

**MINUTES OF REGULAR MEETING  
OF THE  
COMFORT LAKE - FOREST LAKE  
WATERSHED DISTRICT**

**Thursday, December 15, 2011**

**1. Call to Order**

The President called the December 15, 2011 regular Board meeting to order at 6:30 p.m. at the Forest Lake City Offices, 220 North Lake Street, Forest Lake, Minnesota

Present: President Richard Damchik, Vice President Jackie Anderson, Secretary Wayne Moe, Treasurer Tom Lynch, and Manager Jon Spence

Absent: None

Staff: Doug Thomas (CLFLWD), Lisa Tilman (EOR), Chuck Holtman (Smith Partners), Mark Lobermier (Wyoming), and Aaron Parrish (City of Forest Lake).

Other: None

**2. Setting of Agenda**

The President called for the reading and approval of the December 15, 2011 regular Board meeting agenda. President asked if there were any changes or additions. Motion to approve the agenda was made by Manager Moe and seconded by Manager Lynch. Discussion. Upon vote, the motion passed.

**3. Reading and Approval of Minutes**

The President called for the reading and approval of the minutes of the November 17, 2011 regular Board Meeting. Manager Lynch noted two spelling errors on page 2 and 4, and that on page 8 under Report of Officers the second reference to Manager Moe should be changed to Manager Lynch. Motion to approve the November 17, 2011 regular Board meeting minutes, as corrected, was made by Manager Moe and seconded by Manager Spence. Discussion. Upon vote the motion passed unanimously.

**4. Public Open Forum**

Manager Damchik opened the floor to anyone in attendance wishing to comment on items that are not already scheduled to be discussed as part of the meeting agenda. Aaron Parrish the new City of Forest Lake Administrator introduced himself to the Board of Managers and commented that he is looking forward to working with the watershed district on water quality issues in the City. President closed the public open forum.

**5. New Business**

- a) Forest Lake AutoZone Permit (11-005)

Engineer Tilman reviewed the Engineer's Report and explained the stormwater features being used on the site to meet the District's rules for rate, volume and phosphorous reduction. She also noted that 100% of

the impervious area of the site is being treated. She concluded noting that the Engineers Report recommends approval with two administrative conditions.

Manager Lynch asked where the existing ponding area is located. Engineer Tilman pointed out that it is in the north east corner of the site and that it drains to the north and then west to the ditch by Wal-Mart. Manager Anderson asked Engineer Tilman how complete was the plan when it was submitted to the District and how much alteration was necessary. Engineer Tilman commented that the plan was quite complete and that there were only a few clarifications that were needed to finalize the stormwater calculations that had been submitted by the applicant. Manager Anderson complimented the developer's engineer for their attention to stormwater and how it was initially addressed in the permit application. Manager Anderson also asked about the surety and the provision for waiving the District's surety requirement if the City also holds a surety for the stormwater features of the project and whether that existed or not. Administrator Thomas noted that it is included in the development agreement with the City and that a signed copy of that document has to be provided to the District before issuance of our permit. Engineer Tilman commented on the conditions in the Engineer's recommendation for approval.

Motion to approve Permit number 11-005 with the conditions found in the Engineers Report was made by Manager Anderson and seconded by Manager Moe. Discussion. Upon vote the motion passed.

b) 2012 Board Meeting Schedule Adoption

Administrator Thomas noted the proposed 2012 CLFLWD Board Meeting Schedule that was included in the Board packet. He pointed out that he has included three specific dates for advisory committee meetings this year so the members can get them on their schedules well ahead of time.

After discussion Manager Moe moved to adopt the 2012 schedule as presented. Motion was seconded by Manager Lynch. Discussion. Upon vote the motion passed unanimously.

c) 2012 Washington Conservation District Services Agreement

Administrator Thomas discussed the proposed 2012 agreement and compared it to the 2011 agreement. He noted that the 2012 agreement covers the same items as it did in 2011 and that the only major difference was that there is a significant increase in the monitoring cost which was caused by an increase in the water sample testing which is done by the Metropolitan Council. Manager Lynch asked if there has been an increase in the hourly rate. Administrator Thomas commented that it did not. Manager Anderson asked if all of the other monitoring sites that we have discussed in the past are included. Administrator Thomas noted that it includes all of the sites from 2011 and adds sites for the Heims Lake drainage and the new Broadway Ave. Stormwater Ponds. He pointed out that there will be monitoring at the inlet to Moody Lake as part of the Moody Lake In-lake Treatment Project. Manager Anderson asked if this should be done for a longer period of time. Administrator Thomas noted that we will be developing a long term monitoring plan in 2012 which will help us look at all of the issues discussed and develop a long term plan for the District to follow.

Manager Moe moved to approve the 2012 Service Agreement between the Washington Conservation District and the Comfort Lake Forest Lake Watershed District and to authorize execution of the agreement by the Board President. Motion was seconded by Manager Anderson. Discussion. Upon vote the motion passed unanimously.

d) 2012 Chisago Soil and Water Conservation District Services Agreement

Administrator Thomas discussed the proposed 2012 agreement and compared it to the 2011 agreement. He noted that the 2012 agreement increases the technical assistance amount for the BMP cost-share and incentive programs based on the addition of the ag-incentive program in 2012. He also pointed out that it has a new item for completion of the Minnesota Land Cover Classification System mapping of the Chisago County portion of the District in 2012.

Manager Anderson moved to approve the 2012 Service Agreement between the Chisago Soil and Water Conservation District and the Comfort Lake Forest Lake Watershed District and to authorize execution of the agreement by the Board President. Motion was seconded by Manager Spence. Discussion. Upon vote the motion passed unanimously.

e) Forest Lake Project Investigations/PCA Clean Water Partnership

Administrator Thomas noted his staff memo in the Board packet. He summarized his approach to using problem investigations, which he goes out on with City staff, to identify opportunities for projects that could include enhanced water quality treatment. He used two recent examples of where, after the initial site visit with City staff, he used EOR and the WCD to develop project investigation memos that provide for a preliminary concept design and cost estimate to implement a project that not only solves the original problem but also adds water quality enhancements. In these cases he pointed out that the original complaint was about erosion and sedimentation at the outfalls of stormsewers into Forest Lake. He briefly went through the two project memos for Hilo Lane and Iverson Avenue along with the pollution reduction estimates and estimated cost.

He then pointed out the upcoming application deadline for MPCA Clean Water Partnership Grants and that both the Hilo Lane and Iverson Avenue sites would be eligible for up to 50% funding. He also noted that these projects are well suited for the grant program as they are designed to aid in the protection of an unimpaired but threatened water body.

After discussion he asked the Board to consider a motion to acknowledge the reports, continue to coordinate with the City on ways to implement the projects, and to submit an application to MPCA under its Clean Water Partnership Program.

Motion by Manager Anderson to support moving these projects ahead and authorize staff to submit a PCA CWP application, Manager Lynch seconded the motion. Discussion. Manager Anderson asked about the Iverson Ave. project and asked what the yellow triangle represents at the end of the pipe. Administrator Thomas noted that this is where the outlet is and discussed the restoration of the shoreline and erosion protection that would be done. Manager Anderson asked about the opportunity to add a pond into the project to treat the water. Administrator Thomas explained the project features and how alongside the main pipe there is a trench with a separate outlet that will collect and treat water in the same way that a pond would. Manager Anderson asked about ownership of the land. Administrator Thomas noted that the strip of land between the houses is owned by the City. Manager Anderson asked about the area upstream of the project and if it is being looked at. Administrator Thomas noted that a large area does drain to this spot and that the area will be evaluated and assessed as part of a urban stormwater assessment project that we will be undertaking with the WCD in 2012. President called the question. Upon vote the motion passed unanimously.

## 6. Old Business

### a) 2012 Residential BMP Cost-Share Assessment & Recommendation

Administrator Thomas noted his memo in the Board packet. He commented that the assessment was done in response to questions from Board members this fall and that at those times he said that staff would come back later in the year with an assessment and possible recommendations. The questions that the memo speaks to are 1) what is the policy on how many times a landowner can receive cost-share on the same property, 2) how do we want to handle situations where a variance has been approved allowing a house or structure to be built closer to a water body than code allows, and 3) a summary of project costs both within and without the District to see if we are getting competitive prices and if we are not what policies and/or practices need to be put in place.

Thomas then went through the assessment of project costs and asked the Board to keep three numbers in mind from the assessment which was average cost per square foot for rain-gardens, the average cost per square foot for shoreline projects, and the average cost per pound of phosphorous removed. These numbers will be used to compare our projects with data provided by the Washington Conservation District for all projects in Washington County, and by the Rice Creek Watershed District. He then went through the discussion and results section of the memo.

Regarding the question of the District providing cost-share more than once on a single property he noted that it is not addressed by any specific program criteria or guidance. From his perspective he could see some merit in limiting the amount of cost-share to an individual property to the current limit of \$3,000 regardless of the number of practices. He noted that since the idea behind the program is for it to serve as an incentive and demonstration, capping the amount of cost-share would make some sense.

Regarding the question of what is the District's position on providing cost-share for projects where the construction and/or reconstruction of a structure required a shoreland setback variance and where the planning commission recommended denial but the city council approved it. He noted that this question is more complicated and as such he broke it down two ways. The first way is where a situation exists where a violation of a permit or regulation has taken place and cost-share is being asked for to remedy a problem, and the second way is where a variance has been approved and whether the issuance of the variance caused the problem that cost-share is being applied for or is it a resource problem that already existed or has happened but not caused by the activity allowed via the variance.

He then went through the last discussion item which was the cost-share amount approval process and options that the Board could consider which would minimize the opportunity for inflated project costs and subsequent cost-share payment.

After lengthy discussion on the question of the cost-share cap the consensus of the Board was to clarify that the intent is to have the limit of \$3,000 be for the property. The idea being that an individual could do multiple projects but cannot exceed the \$3,000 cap for all of the projects combined without prior Board approval. A number of Managers stated that they did not want to preclude the ability to go above the \$3,000 cap if a project came in that had a tremendous amount of merit/benefit.

After lengthy discussion on the question of permit/ordinance violations and variances in relation to cost-share eligibility it was the consensus of the Board to have staff prepare a change to the current policy/guidelines that prohibits the use of cost-share where it would be used to correct a violation of a permit, rule or local ordinance. On the question of variances the discussion which focused on why we would connect a legally granted variance to the cost-share program when the program purpose is to demonstrate good shoreland and upland management and solve existing water quality threats. It was also

the sentiment of the Board that they would rather deal with these situations, if raised by a Manager, on a case by case basis rather than establish additional criteria and guidelines at this time.

On the question of the cost share approval amount there was discussion on the current method of establishing the not to exceed amount for cost-share. The consensus was to clarify the cost-share guidelines to clearly state that the approved amount of cost-share and the not to exceed rate will be based on the soil and water conservation district estimate using contracted labor. The maximum amount of cost-share remains at \$3,000. The Board also agreed that a administrative amendment process should be developed and presented to the Board to deal with those projects where the contractor estimate varies a small amount from the SWCD estimate to avoid projects coming back to amend the not to exceed rate that was previously approved by the Board.

Administrator Thomas noted that he will take the direction provided from the meeting and prepare the necessary changes to the current cost-share guidelines for formal action at the next meeting.

b) 2012 Ag/Rural Cost-Share & Incentive Program Framework

Administrator Thomas noted his staff memo in the packet. He provided some additional comments on the work that he had done with the Chisago SWCD and USDA Natural Resources Conservation Service to develop the framework for the new Ag/Rural Cost-Share & Incentive Program. He also noted that this was approved in the 2012 budget and included in the District updated Watershed Management Plan. He then went through and described the program framework starting from the application process to the project approval process. The goal of the framework is to capitalize on existing state and federal programs and increase their implementation by providing additional incentives and cost-share as well as technical assistance to landowners. He noted the distinction between landowner and land occupier in that we will be working with farmers who rent land as well as own land. He then reviewed the list of soil and water conservation practices and the amount of cost-share and incentive that would be available for each of the practices.

The consensus of the Board was that they liked the framework and list of practices and directed staff to develop the necessary guidelines and criteria and bring them back to the next meeting for formal adoption.

c) 2012 Municipal Stormwater/Urban Stormwater Remediation Program

Administrator Thomas noted his memo in the packet. He pointed out that the program which will be new in 2012 was included in the updated Watershed Management Plan and budgeted for in the 2012 budget. The packet included drafts of both program guidelines and application. He noted that Attorney Holtman had commented to him prior to the meeting and suggested that our discussion should include who may apply and suggested that the criteria for eligibility/evaluation, although found in the application, should be stated more directly.

After discussion it was the consensus of the Board that the definition of who may apply be broad enough to not eliminate schools, hospitals, churches, business campuses, etc... The Board also instructed staff to prepare the necessary documents for formal approval and announcement of the 2012 program at its next meeting.

d) Moody Lake In-Lake Non-CIP Task/Work Order

Administrator Thomas noted his memo in the packet. He commented that the memo identifies the four main activities that were included and recommended by the engineer in the Moody Lake In-Lake Treatment Project feasibility memo that was presented to the Board at its November 17th meeting. He

reminded the Board of the discussion from that meeting on the recommendations and explained that at this time staff is recommending approval of a task/work order with EOR to conduct the watershed phosphorous load verification monitoring and assessment piece in 2012. Manager Anderson asked why this is being proposed to be done by EOR rather than the Washington Conservation District. Administrator Thomas pointed out the difficulty of monitoring at this site due to tail water from Moody Lake itself and that EOR has the type of monitoring equipment and experience to deal with this condition whereas the WCD does not. He also pointed out that EOR will be using a private lab to analyze samples which will enable us to get data back sooner allowing us to evaluate and consider the actual in-lake treatment still in 2012.

Manager Spence moved to approve the Moody Inlet Monitoring Work Order with EOR in an amount not to exceed \$8,987 without prior Board approval and to authorize the Board President to execute the Work Order. Motion was seconded by Manager Moe. Discussion. Upon vote the motion passed unanimously.

e) FL44/Winberg – Peterson Farm Equipment Payment

Administrator Thomas noted his memo in the packet. He noted that Peterson Farm Equipment has completed all of the fencing components of the FL44/Winberg Water Quality Improvement Project and that the work has been signed off on by the Washington Conservation District. Peterson Farm Equipment has submitted a final invoice in the amount of \$6,590.01. That amount minus a partial payment of \$2,500, made in November, leaves a balance of \$4,090.01 for the District to pay. Staff recommended final payment in the amount of \$4,090.01 to Peterson Farm Equipment.

Motion by Manager Anderson to approve final payment in the amount of \$4,090.01 to Peterson Farm Equipment for construction of project fencing associated with the FL44/Winberg water quality improvement project as previously approved by the Board of Managers. Motion was seconded by Manager Lynch. Discussion. Upon vote the motion passed unanimously.

f) Sunrise Beaver Dam Update

Administrator Thomas asked Attorney Holtman to update the Board on the question of navigable waters and ownership of the bed that was raised at the November meeting as it relates to the District's ability to enter onto land to remove a beaver dam. Attorney Holtman gave an update on the question of who owns the bed of the Sunrise River that was raised at the last meeting. He mentioned that he had discussed this issue with Dave Iverson from the MN Attorney Generals Office. The bottom line is that the DNR has not been given any statutory authority to make navigable water determinations and that if an individual or unit of government wants that determination made, which is based on a definition of navigable at the time of statehood, it is with the courts. He also mentioned that the State does have a law which allows a unit of government to go to district court and after demonstrating that significant damage has or will occur can request the court to authorize the local unit of government to enter onto private land to remove the dams. He also pointed out that the best course of action is always to seek permission from the private landowner and as he understands the District has gotten that permission so for know this is mute issue. Administrator Thomas went on to explain that he has gotten approval from the landowner to remove the dams and that he has also spoken with the DNR, COE, City and County all who have said that they do not have jurisdiction or do not require a permit. He also noted that he has spoken with Conservation Corp of MN and a local contractor about doing the work. He then requested direction from the Board of Managers on whether to proceed with the work.

Manager Anderson made the motion to authorize the Administrator to contract with the Conservation Corp of MN and to get a quote in the open market from a local contractor and enter into the necessary contract with them for the purpose of removal of beaver dams in the Sunrise River south of Co. Road 22 in the City

of Wyoming. Motion was seconded by Manager Moe. Discussion. Upon vote the motion passed unanimously.

Manager Moe made the motion to authorize the Administrator to execute an agreement with the landowner which allows for access and a hold harmless provision as presented. Motion was seconded by Manager Spence. Discussion. Upon vote the motion passed unanimously.

g) BWSR 2011 Grant Application Update

Administrator Thomas noted his memo in the Board packet. He informed the Board that the two applications to BWSR this past fall for Clean Water Funds have been approved. The first project is for the urban stormwater retrofitting of a commercial property and a city street/s in the Comfort Lake drainage area within the built up areas of Forest Lake. The second project is to complete the MLCCS mapping in Chisago County, inventory and assess drained and partially drained wetlands throughout the district and develop GIS tools to prioritize and target restorations and other BMP's. The combined grant amount that we will be getting from BWSR is \$206,247. He also noted that the Washington Conservation District was successful in getting a grant for conducting urban stormwater retrofit assessments and that the District will be part of that project. The focus area for the assessment will be the urbanized area on the south side of Forest Lake.

**7. Report of Staff**

- a) Administrator Thomas noted his written report in the Board packet. He mentioned that we have a new DNR Hydrologist in Chisago County whose name is Craig Wills and commented on the MAWD Handbook Update that had been passed out.
- b) Emmons and Olivier Resources (EOR) – Nothing new to report
- c) Smith Partners – Nothing new to report

**8. Report of Treasurer**

- a) Approval of Bills

Manager Lynch presented the Treasurer's Report (A copy of which is annexed and incorporated by reference) and bills and payroll totaling \$59,596.23.

Motion was made by Manager Anderson to approve the December 15, 2011 Treasurer's Report and pay the bills and payroll as presented. Manager Moe seconded the motion. Upon vote, the motion passed.

**9. Reports of Officers and Manager**

Manager Damchik – Nothing to report.

Manager Lynch – Manager Lynch gave quick update from MAWD, noting that he had picked up some information relating to alum treatments and that the full membership supported our position regarding opposition to mentioning of the use of legacy funds in Resolution #7 that dealt with Asian Carp.

Manager Spence – Nothing to report.

Manager Anderson – Nothing to report

Manager Moe – Nothing to report

**10. Adjournment**

Motion to adjourn the CLFLWD regular Board meeting at 8:30 pm was made by Manager Spence and seconded by Manager Moe. Upon vote, the motion passed.

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Wayne S. Moe, Secretary