

**MINUTES OF THE REGULAR MEETING
OF THE
COMFORT LAKE–FOREST LAKE
WATERSHED DISTRICT
Thursday, November 21, 2019**

1. Call to Order

President Spence called the November 21, 2019 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 Jon Spence, Vice President Jackie Anderson, Secretary Jen Oknich, Manager Jim Dibble

Absent: Treasurer Steve Schmaltz

Others: Mike Kinney, Jessica Lindemyer, Trey Jonas (CLFLWD staff); Meghan Funke, Cecilio Olivier (Emmons & Olivier Resources); Chuck Holtman (Smith Partners); Steve Goedeke (Forest Lake Resident); Paul Girard (City of Forest Lake)

2. Setting of Meeting Agenda

Manager Anderson noted that she had some documents to hand out during the One Watershed One Plan item, and that item may take about 30 minutes. Agenda item 3b October 24th Regular Meeting Minutes was removed from the Consent Agenda.

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

3. Consent Agenda

- a) **Special Board Meeting Minutes – October 14, 2019**
- b) **Regular Board Meeting Minutes – October 24, 2019 [removed]**

Manager Anderson moved to approve the Consent Agenda as amended. Seconded by Manager Oknich. Upon a vote, the motion carried 5-0.

4. Public Comments on 2020 Budget and Levy

No comments were offered.

5. Public Open Forum

Steve Goedeke, Forest Lake resident, indicated that it seems unclear what the District's main goals are – is it water clarity, fish population, recreation? He requested that the Board clearly articulate what its main end goal is, so that the discussion about steps to take is more

focused. Mr. Geodeke noted that he's lived on the lake since 1991 and expressed that Forest Lake is in poor condition. He noted the relationship between water quality and home values.

Manager Anderson explained that the District can be divided into four smaller subwatersheds, called lake management districts – Bone Lake, Forest Lake, Little Comfort Lake and Comfort Lake. She indicated that phosphorus has been the primary concern of the District because that is the leading cause of poor water quality in our region. Phosphorus is generally the limiting factor in algae growth in Minnesota lakes. Manager Anderson explained that there are multiple lakes in the District that are on the state's impaired waters list for eutrophication. Forest Lake is not impaired for eutrophication, and the District has been working to ensure that it stays that way. She explained that, for Forest Lake specifically, the District has been working on educating the public about what they can do to protect the lake, as well as implementing projects to restore areas around the lake that contribute high loads of phosphorus. She noted that the District has a detailed plan for such water quality improvement projects.

Mr. Goedeke asked about phosphorus concentrations in Forest Lake over the last two years. Dr. Meghan Funke explained that the lake receives a lot of nutrients, like phosphorus, from the surrounding landscape, especially in high water years like we've recently had. Warmer temperatures and longer ice-off periods also affect algae growth and water quality. Dr. Funke indicated that phosphorus concentrations in the lake were not significantly higher in the last two years compared to previous years. Mr. Goedeke expressed concern over the amount of plant growth in the lake and impacts on navigability. Manager Dibble noted that with the introduction of zebra mussels in the lake, which are filter feeders, water clarity will increase, increasing sunlight penetration and plant growth. He noted that the plant harvester only harvests native plants in Forest Lake. Mr. Goedeke asked about filamentous algae blooms. Administrator Kinney explained that these are driven more by nitrogen than phosphorus and that the District is aware of more than 30 flow points into Forest Lake from the surrounding landscape. He described the District's initiative to perform low-cost do-it-yourself monitoring in order to monitor more of these inlets and address incoming nutrients. Mr. Kinney explained that next year the Shields Lake Stormwater Reuse and Alum Treatment project will be completed, which will reduce by hundreds of pounds the amount of phosphorus entering Forest Lake's middle basin. As water quality and clarity increase, so will plant growth. He noted that a lot of the plant growth in Forest Lake is native coontail. Eurasian watermilfoil growth is not yet as extensive as the native plant growth. There was discussion about the operation of the City of Forest Lake's plant harvester. Mr. Goedeke expressed that the harvester isn't running enough, and that the lake has gone downhill dramatically as harvesting has decreased. He indicated that he has observed many other boaters dealing with plants in their boat props, disrupting recreation. He noted that he's also observed destruction of nearby wetlands which was apparently allowed by the state. Mr. Kinney explained that the City of Forest Lake is the local authority for the Wetland Conservation Act and that the District would check with the City on this issue.

Mr. Kinney indicated that the District will hold two public listening sessions in January (January 25th and 30th) for its 10-year Watershed Management Plan (WMP) update. President Spence explained that the District also manages water quantity as well as quality.

He noted that flooding will become more of an issue in coming years as precipitation trends change. Mr. Goedeke suggested that the current models are wrong and that it's possible to experience drought just as likely as flooding in the future. President Spence indicated that the Board still isn't in agreement on the priority of recreational value. Mr. Goedeke disagreed with the idea that harvesting causes Eurasian watermilfoil to spread more rapidly. There was further discussion about Eurasian watermilfoil management, financial constraints and coordination with the Department of Natural Resources. President Spence encouraged Mr. Goedeke to attend one of the WMP small group listening sessions in January. Mr. Goedeke described his recent conversation with the president of the FLLA and disagreements about lake association priorities and outreach. Manager Dibble noted that the FLLA president plans to coordinate with the City to expand harvester operation hours.

President Spence indicated that the District's vision is outlined in its WMP and that it largely focuses on water quality and quantity. He indicated that the water quality is measured scientifically and quantitatively (i.e. water chemistry) rather than qualitatively by recreation. Mr. Goedeke estimated that most citizens don't care about water quality from a water chemistry perspective but are more concerned with getting plants stuck in their boat props. Manager Anderson indicated that the District has met many of its phosphorus goals ahead of schedule and that potential future goals, such as recreation and navigability, will be discussed as part of the next 10-year plan. Manager Anderson indicated that Forest Lake's middle basin is very close to being classified as a shallow lake which should be considered when discussing navigability. She noted that wakeboarding boats are suspected to disrupt the lake bottom sediments and cause mixing of the water and sediment. She explained that the last year's precipitation levels were the highest on record which increases nutrient runoff into the lake. Dr. Funke explained that higher runoff typically results in higher nutrient concentrations in the lake; the additional water doesn't typically dilute the concentrations.

6. Citizen Advisory Committee Update

Watershed Assistant Jessica Lindemyer reported that Citizen Advisory Committee (CAC) member, Curt Sparks, will attend the MN Association of Watershed Districts (MAWD) Annual Conference and will participate on a panel for CACs. She asked if the Board has any suggestions for 2020 CAC initiatives. Manager Anderson recommended the CAC continue focusing on education and outreach activities, which seems to be making good progress. Manager Dibble noted that the Forest Lake Lake Association (FLLA) is re-designing its website which will have a lot of educational value. Ms. Lindemyer noted that a Board member hasn't attended a CAC member in the fourth quarter of 2019; the last opportunity to attend a meeting this year will be December 3rd. Manager Anderson indicated she would attend.

7. Aquatic Invasive Species Update

Mr. Kinney noted that the 2019 yearend summary on the Aquatic Invasive Species program, including watercraft inspections, will be presented at next month's meeting. The District is still waiting to receive the results from the Bone Lake zebra mussel veliger tow. Manager

Anderson indicated that Chisago County recently initiated a point-intercept survey on Little Comfort Lake. She noted that the report contained an incorrect statement, which she corrected. She suggested that if other entities want to obtain information about District lakes, they should request it from the District.

8. New Business

a) MAWD Delegate Appointments

President Spence moved to appoint Managers Anderson and Schmaltz as District delegates and Manager Dibble as alternate delegate at the MN Association of Watershed Districts (MAWD) annual meeting. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

b) MAWD Resolutions – Delegate Instructions

Mr. Kinney explained that the resolution review committee recommended opposing the two resolutions submitted by the District as they are written, citing that the Department of Natural Resources (DNR) should already be requiring soil management practices as part of groundwater appropriation permits. However, state staff have reported that they do not typically require such practices as part of groundwater appropriation permits. Mr. Kinney noted the University of Minnesota's research on and recommendation to use Maximum Return to Nitrogen (MRTN). Manager Anderson noted that even if a resolution is opposed by the committee, it can still be brought to the floor for the MAWD Board's consideration. There was discussion about changing the MRTN resolution to be more acceptable to the audience.

Legal Counsel Holtman recommended that since the soil management practices resolution is being opposed due to the apparent fact that its purpose is already in place, perhaps the focus should shift to checking into the actual implementation of the practices rather than simply ensuring the requirement is in place. President Spence suggested that this may be a conversation between watershed districts, soil and water conservation districts (SWCDs) and the DNR, in order to ensure the provision is being implemented.

Manager Anderson moved to authorize staff to revise Resolution #7 (Incorporating Nutrient Management into State Funded Practices) to address the committee's notes and present the resolution on the floor at the MAWD Annual Meeting, if staff deems appropriate.

Discussion: Mr. Kinney agreed that the revisions to the resolution should be minor, and that he'd check with the University of Minnesota on the question of whether MRTN is applicable to northwest Minnesota.

Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

Manager Oknich expressed concern about Resolution #1 - Request the DNR enact legislation and policies to streamline the permitting process. She indicated that the resolution aims to have the DNR manage lake levels and to approve permits as written by applicants, with the effect of reducing consideration of downstream impacts. It appears to contradict some of the other resolutions concerning the same topic of dealing with excess water without causing problems downstream. Mr. Kinney agreed that he's not sure if the intention aligns with the stated purpose of the resolution. There was further discussion about increased water flow upstream, subsequent flooding downstream and mitigation efforts. There was consensus to direct delegates to vote in the negative for Resolution #1.

Manager Anderson moved to authorize staff to revise Resolution #8 (Incorporating Soil Management Best Practices into Groundwater Appropriation) to address the committee's notes and present the resolution on the floor at the MAWD Annual Meeting, if staff deems appropriate. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

Manager Oknich indicated that Resolution #2 - Default Classification for Artificial Watercourses That Serve as Public Drainage Ditches, also seems problematic as it would apply to altered natural channels and could result in lawsuits. Manager Anderson suggested that the resolution shouldn't apply to the entire state if the issue is in the Red River Valley headwaters. She suggested that the watershed district proposing the resolution should maintain the ditches over which it holds authority. There was consensus to direct delegates vote in the negative for Resolution #2.

There was discussion about Resolution #5 – Watershed District Membership on Wetland Technical Evaluation Panels (TEPs). Legal Counsel Holtman explained that if the watershed district is the Wetland Conservation Act (WCA) Local Government Unit (LGU), then district staff would automatically be member(s) of the TEP. This resolution would apply when another entity, such as the local municipality, is the LGU and the watershed district doesn't have an official role as a voting member. In this case, state legislation (i.e. WCA) must be changed in order to make district staff an official voting member of the TEP.

There was consensus to direct delegates to vote in the affirmative for resolutions #3, #4, #5, #6, #9, #10, #11, #12, and #13.

c) Washington Conservation District 2020 Service Agreement

Mr. Kinney explained that the annual agreement includes technical services and water monitoring services for a total agreement cost of \$149,783. The East Metro Water Resources Education Program (EMWREP) agreement is separate from this. Manager Anderson indicated that, as she's said in the past, she cannot vote for this contract. She indicated she believes that the Washington Conservation District (WCD) is not producing what the District needs and that the contract format is too one-sided. She

expressed that the WCD doesn't give enough recognition to the CLFLWD for funding and initiating studies and water monitoring.

Manager Anderson moved to postpone this agenda item until the December regular board meeting and that in the meantime staff should work to revise the agreement. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

d) Chisago SWCD 2020-2021 Service Agreement

Manager Anderson moved to authorize the Board President, on advice of counsel, to enter into the 2020-2021 service agreement with Chisago Soil and Water Conservation District in an amount not to exceed \$25,000. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

9. Old Business

a) Banta Property Review Scope of Work

Manager Anderson expressed that the scope is too narrow as written and should be revised to include assessing water quantity and urban stormwater issues. She suggested that the District should not solely focus on phosphorus removals, as it has met some of its phosphorus concentration goals ahead of schedule. Mr. Kinney noted that task 2 includes an estimate of the volume reduction benefits of the Tax Forfeit and Alternative C projects. The reason the District would be looking at this property is because drainage flows west to east downstream of Heims Lake in this area. Manager Anderson indicated that the cities of Forest Lake and Wyoming are growing, and the increased stormwater runoff needs to be dealt with. Dr. Funke explained that the first phase hydrologic and hydraulic (H&H) model update, which focuses on the Comfort Lake subwatershed, is wrapping up. Having the H&H data as accurate as possible will be key to the overall comprehensive effort. This scope focuses mainly on the cost-benefit analysis of the Tax Forfeit and Banta properties. She explained that volume reductions will be the key factor in determining how much phosphorus is removed. She indicated that total suspended solids (TSS) are included as part of the H&H model, as phosphorus and TSS are related, but other chemicals would not be included. Manager Anderson reminded the Board of her discussions with local municipalities to preserve forest and park space in order to protect water resources. She asked that factors such as these be taken into account in the study. She indicated that phosphorus is no longer the District's target and that it should not focus so narrowly on cost per pound of phosphorus removal. Dr. Funke indicated that the scope could be revised to incorporate TSS cost per pound removed as well. Manager Anderson suggested that the District should understand the dynamics of the stormwater flowing out of the City of Wyoming where development is occurring or expected, and areas that need to be preserved.

There was discussion about wetland banking. Mr. Kinney indicated that there are currently zero acres of wetland bank available in the District's area (Wetland Bank Area 6). The District has been evaluating potential sites to create wetland bank credits, but

landowner interest is low so far. Manager Anderson requested that wetland bank and other land conservation opportunities be added to a future meeting agenda for discussion.

Dr. Funke summarized that the scope will be revised to add criteria for volume reduction and TSS reduction, and evaluate other chemicals/pollutants that would run off an urban landscape. Mr. Kinney indicated that the wetland on the parcel is already degraded and ditched.

Manager Anderson moved to authorize the administrator, on advice of counsel, to enter into an agreement with EOR in accordance with the November 12, 2019 scope of work as amended and in an amount not to exceed \$13,805. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

b) Jeffers Foundation Workgroup Members

Mr. Kinney explained that he will soon be looking for one or two Board members who would be willing to be part of a workgroup to help facilitate further planning and communications with the Jeffers Foundation and the Forest Lake Area Schools (FLAS) Staff. This effort would serve multiple functions related to expanding environmental education in the Forest Lake region. In particular, to consider the establishment of a sustainable outdoor summer education program that is free to all students through a foundation, to fund and build an environmental learning facility with the possibility of having the CLFLWD office co-located, and to assist the FLAS in establishing environmental education as its signature trademark into the future. There is still some work yet to do before board members get involved. Mr. Kinney asked managers to simply start thinking about the effort at this point. Managers Dibble and Spence expressed interest in participating when the time comes.

c) Comprehensive Data Review Update

Manager Anderson suggested, in the interest of time, moving this discussion to the December 12th or 19th board meeting.

Manager Anderson moved to postpone the Comprehensive Data Review Update discussion until either the December 12th or the December 19th meeting. Seconded by Manager Oknich. Upon a vote, the motion carried 4-0.

d) One Watershed-One Plan Update

Manager Anderson indicated that the last three weeks have been very busy. She expressed frustration over the lack of adherence to the Board of Water and Soil Resources' (BWSR) Prioritized, Targeted and Measurable (PTM) guidance and requirements. She explained the concept of organizing the Lower St. Croix (LSC) One Watershed One Plan (1W1P) through statute 103B to create a joint powers watershed management organization (WMO). The joint powers WMO would overlay the existing

local watershed districts and WMOs. Manager Anderson noted that Soil and Water Conservation Districts (SWCDs) do not have taxing authority; they can prepare a budget, but the county must approve it and levy on their behalf. She explained that, since SWCDs have the same boundaries as their associated counties, if seats on a board were determined by land area in the LSC basin, then counties would essentially have double voting power. The joint powers WMO would contract with SWCDs and consulting firms for technical services. Entities with county ditch authority within the joint powers WMO boundaries could transfer the authority to the joint powers WMO at their discretion.

Manager Anderson noted that the latest draft of the LSC plan was deemed unacceptable by BWSR, as it did not meet PTM requirements. She explained that EOR has drafted a recommended action plan based on existing modeling and studies available in the LSC watershed. The purpose of the action plan is to help the LSC 1W1P partners prioritize resources, target implementation activities, and quantify measurable improvements in water quality. Manager Anderson described recent meetings with other partners. The Chisago County representatives seemed supportive of an joint powers entity structure. The Washington County representatives favored collaboration among existing entities under a joint powers agreement rather than creating a separate entity. At the last Policy Committee meeting, attendees discussed problems associated with a collaboration format.

There was consensus to waive attorney-client privilege associated with the legal memo drafted by Legal Counsel Holtman. Manager Anderson suggested that the Board may want to call a special meeting to discuss this topic further, depending on the outcome of the upcoming Policy Committee meeting on Monday. There was discussion about statutes 103B and 103D. Manager Anderson noted that the list of “special taxing districts” at §275.066 includes, under paragraph 26, “any other political subdivision of the state of Minnesota ... that has the power to adopt and certify a property tax levy to the county auditor, *as determined by the commissioner of revenue.*” She noted that this year there were at least six joint powers WMOs other than the Mississippi WMO that certified levies as special taxing districts. She explained that the legal memo assesses potential barriers associated with the proposed joint powers WMO process, but ultimately advises that it is possible.

Manager Anderson explained that BWSR staff have communicated several comments on the matter via email. She recommended that the CLFLWD Board should give approval to continue with the process. She described the large time demand that the whole 1W1P process has required so far. BWSR’s intent for Clean Water Funds seems to be to address legacy pollutant loading. There was discussion about agricultural impacts to water resources. Mr. Kinney stressed the importance of considering farm profitability when implementing agricultural conservation practices. There aren’t enough public funds to address all of the conservation issues in the basin, so the focus should be on providing technical assistance and implementing projects that will also benefit farmers economically.

There was consensus to authorize Manager Anderson and Manager Schmaltz to continue working on this.

Manager Anderson indicated that the intent is not to diminish any work that other LSC entities are already doing. She expressed that Lake Improvement Districts and SWCDs are doing good work, but they just aren't well suited to the sort of strategic watershed management necessary to adhere to PTM requirements.

Dr. Funke clarified that the engineering memo in the board packet is a proposed action plan which would guide how to create a 1W1P implementation plan using information from existing studies. The second memo that was handed out at the meeting expands on the action plan, going through the steps in more detail, but is still in progress and considered a draft. Mr. Holtman noted that, due to the LSC's overlap with both metro and outstate counties, the final joint powers WMO framework will not be applicable to outstate 1W1P watersheds. He suggested that the framework be proposed to BWSR as a pilot, and ultimately legislation could be used to create a cleaner, similar organization that wouldn't be limited to the metro area.

There was consensus to allow Manager Anderson to share the handouts from this meeting with the 1W1P group.

e) 2020 Budget and Tax Impact

Mr. Kinney noted that the Board had requested that more information on the topic of 2020 tax impacts be brought back to a meeting. President Spence expressed that the District should have a method for communicating this information with the public in the event questions arise. Manager Anderson compared the dollar amount of the levy increase with the increase in tax capacity. She indicated that she calculated the effective rate which is actually lower. President Spence and Manager Anderson agreed that the memo appears to cover the necessary information. Mr. Kinney explained the work that Watershed Technician Emily Heinz did in preparing the memo including multiple communications with county staffs. He noted that Minnesota has some of the most complicated tax laws in the country.

10. Report of Staff

a) Administrator

Mr. Kinney noted that a couple managers have recently asked about yearend reimbursement and per diem submittals. He noted that the District doesn't have a very defined policy on this matter and suggested that he could research other watershed districts' policies. Manager Anderson indicated that the District's current policy indicates an aggregation of four hours; every four hours is a submittal point. She indicated that Rice Creek Watershed District's governance manual has a deadline of February 1st to submit reimbursement requests for the entire prior year, which she recommends adopting into the CLFLWD policy. She explained that the board position

is one that people take because they want to do good for their community, but that doesn't mean that they don't have the right to submit their expense reports according to the District's policy. The current policy has a 60-day deadline to submit expense reports. Manager Anderson suggested that the current policy is fine as-is. She described her involvement in recent projects beyond the LSC 1W1P process. She expressed that a detailed expense report is an important element of the reimbursement process. President Spence and Manager Anderson agreed that the governance manual should be reviewed annually and that the Board will do so in the upcoming months.

There was discussion about Manager Moe's recent resignation and sending him a letter to thank him for his service.

Manager Anderson asked about the recent discussions with the City of Forest Lake about commercial parking lot snow removal bypassing stormwater best management practices. Mr. Kinney explained that this has also been brought to the attention of the MPCA's Municipal Separate Storm Sewer System (MS4) staff. There is currently an RFP open to do a study of instances such as these. She suggested asking the cities about ordinances they may have to prohibit this type of issue.

Manager Anderson asked how extensive Ms. Heinz's involvement in drafting the 1W1P has been. Mr. Kinney indicated that CLFLWD staff involvement in the process has been fairly minor, with 30 hours or so budgeted into the 1W1P planning process grant. Mr. Kinney indicated that Ms. Heinz is largely following direction from the plan writing consultant, Laura Jester.

b) Emmons & Olivier Resources

Dr. Funke noted that the Shields Lake stormwater reuse system is fully winterized and offline for the season. The Forest Hills Bank Stabilization Project has been completed.

c) Smith Partners

Nothing to report.

11. Report of Treasurer

a) Approval of Bills and Treasurer's Report

President Spence reported income for the period of \$20,791.45 and expenses in the amount of \$356,808.80.

Manager Anderson moved to accept the Treasurer's Report and pay the bills in the amount of \$356,808.80. Seconded by Manager Oknich. Upon vote, the motion carried 4-0.

12. Report of Officers and Managers

Nothing to report.

13. Summary and Approval of Board Direction

Board directions were summarized:

- Manager Anderson referenced the Little Comfort Lake point-intercept survey and asked that these types of requests for information come through the District.
- A future agenda item is to revisit wetland banking and/or land conservation activities.
- Look at the Rice Creek Watershed District February 1st reimbursement request deadline and consider incorporating into the CLFLWD policy.

14. Adjourn

- a) **Next special board meeting – December 12, 2019**
- b) **Next regular board meeting – December 19, 2019**

Manager Anderson moved to adjourn the meeting. Seconded by Manager Oknich. Upon vote, the motion carried 4-0, and the meeting was adjourned at 9:36 p.m.

Jen Oknich, Secretary _____