized boats. Administrator Kinney will collect more information to bring to the Board.

Two treatments for curly leaf were completed on Bone Lake. The District and EOR staff worked with the lake association and residents to send out a notification about AIS and an observation form. Margie Schmidt reported that the treatments were not successful. According to contractor Lake Management Inc., lime on the plant leaves counteracted the treatment. The contractor provided a credit for next year's treatment. This could happen with milfoil too. Permission from lakeshore owners for milfoil treatment is still being collected and, per Mr. McComas' recommendation, treatment will happen later in the year.

Curly leaf treatment on Forest Lake has had a range of effectiveness and staff will talk to Lake Management about a credit for sections. Flowering rush and milfoil treatments will be done. District-wide, zebra mussel sampling plates were put on all lakes except Moody. Manager Schmaltz stated that the AIS reports are getting better each week. He requested that the text on the bar graph be more readable and grants be incorporated into the report so it does not look like there is a deficit. Manager Anderson requested the District logo and dates be added to the reports.

e) Peshorn Project Update

Mr. Graske stated that an iron-sand filter was installed on this agriculture site northeast of Bone Lake about 1.5 years ago. The system did not drain properly. Upon investigation, it was determined there was a crushed pipe and the iron content was higher than recommended. The problems were fixed and monitoring in mid May and yesterday indicated the system's water flow is functioning as designed. Mr. Graske agreed to take grab samples to ensure phosphorus and sediments are being filtered out. In response to a question about the Minnesota Pollution Control Agency's (MPCA) iron-sand filter study, Administrator Kinney responded that the Peshorn project did not fit within the MPCA timeline, the MPCA study results will be available when completed and the Board can consider having EOR complete a study.

f) Hilo Lake Project Update

Administrator Kinney reported that efforts to obtain an easement for this project are on hold because the property owner resides in a different state, is not willing to give out her current address and relies on her renter, who is a friend, to forward mail and messages. The District has until spring of 2016 to complete the project. Other options discussed included offering to buy a small piece of her property; again putting together information for the renter to provide to the owner; pursuing eminent domain, as

according to Mr. Holtman, is the within the District's legal right; take easements from other property owners, in case the current owner sells and the new owner is willing; work with the city to construct the project under the easements the city already holds for the pond; send a legal notice to the property owner; or hire an investigator to find the property owner. Administrator Kinney will continue his efforts and will request the assistance of Mr. Graske and Mr. Holtman as he believes will be useful.

g) Shields Lake Update

Administrator Kinney reported that the City of Forest Lake is completing survey and stormwater work. At the District-city staff meeting, the District asked how the city envisions things moving forward and stated that the District would put money into its CIP budget for projects, would like to see pond maintenance and thinks if the Shields Lake project is far enough along, we could apply for BWSR funds.

h) Signage Update

Administrator Kinney reported that the landlord would not agree to the sign the Board approved. Because the landlord also wants a sign, he proposed the District's sign be reduced from 50 square feet to 28 square feet. Comments included: the smaller sign is not readable; the lease contract allows for a District sign; the larger sign meets city code, but the city wants the landlord's signature before approving the sign. Mr. Holtman noted that the lease allows the District "reasonable" signage on the building, which assumes concurrence of the landlord and the District as to what is reasonable. Administrator Kinney will talk further with the landlord.

7. Report of Staff

a) Administrator

Administrator Kinney reported that he signed the contract for the MPCA diagnostic study grant yesterday. He and a Chisago SWCD technician went out with EOR as part of the Bone Lake diagnostic study to conduct a field-by-field verification of crops, tillage, and other related observations to be used to calculate and model priority implementation sites. WCD does not have a technician on staff, so the CSWCD agreed to collect data. For boat launch monitoring, there is one inspector rotating between Bone and Comfort lakes and four inspectors rotating between the three Forest Lake accesses. The Chisago County Water Program funds one inspector for Bone and Comfort. The Forest Lake inspectors are funded through Washington County and DNR grants and a lake association contribution. The inspectors' schedules have been tightened up, which provides more coverage on weekends and evenings. Ms. Schmitz will provide an analysis of budgeted hours for the next meeting. Improving the lake reports was discussed including: incorporate details from other reports such as the AIS and Administrator's, include survey work and what it will do, make communications uniform, use bullets and include lake activity and pertinent narratives. These changes will bring lake information together and make it easy to distribute to lake associations. Administrator Kinney stated that Jason Naber will be brought into the conversation because he developed the lake reports. He also reminded Managers of the September 1 meeting with municipalities.

b) Emmons & Olivier

Mr. Grasko reported that the Bone Lake diagnostic study and intensive monitoring of all tributaries to Bone is underway. Some hot spots were found and Dr. Jacobson will provide an update.

c) Smith Partners—no report

8. Report of Treasurer

a) Approval of Bills and Treasurer's Report

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

Manager Moe moved approval of the Treasurer's Report and payment of the bills in the amount of \$88,117.30. Seconded by Manager Anderson. Upon vote, the motion carried 5-0.

Administrator Kinney clarified that the insurance payment will come due in July. Manager Anderson requested a report on Project and Programs budget line item 30 and the electronic transfers of salaries. She asked that Manager Spence or Schmaltz review the general fund balance and see if funds need to be reallocated. Manager Spence reported that the District's credit card payment is due each month before the Board meeting. To avoid late fees and interest payments, he will set up an automatic payment out of the Central Bank checking account.

9. Report of Officers and Managers

There were no reports.

10. 9th Street SW & 15th Street Restoration Project Property

Mr. Holtman provided preparatory suggestions regarding the availability of the property and the District's interest. There is an offer and counter offer that may precipitate a project with the City of Forest Lake during street and stormwater reconstruction. Discussion might include the nature of the project, how the property fits into the project and the property's value to the project. Administrator Kinney reported that the owner recently contacted city staff about selling the property because the taxes of close to \$5,000 are too high. Half of the property under discussion is a wetland. All the water flows into the watershed district. Next week the City of Forest Lake is hosting a meeting with the District and EOR to discuss this project. The District will need to look at its goals and capacity. Adjacent property owners are not interested in being involved.

It was moved by President Damchik, seconded by Manager Spence, to convene in closed session to discuss a potential offer and counteroffer for the acquisition of property identification number 0703221430006 in the City of Forest Lake. Upon vote, the motion carried 5-0 and President Damchik declared the meeting convened in closed session.

The meeting reconvened in open session.

11. Adjourn Next Meeting —July, 2015

Manager Spence moved to adjourn the meeting. Seconded by Manager Moe. Upon vote, the motion carried 5-0 and the meeting adjourned at 9:25 p.m.

Wayne S. Moe, Secretary _____