

**MINUTES OF THE SPECIAL MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, February 2, 2017**

**1. Call to Order**

President Anderson called the February 2, 2017 Special Board meeting to order at 4:01 p.m. at the offices of the Comfort Lake-Forest Lake Watershed District at 44 Lake Street South, Forest Lake MN 55025.

Present: President Jackie Anderson, Vice President Jon Spence, Secretary Wayne Moe, Treasurer Steve Schmaltz, Assistant Treasurer Jackie McNamara

Others: Michael Kinney, Emily Heinz (by video conference), Jessica Lindemyer, Mike Sorensen (CLFLWD staff); Meghan Funke, Cecilio Olivier (EOR, Inc.); Chuck Holtman (Smith Partners) (portion of meeting by teleconference); Aaron Parrish, Dave Adams (City of Forest Lake); Curt Peterson (Peterson Companies)

It was suggested that agenda item 3: Forest Lake Wetland Update be moved to the top of the agenda to accommodate members of the audience.

Manager Spence moved to approve the agenda as amended. Seconded by Manager Schmaltz. Upon a vote, the motion carried 4-0.

[Manager Moe arrives]

**2. Forest Lake Wetland (a.k.a. 3<sup>rd</sup> Lake Pond Project) Update [moved to top of agenda]**

Administrator Kinney provided a brief review of the discussion on this topic from the January 26<sup>th</sup> regular board meeting.

[Legal Counsel Holtman joined the meeting via telephone]

Administrator Kinney continued to recount recent events relating to the residential sewer pipe issue that was discussed at the last board meeting. Initially, the District hired Olson's Sewer Service to perform a temporary repair on the broken pipe. The District then had Olson's return to the site and repair the pipe to the fullest extent. A release of liability has been drafted for the homeowners to sign, as a condition to the District's covering the repair costs. Mr. Kinney noted that an inspector from Washington County visited the site while the repairs were taking place and prepared a memo detailing his observations. Sections of the pipe were in varying conditions and ages, dating back as far as 1961. There was discussion regarding specifics of the pipe section conditions, lengths and ages.

City Administrator, Aaron Parrish explained that the City of Forest Lake is responsible for inspecting and maintaining the sewer main collection pipe; the private service line is the responsibility of the homeowner. He indicated that if the 3<sup>rd</sup> Lake Pond Project were a City

project, the City would assess the damage and consider paying for the repair if the cost was relatively low and it was a readily-identifiable break. Even though the private line isn't the City's responsibility, they might pay for the repair in order to keep the project moving forward on schedule. He explained that if the repair cost was more substantial, and it wasn't certain that the break was caused by project activity, the City would not pay for the repair, but notify the homeowner that they can make a claim on the City's insurance. Currently, the District and its contractors are unable to definitively determine if project activity affected the pipe break. Mr. Parrish noted that the City has not received any complaints or seen any issues on this site prior to the current situation. He added that the City would have performed a pre-construction damage assessment of the private road prior to project construction.

President Anderson asked about the City's occasional assessment agreements on service line failures. Mr. Parrish explained that the City has an assessment agreement that waives the special assessment notice process, and puts increments of the repair cost on the homeowner's tax assessment for a series of years. Manager McNamara asked about ownership of the private road, Log Lane. Mr. Parrish responded that there is an individual who owns the private drive, and all of the homeowners living off of it have easements to use the road. Mr. Parrish then described the history of the area, highlighting the age of the cabins and the sewer retrofits that had occurred over the years.

Administrator Kinney explained that the agreement has been revised to reflect the final cost of the repairs, which is roughly \$1,000 greater than the amount the Board approved at the January 26<sup>th</sup> regular meeting. Manager Schmaltz suggested that the District obtain the homeowner's signature on the liability release form before paying the full amount for the repairs. There was discussion regarding the difference between the temporary repairs and permanent repairs, as well as communications with the homeowners.

Managers discussed the evidence supporting the assertion that the District was not responsible for the damage. Manager McNamara suggested that the District shouldn't pay for the repairs since it is not clear that the District caused the damage. There was discussion regarding insurance for the District and the contractor. President Anderson noted that the Board made a motion at the last meeting to pay for the repairs up to \$7,000. She added that the District should learn from this problem and perform pre-construction assessments before constructing similar projects in the future. Manager McNamara indicated that the District should be wise with spending tax dollars and explore every option before paying for the repairs out-of-pocket. Manager Schmaltz noted that the expense is small relative to the District's budget, and the project will likely be able to continue to move forward more easily if the District pays for the repairs itself. President Anderson suggested meeting with the homeowners to discuss the next steps, including signing the liability waiver.

There was discussion regarding special assessments to allow for homeowners to distribute the repair costs over a number of years. Legal Counsel Holtman explained that the District does not have the same authority as the City of Forest Lake to place assessments, but it would be possible for the District and the City to enter into an agreement in which case the City would impose the special assessment on the District's behalf. He agreed with statements from Mr. Parrish and the Board that the cost of the mechanics involved in this would likely exceed the difference between the previously approved amount and final invoice total for the repair work.

There was discussion regarding next steps and meeting with the homeowners. There was agreement among the board that the District would offer to pay the entire cost of the repair, on the condition that the homeowners sign the liability waiver. If the homeowners do not sign the waiver, the District would only offer to pay the cost of the temporary repair, and leave the remainder of the repair balance for the homeowner to pay.

Legal Counsel Holtman suggested having the discussion with the homeowners soon, as the invoice from the sewer service must be paid within 30 days. It was confirmed that the pipe is still the property and ultimately the responsibility of the homeowners, regardless of the District's involvement with paying for the repairs. There was further discussion regarding legal action and the project timeline. Mr. Holtman explained that if the homeowners had brought and succeeded on a claim alleging District responsibility for their service line damage, the remedy would be for the District to pay for the repair, not to stop project construction.

Mr. Peterson explained that the homeowners have complained about additional damages to their property, such as sheetrock and shingles, that were not included in the pipe repair. It was noted that Mr. Kinney obtained written clarification from Olsen's that their representations and warranties on the work run to the benefit of the homeowners.

Manager Schmaltz moved to change the Board's previous payment authorization limit from \$7,000 to the actual invoiced amount of \$8,013.05. Seconded by Manager Moe. Upon a vote, the motion carried 5-0.

(Mr. Holtman's telephone participation was terminated at this time.)

### **3. Watercraft Inspection Program Agreement with Chisago County**

Administrator Kinney explained that for the past several years, the District has executed a joint powers agreement with Chisago County in order to jointly fund and manage the watercraft inspection program. He noted that this year's agreement is very similar to last year's, with the exception that "zebra mussels" were added to the list of invasive species present in the CLFLWD.

Manager Spence moved to approve the joint powers agreement between Chisago County and the Comfort Lake-Forest Lake Watershed District for cost sharing of the boat launch inspection program. Seconded by Manager McNamara.

There was discussion. Manager Schmaltz explained that the District should aim to reach a goal of almost 3,000 inspection hours on Forest Lake. He added that the District should figure out how funds are being assigned to each lake, and make sure that Forest Lake is receiving hours equivalent to the available funding designated for it. Mr. Kinney explained how inspector hours are tracked by District staff, and the protocol for inspectors to move to a different access if they arrive at the access and find a DNR inspector already present. Manager Schmaltz explained that the District should manage the inspectors' schedules to ensure that weekend hours are being covered to the fullest extent. He suggested that more people might need to be hired in order to cover the weekend hours. Mr. Kinney explained that staff has considered this in creating the 2017 work plan. A summer intern may be hired and tasked with performing watercraft

inspections in addition to permit erosion control inspections and other duties. It was discussed that the budget dollars could be used to figure out how many people to hire and what accesses they should be assigned to. Manager Moe asked if the District has had any collaboration with the Bone Lake Association (BLA) with regard to training volunteer inspectors. Program Assistant Mike Sorensen responded that he corresponded with the DNR to find out what the training requirements and limitations are for volunteers, and relayed that information to the president of the BLA. There was discussion about volunteer limitations, uniforms, and funding allocations. In response to a question from the Board, Watershed Technician Emily Heinz confirmed that staff will use the budget dollars and estimated grants to create a plan for how many inspectors to hire and which accesses to assign them to. She added that the District may opt to hire additional inspectors itself if funding allows for the District to go above what the agreement with Chisago County states. It was added that these inspectors would receive the same training and equipment as the Chisago County inspectors. President Anderson suggested adding an objective statement as an addendum to the agreement that describes the District's goal of covering weekend hours. There was discussion about the new invasive species, java stonewort, and its sighting and potential eradication in a stormwater pond in Minnesota.

Manager Spence amended his motion to include creating an objective statement that states the District's goal of achieving full weekend inspection coverage throughout the summer. Seconded again by Manager McNamara. Upon a vote, the motion carried 5-0.

#### **4. 2016 Progress Report and Progress Evaluation Metrics**

Administrator Kinney explained that the draft 2017 progress report is a compilation of items identified in the Watershed Management Plan, as well as items identified by Manager Schmaltz. Watershed Technician Emily Heinz provided an overview of the contents of the report including progress evaluation metrics regarding administration, programs, and projects. Due to time constraints, it was agreed that Ms. Heinz would briefly provide some additional detail on the projects section. President Anderson suggested that the Board put their comments on the draft report in writing and provide those to the staff after the meeting. Those comments could then be discussed in an update at the next board meeting. Ms. Heinz explained the water quality figures provided for each lake in section 5000 of the report, as well as the project detail tables provided in Appendix C. Dr. Meghan Funke explained how the upstream phosphorus reductions for each lake were calculated and how internal phosphorus load reduction activities are incorporated into each figure.

Manager Schmaltz noted that the District is planning multiple alum treatments in the upcoming year and suggested organizing an informational workshop in order to educate the Board on the effectiveness and risks of such treatments. Administrator Kinney explained that he has been in contact with HAB Solutions, a consulting firm specializing in alum treatments, and they would be able to give a presentation at a special meeting on the topic. There was discussion regarding the District's history with considering alum treatments, effectiveness on other lakes, and considerations for shallow lakes.

The Board commended staff on the report. President Anderson explained that this information will be useful for communicating water quality goals and progress to lake associations and members of the public. Administrator Kinney noted that this information will also be useful as the District begins work on the Watershed Management Plan Amendment.

## 5. 2017 Work Plan

Administrator Kinney explained the iterative process of how the work plan and budget influence the development of the other throughout different times in each year. He explained the relationship with grants and capital improvement projects, as well as the prospective summer intern and watercraft inspectors.

The Board gave consensus that the 2017 work plan is acceptable.

## 6. Master Watershed Stewards Support

Administrator Kinney explained that Mike Sorensen, in particular, has been very involved in working with the Master Watershed Steward volunteers on their projects. The program is currently being funded by an EPA grant through the St. Croix Valley Foundation. Concurrently, the Freshwater Society hosts a similar program called the Master Water Stewards. The Washington Conservation District recently received a grant through the Clean Water Fund to extend the Freshwater Society's program into northern Washington County. Previously, it had only been open to Washington County residents living in Rice Creek Watershed and Ramsey-Washington Metro Watershed District. The two steward programs are similar in many respects, despite the different funding sources and host organizations. Currently, it appears that the programs are remaining distinct from one another, but District staff have been told that conversations have taken place regarding merging the two programs in some fashion. Mr. Kinney explained that while neither of these programs are asking for funding at this time, it is likely that both will require consideration in the 2018 budget cycle. There was discussion regarding funding specifics for each volunteer, and the benefits of the programs. The Board expressed interest in allocating funding to these programs in the next budget cycle.

## 7. Adjourn

### a) Next Regular Meeting – February 23, 2017

Manager Spence moved to adjourn the meeting at 5:44 p.m. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

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