

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

AGENDA WORK SESSION AND FORMAL MEETING LAKE MINNETONKA CONSERVATION DISTRICT Wednesday, April 28, 2021

Join Zoom Meeting

https://us02web.zoom.us/j/89950863936?pwd=RWRKYVpBMXJJZnZGbXVoTUVhU2xwdz09

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Meeting ID: 899 5086 3936

Passcode: 351598

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting will be conducted remotely using electronic means. The LMCD's usual meeting room will not be open to the public or the Directors. The LMCD will be using Zoom platform to conduct the meeting remotely. More details about how to use Zoom is available on the website at www.lmcd.org.

PUBLIC PARTICIPATION

Those desiring to participate in the meeting should complete the online form by 2:00 p.m. prior to the meeting. If you are invited to speak at the *Public Comments* Section or *Agenda* Item: 1) Indicate your desire to be heard by "raising hand" through Zoom, 2) Direct comments to Chair Gregg Thomas, 3) Be concise and courteous. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. People who are disruptive will be expelled from the meeting. If you have questions, please email the Executive Director at vschleuning@lmcd.org.

WORK SESSION AGENDA 6:00 p.m.

The purpose of the Work Session is to allow staff to seek input from the Board and for the Board to discuss matters in greater detail than generally available at the formal Board Session. The Board may give staff direction or express a preference, but does not formally vote on matters during Work Sessions. While all meetings of the Board are open to the public, Work Session discussions are generally limited to the Board, staff, and designated representatives. Work Sessions are not videotaped. The work session may be continued after the formal meeting, time permitting.

1. Preliminary Discussion Regarding 2022 Budget

FORMAL MEETING AGENDA 7:00 p.m.

The purpose of the Formal Session is to allow the Board to conduct public hearings and to consider and take formal action on matters coming before the LMCD.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) ROLL CALL
- 4) APPROVAL OF AGENDA
- 5) **CHAIR ANNOUNCEMENTS,** Chair Gregg Thomas
- 6) PUBLIC PRESENTATIONS
 - A) Steve Tallen, LMCD Prosecuting Attorney
- 7) APPROVAL OF MINUTES (04/14/2021 LMCD Regular Board Meeting)
- 8) APPROVAL OF CONSENT AGENDA
 - **A)** Audit of Vouchers (04/15/2021 04/30/2021)
 - **B)** Approval of New Multiple Dock License Application for Reconfiguration of a Non-Conforming Structure, Classification Change to Add Transient BSUs, and Reaffirm Existing Variance for Caribbean Marina & Restaurant, 135 Lakeview Avenue et al, Tonka Bay, MN 55331, Lower Lake South
 - C) Approval of New Multiple Dock License for Reclassification to a Qualified Commercial Marina for The Yacht Club, 4165 Shoreline Drive, Spring Park, MN 55384, Spring Park Bay (*Item to be provided later*)
 - **D**) Resolution Approving AIS Committee Chair and Secretary
 - **E**) Authorization of Lease Agreement with Minnesota Department of Natural Resources for AIS Prevention Stations at Grays Bay Public Access/Launch
- 9) PUBLIC COMMENTS Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes and should not be used to make personal attacks or to air personality grievances. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.

10) PUBLIC HEARING

A) Public Hearing for Variance for Adjusted Dock Use Area, length and side setbacks, for 940 North Arm Drive, Orono, MN 55364

11) OTHER BUSINESS

12) OLD BUSINESS

13) NEW BUSINESS

- A) Membership to Minnesota Lakes & Rivers Advocates
- B) Hennepin County Sheriff's Office Water Patrol Request for Funding

14) TREASURER REPORT

A) Quarterly Report

15) EXECUTIVE DIRECTOR UPDATE

16) STANDING LMCD COMMITTEE UPDATE

- Aquatic Invasive Species
- Communications
- Finance
- Operations
- Save the Lake

17) ADJOURNMENT

Future Items for Review – Tentative

- Pending Public Hearings
 - Combined Variance Applications: 16940 Grays Bay Blvd, PID 17-117-22-21-0090, 16930 Grays Bay Blvd; (setbacks, structure size)- Tentative 05/12/2021
 - o 5th Street Ventures/Back Channel Brewery- New Multiple Dock License, Variance (increase BSUs, structure)- Tentatively 05/12/2021
- Lake Use Vision and Policy Discussion Continuing Series
 - Watercraft Density
 - Lake Sales and Services
 - o Deicing Eligibility Expansion Review
 - o Review of Types of Watercraft and Prototypes
- Reserve Fund Balances

WS ITEM 1



LAKE MINNETONKA CONSERVATION DISTRICT

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DATE: April 28, 2021 (Prepared April 23, 2021)

TO: LMCD Board of Directors

FROM: Vickie Schleuning, Executive Director

SUBJECT: 2022 LMCD Preliminary Budget Discussion and Review of 2021 Budget

ACTION

Board discussion of the 2022 preliminary budget and review of 2021 budget.

BACKGROUND

According to Minnesota Statutes 103B.635 Subd. 1, the LMCD Board must submit a budget for the next calendar year by July 1, 2021 to the governing body of each municipality in the District, with a statement of the proportion of the budget to be provided by each municipality. Typically, the member cities are provided time to review and provide comments.

The Finance Committee consists of Treasurer Anderson and Directors Cook, Newell, and Stone. A highlight of budget revenues, expenses, and options will be provided to the board for consideration.

Anticipated Budget Process & Timeline

- <u>Friday, 03/05/2021</u> Preliminary budget discussion among Finance Committee members.
- Friday, 04/02/2021 Review budget and options by the Finance Committee members
- Wednesday, 04/28/2021 Overview of budget with the board at a Work Session
- Wednesday, 05/12/2021—Preliminary budget discussion and approval by the LMCD Board. After approval, letter sent to member cities seeking feedback.
- <u>Thursday, 06/03/2021</u> TBD, Meeting to review and discuss preliminary budget with member city officials.
- Wednesday, 06/09/2021- (Last possible approval meeting is 06/23/2021 Board meeting)—Final review and adoption by LMCD Board.
- <u>By Thursday, 07/01/2021</u> Adopted 2022 LMCD Budget to be distributed to member cities.

CONSIDERATIONS

- Does the activity align with the mission and goals of the LMCD?
- What impact will the action have on Lake Minnetonka and its stakeholders, short-term and long-term? E.g. Ecology, health, safety, nuisances, economics, etc.
- What are the financial impacts of the actions?
- Is there any preliminary information available from the master planning process?

LMCD Board Meeting April 28, 2021 2022 LMCD Budget Discussion Page 2

STF	RATEGIC PRIOR	ITIES				
	Operational Effectiveness	Clear & Timely Communications	X	Effective Governance	Lake Protection	Other
AT	ΓACHMENTS/SU	PPLEMENTARY INF	OR	MATION		

- LMCD Financial Policy
- Save the Lake Policy
- 2021 Adopted Budget
- 2021 1st Quarter Financial Report
- Treasurer Anderson will provide additional information before or during the meeting.

LMCD RESOLUTION 118

A RESOLUTION TO ESTABLISH A POLICY ON A RESERVE BALANCE FOR THE SAVE THE LAKE FUND

WHEREAS, the Lake Minnetonka Conservation District (LMCD) normal activities are publicly funded through a tax levy to the 14 member cities that abut Lake Minnetonka, license and permit revenue, court fines, and limited grant funding; and

WHEREAS, the LMCD annually solicits private funds to supplement these funding sources for special public safety, environmental, and public service/educational projects; and

WHEREAS, the disbursement of these funds is managed by the LMCD Board of Directors; and

WHEREAS, a Save the Lake Advisory Committee, represented by LMCD Board members and persons appointed by the LMCD Board of Directors, makes recommendations to the LMCD Board for fundraising and disbursement programs;

NOW THEREFORE, BE IT RESOLVED by the LMCD Board of Directors that the maximum amount of Save the Lake Funds available for projects shall be up to 25 percent of the reserve fund balance as of December 31st.

BE IT FURTHER RESOLVED, that the LMCD will announce the availability of these funds by April 15th for the following calendar year.

BE IT FURTHER RESOLVED, that the Save the Lake Advisory Committee and LMCD Board of Directors will review requests for Save the Lake Funds utilizing existing Save the Lake Program Funding Criteria.

Adopted by the LMCD Board this 9th day of July, 2008.

Lisa Whalen, Chair

ATTEST:

Andrew McDermott III, Secretary

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCES - 2020 BUDGET SUMMARY ACTUAL FOR 2015-2019, BUDGET FOR 2020, AND BUDGET FOR 2021 ADOPTED 06/24/2020

ACTUAL FOR 2015-20	119, BUL	JGET FOR	(20	020, AND	BU	DGET FOR	< 21	UZI ADOP	IEI	06/24/2	020	J		
		2015 Actual		2016 Actual		2017 Actual		2018 Actual		2019 Actual		2020 Budget	2021 Budget	2021 % Change
REVENUES														
1 Admin Municipal Dues	\$	247,992	\$	235,866	\$	253,456	\$	271,269	\$	287,610	\$	286,500	\$ 300,000	4.71%
2 AIS Municipal Dues	\$	94,500	\$	70,999	\$	66,795	\$	75,534	\$	81,170	\$	82,000	\$ 75,000	-8.54%
3 Grants and rebates	\$	54,000	\$	14,015	\$	20,995	\$	28,830	\$	20,000	\$	2,000	\$ -	-100.00%
4 Interest and other	\$	4,455	\$	3,793	\$	1,158	\$	3,706	\$	12,153	\$	3,000	\$ 8,000	166.67%
5 Licenses and Permits	\$	107,510	\$	112,979	\$	118,149	\$	115,590	\$	123,402	\$	110,000	\$ 120,000	9.09%
6 Court Fines	\$	33,974	\$	35,598	\$	80,908	\$	42,967	\$	40,344	\$	45,000	\$ 45,000	0.00%
7 Donations	\$	50,757	\$	21,425	\$	29,978	\$	35,877	\$	29,715	\$	45,000	\$ 40,000	-11.11%
8 Transfers In	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$ 7,000	-
TOTAL REVENUES	\$:	593,188	\$	494,675	\$	571,439	\$	573,773	\$	594,394	\$	573,500	\$ 595,000	3.75%
EXPENSES														
9 Personnel Services	\$	281,849	\$	296,900	\$	235,542	\$	259,300	\$	260,502	\$	325,000	\$ 300,000	-7.69%
10 Office and Supplies	\$	53,533	\$	51,804	\$	57,613	\$	48,720	\$	55,851	\$	63,500	\$ 60,000	-5.51%
11 Legal	\$	90,651	\$	98,449	\$	97,268	\$	75,500	\$	74,592	\$	75,000	\$ 70,000	-6.67%
12 Admin Professional Services	\$	28,768	\$	16,509	\$	20,582	\$	20,700	\$	32,350	\$	20,000	\$ 25,000	25.00%
13 AIS Prevention Program (Inspections and Master Plan)	\$	37,571	\$	25,148	\$	31,663	\$	10,000	\$	118,238			\$ 75,000	-
14 AIS Management (harvesting, equipment and repair)	\$	48,251	\$	56,103	\$	50,969	\$	50,000	\$	8,799	\$	50,000	\$ 5,000	-90.00%
15 Equipment Replacement	\$	786	\$	744	\$	1,220	\$	-					\$ -	-
16 STL Grants and Programs	\$	67,233	\$	42,800	\$	35,307	\$	34,625	\$	38,614	\$	40,000	\$ 40,000	0.00%
17 Budget Amendment														
18 Communications													\$ 20,000	-
18 Transfers Out	\$	38,192	\$	-	\$	15,000	\$	-						
19 Other														
TOTAL EXPENDITURES	\$ (646,834	\$	588,457	\$	545,164	\$	498,845	\$	588,947	\$	573,500	\$ 595,000	3.75%
EXCESS REVENUES (EXPENDITURES)	\$	(53,646)	\$	(93,782)	\$	26,275	\$	74,928	\$	5,447	\$	-	\$ -	
Reserve Amounts					,	YE 2017		YE 2018	,	YE 2019				
General					\$	168,928	\$	231,023	\$	258,429				
AIS					\$	85,176	\$	94,815	\$	79,590				
Reserve Fund Balance					\$	254,104	\$	325,838	\$	338,019				
Reserve Percentage of Annual Expenses						47%		65%		57%				
Equipment Replacement					\$	118,422	\$	119,167	\$	125,652				
Save the Lake					\$	164,133	\$	164,731	\$	157,788				
			_		\$	536,659	\$	609,736	\$	621,459				

Budget Notes 2021 This Budget presentation is a presentation of each first level budget line item for all three funds. Further definition of the contents of each line item and its specific fund breakdown historical data are available on the All Funds Breakdown prepared in our Audit Process and the Profit & Loss Statements. Line Item Commentary 1 Administration dues were increased to reflect the higher annual costs and when coupled with the AlS dues generate a 1.8% increase in total dues. 2 See #1 above. 3 Grants are often pass through items that show up in equal amounts in the income and expense line, and so may not included in the budget. Rebates are included in typical amounts. 4 Interest and other income is increased to reflect changes in the market and to better identify those income amounts within the budget framework. 5 License and Permit fees are expected to increase based on the higher number of project applications processed in recent years. 6 Court fines are also expected to decrease, but still maintain high target level. 8 Transfers in are from the reserve funds if shown. 9 Personnel services have been decreased, dependant on workload needs and additional staff hours anticipated to provide services.

12 Professional Services primarily includes the cost of producing and broadcasting the Board Meeting, Audit fees, and IT consulting fees.

11 Legal includes both the administrative and prosecution fees. Legal fees are anticipated to decline due to conclusion of the recodification process in 2020.

10 Office and supplies was decreased and also provides resources to produce routine communication mailings and education pieces.

- AIS Prevention Program includes the activities related to current and long-term projects for the prevention of AIS, inspection activities, and similar. Grants may be received and passed through to other service providers.
- Harvesting Program is the removal and disposal of aquatic invasive vegetation such as CLP and EWM from navigation areas. This budget includes costs of abating problematic navigation areas through contracted services. It had typically included the operation of a two harvesters and/or a combination of three onlake machines during the season.
- 16 STL are the Save the Lake Grants that are funded from contributions and donations received from the STL program. STL programs fund the ongoing Solar Light Program, Boater Safety Training Classes, public safety and emergency services, and other lake protection and safety programs.
- 18 Funds support communications and legislation relations activities for lake conservation and safety including consulting fees.



LAKE MINNETONKA CONSERVATION DISTRICT 2021 BUDGET AND LEVY (APPROVED 06/24/2020)

City	2010 U.S. Census Population Data	2019 Estimated Market Value	2019 Net Tax Capacity	% of Total Net Tax Capacity (Note 1)	Share of Admin. Levy in 2021	Share of AIS Levy in 2021	Share of Total Levy in 2021	Share of Total Levy in 2020	Change in Total Levy from 2020	% Change from 2020
DEEPHAVEN	3,642	\$ 1,378,655,900	\$ 15,768,253	5.1%	\$20,449	\$5,112	\$25,561	\$25,798	-\$237	-0.92%
EXCELSIOR	2,188	\$ 563,728,900	\$ 7,128,340	2.3%	\$9,244	\$2,311	\$11,555	\$10,996	\$559	5.09%
GREENWOOD	688	\$ 383,967,100	\$ 4,524,938	1.5%	\$5,868	\$1,467	\$7,335	\$7,077	\$258	3.64%
MINNETONKA	49,734	\$ 10,227,884,400	\$ 125,045,402	40.3%	\$60,000	\$15,000	\$75,000	\$73,700	\$1,300	1.76%
MTKA BEACH	539	\$ 366,110,800	\$ 4,335,414	1.4%	\$5,622	\$1,406	\$7,028	\$7,009	\$19	0.28%
MINNETRISTA	6,384	\$ 1,828,446,800	\$ 19,628,686	6.3%	\$25,455	\$6,364	\$31,819	\$31,279	\$540	1.73%
MOUND	9,052	\$ 1,424,716,300	\$ 14,896,070	4.8%	\$19,318	\$4,829	\$24,147	\$23,620	\$527	2.23%
ORONO	7,437	\$ 3,193,769,900	\$ 36,704,692	11.8%	\$47,600	\$11,900	\$59,500	\$58,846	\$654	1.11%
SHOREWOOD	7,307	\$ 1,838,064,900	\$ 20,348,054	6.6%	\$26,388	\$6,597	\$32,985	\$33,119	-\$134	-0.40%
SPRING PARK	1,669	\$ 309,279,100	\$ 3,709,461	1.2%	\$4,811	\$1,203	\$6,013	\$6,007	\$6	0.10%
TONKA BAY	1,475	\$ 609,862,400	\$ 6,982,370	2.3%	\$9,055	\$2,264	\$11,319	\$11,422	-\$104	-0.91%
VICTORIA	7,345	\$ 1,733,474,600	\$ 18,175,274	5.9%	\$23,570	\$5,893	\$29,463	\$27,066	\$2,397	8.86%
WAYZATA	3,688	\$ 2,225,685,300	\$ 29,126,139	9.4%	\$37,772	\$9,443	\$47,215	\$46,201	\$1,014	2.19%
WOODLAND	437	\$ 317,608,600	\$ 3,737,895	1.2%	\$4,847	\$1,212	\$6,059	\$6,359	-\$299	-4.71%
	101,585	\$ 26,401,255,000	\$ 310,110,988	100.0%	\$300,000	\$75,000	\$375,000	\$368,500	\$6,500	1.76%
Maximum Levy Pe	er MN statute 1	03B.635 (Total Taxa	ble Market Value	* 0.00242%)				\$638,910		
(Note 1) Per MN state	ute 103B.631, no	city may pay more than 2	20% of the total levy.	The City of Min	netonka would p	ay a constant 20%	of any amounts	to be levied.		
Remaining cities factor	or for determining	levy amounts is compute	d as: (City Net Tax C	apacity / (Total	Net Tax Capacit	y - Minnetonka Net	Tax Capacity)) * 80%		
Total Net Tax Capacity			310,110,988							
less Minnetonka Ne			(125,045,402)							
Net Tax Capacity for	remaining 13 citie	es .	185,065,586							

3:07 PM 04/13/21 Accrual Basis

Lake Minnetonka Conservation District Administrative - Income & Expenses

January through March 2021

	Jan - Mar 21	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
Grants & Other Income				
3080M10 · Interest - Admin.	211	2,915	-2,704	7%
3300M10 · Other Income - Admin. 3340M10 · Public Agency Grants - Adm	3	1,000 500	-997	0%
3340M TO Frabilic Agency Grants - Adm		500	-500	0%
Total Grants & Other Income	214	4,415	-4,201	5%
Licenses/Permits				
3110M10 · Multiple/Perm. Dock Lic -Admin.	72,653	85,000	-12,347	85%
3120M10 · DMA license - Admin.	1,660	4,000	-2,340	42%
3130M10 · Deicing License - Admin.	816	6,000	-5,184	14%
3170M10 · Variances - Admin.	2,500	2,500	0	100%
3240M10 · Charter Boats - Admin.	2,850	3,500	-650	81%
3280M10 · Liquor/Beer/Wine License-Admin.	18,050	19,000	-950	95%
Total Licenses/Permits	98,529	120,000	-21,471	82%
3020M10 · Municipal Dues - Admin.	74,491	300,000	-225,509	25%
3260M10 · Court Fines - Admin.	12,214	45,000	-32,786	27%
3400M10 · Transfers In - Admin.		2,385	-2,385	0%
Total Income	185,448	471,800	-286,352	39%
Gross Profit	185,448	471,800	-286,352	39%
Expense Legal				
4110M10 · Public Info./Legal - Admin.	432	1,000	-568	43%
4620M10 · Legal Fees - Admin.	4,096	39,700	-35,604	10%
4640M10 · Prosecution Fees - Admin.	2,691	29,000	-26,309	9%
4650M10 · Room & Board - Admin.	0	300	-300	0%
Total Legal	7,219	70,000	-62,781	10%
Office & Supplies				
4060M10 · Telephone - Admin.	696	2,800	-2,104	25%
4070M10 · Web Page / Internet - Admin.	0	1,000	-1,000	0%
4080M10 · Postage - Admin.	87	3,400	-3,313	3%
4100M10 · Printing - Admin.	0	4,000	-4,000	0%
4140M10 · Equipment R&M - Admin.	1,601	7,000	-5,399	23%
4220M10 · Office Supplies -Admin.	-2	2,250	-2,252	-0%
4230M10 · Meeting Exp Admin. 4320M10 · Office Rent - Admin.	1,263 6,600	8,500	-7,237 43,400	15%
4340M10 · Insurance - Admin.	0,000	20,000 2,500	-13,400 -2,500	33% 0%
4360M10 · Subs/Memberships - Admin.	0	2,100	-2,100	0%
4400M10 · Mileage/Exp's - Admin.	Ö	750	-750	0%
4410M10 · Training/Prof. Devel ADM	511	500	11	102%
4520M10 · Furniture & Equip - Admin.	21	500	-479	4%
4530M10 · Comp. Sftwr & Hdwr - Admin.	2,670	2,000	670	134%
4535M10 · Public Health/Safety - Adm	4,925	0	4,925	100%
Total Office & Supplies	18,372	57,300	-38,928	32%
Personnel Expenses				
4020M10 · Salaries-002 - Admin	52,095	228,000	-175,905	23%
4021M10 · ER Share of Admin FICA/Medicare	3,967	18,000	-14,033	22%
4022M10 · ER PERA - Admin	3,889	17,000	-13,111	23%
4380M10 · Employee Benefits - Admin.	14,769	36,500	-21,731	40%
Total Personnel Expenses	74,719	299,500	-224,781	25%

3:07 PM 04/13/21 **Accrual Basis**

Lake Minnetonka Conservation District Administrative - Income & Expenses January through March 2021

	Jan - Mar 21	Budget	\$ Over Budget	% of Budget
Professional Services- ADM				
4040M10 · Auditing - Admin.	0	11,250	-11.250	0%
4180M10 · Professional Services - Admin.	576	7,750	-7,174	7%
4181M10 · Professional Comp. ServAdmin.	0	2,000	-2,000	0%
4182M10 · Media (Cable/Internet) - Admin.	400	4,000	-3,600	10%
4183M10 · Prof/ Serv Communications	5,518	20,000	-14,483	28%
Total Professional Services- ADM	6,493	45,000	-38,507	14%
Total Expense	106,803	471,800	-364,997	23%
Net Ordinary Income	78,645	0	78,645	100%
Net Income	78,645	0	78,645	100%

2:49 PM 04/13/21 **Accrual Basis**

Lake Minnetonka Conservation District AIS - Income & Expenses January through March 2021

			\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income 3020M30 · Municipal Dues - AIS	18,813.25	75,000.00	-56,186.75	25.1%
3080M30 · Interest - AIS	0.00	825.00	-825.00	0.0%
3300M30 · Public Agencies/Other Income	0.00	1,000.00	-1,000.00	0.0%
3400M30 · Transfers In - AIS	0.00	4,375.00	-4,375.00	0.0%
Total Income	18,813.25	81,200.00	-62,386.75	23.2%
Gross Profit	18,813.25	81,200.00	-62,386.75	23.2%
Expense				
AIS Prevention Program				
4111M30 · Pub. Edu./Legal- AIS Prevention	0.00	100.00	-100.00	0.0%
4151M30 · Equip. Supplies -AIS Prevention	0.00	3,000.00	-3,000.00	0.0%
4181M30 · Prof. Services - AIS Prevention	0.00	60,000.00	-60,000.00	0.0%
4182M30 · Prof. Services- Master Plan	0.00	9,900.00	-9,900.00	0.0%
4531M30 · Software & Hardware/Training	404.00	2,000.00	-1,596.00	20.2%
Total AIS Prevention Program	404.00	75,000.00	-74,596.00	0.5%
EWM Harvesting Program				
Equipment & Repair				10.112.122
4150M30 · Equip. Supplies & Maint EWM	0.00	3,500.00	-3,500.00	0.0%
4720M30 · Contract Mechanic Fees - EWM	0.00	1,500.00	-1,500.00	0.0%
Total Equipment & Repair	0.00	5,000.00	-5,000.00	0.0%
Office & Supplies- EWM				
4080M30 · Postage - EWM	0.00	35.00	-35.00	0.0%
4090M30 · DMV - EWM	0.00	45.00	-45.00	0.0%
4220M30 · Office Supplies - EWM	0.00	220.00	-220.00	0.0%
4350M30 · Ins./Equip EWM	0.00	400.00	-400.00	0.0%
Total Office & Supplies- EWM	0.00	700.00	-700.00	0.0%
Personnel Services- EWM				
4340M30 · Insurance W/C - EWM	0.00	500.00	-500.00	0.0%
Total Personnel Services- EWM	0.00	500.00	-500.00	0.0%
4110M30 · Public Info./Legal - EWM	226.10			
Total EWM Harvesting Program	226.10	6,200.00	-5,973.90	3.6%
Total Expense	630.10	81,200.00	-80,569.90	0.8%
Net Ordinary Income	18,183.15	0.00	18,183.15	100.0%

2:48 PM 04/13/21 **Accrual Basis**

Lake Minnetonka Conservation District Save the Lake - Income & Expenses January through March 2021

	Jan - Mar 21	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense Income				
Contributions 3001M20 · Donations (General) - S/L 3002M20 · Donations (Photograph) - S/L 3004M20 · Donations (Solar Light) - S/L	3,229 0 0	39,000 100 900	-35,771 -100 -900	8% 0% 0%
Total Contributions	3,229	40,000	-36,771	8%
3080M20 · Interest - S/L 3400M20 · Transfers In - S/L	0	1,705 295	-1,705 -295	0% 0%
Total Income	3,229	42,000	-38,771	8%
Gross Profit	3,229	42,000	-38,771	8%
Expense Office & Supplies- STL 4080M20 · Postage - S/L 4100M20 · Printing - S/L 4220M20 · Office Supplies - S/L	0 0 0	600 1,100 300	-600 -1,100 -300	0% 0% 0%
Total Office & Supplies- STL	0	2,000	-2,000	0%
Projects & Activities- STL 4110M20 · Environmental- S/L 4111M20 · Public Service/Education - S/L 4160M20 · Public Safety - S/L	0 0 0	3,000 3,000 34,000	-3,000 -3,000 -34,000	0% 0% 0%
Total Projects & Activities- STL	0	40,000	-40,000	0%
4180M20 · ProfessionI Services - S/L	6			
Total Expense	6	42,000	-41,994	0%
Net Ordinary Income	3,223	0	3,223	100%
let Income	3,223	0	3,223	100%

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

6:30 P.M., April 14, 2021 Virtual

WORK SESSION

6:30 p.m. to 7:00 p.m.

Members Present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Mark Kroll, Excelsior; Denny Newell, Woodland; Jake Walesch, Deephaven; and Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members Absent: Dennis Klohs, Minnetonka Beach; and Nicole Stone, Minnetonka.

Persons in Audience: Eric Evenson; and, Erik Forsberg.

The following usernames were also present, but the person(s) did not identify themselves: Janice; and, Richard.

1. Board Director Self-Evaluation Review

Thomas stated that at the last meeting there was direction to reopen the Board survey in order to gather additional input from Board members. He noted that two additional responses were gained during that time. He stated that when he reviewed the results, he tried to identify questions that had at least two members that disagreed. He reviewed those questions and provided additional explanation that could perhaps help to clarify those responses that disagreed.

Anderson asked if the Board selects the auditor or whether the firm assigns an auditor.

Schleuning commented that the LMCD and Board select the firm and the firm assigns an auditor.

Anderson commented that he thinks the new setup for the committees has been great and very productive.

Thomas continued to review the questions with responses that he identified for follow up. He stated that perhaps the Communications Committee could help to develop a consistent "elevator speech" for the Board.

Hoelscher confirmed that she would place that on the agenda for the next committee meeting.

Anderson referenced the scoring system and asked for clarification.

Schleuning explained how the scoring system was used.

Thomas noted that the Operations Committee will be reviewing this information in conjunction with strategic planning. He commented that in general the scores were good, and he will continue to look at

ways in which the Board can improve.

Newell commented that he was happy that each Board member is participating in at least one committee. He stated that he would hope for increased participation in the survey completion next year in order to provide direction moving forward.

Thomas agreed that he would encourage 100 percent participation, but noted that regardless of the participation level, they would continue to bring the results back to the Board at a workshop in order for everyone to have the opportunity to review the results and provide comments.

The work session was adjourned at 6:54 p.m.

1. CALL TO ORDER

Chair Thomas called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members absent: Dennis Klohs, Minnetonka Beach.

Persons in Audience: John Bendt; August Bruggeman; Eric Evenson; Erik Forsberg; Dave Hemink; Mark Kozikowski; Representative Kelly Morrison; Tom Shaver; Jay Soule; Andrew Spilseth; Jack Trautz; Kelly Wischmeier; Shawn Wischmeier.

The following usernames were also present, but the person(s) did not identify themselves: Janice; Me; Rob; Richard; and, Scott.

4. APPROVAL OF AGENDA

MOTION: Baasen moved, Kroll seconded to approve the agenda as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye

aye
absent
aye

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Thomas commented that there are five Standing Committees that have been established, which are subject to the open meeting law. He commented that members of the Board need to refrain from sending out emails or communicate with a quorum of a Committee or the Board. He stated that it is important to remain in compliance with the open meeting law. He noted that if something needs to be communicated to the committee or full Board, it should go through staff and provided additional explanation on that process.

Anderson asked if it is okay to blind copy emails to members of the Board, as that prevents a reply all scenario.

Thomas confirmed that would be fine.

6. PUBLIC PRESENTATIONS

A) Representative Kelly Morrison

Hoelscher introduced Representative Kelly Morrison, reviewing the area she represents and providing background information on the representative and her committee assignments.

Representative Morrison commented that she represents many of the communities that surround Lake Minnetonka and therefore is happy to be here tonight to speak with the group. She welcomed any questions the Board may have.

Thomas stated that the intent is to establish a working relationship with the representatives of the Lake Minnetonka area. He commented that it does not seem that any of the bills that could impact Lake Minnetonka have gained much traction and asked for any updates.

Representative Morrison provided additional details on the bill she proposed related to increasing the threeyear fee for watercraft registration in order to provide more funding to prevent the spread of AIS. She stated that the bill has been included for review later this session. She stated that the other potential bills were not included in an omnibus bills thus far and therefore should not have much traction this session.

Newell commented that he likes the work Representative Morrison is doing towards AIS. He asked if she was aware of the statewide survey that was completed by the University of Minnesota through discussion

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with boaters, noting that a significant number of boaters indicated that they were willing to pay an additional fee in order to improve the overall boating experience.

Anderson provided additional information on the issue with ethanol in boat use.

Representative Morrison provided her contact information and welcomed any future communication from the members of the Board or other constituents. She thanked the Board for their service.

7. **APPROVAL OF MINUTES-** 03/24/2021 LMCD Regular Board Meeting

MOTION: Baasen moved, Brandt seconded to approve the 03/24/2021 LMCD Regular Board Meeting

minutes as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	absent
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

8. APPROVAL OF CONSENT AGENDA

MOTION: Kroll moved, Zorn seconded to approve the consent agenda as presented. Items so approved included: **7A**) Audit of Vouchers (04/01/2021 – 04/15/2021); and **7B**) Resolution Accepting Save

the Lake Contributions (03/11/2021 – 04/05/2021).

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye

aye
absent
aye

Motion carried unanimously.

9. PUBLIC COMMENTS- Persons in attendance, subjects not on the agenda (limited to 5 minutes)

There were no public comments.

10. PUBLIC HEARING

A) Public Hearing for New Multiple Dock License Application for Reconfiguration of a Non-Conforming Structure, Classification Change to Add Transient BSUs, and Reaffirm Existing Variance for Caribbean Marina & Restaurant, 135 Lakeview Avenue et al. Tonka Bay, MN, 55331, Lower Lake South

M. Cook presented a request for a Multiple Dock License and reaffirmation of an existing variance for the Caribbean Marina and Restaurant. He provided background information on the site and request. He explained that the installation of the 2019 approval is not yet complete, and the applicant proposes the interim layout for 2021 and a final layout for 2022 that have the same overall footprint of the 2019 approval. He stated that this would propose to split some approved slips into smaller slips within the preserved maximums for reconfigured nonconforming structure on site. He stated that this would also propose the conversion of five slips to transient. He reviewed an aerial photograph and site plan and reviewed the elements proposed within the reconfiguration. He noted that no changes are proposed to the existing variance, simply reaffirmation. He reviewed the standard criteria that is reviewed for a Multiple Dock License. He also reviewed the comments received from the other public agencies and members of the public. He stated that staff recommends approval and reviewed the recommended conditions.

Baasen thanked staff for the thorough presentation. He asked if this work would be fair and reasonable to the 2019 application.

M. Cook confirmed that this is a straightforward proposal working within the reconfiguration.

Anderson asked to see the approved license for 2020, including the BSUs requested at that time. He asked the current density and whether that would change with the new plan. He referenced the recommended condition to not use the staging area and asked for clarification related to the fencing. He referenced the dimension of the slips and asked if the smaller slips would each hold one jet ski.

M. Cook commented that the smaller slips would each hold one jet ski per BSU. He compared the number of BSUs from the different years and compared to the number allowed under the license. He stated that the approval from 2019 allowed two seasons for installation. He stated that the WSU fees typically increase

based on the width of the slip, therefore the fee paid prior to 2019 for more BSUs was smaller than the fee paid for lesser BSUs in 2019.

Anderson commented that the WSUs is not the issue. He stated that the issue is the number of boats on the water. He asked if the applicant had 116 BSUs in 2020 and is proposing 134 BSUs this year.

M. Cook commented that he did not inspect the site last year for the actual number of BSUs.

Anderson commented that he does not have an issue with 134 BSUs this year and would be okay with 127 BSUs in 2022 as long as there is only one jet ski per slip. He asked and received confirmation that the density rate would be established and maintained in 2022.

Kirkwood referenced the end of B dock, which would be the entrance point for the transient slip and asked if there would be clear markings for boaters to identify that entrance area with minimal need to maneuver and find a slip.

M. Cook encouraged the Board to ask that of the applicant.

Thomas invited the applicant to address the Board.

Shawn Wischmeier, applicant, commented that they will have approved signage up for transient slips. He stated that there will also be gas dock attendants at that location to monitor and ensure safe docking. He stated that the purpose of having those slips on B dock would be to allow easy access to the bathrooms and restaurant without walking through other areas of the marina. He thanked the Board and staff for consideration as they hope to complete construction during this season.

Thomas opened the public hearing. No comments were offered, and the public hearing was closed.

MOTION: Anderson made a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license and variance applications from Caribbean Marina and Restaurant for the property located at 135 Lakeview Avenue, 100 Sunrise Avenue, and 110 Sunrise Avenue in Tonka Bay for final action at the April 28, 2021 LMCD Board meeting subject to the recommended conditions by staff and requirement for continued fencing.

Further discussion: Thomas asked staff to provide clarification on the recommended conditions.

M. Cook stated that Anderson would propose to add a fence near the highlighted dock.

Anderson commented that the emergency dock is at the gas dock.

Wischmeier commented that this was a drafting oversite and should have been removed from the 2019 plan.

Schleuning commented that there is a fence or barrier requirement extending from the eastern part of E dock and Anderson would propose to continue that to the front of the large platform.

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Walesch asked if staff recommends the condition suggested by Anderson and whether the applicant also agrees.

Thomas commented that he did not believe staff recommended that barrier on the north end of what is labeled as staging.

M. Cook confirmed that was added by Anderson.

Wischmeier commented that they have no desire to do anything special with that. He stated that in terms of visibility into the lake he would prefer to not have fencing but would comply with requirements.

Schleuning stated that roping was discussed as a barrier and staff would support that. She stated that it can be done attractively and still be a visible barrier.

Thomas referenced A dock and asked for clarification to what is written.

M. Cook clarified that reads proposed dock.

Thomas asked the rationale of putting a barrier on the dock labeled staging dock, that should not be labeled in that area, or placing one on the proposed dock.

Anderson stated that there is a recommendation to remove the label of staging area and the barrier would prevent the area from being used for staging.

Thomas clarified that staff did not recommend putting a barrier up on the dock labeled as staging area and only recommended removing the label of staging area.

Schleuning commented that what Anderson is saying that he would like the barrier continued around front to ensure people do not use that as a staging area. She stated that staff would support that additional condition for barrier, noting that it does not necessarily have to be fencing.

Walesch asked for clarification on the added condition.

Anderson commented that he would continue the language used for the east side to encompass the staging platform on the end of the dock.

MOTION:

Anderson moved, Walesch seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license and variance applications from Caribbean Marina and Restaurant for the property located at 135 Lakeview Avenue, 100 Sunrise Avenue, and 110 Sunrise Avenue in Tonka Bay for final action at the April 28, 2021 LMCD Board meeting subject to the recommended conditions by staff and to continue the language used for the east side barrier condition to encompass the staging platform on the end of the dock.

VOTE: A roll call vote was performed:

Anderson aye

Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	absent
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

- **B)** Public Hearing for New Multiple Dock License for Reclassification to a Qualified Commercial Marina for Tom Shaver of Inland Development Partners (The Yacht Club), 4165 Shoreline Drive, Spring Park, MN, 55384, Spring Park Bay
- M. Cook presented an application for a Multiple Dock License at 4165 Shoreline Drive in Spring Park. He provided background information on the site noting that the applicant requests to change the classification from club to qualified commercial marina. He reviewed an aerial photograph of the site, the existing site plan and proposed site plan. He reviewed the multiple dock criteria. He noted that no agency comments were received and reviewed the comments received by members of the public. He stated that staff recommends approval with standard license conditions.

Hughes asked if there is anything related to portable bathrooms that could be used on land.

M. Cook commented that it is his understanding that the bathroom facilities would be located in the building and would be available Monday through Friday during business hours and to members only on weekends.

Walesch commented that this looks to be a straightforward request and makes sense.

Hughes asked if there is a general comment or feeling that all public facilities should have portable bathrooms available.

M. Cook stated that he is unaware of a mandatory requirement and noted that bathrooms are available at the neighboring water patrol site.

Schleuning stated that there is a requirement to have a means of sanitation for clients, which will be provided. She stated that they discussed general public amenities and as stated there is a transient dock at the neighboring water patrol site with public bathrooms.

Kirkwood asked if there is a transient slip if someone wanted to use the bathroom.

M. Cook commented that there is not currently a transient slip proposed.

Schleuning commented that two sites over at the water patrol site there are available public restrooms.

Kirkwood asked what would be involved in the applicant wanted to go out 200 feet.

M. Cook commented that the applicant would need to come back to the Board.

Schleuning commented that part of that review would be whether it would be reasonable, necessary and impact to navigation for neighboring properties.

Kirkwood asked if the LMCD is actively trying to control the number of boats on the lake.

Schleuning commented that there are density requirements, and the site already has the density of a qualified commercial marina, therefore additional BSUs could not be added.

Thomas invited the applicant to address the Board.

Tom Shaver, applicant, stated that staff did an excellent job reviewed and presenting the request. He stated that they are in the process of acquiring the property and refreshing it noticed the license it out of sync and are simply trying to align the license with the use. He stated that there will be FOB security access into the building for the customers to access the building and use the restrooms outside of business hours.

Thomas commented that the applicant is not requesting transient docks, therefore general members of the public cannot dock and access this facility.

Baasen stated that it his understanding that the group is purchasing the building and marina.

Mr. Shaver confirmed that they are purchasing the building and marina.

Thomas opened the public hearing.

Mark Kozkowski, owner of Minnetonka Edgewater Apartments, stated that they have some concerns going from the current configuration to a qualified commercial marina. He was concerned that there would be more boats and bigger boats and that once approved the configuration could extend out to 200 feet from shore. He commented that if approved he would assume the applicant would come back to extend their area further from shore. He stated that if extended to 200 feet that would impact the view of the units in his building. He stated that today they have noise from the site and can see some of the slips. He realized that the request meets the setbacks, but he simply wants to protect his investment and the enjoyment of his residents.

Cheri Louck, Minnetonka Edgewater Apartment resident, commented that she lives in a unit close to the docks and noted that over the years the people that have rented slips have been quiet. She stated that people that do not live on a lake often do not realize that water amplifies sound. She stated that there have been times when the noise has been disruptive as she lives and works at her home. She asked if there would be guidelines to ensure customers are respectful of the neighbors in terms of noise.

Thomas commented that there are noise ordinances as well as ordinance guiding against lewd behavior. He stated that this site also neighbors the Hennepin County Sheriff Water Patrol site.

Janice Springer, Minnetonka Edgewater Apartment resident, commented that she shares the concerns of the previous resident. She stated that she is concerned with what would happen if this extended out to 200 feet. She stated that she is also concerned with the loss of vegetation and would want to see the vegetation on the west side of the building remain.

Thomas commented that the LMCD has no land jurisdiction and therefore that would be between the resident and applicant and/or city.

Ms. Louck commented that the proximity to the Water Patrol site has not been a deterrent to bad behavior.

No additional comments were offered, and the public hearing was closed.

Schleuning stated that the applicant is attempting to match the license to the use. She stated that because of the density a qualified commercial marina was recommended. She stated that any change to lengthening would require a new application with additional considerations.

MOTION: Walesch moved, Baasen seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license applications from Tom Shaver of Inland Development Partners for the property located at 4165 Shoreline Drive in Spring Park for final action at the April 28, 2021 LMCD Board meeting.

Further discussion: Anderson asked where the east property extension line is and how far the setback would be.

M. Cook identified the property line and stated that currently there is a 42 feet setback and a larger setback on the other side.

Anderson asked the legal setback if the applicant extended to 200 feet.

M. Cook replied that a 20-foot setback would be required after 100 feet.

Anderson commented that if the dock were angled to extend to 200 feet, 20 feet from the neighboring property line, it would remove the structure out of the view from the apartments. He believed that the applicant will eventually request to go to 200 feet.

Thomas stated that the Board needs to consider the application in front of them.

Anderson commented that he could bring that comment forward if a request comes forward for 200 feet in the future.

VOTE: A roll call vote was performed:

Anderson aye

Baasen aye Brandt aye Cook aye Hoelscher aye Hughes aye Kirkwood aye Klohs absent Kroll aye Newell aye Stone aye **Thomas** aye Walesch aye Zorn aye

Motion carried unanimously.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

A) Resolution Authorizing Sale of LMCD Harvesting Equipment

Schleuning reported that all the requirements were followed for the sale of the harvesting equipment through sealed bid process. She thanked the work group that assisted in the sale of the equipment and attempting to find interested buyers. She stated that one bid was received in the amount of \$20,100 with the condition that the equipment remain on the lot for one year. She asked whether the Board wanted to accept that as a qualified bid, noting that the bidder did not technically meet all the bidding requirements. She stated that another offer was received outside of the bidding timeframe and sealed bid process in the amount of \$30,000 for three of the units with a similar timeframe to keep the equipment on the lot for up to one year. She stated that the other three pieces of equipment could be taken to the scrapyard. She stated that if the Board wants to choose that route, it would need to determine no qualified bids were received. She stated that if the Board wanted to accept the \$30,000, an offer would need to be extended to the email bidder to see if they would want to match that bid. She stated that the emailed bid is from Indiana and the second offer is from Wisconsin.

Cook commented that he has a strong interest in getting rid of this issue and equipment.

MOTION:

Cook moved, Hoelscher seconded to adopt Resolution No. 219 Authorizing the Sale of LMCD Harvesting Equipment or Other Form of Liquidation with the following changes: a whereas statement should be added stating that a bid was received that was deemed unqualified by staff as it was emailed and not received in a sealed bid process; and replace the now be it resolved statement with, the Board authorizes staff to waive all technicalities and irregularities with the bid received and award the contract to the emailed bid; in the event those negotiations are

unsuccessful, staff has the authority to negotiate directly with others to arrange the sale of equipment or use other methods of liquidating the equipment.

Further discussion: Walesch referenced the statement that the buyers would like the equipment to remain on the lot for one year and asked when payment would be received.

Schleuning commented that will be part of the negotiation but believed payment would occur upfront. She noted that insurance would also need to be put on the equipment and those details would be worked out in the agreement.

Walesch stated that he would support the action as long as payment is received, and the equipment is not the responsibility of the LMCD.

Anderson commented that the bid states that payment must be received and there must be licensed transporters. He noted that this buyer has licensed and bonded transporters.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	absent
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

Thomas thanked the members of the work group, Schleuning, and Gilchrist for all the work they put into this process.

13. NEW BUSINESS

A) Executive Director Salary Adjustment 2021

Thomas stated that he included a proposal to adjust the Executive Director salary by three percent.

Anderson stated that this was discussed in the Officers meeting and provided additional details on that discussion. He stated that at three percent per year for five years that would exceed the \$110,000 maximum

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for the position.

Thomas commented that when Schleuning was retained, the group that prepared the job description and assisted with the recruiting process suggested that maximum salary, but he believes that maximum should be increased each year by the CPI. He stated therefore if the CPI increases each year, the salary maximum would increase comparatively.

Baasen commented that this is not a five-year plan. He stated that perhaps Anderson was looking at what would happen in five years and if that maximum would be reached. He stated that salary adjustments are reviewed on an annual basis in terms of the position, employees, and agency. He stated that the Officers were comfortable recommending three percent for this year.

Gilchrist commented that the salary range was put in place when the position was advertised and does not remain in place to guide future adjustments. He stated that there is a State cap for a public employee that is currently around \$178,000.

MOTION: Walesch moved, Stone seconded to approve the annual base wage adjustment for the Executive

Director in 2021 at a rate of 3.00 percent retroactive to January 1, 2021.

VOTE: A roll call vote was performed:

Anderson aye Baasen aye Brandt aye Cook aye Hoelscher aye Hughes aye Kirkwood ave Klohs absent Kroll aye Newell aye Stone aye Thomas aye Walesch ave Zorn absent

Motion carried unanimously.

14. TREASURER REPORT

Anderson stated that he would like to provide a quarterly report at the next meeting. He provided an overview of recent discussions of the Finance Committee and upcoming budgeting and finance related discussions and considerations.

Walesch stated that the budget number should be placed in column A, the reserve amount in column B, 35 percent could be reflected in column C, and excess dollars could be in column D. He stated that would be

easy to show how a 35 percent reserve budget would be reflected. He stated that there could then be a separate discussions on how the funds could be used. He believed that if everyone could see those figures, he would suspect that the Board would support that recommendation.

Thomas agreed with those comments. He stated that he would want to see concrete numbers with the recommendation as an agenda item and not attached to the Treasurer's Report or Finance Committee report.

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- MAISRC Copper Research Update: Improvements are being made in how much copper can be added to provide long-term effects on zebra mussels. Additional testing is anticipated this year.
- Wake Surfing Education Presentation: Most recent draft was included in the packet.

Andy Weigman commented that they are attempting to spread the message of safe and respectful wake surfing through education.

Chris Banks commented that it is positive to see how far the association has come. He stated that the session the previous night was a great cross section of the wide range this educational campaign can reach.

Walesch thanked those involved in spreading this message including Chris, Andy, and Anderson. He stated that the product created is of high quality and is exemplary work and a positive message. He stated that this works with everyone involved, including people with opposing views and objectives. He thanked those involved for the thought and time invested in this quality and positive message.

Anderson stated that when he introduced the outline for this program, there was solid support from the Board and this group has stepped up to the plate. He thanked the Board for being receptive of the idea.

Thomas recognized Mr. Bendt and the Citizens for Sharing Lake Minnetonka group for their participation as well.

- CD3 at Grays Bay Public Launch: The different agencies met onsite to discuss implementation of the cleaning stations.
- Plastics Pollution: An update was provided related to a report the LMCD received of plastic pollution on Carson Bay. Staff along with MN DNR cleaned up several bags of plastic beads.
- Lake Minnetonka Water Levels: Levels have risen with the rain but remain under average for this time of year.
- Wayzata Sailing School: Looking for local artists that can produce AIS prevention graphics to go on sails.

Schleuning recognized the efforts that staff put in as a small staff. She expressed appreciation to the staff and members of the Board.

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16. STANDING LMCD COMMITTEE/WORKGROUP

<u>Aquatic Invasive Species</u>: Cook reported that the group met and elected Brandt as the Chair and Newell as Secretary.

Brandt commented that the group met the previous week, and they are excited to get moving forward. He stated that the group will meet every other week on Thursday mornings in the short term in order to develop a plan to move forward. He stated that once their focus and scope is further defined, they would plan to meet monthly.

Thomas recognized the time Cook served as the Chair of the AIS Committee and thanked him for all he did in that role. He thanked Brandt for accepting the position of Chair and looked forward to seeing him in that capacity. He asked if formal action is needed to recognize the Chair and Secretary.

Schleuning stated that staff can prepare an updated resolution.

Thomas stated that perhaps that be delayed until the final membership is decided upon.

Brandt noted that they would be keeping the committee with Board members for the time being until they can further define their path forward.

<u>Communications:</u> Hoelscher reported that the group met and reviewed the Strategic Plan and provided input on the communications related items. She looked forward to discussing that with the full Board when that time comes. The group will meet again on April 29th.

Finance: No report.

Operations: Walesch commented that Zorn had a computer problem and had to leave the meeting.

Thomas noted that the group has not met since the last report.

Save the Lake: Baasen reported that the group is scheduling a special meeting on April 27th at 5 p.m. in order to take action on the 2021 fundraising plans. He stated that efforts will be geared at the spring/summer solicitation letter, 2021 fundraising, water patrol request for 2021, and donor recognition. He stated that they will provide an update at the first Board meeting in May.

16. ADJOURNMENT

MOTION: Kroll moved, Kirkwood seconded to adjourn the meeting at 9:19 p.m.

VOTE: A roll call vote was performed:

Anderson aye Baasen aye Brandt aye Cook aye

Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	absent
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary

3:33 PM 04/20/21

Lake Minnetonka Conservation District Check Detail

April 16 - 30, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
04/30/2021	EFT-21-51	ADP		Alerus Checking		
			Salaries - Admin P.E.R.A. ER PERA ER/FICA Medicare - Admin Long Term Disability	4020M10 · Salaries-002 - Admin 2020 · Payroll Liabilities - 4022M10 · ER PERA - Admin 4021M10 · ER Share of Admin FICA/Me 2020-LT · Payroll Liabilities - UNUM	Admin. Admin. Admin. Admin. Admin.	-9,574.47 1,334.16 -714.73 -729.05 80.35
TOTAL						-9,603.74
04/30/2021	EFT-21-52	ADP Service Fee		Alerus Checking		
TOTAL			Payroll 4/16/21 - 4/30/21	4180M10 · Professional Services - Admin.	Admin.	-80.53
04/30/2021	EFT-21-53	SelectAccount Group Service Fee		Alerus Checking		
TOTAL			HSA Administrative fee for April 2021	4380M10 · Employee Benefits - Admin.	Admin.	-1.60 -1.60
04/30/2021	EFT-21-54	Health Partners		Alerus Checking		
TOTAL			Dental Insurance, May 2021 (Cook, Duncan, Schleun	4380M10 · Employee Benefits - Admin.	Admin.	-170.85 -170.85
04/30/2021	EFT-21-55	P.E.R.A		Alerus Checking		
TOTAL			Payroll 4/16/21 - 4/30/21	2020 · Payroll Liabilities -	Admin.	-1,334.16 -1,334.16
04/20/2021	EFT-21-56	SW/WC Service Cooperatives		Alerus Checking		
			Health Insurance, May 2021 (Vickie Schleunig) Health Insurance, May 2021 (Tammy Duncan) Health Insurance, May 2021 (Matt Cook)	4380M10 · Employee Benefits - Admin. 4380M10 · Employee Benefits - Admin. 4380M10 · Employee Benefits - Admin.	Admin. Admin. Admin.	-721.50 -721.50 -721.50

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Lake Minnetonka Conservation District Check Detail

April 16 - 30, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
04/30/2021	EFT-21-57	US Bank		Alerus Checking		
			Consumer Cellular 2/25/21 - 3/24/21 WP Engine for New Website Zoom Annual Pro Amazon - Water Amazon - Disinfectant, Wipes, Masks Hand Sanitizer Dick's Clothing - Chest Waders Zoom - Credit for Sales Tax	4060M10 · Telephone - Admin. 4070M10 · Web Page / Internet - Admin. 4181M10 · Professional Comp. ServAd 4230M10 · Meeting Exp Admin. 4220M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4181M10 · Professional Comp. ServAd	Admin. Admin. Admin. Admin. Admin. Admin. Admin. Admin.	-29.93 -300.00 -161.18 -24.29 -43.82 -10.50 -167.70 11.28
TOTAL						-726.14
04/29/2021	21948	City of Mound		Alerus Checking		
04/29/2021 TOTAL	May 2021		Rent, May 2021	4320M10 · Office Rent - Admin.	Admin.	-1,649.96 -1,649.96
04/29/2021	21949	ECM Publishers, Inc.		Alerus Checking		
04/29/2021	Inv.#830199,8		April 28 PH James Mattson App April 14 Caribbean Marina Rest April 14 Tom Shaver Public Hearing	4110M10 · Public Info./Legal - Admin. 4110M10 · Public Info./Legal - Admin. 4110M10 · Public Info./Legal - Admin.	Admin. Admin. Admin.	-71.40 -57.83 -77.35
TOTAL						-206.58
04/29/2021	21950	Innovative Office Solutions LLC		Alerus Checking		
04/29/2021	Inv.#3315090,	in Signature 10 10 10 10 10 10 10 10 10 10 10 10 10	Binder for Minutes Oversized Flats (no printing) LMCD 9 x 12 Flats (printed) LMCD #10 Envelopes	4220M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4100M10 · Printing - Admin. 4100M10 · Printing - Admin.	Admin. Admin. Admin. Admin.	-25.05 -55.58 -287.92 -159.64
TOTAL						-528.19
04/29/2021	21951	Kennedy & Graven		Alerus Checking		
04/29/2021 TOTAL	March 2021		Legal Fees March 2021	4620M10 · Legal Fees - Admin.	Admin.	-2,054.40 -2,054.40

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Lake Minnetonka Conservation District Check Detail

April 16 - 30, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
04/29/2021	21952	League MN Cities Ins. Trust		Alerus Checking		
04/29/2021	Property/Casu		Municipality Vehicle	4340M10 · Insurance - Admin. 4350M30 · Ins./Equip EWM	Admin. AIS	-3,572.00 -385.00
TOTAL						-3,957.00
04/29/2021	21953	LMCC		Alerus Checking		
04/29/2021	Inv.#1411		VOD Services for Meeting 4/14/21	4182M10 · Media (Cable/Internet) - Adm	Admin.	-100.00
TOTAL						-100.00
04/29/2021	21954	Mediacom		Alerus Checking		
04/29/2021	Stmnt 4/1/21		Telephone and Internet 3/26/21 - 4/25/21	4060M10 · Telephone - Admin.	Admin.	-393.22
TOTAL						-393.22
04/29/2021	21955	Premier Materials Technology Inc.		Alerus Checking		
04/29/2021	Inv.#47330		Solar Lights (5 Green, 3 Red)	4160M20 · Public Safety - S/L	STL	-1,460.00
TOTAL						-1,460.00



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE:	April 28, 2021 (Prepared April 20, 2021)				
TO:	LMCD Board of Directors				
FROM:	Matthew Cook, Environmental Administrative Technician				
THROUGH:	Vickie Schleuning, Executive Director				
SUBJECT:	Multiple Dock License and Variance(s), Caribbean Marina & Restaurant				
of nonconform Restaurant loc	al of Findings of Fact and Order for a new multiple dock license (reconfiguration ning structure) and reaffirmation of existing variances for Caribbean Marina & eated at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in the City of Lower Lake South.				
Marina & Res nonconformin Sunrise Ave, a On April 14, 2 and Order for of Fact and Or	eld a public hearing on April 14, 2021 to consider the application of the Caribbean taurant ("Applicant") for a new multiple dock license (reconfiguration of g structure) and reaffirmation of existing variances at 135 Lakeview Ave, 100 and 110 Sunrise Ave in Tonka Bay. 2021, the LMCD Board voted to have legal counsel and staff draft Findings of Fact approval of the license and variance requests with conditions. The draft Findings reder document is attached, as well as the memos and presentations from the ngs, without attachments.				
BUDGET					
N/A					
Operation Effective ATTACHME 1. Draft I 2. Site Pl 3. April 1	CNTSGrindings of Fact and Order				

ITEM 8B ATTACHMENT 1

Type: Commercial Marina

Reconfiguration of Nonconforming

Structure; Variances

Date: April 28, 2021

PID(s): 27-117-23-24-0050

27-117-23-24-0051 27-117-23-24-0052

Address: 135 Lakeview Ave

100 Sunrise Ave 110 Sunrise Ave

Tonka Bay, MN 55331

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of Caribbean Marina & Restaurant (Tonka Bay Property Holdings, LLC) for Reconfiguration of a Nonconforming Structure located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in the City of Tonka Bay

FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District ("LMCD") received an application from Caribbean Marina & Restaurant (Tonka Bay Property Holdings, LLC) (collectively, the "Applicant") for a Commercial Multiple Dock License for property owned by the Applicant located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave, Tonka Bay, MN 55331 ("Subject Property"). The Subject Property includes, and this Order applies to, the parcels identified with PIDs 27-117-23-24-0050, 27-117-23-24-0051, and 27-117-23-24-0052. In 2019 the LMCD Board of Directors ("Board") issued a Commercial Multiple Dock to the Applicant for the Subject Property, but the site plan approved as part of the license has not been fully constructed within the two-year time frame primarily due to poor ice conditions. The Applicant is now seeking approval for a proposed interim layout for 2021 and for approval of a final layout for 2022 that is slightly different than the originally approved site plan and with the addition of transient slips. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing initiated on April 14, 2021. Now, based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

- a. The Subject Property is located in the City of Tonka Bay, on Lower Lake South, which is part of Lake Minnetonka ("Lake").
- b. The Subject Property is currently licensed as a Commercial Marina.
- c. The Applicant proposes to reconfigure the nonconforming dock structure by splitting previously approved slips into smaller slips, to convert five slips to transient slips, and to

- reaffirm the variance previously granted to the Subject Property with no changes. The Applicant does not propose to change the outside dimensions of the dock structure.
- d. The Subject Property contains approximately 440 feet of 929.4 NGVD shoreline.
- e. The Board previously determined the Subject Property has a total preserved density of 147 boat storage units ("BSUs") and a total preserved linear footage of approximately 3,709 feet.
- f. The Applicant desires to reconfigure the nonconforming Commercial Multiple Dock within the same envelope under Article 2, Chapter 8 of the LMCD Code of Ordinances ("Code").
- g. The Applicant submitted a site plan with its application, which is attached hereto as <u>Exhibit</u> <u>A</u> and is incorporated herein ("Site Plan"). <u>Exhibit A</u> includes the Site Plan for both the 2021 interim configuration and the 2022 final configuration.
- h. The Site Plan shows a reduction in BSUs from 147 in the previous license, to 134 in the 2021 interim configuration, to 127 in the 2022 final configuration.
- i. The previous license did not authorize any transient slips and indicated that if the Applicant desired to designate any transient slips a new application would be required. The Applicant is proposing a total of five transient slips under the current application starting as part of the 2021 interim configuration and continuing with the 2022 final configuration.
- j. The Board may approve the proposed reconfiguration under Section 2-8.11 of the Code as the dock will remain within the previously approved dimensional limitations.
- k. Additional information regarding this matter is provided in the LMCD staff report related to this application dated April 14, 2021 and the presentation made thereon at the meeting (collectively, the "Staff Reports"). The Staff Reports are incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.
- 1. The LMCD received no comments from the MN DNR, the City determined the application did not warrant further review by the City Council, and the MCWD noted that a MCWD permit may be required if the scope of the project changes such as earth disturbances, floodplain alterations, or shoreline stabilization.
- m. The LMCD received some public comment, but nothing directly related to Applicant's proposal.
- n. The proposed reconfiguration, as reflected in the Site Plan, satisfies the limitations in LMCD Code, Section 2-8.11. The proposed reconfiguration further reduces the number of BSUs, does not exceed the maximum allowed total linear footage for the BSUs, remains with the existing perimeter, does not extend further into the Lake than the current structure, does not create any new nonconformities, and Site Plan, with the conditions imposed under this Order, reasonably addresses the concerns previously raised regarding this Commercial Marina.

- o. Pursuant to Section 2-8.19 of the Code, the unused BSUs, linear footage, and perimeter resulting from the reconfiguration is preserved. For the purposes of documentation, the proposed reduction in BSUs for the 2022 final configuration results in 20 unused BSUs, and 264 unused linear footage. Any proposal to use these additional BSUs and linear footage will require the issuance of a new Commercial Multiple Dock License and compliance with the applicable provisions of the Code.
- p. The Board finds it is reasonable for the Application to continue the transition to the final proposed dock structure, including the interim configuration proposed for the 2021 season and the final configuration for the 2022 season.
- q. The Board finds the requested reconfiguration of the nonconforming structure, as reflected in the Site Plan and supported by the previously issued Variance, complies with Article 2, Chapter 8 of the Code and that it is appropriate to issue the requested Commercial Multiple Dock with the conditions as indicated below.

ORDER

ON THE BASIS OF THE FOREGOING AND THE RECORD OF THIS MATTER, IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

- 1. <u>Approvals</u>. The following approvals requested by the Applicant are hereby approved and issued for the Subject Property, subject to the conditions identified herein:
 - (a) <u>Interim Configuration for 2021 Season</u>. This new Commercial Multiple Dock license for the reconfiguration of a nonconforming dock includes approval of the interim configuration for the 2021 season. The interim configuration includes a total of 134 BSUs, including five transient slips, and the use of approximately 3,531 linear feet as shown on the Site Plan (Exhibit A).
 - (b) <u>Final Reconfiguration of a Nonconforming Structure</u>. The new Commercial Multiple Dock license for the reconfiguration of a nonconforming dock includes approval of a final configuration for the 2022. The final configuration includes a total of 127 BSUs, including five transient slips, as shown on the Site Plan (<u>Exhibit A</u>). This Order replaces the Order issued in 2019 and all other orders previously issued for the Subject Property, except the previously approved Variance.
 - (c) <u>Variance</u>. The Variance previously issued for the Subject Property remains in effect and is hereby reaffirmed to approve the continued encroachment of the dock structure across the western extended side site line as shown on Site Plan.
- 2. <u>Conditions</u>. The approvals granted in this order are subject to, and condition upon, compliance with the following:
 - (a) The Applicant shall place and maintain "no parking" signs along the easternmost dock

section at an interval of no less than one every 50 feet;

- (b) The Applicant shall place and maintain a fence or other form of continuous barrier along the easternmost dock section to discourage watercraft parking along that section of dock. The barrier shall continue to the end of the reconfigured E dock. The fence may be a rope structure, fencing, or other barrier approved by LMCD staff, similar to the barrier provided for the existing dock.
- (c) The fueling dock platform shall not exceed ten feet in width.
- (d) No portion of dock platform, other that the fueling dock, may exceed eight feet in both width and length.
- (e) The only those BSUs identified as transient slips in the Site Plan may be used as transient slips. Any proposal to change or increase the number of transient slips shall require the Applicant to apply for a new Commercial Multiple Dock License.
- (f) The Applicant will provide adequate sanitation facilities using the dock facility.
- (g) The Commercial Multiple Dock License issued herein is unique to the Applicant. Upon transfer of ownership of the Subject Property to another individual or entity, such individual or entity will be required to apply for a new license and any other approvals that may be required.
- (h) Failure of the Applicant to comply with any relevant regulation of the LMCD or other regulatory body may result in revocation of this approval.
- (i) Watercraft stored at this dock facility shall be not extend beyond 200 feet from the 929.4-foot elevation contour. Length overall is defined as the horizontal measurement for the foremost to the outmost points of the watercraft including all equipment and attachments.
- (j) The lighting at this dock facility must be in compliance with a submitted lighting plan approved by the LMCD staff. The lighting plan must provide safe lighting of the dock and minimize nuisances to adjacent properties.
- (k) No temporary low water variances shall be granted during the period when the Lake level falls below elevation 928.0 National Geodetic Vertical Datum.
- (1) Dock structures shall be constructed and maintained in strict compliance with the Site Plan (Exhibit A) and in good condition.
- (m) The Subject Property must be maintained and operated in compliance with all other provisions of this Code, and other applicable regulations, ordinances and state law.
- (n) The Applicant shall comply with all applicable federal, state, and local laws, rules,

- regulations, and ordinance and shall obtain all other permits or permissions that may be required associated with its dock facility and the Subject Property.
- (o) Nothing herein is intended to, or shall be construed as, regulating any land-based activities of this Marina occurring above the ordinary high-water level.
- 3. <u>Authorizations</u>. The LMCD staff is hereby authorized and directed to issue the approved commercial multiple dock license for the Subject Property and to take such other actions as may be needed to ensure compliance with this Order and the requirements of the Code.

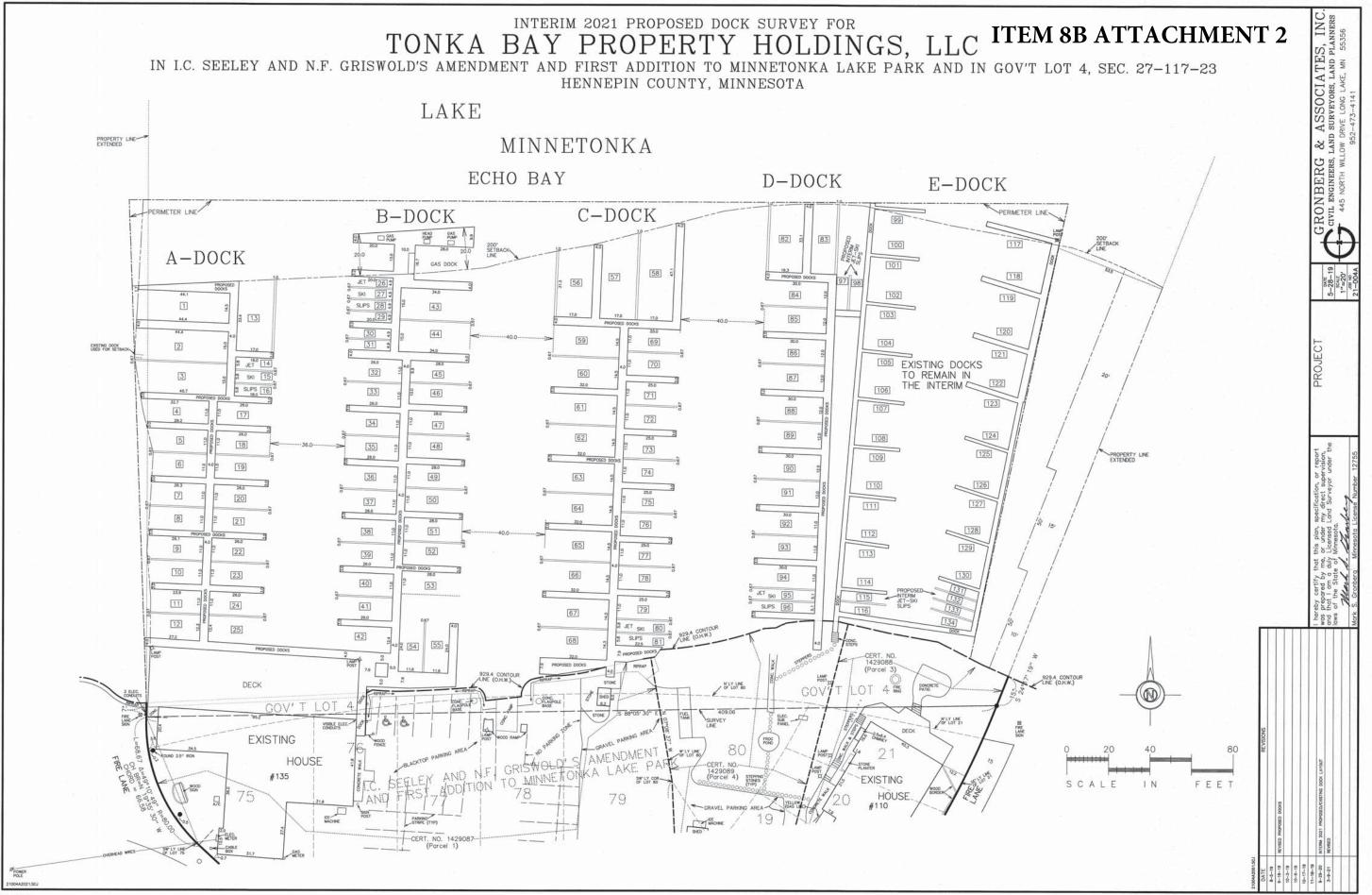
BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 28th day of April 2021.

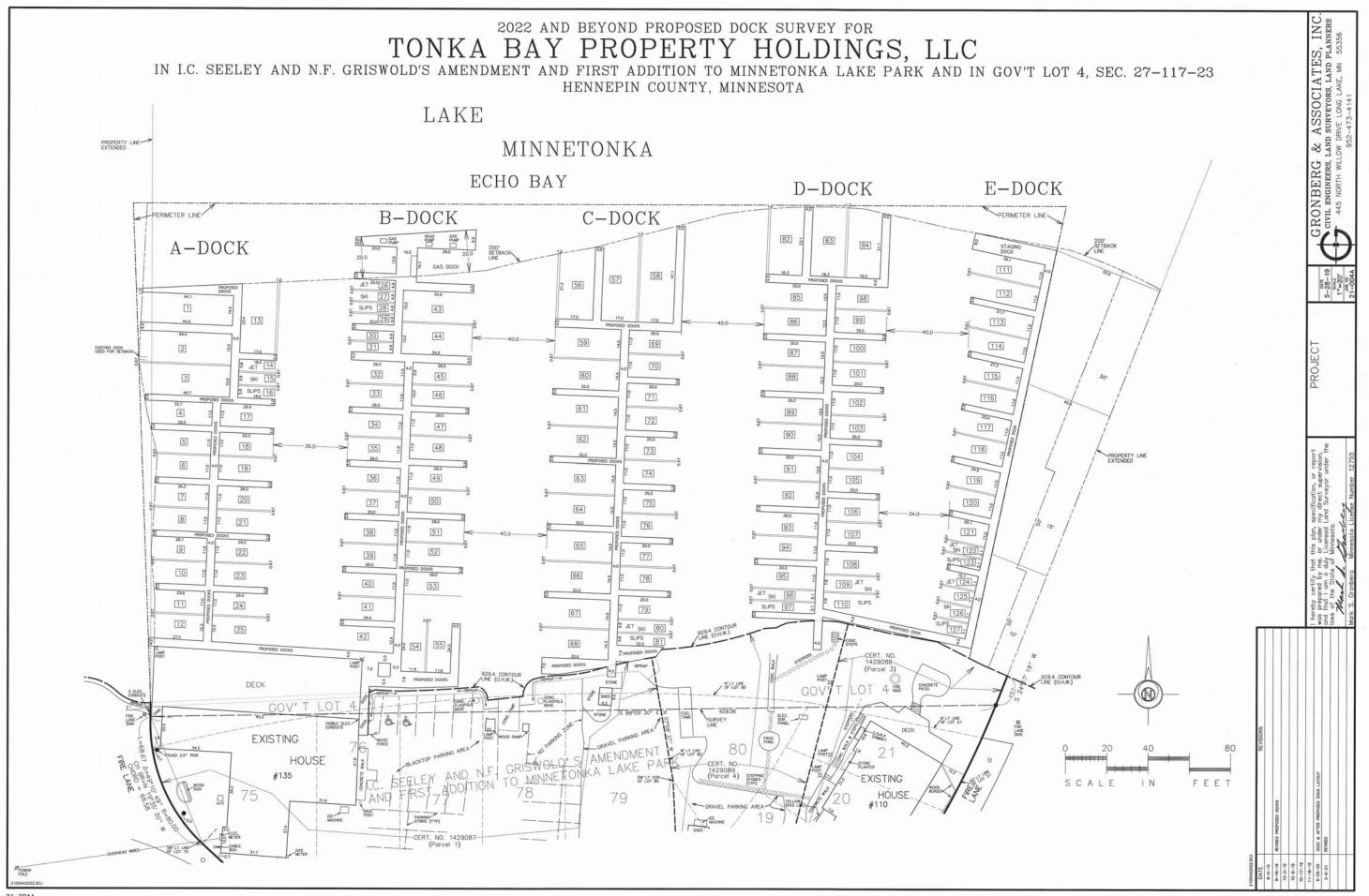
ATTEST:	Gregg Thomas, Chair	
	_	
Dan Baasen, Secretary		

EXHIBIT A

Site Plan

(attached hereto)







To preserve and enhance the "Lake Minnetonka experience"

135 LAKEVIEW AVE, 100 & 110 SUNRISE AVE LOWER LAKE SOUTH, TONKA BAY MULTIPLE DOCK APPLICATION PUBLIC HEARING

Lake Minnetonka Conservation District

Board Meeting

April 14, 2021

Presented by: Matthew Cook, Environmental Administrative Technician

OVERVIEW

- Board Action
- Background
- Agency and Public Comments
- Staff Recommendation
- Public Hearing
- Q & A

April 14, 2021

BOARD ACTION

Approval of Variance Request

Continue Public Hearing

Denial of Variance Request

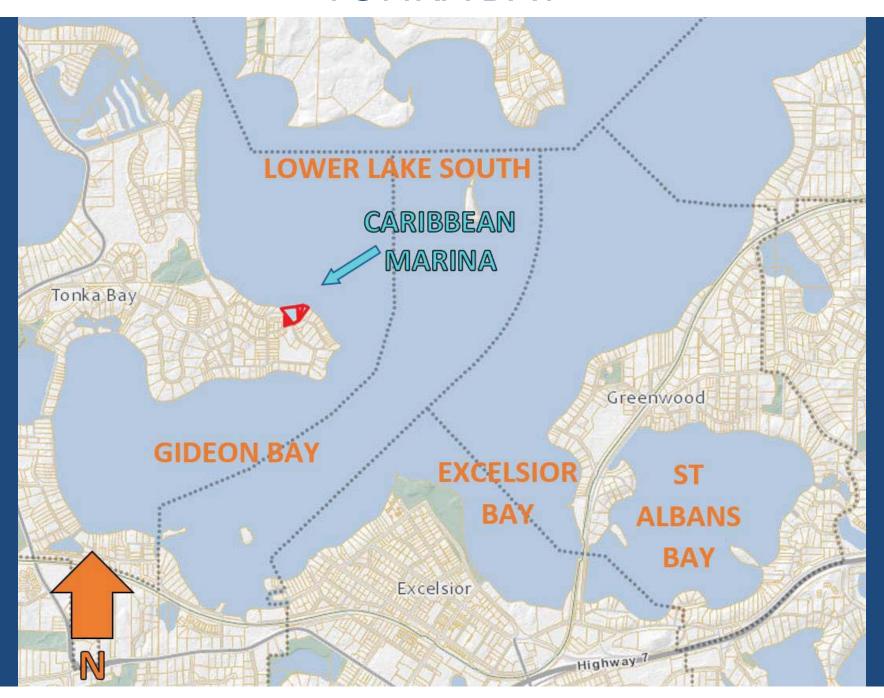
BACKGROUND

- Approximately 440 feet of shoreline
- Three shoreline parcels:
 - 135 Lakeview Ave
 - 100 Sunrise Ave
 - 110 Sunrise Ave
- At least two upland parcels used as part of operation:
 - PID 27-117-23-24-0067
 - PID 27-117-23-24-0068

BACKGROUND

- Installation of 2019 approval not yet complete.
- Applicant proposes interim layout for 2021 and a final layout for 2022 that have the same overall footprint of 2019 approval. No change to perimeter proposed.
- Proposes to split approved slips into smaller slips.
 Within "preserved" maximums (total BSUs, linear length) for reconfigured nonconforming structure on site.
- Proposes conversion of 5 slips to transient
 - #s 32-33, 43-45 near gas dock

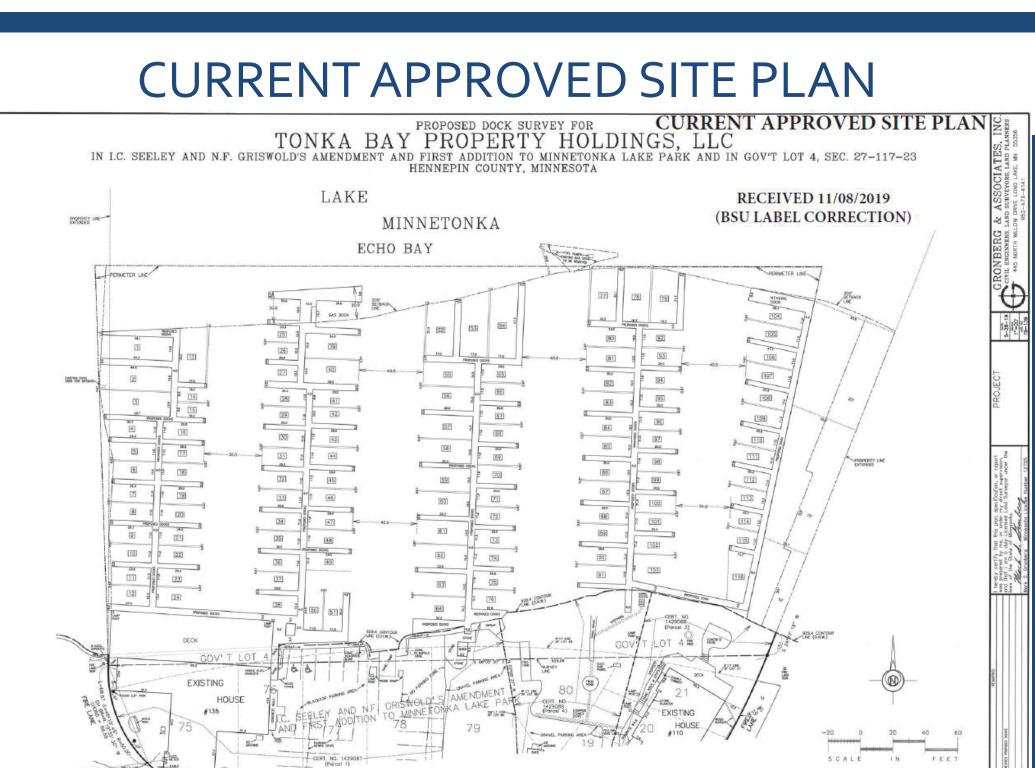
135 LAKEVIEW AVE, 100 AND 110 SUNRISE AVE, TONKA BAY



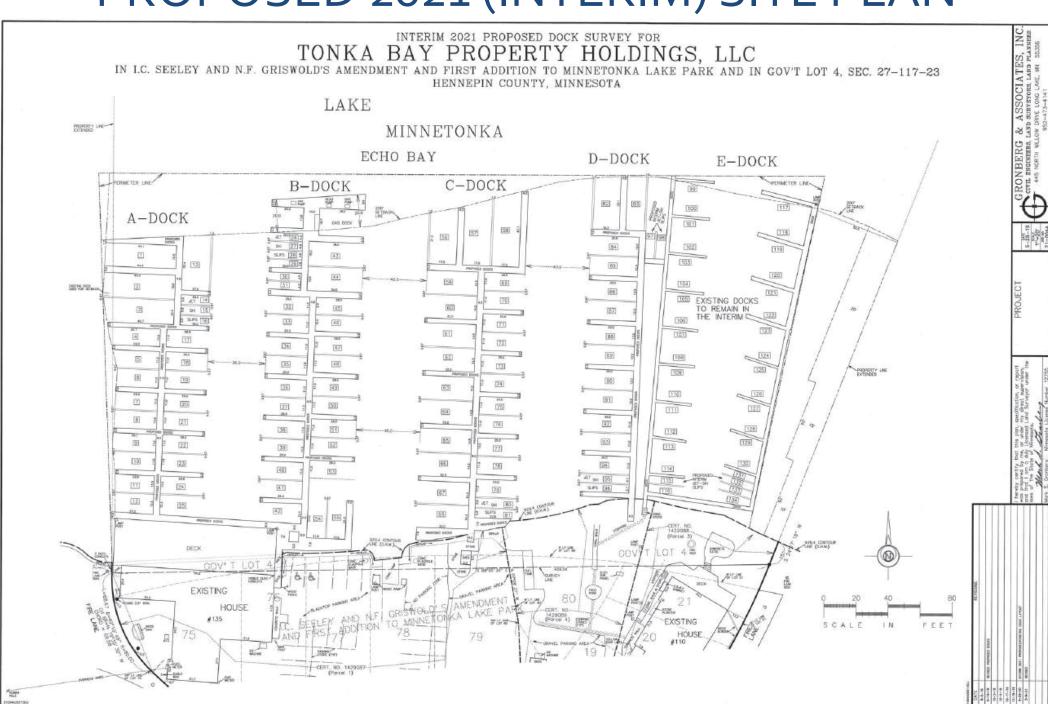
135 LAKEVIEW AVE, 100 AND 110 SUNRISE AVE, TONKA BAY



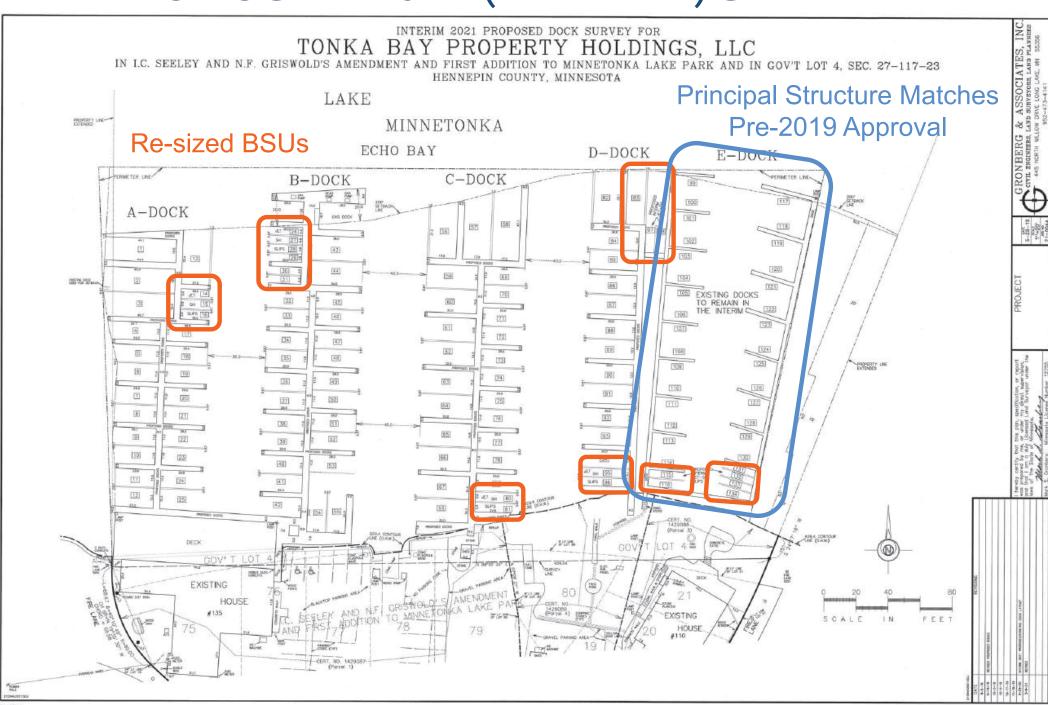
CURRENT APPROVED SITE PLAN



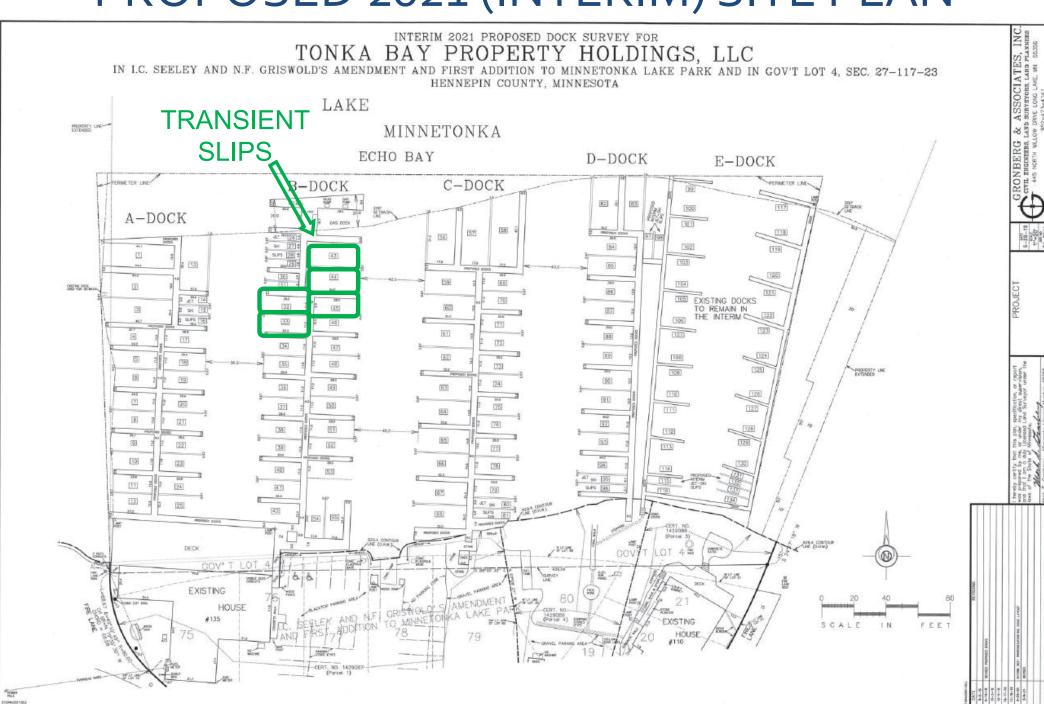
PROPOSED 2021 (INTERIM) SITE PLAN

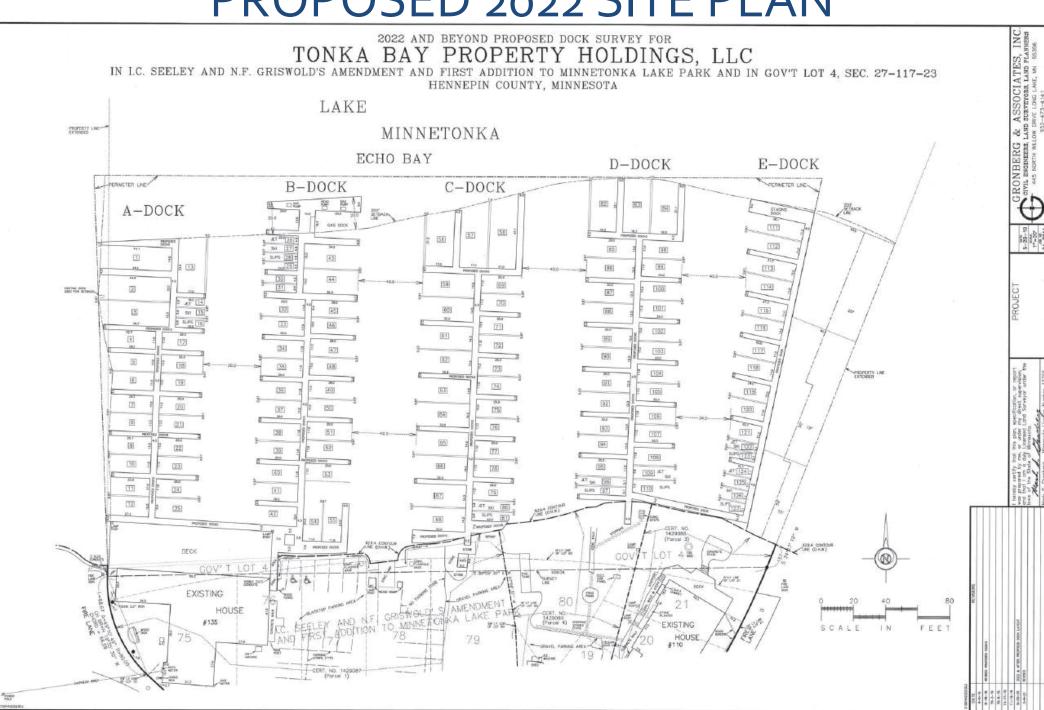


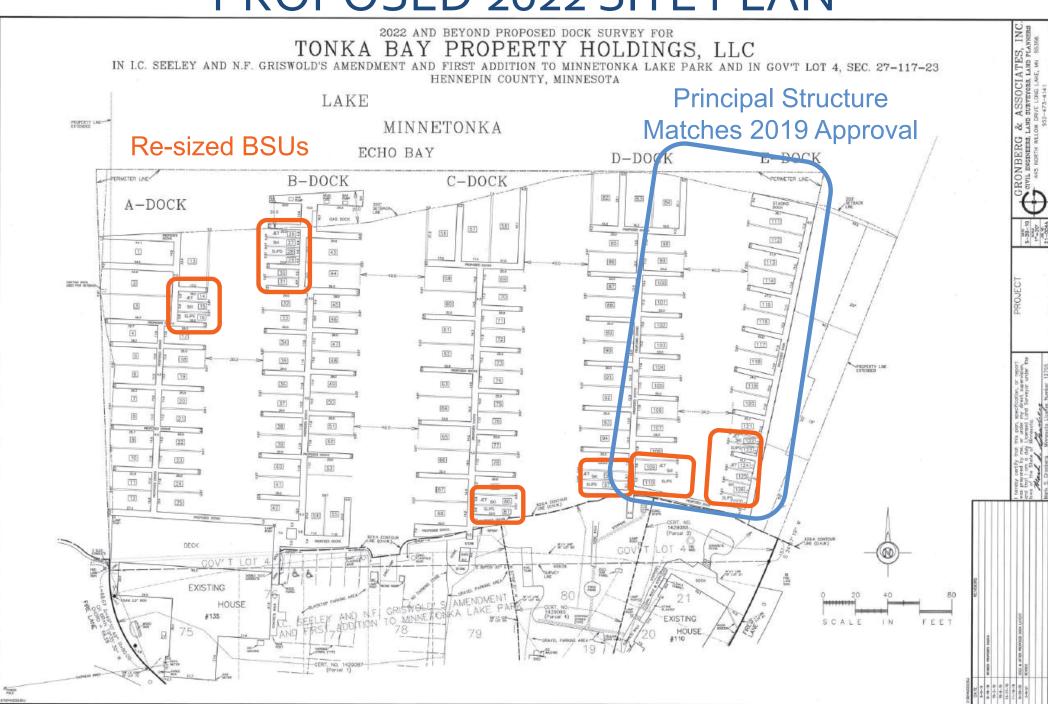
PROPOSED 2021 (INTERIM) SITE PLAN

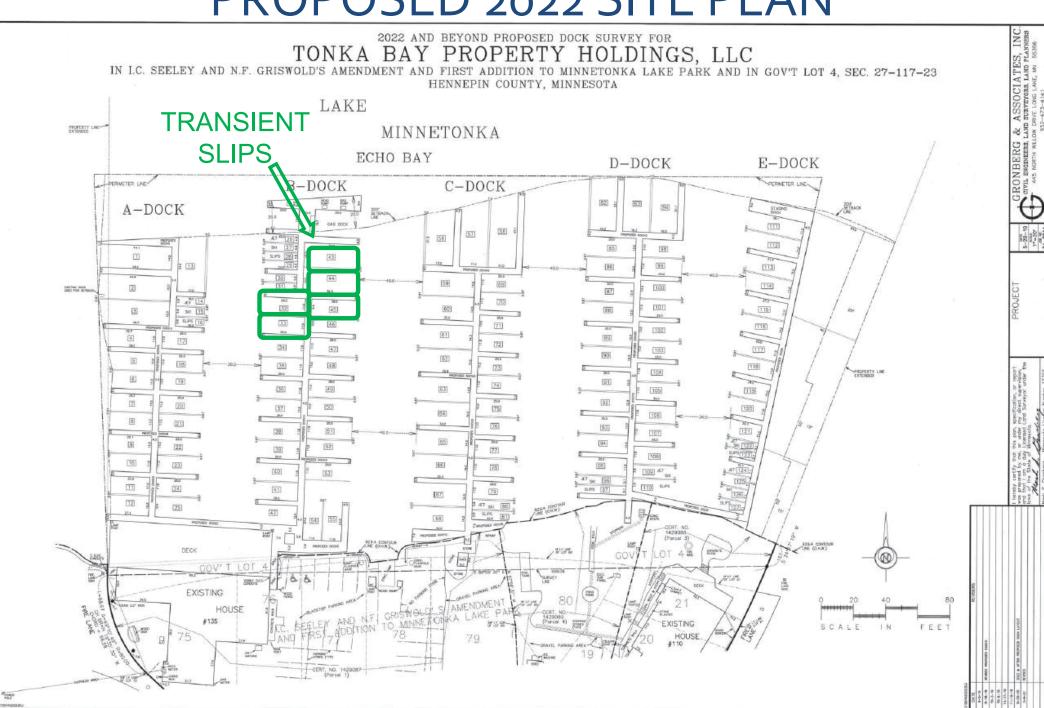


PROPOSED 2021 (INTERIM) SITE PLAN









RECONFIGURATION OF NONCONFORMING STRUCTURE (SEE MEMO)

- Reconfiguration of Nonconforming Structure:
 - LMCD Code Chapter 2-8 (see Item 10A pages 3-4)
- Applicant's proposal meets "reconfig" code requirements
 - No change to perimeter, setbacks, or length proposed
 - Total BSUs within "preserved" maximum of 147
 - Pre-2019 147 BSUs
 - 2019 116 BSUs
 - 2021 134 BSUs
 - 2022 127 BSUs
 - Total linear footage of BSUs within "preserved" max of 3,709 feet
 - Pre-2019 3,709 feet
 - 2019 3,240 feet
 - 2021 3,531 feet
 - 2022 3,445 feet
 - Variance application submitted to reaffirm existing variances. No changes proposed to variance items.

MULTIPLE DOCK CRITERIA (SEE MEMO)

Multiple Dock Criteria:

LMCD Code Section 6-2.01, Subd. 3 (see Item 10A pages 3-4)

Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:

- a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - Per 2-4.09, Subd. 3: "Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978." Also see 2-8.19 regarding preservation of BSUs.
- b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - No change from current approved maximum length or current approved setbacks is proposed.
- c) Whether the proposed structure will be structurally safe for use by the intended users;
 - Completion of removal of the old structure would improve structural safety.
- d) Whether the structure will comply with the regulations contained in this Code;
 - The proposed changes to the structure(s) and use of the site appears to comply with the Code.
- e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
 - A previous approval for the site had:
 - i. More total BSUs (147) than currently proposed (134 in 2021 and 127 in 2022); and,
 - ii. More Transient BSUs (20) than currently proposed (5 in both 2021 and 2022).

April 14, 2021

MULTIPLE DOCK CRITERIA (CONT)

- f) Whether the proposed structure will be compatible with the adjacent development;
 - Same overall footprint as previously approved structure.
- g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - Same overall footprint as previously approved structure.
- h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - Same overall footprint as previously approved structure.
- i) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
 - Same overall footprint as previously approved structure. Transient BSUs were part of a previous approval for the site.
- j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Same as previously approved structure. Transient slips may reduce land vehicle parking load, which was noted during previous application process
- k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;
 - Slips will remain available for rent to the general public. Five (5) transient slips proposed as well.
- 1) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public; and
 - Same overall footprint as previously approved structure.
- m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.07, subdivision 4(a).
 - N/A.

VARIANCE STANDARDS

- 1. Has applicant sufficiently demonstrated practical difficulties exist that each of following are true?
 - 1. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - 2. Granting variance is within spirit and intent of code.
 - 3. Plight of property owner is due to circumstances:
 - 1. Unique to property;
 - 2. Not created by property owner; and
 - 3. Not based solely on economic considerations.
 - 4. Granting variance does not alter essential character of the area.
- 2. Is applicant proposing a use not allowed under the code?
- 3. Would variance, if granted and with conditions imposed, adversely affect:
 - 1. Purpose of Code?
 - 2. Public health, safety, and welfare?
 - 3. Reasonable access to or use of the Lake by public or riparian owners?

April 14, 2021

PUBLIC / REVIEW AGENCY COMMENTS

Agency Review of Application / Comments (General Permit)

- No comments received from the MN DNR.
- City of Tonka Bay staff found that the proposal did not constitute enough change from a previous City approval to warrant reconsideration by the City Council.
- MCWD staff found that the proposal did not appear to require MCWD approvals. Staff noted that "if the scope changes at all to include activities such as earth disturbance, floodplain alternation, or shoreline stabilization, a [MCWD] permit may be needed."

Public Comments

- One nearby resident contacted LMCD staff to better understand the content of the proposal. After discussion, the resident indicated that the proposal did not appear to constitute a significant change. The resident stated concern regarding use of upland parcels and was referred to the City.
- On April 14, the LMCD office received a concern that LMCD Code language allowing nonconformities may somehow conflict with MN Statutes Section 462.357 concerning zoning ordinances. LMCD legal counsel advised that this statute does not apply.
- On April 14, the LMCD office received a concern regarding an ongoing court case involving the LMCD. A court decision has not yet been finalized.

April 14, 2021

STAFF RECOMMENDATIONS

- Staff Recommendation based on information available prior to public hearing.
 - Approval with the following conditions:
 - 1. Carry forward applicable conditions from 2019 Findings of Fact & Order (e.g., "no parking" signs on eastern dock, fence/barrier on eastern dock, appropriate lighting, etc.)
 - 2. Removal of "staging area" reference from end of E dock on final site plan
 - 3. Standard variance conditions are applied.

April 14, 2021 20

STAFF RECOMMENDATIONS CONT...

Previously Suggested Standard Provisions to Include in Variances:

- Any structures placed as part of this variance shall be maintained in good condition and shall promptly be removed, together with any watercraft stored on them, if this variance is ever revoked by action of the Board or if it rendered null and void.
- This variance shall be rendered null and void in event the Subject Property is subdivided. If the Subject Property is combined with another property, the applicant shall request a review of the variance by the LMCD Executive Director to determine if a new or amended variance is required. If the Executive Director determines that a new or amended variance is required, the applicant shall submit an application for the variance to the LMCD within forty five (45) days of the determination or bring the Subject Property into conformance with the LMCD Code without reliance on this variance within the same period.
- This variance grants no vested rights to the use of the Lake. Use of the Lake shall at all times remain subject to regulation by the LMCD to assure the public of reasonable and equitable access to the Lake.
- Utilization of the Lake pursuant to this variance constitutes, and shall be deemed, acceptance of, and agreement to, the terms and conditions of this variance without exception, qualification, or reservation.

April 14, 2021

PUBLIC HEARING

- Public Hearing Requirements
 - Posted in newspaper on April 1, 2021 (Sun Sailor) and April 3, 2021 (Laker Pioneer)
 - Owners of properties within 350 feet notified, 10-day notice sent March 31, 2021
 - Posted online
- Opportunity for interested individuals to present their views to Board for consideration
- Only items under the LMCD Code and Board authority may be considered as part of any Approve or Deny decision

April 14, 2021



To preserve and enhance the "Lake Minnetonka experience"

QUESTIONS?

ITEM 8B ATTACHMENT 4



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: April 14, 2021 (Prepared April 5, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Multiple Dock License (Reconfiguration of Nonconforming Structure) and

Variance Request for Caribbean Marina & Restaurant in Tonka Bay

ACTION

Board consideration of request for a new multiple dock license (reconfiguration of nonconforming structure) and variance(s) request for the Caribbean Marina & Restaurant, located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay, MN 55331, with shoreline on Lower Lake South, and board consideration of public input as part of the public hearing process.

The following motions are offered depending on whether the Board wishes to approve or deny the request:

<u>Approval</u>

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license and variance applications from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 28, 2021 LMCD Board meeting <subject to the following conditions>...

Continuation

I make a motion to continue the public hearing for the multiple dock license and variance applications from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay at the April 28, 2021 LMCD Board meeting in order to...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the multiple dock license and variance applications from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 28, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Caribbean Marina & Restaurant ("Applicant") submitted applications for a new multiple dock license (reconfiguration of nonconforming structure) and variance(s) at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay, MN 55331, with shoreline

on Lower Lake South. The Applicant's property has approximately 440 feet of 929.4 Foot OHW shoreline. At least two upland parcels (PIDs 27-117-23-24-0067 and 27-117-23-24-0068) are used as part of the site's commercial operation.

The applicant received an approval from the LMCD Board in 2019 to install a reconfigured dock facility at the site. A portion of the old dock structure on the east side (labeled as D and E docks on proposed 2021 interim site plan) has yet to be removed and replaced with the 2019 approved layout due, in part, to unsuitable ice conditions the past two winters.

In summary, the applicant proposes the following:

- Complete installation of the 2019 approved principal structure during 2021-2022 winter;
- Reconfigure boat slips within existing overall footprint for 2021 boating season;
- Reconfigure boat slips within existing overall footprint for 2022 and beyond;
- Convert 5 boat storage units (BSUs) from Rent to Transient use in 2021 and beyond; and,
- Utilize preserved BSUs for smaller watercraft or PWCs.
 - O The applicant's proposals (for both the 2021 and 2022 proposed site plans) would continue to be less than the total number of BSUs and total linear length of BSUs in the original approval of the nonconforming structure on site.

CODE REVIEW

Reconfiguration of Nonconforming Structures

The Reconfiguration of Nonconforming Structures section of the LMCD sets out a framework for nonconforming sites to be reconfigured in a manner that does not increase the nonconformity of a site.

LMCD Code Section 2-8.11. Limitations.

"Except to the extent expressly allowed by this Chapter, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new mooring area license, or grant administrative approval if the proposed reconfiguration would result in any of the following:"

- a) An increase in boat storage units;
 - See 2-8.19. Within "Preserved" total.
- b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;
 - See 2-8.19. Within "Preserved" total.
- c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
 - No such change proposed.
- d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
 - Volume of traffic remains lower than original approval / within "preserved" amount.
- e) An increase in the nonconforming nature of the structure;
 - See 2-8.19. "The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this

Section does not constitute an unlawful expansion of the nonconforming structure."

- f) The creation of any new nonconformities; or
 - See 2-8.19. "The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure." No additional nonconformities proposed.
- g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.
 - No extension proposed. Application submitted to reaffirm current approved variance.

Reconfiguration of Nonconforming Structures – "Preserved" Site Characteristics

LMCD Code permits site owners to apply to reconfigure a nonconforming structure. Additionally, per LMCD Code Section 2-8.19, reconfigured nonconforming sites "preserve" the BSUs, linear footage of BSUs, and site perimeter characteristics of the original approval of the nonconforming structure.

The applicant proposes to use some of these "preserved" characteristics. The applicant's proposals (for both the 2021 and 2022 proposed site plans) would continue to be less than the total number of BSUs and total linear length of BSUs in the original approval of the nonconforming structure on site. The proposal does not alter the perimeter area of the site. A brief summary of the proposal and the "preserved" characteristics is below:

- BSUs
 - o Preserved BSUs = 147
 - o Proposed BSUs (2021 layout) = 134
 - o Proposed BSUs (2022 layout) = 127
- Linear Footage of BSUs
 - o Preserved linear footage = 3,709 feet
 - \circ Proposed linear footage (2021 layout) = ~3,531 feet
 - o Proposed linear footage (2022 layout) = \sim 3,445 feet
- Perimeter
 - No proposed change to the overall perimeter from currently approved site plan in 2019

Commercial Multiple Dock License Review Criteria

LMCD Code Section 6-2.01. Commercial Multiple Dock License.

Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:

- a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - Per 2-4.09, Subd. 3: "Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978." Also see 2-8.19 regarding preservation of BSUs.

- b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - No change from current approved maximum length or current approved setbacks is proposed.
- c) Whether the proposed structure will be structurally safe for use by the intended users;
 - Completion of removal of the old structure would improve structural safety.
- d) Whether the structure will comply with the regulations contained in this Code;
 - The proposed changes to the structure(s) and use of the site appears to comply with the Code.
- e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
 - A previous approval for the site had:
 - i. More total BSUs (147) than currently proposed (134 in 2021 and 127 in 2022); and,
 - ii. More Transient BSUs (20) than currently proposed (5 in both 2021 and 2022).
- f) Whether the proposed structure will be compatible with the adjacent development;
 - Same overall footprint as previously approved structure.
- g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - Same overall footprint as previously approved structure.
- h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - Same overall footprint as previously approved structure.
- i) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
 - Same overall footprint as previously approved structure. Transient BSUs were part of a previous approval for the site.
- j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Same as previously approved structure. Transient slips may reduce land vehicle parking load, which was noted during previous application process.

VARIANCE STANDARDS

The applicant is proposing to reaffirm existing variances for the site. No change to the variance(s) as currently approved is proposed.

The following items need to be considered when considering granting a variance:

- 1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.

- b. Granting a variance is within spirit and intent of the Code.
- c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
- d. Granting a variance does not alter essential character of the area.
- 2. Is the Applicant proposing a use not allowed under the code?
- 3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Tonka Bay were provided information regarding the applications on March 30, 2021. City and agency comments were due by April 9, 2021. Comments received as of April 9, 2021 are summarized below. Any comments received after April 9, 2021 will be provided at the Board meeting for review.

- City of Tonka Bay staff found that the proposal did not constitute enough change from a previous City approval to warrant reconsideration by the City Council.
- MCWD staff found that the proposal did not appear to require MCWD approvals. Staff noted that "if the scope changes at all to include activities such as earth disturbance, floodplain alternation, or shoreline stabilization, a [MCWD] permit may be needed."

No written comments from the general public were received. One nearby resident contacted LMCD staff to better understand the content of the proposal. After discussion, the resident indicated that the proposal did not appear to constitute a significant change. The resident stated concern regarding use of upland parcels and was referred to the City. Written comments received after noon on April 9, 2021 will be shared at the April 14, 2021 Board meeting.

PUBLIC HEARING_

The public hearing provides an opportunity for interested individuals to present their views to the Board for consideration. This is an important part of reviewing the impact of a project. Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision.

A hearing notice was published in the April 1, 2021 edition of the Sun Sailor (official LMCD newspaper) and the April 3, 2021 edition of the Laker Pioneer. On March 31, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

Based on information available at the time of this report, LMCD staff recommends approval with the minimum conditions listed below. The recommendation may change based on information reviewed or presented as part of the public hearing process.

- 1. Carry forward applicable conditions from previous Findings of Fact & Order (e.g., "no parking" signs on eastern dock, fence/barrier on eastern dock, appropriate lighting, etc.)
- 2. Removal of "staging area" reference from end of E dock on final site plan
- 3. Standard variance conditions are applied

5. Standard varianc	te conditions are appr	icu.		
BUDGET				
N/A				
STRATEGIC PRIORI	TIES			
Operational Effectiveness	Clear & Timely Communications	Effective Governance	X Lake Protection	Other
ATTACHMENTS				
 LMCD Code Ex 	cerpts			
2. Location Map				
3. Site Plans				

- 4. Application Narrative (as submitted by Applicant)
- 5. Multiple Dock License Application (Reconfiguration of Nonconforming Structure)
- 6. Variance Application
- 7. Public Hearing Notice (Sun Sailor & Laker Pioneer)
- 8. Public Hearing Notice Mailing





LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

ATION O			
DATE:	April 28, 2021		
TO:	Board of Directors		
FROM:	Vickie Schleuning, Executive Director		
SUBJECT:	Resolution Approving AIS Committee Chair and Secretary.		
ACTION			
Board approval Secretary.	of Director Ben Brandt as AIS Committee Chair and Director Denny Newell as		
BACKGROU	ND		
At the April 8, 2021 LMCD AIS Committee meeting, Directors Ben Brandt and Denny Newell were selected as the Chair and Secretary, respectively. This action approves Director Brandt as Chair and Director Newell as Secretary. The other committees have been previously approved by the Board, but are included for Board reference.			
BUDGET			
N/A			
STRATEGIC	PRIORITIES		
Operation Effectiver			
ATTACHMENTS/SUPPLEMENTARY INFORMATION			
ъ 1.			

• Resolution Establishing Standing Committees



RESOLUTION 2XX

A RESOLUTION AUTHORIZIING THE APPOINTMENT

OF COMMITTEE MEMBERS FOR THE YEAR 2021

BE IT RESOLVED, BY THE LMCD BOARD, STATE OF MINNESOTA, THAT THE FOLLOWING APPOINTMENTS ARE MADE TO THE COMMITTEES FOR THE YEAR 2021 THROUGH JANUARY 31, 2022, WHICH MAY CHANGE FROM TIME TO TIME, AS FOLLOWS:

Save the Lake Committee

(Approved 03/10/2021)

Dan Baasen, Chair (LMCD)

Bill Cook (LMCD)

Denny Newell (LMCD)

Gregg Thomas (LMCD)

Mark Kroll (LMCD)

Rich Anderson (LMCD)

Dave Gross (Stakeholder)

Gabriel Jabbour (Stakeholder)

Jay Soule (Stakeholder)

AIS Committee

(Approved 04/28/2021)

Bill Cook, Chair (LMCD)

Rich Anderson (LMCD)

Ben Brandt (LMCD)

Denny Newell (LMCD)

Deborah Zorn (LMCD)

Jake Walesch (LMCD)

Nominating Committee (20/21)

Deborah Zorn, Chair (LMCD)

Nicole Stone (LMCD)

Jake Walesch (LMCD)

Mark Kroll (LMCD)

Communications Committee

(Approved 03/24/2021)

Ann Hoelscher, Chair (LMCD)

Mike Kirkwood (LMCD)

Dan Baasen (LMCD)

Gary Hughes (LMCD)

Dennis Klohs (LMCD)

Jake Walesch (LMCD

Operations Committee

(Approved 03/24/2021)

Deborah Zorn, Chair (LMCD)

Ann Hoelscher (LMCD)

Rich Anderson (LMCD)

Gary Hughes (LMCD)

Gregg Thomas (LMCD)

Finance Committee

(Approved 03/24/2021)

Rich Anderson, Chair (LMCD)

Denny Newell (LMCD)

Nicole Stone (LMCD)

Bill Cook (LMCD)

RESOLUTION	#2XX
Page 2	

Adopted this 28 th	day of April,	2021, upon	a majority	vote of all members	3.

Pan Baasen, Secretary	

ITEM 8E



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

TO: LMCD Board of Directors

FROM: Vickie Schleuning, Executive Director

DATE: April 28, 2021 (Prepared April 20, 2021)

SUBJECT: Authorization of Lease Agreement with Minnesota Department of Natural

Resources for AIS Prevention Stations at Grays Bay Public Access/Launch

ACTION_

Board authorization for the Executive Director and legal counsel to finalize a lease agreement with the Minnesota Department of Natural Resources (MN DNR) to locate AIS Prevention Stations at Grays Bay Public Launch, and authorize the Chair and Executive Director to execute the agreement.

BACKGROUND_

At the January 13, 2021 LMCD Board meeting, the Board approved the LMCD's participation in a matching grant with Hennepin County for the purchase of CD3 station(s) for Grays Bay Public Launch. LMCD was awarded the AIS Prevention Grant where Hennepin County provides \$26,000 and LMCD provides up to \$20,000 for this project. These stations are designed to provide tools for boaters to clean, drain, and dry watercraft to help prevent the spread of AIS.

On April 8, 2021, LMCD staff met with staff from the MN DNR, City of Minnetonka, Hennepin County, and CD3 Systems to discuss station placement, time frames, lease terms, and other logistics. MN DNR owns the land at Grays Bay Launch and the City of Minnetonka assists in the operation of the launch and dock facility. Hennepin County will provide any required maintenance for the stations. Since the MN DNR requires a lease agreement for the placement of the stations and the City of Minnetonka is a member city of LMCD, it is requested that the LMCD be the lessee. It is a standard lease agreement that is used by the MN DNR for cleaning stations at its public accesses throughout the state. As part of the process, the MN DNR may need to receive federal approval since federal funds were used when the public access was developed, which can take several months. The CD3 company representative advised these stations may not be available for several weeks due to the current supply chain.

All parties will continue to work together to complete the installation of AIS prevention tools and look for opportunities to advance the process. Examples of the application and a lease agreement are attached for general information, noting they will be tailored to the Grays Bay Public Access site.

BUDGET

The MN DNR lease to install watercraft cleaning stations at sites it owns is no-cost, typically with a 5-year term.

Lease Agreement for CD3 Stations at Grays Bay Public Launch LMCD Board Meeting April 14, 2021 Page 2

STRATEGIC PRIOR	ITIES			
Operational Effectiveness	Clear & Timely Communications	Effective Governance	X Lake Protection	Other
ATTACHMENTS				

- 1. Application to Install Watercraft Cleaning Station at a MN DNR Public Water Access
- 2. Example Lease Agreement



Application to install a watercraft cleaning station at a DNR public water access

The Minnesota Department of Natural Resources (DNR) supports strategies that may work to prevent the spread of aquatic invasive species (AIS), such as allowing installation of self-operated watercraft cleaning stations at DNR-administered public water accesses. The DNR is able to enter into Lease Agreements with local governments to accomplish this work. The local government is responsible for watercraft cleaning station equipment acquisition, installation, maintenance and removal activities and assumes all liability with the public's use of the station.

About This Form:

- It may only be completed by a local government. Other organizations, such as lake and river associations, may partner with a local government to accomplish this work.
- It applies only to DNR-administered public water accesses. If the access site is not owned by the DNR, you must secure permissions from the organization that administers the access and you do not need to fill out this form. Ownership information can be found on DNR's <u>LakeFinder</u>.
- It applies only to structures to be affixed to DNR property with the purpose of cleaning watercraft. It does not apply to mobile decontamination units.
- More details can be found in the accompanying documents: Considerations of Local Government-Owned Watercraft Cleaning Stations at DNR-Administered Public Water Accesses, Draft Lease Agreement, and Additional Terms.

Procedure:

The local government interested in installing a watercraft cleaning station at DNR-administered accesses must fill out this form for each site and:

- Mail a copy to Tina Wolbers, Ecological and Water Resources, Box 25, 500 Lafayette Road, St. Paul, MN 55155 OR
- Email an electronic copy to Tina Wolbers at tina.wolbers@state.mn.us

The DNR will review this request and determine if the installation of a watercraft cleaning station is feasible and appropriate for this site. After approval, the local government must sign a Lease Agreement with the DNR that details the terms and conditions for the project.

Project & Site Information	
Today's Date:	Preferred installation date (pending request approval):
Contact Information	
Name:	Email:
Local Government:	Phone:
Address:	Potential Project Partners:
	(lake and river associations, non-profits, businesses



Site Information

You can find access information using DNR' LakeFinder.

DNR-Administered Public Water Access Name:

Waterbody Name:

County:

Proposed watercraft cleaning equipment to be installed, please describe:

Energy: how will the station will be powered? Please describe:

Important Considerations

DNR Requirements	Maintenance	Insurance
The station must:	The local government is responsible for all	The local government shall
Fit within the current site	maintenance including, but not limited to:	procure liability insurance,
design/layout.	 Securing and connecting to a power supply. 	naming the State as additional
Not unduly inconvenience or restrict	 Excavating and pouring of a concrete pad, to 	insured in the amount of at least
the public's use of the site.	attach the equipment.	\$500,000 per individual and
Not cause any safety or traffic	Replacing broken or vandalized equipment.	\$1,500,000 per occurrence from
hazards at the site.	Trash removal.	an insurance carrier licensed to
Not interfere with parking at the site.	Septic service.	do business in Minnesota.

Agreements

- I understand this request must first be approved by the DNR **AND** my organization must enter into a Lease Agreement with the DNR before any work is conducted at the site.
- I understand my organization is responsible for all equipment acquisition, installation, maintenance and removal activities.
- I understand my organization assumes all liability with the public's use of the station.
- I have read the "Considerations" document.

Signature:	Date:	
I agree with the terms and conditions above:		

What to expect next:

- The DNR will review this application and determine if the installation of a watercraft cleaning station is feasible and appropriate for this site.
- A DNR Parks and Trails Division Area Supervisor will contact you to assess the feasibility of the site. Your
 organization and the Area Supervisor will determine additional lease terms specific to the site.
- The DNR will develop a Lease Agreement specific to the site.
- The Lease Agreement will be signed by your organization and the DNR.



August 15, 2019

Hennepin County Environment and Energy Attn. Tony Brough 701 South Fourth Avenue, Suite 700 Minneapolis, MN 55415

Re:

Miscellaneous Lease #LMIS010410

SW1/4 SW1/4 in Section 10, Township 117 North, Range 24 West

Hennepin County

Purpose of Lease: Watercraft cleaning station - Little Long Lake Public Access

Dear Lessee:

Enclosed is an executed copy of the above lease. Please keep this lease as a record of your agreement with the State.

This is a no fee lease which will expire on May 31, 2024.

If you have any questions regarding your lease, please contact me at (651) 259-5843 or at jean.zoch@state.mn.us. Thank you.

Sincerely,

Jean Zoch

Realty Specialist

Jean Z

Division of Lands and Minerals

Enclosures

Cc: Tina

Tina Wolbers, DNR, Division of Ecological and Water Resources Hennepin County Auditor

MINNESOTA
DEPARTMENT OF
NATURAL RESOURCES

Lease Number LMIS010410
Field Unit Region 3 - St Paul Trails (Area 302)

MISCELLANEOUS LEASE

This lease, executed in duplicate by and between the State of Minnesota, under the authority and subject to the provisions of Minn. Stat. § 92.50, acting by and through its Commissioner of Natural Resources, hereinafter called LANDLORD and the TENANT as named below.

TENANT		*
Hennepin County Environment and Ene	ergy	
,		
TENANT Address (No. & Street, RFD, Box No.,	City, State, Zip)	
1600 Prairie Dr, Medina, MN 55340-542	21	
Lease Fee	Fee Payment Schedule	
No Fee	No Fee	
Term	Effective Date	Termination Date
Five (5) Years	June 1, 2019	May 31, 2024
Purpose of Lease		County
Watercraft cleaning station - Little Long	Lake Public Access	Hennepin

IT IS AGREED AS FOLLOWS:

BASIC TERMS:

1. <u>PREMISES.</u> The LANDLORD in consideration of the terms, conditions and agreements contained herein, and the payment of the Lease Fee to be paid by the TENANT, hereby leases to the TENANT, subject at all times to sale, lease and use for mineral or other purposes the following described premises:

A 0.1 acre, more or less, parcel of land located within that part of the Southwest Quarter of the Southwest Quarter (SW1/4-SW1/4), Section Ten (10), Township One Hundred Seventeen (117) North. Range Twenty-four (24) West, described as follows:

Beginning at the northwest corner of the Southwest Quarter of Southwest Quarter (SW1/4-SW1/4) of said Section 10, thence on an assumed bearing of South, 176.74 feet along the west line of said Southwest Quarter of the Southwest Quarter (SW1/4-SW1/4); thence South 88 degrees 50 minutes, 54 seconds East, 224.41 feet; thence North 01 degree 17 minutes 01 seconds West, 181.47 feet to the north line of said Southwest Quarter of the Southwest Quarter; thence South 89 degrees 57 minutes 15 seconds West, 220.31 feet along said north line to the point of beginning;

as approximately shown on the attached Exhibit A which is made a part of this lease;

and herein referred to as the "Premises".

2. <u>TERMS.</u> The terms LANDLORD, TENANT, TENANT ADDRESS, LEASE FEE, FEE PAYMENT SCHEDULE, TERM, EFFECTIVE DATE, TERMINATION DATE, PURPOSE OF LEASE AND STATUTORY AUTHORITY, used herein are described above and are incorporated herein.

- 3. <u>LEASE PERIOD.</u> This lease will be in effect for the TERM, beginning on the EFFECTIVE DATE and ending on the TERMINATION DATE, unless terminated earlier under provisions of this lease.
- 4. <u>USE OF PREMISES.</u> TENANT will use the Premises only for PURPOSE OF LEASE.
- 5. "AS IS." TENANT is taking the Premises in its "as is" condition, and LANDLORD is under no obligation to make any alterations or modifications to accommodate TENANT's use.

TENANT'S RESPONSIBILITIES:

- 6. <u>LEASE PAYMENTS.</u> The TENANT will pay to the LANDLORD the LEASE FEE, which is due and payable according to the FEE PAYMENT SCHEDULE as stated on page 1. The LANDLORD may assess interest pursuant to Minn. Stat. § 270C.40, subd. 5 on any payments over thirty (30) days past due.
- 7. MAINTENANCE. The TENANT will maintain the Premises in good repair, keeping them safe and clean, removing all refuse and debris that may accumulate. No timber shall be cut, used, removed or destroyed by the TENANT without first obtaining written permission from the LANDLORD.
- 8. <u>INVASIVE SPECIES.</u> The TENANT is responsible for controlling invasive species on the Premises. (See the attached Exhibit C, which is made a part of this lease, for additional terms and conditions on the control of invasive species.)
- 9. <u>UTILITIES</u>. TENANT will pay for all utilities furnished on the Premises for the term of this lease, including electric, gas, oil, water, sewer and telephone.
- 10. <u>ALTERATIONS AND MECHANIC'S LIENS</u>. The TENANT may not make changes, alterations or improvements to the Premises or to any structure thereon without the prior written consent of the LANDLORD. Any changes, alterations or improvements in or to the Premises will be at TENANT's sole expense. TENANT has no right to subject the interest of LANDLORD in the Premises to any mechanic's liens, material liens or other liens of any nature, and TENANT must have any such lien discharged within 10 days after the recording of the lien. TENANT will be liable to LANDLORD for LANDLORD's costs and attorneys' fees incurred relating to mechanic's liens and other liens.
- 11. <u>TAXES.</u> The TENANT will pay, when due, all taxes assessed against or levied upon the Premises or upon the fixtures, improvements, furnishings, equipment and other personal property of the TENANT located on the Premises during the TERM of this lease. NOTE: Due to the lease, the county may assess property taxes against the property based on its market value, and TENANT is required to pay the property taxes.
- 12. <u>COMPLIANCE WITH LAWS.</u> TENANT must comply with all applicable municipal, county and state laws, ordinances and regulations, and obtain and pay for all licenses and permits as may be required by its use of the Premises.
- 13. ENVIRONMENTAL. TENANT will not use in any way, or permit the use of the Premises, or any part thereof, to either directly or indirectly produce, manufacture, refine, transport, store, dispose of, or process any Hazardous Substance (as defined below), unless it has received the prior written consent of LANDLORD. "Hazardous Substance" means any pollutant, contaminant, toxic or hazardous waste, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, PCBs, or any other substance the removal of which is required, or the production, manufacture, maintenance, refining, transport, storage, disposal, processing, or ownership of which is restricted or prohibited by federal, state, or county or municipal statutes or laws now or any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 5101, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the

Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) as these laws have been amended or supplemented. TENANT agrees to hold harmless and indemnify LANDLORD from any and all damages, costs, fines and expenses that might arise as a result of TENANT's violation of this provision. This provision will survive the termination of this Lease.

PUBLIC ACCESS:

- 14. <u>LANDLORD'S ACCESS.</u> LANDLORD, acting through its designated agents or employees, has the right to enter the Premises at all reasonable times.
- 15. <u>PUBLIC RECREATION USE.</u> The TENANT agrees and understands that the public land leased herein shall be open to public recreational uses, as defined by Minn. Stat. § 604A.21, not inconsistent with the purposes of this lease. The TENANT shall not unreasonably refuse permission to any person to enter upon the lands leased herein for reasonable public recreational use without first obtaining the written permission of the LANDLORD. If the LANDLORD authorizes the prohibition of any public recreational uses, the prohibition shall apply to all persons including the TENANT.

TERMINATION AND ASSIGNMENT:

16. <u>TERMINATION</u>. This lease may be terminated at any time by mutual agreement. A lease entered pursuant to Minn. Stat. § 92.50 may be canceled for just cause at anytime by LANDLORD upon six months written notice.

TENANT will, on the TERMINATION DATE, or earlier as provided for in this lease, peacefully and quietly surrender the Premises to the LANDLORD in as good condition and repair as on the EFFECTIVE DATE. If the TENANT fails to surrender the Premises on the termination of this lease, the LANDLORD may eject or remove the TENANT from the Premises and TENANT will indemnify the LANDLORD for all expenses incurred by the LANDLORD. In addition, TENANT will remove all TENANT's property from the Premises upon termination and any property remaining will be considered abandoned and disposed of by the LANDLORD according to law. Upon demand, TENANT will pay to LANDLORD all of LANDLORD's expenses incurred in connection with LANDLORD's disposition of TENANT's personal property. TENANT's obligations under this paragraph will survive termination of the Lease.

If this lease is terminated prior to the TERMINATION DATE, the TENANT will not be relieved of any obligation incurred prior to termination.

- 17. <u>HOLDOVER</u>. TENANT will pay to the LANDLORD a sum equal to the rent plus fifty (50) percent of the rent for each rental period that TENANT holds the Premises after termination of this lease without authorization by LANDLORD. This sum will be liquidated damages for the wrongful holding over. TENANT acquires no additional rights by holding the Premises after termination and will be subject to legal action for removal.
- 18. <u>TRANSFERS.</u> This lease will extend to, and bind the successors, heirs, legal representative and assigns of the LANDLORD and TENANT. In addition, the TENANT may not without the LANDLORD's prior written consent: a) assign, convey, mortgage, pledge, encumber or otherwise transfer this lease or any interest under it; b) allow any transfer or any lien upon the TENANT's interest by operation of law; c) sublet the Premises or any part thereof: d) permit the use or occupancy of the Premises or any part thereof by anyone other than the TENANT.

DEFAULT:

- 19. <u>DEFAULT BY TENANT</u>. If TENANT defaults in any of its promises or covenants under the Lease and fails to cure the same within thirty (30) days after receipt of written notice of default from LANDLORD, LANDLORD may exercise one or more of the following remedies, or any other remedy available at law or in equity:
 - a. Terminate the Lease and recover from TENANT all damages it has incurred by reason of such breach;
 - b. Re-enter the Premises and remove all persons and property from the Premises, without terminating the Lease or releasing TENANT from its obligations under the Lease; or
 - c. Re-let the Premises without terminating the Lease. All amounts received from such re-letting shall be applied: first, to the payment of any costs of re-letting, and second, to the payment of rent due and owing under this Lease. If the amount received from re-letting in any month is less than the amount of rent to be paid by TENANT, TENANT will pay any such deficiency to LANDLORD upon demand.
- 20. <u>SELF-HELP RIGHT.</u> If TENANT defaults in the performance of any term of this Lease, LANDLORD, in addition to any other rights and remedies it has under this Lease and without waiving such default, may perform the same for the account of and at the expense of TENANT (but shall not be obligated to do so), without notice in a case of emergency and in any other case if such default continues after five (5) days from the date that LANDLORD gives written notice to TENANT of its intention to do so. TENANT must pay upon demand bills for all amounts paid by LANDLORD and all losses, costs and expenses incurred by LANDLORD, in connection with any such performance by LANDLORD pursuant to this section, including, without limitation, all amounts paid and costs and expenses incurred by LANDLORD for any property, material, labor or services provided by LANDLORD to TENANT.

LIABILITY:

- 21. <u>LIABILITY</u>. This lease will not be construed as imposing any liability on the LANDLORD for injury or damage to the person or property of the TENANT or to any other persons or property, arising out of any use of the Premises, or under any other easement, right-of-way, license, lease or other encumbrance now in effect. The TENANT will indemnify and hold harmless the LANDLORD from all claims arising out of the use of the Premises whether such claims are asserted by civil action or otherwise.
- 22. <u>PERSONAL PROPERTY RISK.</u> All personal property on the Premises belonging to TENANT or its occupants or visitors shall be there at the sole risk of TENANT or such other person only, and LANDLORD will not be liable for theft or misappropriation of such property, nor for any loss or damage to such property, including destruction by fire.

MISCELLANEOUS:

- 23. <u>LEGAL OBLIGATIONS.</u> This lease is not to be construed to relieve the TENANT of any obligations imposed by law.
- 24. <u>ENCUMBRANCE</u>. This lease is subject to all existing easements, right-of-ways, licenses, leases and other encumbrance upon the Premises and LANDLORD will not be liable to TENANT for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

- 25. <u>NO WAIVER.</u> No delay on the part of the LANDLORD in enforcing any conditions in this lease, including termination for violation of the terms of this lease, shall operate as a waiver of any of the rights of the LANDLORD.
- 26. <u>NOTICES.</u> Any notice given under this lease shall be in writing and served upon the other party either personally or by depositing such notice in the United States mail with the proper first class postage and address. Service shall be effective upon the depositing of the notice in the United States mails. The proper mailing address for the purposes of serving notice on the LANDLORD shall be the Commissioner, Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4045, and on the TENANT it shall be as stated in the TENANT'S ADDRESS.
- 27. <u>CONSTRUCTION OF LEASE</u>. If any clause or provision of this lease is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body, the intentions of the LANDLORD and TENANT here is that the remaining parts of this lease shall not be affected thereby.
- 28. <u>AUDIT.</u> LANDLORD is a State of Minnesota entity. The books, records, documents and accounting procedures and practices of the TENANT (whether in hard copy or electronic format) regarding this Lease shall be subject to reasonable examination by the STATE and/or the State Auditor or Legislative Auditor, as appropriate, during the term of the Lease and for a minimum of six (6) years after the Lease's expiration or termination.
- 29. <u>BOND FINANCED PROPERTY.</u> If LANDLORD used General Obligation bonds to purchase, construct, or improve the Premises, TENANT agrees to comply with all requirements imposed by the Commissioner of Management and Budget, up to and including furnishing any documents as the Commissioner determines to be necessary, to ensure that interest paid on the General Obligation bonds, if any, used to purchase, construct or improve the Premises is exempt from federal taxation.
- 30. <u>ADDITIONAL TERMS.</u> See the attached Exhibit A (Map), Exhibit B (Additional Terms) and Exhibit C (Invasive Species) which are made a part of this lease.

Date

IN WITNESS WHEREOF, the parties have set their hands.

OTATE OF MINITEDOTA	
DEPARTMENT OF NATURAL RESOURCES	

STATE OF MININESOTA

Sang Ci. Kalel	8/7/19
TENANT (Individual's Name or Name of Entity)	
Hennepin County	
Authorized Signatures & Title (If an Entity)	Date /
	79/19
	7/1/
	7

EXHIBIT A Miscellaneous Lease #LMIS010410

LITTLE LONG LAKE, HENEPIN COUNTY PUBLIC ACCESS SIGN PLAN







Exhibit B Additional Terms

Terms and Conditions which Apply:

- 1. The TENANT may be required by LANDLORD to install a cement pad to secure the watercraft cleaning station.
- 2. If electricity is needed, the TENANT is responsible for securing an electrical connection to the watercraft cleaning station. Passage of any utility over, under, or across any state land or public water requires a state utility license.
- 3. The TENANT will ensure the watercraft cleaning station meets Americans with Disabilities Act requirements.
- 4. All text and images displayed on the watercraft cleaning station must be approved by the LANDLORD. The TENANT'S contact information must be displayed for the public to report safety issues, equipment maintenance or service needs.
- 5. The TENANT will maintain the watercraft cleaning station and associated equipment:
- a. Equipment maintenance is solely the responsibility of the TENANT. The TENANT shall maintain the equipment in a way that ensures the public's safety at all times. The TENANT will resolve (make safe) any safety issues within 24 hours and all other maintenance issues within one week of a report. If safety or maintenance issues are not corrected or continue to reoccur with frequency, the TENANT may be requested to remove its equipment prior to the termination of this lease.
- b. The TENANT must provide and pay for trash collection and/or liquid pumping services if trash bins or waste collection devices are provided with the equipment. If the TENANT uses a contractor for these services, the contractor's contact information must be provided to the LANDLORD.
- c. The TENANT is responsible for the winterization of the equipment at the end of each season.
- 6. The TENANT will provide any data collected to the LANDLORD by December 31 of each year. The LANDLORD is interested in data such as: number of discrete users; time spent by each user; number of times each tool is used; hourly, daily, weekly and monthly use trends; feedback from users.
- 7. The TENANT will meet with the LANDLORD at the end of each open-water season the watercraft cleaning station is in operation to review the project.
- 8. TENANT shall procure liability insurance, naming the State as additional insured (or shall maintain comparable liability coverage under a program of self-insurance) in the amount of at least \$500,000 per individual and \$1,500,000 per occurrence from an insurance carrier licensed to do business in Minnesota. Upon execution of this lease, the TENANT shall provide the LANDLORD with a certificate of insurance (or self-insurance) indicating the required coverage and the TENANT shall periodically provide the LANDLORD with evidence of insurance (or self-insurance) as the LANDLORD may request. The policy shall provide that the LANDLORD be notified ten days prior to the cancellation or termination of the policy. The TENANT shall be required to maintain such insurance (or self-insurance) to the full extent of the amounts specified in Minnesota Statutes, Section 3.736 which amounts shall be incorporated herein by reference. If those amounts are changed following execution of this lease, the TENANT shall provide whatever amount of insurance (or self-insurance) is required by that change within 30 days after the LANDLORD notifies the TENANT of the change.

Exhibit C

<u>Invasive Species</u> Miscellaneous Lease LMIS010410

Check	Check all that apply		
×	Mandatory - (1) Before entering and leaving the site, check clothing, gear, vehicle and equipment (including timber mats) and remove caked mud, dirt clods, and reproductive plant parts (seeds, berries, fruit, cones, flowers or seed stalks, and roots). Using either a power washer or an air compressor is an effective means of cleaning equipment, but is not required unless stated below.		
	(2) This site is infested with □ gypsy moth, □ emerald ash borer, □ Asian long horned beetle, □ other invasive disease or insect Obtain a compliance agreement from USDA APHIS or Minnesota Dept. of Agriculture prior to hauling wood or woody debris off this site. For more information visit http://www.mda.state.mn.us/en/plants/pestmanagement/eab/regulatoryinfo.aspx		
	(3) This site is infested with □ oak wilt, □ Dutch elm disease, □ sirex wood wasp, □ other invasive plant disease or non-regulated insect □ Girdle the marked trees and leave them on site. □ Do not haul infected trees between April 1st and Nov 1st. □ Other		
	(4a) This site is infested with □ buckthorn, □ garlic mustard, □ other invasive plant, □ exotic earthworms. Before starting work, review known infestations with the site administrator. Avoid traveling through or parking in infested areas. Time operations and organize routes of travel to avoid spreading weed seed or infested soil. If mowing hay, be aware of any chemical applications and honor wait times before mowing. Some herbicides are passed through manure into sensitive crop fields. See other restrictions below.		
	(4b) This site is infested with □ buckthorn, □ amur or Norway maple, □ peashrub, □ honeysuckle, □ multiflora rose, □ Russian olive, □ other: When cutting: □ chip, □ pile and burn rather than scattering the tops of invasive species.		
	(5) Using a power washer or air compressor, □ daily, □ weekly, □ monthly; clean all vehicles, equipment and trailers taken on and off site during the snow-free season. Washing may be done at an approved location on site or off site at an appropriate cleaning facility. Avoid letting rinse water run into open bodies of water or native plant communities. Cleaning is not required during frozen conditions.		
	(6a) All materials (gravel, fill, mulch, chips, sand, etc.) brought to the site are to be weed and pest free. Sources are to be approved prior to purchase or acquisition.		
	(6b) Before utilizing the underlying gravel or other earth materials, scrape off the top 6-12" and segregate in an on-site location designated by the site administrator.		
	(7) Plant or reclaim site within: □ one month, □ three months, □ six months of end of lease or project. Use weed and pest free native plant and seed mixes. Where available, use certified or local sources. Sources are to be approved prior to purchase and acquisition.		
	(8) Upon completion of the project or operation, close, obstruct or gate all access routes. If project is inactive for longer than □ one month, □ three months, □ six months close, obstruct or gate all access routes until project resumes.		
	(9) When collecting field material (seed, I&D samples, berries, mushrooms, special wood products, etc) use new clean bags or baskets.		
	(10) In the case invasive plants become an issue during operations (to be determined by the site administrator), the LESSEE agrees to stop operations and gate or otherwise close the site until the infestation can be controlled.		
	(11) The LESSEE is responsible for controlling noxious weeds on the site. Contact the site administrator and county agricultural inspector for details.		
	(12) Follow other actions as directed by the site administrator to minimize the introduction and/or spread of invasive species.		

(13) Before starting work, review known infestations with site administrator(s). When traveling between multiple sites a day, be sure to start at the site with the fewest number of invasive plants, leaving the most heavily infested site to last. Time operations and site visits to avoid the spread of weed seed.

Last updated July 7, 2012

ITEM 10A



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: April 28, 2021 (Prepared April 19, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Variance for Adjusted Dock Use Area (length and setbacks), 940 North Arm Dr, Orono

ACTION

Board consideration of a variance for an adjusted dock use area (length and setbacks) for 940 North Arm Drive on North Arm Bay in the City of Orono (PID 07-117-23-11-0014), and receive public input during the public hearing.

The following motions are offered depending on whether the Board wishes to approve or deny the request:

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Mark Schindele for the property located at 940 North Arm Drive for final approval at the May 12, 2021 LMCD Board meeting <subject to the following conditions>...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Mark Schindele for the property located at 940 North Arm Drive for a final vote at the May 12, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY_

The applicant, James Mattson ("Applicant"), submitted a variance application for 940 North Arm Drive on North Arm Bay (PID 07-117-23-11-0014; "Site") for an adjusted dock use area for length and side setbacks. The Applicant's property has approximately 121 feet of shoreline (929.4-foot elevation contour / OHW).

Site Background

The Applicant's dock use area is shallow and cattails extend roughly 70-90 feet from the OHW. The Applicant seeks a length variance to extend over the emergent vegetation to open water in order to reach adequate depth for watercraft storage.

Additionally, the Applicant's side site lines converge, narrowing the dock use area. The applicant seeks a setback variance.

Application for Variance at 940 North Arm Drive, Orono LMCD Board Meeting April 28, 2021

Proposed Setbacks

The proposed setbacks from the dock structure are 16 feet from the north side site line and 15 feet from the south side site line.

Proposed Dock Length

The Applicant proposes a dock structure of approximately 153 feet in length as measured from the 929.4 OHW. The applicant's dock installer submitted depth measurements for the proposed slips. When accounting for lake level, equate to depths between 3.61 feet (landward side) and 4.61 feet (lakeward side) with a lake level of 929.4 feet OHW.

Proposed BSUs

The Applicant proposes two (2) boat storage units (BSUs). The BSUs measure 14 feet wide by 32 feet long.

CONSIDERATIONS OF VARIANCE

The following items should be considered when considering granting a variance:

- 1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
- 2. Is the Applicant proposing a use not allowed under the code?
- 3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Orono were provided information regarding the applications on April 16, 2021. City and agency comments are due by April 26, 2021. Comments received as of April 23, 2021 are summarized below. Any comments received after April 23, 2021 will be provided at the Board meeting for review.

• No comments have been received as of noon on April 23, 2021.

As of noon on April 23, 2021, the LMCD has not received any comments from the general public. Two nearby residents contacted LMCD staff with questions regarding the application but

Application for Variance at 940 North Arm Drive, Orono LMCD Board Meeting April 28, 2021

did not state opposition or support for the proposal. Comments received after noon on April 23, 2021 will be shared at the April 28, 2021 meeting.

PUBLIC HEARING

The public hearing provides an opportunity for interested individuals to present their views to the Board for consideration. This is an important part of reviewing the impact of a project. Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision.

A hearing notice was published in the April 15, 2021 edition of the Sun Sailor and the April 17, 2021 edition of the Laker Pioneer. On April 16, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

LMCD staff recommend approval with the following conditions to consider:

- 1. Depth measurements will be confirmed during the site review after installation.
- 2. Applicant will obtain all required approvals if the installation of the dock will impact any delineated wetlands.
- 3. All watercraft stored at the Subject Property must be owned by and registered to residents of the property.
- 4. Up to two watercraft may be stored at the dock with a size of 14 feet wide by 32 feet long.
- 5. Watercraft may not extend beyond the length of the boat slip.
- 6. All watercraft must be stored within the BSU structure(s).
- 7. A canopy is not allowed on the southern BSU as prescribed by LMCD Code. Boat lift would be allowed.
- 8. Other standard variance language is incorporated.

BUDGET N/A				
Operational Effectiveness	Clear & Timely Communications	Effective Governance	X Lake Protection	Other
ATTACHMENTS				

- 1. LMCD Code Excerpts
- 2. Aerial Imagery of Site
- 3. Proposed Site Plan
- 4. Proposed Site Plan with LMCD staff annotations
- 5. Aerial Overlay (prepared by LMCD staff)
- 6. Variance Application
- 7. Public Hearing Notice (Sun Sailor & Laker Pioneer)
- 8. Public Hearing Notice Mailing

LMCD Code Excerpts



Section 2-3.03. Determination of Authorized Dock Use Area.

- Subd. 1. <u>Generally</u>. The dimensions of an authorized dock use area for sites bordering the Lake are determined in accordance with this Section. The authorized dock use area shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum of 1929 ("NGVD"). The authorized dock use area includes the area on, under, and over the surface of the Lake.
- Subd. 2. <u>Length</u>. The length of the authorized dock use area is measured on a line parallel to the site side lines as extended into the Lake and is limited as provided in this subdivision.
 - (a) General Limit. The length of an authorized dock use area extends into the Lake a distance equal to the length of shoreline frontage of the site as measured at right angles to the side site lines as extended into the Lake. The total length of the authorized dock use area shall not extend beyond 100 feet, even if the site has more than 100 feet of shoreline frontage, unless otherwise specifically provided in this Section.

Section 2-3.03. Determination of Authorized Dock Use Area.

- Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision.
 - (a) <u>Setbacks</u>. The width of an authorized dock use area is limited by the following setbacks, which are measured from the side site lines as extended in the Lake:

For that portion of the length of the	The setback from the side site line as			
authorized dock use area which extended in the Lake shall be:				
extends from the shore:				
Zero to 50 feet	10 feet			
50 to 100 feet	15 feet			
100 to 200 feet	20 feet			

Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.

Section 2-4.05. General Density Rule.

- Subd. 1. <u>How Density is Determined</u>. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, a site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Chapter are moored, docked, anchored, or secured at the site, for any period of time, on three or more calendar days in any 14-day period.
- Subd. 2. <u>General Density Rule</u>. A site is allowed one restricted watercraft density for each 50 feet of continuous shoreline. If the site has continuous shoreline greater than 100 feet and the shoreline measurement would result in the allowance of a fractional restricted watercraft density, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one additional restricted watercraft density.
- Subd. 3. <u>Compliance with Density</u>. No docks or mooring areas shall be constructed, established or maintained that provide space for, or are used for, mooring or docking a greater number of restricted watercraft than is allowed under this Section unless authorized to do so by special density license issued in accordance with Sections 2-4.11 and 6-2.13.

Section 2-4.09. Special Density Rules.

The number of restricted watercraft stored at a site under the general density rules may be increased as provided in this Section. With respect to residential sites, the homestead or non-homestead status of property for ad valorem real estate tax purposes has no bearing on or application to this Section.

- Subd. 1. <u>Additional Watercraft Density</u>. Unless a greater number is authorized under this Section, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site if all of the conditions of this subdivision are met.
 - (a) There must be one, and no more than one, single-family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel, or other piece of property may be designated to be a part of one site by the owner for purposes of this subdivision if it:
 - (1) Is legally subdivided and recorded in the office of the County Recorder;
 - (2) Adjoins the site or is separated from the site only by a public right-of-way;
 - (3) Is under common ownership and unified use with the site; and
 - (4) Is occupied by one single-family residential structure.
 - (b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph (a) of this subdivision is located.
 - (c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph (a) of this subdivision.

Application for Variance at 940 North Arm Drive, Orono LMCD Board Meeting April 28, 2021

Subd. 2. <u>Sites in Existence on August 30, 1978</u>. Unless a greater number is authorized by the provisions of this Section, up to two restricted watercraft may be moored or docked at any dock or mooring facility that is located on a site that was in existence on August 30, 1978.

Section 6-5.01. Variances.

Subd. 1. <u>Authorized</u>. Where practical difficulties occur or where necessary to provide access to persons with disabilities, the Board may permit a variance from the requirements of this Code or may require a variance from what is otherwise permitted by this Code, provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners. Except as otherwise provided in this Code, all variances granted by the LMCD shall be governed by the provisions of this Section.

Subd. 2. <u>Unusual Configurations</u>. Where the provisions of this Code would cause the authorized dock use area of two or more sites to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby sites as the use of the same area of the Lake for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected sites may apply to the Board for a variance. A variance may be to permit the Applicant to locate a dock, mooring area, or other structure in a location different from that permitted by this Code or to permit or require the owner of any adjacent or nearby site to do so.

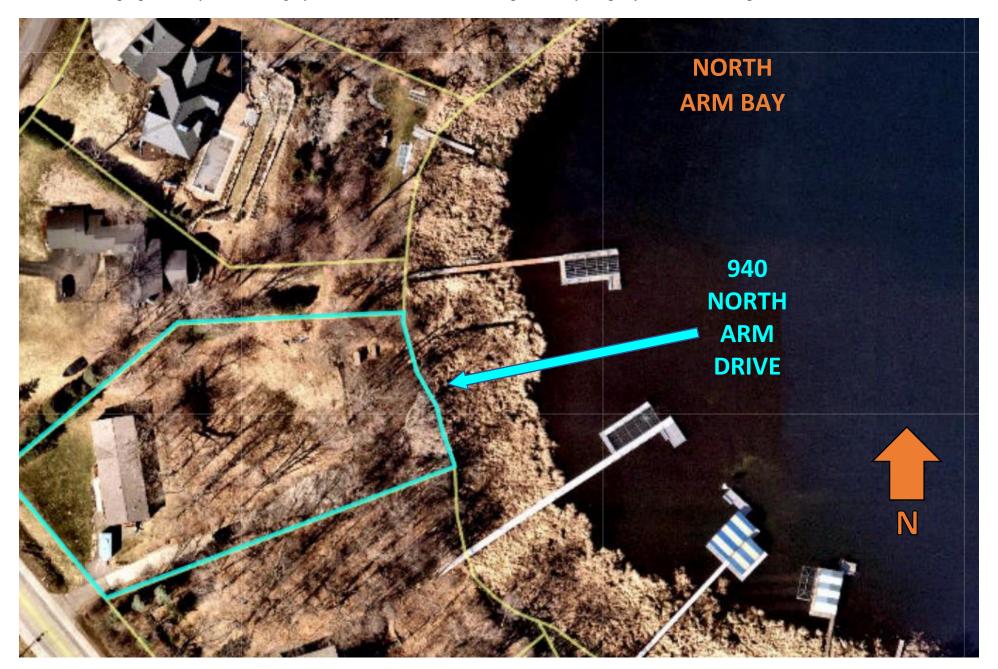
Subd. 3. <u>Length Variances</u>. The length limitations prescribed by this Code may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock.

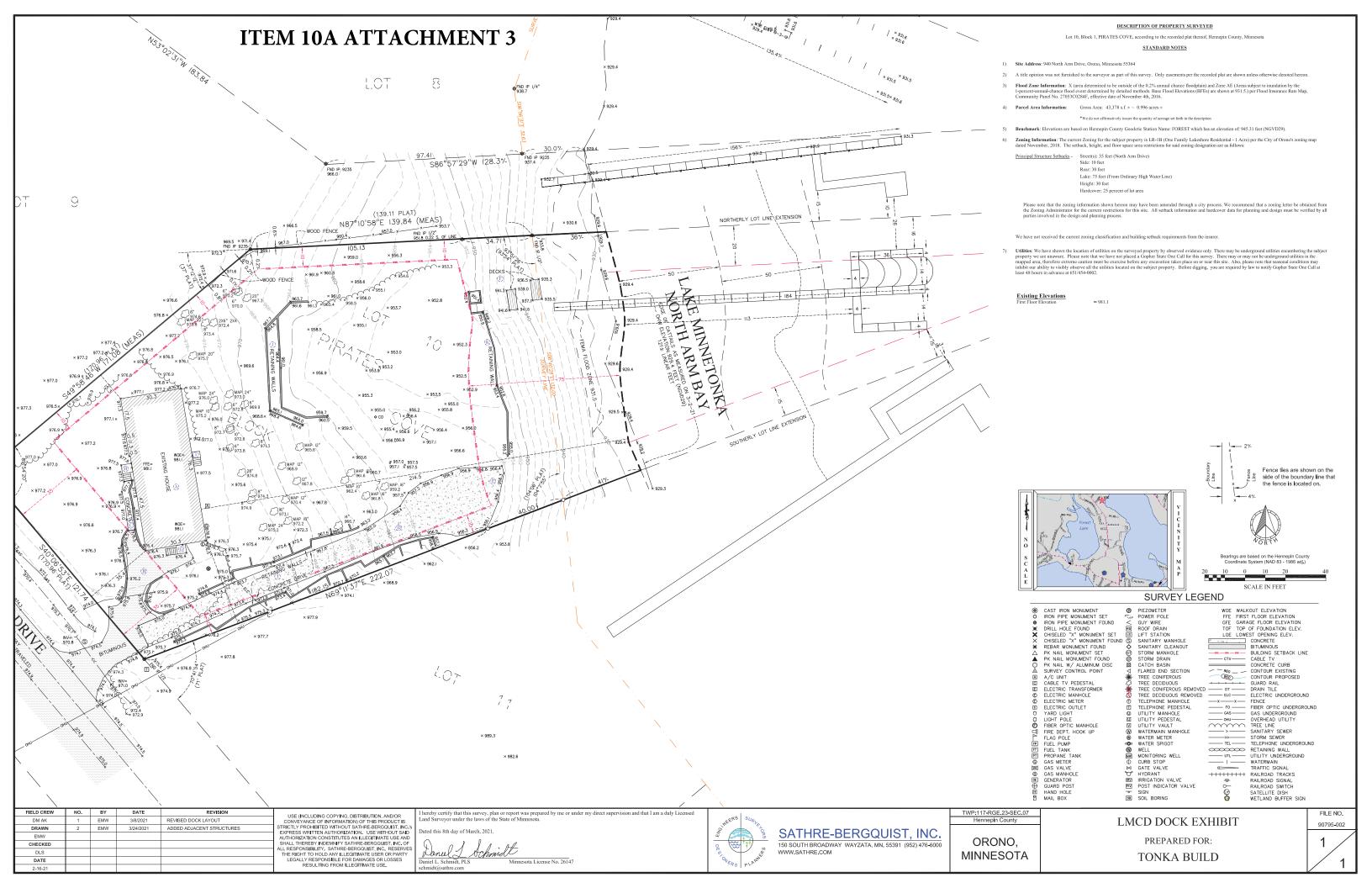
Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that were not created by the property owner, the proposed use is reasonable under the circumstances, and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.

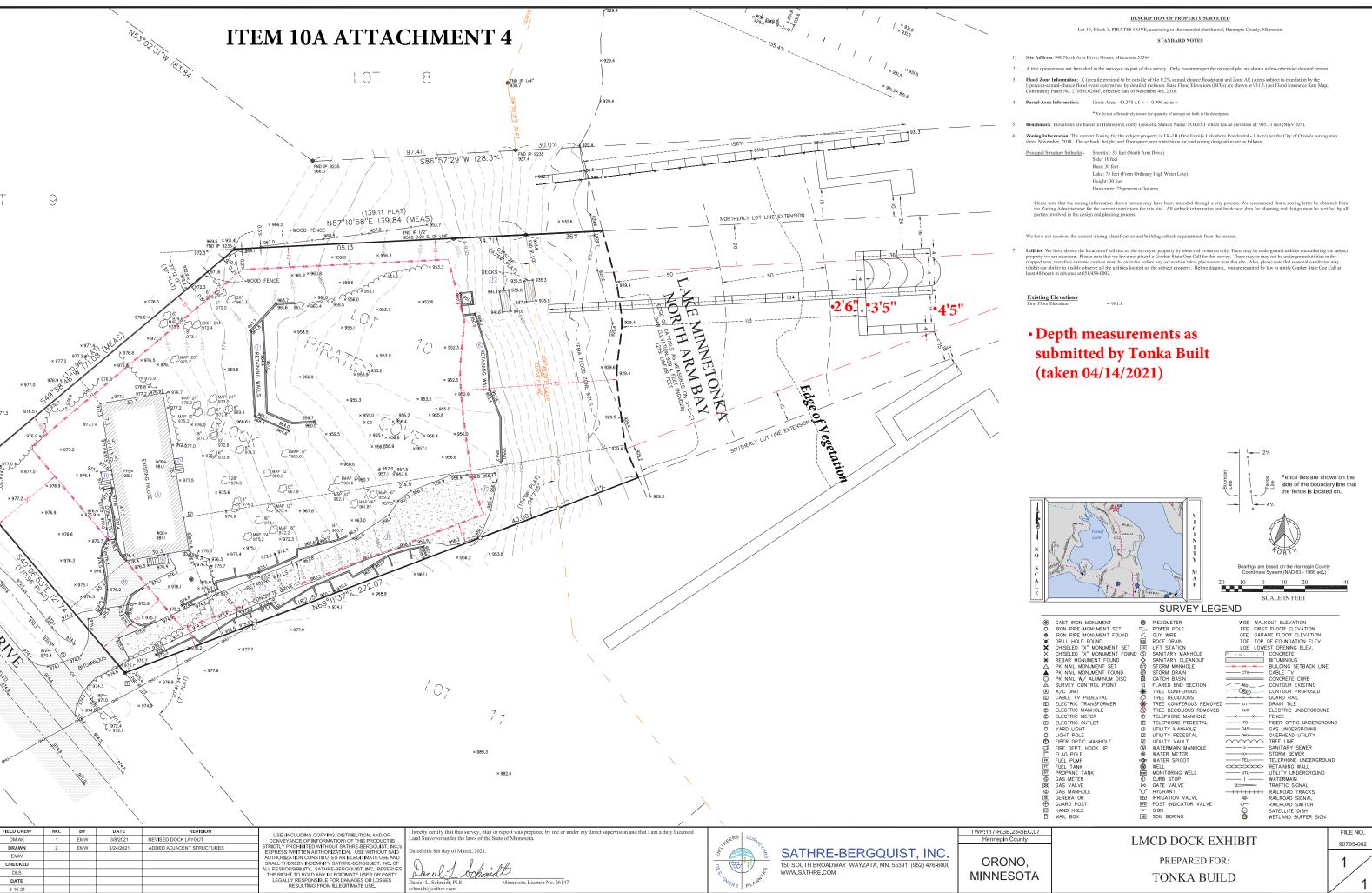
James Mattson, 940 North Arm Drive, Orono | Variance Application For illustrative purposes only. Taken from Hennepin County Property Information Map 04/15/2021.



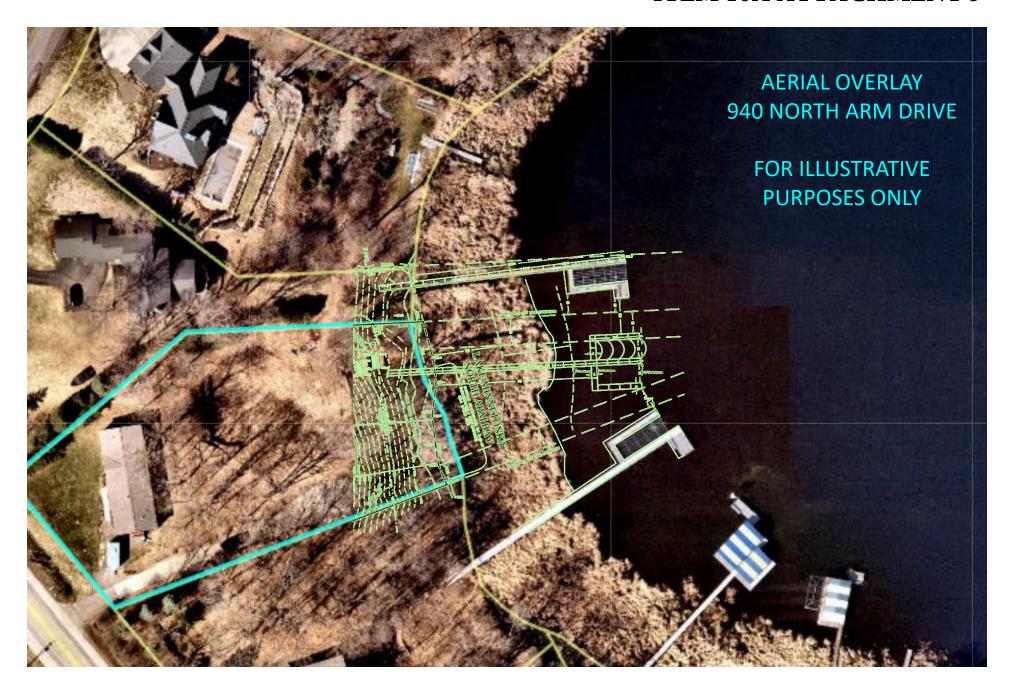
James Mattson, 940 North Arm Drive, Orono | Variance Application For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information Map 04/15/2021.







DATE





VARIANCE APPLICATION

Lake Minnetonka Conservation District 5341 Maywood Road, Suite 200 Mound, MN 55364

Phone: (952)745-0789 Fax: (952)745-9085

LMCD Receipt #
In accordance with LMCD Code Section 1.07, where practical difficulties occur or where necessary to provide access to the handicapped, the Board may permit a variance from the requirements of the Code, or may require a variance from what is otherwise permitted the Code provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this ordinances, the public health, safety, and welfare, and reasonable access to or use of the Lake by public or riparian owners. The following application, when completed, shall be filed with the Executive Director of the District along with surveys, photos, and such other information as required.
Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.
The person completing this form is the authorized agent or property owner (select one).
Applicant: To-Re YOUNGER / TONRO BUILT, WC
Address: 6225 SUNNYFIELD RD. E
City, State, Zip: MNNETRISTO MN 55364
Phone: 952 - 221-534 Fax: Email: Jane Conko Built. Com
Property owner (if different from applicant): <u>James monttsod</u>
Address: 440 NATH ASM BSIVE
City, State, Zip: olovo MN 55364
Phone: 715-225-7484 Fax:
PROPERTY LOCATION: Located in the city of:
Address & Property Identification No (PID): 971172311 as 14 : 949 North AMD
TYPE OF VARIANCE: Length
State practical difficulties causing variance to be required:
pue en parci hale fatterna

ABUTTING LAKESHORE PROPERTY OWNERS:
North or West: Motter + Charles Chines to action /889 Wind James of
(Name and mailing address)
South or East: Chery + Mork Feir Bess 1950 Natur Alm Drive, or (Name and mailing address)
Other affected parties (attach sheet if necessary):
(Name and mailing address)
Please submit names and mailing addresses of owners within a 350-foot radius of the property. Such owners must be verified by checking with the Hennepin County Auditors Office, (612) 348-5910 (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.
Documents listed below are required; check that they are attached: Locator Map (U.S.G.S area map with scale, North direction, Site clearly marked, Name or Title, LMCD Area Name, LMCD number) County Plat Map (Site clearly marked, Name, LMCD area name, LMCD number) Certified Land Survey (Legal description, Name, LMCD area name, LMCD number, 929.4 N.G.V.D. shoreline) Proposed facility site plan (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable) Existing facility site plan, if applicable (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable) Scaled drawing of docks on abutting properties and other affected dockage
Absence of significant data requested above could result in a processing delay.
FEE CALCULATION
APPLICATION FEE(non-refundable)\$250.00
DEPOSIT(refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required)+\$250.00

Variance Application

TOTAL FEE ENCLOSED...... (this fee is for processing of the application and does not entitle the applicant to a variance)

.. \$500.00

I certify that the information provided herein and the attachments hereto are true and correct; I understand that any variance granted may be revoked by the District for violation of the LMCD code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the application fee. I consent to permitting officers and agents of the District to enter the premises at reasonable times to investigate and to determine whether or not the Code of the District is being complied with.

I agree to submit a certified, as-built survey upon completion of the docks.

Authorized Signature

Title

Return this application, attachments and fee to:

Lake Minnetonka Conservation District 5341 Maywood Road, Suite 200 Mound, MN 55364

Fax: (952) 745-9085



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: April 8, 2021

TO: Sun Sailor & Laker Pioneer

Legal Department

publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (04/15/2021 Edition of Sun Sailor; 04/17/2021 Edition of Laker Pioneer)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, April 28, 2021

James Mattson 940 North Arm Drive, Orono 55364 North Arm Bay, Lake Minnetonka

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from James Mattson for a site located at 940 North Arm Drive in Orono. The applicant proposes to adjust the dock use area of the site (length and side setbacks). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: April 16, 2021

TO: Property Owner or Resident

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for an adjusted dock use area (length and setbacks) variance. The site is located at 940 North Arm Drive in Orono on North Arm Bay.

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. All interested persons will be given an opportunity to comment.

Aerial imagery, a site plan, and a site plan excerpt are enclosed for your reference.

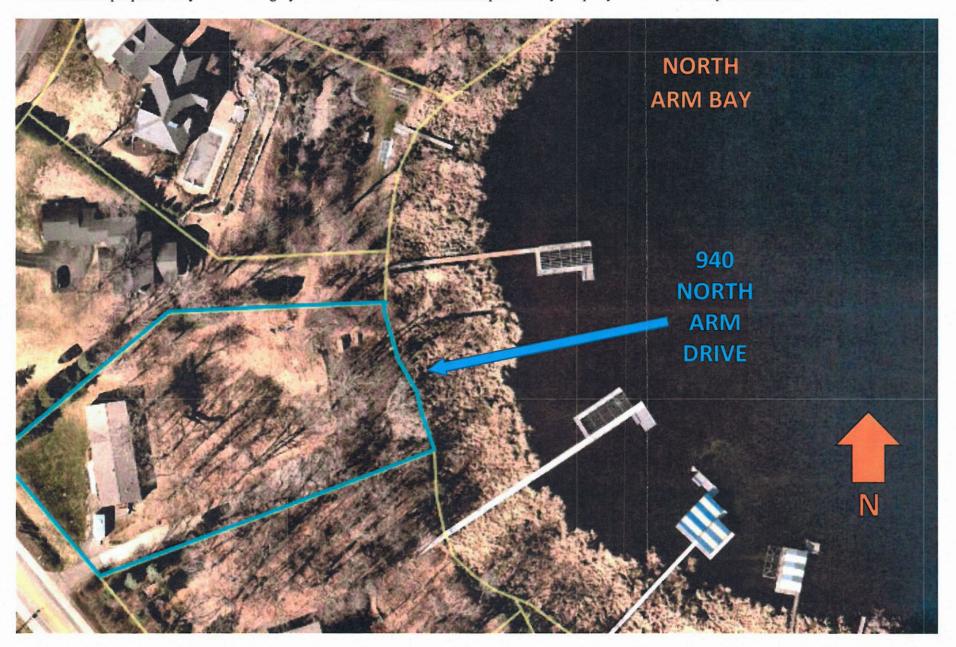
Public Hearing Information

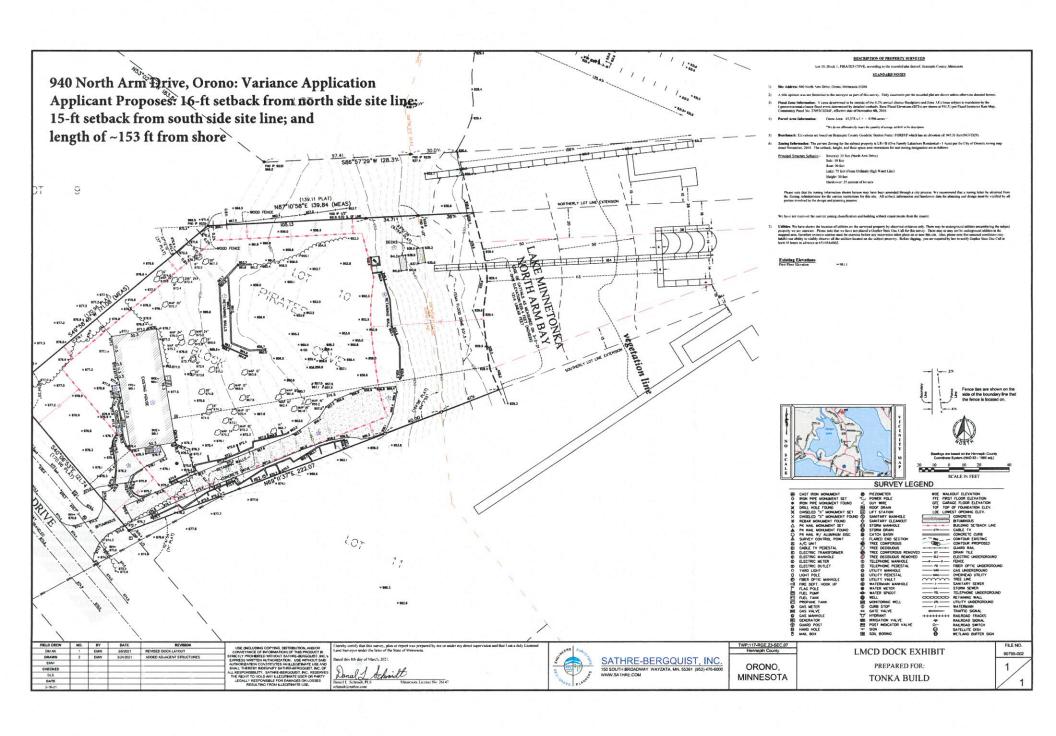
A public hearing will be held at 7:00 PM, April 28, 2021. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at wschleuning@lmcd.org for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

James Mattson, 940 North Arm Drive, Orono | Variance Application
For illustrative purposes only. Aerial imagery from 2020. Taken from Hennepin County Property Information Map 04/15/2021.





ITEM 13A



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

ATION	
DATE:	April 28, 2021 (Prepared 04/19/2021)
TO:	LMCD Board of Directors
FROM:	Vickie Schleuning, Executive Director
RE:	Minnesota Lakes and Rivers Advocates Membership
ACTION	
Board consideration	on of membership of Minnesota Lakes and Rivers Advocates.
BACKGROUND	
Minnesota Lakes advocacy group for links between lake and has a lobbyist organization is available. Membership offer organizations around individual members and when the such as soil and when the such as recomments.	ons Committee recommends that the LMCD becomes a member of the & Rivers Advocates (MLR), with an annual membership fee. MLR is an ocused on protecting Minnesota's lake and river heritage by forging powerful es, lake advocates, and policy makers. It is active in monitoring state legislation to monitor issues regarding water quality. More information about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation to monitor issues regarding water quality. More information about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation about the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation at the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation at the ailable at http://mnlakesandrivers.org/ . It is active in monitoring state legislation at the ailable at http://mnlakesandrivers.org/ . It is act
BUDGET	
 Depending 	g on Board approval, up to \$200 for an annual membership could be funded serves since this is currently an unbudgeted item.
STRATEGIC PR	
Operational Effectiveness	Clear & Timely Effective Lake Communications Governance Protection X Other
ATTACHMENT • N/A	S

ITEM 13B



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: April 28, 2021 (Prepared April 19, 2021)

TO: LMCD Board of Directors

FROM: Tammy Duncan, Administrative Assistant

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Hennepin County Sheriff's Office Water Patrol Funding Request

ACTION

Board consideration of a request from Hennepin County Sheriff's Office (HCSO) for \$84,000 in funding to support dedicated Water Patrol Services for Lake Minnetonka. The following motions are offered depending on whether the Board wishes to approve or deny the request.

Approval:

- I make a motion to approve the Hennepin County Sheriff's Office funding request in the amount of <\$XXX> from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services.
- I make a motion to amend the budget to use up to <\$XXX> of Save the Lake reserves to fund the budget gap for these services.

Denial:

• I make a motion to deny the Hennepin County Sheriff's Office funding request for dedicated patrol services to Lake Minnetonka during peak boating times.

BACKGROUND

Save the Lake (STL) funds have been used to supplement water patrol services for Lake Minnetonka and ensure dedicated personnel are available during peak boating times. The Board has recognized the need to provide a dedicated level of emergency and public safety services for the highly-used Lake. This is similar to concepts used by cities, businesses, and associations to provide or supplement public safety services for routine, special events, emergency services, etc. The basis of their request is the increased use of the lake (partly due to COVID-19) and staffing issues including the decline of volunteer special deputies.

The amounts of STL funds allocated to the HCSO by the LMCD for similar requests in past years are as follows:

HCSO Water Patrol Funding Request LMCD Board Meeting April 28, 2021 Page 2

- 2020 -- \$42,000 (\$38,000 original funding, with an addendum of \$4,000 additional funding through earmarked STL contributions
- 2019 \$30,000
- 2018 \$25,000
- 2017 \$30,000
- 2016 \$29,000

The Save the Lake Committee will meet on April 27, 2021, and discuss expanding the designated officers program through the HCSO Water Patrol to two officers between May 23rd and Labor Day 2021.

If the Board chooses to provide funding, an agreement will be executed with the HCSO. More details are provided in the attached funding request. A draft services agreement is attached for reference, noting that it will need to be modified based on board direction.

CONSIDERATIONS

- Are funds available from Save the Lake contributions or other LMCD funds?
- Does the funding of this position align with the LMCD mission and goals?
- Has the funding achieved results that provide a safer and enhanced Lake Minnetonka experience?
- What, if any, suggestions does the Board have related to patrol activities, e.g., reporting, wakes enforcement, etc.?
- Is this an appropriate and desirable use of 1) general or 2) contribution funds?

STRATEGIC PRIO	RITIES			
Operational Effectiveness	Clear & Timely Communications	Effective Governance	X Lake Protection	Other
ATTACHMENT				

- HCSO Funding Request
- Draft Professional Services Agreement

Save the Lake Request for Funds

Applicant: Hennepin County Sheriff's Office

Contact:

Major Jeffery Storms 350 S. 5th Street, Room 6 Minneapolis, MN 55415

Phone: 612-282-0082 **Fax:** 612.348.4208

Email: jeffery.storms@hennepin.us

Executive Summary:

The Hennepin County Sheriff's Office requests \$84,000 to support dedicated Water Patrol on Lake Minnetonka during peak boating periods. This is for the HCSO to increase from one to two deputies to be dedicated to Lake Minnetonka during the Summer of 2021. HCSO has been requested by the Lake Minnetonka Conservation District (LMCD) to develop a program to provide additional boating safety patrol hours on Lake Minnetonka. The program is designed to add hours: 1) to focus patrol of Lake Minnetonka; 2) during times when use is highest; and 3) during nighttime hours when accidents may occur. The grant period will start in mid-May and end on Labor Day.

From 2013-2019, Lake Minnetonka received 7,855 average hours of Patrol coverage each year. In 2019 the lake hours went up to 8,984. In 2020 the lake hours decreased slightly to 8,724. These hours included one additional, dedicated Water Patrol Deputy funded by the LMCD grant, and a second deputy temporarily assigned to Water Patrol to also assist mostly with patrols on Lake Minnetonka. This upcoming year, we likely may not be able to assign an extra deputy to Water Patrol to assist with Lake Minnetonka due to staffing issues. Our volunteer special deputy numbers have also steadily declined. With the two dedicated Lake Minnetonka deputies, we will add approximately an additional 1200 dedicated hours of patrol to Lake Minnetonka (May 23rd to Labor Day) during the program instead of 600.

Project Description, Goals, Objectives, and Activities:

The Hennepin County Sheriff's Office is a full-service Sheriff's Office with county-wide jurisdiction and statutory mandates. The Sheriff's Office has nearly 300 deputies in eight lines of business, and 12 special deputy volunteers that help to provide statutorily required water safety and rescue on 104 lakes and 3 rivers across Hennepin County.

Project timeline:

This funding request would allow for a specific commitment of personnel to Lake Minnetonka during peak boating times of 2 p.m. - 12 a.m. (Thursday, Fridays, weekends, and holidays) from Memorial Day weekend through Labor Day. Specific breakdown is below:

- April 2021, continued partnership funding request through the LMCD
- April 2021, grant funding announced
- April 30, 2021, staffing plan for Lake Minnetonka coverage for summer boating season finalized
- May 9th, 2021, dedicated staffing begins
- July 15th, 2021, report made to LMCD on previous month staffing
- August 16th, 2021, report made to LMCD on previous month staffing
- September 6th, 2021, Labor Day, last day of dedicated staffing funded by grant
- October 18, 2021, grant close out report made to LMCD

<u>Project Evaluation - Explain how the effectiveness and the success of the project will be</u> measured:

The primary goals and objectives for the project will be an increased presence of the Hennepin County Sheriff's Office Water Patrol unit on Lake Minnetonka during peak boating hours. This will be measured by Hennepin County Sheriff's Office providing regular written reports to the LMCD outlining the personnel assigned to the lake, and dates & times of service. The goal is to increase the number of hours the Sheriffs' Office devotes to Lake Minnetonka and decrease response times to critical incidents.

The success of the project will be measured by an increased number of monthly Water Patrol hours spent on Lake Minnetonka, mid-May through Labor Day, using 5-year average base for comparison.

The project success will also be measured by greater visibility during emergency ordinance declarations, such as high water or high-volume events such as the 4th of July or Folds of Honor.

Project Administrator:

Lt. Bill Gottwaldt will be the project manager for this grant. Lt. Gottwaldt has been with The Hennepin County Sheriff's Office for 25 years. Lt. Gottwaldt will assign staff for this duty, ensure all grant requirements are met, and attend regular meetings of LMCD to report out activity.

AGREEMENT

THIS AGREEMENT is made the XX day of April, 2021, by and between the Lake Minnetonka Conservation District, a Minnesota political subdivision, (hereinafter "LMCD") and Hennepin County, on behalf of the Hennepin County Sheriff's Office (hereinafter "Grantee"). The LMCD and the Grantee may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. BACKGROUND

- 1.1. Grantee has applied to the LMCD for an allocation from the LMCD's Save the Lake Fund as a grant to pay expenses for law enforcement and boating safety patrol services as described herein.
- 1.2. The LMCD is willing to fund the activities pursuant to the terms of this Agreement.

2. SERVICES

- 2.1. Services. Pursuant to the terms herein, Grantee shall increase and enhance water patrol services on Lake Minnetonka as described in Grantee's application, between 2:00 p.m. and 12:00 a.m.. Thursdays, Fridays, weekends and holidays, from Memorial Day weekend through Labor Day ("Services"). Grantee may alter the hours as it determines is appropriate to effectively provide the Services, provided there is no reduction in the minimum number of hours of Services. Grantee shall perform Services in the manner and means determined by Grantee. Grantee reserves the right, in Grantee's sole discretion, to perform or not perform Services.
- 2.2. Reports. Following completion of the Services, but not more often than once per calendar month, Grantee will submit an invoice and, subject to applicable laws (including the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA"), a final report to the LMCD describing the activity, the outcome and results of the activity, how the outcome matched the goals and objectives described in the Grantee's application, and any anticipated continuing impacts from the activity.

3. PAYMENT OF GRANT

3.1. Payments. LMCD shall pay Grantee for the hours of Services performed by Grantee's personnel under this Agreement. Grantee shall invoice, and LMCD shall pay, for hours of Services performed by Grantee personnel at the rate of seventy-four dollars (\$74.00) per hour. The maximum amount that LMCD shall be obligated to pay hereunder shall be XXX Thousand Dollars (\$XX,000). Grantee shall provide a list of invoiced reimbursable expenses and, as applicable, receipts or copies of receipts therefor. Only those expenses directly related to providing the Services, as determined by the LMCD, are eligible for reimbursement under this Agreement. The LMCD will not be liable or responsible for paying any amounts, or reimbursing any expenses, that exceed the scope of this Agreement or that are not otherwise eligible for payment under this Agreement. The LMCD will pay invoices submitted by Grantee within 30 days of receipt of such invoices.

4. GENERAL TERMS

- 4.1. <u>Term.</u> This Agreement will commence on April XX, 2021 and will expire when the Services are completed, a final report submitted, all invoices have been submitted and paid. LMCD's obligation to pay Grantee is limited to Services performed from Memorial Day week-end through Labor Day. The parties shall exercise reasonable efforts to complete performance obligations herein prior to December 31, 2021.
- 4.2. <u>Termination of Agreement.</u> Either Party may terminate this Agreement for any reason upon 30 days' written notice to the other Party. Also, either Party may terminate this Agreement by giving written notice to the other Party in the event the other Party is in material breach of this Agreement and has failed to cure such breach within IO days of receipt of written notice from the other Party.
- 4.3. <u>Independent Contractor.</u> Grantee will act in all respects as an independent contractor under this Agreement and will be solely responsible for performance of Services required hereunder as well as the means and manner of performance thereof. The LMCD will not be an employer, partner, or co-venturer with Grantee for any purpose. Nothing herein authorizes Grantee to act as an agent or representative of the LMCD for any purpose whatsoever.
- 4.4. <u>Contact.</u> Major Jeffrey Storms, <u>Jeffrey.storms@hennepin.us</u> or his designee shall serve as Grantee's contact throughout the term of this Agreement. The LMCD Executive Director Vickie Schleuning, <u>vschleuning@lmcd.org</u> shall serve as the contact for the LMCD.
- 4.5. <u>Mutual Indemnification Obligation.</u> Each Party will indemnify and hold harmless the other Party and its representatives from all claims that may be asserted against the other Party that result from the negligent acts or omissions of the indemnifying Party related to the performance of this Agreement. Such right of indemnification will remain in full force and effect after this Agreement terminates. Nothing in this Agreement shall be construed as waiving any exceptions or limitations on liability available to either Party under law.
- 4.6. <u>Data Practices.</u> All of the data created, collected, received, stored, used, maintained, or disseminated by Grantee in performing the Services are subject to the requirements of the Minnesota Government Data Practices Act ("Act"), Minnesota Statutes, chapter 13 and shall be maintained and released in accordance with the Act.
- 4.7. Representations. LMCD represents and warrants that this Agreement and the rights granted herein shall not conflict with the terms of any other agreement, grant or obligations imposed by a third-party funding source on the LMCD. To the extent a claim is made against Grantee demanding forfeiture or other repayment of amounts due, payable, or paid hereunder, LMCD shall defend, indemnify, and hold harmless Grantee from any such claims, repayment obligation, cost, expense, or liability related directly or indirectly thereto. Grantee represents and warrants it has and can provide licensed and trained personnel, as well as sufficient equipment, to enable it to provide the Services required under this Agreement.

LMCD APPROVAL

LMCD warrants that the person who executed this Agreement is authorized to do so on behalf of **LMCD** as required by applicable articles , bylaws, resolutions or ordinances .

By: _____

Printed Name: Vickie Schleuning

Printed Title: Executive Director

Date: April XX 2021

COUNTY ADMINISTRATOR APPROVAL

Reviewed by the County Attorney's Office	COUNTY OF HENNEPIN STATE OF MINNESOTA
	By:
	Assistant/Deputy/County Administrator Department Director of
Date:	Date:
HENNEPIN COUNTY SHERIFF'S OFFICE	CONTRACTOR
Tracy Martin Chief Deputy Hennepin County Sheriffs Office	
Theimepin County Sherm's Office	
Date:	



ITEM 16- OPERATIONS COMMITTEE

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DAT	E:	April 28, 2021 (Prepared April 23, 2021)															
TO:		LMCD Board of Directors															
FRO	M:	Vickie Schleuning, Executive Director															
SUB	JECT:	Strateg	ic P	lan 202	1 Upd	ate											
	ION d review at at of the s				ırding	the nan	ne ch	nang	es to	the S	Stra	tegio	e Pri	ioritie	es and	the	
BAC	KGROU	IND															
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CON	SIDERA	TIONS	S														
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BUD	GET																
N/A																	
STR	ATEGIC	PRIO	RIT	IES_													
	Operation	nal		Clear	& Tim	ely		Eff	fectiv	/e			Lal	ke		X	Other
	Effective	eness		Comm	unicat	ions		Go	vern	ance	;		Pro	otecti	on	Λ	Onler
ATT	ACHME	ENT															

- Draft Strategic Priorities
- LMCD Mission, Vision, and Core Values

Lake Minnetonka Conservation District

Mission Statement

The mission of the Lake Minnetonka Conservation District is to preserve and enhance the "Lake Minnetonka experience." This is accomplished by providing leadership in protecting, improving, and managing lake use.

Vision Statement

Lake Minnetonka is a highly valued year-round asset with vibrant aesthetic, recreational, commercial, and natural qualities. These qualities and values will be protected and preserved for present and future generations.

Core Values

- Accountability
- Collaboration
- Integrity
- Leadership
- Quality Results
- Stewardship of the Lake



LMCD Strategic Plan 2021-22 (DRAFT April 23, 2021: Strategic Plan and Business Plan)

				1
Strategic Priority	Desired Outcome	Key Outcome Indicator (KOI)	Target	Strategic Initiatives 2021/2022
I. FINANCE	Capacity to deliver core functions	A. Quarterly & Year-end reports	i. 80% of annual core functions accomplished ii. 80% of annual priorities accomplished	
OPERATIONAL EFFECTIVENESS	Execution of strategic plan priorities	B. Major fund reserves –year-end balances	 iii. Fund reserves of 30 to 50% of annual expenditures for all funds (General, AIS Funds) *Committee set target of 35% **Distribute excess over 5 years 	
	Maintaining a strong financial foundation			
	Board and staff follow communication protocols	A. Stakeholder & partner feedback	i. 100% communication compliance by Board and staffii. 80% postivite	
II. COMMUNICATIONS	Partners & stakeholders find value in relationship	B. Amount of information communicated to	representation of LMC in outside media coverage/references. iii. 80% or greater of	
	 Increased understanding of purpose, rules & regulations 	stakeholders via websites, articles, brochure and other delivery methods.	stakeholders understand purpose, rules and regulations	
	Effective Board and Committee meetings	A. Number of meetings	i. Meetings rated greater than 7 on a 1-10 scale by Board ii. < 50 Board & Committee	
III. OPERATIONS, GOVERNANCE &	Well-trained Board and staff	B. Meeting length C. Decision processing	meetings annually iii. 75% of Board meetings < 3 hrs iv. 90% of	
REGULATION EFFECTIVE GOVERNANCE	3. Effective and respectful Board and staff relations4. Board meeting civility	D. Training records E. Processing time audit	Committee/Workshop meetings < 2 hrs v. 80% decisions made within 60 days	
	5. Reduction of staff time processing applications	E. Processing time addit	vi. 100% Board & staff member completion of training	
	6. Up-to-date rules and regulations		vii. 10% reduction in staff time processing licenses viii. All rules & regulations are up to date	
	Ensure a plan for addressing Aquatic Invasive Species	A. Over & underage consumption	i. 2 Public service announcements	
IV. AIS & LAKE PROTECTION AND REGULATORY	2. Ensure public safety on Lake Minnetonka	B. Boating compliance	ii. Facilitator of AIS Initiatives Protection/Management	
		C. Litter		
	Execution of strategic plan priorities	A. Quarterly Donor Letter	i. 80% of annual core functions accomplished	
V. SAVE THE LAKE (FUNDRAISING)	Maintaining a strong financial foundation	B. Quarterly reports	ii. 80% of annual priorities accomplished	
		C.Major fund reserves –year-end balances	 iii. Fund reserves of 30 to 50% of annual expenditures for all funds (General, AIS Funds) *Committee set target of 35% **Distribute excess over 5 years 	
		D. Special events		

ITEM 16- COMMITTEE MINUTES

COMMUNICATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

9:00 a.m., February 25, 2021

Virtual

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

1. CALL TO ORDER

The meeting called to order at 9:00 a.m.

2. ROLL CALL

Members Present: Ann Hoelscher, Michael Kirkwood, Gary Hughes, Jake Walesch (Dennis Klohs and Dan Baasen joined shortly after roll call). Vickie Schleuning was also in attendance.

3. APPROVAL OF MINUTES

Meeting minutes from 2/11/2021 Communications Committee meeting were approved following a motion by Walesch, seconded by Kirkwood to approve as submitted.

4. TOPICS

A) WAKE PROCESS REVIEW PAGE

Kirkwood asked to add links for Citizens For Sharing Lake Minnetonka to LMCD website. Vickie Schleuning and others will review the links to make sure all information is appropriate.

B) STRATEGIC PLAN FOR COMMUNICATIONS SECTION

Communications Committee members will have input for March 11 meeting (or at next Communications Committee meeting after that).

C) NETWORKING WITH ELECTED OFFICIALS

Status of communication (letters and calls) with elected officials. Will consider Goff proposal for legislative monitoring in future budget years.

D) MINNESOTA LAKES AND RIVERS ADVOCATES

Discussed whether LMCD should become a member. Will re-visit at future meeting.

E) MONTHLY ARTICLES AND VIDEOS

Will move forward with Save The Lake article ASAP (after next Save The Lake meeting). Will review next topics and move forward with next article. Kirkwood will call about pricing for distributing and promoting article from a vendor.

F) NEXT SECRETARY

Dennis Klohs will be the Secretary at the next Communications Committee meeting.

Communications Committee Minutes February 25, 2021 Page 2

5. ADJOURNMENT

The meeting was adjourned at 9:55 a.m.

Respectfully Submitted,

Jake Walesch, LMCD Communications Committee Member

COMMUNICATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD) 9:00 a.m., March 4, 2021

Virtual

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

1. CALL TO ORDER

Hoelscher called the meeting to order at 9:08 am.

2. ROLL CALL

Members Present: Ann Hoelscher, Dan Bassen, Jake Walesch and Gary Hughes. Also Present: Vickie Schleuning, Executive Director

Members Absent: Mike Kirkwood and Dennis Klohs

3. CHAIR ANNOUNCEMENTS

Hoelscher will serve as secretary for this special meeting.

4. TOPICS

A) HF 1606

Committee discussed LMCD response to state wake surfing legislation. Committee will draft a proposed position statement for discussion at upcoming Board workshop.

B) Board meeting special guests

Committee discussed logistics of local legislators at upcoming Board meetings. Staff will request introduction from guest and constituent board member will introduce.

C) Other items

None

5. ADJOURNMENT

The meeting was adjourned at 9:45 a.m.

Respectfully Submitted,

Ann Hoelscher,

LMCD Communications Committee Meeting Secretary

OPERATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

10:00 a.m., March 16, 2021

Virtual

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

1. CALL TO ORDER

Zorn called the meeting to order at 10:02 am.

2. ROLL CALL

Members Present: Richie Anderson, Gary Hughes, Gregg Thomas, and Deborah Zorn

Members Absent: Ann Hoelscher

3. CHAIR ANNOUNCEMENTS

None

4. APPROVAL OF MINUTES (2/16/2021 LMCD Operations Committee)

Motion to approve minutes was made and seconded. Motion passed.

5. TOPICS

A) Review Feedback from Committees on Strategic Plan

The committee discussed the need for feedback from the other LMCD committees on suggested updates to the segment of the strategic plan that is related to their committee's activities. Schleuning will send a request out to the committee chairs. Zorn will collate the committee's responses for review at a future Operations Committee meeting.

B) Draft Minute Distribution

The committee discussed the process for distribution of their draft meeting minutes. In the future, the draft minutes will be sent to the committee chair and executive director for initial edits. Then the minutes will be distributed in draft form to the committee members. This will allow for review of the minutes prior to their being approved at the next meeting.

Thomas will send an email to all committee chairs informing them of this distribution process for their consideration.

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5. ADJOURNMENT

The meeting adjourned at 10:40 a.m.

Respectfully Submitted,

Gregg Thomas LMCD Operations Committee Member

SAVE THE LAKE COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

5:00 p.m., January 12, 2021

Virtual

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

1. CALL TO ORDER

The meeting called to order at 5:10 p.m.

2. ROLL CALL

Members Present: Dan Baasen, Bill Cook, Denny Newell, Gregg Thomas, Mark Kroll, Rich Anderson, & David Gross. Also present: Executive Director Vickie Schleuning

Director Anderson was added as a member of the Save the Lake Committee.

3. CHAIR ANNOUNCEMENTS

4. APPROVAL OF MINUTES

Thomas motioned, Baasen seconded to approve the 11/10/2020 Save the Lake Committee Meeting minutes. Motion passed.

5. TOPICS

A) Committee Chair and Secretary Appointments

The committee voted; Baasen was appointed committee chair, and Denny Newell Secretary.

B) Save the Lake Financials

The committee reviewed the Save the Lake Fund performance for 2020, and discussed a more aggressive appeal for contributions for 2021. Newell had several suggestions including expanding deputy coverage in the future from increased revenues. The committee agreed to explore alternatives for increasing contributions and supporting additional issues facing the lake.

6. ADJOURNMENT

The meeting was adjourned at 6:15 p.m.

Respectfully Submitted,

Vickie Schleuning, LMCD Executive Director