

**MINUTES OF THE SPECIAL MEETING
OF THE
COMFORT LAKE–FOREST LAKE
WATERSHED DISTRICT
Wednesday, April 8, 2020**

1. Call to Order

President Spence called the April 8, 2020 special board meeting to order at 10:00 a.m. via online video teleconference.

Present: President Jon Spence, Vice President Jackie Anderson, Treasurer Steve Schmaltz, Manager Jim Dibble.

Absent: Secretary Jen Oknich

Others: Mike Kinney, Emily Heinz (CLFLWD staff); Doug Thomas, Lori Han (Houston Engineering)

2. Workload Analysis

Doug Thomas summarized the meeting purpose which was to gain consensus on what the Board feels are the core-critical functions of the District. Houston Engineering aims to devise a numerical way to estimate District staffing needs for the next ten years. Lori Han provided an overview of the assessment worksheets to capture elements from the foundational documents which included but were not limited to the 10-year Watershed Management Plan (WMP), Comprehensive Water Monitoring Plan, and District Rules. Mr. Thomas reviewed the District's establishment order which describes the necessity for a watershed district, the requirement for a WMP, and contemplated improvements within the District. He described the various statutes and rules applicable to the District and explained that these help determine the District's core/critical functions.

Mr. Thomas reviewed the District's authority under state drainage law relating to Washington Judicial Ditch 6 (WJD-6) which was recently assumed by the District. Manager Anderson asked if judicial ditches 1 and 2 should be considered as part of the analysis. She noted that they are now considered a natural watercourse by the MN Department of Natural Resources. Mr. Thomas indicated that was an important time for the District when the legislature abandoned the ditch. He explained that they would come back to this in the next workshop when discussing the 10-year vision.

Doug Thomas and Lori Han presented a spreadsheet outlining core/critical functions as identified in statute.

Statutory/Rule Required Function	CLFLWD Core/Critical Function?	Explanation/Discussion
<i>M.S. 103D – Watershed District Act</i>		
Watershed District Boundary Changes	No	This only applies sometimes; is not an ongoing core function.
Advisory Committee	Yes	This is an important element of the District.
Technical Advisory Committee	Yes	Still considered as important as the Citizen Advisory Committee, staff has frequent communications with these contacts, especially during WMP updates.
Rules and Permits	Yes	Permitting is an extension of the rules, but there is a difference between rulemaking/rule revisions and the daily implementation of the permitting/enforcement program.
Annual Report	Yes	While there aren't significant consequences to not filling out an annual report, the District sees this item as a core record keeping/outreach tool. It also provides a tool for performance evaluation and communication of progress to the public. There isn't any state agency guidance for performance measurement, so the District may pursue this with the Board of Water and Soil Resources (BWSR).
Annual Audit	Yes	If not done, would be reported by state auditor that the District is not in compliance, and a consequence could be challenges to the work that the District is doing and the levy. It is important to consider as District grows, how much staff time/expertise needed for monthly accounting and annual audit.
Watershed Management Plan	Yes	Critical to implementing projects. Attorney plays a minor role in developing the WMP.
Revised Watershed Management Plan	Yes	Statute says the board must revise the WMP at least once every ten years. The way CLFLWD operates with adaptive management is to refine the plan as time goes on. Attorney may be more involved with ensuring statutory requirements are met during amendment process.

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Appeals of Rules, Permit Decisions and Orders	Yes	Allow due process to permittees. If not done, could result in lawsuits.
Appeal of Court Order	Yes	Allow due process to permittees. If not done, could result in lawsuits.
Drainage Systems in Watershed District -	Yes	Allow legal right for ditch owners to repair/maintain ditch systems. If not done, could result in lawsuits. May not be implemented often in CLFLWD, but remains a critical function legally speaking.
Drainage Systems in Watershed District – Procedures for Repair & Improvement	Yes	Allow legal right for ditch owners to repair or improve ditch systems. If not done, could result in lawsuits. Again, may not occur frequently in CLFLWD, but remains a critical function.
Maintaining Projects	Yes	Once the District builds a project, it has an obligation to maintain said project. Lack of maintenance could cause property damage, flooding, etc. Attorney and accountants may be involved to an extent. This only applies to projects owned and operated by the District. This does not apply to projects constructed under District permits; those are covered under the Rules/Permits statutes. Ensure that District staff oversight of permit maintenance declarations and agreements is included in workload analysis.
Project Petition	Yes	If the District receives a petition, it should act on it otherwise risk denying due process to landowners in the District, potentially incurring lawsuits.
Budget	Yes	Statute requires the District hold a public hearing prior to adopting a budget. County auditor could deny levy request if public hearing is not held.
<i>M.S. 103B.201 – Metropolitan Surface Water Management Act</i>		
Definitions	Yes	CLFLWD is defined as both a watershed district and a watershed management organization.
Watershed Plans	Yes	Not having a plan could be basis for petition for non-implementation and termination. Possible

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		termination and revert to Joint Powers Agreement Watershed Management Organization (JPAWMO).
The board shall adopt rules to establish standards and requirements for amendments to watershed plans	Yes	
Performance standards for the watershed plans, which may distinguish between plans for urban areas and rural areas	No	This is a permissive authority. The District may differentiate between urban and rural areas, but it currently does not. There is nothing in statute that compares the District to make this distinction.
Minimum requirements for content of local watershed plans and plan amendments	Yes	
Standards for the content of capital improvement programs	Yes	
How watershed plans are to specify the nature of the official controls required to be adopted by the local units of government	Yes	Mr. Thomas indicated he would work with Mr. Kinney to summarize how the District's rules and performance standards apply to local municipalities.
Local Water Management Plans - Review	Yes	Failure to review a local plan within a prescribed time period, the local plan is deemed approved.
<i>M.R. 8410 rules for Metropolitan Surface Water Management Act</i>		

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Establishment of Goals	Yes	This requirement and following rule items constitute what must be in a state approvable plan. Ignoring any of these could result in not having an approved 103b plan and become basis for non-implementation.
Each plan shall contain prioritized implementation actions	Yes	Has a permissive element which allows for justification to not include required implementation action.
Required Programs	Yes	Required programs include: capital improvement program, operation and maintenance progress, information and education program, data collection programs, regulatory program, incentive programs, waters restoration and protection program.
Controls or performance standards must be described in the plan	Yes	Standards or controls for managing storm water runoff must, at a minimum, address: (1) erosion and sediment transport to receiving waters (2) nutrient loading and concentration (3) maximum permissible runoff rates and volumes
Local Water Plans	Yes	After consideration and before adoption, the local water plan or local water plan amendments shall be submitted for review according to Minnesota Statutes, section 103B.235.
Failure to Implement	Yes	This provision allows an individual to petition BWSR to do an investigation into a WMO to determine whether the WMO has failed to implement a WMP.
<i><u>MN Statute 103E – MN Drainage Law (this law is applied to legally established public drainage systems)</u></i>		
Drainage Inspectors	Yes	In counties or watershed districts having drainage systems constructed in accordance with this chapter, the drainage authority shall appoint a competent person as drainage inspector.
Petition for Drainage Projects	Yes, but not frequent	The District must act on all petitions.

Statutory/Rule Required Function	CLFLWD Core/Critical Function?	Explanation/Discussion
Annual Reporting	Yes	The drainage authority shall annually submit a report. There is no direct statutory penalty or consequence for not reporting. Reporting applies to established legal drainage systems.
Obstructing Drainage System	Yes	If the board determines that a drainage system has been obstructed, including by the installation of bridges or culverts of insufficient hydraulic capacity, the board shall notify the person or public authority responsible for the obstruction as soon as possible and direct the responsible party to remove the obstruction or show the board why the obstruction should not be removed.
Redetermination of Benefits and Damages	Yes, but not frequent	If more than 26 percent of the owners of property or owners of 26 percent of the property that is benefited or damaged by a drainage system petition to redetermine benefits and damages, the drainage authority must make a determination on the petition
Repair Procedures	Yes	The drainage authority shall maintain the drainage system that is located in its jurisdiction. This is referring to recorded public drainage systems.

Mr. Kinney noted that some drainageways in the District may not be officially classified as ditches. The District would need to determine authority and responsibility over such drainageways; this is something that should be considered as part of the workload analysis. Mr. Thomas indicated it would likely take a significant amount of effort to produce a report on how that system operates and how the District might influence flowage, whether through municipal or watershed district authorities.

There was discussion about criteria for staffing needs estimates. Categories include:

- General Administration: Office coverage, financial management. Manager Anderson included board support, monthly accounting/bookkeeping,
- Capital Improvement Program: Factors to consider include feasibility studies, project bidding and other procedural steps.
- Operation and Maintenance Programs: Factors include number of projects; frequency, average time and notifications associated with inspections; contractor work needed for maintenance.
- Information and Education: Houston Engineering needs to connect with District staff on this topic.
- Data Collection and Monitoring: Number of lakes, frequency of monitoring events, sampling protocol.

- Regulatory and Rules: Small permits are delegated to staff; larger permits are largely handled by consulting engineer.
- 3rd party TMDL's: Not applicable to CLFLWD.
- Measurement of Progress: The District performs annual evaluations.
- Water Resource Protection and Restoration Programs: Aquatic invasive species prevention and management, cost-share, municipal stormwater remediation grant program, lake management activities such as in-lake treatments.
- Other projects and programs not specifically tied to 103D or 103B such as ditch law (103E).

Manager Anderson recommended using the budget structure that the District has in order to ensure nothing is being overlooked. Mr. Kinney suggested that the District should consider other issues that are not identified in its current WMP and budget. He suggested that there should be a statewide standard format for WMPs in order to bring more consistency to plans across Minnesota. Manager Schmaltz suggested that another item to include in the workload analysis is increased tracking and following up on permitted best management practices.

Lori Han provided an update on Houston Engineering's progress on the workload analysis so far. She shared a document status worksheet, tracking the review status of several documents that feed into the workload analysis (e.g. CLFLWD's 2019 Progress Report). She shared a master template of all projects and programs including project statuses, costs, estimated full-time employee equivalents, etc. Manager Dibble suggested that the analysis consider how remote working may factor into office space needs in the future.

Workshop #2 (a.k.a. 10-year visioning workshop) was discussed. Workshop topics may include future trends that might be occurring. The Board agreed to aim to meet last week of April. Mr. Kinney suggested meeting with cities in May/early June; these will be scheduled after the next few workshops on the WMP update and workload analysis.

3. Adjourn

a) Next regular board meeting – April 9, 2020

Manager Anderson moved to adjourn the meeting. Seconded by Manager Dibble. Upon vote, the motion carried 4-0, and the meeting was adjourned at 1:47 p.m.

Jen Oknich, Secretary _____