

1                   **DRAFT MINUTES OF THE REGULAR MEETING OF THE**  
2                   **COMFORT LAKE–FOREST LAKE WATERSHED DISTRICT**  
3                   **Thursday, May 25, 2023**  
4

5   **1. Call to Order**  
6

7                   President Schmaltz called the May 25, 2023, regular board meeting to order at 6:30 p.m.  
8                   at 44 Lake Street South Forest Lake MN 55025 and via online video conference.  
9

10                  Managers Present:

11                  Steve Schmaltz, President

12                  Christopher Loth, Vice President

13                  Dave Bakke, Secretary (attending remotely)

14                  Jackie Anderson, Treasurer (attending remotely)

15                  Douglas Toavs, Assistant Treasurer (attending remotely)  
16

17                  Staff Present:

18                  Mike Kinney, Administrator

19                  Beth Carreño, Senior Program Manager

20                  Bobbie Law, Office Manager

21                  Emily Heinz, Planning Coordinator

22                  Garrett Miller, Watershed Assistant

23                  Jessica Lindemyer, Education & Outreach Coordinator  
24

25                  Others Present:

26                  Cecilio Olivier, Emmons & Olivier Resources

27                  Chuck Holtman, Smith Partners  
28

29   **2. Setting of Meeting Agenda**  
30

31                  Item 08a – Forest Lake Wetland Banking Ordinance was added to the agenda.  
32

33                  Manager Anderson moved to approve the agenda as amended. Seconded by Manager  
34                  Toavs. Upon a roll call vote, the motion carried 5-0.

Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

36 **3. Consent Agenda**

- 37 a) Regular Board Meeting Minutes – April 13, 2023
- 38 b) Regular Board Meeting Minutes – April 27, 2023

39  
40  
41  
42

Manager Anderson moved to approve the consent agenda as presented. Seconded by Manager Toavs. Upon a roll call vote, the motion carried 5-0.

Ma n a g e r	Aye	Na y	Ab s e n t	Ab s t a i n
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

43

44 **4. Public Open Forum**

45  
46  
47

There were no comments.

48 **5. Citizen Advisory Committee Update**

49 Administrator Kinney reported that Emily Heinz presented the 2022 Progress Summary at  
50 the last Citizen Advisory Committee (CAC) meeting. The CAC is planning a field trip later  
51 this year.

52

53 **6. Aquatic Invasive Species Update**

54 Garrett Miller provided an update:

- 55 • Shields Lake: 3 acres of curly-leaf pondweed (CLP) delineated for treatment.
- 56 • Forest Lake: 62 acres of CLP delineated for treatment.
- 57 • Comfort Lake: CLP was delineated; densities are not high enough to warrant  
58 treatment.
- 59 • Moody Lake: Native aquatic plant transplant project is being developed with help  
60 from MN Aquatic Invasive Species Research Center (MAISRC).
- 61 • Watercraft Inspection Program: A total of 8 inspectors have been hired, with half  
62 planning to work the full season. Mr. Miller indicated he is happy with the team  
63 and expects to meet program goals. Boat launches will be well covered over the  
64 upcoming Memorial Day holiday weekend. He stated that the increase in  
65 inspector pay rates is likely one reason the District has been able to hire so many  
66 good inspectors.

67

68 **7. New Business**

69  
70

- a) District Holidays - Juneteenth

71 Manager Bakke moved to add Juneteenth, in accordance with state law, to the list of  
72 holidays found in the employee manual, Addendum B. Seconded by Manager Toavs.

73  
74 Administrator Kinney explained that several of the District’s partners already observe  
75 this holiday and that it has been a federal holiday since 2021. This is now being  
76 recognized as a Minnesota state holiday. In the original legislation, this would be  
77 effective in 2024, but in further legislation, this is advanced to 2023. This is on the  
78 governor’s desk to sign as of Tuesday. He noted it has been the District’s practice to  
79 align the District’s holidays with the City of Forest Lake, and the City recently added  
80 this holiday to its list of holidays.

81  
82 Upon a roll call vote, the motion carried 5-0.

Ma n a g e r	A y e	N a y	A b s e n t	A b s t a i n
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

84  
85 b) Insurance Liability Coverage Waiver

86 President Schmaltz moved to elect “The member DOES NOT WAIVE the monetary  
87 limits on municipal tort liability established by Minnesota Statutes 466.04.” option  
88 provided on the LMCIT Section 1: Liability Coverage Waiver form. Motion seconded by  
89 Manager Loth.

90  
91 Administrator Kinney indicated this is a standard action that the Board takes  
92 annually.

93  
94 Upon a roll call vote, the motion carried 5-0.

Ma n a g e r	A y e	N a y	A b s e n t	A b s t a i n
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

96  
97 c) Minnesota Watersheds Summer Tour

100 Manager Toavs moved to authorize managers and staff to attend the Minnesota  
101 Watersheds tour; specify that the District will reimburse for registration, lodging  
102 meals, and travel; and specify that managers will receive per diems. Seconded by  
103 President Schmaltz.

104  
105 Administrator Kinney explained the tour will be in Albert Lea on June 20<sup>th</sup> and 21<sup>st</sup>.  
106 President Schmaltz noted there are quite a few stops scheduled on the tour. Manager  
107 Toavs indicated the tour helps managers build their knowledge base, and he  
108 encouraged managers to attend. Bobbie Law noted that registration rates will  
109 increase after June 1<sup>st</sup>.

110  
111 Upon a roll call vote, the motion carried 5-0.

112

Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

113

## 114 **8. Old Business**

115

### 116 a) Wetland Banking Ordinance

117 Administrator Kinney indicated staff met with staff from Rice Creek Watershed  
118 District and the City of Forest Lake on this topic. He hasn't received any updates from  
119 the City of Forest Lake since that time. This topic is slated to be on the June 12<sup>th</sup> city  
120 council agenda. He does not expect a change in the City's position on this topic.

121

122 President Schmaltz suggested writing a letter to the city council so that the District's  
123 stance on the matter is well documented. Manager Anderson stated she thought  
124 Rice Creek Watershed District's memo on the topic was well-written. Mr. Kinney noted  
125 that wetland banking would still be allowed within parts of the city zoned as  
126 Conservancy District, and anyone can petition the City to amend the Conservancy  
127 District boundaries. This is a pathway to create a wetland bank within city limits, but  
128 it is an added barrier to the process.

129

130 Manager Anderson asked if this ordinance conflicts with state rules. Mr. Holtman  
131 indicated the conflict that would arise is in relation to a rule under the Wetland  
132 Conservation Act (WCA), a state law implemented by local units of government. The  
133 rule indicates that a restriction on wetland banking needs to rest on a  
134 comprehensive wetland protection and management plan (CWPMP) that the  
135 implementing WCA authority has prepared and that has been approved by the

136 Board of Water and Soil Resources (BWSR). This was pointed out to the BWSR  
137 representative and subsequently communicated to the City of Forest Lake. The  
138 representative first advised city staff that the proposed ordinance could not be  
139 adopted for this reason, but subsequently advised that the rule doesn't apply  
140 because the proposed ordinance is a *zoning* ordinance, and the City is the zoning  
141 authority. Mr. Holtman indicated he believes the WCA rule still would apply,  
142 regardless of the type of ordinance it may be. However, BWSR doesn't appear to be  
143 taking this stance.

144  
145 Manager Anderson asked if the District will have a CWPMP once the Natural  
146 Resources Inventory (NRI) is completed. Mr. Kinney indicated it would not. He  
147 explained that the NRI entails some field work, but it will not include the level of detail  
148 that would be required under a CWPMP. Mr. Kinney indicated that the NRI has so far  
149 evaluated sites that would serve floodplain resiliency and wildlife habitat purposes,  
150 as part of an eventual greenway corridor. He stated that the District rules require  
151 permit applicants to perform comprehensive wetland assessments in cases where  
152 the permit applicant triggers the District's wetland buffer rule.

153  
154 President Schmaltz reiterated his recommendation that the District send a letter to  
155 the city council that details some of the science behind wetland banking. Manager  
156 Anderson noted that the Rice Creek letter did a good job explaining how urbanization  
157 has resulted in wetland destruction.

158  
159 Manager Anderson explained that the City's position is based on the idea that  
160 developers will turn buildable upland into wetland banks, resulting in less residential  
161 development and lower tax revenues for the City. Manager Loth asked if creating a  
162 wetland bank costs more than someone could earn by selling the resulting credits,  
163 and if it's possible to gain a significant profit from wetland banking. Cecilio Olivier  
164 explained that it isn't feasible for a developer to purchase buildable upland and use  
165 it for wetland banking; prime buildable upland is too expensive to turn into a  
166 profitable wetland bank. He explained that, typically, a wetland bank would be  
167 created on a piece of land that is a drained wetland (i.e., land that was once wetland,  
168 but has been drained by ditching etc.). A landowner might create a blockage and  
169 restore hydrology to areas that are naturally low in elevation and naturally wet.

170  
171 Managers Bakke and Toavs stated that they support a letter to the city council on  
172 behalf of the Board. Mr. Holtman suggested that the District could learn thru inquiry  
173 to BWSR about any preliminary inquiries by, or communications with, any  
174 commercial interests about bank proposals within the region.

## 175 176 **9. Report of Staff**

177  
178 a) Administrator

179 Administrator Kinney noted that within the last week or so, the District has received  
180 requests from researchers regarding iron enhanced sand filters as well as pre- and  
181 post-alum treatment water sampling on Forest Lake. He explained that the District's  
182 involvement in research initiatives like these are a relatively minor commitment, but  
183 they are very important for moving forward with the District's mission.

184  
185 Manager Bakke asked for more information regarding staff operations and  
186 maintenance of the Bone Lake fish barriers. Mr. Kinney explained how the structures  
187 have weir boards that prevent carp passage, but they also can be configured to  
188 reduce water flowage. Staff manage the weir boards closely so that carp passage is  
189 mitigated during key times of the year without having an impact on Bone Lake's  
190 water level. As such, boards were added to the inlet barrier, but it has been the  
191 practice for several years to not have any boards installed in the outlet barrier at any  
192 point throughout the year. Rather, the lake level continues to be regulated by the  
193 road culvert only as it has been for decades.

194  
195 b) Emmons & Olivier Resources

196 Mr. Olivier provided construction updates on the County Road 50 Iron Enhanced Sand  
197 Filter Project and the Sunrise River/Highway 61 Wetland Enhancement Project.

198  
199 c) Smith Partners

200 Mr. Holtman gave an update regarding a recent decision by the U.S. Supreme Court  
201 in the case of Sackett v. the U.S. Environmental Protection Agency (EPA). The Supreme  
202 Court ruled against the EPA, limiting the EPA's ability to regulate certain wetlands that  
203 are in proximity to "waters of the United States" but do not themselves meet that  
204 definition under the Clean Water Act. Smith Partners will soon issue a memo with  
205 more information on the matter.

206  
207 **10. Report of Treasurer**

208  
209 a) Approval of Bills and Treasurer's Report

210 Treasurer Anderson reported income for the period of \$475,765.78 and expenses in  
211 the amount of \$385,697.31.

212  
213 Manager Anderson moved to accept the Treasurer's Report and pay the bills in the  
214 amount of \$385,697.31 Seconded by President Schmaltz. Upon vote, the motion  
215 carried 5-0.

216

Manager	Aye	Nay	Absent	Abstain
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			

Jackie Anderson	X			
Stephen Schmaltz	X			

217  
218  
219  
220  
221  
222

Manager Anderson moved to authorize a transfer of \$475,765.78 from First State Bank of Wyoming to First Resource Bank. Manager Anderson advised that the District will be closing its account at First State Bank by the end of June. Seconded by President Schmaltz. Upon vote, the motion carried 5-0.

Ma n a g e r	A y e	N a y	A b s e n t	A b s t a i n
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

223

## 11. Report of Officers and Managers

224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241

- Manager Anderson reported that the legislative session was successful. Watershed districts’ levy authorities were increased with respect to the administrative levy, which was increased to \$500 thousand, and the mill rate, which was increased to 0.0096. Also, soil and water conservation districts now will receive funds from the general fund rather than the Clean Water Fund, saving the latter about \$10 million annually for project funding purposes. Most of MN Watersheds’ high priority bills were passed. The executive director of MN Watersheds will send out a summary within the next few days. Manager Anderson also reported that Chisago County now offers a lake association grant.
- Manager Loth thanked Administrator Kinney and Ms. Lindemyer for attending the Forest Lake Lake Association annual meeting.
- President Schmaltz noted lower than usual attendance at the Forest Lake Lake Association annual meeting.
- Manager Anderson noted good attendance at the Comfort Lakes Association meeting. She indicated that there was a presentation on the Highway 8 roadway reconstruction project.

242

## 12. Summary and Approval of Board Direction

243  
244  
245  
246

Administrator Kinney will write a letter to the City of Forest Lake detailing the District’s stance on the wetland banking ordinance.

## 13. Adjourn

247  
248  
249

- a) Next regular board meeting – June 8, 2023

250 Manager Anderson moved to adjourn the meeting. Seconded by Manager Bakke.  
251 Upon a roll call vote, the motion carried 5-0, and the meeting was adjourned at 8:01  
252 p.m.  
253

Ma n a g e r	A y e	N a y	A b s e n t	A b s t a i n
Dave Bakke	X			
Christopher Loth	X			
Doug Toavs	X			
Jackie Anderson	X			
Stephen Schmaltz	X			

254  
255 Dave Bakke, Secretary -----

DRAFT