

1 **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**
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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.
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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)
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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
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25 **Others Present:**

- 26 Cecilio Olivier, Emmons & Olivier Resources
27 Chuck Holtman, Smith Partners
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29 **2. Setting of Meeting Agenda**

30 Item 08a – Forest Lake Wetland Banking Ordinance was added to the agenda.
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32 Manager Anderson moved to approve the agenda as amended. Seconded by Manager
33 Toavs. Upon a roll call vote, the motion carried 5-0.
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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**

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40 Manager Anderson moved to approve the consent agenda as presented. Seconded by

41 Manager Toavs. Upon a roll call vote, the motion carried 5-0.

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

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44 **4. Public Open Forum**

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46 There were no comments.

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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.

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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.

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68 **7. New Business**

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70 **a) District Holidays – Juneteenth**

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

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

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			

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b) Insurance Liability Coverage Waiver

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

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

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			

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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 20th and 21st.
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 1st.

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

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

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114 **8. Old Business**

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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 12th city
120 council agenda. He does not expect a change in the City's position on this topic.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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207 **10. Report of Treasurer**

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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.

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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.

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

Jackie Anderson	X			
Stephen Schmaltz	X			

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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.

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

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11. Report of Officers and Managers

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- 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.

12. Summary and Approval of Board Direction

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

13. Adjourn

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- 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.

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

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255 Dave Bakke, Secretary -----