

**MINUTES OF REGULAR MEETING
OF THE
COMFORT LAKE - FOREST LAKE
WATERSHED DISTRICT
Thursday, April 23, 2015**

1. Call to Order

The President called the April 23, 2015 Regular Board meeting to order at 6:30 p.m. at the Forest Lake City Offices, 1408 Lake Street South, Forest Lake, Minnesota.

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

Others: Mike Kinney and Emily Schmitz (CLFLWD staff), Ryan Peterson (CLFLWD summer intern), Chuck Holtman (Smith Partners), Greg Graske and Jason Naber (EOR), Beryl Halldorson and Margie Schmidt (Scandia residents and Bone Lake Association), James Landini (WCD) and Jenifer Sorensen (DNR)

2. Setting of Meeting Agenda

The President called for the approval of the April 23, 2015 Regular Board meeting agenda. Manager Moe moved to approve the agenda as amended. Seconded by Manager Schmaltz. Upon vote, the motion carried 4-0.

3. Consent Agenda

a) Regular Board Meeting Minutes—March 26, 2015

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

4. Public Open Forum

The President asked for public comments. Beryl Halldorson thanked the Board for the wonderful Bone Lake plans and actions.

5. New Business

a. MCC Contracts

Administrator Kinney stated that in the past the District has contracted with the Minnesota Conservation Corps (MCC) and has done so four times this year. The District has requested work crews for four projects, of which two are Clean Water Grant Fund work orders and two are fee-for-service. Manager Schmaltz raised concern about the work order for cutting and spot herbicide treatment of flowering rush on Forest Lake. He asked if enough time was scheduled to complete the task. Administrator Kinney replied that the crew days requested were based on Steve McComas' recommendations, were on the high side and MCC regularly has cancellations and openings.

Manager Moe moved to direct the Administrator to execute the four Conservation Corps Contracts for Project Number 11772 – Raingarden Installation – 44 Lake Street South, Project Number 11773 – Raingarden Maintenance – Dead End Street

Raingardens, 11807 – Fish Barrier Planting, and Project Number 11808 – Flowering Rush Cutting. Seconded by Manager Spence. Upon vote, the motion carried 5-0.

b) Resolution: Contracting Authority to Administrator

Administrator Kinney reported that even if the Board has approved an item in the budget, it is legal counsel's opinion that the Administrator does not have the authority to contract for or commit District resources to the activity/project. It is legal counsel's recommendation to authorize the Administrator to do so. In response to Manager Moe's question about past problems with time-sensitive projects, Administrator Kinney stated that last summer hiring was an issue and treatments for AIS could be. Discussion:

- Manager Moe stated that an emergency meeting could be called and it is not a matter of trust. He would like financial obligations to come before the Board and questioned how broad the authority would be.
- Manager Schmaltz stated that he would like to move things along and things take time. He would like time spent on moving projects forward, rather than approving what is already in the budget.
- Manager Spence stated that the authorization applies to what was already approved—where the Board has made motions or directed staff. He noted that most watershed districts have this policy and suggested lowering the amount to keep it to small contracts.
- Mr. Holtman clarified that the resolution would give the Administrator contracting authority up to \$20,000, but it could be any amount. There is a budget for every fund established and this allows pursuit of the work up to an amount. The Administrator would then report to the Board at the next meeting. The Administrator has the option to come to the Board if he is not sure or it is a policy issue. If the Board would like to approve each action, then do not approve this resolution.
- Manager Anderson stated that the Board talked about this. Every time we need to take the next step, we have to bring it back for approval and we lose time. This is a matter of trust to assume the Administrator will make proper and prudent decisions. The Board does not need to see every step in a project. The resolution would apply to scientific projects, as well as staffing and office operations.
- Manager Damchik stated that if we don't trust the guy, we shouldn't have him on staff.
- Also, the authority could be modified or revoked at any time based on experience.

Manager Spence moved to adopt Resolution 15-04-01. Seconded by Manager Anderson. Upon role call vote, the motion carried 5-0.

c) Additional Monthly Meeting

Manager Anderson stated that she suggested an additional meeting during the busy season so meetings are not four hours long. A second meeting might just deal with BMPs or projects. Manager Spence agreed, stating that it is hard to focus when meetings run so long. The second meeting can be canceled, if it is not needed. Manager Schmaltz stated that it is hard to plan for and attend 24 meetings, if you have other meetings and are traveling. If meetings are scheduled, the agenda will be filled. Ms. Schmitz clarified that the meeting space in city hall is available for a second meeting.

Manager Anderson moved to proceed with two meetings per month from April through October on the second and fourth Thursdays. Seconded by Manager Spence. After discussion, the motion carried 4-0.

Administrator Kinney noted that the June meeting was moved to the 3rd because of the MAWD conference. He will look at the schedule and evaluate the need for a second meeting.

d) 3rd Lake Water Quality Pond Retrofit Investigation Work Order

Administrator Kinney reported that this item has been in the budget for the last three years and has been in discussion with legal counsel and the City of Forest Lake. Aaron Parish of Forest Lake has agreed to work with Washington County to purchase the property and to help facilitate the project. Mr. Graske, at the District's request, is investigating possible projects. Manager Schmaltz stated that this exemplifies the need for a project-based approach to move projects along. Manager Anderson recommended using the AIS spreadsheet format for tracking projects and timelines. She stated that contracting authority would speed things up. Mr. Graske stated that EOR is working on a project spreadsheet.

Manager Anderson moved to approve the contract for the 3rd Lake water quality pond retrofit investigation. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

e) Property Acquisition Discussion

Mr. Holtman stated that at the February meeting, there was discussion about a parcel of land being put on the market that could be a good wetland restoration project site. Buying land is considered a project implementation cost and so must be in the District capital improvement plan. Because it is not, a plan amendment is required and that takes a few months. Mr. Holtman recommended doing a plan amendment ahead of time to include a description in the capital program of purchasing land rights for proceeding with projects. In budgeting, funds would be set aside incase external circumstances arise. BWSR has been agreeable with this and is looking at new rules to streamline the plan amendment process. Administrator Kinney clarified the reasons to consider acquisitions are: often the greatest problem with a project is getting on the land because it is hard to negotiate even an easement, this is an opportunistic approach, it is highlighted in the Whole Farm Plan and could provide the opportunity to purchase a high-load property.

Manager Anderson moved to proceed with a minor plan amendment process under option 2. Seconded by Manager Moe. Discussion. Upon vote, motion carried 5-0.

f) Annual Audit and Annual Report

Administrator Kinney reported that the final documents for the annual audit and report are not available for approval, but are being worked on. Manager Spence reported that he met with the auditor and the accountant and provided the cover letter for staff review. Two issues were identified: a material audit adjustment to record additional accounts payable and insufficient collateral coverage. Moving to accrual accounting should prevent the first issue. Discussion focused on finding a better way to transfer funds including collateralizing with another bank, establishing a higher collateral, transferring

funds between accounts, increasing accounting services. Manager Spence suggested he work with Administrator Kinney and Central Bank on this.

Manager Spence moved to authorize the District's Accountant to submit the audit to BWSR and the State Auditor upon final review of the Treasurer and Assistant Treasurer, as well as to authorize the Administrator to submit the Annual Report to BWSR. Seconded by Manager Moe. Upon vote, motion carried 5-0.

6. Old Business

a) Watercraft Inspection Agreement Amendment

Manager Anderson moved to approve the Watercraft Inspection Agreement Amendment with Chisago County to include adding an additional \$45,000 to the original agreement contingent upon final review and approval of legal counsel. Seconded by Manager Moe. Upon vote, the motion carried 5-0.

b) Bone Lake Rough Fish Proposed Work Plan

Administrator Kinney clarified that EOR will be completing the work plan and includes \$4,637 for the survey St. Mary's University will be doing. Steve McComas has a separate proposal for an assessment.

Manager Moe moved to approve the Bone Lake rough fish work plan. Seconded by Manager Schmaltz. Upon vote, the motion carried 5-0.

c) Cost-Share Program Update

Administrator Kinney reported that legal counsel is reviewing the cost-share contract that has a new financial structure. He introduced James Landini and Jenifer Sorenesen who were in attendance to address the Beck and Milbrett cost share projects that experienced ice heaves (or ice jacking) this winter. Managers identified various issues concerning these cost shares: should riprap projects be approved for cost shares, shoreline erosion was significant on these properties, a previous cost share on the Milbrett property in about 2009 also failed, what is the District's responsibility for the failed projects, ice heaves are natural and cost share participants should be educated about this process, what input does the homeowner have on the project design, the benefits of aeration and requirements for removing or grading an ice ridge.

Jen Sorensen, area DNR hydrologist, stated that ice heaves occur when there is no snow on the ice, thus no insulation. Forest Lake is notorious for ice ridges. The ridges have ecology benefits, acting as natural berms. Riprap may or may not address the problem. Retaining walls are not preferred, but in cases of severe erosion may be needed. A DNR permit is required for retaining walls and riprap. Ms. Sorensen and Mr. Landini made a site visit to assess the use of an aerator. This is an expensive option and a property owner needs to be a year-round resident to turn pumps on and off, as needed. An annual permit with fees is also required. Ms. Sorensen concurred with Manager Schmaltz that riprap is not a guaranteed solution. Riprap should not be installed on a steep slope and slopes can be graded. She suggested using a size of rock that a homeowner could move back in place after an ice heave and possibly installing riprap below the ordinary high water mark, which might require a permit.

Mr. Graske summarized a memo he prepared for the Board that concurred with Ms. Sorensen. He also recommended some strategies to reduce the impact of ice heaves including a shallow slope and extending the riprap into the water. Both require a permit and cannot be guaranteed. He further recommended that EOR, in cooperation with the WCD, educate the cost share property owners that the ice ridges are a natural process and then help them to reduce the recurring impact of future ice heaves. In the future, information about ice heaves should be provided to cost share applicants and the District should consider what shoreline restoration projects it will approve. Manager Anderson stated that riprap is not a preferred method for the District or the DNR. Mr. Holtman stated that the District rules do not prohibit riprap, but require an applicant to show that other methods will not work. Going forward with the Cost Share Program, it is a matter of how the program is structured and who is responsible for the design. In response to questions about being able to identify sites that are susceptible to ice heaves and having more heaves on engineered sites, Ms. Sorensen stated that Forest Lake has a higher incidence in the metro area possibly because of the wind direction due to lake orientation and the length of ice on the shoreline. She also stated that a natural, vegetated shore with trees slows down the heaves, but she could not find any specifics that discussed vegetation on the shoreline or in the water. Policy discussion included: change the District rules not to fund riprap, discourage riprap or require a waiver of liability if riprap is selected, educate the public about ice heaves and natural lakes and shores or require vegetation such as a specific species of trees as a restoration requirement.

Manager Moe moved to put a disclaimer on the Cost Share Program guidelines that the District is not liable for ice jacking and there is nothing in a design that can stop it. Seconded by Manager Spence. Discussion. Upon vote, the motion carried 5-0.

Mr. Holtman will review rules and contracts to see if the District has liability for the past projects. Ms. Schmitz stated that ice heaves are not mentioned in cost share operations and maintenance agreements. Administrator Kinney stated that he will get Minnehaha Creek Watershed District guidelines that require cost share applicants to demonstrate that riprap is needed. All agreed that the District needs to adhere to its rules and that none of these projects would have triggered the District rules.

d) Shields Lake Diagnostic Study

Administrator Kinney stated that the Board has had a number of discussions regarding the Shields Lake impairment and drainage area and he has had discussions with the City of Forest Lake. With a proposed development in the area west of Harrow Avenue, this is a good opportunity for the city and District to collaborate on load reductions. He and Mr. Graske proposed that the city do a pond analysis through its current MS4 budget or through direct council funding and budget for pond remediation in 2016. Last month Mr. Graske presented a work plan to the Board for a drainage assessment of the West Shields drainage. As per the Board's request, EOR drafted a work plan to monitor along Shields Lake tributaries and target watershed loads and hotspots. Monitoring this year will miss the spring snowmelt. Because of this EOR recommended monitoring through the snowmelt next spring. The cost of the West Shields study is \$5,797 and the cost of the Shields Lake tributaries study is \$20,641. Because the tributaries are so small and sampling will not capture every rain event, Manager Schmaltz asked if it would be more

cost effective to treat the four areas now. Mr. Graske responded that it would probably cost \$50,000 per project, so a \$26,000 study plus two projects cost less than four projects and no study. Administrator Kinney added that if the District had just done projects in the upper area on Moody Lake, there would have been no benefit. A study allows us to demonstrate the need.

Manager Moe moved to approve the Shields Lake drainage assessment and diagnostic monitoring at a cost of \$26,438. Seconded by Manager Anderson. Upon vote, the motion carried 5-0.

e) AIS Schedule Update

Administrator Kinney reported that Ms. Schmitz is tracking the AIS assessment and treatment schedule and is processing a lot of the grants with the DNR. Jason Naber has been supporting/coordinating work with Steve McComas and getting treatment contracts. The DNR will not allow curly leaf pondweed treatment in Moody Lake because Moody is protected and the District does not have a lake vegetation management plan. The DNR will support a mechanical harvest, which is more expensive but there is an issue of access. There is a property owner who might grant lake access for the harvest. It was noted that the Comfort Lake Association initiated an aggressive education and curly-leaf pondweed pulling routine, after Mr. McComas brought it to their attention.

f) District Boundary Update

Administrator Kinney reported that he has been working with the Rice Creek Watershed District (RCWD) administrator on the boundary changes. RCWD will do the fieldwork east of map 22 and the CLFLWD will go north from map 22. After RCWD's final review and public meeting, the designated areas to be transferred to CLFLWD will go to BWSR for approval. The District's new office will now be in the CLFLWD.

g) NEMO – City of Forest Lake Event

Administrator Kinney reported that NEMO (Nonpoint Education for Municipal Officials) is an educational program for land use decision makers. The District, with support from the East Metro Water Resource Education Program (EMWREP), will hold a workshop on September 10 for Forest Lake staff and council. RCWD and CLFLWD boards and other government entities will be invited.

7. Report of Staff

a) Administrator

Administrator Kinney reported that at a meeting with Forest Lake city staff, it was learned that the city does a couple of street sweepings a year. He worked with EOR to give three tiers of recommended frequencies of sweeping to the city using information from a University of Minnesota study. The study shows how street sweeping reduces phosphorus loads to water bodies at a cost of just \$100 per pound and shows how street sweeping reduces the need for cleaning out sumps and ponds. Administrator Kinney recommended that the District look into performing a similar street sweeping study with the help of EOR, and bring that data to the City of Forest Lake and the CLFLWD Board. Administrator Kinney also reported that the city might relinquish its Wetland

Conservation Act authority. In such an event, the authority would default back to the District.

b) Emmons & Olivier –

Mr. Graska reported that it is the third year of monitoring the Broadway iron-sand project. Last year the city cleaned out the downstream ditch system, as requested. This is expected to improve the function of the iron-sand filter. Most of the fixes to the Bone Lake fish barrier have been completed and the barrier is operating. The contractor will wait until the water warms before making the final repairs. Although payment is on the list, Mr. Holtman noted that payment is due when the engineer considers the project complete. Mr. Graska recommended paying 80 percent, though the contractor was not notified, and stated that the remaining 20 percent would more than cover another contractor completing the project.

c) Smith Partners - Nothing to report.

8. Report of Treasurer

a) Approval of Bills and Treasurer's Report

Treasurer Spence presented the Treasurer's Report and bills to be paid. Manager Anderson moved to approve to pay the bills and payroll as presented in the amount of \$84,276.85. Seconded by Manager Moe. Upon vote, the motion passed 5-0.

9. Report of Officers and Managers

- Manager Schmaltz reported that the Forest Lake Lake Association has a meeting scheduled. Because of the good turn out at the AIS workshop, the association will focus on AIS, as well as, the city's underfunding of its MS4 program and pond maintenance. The association is laying the groundwork for more city spending.
- Manager Anderson provided information on the application process for the state surplus office furniture.
- Manager Moe provided copies of a *Des Moines Register* article about the waterworks department suing farmers and people for putting high nitrates into the water because of the expense of removing it.

10. Adjourn Next Meeting – May 28, 2015

Manager Anderson moved to adjourn the CLFLWD regular Board meeting at 8:49 p.m. Seconded by Manager Schmaltz. Upon vote, the motion passed 5-0.

Wayne S. Moe, Secretary _____