

**DRAFT MINUTES OF THE REGULAR MEETING  
OF THE  
COMFORT LAKE – FOREST LAKE  
WATERSHED DISTRICT  
Thursday, January 10, 2019**

**1. Call to Order**

President Anderson called the January 10, 2019 regular board meeting to order at 6:30 p.m. at the Comfort Lake-Forest Lake Watershed District Office, 44 Lake Street South, Suite A, Forest Lake.

Present: President Jackie Anderson, Vice President Jon Spence, Secretary Wayne Moe, Treasurer Steve Schmaltz, Manager Jen Oknich.

Others: Mike Kinney, Jessica Lindemyer (CLFLWD staff); Meghan Funke, Greg Graske (Emmons & Olivier Resources); Chuck Holtman (Smith Partners); Bob Muske (for permit 18-023).

**2. Setting of Meeting Agenda**

President Anderson requested that discussion of Clarosorb, offered by Claros Technologies, be added to the agenda as item 4.g.

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

**1. Public Open Forum**

There were no comments.

**2. New Business**

**a) 18-023 Shoreview 1 Variance Request**

Administrator Kinney reminded the Board of its direction given at the December 13, 2018 regular meeting to have District staff work with the District Engineer and applicant to come to an agreeable solution regarding the alternative buffer configuration for the site. Engineer Graske described the buffer in question and the solution that was initially proposed by the Board at the December meeting and has since been finalized for the Board's approval. Manager Anderson summarized the Board's discussion from the December meeting for Managers Spence and Oknich who had been absent, stating that the Board did talk about the overall ability to average buffer widths around wetlands. She related that the Board discussed the potential to overlay the buffer on the drainage easement to the lake before settling on the solution currently before the Board which allows for the minimum buffer

width around the wetland and the remaining square footage added to the buffer along the lake shoreline providing the most benefit to the resource.

Manager Schmaltz moved to approve the variance request for 18-023 with conditions recommended by the District Engineer and delineated in the Wetland Buffer exhibit. Seconded by Manager Moe.

Discussion: President Anderson asked Bob Muske, present on behalf of applicant Tim Gilbert, if he had anything he would like to add to the discussion. Mr. Muske stated that he found the conditions of the variance to be a logical compromise.

Upon vote, the motion carried 5-0.

Manager Schmaltz moved to approve permit 18-023 with the conditions stated in the Engineer's Report. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

#### **b) 2018 AIS Year-end Summary**

Administrator Kinney opened the discussion by asking the Board if there were any particular questions regarding the 2018 AIS Year-end Summary. He noted that Steve McComas of Blue Water Science is scheduled to attend the January 24<sup>th</sup> regular board meeting to present his 2018 reports.

At the request of President Anderson, Mr. Kinney provided the Board with a brief overview of the Summary's highlights. The District's boat launch inspection program got very close to meeting its goal despite several hurdles. Forest Lake experienced significantly less growth of curly-leaf pondweed than was anticipated and budgeted for, which will bring the program in under budget. Staff is in the process of developing lake vegetation management plans for both Shields Lake and Moody Lake.

President Anderson inquired why the total number of watercraft inspections decreased from 2017 while the rate of inspections seems to have stayed relatively the same. Administrator Kinney explained that the decrease in inspection hours was due to several factors including late ice-off, employment shortages, and lack of returning inspectors. However, by having inspectors focus their shifts on times of peak usage the District was able to maintain the rate of inspections seen in 2017. President Anderson asked that footnotes be added to the watercraft inspection charts so that individuals reviewing the summary understand why there was a decrease in hours from 2017. Manager Moe suggested that sharing the job posting with the lake associations could help bring in more applicants. Administrator Kinney stated that staff will start earlier on advertising for the positions in 2019 and will broaden the platforms through which the advertisements are posted to include the local newspapers as well as online platforms.

Manager Schmaltz commented on the financial contributions the program has received over the last few years. The District has historically gotten contributions for the program on Forest Lake, from not only the City of Forest Lake but the Lake Association as well;

contributions from other LGUs or associations have been rare. However, this year the District also received contributions from the Comfort Lake Association, City of Scandia, Scandia-Marine Lions Club, and the Bone Lake Association. Manager Schmaltz stated that this local involvement is good progress and will likely help the District secure more grants.

Manager Schmaltz went on to discuss the goals for the watercraft inspection program. He stated that while Bone Lake and Comfort Lake pretty much met their goals for inspections, Forest Lake did not. Manager Schmaltz pointed out that the program's funding for Forest Lake was 63% donations. Assuming the District utilizes donated funds first, this means that donations paid for 85% of all the inspections that were completed on Forest Lake. Considering that the watercraft inspection program is one of the District's most visible programs, Manager Schmaltz cautioned that the District needs to be more flexible with the distribution of inspection hours to ensure that they reflect the money donated and work toward meeting the expectations of those who donated.

There was further discussion regarding the best way to get more applications for the inspector positions and increase the District's presence at the boat launches. President Anderson suggested that the District could give funds to the lake associations to get volunteers out inspecting boats when the District has shortages. Manager Schmaltz noted that this has been attempted in the past but has not been very successful. Administrator Kinney cautioned that all volunteers would need to complete the DNR's training before being allowed to inspect watercraft. However, if the goal is to simply have a presence at the launch, not necessarily an inspector, the DNR has another program specifically for volunteers who are interested in informing the public about aquatic invasive species. It would be important to distinguish between those who work in an official capacity for the District as watercraft inspectors and those who are volunteers there to educate. President Anderson noted that this program is really all about education and that reaching out for volunteers from the lake associations or local schools could significantly improve the District's program.

Manager Spence moved to accept the AIS Program Summary and Watercraft Inspection Report. Seconded by Manager Schmaltz. Upon vote, the motion carried 5-0.

### **c) Governance Manual Annual Review**

Administrator Kinney explained that the Governance Manual states that the Manual should be reviewed annually by the Board and revised as necessary. Given that the Board has shown interest in revising some particular areas of the manual within the last couple of the months staff decided this would be a good time for the Board to review the material. The purpose of the agenda item is to lay the groundwork for further discussion of this topic at the next meeting. Mr. Kinney noted that the items listed in the memo are those which have been brought to his attention by managers in the past as items that could use revisions.

President Anderson asked for clarification regarding the language in the bylaws that talks about the role of the Chair as the spokesperson of the Board. She noted that the language written in the bylaws is very limited however the verbal direction given to the Chair can

be very different. Because of this, it is very important that the role be more fully explained in the bylaws to allow for a better understanding of the Chair's role as spokesperson. President Anderson also asked that clarification be provided regarding the requirements of standing committees before the Board discusses establishing a rotation schedule.

President Anderson went on to inform the Board that she has been elected to the Minnesota Association of Watershed Districts (MAWD) Board of Directors and is now the chair of the new legislative advocacy committee. She noted that one of the issues that has been discussed by the MAWD Board on a number of occasions relates to manager per diems. MAWD has been advocating for an increase to per diems for some time now with little success. Recent discussions have turned the focus towards the practice used by the Board of Soil and Water Resources (BWSR) which pays per diems for planning days. This allows managers to be compensated for the time they spend prepping for the meetings they attend. President Anderson asked legal counsel to look into the setup BWSR has in its bylaws and report back at the next meeting. The Board was in agreement with this request.

Manager Moe asked for clarification regarding the potential rotation of board positions. Manager Spence noted that in previous years the Board would rotate managers through different positions to some extent but he does not recall there having been a specific structure for that rotation. He noted that depending on each person's other commitments some may not want to serve as President. Manager Moe agreed, stating that he doesn't know that he would ever have any interest in holding the position of President or that of the Treasurer given that he is not a numbers person. Manager Spence added that there are positives that come with an individual holding the same position for several years, particularly when it comes to that of the President, in that they obtain a stronger understanding of what the position entails. On the flipside, however, if the individual serving as President were to suddenly withdraw from the Board and none of the other managers had experience with the position the Board could be left in a tough spot. President Anderson stated that early on in the District's history there was a bylaw which stated the Board officer elections were held biennially not annually. She also noted, to Manager Moe's point regarding the Treasurer position, that the purpose of the position isn't to be the accountant but rather be the one who oversees the District's accountant. Manager Spence agreed with this statement adding that rotating the Treasurer position has the added benefit of having varying sets of eyes on the books.

President Anderson asked if there are any stipulations requiring the Board to appoint the positions annually or if the Board could go back to appointing positions every two years. Attorney Holtman clarified that officers are to be elected annually. Adjustments to the bylaws or the adoption of a policy could be utilized to express the aspirational posture of the Board in terms of how officers are elected and for how long they would serve in the same position.

Administrator Kinney asked for direction regarding the formalization of the Assistant Treasurer position. There was general consensus among the Board to include the position of Assistant Treasurer in whatever structure is developed.

Manager Schmaltz noted that he would meet with Administrator Kinney in the upcoming weeks on the District's investment policy.

The discussion returned to the topic of committee appointments. President Anderson asked Attorney Holtman for input on the best way to handle work-groups vs. committees. Mr. Holtman explained that when a number of managers, less than a quorum, gathers to do some work to facilitate the overall business of the board on a discrete matter, it is not subject to the Open Meeting Law and they can meet outside of the public context. However, if there is a need for the Board to have a standing committee for a particular function, such as for personnel, it is appropriate to designate a committee and follow the Open Meeting Law.

There was discussion regarding what areas the Board needs to designate committees for the purpose of board decision making and what areas would be more appropriately served by having specific managers serve as liaisons.

The Board went through the list of potential liaison appointments to make sure everyone is in agreement. There was general consensus to have a Board liaison to all bodies listed with the exception of the lake associations, where the Board felt staff would more appropriately serve as liaison. President Anderson suggested that the Board leave Metro MAWD open to any manager who wishes to attend. The Board agreed. The Board also added a liaison to the District Administrator on personnel matters, and liaisons to both the Chisago Soil and Water Conservation District and Washington Conservation District, at President Anderson's suggestion. There was a general consensus to create a committee for the Administrator's performance review process, recognizing that typically it would convene in closed session.

There was discussion regarding the frequency at which managers would be expected to attend meetings of which they were appointed the liaison and what the level of participation in said meetings should be. President Anderson suggested that managers should attend at least three meetings a year and keep an eye on agendas so that they can focus their attendance on the meetings that are of most interest to the District. She noted that the role of the liaison is one of an observer and that managers should not interject unless explicitly asked by the body that was meeting. The Board generally agreed with both of the guidelines suggested by President Anderson.

Manager Oknich asked for clarification regarding managers' informal participation in the meetings they are attending, specifically how to balance answering questions without speaking for the Board. President Anderson clarified that answering simple questions is more than acceptable, however a manager should not speak to items that may fall into the category of policy, but instead bring them to the Board for a formal response.

The Board concluded that there is no need to revise the District's investment policy.

President Anderson inquired if there is a need for any additional discussion. Attorney Holtman advised that there has been enough direction given by the Board during the

discussion that a formal motion to proceed with drafting policy text is not necessarily needed.

President Anderson suggested that the title of resolution 19-01-01 be changed to ‘Amending general governance policies regarding notification of manager appointments and reappointments’ to provide clarification of the resolutions purpose. The Board agreed with this change.

Manager Spence moved to adopt resolution 19-01-01 amending general governance policies regarding notification of manager appointments and reappointments. Seconded by Manager Moe. Upon roll call vote, the motion carried 5-0.

<b>Manager</b>	<b>Aye</b>	<b>Nay</b>
Jackie Anderson	X	
Jon Spence	X	
Wayne Moe	X	
Stephen Schmaltz	X	
Jen Oknich	X	

**d) JD-6 Assessment**

Dr. Meghan Funke provided the Board with an overview of the final Washington Judicial Ditch 6 (JD-6) Assessment and Feasibility Study. Dr. Funke stated that the main reason for providing the update on the Assessment at this time is that it will be leading into the work for 2019. She noted the five components of the assessment report are stream monitoring, wetland characteristics, judicial ditch survey, SWMM model update, and project identification. The District’s focus on the JD-6 area is based on the results of the Forest Lake Diagnostic Study which revealed that this area accounts for a quarter of total drainage to Forest Lake, 30% of the flow, and 30% of the total phosphorus load. The Study identified a phosphorus reduction of 169 lb/year needed from this area. Dr. Funke presented additional details from the Study.

President Anderson asked that Dr. Funke update the title slide of her presentation to note that this study is only phase one of a larger project.

President Anderson stated that, from her review of the material presented in the study, JD-6 looks like it could be the headwaters of the Sunrise River. She continued on to state that it would be interesting to have this all put together with the information that already exists on the Sunrise so that the District will then have a true map of the river.

Engineer Graske stated that the ditch used to be a meandering stream and in some areas of the ditch system one can tell that it is attempting to re-meander resulting in the erosion of unstable banks and the release of phosphorus into the system.

Dr. Funke stated that there are currently a few wetland monitoring stations in place. Should the District move forward with a project in the area, more monitoring stations would need

to be placed in order to determine the level of connection between the ditch and the surrounding wetlands. She stated that the purpose of a project in the area would be to re-establish the connection between the wetlands and the ditch allowing the water to percolate into the wetland soils. More work will need to be done to determine the most effective method by which the two systems should be reconnected. Dr. Funke noted that reconnecting the systems might increase water levels upstream that could require assessment under the drainage code, which is why the monitoring stations are so important.

President Anderson pointed out that the area of JD-6 the District is most interested in for a project also appears to be one of the least populated areas of the ditch. This is favorable for the District because it would likely only need the consent of a few property owners to do a project. Dr. Funke confirmed that there appears to be three primary landowners that the District should begin reaching out to in order to gauge their interest in a project.

Manager Schmaltz inquired about why property owners would be either for or against a project such as this. Engineer Graske commented that an individual's view on the project would likely be determined by the vision they have for their own property. Manager Oknich added that from her experience, landowners may be against a ditch project out of fear that their property value may drop. There was discussion about the legal rights of the property owners in the area of the proposed project. Attorney Holtman stated that though the ditch is a public drainage system the property is private and as such the property owners do have certain legal rights. Given the condition of the ditch and the surrounding land use, short of abandonment, the District could potentially determine that the ditch only has a very limited drainage function and operate within the constraints of that.

It was observed that should the DNR recognize this particular ditch system as part of the Sunrise River then it is possible it could be considered a public water.

President Anderson stated that this is the biggest source of phosphorus into Forest Lake and needs to be addressed. There are 800 pounds of phosphorus at the outlet which includes what is coming from the wetlands but getting to 169 pounds is very doable, and if we get to half of that we are doing well.

Engineer Graske noted that it might be possible to abandon just a portion of the ditch to complete the project if the District can show that it would not affect the drainage upstream. Attorney Holtman noted that typically a partial abandonment pertains to the upper portion of a ditch because those above an abandoned reach would retain drainage rights. Engineer Graske stated that he believes there may be enough grade to maintain the ditch capacity part-way up. Attorney Holtman stated that no current landowner has a right to the ditch functioning the way it was when it was first dug. So the first step may be to hold a repair proceeding to determine what work could be done to improve the hydrologic capacity of the ditch, and what would it cost. The District would then only be obligated to do that work if the benefits are going to exceed the costs. This would create a baseline to work with. President Anderson noted her agreement with Mr. Holtman's suggestion, stating that there does not appear to be many farmers in the area suggesting the land is largely not being used as it was when the Ditch was first constructed.

Engineer Graske noted that some property along a portion of the ditch south of Jeffrey Avenue is owned by the DNR suggesting that it may be possible in the long-term to create a greenway corridor of sorts. President Anderson asked EOR to take a look at the City of Forest Lake's ordinances, particularly in terms of how they designate natural areas in their long-range planning suggesting they may already have language to help us protect this area.

President Anderson moved to accept the Washington Judicial Ditch 6 Assessment and Feasibility Study report. Seconded by Manager Oknich. Upon vote, the motion carried 5-0.

#### **e) Little Comfort 2018 Monitoring**

Manager Moe asked for clarification of what constitutes the 'upper part' of the drainage system versus the 'lower part' of the drainage system as referenced in the first part of the results section on page 2 of the Assessment report:

*The 2010 load assessment study identified the area downstream of School Lake as a phosphorus load hotspot based on an increased load from the July Avenue to the Itasca Avenue monitoring sites. In particular, the study concluded that the stream channel downstream of School Lake contributed additional phosphorus load to Little Comfort Lake. However, when loads are normalized for increased flow along the tributary, the upper part of the drainage area discharges a disproportionately higher amount of phosphorus than the lower part of the drainage area.*

Dr. Funke clarified that the areas east of Manning Avenue toward Bone Lake constitute the 'upper part' of the drainage system while the areas west of Manning Avenue make up the 'lower part' of the system. She explained that, while the older study noted an increase in loading, they weren't really looking at the pollutant level per volume, which is what was done for this Assessment. The results of this Assessment did not show significant changes in the average flow-weighted mean concentrations between School Lake and the downstream monitoring station, but did show significant changes at the Heath Avenue inlet, July Avenue tributary, and Manning Avenue.

Manager Moe inquired about the location of the koi ponds in the area and if they could be a factor in the loading occurring between Bone Lake and Manning Avenue. Administrator Kinney noted that he has been in communication with the DNR regarding the business and has been told that they are allowed to empty their holding ponds into a location away from the stream. However he is not aware of what that exact location is and suggested reconnecting with the DNR to get a look at the business's permit. Manager Moe added that the koi ponds are visible on Google maps, appearing quite green. He expressed concern at the possibility of heavy rainfalls resulting in overflow of the pond's nutrient rich waters into the stream.

[Managers Moe left the meeting]



Dr. Funke noted that the July Avenue tributary shows obvious turbidity from the adjacent agricultural fields noting that Administrator Kinney and the Chisago County SWCD will be working together to build a relationship with the landowner.

Manager Anderson inquired about the farm behind Applewood Nursery. Administrator Kinney noted that while this specific site was not looked at as part of this assessment they have been investigating the area as a site of interest given its proximity to the ditch.

Manager Schmaltz inquired about the difference in rate of flow between 2008 and 2009 when the total rainfall was so similar. Dr. Funke stated that this difference might be the result of one of two things. First depending on the type of rain gauges that were used for the original study there may have been some error in the record. The more likely explanation is the distribution of rain events throughout the year; smaller more evenly spaced rain events would have had a low impact on flow, whereas large, sporadic, rain events would have had a much higher impact on flow.

President Anderson asked if EOR will be recommending any work for the Little Comfort subwatershed in 2019. Dr. Funke confirmed that they will be recommending updates to the H&H model, Comfort Lake Diagnostic Study, and the Ag BMP program which will likely come before the Board at the February or March regular meeting.

Manager Anderson moved to accept the Little Comfort Phosphorus Source Assessment Report. Seconded by Manager Oknich. Upon vote, the motion carried 4-0.

#### **f) 2018 Effectiveness Monitoring**

Dr. Meghan Funke provided the Board with an overview of the 2018 project effectiveness monitoring results. Starting with Bixby Park, Dr. Funke reminded the board of the monitoring locations and the results of the 2017 monitoring season. Dr. Funke noted that they did not see any spikes in phosphorus loading from the Highway 35 construction work. President Anderson stated that the contractors on the Highway 35 project have been doing a very good job on the erosion control and stabilization noting that she has seen barriers, tarps, and some vegetation being utilized on the site. Dr. Funke pointed out that the average reduction between the Bixby Park monitoring sites in 2017 was about 40% whereas 2018 monitoring suggests an average reduction of 33%, which is still very good. She continued on to say that the flow-weighted mean concentration coming in to the site was .19mg TP/L whereas the flow-weighted mean concentration leaving the site is down to .15mg TP/L which is good in terms of water quality. It is also important to note that the other goal of this project was to reconnect the floodplain to increase evapotranspiration in the wetland. The monitoring results from 2018 indicate progress toward this goal as well.

Dr. Funke moved on to the Forest Lake Wetland Treatment Basin project, also known as 3<sup>rd</sup> Lake Pond. She noted that despite the concerns earlier in the year with algae blooms all of the water quality data that have been collected have shown lower phosphorus concentrations outletting from the project site. The District's goal was to obtain a total phosphorous concentration less than .15 mg/L; monitoring results indicate the project is at

.12mg/L of total phosphorous. President Anderson noted that the first study of this area indicated that this pond was only contributing 50% of the total phosphorous load of the catchment and that the remaining contribution was coming from farming practices upstream. She asked if there is still a need to address the upstream contributions now that we have this project in place. Engineer Graske noted that while addressing those contributions would not be the highest priority if there are simple BMPs that could be implemented the District could certainly pursue them.

Dr. Funke went over the Hilo Lane iron enhanced sand filter (IESF) project. She noted that the outlet concentrations give us a good idea of the project functionality. The 2018 monitoring results indicate the total phosphorous concentration at .07mg/L which is a good concentration for an IESF.

President Anderson asked Dr. Funke to update her presentation slides to include the pre-project phosphorous concentrations to provide a frame of reference for the progress that has been made.

#### **g) Claros Technologies**

Administrator Kinney informed the Board that he was originally introduced to Claros Technologies at the Aquatic Invasive Species conference where one of their researchers was presenting. Mr. Kinney noted that since that time he has exchanged a number of emails with the company and met with them the other day to discuss a potential partnership for a field demonstration. He will be meeting with them again on January 11th to go over some of the data the District already has and visit potential locations that may be feasible for trial. Administrator Kinney noted that the discussions are still in the very early stages. It is still unknown how the technology might be deployed, what might be encompassed, or what the cost component will be. He explained that the technology works by means of a medium-specific nano-coating that is applied to a sponge-like material. The nano-coating can be engineered to attract and lock-in specific nutrients such as phosphorous or mercury allowing for the effective removal of the nutrient from the water column. President Anderson asked for clarification regarding the type of material the product would be able to remove. Administrator Kinney clarified that the product would remove dissolved elements, not suspended solids. Dr. Funke noted the product would be best served to target issues such as the wetland dissolved phosphorus loads, which are typically much harder to treat by traditional best management practices. There was a general consensus of the Board directing Administrator Kinney to continue working with Claros and to bring further information to the next meeting.

[Manager Oknich left the meeting]

### **3. Old Business**

#### **a) District Office Space**

By unanimous consent, the Board determined to convene in closed session to discuss proposed prices for District office space located at the following addresses in the City of Forest Lake: 44 Lake St. South, 255 Hwy 97, 1107 Hwy 97, 568 Lake St. South, 25 Lake St. N, 20 N Lake St. The Board convened in closed session.

The Board reconvened in open session.

**b) District Email Account Upgrade**

Administrator Kinney indicated that the purpose of this agenda item is to inform the Board of the forthcoming upgrade to District email accounts. He indicated that Watershed Assistant Jessica Lindemyer will be leading the effort and turned the discussion over to her. Ms. Lindemyer indicated the purpose for this transition is to improve communications and increase security. She noted that both President Anderson and Manager Oknich have already been upgraded to full Microsoft Exchange mailboxes, and all other manager accounts will be upgraded within the next week, so keep an eye out for an email with instructions on how to access your upgraded account. Ms. Lindemyer noted that the process should be fairly smooth and that she will be available to provide any technical support that may be needed during the process. Manager Anderson stated that the upgraded account has been working very well for her.

**4. Adjourn**

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

Manager Spence moved to adjourn the meeting. Seconded by Manager Schmaltz. Upon vote, the motion carried 3-0, and the meeting adjourned at 10:02 p.m.

Jen Oknich, Secretary \_\_\_\_\_