

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, May 26, 2021

Join Zoom Meeting

https://us02web.zoom.us/j/83429229954?pwd=ZC9pcGdFbmtSNFVkV2w4V1k2ZzV1Zz09

Dial by your location

+1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago)

Meeting ID: 834 2922 9954 **Passcode**: 630349

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. Review and Discussion Regarding Sales on the Lake

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) APPROVAL OF MINUTES (05/12/2021 LMCD Regular Board Meeting)
- 7) APPROVAL OF CONSENT AGENDA
 - **A.** Audit of Vouchers (05/16/2021 05/31/2021)
 - **B.** Approval of Joint Variance Applications for Side Setbacks and Structure Dimensions for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090, and 16930 Grays Bay Boulevard, Minnetonka, MN 55391Approval of Variance for Adjusted Dock Use Area, Length and Side Setbacks, for 940 North Arm Drive, Orono, MN 55364
 - C. Denial of New Multiple Dock License for Expansion of Boat Slips and Structures, and Variance Application for Dock Length and Side Setbacks, 5th Street Ventures/Back Channel Brewery, Spring Park, MN 55384
- 8) 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.
- 9) PUBLIC HEARING
- 10) OTHER BUSINESS
- 11) OLD BUSINESS
 - A. Approval of Preliminary 2022 LMCD Budget
- 12) NEW BUSINESS
- 13) TREASURER REPORT

14) EXECUTIVE DIRECTOR UPDATE

15) STANDING LMCD COMMITTEE UPDATE

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

16) ADJOURNMENT

Future Items for Review – Tentative

- Lake Use Vision and Policy Discussion Continuing Series
 - o Deicing Eligibility Expansion Review
 - o Review of Types of Watercraft and Prototypes

WS ITEM 1



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 26, 2021 (Prepared May 19, 2021)

TO: LMCD Board of Directors

FROM: Vickie Schleuning, Executive Director

SUBJECT: Review and Discussion Regarding Sales on the Lake

ACTION

Board review and discussion regarding regulations and options about sales of merchandise and goods on Lake Minnetonka.

BACKGROUND

Historically sales and all parts of the process, including delivery by watercraft has not been allowed. Staff periodically receives inquiries regarding sales and delivery of merchandise and goods on the lake. The LMCD does have the ability to regulate commercial transactions on the Lake. Its current ordinance does prohibit transactions directly from a watercraft due to public health, safety, and environmental concerns due to increased litter. However, improvements to the code could be made to clarify the requirements or if the Board wishes to change the ordinance to allow sales or certain aspects thereof. A copy of a 2016 memo from legal counsel regarding this topic is attached. Please note that the number of the code section has been changed since the recodification and is included as a code excerpt attachment with highlighted relevant code sections.

This topic has been previously discussed by the Board in 2016 and as peripheral discussion during the fuel boat request in 2019. Recently, the Operations Committee discussed how best to approach the issue of delivery of goods and retail sales on the lake. This item has also been slated for specific review. Some of the items to discuss include:

- Retail sales differentiation from services
- Vending machines/sales of goods on commercial docks
- Delivery of food to commercial dock for boat pickup, overnight storage versus transient
- Delivery of food by restaurant employee by watercraft to a boat on the lake
- Delivery of food by third party (purchased at restaurant) by watercraft to a boat on the lake.
- Licensing requirements if sales or delivery allowed.
- Other

Review and Discussion Regarding Sales on the Lake LMCD Board Meeting May 26, 2021

CONSIDERATIONS

- Would sales activities align with the LMCD's mission and goals?
- Could the public benefit from on-lake sales, and in what ways?
- What type of negative impacts could be experienced for allowing on-lake sales?
- What impact would on-lake sales have on the various stakeholders, e.g. marinas, licensed transient facilities, lakeshore owners, etc.?
- Will the benefits outweigh any negative consequences?
- What, if any, impact would the cost of entry have on the type and safety of the type of sale goods? For example, food delivery, fuel delivery, merchandise sales, etc.

R	T	Ħ	n	C	1	Ŗ٢	Г
n	ı)	,	•		Π,	

There may be increased costs associated with complaints, enforcement, and cleanup. Some concerns about sales activities at congested areas such as Big Island exist regarding navigation and safety. However, it could be offset by license fees.

ST	RATEGIC PRIO	RIT	TIES				
	Operational Effectiveness		Clear & Timely Communications	Effective Governance	X	Lake Protection	Other
ΔT	TACHMENT						

- Current Code Excerpts
- Legal Counsel Memo April 6, 2016
- Minute Excerpts April 13, 2016
- Minute Excerpts May 25, 2016
- Code Amendment Options Presented May 25, 2016

ATTACHMENT- CODE EXCERPTS

8-1.11. Public Safety Restrictions.

Subd. 4. Commercial Sales on the Lake. It is unlawful for any person to sell food, beverages, supplies or other merchandise from any watercraft on the Lake, except that food and beverages may be sold on a watercraft for hire that has a current certificate of registration from the LMCD.

3-3.13. Commercial Accessory Structures and Uses. Certain commercial accessory structures and uses may be allowed on commercial structures constructed and operated as part of a commercial use, but only if such structure or use is provided for in the license issued for the commercial structure. Any such allowed commercial accessory structure or use must be constructed and operated in accordance with any conditions or restrictions placed on the license, Effective February 25, 2021 3-11 515348v7LK110-52 the standards established for the particular accessory structure, the general standards established for commercial accessory structures and uses, and all other applicable provisions of this Code. The commercial accessory structures and uses that may be allowed are as follows:

- (a) Fuel sales facility;
- (b) Service console and shelter; and
- (c) Transient use.

3-3.17. Service Consoles and Shelters. If a fuel sales facility is authorized as part of the license for a commercial multiple dock or a commercial single dock, the Board may authorize as part of the same license the construction and maintenance of service consoles or shelters subject to the limitations in this Section and all other applicable provisions of this Code.

- (a) The construction and maintenance of service consoles or shelters may only be authorized for use in conjunction with the sale of fuel to the public
- (e) No service consoles or shelters shall be used for the display or sale of any goods or merchandise other than fuel and oil

MUNICIPAL LICENSES 6-3.01. Municipal Multiple Dock License.

- Subd. 4. Additional Criteria. The following additional criteria shall apply to municipal multiple dock license application proposing additional length or width:
 - (a) The dock must be owned and operated by a city, county, or state agency;
- (b) The dock must be open to the general public, subject to reasonable regulations of the owner;
 - (c) No permanent or overnight storage shall be allowed at the dock;
- (d) No license shall be granted for a dock extending more than 150 feet from the shoreline; and
 - (e) No retail sales, other than fuel, shall be permitted on the dock.

Kennedy

æ

Graven

CHARTERED

Troy J. Gilchrist
470 US Bank Plaza
200 South Sixth Street
Minneapolis MN 55402
(612) 337-9214 telephone
(612) 337-9310 fax
tgilchrist@kennedy-graven.com
http://www.kennedy-graven.com

Also: St. Cloud Office 501 W. Germain Street, Suite 320 St. Cloud, MN 56301 (320) 240-8200 telephone

MEMORANDUM

Date: April 6, 2016

To: Lake Minnetonka Conservation District Board of Directors

From: Troy Gilchrist, LMCD Attorney

Re: Limiting of Commercial Sales and Deliveries on the Lake

This memo addresses a question recently raised regarding the regulation by the Lake Minnetonka Conservation District ("LMCD") of commercial sales and deliveries from watercrafts on Lake Minnetonka ("Lake"). While the LMCD's current ordinance ("Ordinance") limits sales directly from watercraft, there is a concern that businesses will begin to take orders from boaters via the internet and then deliver the items on the Lake. While the Ordinance could be read to limit such transactions, its language is ambiguous enough that an argument could be made that the delivery of items is not a sale under the Ordinance, and therefore is allowed. The Ordinance should be clarified by an amendment to make sure that the intent of the Board of Directors ("Board") is being met in limiting all forms of commercial transactions on the Lake.

Current Ordinance

Section 3.01, subd. 18 of the Ordinance provides:

It is unlawful for any person to sell food, beverages, supplies or other merchandise from any watercraft on the Lake; provided, however, that food and beverages may be sold on watercraft to passengers who leave the shore and return on the watercraft on which such food and beverages are sold.

The Ordinance clearly prohibits direct sales from a watercraft on the Lake. Practically, there is likely no difference in a vendor selling directly from a watercraft and the same vendor taking an order over the internet and then delivering the products on a watercraft. However, an argument could be made that the simple delivery of products is not prohibited by the Ordinance. While a

judge may not see a distinction, I recommend amending the Ordinance to clarify that the sale and delivery of items as part of a commercial transaction are prohibited.

If one considers the flexibility allowed by making purchases using smart phones, an internet sale from a watercraft could for all practical purposes be handled exactly the same way as a traditional sale and produce all of the negative effects the Board was attempting to address by prohibiting such sales. For instance, a watercraft with goods for sale could pull up to other watercraft and solicit them for sales that then are completed by phone. Taking that scenario one step back, the watercraft with goods for sale is on the Lake and then waits for an order to be placed over the internet and then travels to the buyer's location to deliver the goods. It seems clear these are different degrees of the same transaction (offer, purchase, delivery) and can result in the same negative impacts the Board intended to regulate.

Internet Sales

After extensive research, I did not find anything to suggest that a business would be exempt from the provisions of the Ordinance simply because orders are placed online. Recently, the state has clarified that online sales must pay sales tax for transactions delivered within the state as long as the seller has a nexus to the state (storefront, warehouse, salesperson, etc.). If the seller does not pay sales tax, the person obtaining the goods must pay a use tax. This clarification in the law shows the desire to treat online sales in the same manner as storefront purchases.

In limiting commercial transactions on the Lake, the LMCD is not treating online business any different from traditional transactions. The Ordinance simply regulates the types of activities that can take place on the Lake. I have found no authority to suggest that the limiting of commercial activities on the Lake need to make a distinction between online transactions and traditional transactions.

Conclusion

The LMCD does have the ability to regulate commercial transactions on the Lake. Its current ordinance does prohibit transactions directly from a watercraft. However, in order to be sure the Board's intent is met, the Board should consider an amendment to the Ordinance to clarify that no part of a commercial transaction for goods shall take place on the Lake.

work with the LMCD.

The representatives responded to the follows questions:

- The phased plan is offered at the experience of the consultant and how the city would be in the best position to raise the needed funds. It was not approved to date based on what is advisable and able to be permitted.
- Whether more than one EAW will be needed is undetermined; offering Phase 2 is the most aggressive and complex. There is a need to assure all in existence works better.
- It was not anticipated to add any more floating docks than were approved and in use at this time.

Baasen stated that this project has resulted in a tremendous amount of input from the public. He stressed how early the city is in this project and that much of this depends on the funds raised.

Green thanked both representatives for their time.

C) Clarification of LMCD Code Section 3.01, Subd. 18, "Commercial Sales on the Lake" from LMCD Civil Attorney Troy Gilchrist

Gilchrist directed the Board to his memo, dated 4/6/16, which was written in follow-up to the Board's request to consider the current LMCD code as it relates to commercial internet sales and delivery on the Lake. He believed the current ordinance clearly prohibited direct sales from a watercraft on the Lake. However, there could be an argument that the simple delivery of products is not prohibited by the ordinance. Therefore, he recommended clarifying that the sale and delivery of items as part of a commercial transaction are prohibited. He provided examples offered within his memo and recommended, if it was the direction of the Board, to direct him to amend the ordinance that would offer further clarification in prohibiting commercial sales on the Lake via internet transactions.

Hoelscher made the following comments: 1) she believed the current ordinance did not prohibit any services; providing for the ability to operate the proposed business of washing docks (outlined under Public Comments) and 2) there was a need for the Board to have further discussions relative to commerce on the Lake. She stressed that safety should be the main focus in this consideration.

Jabbour stated that he spoke to the State Health Department and they informed him the delivery of food to watercraft on the Lake would be prohibited. He recommended the Board consider the ordinance, as well as others, during a re-codification process of the LMCD Code of Ordinances.

Green expressed concern in offering a blank approval for services as some do pose a safety concern, such as fuel delivery.

Hoelscher believed that the current code would not prohibit any services, including the delivery of fuel on the Lake.

Gilchrist made the following comments: 1) he concurred that the current ordinance does not expressly

consider services. He recognized that taking a look at potential commercial sales, or for any matter in that regard, on a broader scale is difficult and expends a great deal of time, 2) he believed it made sense to take a look at requests on a case by case basis, 3) he would be coming back to the Board in the near future with other ordinance amendments that have been previously considered by the Board, and 4) he stressed that establishing the process for re-codification of the code is just as important as the consideration of its expense.

Nybeck stated that he and Lt. Vnuk from the Hennepin County Sheriff's Water Patrol (Water Patrol) met with Mr. Hay and his business partner regarding the proposed business (outlined under Public Comments). Vnuk had communicated that the placement of "Looney Island" would require a special event permit. Although the LMCD has delegated the issuance of special event permits to the Water Patrol, the code does allow the executive director to also bring one forward to the LMCD Board. Therefore, he recommended that the future executive director consider this.

D) Working group update on recruitment for Interim Executive Director

Green provided an update on the process involved in selecting an interim executive director in which four candidates expressed interest. Eight Board members were in attendance to interview three selected candidates; after which, a recommendation was made to hire Jim Brimeyer. At this time, the working group is working with Gilchrist and Meyer to draw up an agreement. In the interim, Gilchrist drew up a resolution, within their packet, that would allow the Board to establish a temporary interim executive director position and make the appointment.

Gilchrist stated that he is currently working on an employment agreement that would designate the hiring of Brimeyer as a temporary employee (confirming he is not acting as an independent contractor or a volunteer). In the interim, he highlighted the key terms offered in the draft resolution that will be outlined within the agreement (reading them into the record). He entertained questions and comments in which he offered the following responses: 1) being an at-will employee does not prevent one from filing for workman's compensation, 2) Brimeyer would be exempt from receiving PERA contributions based on the term of the agreement, 3) the agreement will further clarify that that the hourly rate of \$37.50, charged for work outside the office, does not include Lake-based visits and meetings (simply home office hours).

Concern was expressed by some Board members that they were not hiring an interim executive director on an independent contract basis.

Gilchrist stated that he was not aware if the other candidates were independent contractors but offered that as an option should they not proceed with the approval. Additionally, he provided information as to the laws involved in being defined as an independent contractor.

Green had asked those not present during the interview process if they had any questions relative to the candidates interviewed.

Jewett expressed concern for not realizing Brimeyer was not acting as an independent contractor at the

that the IED is not the person for that responsibility, given his "learning curve" is quite steep and his time is better spent on other tasks. The IED recommends that the Administrative Assistant be placed in the Technician role and maintain her position as Adm Assist. Her responsibility would be 60-70% as Technician and 30-40% as Adm Assistant. The IED further indicated that he intends to negotiate some contract time from the former Technician to assist the staff with code interpretation and provide some historical perspective on a variety of topics. With this change the IED recommends the Adm Assistant/Technician hourly rate be adjusted to \$28.00 per hour from the current \$24.97 per hour to be effective May 31, 2016.

There will be a need to adjust the budget in July to reflect this increase as well as some consideration to modify the budget to consider a recodification of the codes and the cost to begin converting files to an electronic form.

E) Data Practices and Open Meeting Law Discussion

The attorney brought several items to the attention of the Board. Among those items, he advises:

Avoid a series of calls with other members, referred to as a "daisy chain";

When a quorum is present, it is a public meeting and public notice is required;

Avoid conducting a series of meetings to discuss an issue;

The "working group" concept is acceptable - provided there are no scheduled meetings, it is a volunteer appointment and it is very informal with specific duties;

The penalty for violating the Open Meeting law is \$300.00. If three offenses, individual is dismissed from the office, pays the penalties and legal fees. If it is a "defensible" alleged violation, the League Insurance Trust would cover legal fees, not to exceed \$13,000.00;

The resumes for the Executive Director position are private data, until finalists are chosen for an interview, which then becomes public information;

Private emails are subject to "discovery" in the event of any legal action:

If there is a threat of litigation, members should avoid any discussion with any parties affiliated with the litigation; Retain all data, do not erase anything and do not give "informal" advise to anyone - this conversation is also subject to discovery in the event of legal action.

The meeting adjourned at 8:10 PM

D) Staffing

D) Review status of possible changes to LMCD Code with legal counsel Troy Gilchrist and establish priorities

Gilchrist directed the Board to a chart of ordinance provisions and respective draft ordinances for consideration of variance standards, special events, public nuisances, boats for hire, and commercial sales on the Lake. The Board offered lengthy discussion relative to special events, public nuisances (specifically noise), and commercial sales on the Lake (two ordinance amendment options offered). However, the discussion of boats for hire was tabled. Based on the comments offered, Gilchrist was directed to further draft the respective ordinance amendments and solicit additional review by the sheriff and prosecuting attorney.

E) Training session on Data Privacy

This agenda item was tabled.

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:03 p.m.							
James Jay Green, Chair	Gregory J. Thomas, Secretary						

DRAFT COMMERCIAL SALES AMENDMENT OPTIONS

OPTION 1

Article ____. Commercial Sales on the Lake. Chapter III, Section 3.01, subd. 18 of the LMCD Code is hereby amended by adding the following double underlined language:

Subd. 18. Commercial Sales on the Lake. It is unlawful for any person to sell <u>or deliver</u> food, beverages, supplies or other merchandise, <u>products or goods as part of a commercial transaction no matter how initiated</u> from any watercraft, <u>vehicle</u>, <u>or other device</u> on the Lake; provided, however, that food and beverages may be sold on watercraft to passengers who leave the shore and return on the watercraft <u>or vehicle</u> on which such food and beverages are sold.

OPTION 2

Article ____. Commercial Sales on the Lake. Chapter III, Section 3.01, subd. 18 of the LMCD Code is hereby amended by adding the following double underlined language:

Subd. 18. Commercial Sales on the Lake. It is unlawful for any person to sell <u>or deliver</u> food, beverages, supplies or other merchandise, <u>products or goods as part of a commercial transaction no matter how initiated</u> from any watercraft, <u>vehicle</u>, <u>or other device</u> on the Lake.; provided, however, that This prohibition does not apply to any of the following:

- <u>a)</u> The sale of food and beverages may be sold on watercraft to passengers who leave the shore and return on the watercraft, vehicle, or other device on which such food and beverages are sold; or
- <u>b)</u> The provision of maintenance services such as the repair, towing or cleaning of watercraft, or the installation, repair or cleaning of docks, rip rap, or shoreline maintenance.

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

6:00 P.M., May 12, 2021 Wayzata City Hall Virtual Meeting

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.

WORK SESSION

6:04 p.m. to 6:59 p.m.

Members Present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Jake Walesch, Deephaven. Also present:; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members Absent: Ann Hoelscher, Victoria; and Deborah Zorn, Shorewood

Persons in Audience: Bev Aho.

The following username was also present, but the person(s) did not identify themselves: "PC"

1. Continued Discussion Regarding Preliminary 2022 Budget

Thomas stated that tonight he wants to have input from the Board on the proposed 2022 budget. He asked Anderson to provide a brief overview of the recommended 2022 budget proposal from the Finance Committee.

Anderson stated that since the last work session, the Finance Committee met with staff to review any concerns with the proposed budget. He noted that there are also overlapping members of the Finance, AIS and Save the Lake committees therefore input was able to be received from those committees as well. He reviewed the year end reserve account balances.

Thomas stated that the original intent was to review this at the work session and then include on the regular agenda, but he decided it would be better to have the Board provide feedback with formal consideration to come back at the next meeting in two weeks.

Baasen stated that Anderson has convinced him that the LMCD should not attempt to collect AIS municipal dues. He stated that rather than stating the LMCD will be discontinuing AIS activities, it should be stated that the LMCD suspending the AIS levy and is utilizing the funds previously levied to complete the Master Plan process.

Brandt commented that the LMCD has discontinued harvesting, therefore, making the AIS levied funds unnecessary this year. He stated that the LMCD has not harvested for the past three years, therefore it did not make sense to levy for those funds this year and the AIS line item included in the budget should be funded through the AIS reserve fund this year. He agreed that this should be communicated as a suspension while the LMCD determines its role in AIS management moving forward.

Thomas noted that the AIS budget has always been equated to harvesting but noted that there is more to AIS than just harvesting. He provided examples of recent equipment that was purchased and installed at a launch point, watercraft inspection at launch locations, and potential seed funding for Lake Improvement Districts (LID's). He wanted to ensure that AIS was not confused with harvesting.

Brandt stated that those options are still on the table and the AIS Committee is working on criteria that would be used to evaluate options and requests. He stated that the overlying goal would be that the LMCD is not going at this alone and instead looking for partners and working towards long-term goals for the lake. He noted that the intent would be for the AIS Committee to review and screen requests and then bring recommendations to the full Board for consideration. He stated that the Committee is still working to develop the criteria and list of initiatives and welcomed additional ideas or suggestions other members of the Board may have.

Cook commented that it was previously explained to him that the AIS levy was simply a way to track the costs of the harvesting program and other AIS activities. He stated that the activities were always lumped together with the municipal dues and he agreed that it would be a good message to remove that from the municipal dues category and only use a single municipal dues category. He stated that the single category would be intended to fund the AIS item in the future along with initiatives from Save the Lake. He commented that he does not see this as limiting future options but instead expanding future options.

Hughes commented that the Finance Committee did a good job of cleaning this up and he looks forward to reviewing the final draft.

Kirkwood stated that he is impressed with the work the AIS Committee is doing. He stated that as a member of the Communications Committee, he believes those funds would be thoroughly spent. He referenced staffing and asked if there is adequate staffing or additional staffing needs and whether she has spoken to the Board Chair.

Schleuning stated that she is not sure the Chair and her is in agreement in terms of staffing levels. She acknowledged that sometimes staff is spread very thin as inquiries are increasing and the clientele demands a high level of service from staff. She stated that she is concerned that a part-time employee could be lost because of the low pay. She believed that additional hours would be helpful.

Kirkwood commented that it would be helpful to have the website more responsive to current events, as that could help to answer some of the questions residents may have. He stated that he would support whatever it would take to keep that maintained.

Thomas stated that he was not as enthusiastic about adding staff. He noted that hours were increased for

one employee within the last year and one staff member joined the organization within the last year. He stated that his main hesitation would be asking for more funds from the cities for additional staffing when cities are currently watching their own staffing levels. He stated that he is not the veto for that decision and any member of the Board could make a recommendation or motion at a formal meeting and the Board could vote on that. He acknowledged that some members of the Board may feel that this would be the appropriate time to discuss staffing needs during the budget discussions.

Schleuning stated that staff resources is still less than it was when she joined in 2016.

Klohs stated that a lot of time has been spent talking about AIS and noted that there are numerous items within the Strategic Plan that the group has not had time to implement. He stated that if the AIS funds are not levied at this time and are needed in the future, which would be a significant increase for the cities which does not typically go over well. He stated that he believes it would be ill advised to levy for less money at this time and would prefer to return funds to the cities if that is the desire. He stated that the budget was cut by ten percent in the past and then, when it was increased again years later the cities did not like that. He believed the better option would be to refund monies to the cities, as that would garner more positive attention from the cities.

Thomas acknowledged that the AIS Committee has not yet had enough time to delve into the Master Plan and initiatives.

Klohs stated that he believes that decreasing the levy should be voted on separately. He stated that he would want the levy to remain stable. He noted that this would be making a decision on something when they are not yet through the process of determining what the future of AIS activities will be. He noted that decreasing the levy and then attempting to increase it at a later date has never been well received by the cities. He stated that the LMCD never has enough money or staff to complete the things they planned for.

Kroll referenced the recent changes to restrictions from the Governor and asked why the Board is continuing to meet via Zoom.

Schleuning stated that there is not yet a room available for meetings. She stated that she will be alerted when the room is open.

Kroll suggested looking for other options for meeting space.

Newell commented that he serves on both the Finance and AIS committees and therefore has perspectives from both groups. He stated that he agrees with the recommendations thus far on the way the budget has been presented. He stated that he agrees that elimination of the AIS levy is probably best framed as a suspension rather than an elimination. He stated that immediate relief can still be provided to the communities as that assessment will no longer occur and this will provide a path to move forward. He stated that the AIS Committee is working hard to identify a new mission. He believed that there are things the LMCD can do to benefit the lake in terms of AIS. He asked for additional time for the committee to further assess ideas and present a scope for moving forward. He believed suspension of the levy would provide that flexibility but also provide the communities with the message that the LMCD will not be charging them for funds that will not be spent.

Walesch commented that the Finance Committee has done a great job. He stated that this provides clarity and makes it easy to understand. He agreed with moving the AIS item into the general budget rather than having a separate levy as the future is not yet known. He commented that this is a simple budget that is easy to understand. He stated that he supports moving the bloated reserves into the budget as he does not believe it is appropriate to sit on 140 percent reserves. He stated that it is time to address the reserve balances and the Finance Committee has done that in an appropriate manner. He believed that the Board should have continued conversations related to the appropriate reserve levels and how those funds should be allocated.

Thomas stated that before this goes to the Board for formal approval, he would like to see the typical spreadsheet the organization uses that shows the breakdown of assessment for each city. He stated that some of the reserve funds could be moved into the budget as recommended by the Finance Committee. He stated that another option was mentioned tonight to provide a rebate to the cities, noting that each item would provide the same effect.

Anderson reviewed the amounts that cities would want in rebate that vary in amounts. He stated that the LMCD would be using reserve funds in a manner that is fiscally responsible to reduce dues. He stated that giving money back to the cities would be messy whereas this option is simple.

Walesch commented that there are multiples ways the organization could go about this and would prefer to keep things simple. He stated that this would be under the guise that this is a responsible budget and covers the needs of the organization while being fiscally responsible. He stated that he asked his city and while the AIS levy is not a huge item relative to the overall budget for a community, his city would like to see something responsible that makes sense. He stated that his city does not want the LMCD to spend money it does not need to spend just because it was in the previous budget in order to maintain a stable levy.

Thomas stated that it does not sound like there is support for the rebate option.

Schleuning commented that in 2015, for the 2016 budget, the AIS levy was reduced, and it took quite a while to get it back up to prior levels. She stated that cities have said that they prefer a more consistent budget. She stated that if rebates were desired, she does not believe it would be that difficult for staff to complete. She stated that the equipment replacement fund could easily be used replacing current equipment.

Thomas asked if the cost to replace the truck should be placed in the 2022 budget using the equipment reserve fund.

Schleuning confirmed that she would like that to be included. She noted that she has a list of things that could be replaced and provided some examples such as buoys. She believed that would be a much bigger discussion that could occur at a later time. She stated that if something is removed from the budget, it will be difficult to get it back in the future.

Thomas stated that it sounds like staff would have some ideas to include in the 2022 budget.

Page 5

Schleuning stated that there are some items that could be included in the budget or those purchases could come from the reserves.

Anderson stated that he has had that discussion with Schleuning which is how the funds to purchase the boat were included in the budget. He stated that he was not aware of the truck or other ideas.

Schleuning stated that the truck is 20 years old and is not the type of truck the LMCD needs at this time.

Anderson commented that the truck could be sold, and a new truck could be budgeted for next year.

Schleuning commented that she has a list of items and would like to discuss those as part of the reserves discussion, but noted that a significant amount of decrease in funding is being proposed as part of the budget discussion.

Stone stated that she would be interested in hearing the suggestions from staff.

Schleuning stated that she could distribute the list to the Board. She stated that she was not fully aware that \$100,000 would be removed from the budget and has additional input from staff and needs of the LMCD.

Anderson stated that he will recommend that the Finance Committee stay with this budget. He stated that he would be willing to review the list from staff but noted that is a last-minute addition. He believed that the budget is solid and would be well received from the cities.

Schleuning stated that she believed that she was asked to look at the needs for a reserve fund discussion, which is how her list arose. She stated that there is an issue with timing because of the budget timeline.

Walesch commented that the list could still come through the reserve fund discussion as there is more balance in those funds than needed.

Schleuning stated that perhaps she misunderstood as she prepared that information for the reserve fund discussion.

Thomas stated that the feedback from the Board on the draft budget has been positive and commended the Finance Committee for the work they have done. He commented that he looks forward to seeing the final proposal at a regular meeting in two weeks.

There being no further business, the worksession was adjourned at 6:59 p.m.

FORMAL MEETING

7:00 p.m.

Persons in Audience: Bev Aho; John Bendt; Patricia Bodeker; Dustin Fossey; Rick Gorra; Mary Kiley; Josh

Page 6

Leddy; Craig Peterson; Andy Stone; Joel Stone; and, Steve Tallen.

The following usernames were also present, but the person(s) did not identify themselves: (612) 723-0783; iPad; Melissa; Murdych; and, PC.

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; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; 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: Bill Cook, Greenwood; and Ann Hoelscher, Victoria.

4. APPROVAL OF AGENDA

MOTION: Zorn moved, Brandt seconded to approve the agenda as submitted.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. PUBLIC PRESENTATIONS

A) Steve Tallen, LMCD Prosecuting Attorney

Steve Tallen commented that the past year was a strange year for the courts, as there seemed to be less activity in the courts. He commented that the activity on the lake was significantly increased during the past year, noting that the fine revenue also increased. He stated that while the fine revenue was increased, the fees paid to him were less. He stated that the LMCD is not in the business of prosecution to make money, but it is nice when more funds are gained through fine revenue than paid in legal expenses for prosecution. He stated that court was strange in 2020 as courts were suspended during certain periods and then court switched to be held via Zoom. He stated that this fall things may go back to in-person court. He noted that there were no jury trials from March of 2020 through April of 2021, which has created a backlog of cases for the courts. He referenced the ordinance the Board passed a few years ago related to social hosts and believed that has been a big success as he has seen a decrease in those types of cases since that ordinance went into effect. He stated that unlicensed rentals continue to be an issue which has resulted in some fines. He stated that there is a meeting scheduled with him, Schleuning and the Sheriff's Department to discuss what could be done to combat the issue of unlicensed rentals.

Schleuning commented that enforcement is never a money-making endeavor. She stated that although more was received in fine revenue than paid in prosecuting fees, the LMCD also conducts inspections and funds a portion of Water Patrol. She stated that overall, the majority of people are compliant once a warning is issued.

Kirkwood commented that several members of the Board are new of the past few years and asked for some background information on Tallen.

Tallen provided background information on his career experience and the municipalities that he provides prosecution services for. He stated that he still believes in individual responsibility and that people should be treated as you would like to be treated. He stated that his average customer on the lake is typically different than his average customer in other instances.

Kirkwood asked for situations in which the police would be encouraged not to make stops.

Tallen commented that the direction for Water Patrol from the Sheriff's Office during 2020 was that some stops were not worth the risk of contracting COVID.

Thomas stated that each year staff brings a list of contracts for approval, typically as part of the Consent Agenda, and Tallen's contract is included in that list.

Anderson stated that \$25,000 is included in the draft 2022 budget and asked if that would be sufficient.

Tallen commented that seem consistent with what is usually included in the budget. He explained that it is often hard to predict to a better level as his job is reactive to the cases that come forward. He noted that if his fees come in over budget, typically more fine revenue is generated to cover that difference.

Anderson asked the fine for too many boats at a dock.

Tallen commented that there is not a fine schedule. He stated that there is a minimum fine of \$350 plus a surcharge of \$78 for a misdemeanor, which these violations would be. He stated that the fine would be related to the type of violation, with the highest fine allowed at \$1,000. He noted that most people comply once it is pointed out to them.

Thomas thanked Tallen for his continued service and for the update.

7. APPROVAL OF MINUTES- 4/28/21 LMCD Regular Board Meeting

MOTION: Brandt moved, Kirkwood seconded to approve the 4/28/21 LMCD Regular Board Meeting

minutes as submitted.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

8. APPROVAL OF CONSENT AGENDA

MOTION: Walesch moved, Kroll seconded to approve the consent agenda as presented. Items so

approved included: **7A)** Audit of Vouchers (05/01/21 – 05/15/21); and **7B)** Approval of Variance for Adjusted Dock Use Area, Length and Side Setbacks, for 940 North Arm Drive, Orono, MN

55364.

VOTE: A roll call vote was performed:

Anderson aye Baasen aye

Brandt	aye
Cook	absent
Hoelscher	absent
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	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 Joint Variance Applications for Side Setback and Structure Dimensions for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090, and 16930 Grays Bay Boulevard, Minnetonka, MN 55391
- M. Cook presented a joint variance application for three properties on Grays Bay Boulevard. He stated that these applicants previously submitted separate variance requests which were withdrawn and instead submitted a joint variance request. He began to review property details for each property, moving from west to east. He reviewed the comments received from public agencies. He noted that one verbal comment was received from a resident in support of the proposal. He stated that staff recommends approval and reviewed the suggested conditions.

Thomas noted that a stipulation was included for the western canopy but not the eastern canopy.

M. Cook replied that the proposed canopy would be 40 inches high as shown on the site plan and staff would carry that forward into the variance conditions.

Schleuning commented that the boat lift fabric is greater than allowed by Code, therefore that was specified within the condition.

Thomas opened the public hearing at 7:46 p.m.

Schleuning stated that the applicants have spent a lot of time working together and looking at various arrangements in order to come to this proposal.

Joel Stone, applicant, commented that the boat lift would be a normal boat lift, but the manufacturer fabric is

32 inches, which is why he requested a variance on that amount. He asked for details on minor adjustments that may be made to the structure.

Mr. Cook commented that if someone comes in the future and wants to use the site in a different manner, the dock would need to be configured. He stated that if the property owner could meet the Code setbacks, the dock could be rearranged. He noted that the variance is recorded with the property and therefore it could always revert to this configuration if approved.

Bev Aho, attorney representing two of the applicants, thanked staff for working with the parties to find a solution that would work for all parties. She asked that the Board approve this with the recommendations from staff.

No additional comments were offered, and the public hearing was closed at 7:50 p.m.

MOTION: Thomas moved, Kroll seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the joint variance application from Tomas and Kim Murdych, owners of 16940 Grays Bay Blvd; Craig Peterson and Mary Kiley, owners of PID 17-117-22-21-0090 on Grays Bay Blvd; and Joel and Marcia Stone, owners of 16930 Grays Bay Blvd for final action at the May 26, 2021 LMCD Board meeting subject to the conditions recommended by staff.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

- B) Public Hearing for New Multiple Dock License for Expansion of Boat Slips and Structures, and Variance Application for Dock Length and Side Setbacks, 5th Street Ventures/Back Channel Brewery, Spring Park, MN 55384
- M. Cook presented an application for a multiple dock license and variances at 4681 Shoreline Drive. He noted that decisions would be needed related to whether a discretionary EAW will be required and related to the

application itself. He provided background information on the site. He stated that the site is currently a qualified commercial marina with a multiple dock license and reviewed related details. He noted that this request would add 20 additional BSUs, would include variances for length and side setback, and would require removal of some emergent vegetation. He displayed the current approved site plan and compared that to the proposed site plan, highlighting the expansion details. He reviewed the applicable sections of Code and criteria that are used to review the request. He reviewed the comments received by public agencies and members of the public.

Thomas read a written comment from the property owner at 4765 West Arm Road in support of the application.

Schleuning stated that another comment was received related to impacts to the adjacent properties.

M. Cook reviewed the EAW considerations, noting that an EAW was conducted in 2016 and the Board issued a negative EIS declaration. He provided additional details on additional expansions that were approved through 2020. He reviewed the supporting statements that support requiring a discretionary EAW and stated that staff recommends requiring a discretionary EAW and denial of the expansion. He reviewed the findings that support such recommendation.

Thomas asked if the decision of the Board were not to approve the variances, would an EAW still be required.

M. Cook commented that it is his understanding that the order would depend upon what the Board would like to do. He stated that if the Board intended to deny the application, the applicant may be inclined to know that prior to going through the expense of an EAW.

Hughes commented that it was his understanding that all the new docks would be installed for access to the brewery and asked for clarification.

M. Cook commented that he believes the numbers in the application are accurate.

Kirkwood asked if this is a permanent dock or whether it is taken in and out and whether that would have additional environmental impacts.

M. Cook replied that the existing dock is permanent and commented that he believed the new section would also be permanent.

Kirkwood asked if bubblers would be desired for the winter.

M. Cook replied that the applicant has not used bubblers in the past and did not believe that would be requested.

Kirkwood asked if the additional transient slips would be located closest to the brewery and whether the rental slips would be relocated.

M. Cook identified the additional transient slip locations.

Baasen asked and received confirmation that the bog is located behind the proposed expansion of the docks. He asked if the applicant owns the bog.

M. Cook commented that a bog is not treated the same as a wetland and the bog would fall under public waters.

Baasen commented that it would seem the proposed dock extension would then exceed the 200-foot limit for a commercial marina.

M. Cook confirmed that a length variance would be requested for that dock section.

Thomas opened the public hearing at 8:25 p.m.

Josh Leddy, applicant, stated that he has been operating Back Channel Brewing since 2017 and is also a member of the Lake Minnetonka Association Board. He stated that he considers himself to be a steward of the lake. He commented that he feels that this proposal could work and is the maximum number of slips that could be added. He believed that these additional slips would actually work to protect the wetland area. He noted that in the past the bog moved and blocked the channel completely and was moved. He stated that chunks continue to float off and he hoped that the dock slip would create a barrier to protect the bog and prevent additional chunks from floating away. He stated that they do not intend to remove any section of the bog. He stated that they removed buckthorn along the shoreline in 2020 and was awarded a good steward award to create a \$36,000 rain garden at the entrance to his site in order to provide treatment to runoff. He stated that they are creating a natural buffer to treat the water running into the lake and it can be used as an educational piece and hopefully encourage other property owners to improve their shoreline. He commented that since he has moved into the site, they have worked to improve the site and benefit the lake. He stated that boats are currently waiting along the bog area to access a transient slip. He commented that they are doing everything they can to protect the emergent vegetation and bog area. He identified the location of the newly proposed transient slips. He stated that since they have moved into the site, they have provided staff at the docks and have maintained great relationships with those on the land and adjacent properties. He stated that they have learned what the capacity for this marina would be and for the lake area and therefore this is the request they are making and would not be coming back in the future to request additional slips. He recognized the increased interest in boating and desire for additional slips due to COVID. He commented that these would be permanent docks and they do not use bubblers.

Rick Gorra stated that he owns the land to south. He asked who owns the wetland to the north of his property that is located between his property and the applicant's property.

M. Cook stated that staff followed up with Hennepin County property records and a surveyor and if the section shown above the yellow line became dry land it would be the property of the applicant. He commented that the watershed also made comment to that effect and in this case the wetland appears to be part of public waters.

Gorra stated that he called the LMCD after he received the notice and asked if there is a survey stake in at the corner showing the property line.

M. Cook replied that he believes that is part of the staff comments related to determining the southern setback. He identified the area in orange noting that staff would want it clarified to determine if the setback is met.

Gorra stated that he would want a surveyor to mark the boundaries to ensure that his site lines are not blocked.

Schleuning stated that one of the concerns may have been that the applicant stated that more docks could be put in and where those would be located.

Leddy replied that his statement was that they could have applied for more slips, but they did not as they believe this would be their maximum.

Gorra asked if the bog is disturbed and blue green algae is released, would it then fill up the entire lake.

Leddy stated that was a concern when the additional boat slips were added but noted that he was not a part of that initial application. He stated that the EAW was conducted in 2016 and he came in 2017. He noted that since that time nothing has changed related to the conditions of the channel. He stated that if anything the conditions of the channel and surrounding area have improved. He noted that he completed a tour with other members of the LMA this past summer and observed that there is impeccable water quality in this area. He did not believe that the algae bloom would be expanded.

Schleuning stated that additional boat slips were included in a previous application but were limited due to depth and lily pads. She stated that there are reports from the previous year where Water Patrol has had to dislodge a boat. She stated that is why the slips are limited to these locations.

Leddy commented that there was an unruly boater that parked in an area where boats are not allowed, against the comments of the dock staff.

Gorra stated that the proposed dock section appears to go over some reeds and asked if there would be dredging as that is a shallow area.

Leddy commented that the surveyors are pulling from a previous aerial image and noted that the bog area is smaller due to the sections that have broken off.

Gorra commented that these docks would be directly across from his apartments and tenants. He asked for details related to noise and potential impacts to those that live in the apartments.

Leddy commented that the renters are not allowed to hang out at the docks and are only allowed to come and go. He stated that once boats approach the docks, the attendants approach the slip, and the boats are required to turn down their music and follow the rules. He stated that they vet their renters and do not tolerate those that do not follow the rules.

No additional comments were offered, and the public hearing was closed at 8:46 p.m.

Kirkwood asked for more details on what would be involved in an EAW process and why that would be requested prior to approval.

M. Cook stated that he is unsure of the cost related to an EAW. He explained the EAW process. He explained that the information learned through the EAW would determine if an EIS is needed.

Schleuning commented that typically the LMCD manages the timeline and other agencies, and the applicant would use a contractor to steer their process.

Kirkwood asked if the EAW would come back with a hard and fast recommendation.

M. Cook commented that it would not provide a simple yes or no but would instead review how the request would or would not meet the criteria and even those answers are not completely binary as it is hard to qualify how some things would be impacted. He stated that ultimately the Board would make an assessment based on the information provided.

Walesch commented that there are some things that are known, there are fish in the lake and there are cattails in the area. He stated that the biggest thing is the length of the dock at 388 feet long. He stated that while he supports businesses and believes this is a great operation, he is unsure what precedent would allow that length as it is almost twice as long as allowed. He stated that if the length cannot be agreed upon, there is no need to go through the process of an EAW.

Thomas commented that from a logical standpoint he agrees that the Board should discuss whether it would support a variance, as the Board has typically held hard and fast to the 200-foot length limitation for commercial marinas. He stated that if the Board is comfortable with the variances requested, the discussion could then pivot to an EAW.

Anderson commented that when Baasen was the Chair there were marinas at 100 feet and some grandfathered in at 200 feet. He stated that the decision was then made to expand from 100 to 200 feet for a qualified commercial marina. He stated that not one marina is out over 200 feet. He stated that when he redesigned a marina in 2005, there was jagged shoreline, and he could not exceed past 200 feet. He stated that while he supports this business, all other marinas have met the 200 feet limitation, and none have exceeded that. He stated that he would most likely be abstaining from this vote because of the decision related to the 200-foot length limitation for marinas and the impacts that could have to marinas.

Klohs stated that the applicant has come back a number of times and based on the history of the project there is nothing about the proposal that makes sense. He stated that the bog has been floating around and would most likely dissipate over the course of the next few years. He stated that there is a curious argument that this dock segment parallel to the bog could potentially stabilize it and provide benefit long-term. He stated that he would be interested in learning more, if the applicant could provide supporting documentation that would show that the bog would be protected by the dock segment. He stated that he would suggest that come back independently as such.

Thomas stated that if the Board were interested in whether a barrier would keep the bog in check there would

be other options available as a barrier. He stated that the issue would still remain related to the significant variance requests.

Walesch stated that every time the water levels increase the bogs break free from somewhere and float all over the lake. He stated that happens several times a year all over the lake. He stated that he has zero environmental concerns about the request. He stated that this would boil down to the precedent that would be set by allowing 188 feet more than the longer distance allowed for qualified commercial marinas. He stated that this would be a lot different than anything that has ever been asked for, approved, or considered.

Kirkwood stated that there is clearly a demand and pressure for more boats on the lake and available docks. He stated that the easy areas have been developed and there will be more pressure on the natural areas. He stated that he would have no problem drawing the line at the issue of length. He stated that he does not want to diminish the concern related to wetlands.

Klohs commented that this is one example. He stated that bogs are being destroyed by boat traffic and this would be an area where AIS funds could be spent to stabilize bogs. He noted that is just one example of how the LMCD could work to environmentally protect the lake.

Schleuning asked if the Board would be comfortable allowing an additional 300 feet in length for other marinas, as this could set precedent.

MOTION: Thomas moved, Baasen seconded to direct LMCD legal counsel to prepare Findings of Fact and Order denying 5th Street Ventures LLC 2020 Multiple Dock License and Variance applications for the properties at 4681, 4665, and 4695 Shoreline Drive, in the City of Spring Park, based on the fact that the length and side setbacks significantly exceed what is allowed by LMCD Code, for consideration at the May 26, 2021 Board meeting.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Thomas commented that he agrees with the positive comments related to My. Leddy's operation and improvement of the property and wishes him continued good luck.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

A) Authorization to Purchase Watercraft and Equipment

Schleuning stated that when the previous watercraft was sold it has been discussed to purchase one boat and trailer. She stated that the request would be to purchase the watercraft and associated equipment in an amount not to exceed \$50,000. She asked that the Board authorize staff to work with Board members to seek out a watercraft and trailer.

MOTION: Anderson moved, Kroll seconded to authorize LMCD staff and legal counsel to purchase watercraft and associated equipment for general District use and to draft and finalize a purchase agreement with the seller(s) in a cumulative amount not to exceed \$50,000 from the equipment replacement fund.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

14. TREASURER REPORT

Anderson reported that the harvesters were sold, and the check was received.

MOTION: Anderson moved, Walesch seconded to move the AIS, and Equipment reserves into the general reserves, thereby only having general reserve and Save the Lake reserve funds.

Further discussions: Brandt asked if there are any legal challenges in moving AIS levied funds into the general reserves.

Thomas commented that both are levied funds and commented that even though the funds are tracked separately, it is technically one pool of funds.

Schleuning commented that there is a financial policy that would need to be changed.

Anderson stated that it was the suggestion of Cook during the Finance Committee discussions. He recognized that the Save the Lake reserve would need to remain separately.

Schleuning stated that she provided the policy at the last work session. She stated that it was her understanding that would be discussed in the future.

Walesch offered an amendment to read "change the policy to combine the AIS and Equipment reserves with the general reserve fund."

Anderson agreed with the amended language.

MOTION: Anderson moved, Walesch seconded to amend the policy and move the AIS, and Equipment reserves into the general reserves, thereby only having general reserve and Save the Lake reserve funds.

Further discussion: Kirkwood asked if the cities issue separate checks or one check.

Schleuning replied that the cities issue one check.

Gilchrist asked if any of the AIS funds were provided by the DNR, County or any other agency for that purpose.

Schleuning replied no. She explained that those agency funds are received through grants.

Schleuning asked and received confirmation that there would be time allowed for staff to make the changes.

Thomas asked if there would be implications to moving the equipment replacement fund into the general reserve.

Walesch commented that the money is not going away, just moving into one account.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- May 15th is declared Clean Drain Dry Day and is planned to be advertised on the website and social media
- Safe Boating Week will be May 22nd through the 28th
- Provided a preview of the website which is anticipated to launch in the near future

16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: Brandt reported that the group met the previous week, spending a majority of the time discussing the budget and AIS levy and supported the recommendation from the Finance Committee. He stated that they are still looking at all options for AIS and are working to streamline categories and find a cleaner method of review for recommendations to the Board. He hoped to bring a formal presentation to the Board at some time in the future. He stated that Sara Noah has reached out to many of the members of the Board, and he is looking forward to hearing the information compiled from her discussions.

Communications: No report.

Finance: No report.

Operations: Thomas commented that the group will meet the following Tuesday.

<u>Save the Lake</u>: Baasen reported that the group met the previous night to discuss how the Water Patrol request could be funded using the least amount of Save the Lake funds possible. He stated that the process

would involve revamping the preliminary solicitation letter. He stated that the group is serious in reaching out to the community to support this need. He stated that boater safety was also discussed for 2021 and the possibility to offer educational services online to reach a larger audience. He stated that the group also discussed the update of the Strategic Plan and input on the proposed 2022 budget.

17. ADJOURNMENT

MOTION:	Kroll moved,	Kirkwood	seconded	to adjou	rn the	meeting a	at 9:31	p.m	

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

Motion carried unanimously.

Gregg Thomas, Chair	Dan Baasen, Secretary

10:32 AM 05/19/21

Lake Minnetonka Conservation District Check Detail

May 16 - 31, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
05/27/2021	EFT-21-64	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/Med 2020-LT · Payroll Liabilities - UNUM	Admin. Admin. Admin. Admin. Admin.	-8,996.09 1,253.20 -671.36 -684.80 80.35
TOTAL				,		-9,018.70
05/27/2021	EFT-21-65	ADP Service Fee		Alerus Checking		
TOTAL			Payroll 5/16/21 - 5/31/21	4180M10 · Professional Services - Admin.	Admin.	-80.53 -80.53
05/27/2021	EFT-21-66	US Bank		Alerus Checking		
TOTAL			Ant Traps Cable Lables Standing Desk Converter 42" ibackup Annual Subscription Consumer Cellular 3/25/21 - 4/25/21 Postage Dell Universal Dock USB-C Network Adapter Hardware for Solar Lights GoDaddy SSL (Security) Mediacom April Billing (credit below) Mediacom April Billing (credit below) (Credit GoDaddy SSL above) (Credit Mediacom above)	4220M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4520M10 · Furniture & Equip - Admin. 4181M10 · Professional Comp. ServAd 4060M10 · Telephone - Admin. 4080M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4220M10 · Office Supplies -Admin. 4160M20 · Public Safety - S/L 4530M10 · Comp. Sftwr & Hdwr - Admin. 4060M10 · Telephone - Admin. 4060M10 · Telephone - Admin. 4530M10 · Comp. Sftwr & Hdwr - Admin. 4060M10 · Telephone - Admin.	Admin.	-8.99 -20.98 -349.00 -199.50 -29.93 -7.95 -184.90 -24.99 -73.00 -189.98 -652.09 -258.87 189.98 652.09
05/27/2021	EFT-21-67	SelectAccount Group Service Fee		Alerus Checking		
TOTAL			HSA Administrative fee for May 2021	4380M10 · Employee Benefits - Admin.	Admin.	-2.40
05/27/2021	EFT-21-68	P.E.R.A		Alerus Checking		
TOTAL			Payroll 5/16/21 - 5/31/21	2020 · Payroll Liabilities -	Admin.	-1,253.20 -1,253.20

10:32 AM 05/19/21

Lake Minnetonka Conservation District Check Detail

May 16 - 31, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
05/27/2021	EFT-21-69	SW/WC Service Cooperatives		Alerus Checking		
			Health Insurance, May 2021 (Vickie Schleunig) Health Insurance, May 2021 (Tammy Duncan) Health Insurance, May 2021 (Matt Cook) Health Insurance, May 2021 (Reinstate Sarah)	4380M10 · Employee Benefits - Admin. 4380M10 · Employee Benefits - Admin. 4380M10 · Employee Benefits - Admin. 4380M10 · Employee Benefits - Admin.	Admin. Admin. Admin. Admin.	-721.50 -721.50 -721.50 -1,047.50
TOTAL						-3,212.00
05/27/2021	EFT-21-70	Health Partners		Alerus Checking		
TOTAL			Dental Insurance, June 2021 (Cook, Duncan, Sc	4380M10 · Employee Benefits - Admin.	Admin.	-170.85 -170.85
05/27/2021	21964	Andrea Rehm		Alerus Checking		
05/27/2021 TOTAL	Mileage 5/10/21		Mileage 5/10/21	4400M10 · Mileage/Exp's - Admin.	Admin.	-35.56 -35.56
05/27/2021	21965	City of Mound		Alerus Checking		
05/27/2021 TOTAL	June 2021		Rent, June 2021	4320M10 · Office Rent - Admin.	Admin.	-1,649.96 -1,649.96
05/27/2021	21966	ECM Publishers, Inc.		Alerus Checking		
05/27/2021 TOTAL	833114, 833115		May 12 Public Hearing Grays Bay Blvd May 12 Public Hearing 5th Street Ventures	4110M10 · Public Info./Legal - Admin. 4110M10 · Public Info./Legal - Admin.	Admin. Admin.	-53.97 -53.97 -107.94
05/27/2021	21967	FRANCOTYP-POSTALIA, INC.		Alerus Checking		
05/27/2021 TOTAL	Inv.#RI104895		Quarterly Rental Fee for Postage Meter	4080M10 · Postage - Admin.	Admin.	-86.85 -86.85
05/27/2021	21968	LMCC		Alerus Checking		
05/27/2021 TOTAL	Inv.#1418		VOD Services for Meeting 5/12/21	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00 -100.00 Page 2

10:32 AM 05/19/21

Lake Minnetonka Conservation District Check Detail

May 16 - 31, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
05/27/2021	21969	TimeSaver Off Site Secretarial, Inc.		Alerus Checking		
05/27/2021	Inv.#M26434		Board Minutes 4/28/21	4230M10 · Meeting Exp Admin.	Admin.	-296.63
TOTAL						-296.63



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE:	May 26, 2021 (Prepared May 21, 2021)							
TO:	LMCD Board of Directors							
FROM:	Matthew Cook, Environmental Administrative Technician							
THROUGH:	Vickie Schleuning, Executive Director							
SUBJECT:	Joint Variance Requests for Adjusted Dock Use Area, Length and Side Setbacks, and Structure Dimension for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090 on Grays Bay Boulevard, and 16930 Grays Bay Boulevard, Minnetonka, MN 55391							
ACTION								
area for length	al of Findings of Fact and Order for joint variance requests for an adjusted dock use and side setbacks for three parcels: (16940 Grays Bay Boulevard, PID 17-117-22-rays Bay Boulevard, and 16930 Grays Bay Boulevard), Minnetonka, MN 55391 on							
BACKGROU	UND .							
and Kim Murc of PID 17-117 Grays Bay Bly	eld a public hearing on May 12, 2021 to consider the joint applications of Tomas dych, owners of 16940 Grays Bay Blvd; Craig Peterson and Mary Kiley, owners -22-21-0090 on Grays Bay Blvd; and Joel and Marcia Stone, owners of 16930 vd ("Applicant") for variance(s) to adjust the dock use area for length and side the three parcels listed ("Site").							
and Order for	O21, the LMCD Board voted to have legal counsel and staff draft Findings of Fact approval of the variance requests with conditions. The draft Findings of Fact and nt is attached, as well as the memos and presentations from the previous hearing.							
BUDGET N/A								
Operation Effective								
ATTACHME	ENTS							
1. Draft F	Findings of Fact and Order ed Site Plan							

- 3. May 12, 2021 Presentation
- 4. May 12, 2021 Public Hearing Memo (without attachments)

ITEM 7B ATTACHMENT 1

Type: Variances for Adjusted Dock

Use Area, Length and Side Setbacks, and Structure

Dimension

Date: May 12, 2021

Applicants: Joel and Marcia Stone;

Craig Peterson and Mary Kiley as Trustees for 17009 Grays

Bay Rev Trust; and,

Tomas and Kim Murdych

PIDs: 17-117-22-21-0091;

17-117-22-21-0090; and,

17-117-22-21-0089

Addresses: 16930 Grays Bay Blvd

Minnetonka, MN 55391;

Outlot; and

16940 Grays Bay Blvd Minnetonka, MN 55391

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Joint Application of Joel and Marcia Stone; Craig Peterson and Mary Kiley as Trustees for 17009 Grays Bay Rev Trust; and, Tomas and Kim Murdych for Variances for Adjusted Dock Use Area, Length and Side Setbacks, and Structure Dimension for the properties located at 16930 Grays Bay Blvd; Outlot; and, 16940 Grays Bay Blvd, Minnetonka, MN FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District ("LMCD") received a combined application from Joel and Marcia Stone; Craig Peterson and Mary Kiley as Trustees for 17009 Grays Bay Rev Trust; and, Tomas and Kim Murdych (collectively, the "Applicants") for variances from the length and setback requirements to allow them to install docks within the required setbacks from the side site lines. This application applies to the properties located at 16930 Grays Bay Blvd ("16930 Property"); PID17-117-22-21-0090 ("Outlot Property"); and, 16940 Grays Bay Blvd ("16940 Property"), all within Minnetonka, Minnesota and which are legally described in the attached Exhibit A (collectively, the "Subject Properties"). The LMCD Board of Directors ("Board") held a public hearing, after due notice having been provided, by electronic means in accordance with Minnesota Statutes, section 13D.021 on the requested variances on May 12,

2021. Based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

The Subject Properties are located in the City of Minnetonka and are on Grays Bay, which is part of Lake Minnetonka ("Lake"). The unusual configuration of the Subject Properties causes the Applicants' dock use area side site lines to converge, narrowing the dock use area, including the narrow site located in the middle of the three sites The Applicants are collectively seeking side setback and length variances to accommodate docks and boat storage to allow all Applicants to have reasonable use of the Lake.

- LMCD staff has spent a considerable amount of time discussing docking arrangements in and around the site with the Applicants. Multiple attempts were made to reach a resolution among the Applicants regarding docking arrangements. At one point each of the Applicants applied for separate variances. The Applicants ultimately withdrew their individual variance requests. The Applicants have now come to an agreement regarding docking arrangements on the Subject Properties and have submitted joint variance applications for the proposed layout.
- 2. The Applicants are proposing four boat storage units (BSUs): one at the 16940 Property measuring 16 feet wide by 40 feet long; one at the Outlot Property measuring 10 feet wide by 20 feet long; and two at 16930 Property, one measuring 12 feet wide by 30 feet long and the other six feet wide by 12 feet long.
- 3. Overall, this request will reduce the number of watercraft and structures historically and collectively located on the Subject Properties.
- 4. The Subject Properties have approximately 152 feet of 929.4 OHW shoreline. The 16940 Property has approximately 75 feet of shoreline; the Outlot Property has approximately 12 feet of shoreline (this is a parcel created originally in 1944, based on documentation supplied by the Applicants, property records do not indicate that the parcel dimensions have changed since at least the 1950s); and the 16930 Property has approximately 55 feet of shoreline.
- 5. The proposed dock structures would be set back approximately 13 feet of setback from the western side site line of the 16940 Property and approximately 13 feet from the eastern side site line of the 16930 Property. The proposed setbacks from adjacent dock use areas that are not part of this application meet the requirements of Section 2-3.03 of the LMCD Code of Ordinances ("Code").
- 6. The dock structure proposed at the 16940 Property would be set back approximately 0.7 feet from the Outlot Property. The dock structure proposed at the Outlot Property would have a zero-foot setback on both sides. The dock structure proposed at the 16930 Property would be set back approximately five feet from the Outlot Property.
- 7. A canopy is proposed at both the 16940 Property and the 16930 Property and encroach

- within the 20-foot setback required by the Code.
- 8. In the event the owner of the dock at the 16940 Property may wish to reconfigure the layout shown on the proposed site plan, the Applicants are proposing a 5-foot setback on the eastern (interior) side of the dock use area for the 16940 Property.
- 9. The dock structure proposed at the Outlot Property exceeds the maximum length in the Code by a fraction of a foot. Code Section 2-3.03 permits a maximum length to allow access to four feet of water depth as measured from 929.4 feet OHW. The depth measurements indicate that the proposed dock structure will reach a depth of four feet a fraction of a foot closer to shore than allowed by Code.
- 10. The platform on the west edge of the dock proposed at the 16940 Property does not meet standards for dock dimensions in Section 2-6.19 of the Code. Under that Section, the platform and the contiguous walkway needs to measure no more than eight feet in both length and width.
- 11. No comments were received from the City of Minnetonka. The Minnesota DNR commented that the platform on the west edge of the dock proposed at the 16940 Property is not consistent with state public water work rules. The dock walkway may only be a maximum of eight feet wide. The Minnehaha Creek Watershed District commented that if approval involves bringing in or excavating fill, a Watershed District permit may be required. And that a permit may also be required if the riprap location or amount is changed.
- 12. The unusual configuration of the extended lot lines causes a conflict among the Applicants for the same area of the Lake for docking and other structures and for reasonable access to the Lake. The side site lines of the individual properties converge at angles such that it is not reasonably possible for Applicants to install docks that comply with the requirements of the Code.
- 13. Based on amount of shoreline, parcel age, and other property characteristics, the number of watercraft proposed for each parcel does not violate the maximum watercraft density for each parcel as described in Sections 2-4.05 and 2-4.09 of the Code.
- 14. The Applicants propose to install docks as shown on the dock plan ("Dock Plan") attached hereto as Exhibit B.
- 15. Additional information regarding this matter is provided in the LMCD staff report and presentation presented at the May 12, 2021 meeting (collectively, the "Staff Report"). The Staff Report is incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.
- 16. Section 6-5.01, Subd. 2 of the Code, allows for the granting of variances where there is any 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.

- 17. Section 6-5.01, Subd. 6 of the Code allows the granting of a variance if the Board determines practical difficulties exists and that granting the variance with whatever conditions it deems are necessary does not adversely affect the purposes of the Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners.
- 18. The term "practical difficulties" is defined in Code, Section 1-3.01, Subd. 76 as meaning "one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations."
- 19. Unusual configurations of shorelines and extended lot lines and converging side site lines are challenges for a number of properties on the Lake. Often in such cases, as is true here, the conditions do not reasonably allow a dock to be installed that strictly complies with the requirements of the Code, especially given the long-existing narrow site in the middle.
- 20. Granting the requested variances will not adversely affect the purposes of the Code as the continued use of the docks furthers the purposes of the Code by promoting reasonable access to the Lake. The requested variance is also not contrary to the public health, safety, or welfare in that the dock does not pose a safety or navigation problem on the Lake. The dock is consistent in length with other docks in the area and does not interfere with the navigation of watercraft to or from the neighboring docks. Further, the concentrated structures and watercraft on the sites collectively are offset to a degree with dedicated open shoreline and water on the outside properties.
- 21. The Applicants' proposed location of the docks to facilitate access to the Lake is a reasonable use of the Subject Properties.
- 22. Practical difficulties exist that support the Board exercising its authority under Section 6-5.01 of the Code to grant the requested length and setback variances for the Subject Properties.

ORDER

ON THE BASIS OF THE FOREGOING AND THE RECORD OF THIS MATTER, IT IS ORDERED by the Board as follows:

- 1. <u>Side Site Line Variance</u>. Side site line and authorized dock use area variances are hereby approved to allow the installation of a docks with the following setbacks:
 - (a) For the Outlot Property to have setbacks of zero feet on both sides;
 - (b) For the 16930 Property to have setbacks of 13 feet on the eastern side maintained free of obstructions, and five feet on the western side; and

(c) For the 16940 Property to have setbacks of 13 feet on the western side maintained free of obstructions, and of 0.7 feet on the eastern side, if reconfigured in the future, a five foot setback is required on the eastern side.

All docks shall be installed and maintained in the locations as shown on the Dock Plan attached hereto as Exhibit B.

- 2. <u>Dock Length Variance</u>. A dock length and authorized dock use area variance no greater than one foot from the point need to allow access to four feet of water depth as measured from 929.4 feet OHW is hereby approved for the Outlot Property to allow the installation of a dock as shown on the Dock Plan attached hereto as <u>Exhibit B</u>.
- 3. <u>Dock Entrance</u>. For the 16940 Property, allowance for the placement of the dock entrance from shore to be relocated within the approved dock use area to allow a reduction of the walkway, such as a straight entrance from shore as shown on the Dock Plan attached hereto as <u>Exhibit B</u>.
- 4. <u>Boat Storage Units</u>. Four boat storage units (BSUs) are approved for the Subject Properties; one at the 16940 Property measuring 16 feet wide by 40 feet long; two at the 16930 Property, one measuring 12 feet wide by 30 feet long and the other six feet wide by 12 feet long; and one at the Outlot Property measuring 10 feet wide by 20 feet long as shown on the Dock Plan attached hereto as <u>Exhibit B</u>. Structures and watercraft stored in the dock use area for the Outlot Property shall be in strict conformance to the Dock Plan attached hereto as <u>Exhibit B</u>.
- 5. <u>Boat Canopies</u>. For the 16930 Property, one canopy is allowed on the western BSU. For the 16940 Property, one canopy is allowed on the BSU. For the Outlot Property, a canopy is not allowed, but a boat lift without a covering is allowed. If reconfigured in the future, canopies must meet general setback requirements for the west side of the 16940 Property and the east side of the 16930 Property.
- 6. <u>Conversion to General Code Compliance</u>. If any site chooses to reconfigure its dock to fully comply with the current LMCD regulations, a new variance request is not required if the LMCD staff confirms the reconfiguration complies with the Code.
- 7. <u>Conditions</u>. The variances granted in this Order are subject to compliance with all of the following conditions:
 - (a) The platform on the west edge of the proposed dock layout for the 16940 Property shall be removed or resized to meet maximum dock dimension requirements in Code of no more than eight feet in more than one direction.
 - (b) Monuments shall be placed on the land along shared lot lines (either side of the Outlot Property) to indicate location and angle of the extended side site lines for verification of proper dock placement.

- (c) All watercraft must be stored within the BSU structure(s).
- (d) Watercraft stored in boat slips may not extend beyond the length of the slip. Prohibited extensions include any portion of the watercraft, including all attached equipment in its normal operating position, that extend beyond the ends of the boat slip.
- (e) Any structures placed as part of these variances 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 is rendered null and void.
- (f) This Order shall be rendered null and void in event any of the Subject Properties are subdivided.
- (g) If any of the Subject Properties are combined with another property, the Applicants 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 Applicants shall submit an application for the variance to the LMCD within forty five (45) days of the determination or bring the Subject Properties into conformance with the Code without reliance on this variance within the same period.
- (h) This Order 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 ensure the public of reasonable and equitable access to the Lake.
- (i) Utilization of the Lake pursuant to this Order constitutes, and shall be deemed, acceptance of, and agreement to, the terms and conditions of this variance without exception, qualification, or reservation.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 26th day of May 2021.

ATTEST:	Gregg Thomas, Chair
Dan Baasen, Secretary	

EXHIBIT A

<u>Legal Description of Subject Properties</u>

16940 Property

Block 1, Lots 11 and 12, Thorpe Bros. Re-Arrangement Groveland Shores, Hennepin County, Minnesota

Outlot Property

Block 1, Westerly 10 feet of Lot 13, Thorpe Bros. Re-Arrangement Groveland Shores, Hennepin County, Minnesota

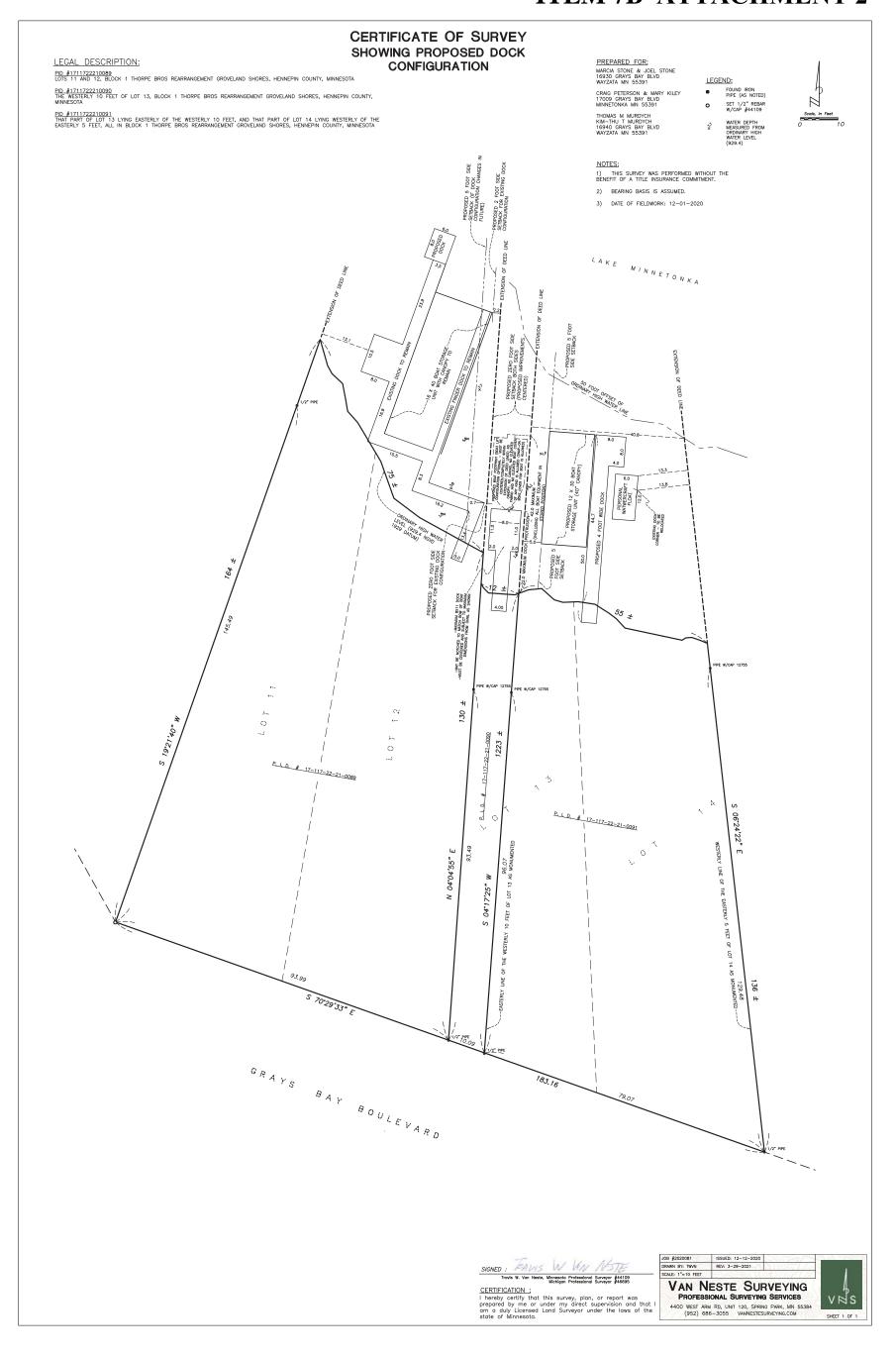
16930 Property

Block 1, That Part Of Lot 13 Lying Ely Of Wly 10 Ft Thereof And That Part Of Lot 14 Lying Wly Of Ely 5 Ft Thereof, Thorpe Bros. Re-Arrangement Groveland Shores, Hennepin County, Minnesota

EXHIBIT B Dock Plan

[attached hereto]

ITEM 7B ATTACHMENT 2



CERTIFICATE OF SURVEY SHOWING PROPOSED DOCK CONFIGURATION

LEGAL DESCRIPTION:

 $\frac{PID}{\#1711722210089}$ LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PID #17:11722210091
THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:





SIGNED : FAUS W. Von Neste, Mirresults Professional Surveyor \$44505 Michigan Professional Surveyor \$46655

CERTIFICATION:

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

JOB ∯2020081 ISSUED: 12-12-2020

DRAWN BY: TWWN REV: 3-29-2021

SCALE: 1"=10 FEET

VAN NESTE SURVEYING
PROFESSIONAL SURVEYING SERVICES
4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384
(952) 686–3055 VANNESTESURVEYING.COM



ITEM 7B ATTACHMENT 3



To preserve and enhance the "Lake Minnetonka experience"

16940, PID 1711722210090, AND 16930 GRAYS BAY BLVD GRAYS BAY, MINNETONKA JOINT VARIANCE APPLICATIONS PUBLIC HEARING

Lake Minnetonka Conservation District

Board Meeting

May 12, 2021

Presented by: Matthew Cook, Environmental Administrative Technician

OVERVIEW

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

BOARD ACTION

Approval of Variance Request(s)

Continue Public Hearing

Denial of Variance Request(s)

BACKGROUND

- Applicants have previously submitted and withdrawn separate applications for each property.
- Applicants have submitted joint variance applications in support of one another for the layout(s) presented.
- 16940 Grays Bay Blvd
 - 13+ feet of open water to the west
 - o.7-foot setback to the east*
 - *Future reconfigurations include 5-foot setback to the east

APPLICATION SUMMARY

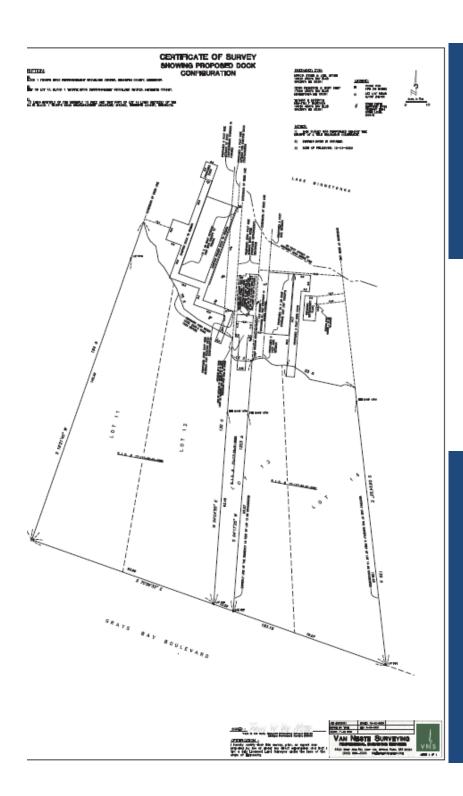
- 16940 Grays Bay Blvd
 - 13+ feet of open water to the west
 - 0.7-foot setback to the east* (10 feet typical; 20 feet for canopy)
 - *Future reconfigurations include 5-foot setback to the east
 - 1 BSU with canopy
- PID 1711722210090 (parcel created in 1944)
 - o-foot setback to west and east
 - Max length of 42 feet
 - 1 BSU without canopy or lift cover (lift proposed)
- 16930 Grays Bay Blvd
 - 13+ feet of open water to the east
 - 5-foot setback to the west (10 feet typical; 20 feet for canopy)
 - 2 BSUs, 1 with canopy

16940, PID 17-117-22-21-0090, AND 16930 GRAYS BAY BLVD, MINNETONKA



16940, PID 17-117-22-21-0090, AND 16930 GRAYS BAY BLVD, MINNETONKA (AERIAL IMAGERY SHOWS FORMER CONFIGURATIONS, NOT PROPOSED





PROPOSED SITE PLAN

CERTIFICATE OF SURVEY SHOWING PROPOSED DOCK CONFIGURATION

IFGAL DESCRIPTION:

THE 1 HIS S. ROOM I THINK HOW PRINCIPLES OWNERS HAVE HERE'S HOUSEN, HERETHIS WHETHER AND ANY PRINCIPLES HOUSE.

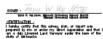
HER ACTUALISATIONS

THE ACTUALISATION OF LITT 15, BLOOM I TROOME HOW REMOVEMENT HOWELD WHENCH, HERETHIS OWNER.

<u>1811 ACT I THE FORM OF</u> THEF PIET OF LIT 13 LINES EXTENDED OF THE MICHIGAN TO PIET, AND THEY PIET OF LIT 14 CHINA MICHIGAN THE AUTHOR'S PICT, ALL IN BLOCK I TROPPE STOR MICHIGANIZATION OF THE 15/10/15, PERSONNEL COLARY, MINISTER

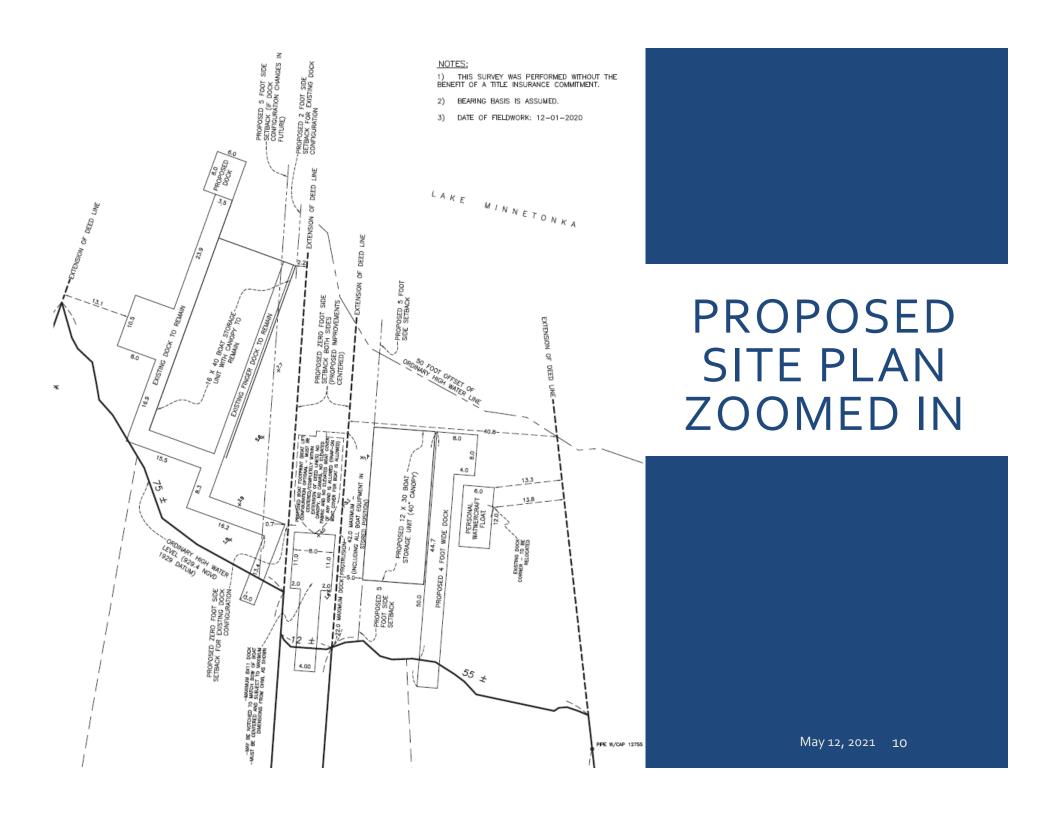








PROPOSED SITE PLAN





PROPOSED SITE PLAN **ZOOMED IN**

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?

PUBLIC / REVIEW AGENCY COMMENTS

- Agency Review of Application / Comments (General Permit)
 - No comments were received from the City of Minnetonka.
 - MCWD: "If project ends up bringing in or excavating fill, a Watershed District permit may be required. A permit may also be required if the riprap location/amount is changed. If plans change, please direct the [sic] to the [MCWD]."
 - MN DNR: "DNR concurs with staff assessment that the proposed platform on the west edge of the dock at 16940 Grays Bay Blvd needs to be addressed. It is not consistent with state public water work rules. ..."

Public Comments

One verbal comment in support of the approval was received.

STAFF RECOMMENDATIONS

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

- 1. The platform on the west edge of the proposed dock layout for 16940 Grays Bay Blvd be removed or resized to meet maximum dock dimension requirements in LMCD Code of no more than 8 feet in more than one direction.
- 2. The length of the docks as indicated by the site plan.
- 3. Exterior setbacks for 16940 (western side of property) and 16930 (eastern side of property) Grays Bay Blvd be 13 feet and maintained free of obstructions.
- 4. Interior setback for 16930 Grays Bay Blvd (western side of property) of 5 feet.
- 5. Interior setback for 16940 Grays Bay Blvd (eastern side of property) of 0.7 feet. If reconfigured in the future, a 5-foot setback would be required.

STAFF RECOMMENDATIONS (CONT)

It is important to considerable riparian rights, reasonable use, and the ecology and preservation of Lake Minnetonka. Based on information available at the time of this report, LMCD staff recommends Board approval with the minimum following conditions listed below. The recommendation may change based on information received, presented, or reviewed as part of the public hearing process.

- 6. For 16940 Grays Bay Blvd, allowance for the placement of the dock entrance from shore to be relocated within the approved dock use area to allow a reduction of the walkway, such as a straight entrance from shore.
- 7. For PID 17-117-22-21-0090, a canopy is not allowed. A boat lift without a covering is allowed.
- 8. Structures and watercraft stored in the dock use area for PID 17-117-22-21-0090 shall be in strict conformance to the site plan.
- 9. Monuments shall be placed on the land along shared lot lines (either side of PID 17-117-22-21-0090) to indicate location and angle of the extended side site lines for verification of proper dock placement.
- 10. For 16930 Grays Bay Blvd, one canopy (fabric no taller than 40" as proposed) is allowed on the western BSU.
- 11. For 16940 Grays Bay Blvd, one canopy is allowed on the BSU.
- 12. In the future, if desired, 16930 and 16940 Grays Bay Blvd may reconfigure to be within current code requirements without reapplying for a variance.
- 13. Standard variance conditions are applied.

STAFF RECOMMENDATIONS (CONT)

Previously Suggested Standard Provisions to Include in Variances:

- Watercraft not extend beyond length of boat slip. For purposes of Order, length overall means horizontal length from foremost to aftermost point of watercraft, including all attached equipment in its normal operating position.
- 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.

May 12, 2021 16

PUBLIC HEARING

- Public Hearing Requirements
 - Posted in newspaper on April 29, 2021 (Sun Sailor)
 and May 1, 2021 (Laker Pioneer)
 - Owners of properties within 350 feet notified, 10-day notice sent April 28, 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 Approval or Denial decision



To preserve and enhance the "Lake Minnetonka experience"

QUESTIONS?

ITEM 7B ATTACHMENT 4



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 12, 2021 (Prepared May 7, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Joint Variance Requests for Adjusted Dock Use Area, Length and Side Setbacks,

and Structure Dimension for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090 on Grays Bay Boulevard, and 16930 Grays Bay Boulevard, Minnetonka,

MN 55391

ACTION

Board consideration of joint variance requests for an adjusted dock use area for length and side setbacks and structure dimension for three parcels: (16940 Grays Bay Boulevard, PID 17-117-22-21-0090 on Grays Bay Boulevard, and 16930 Grays Bay Boulevard), Minnetonka, MN 55391 on Grays Bay, and 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:

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the joint variance applications from Tomas and Kim Murdych, owners of 16940 Grays Bay Blvd; Craig Peterson and Mary Kiley, owners of PID 17-117-22-21-0090 on Grays Bay Blvd; and Joel and Marcia Stone, owners of 16930 Grays Bay Blvd for final action at the May 26, 2021 LMCD Board meeting <subject to the following conditions>...

Continuation

I make a motion to continue the public hearing for the variance application from Tomas and Kim Murdych of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone of 16930 Grays Bay Blvd at the May 26, 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 variance application from Tomas and Kim Murdych of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone of 16930 Grays Bay Blvd for final action at the May 26, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY_

The joint Applicants, Tomas and Kim Murdych owners of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley owner of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone owners of 16930 Grays Bay Blvd (collectively, "Applicants") submitted a variance application their respective properties on Grays Bay Blvd on Grays Bay (collectively, "Site") for an adjusted dock use area for length and side setbacks.

The Applicants have submitted joint applications for variances to adjust the dock use areas of the following three parcels with shoreline (929.4-foot elevation contour / OHW) measurements as shown:

- 16940 Grays Bay Blvd (Tomas and Kim Murdych); approximately 75 feet of shoreline
- PID 17-117-22-21-0090 on Grays Bay Blvd (Craig Peterson and Mary Kiley; approximately 12 feet of shoreline
 - The site appears to have approximately 12 feet of shoreline. The site is 10 feet wide. This site is a separate parcel, created originally in 1944 based on documentation supplied by the Applicant. Property records do not indicate that the parcel dimensions have changed since the 1950s (if not earlier).
- 16930 Grays Bay Blvd (Joel and Marcia Stone); approximately 55 feet of shoreline

LMCD staff have spent a considerable amount of time discussing docking arrangements in and around the site with the Applicants. After multiple attempts to reach a resolution between those three parties, all three parties applied for separate variances. The Applicants ultimately withdrew their separate applications and have now submitted joint variation applications.

The Applicants have now submitted joint variance applications after coming to an agreement on the proposed layout. Overall, this request will reduce the number of watercraft and structures historically and collectively located at these sites.

Watercraft Storage

The Applicants are proposing four boat storage units (BSUs) across the three sites: one (1) at 16940 Grays Bay Blvd measuring 16 feet wide by 40 feet long; one (1) at PID 17-117-22-21-0090 measuring 10 feet wide by 20 feet long; and two (2) at 16930 Grays Bay Blvd, one measuring 12 feet wide by 30 feet long and the other 6 feet wide by 12 feet long.

Based on shoreline amount, parcel age, and other property characteristics, the number of watercraft proposed for each parcel does not appear to violate maximum watercraft density for each parcel as described in LMCD Code Sections 2-4.05 and 2-4.09.

Exterior Setbacks

The proposed dock structures would be set back approximately 13 feet of setback from the western side site line of 16940 Grays Bay Blvd and approximately 13 feet from the eastern side site line of 16930 Grays Bay Blvd. The proposed setbacks from adjacent dock use areas that are not part of these applications appear to meet LMCD Code Section 2-3.03.

Interior Setbacks

The proposed dock structure at 16940 Grays Bay Blvd would be set back approximately 0.7 feet from PID 17-117-22-21-0090. The proposed dock structure at PID 17-117-22-21-0090 would

have a zero-foot setback on both sides. The proposed dock structure at 16930 Grays Bay Blvd would be set back approximately 5 feet from PID 17-117-22-21-0090. A canopy is proposed at both 16940 and 16930 Grays Bay Blvd, within the typical 20-foot setback required by LMCD Code.

In the event that the owner of the dock at 16940 Grays Bay Blvd may wish to reconfigure the layout shown on the proposed site plan, the applicant(s) is proposing a 5-foot setback on the eastern (interior) side of the dock use area for 16940 Grays Bay Blvd.

Length

The proposed dock structure at PID 17-117-22-21-0090 exceeds the maximum length in LMCD Code for a property of this size by a fraction of a foot. LMCD Code Section 2-3.03 permits a maximum length to allow access to 4 feet of water depth as measured from 929.4 feet OHW. The depth measurements indicate that a depth of 4 feet may be reached a fraction of a foot closer to shore. The Applicants are requesting a length variance to the extent the LMCD Board may deem it to be necessary and in consideration of its compatibility with adjacent properties.

Structure Dimensions

The proposed platform on the west edge of the dock at 16940 Grays Bay Blvd does not meet LMCD Code standards for dock dimensions (Section 2-6.19); the platform and the contiguous walkway should measure no more than 8 feet in both length and width.

VARIANCE STANDARDS

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 Minnetonka were provided information regarding the applications on April 28, 2021. City and agency comments were due by May 7, 2021. Comments received as of noon on May 7, 2021 are

summarized below. Any comments received after noon on May 7, 2021 will be provided at the Board meeting for review.

• MN DNR Hydrologist:

"DNR concurs with staff assessment that the proposed platform on the west edge of the dock at 16940 Grays Bay Blvd needs to be addressed. It is not consistent with state public water work rules. As your staff report states, the dock walkway may only be a maximum of 8 feet wide. State rules allow a small platform at the end of the dock (not sure if LMCD rules allow them) but then other criteria apply, like the walkway then may only be 5 ft in width. Please see page 2 of DNR brochure ... for more information on dock platforms. Now is a great opportunity to remove this platform that is not allowed. If it is not removed when the plans approved by LMCD are implemented, the DNR will collaborate with LMCD in pursuing enforcement, for example ordering it removed from the lake via a DNR Public Waters Restoration Order."

MCWD:

"If project ends up bringing in or excavating fill, a Watershed District permit may be required. A permit may also be required if the riprap location/amount is changed. If plans change, please direct the [sic] to the [MCWD]."

As of noon on May 7, 2021, one verbal comment in support of the approval was received. Comments received after noon on May 7, 2021 will be shared at the May 12, 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 29, 2021 edition of the Sun Sailor (official LMCD newspaper) and the May 1, 2021 edition of the Laker Pioneer. On April 28, 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

Staff have consulted with LMCD legal counsel regarding the site, proposal, and overall legal consequences based on the LMCD code and in consideration of case law. Riparian owners have a right to use the lake in front of their properties, subject to reasonable regulation by the LMCD. The review also considers the impact to other lake users and the health of the lake.

In general, the structures and watercraft storage proposed allow collectively reasonable access to the lake and an improved condition for lake ecology. Based on information available at the time of this report, LMCD staff recommends Board approval with the minimum following conditions listed below. The recommendation may change based on information received, presented, or

reviewed as part of the public hearing process.

- 1. The platform on the west edge of the proposed dock layout for 16940 Grays Bay Blvd be removed or resized to meet maximum dock dimension requirements in LMCD Code of no more than 8 feet in more than one direction.
- 2. The length of the docks as indicated by the site plan.
- 3. Exterior setbacks for 16940 (western side of property) and 16930 (eastern side of property) Grays Bay Blvd be 13 feet and maintained free of obstructions.
- 4. Interior setback for 16930 Grays Bay Blvd (western side of property) of 5 feet.
- 5. Interior setback for 16940 Grays Bay Blvd (eastern side of property) of 0.7 feet. If reconfigured in the future, a 5-foot setback would be required.
- 6. For 16940 Grays Bay Blvd, allowance for the placement of the dock entrance from shore to be relocated within the approved dock use area to allow a reduction of the walkway, such as a straight entrance from shore.
- 7. For PID 17-117-22-21-0090, a canopy is not allowed. A boat lift without a covering is allowed.
- 8. Structures and watercraft stored in the dock use area for PID 17-117-22-21-0090 shall be in strict conformance to the site plan.
- 9. Monuments shall be placed on the land along shared lot lines (either side of PID 17-117-22-21-0090) to indicate location and angle of the extended side site lines for verification of proper dock placement.
- 10. For 16930 Grays Bay Blvd, one canopy is allowed on the western BSU.
- 11. For 16940 Grays Bay Blvd, one canopy is allowed on the BSU.
- 12. Standard variance conditions are applied.

7. Public Hearing Notice Mailing

BUDG	GET							
N/A								
STRA	ATEGIC PRIORITIES							
	Operational Clear & Timely Effective X Lake Other							
	Effectiveness Communications Governance A Protection							
ATTA	ACHMENTS							
1.	LMCD Code Excerpts							
2.	. Location Map							
3.	. Site Plans							
4.	. Application Narrative (as submitted by Applicants)							
5.								
6.	Public Hearing Notice (Sun Sailor & Laker Pioneer)							



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE:	May 26, 2021 (Prepared May 21, 2021)									
то:	LMCD Board of Directors									
FROM:	Matthew Cook, Environmental Administrative Technician									
THROUGH:	GH: Vickie Schleuning, Executive Director									
SUBJECT:	5th Street Ventures, LLC Multiple Dock License and Variance(s)									
Multiple Dock	License an	gs of Fact and Order for d variance application ility at 4681, 4665, and	s for adjusted dock	use a	rea (length a	nd sid	le			
Back Channel license and va and 4695 Shor	Brewing, reriance(s) to reline Drive	hearing on May 12, 20 epresenting 5 th Street V adjust the dock use are in Spring Park ("Site"	Ventures, LLC ("Apea for length and side").	plica le set	nt") for a mu backs for 46	iltiple 81, 46	dock 665,			
and Order for	denial of th	ICD Board voted to hat e requests. The draft F presentations from the	indings of Fact and			_				
BUDGET										
N/A										
STRATEGIC		ī	Ess dies		T -1					
Operation Effective		Clear & Timely Communications	Effective Governance	X	Lake Protection		Other			
2. Propos3. May 1	Findings of sed Site Plan 2, 2021 Pres		ithout attachments)							

ITEM 7C ATTACHMENT 1

Type: Denial – Commercial Multiple

Dock License and Variance

Date: May 26, 2021

Applicant: 5th Street Ventures, LLC

PID: 18-117-23-33-0049

18-117-23-33-0009 18-117-23-33-0010

Address: 4681, 4665, and 4695

Shoreline Drive,

Spring Park, MN 55384

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of 5th Street Ventures, LLC. for a Commercial Multiple Dock License and Variance for the Property located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park

FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District ("LMCD") received an application from Back Channel Brewing Collective, on behalf of 5th Street Ventures, LLC, ("Applicant") for a Multiple Dock License for the property 5th Street Ventures, LLC owns located at 4681, 4665, and 4695 Shoreline Drive, Spring Park, MN 55384 ("Subject Property"). The Applicant previously sought, and the LMCD Board ("Board") issued a commercial multiple dock license for the Subject Property on June 13, 2018 and, upon a subsequent application, issued a new commercial multiple dock license as a qualified commercial marina and a variance on July 22, 2020 ("2020 Order"). The LMCD Board of Directors ("Board") held a public hearing, after due notice having been provided, by electronic means in accordance with Minnesota Statutes, section 13D.021 on the requested variances on May 12, 2021. Based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

- 1. The Subject Property is located in the City of Spring Park, on Seton Channel/Seton Lake, which is part of Lake Minnetonka ("Lake").
- 2. The Applicant has been operating as a qualified commercial marina under the 2020 Order and is now seeking a new commercial multiple dock license and variance to allow an additional 20 boat storage units (BSUs), reduced setbacks from Seton Channel from 60 feet to 46 feet, and to increase the length of the docks to approximately 550 feet from the northern shoreline and 900 feet from the eastern shoreline, depending how the length is measured

- (collectively, the "Requests").
- 3. The existing docks at the Subject Property extend toward the channel and the Applicant is now seeking to extend a dock south along a wetland and a periodically floating bog toward Seton Lake as shown the proposed dock plan attached hereto as Exhibit A.
- 4. Concerns regarding blocking and backing traffic up on the channel were raised regarding the Subject Property at the time of the 2018 application and then again when the Board considered and issued the 2020 Order.
- 5. There is a large wetland area adjacent to the Subject Property and the periodic floating bog the requested dock would encompass previously floated away and was returned by the County to its present location in 2014.
- 6. The Board previously recognized the potential for this marina to impact the wetlands and lily pads, and to disturb the Lake bottom in the shallow area near the wetland.
- 7. The LMCD received no comment on the Requests from the City of Spring Park. The MCWD indicated that it appeared the Requests did not require an MCWD permit. The MN DNR indicated the Requests appear to be consistent with state public water work rules, but that MN DNR fisheries may have some feedback related to potential concerns regarding impacts on fish and wildlife habitat. The MN DNR also noted that any impacts to emergent vegetation would require a MN DNR permit.
- 8. The LMCD received public comments expressing concern regarding the increased traffic that will be generated by the expansion, the expanded use pushing traffic closer to property owners on the other side of the channel, and concerns over potential environmental impacts. At the public hearing, the owner to the south expressed concern about noise and potentially impacting views of the residents of his apartment building and environmental concerns.
- 9. At the public hearing, the Applicant stated that they have been good stewards of the Lake and have worked to address runoff from the Subject Property into the Lake. The Applicant also asserted the installation of a permanent dock along the wetland/floating bog would protect it from floating away and would help stop it from continuing to break apart. The Applicant pointed out that the shoreline of the Subject Property would allow more BSUs than are being sought as part of the Requests, but they believe what they are seeking constitutes the practical maximum for the site.
- 10. Under Section 2-3.03, Subd. 2(c) LMCD Code of Ordinances ("Code"), the authorized dock use area for a qualified commercial marina extends into the Lake up to a distance of 200 feet.
- 11. The Code generally limits docks at marinas to 100 feet in length. Then, after much debate, the Board created the qualified commercial marina designation allowing those marinas that qualify for and receive the designation to extend their docks up to 200 feet into the Lake. No marina on the Lake has a dock that generally exceeds the 200-foot limit.

- 12. The Board is mindful of the competitive nature of the marina businesses around the Lake and the need for the Board to be consistent in the application of the Code to those businesses.
- 13. Additional information regarding the Requests is provided in the LMCD staff report dated May 12, 2021 and the presentation made thereon at the meeting (collectively, the "Staff Reports"). The Staff Reports are incorporated herein by reference.
- 14. The LMCD staff recommended denial of the Requests based on a number of reasons set out in the Staff Report. The Board adopts those reasons by reference.
- 15. Section 3-2.07, Subd. 1(b) of the Code allows a qualified commercial marina to apply for a commercial multiple dock license. The criteria for reviewing a request for a commercial multiple dock license is set out in Section 6-2.01, Subd. 3 and 4 of the Code. Included among the criteria to be considered is whether the request complies with the authorized dock use area, the Code, 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 undue burden on traffic on the Lake in the vicinity of the structure, and will the proposed structure affect the ecology of the Lake.
- 16. The Requests would extend a dock far beyond the authorized dock use area and does not comply with the Code, which is why the Applicant is seeking a variance. The transient slips at the Subject Property generate regular traffic by those visiting the brewery and accessing other businesses in the immediate area. The Board is concerned the proposal to expand the marina by 20 additional BSUs, five of which would be transient, would add to congestion in the area, increase the current backup of traffic waiting to go through the channel or to access one of the transient slips, watercraft would lodge or churn up the Lake bottom in the shallow areas near the wetlands affecting water quality, and negatively impact the emergent vegetation.
- 17. Section 6-5.01 of the Code allows the granting of a variance if the Board determines practical difficulties exists and that granting the variance with whatever conditions it deems are necessary does not adversely affect the purposes of the Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners.
- 18. The term "practical difficulties" is defined in Code, Section 1-3.01, Subd. 76 as meaning "one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations."
- 19. The Applicant currently has reasonable use of the Lake under the 2020 Order. A great deal of public input and discussion occurred over the years in response to requests for the continued expansion of the marina, all of which culminated in the 2020 Order. The 2020 Order reflects a balancing of a number of considerations to allow the Applicant reasonable use of the Lake while attempting to minimize impacts on others and the Lake.

20. The Applicant has not demonstrated the existence of practical difficulties to support the proposed further expansion of the marina. The Board is generally supportive of marinas utilizing the density available to them under the Code, but in this case the expansion involves an unreasonably long dock extension that would serve to undermine the reasons for the 200-foot limit placed on docks at qualified commercial marinas. Granting the variance would adversely affect the purpose of the Code and the dock extension would create an unreasonable risk of negatively impacting the adjacent wetland area and public navigation.

ORDER

ON THE BASIS OF THE FOREGOING AND THE RECORD OF THIS MATTER, IT IS ORDERED by the Board as follows:

- 1. <u>Denial</u>. The Applicant's request for a new qualified commercial multiple dock license and variance to allow the installation of a dock as shown on the Dock Plan attached hereto as <u>Exhibit A</u> is hereby denied.
- 2. <u>2020 Order</u>. This denial does not affect the 2020 Order, which remains in place for the Subject Property.
- 3. <u>Authorization</u>. The LMCD staff is authorized and directed to provide a copy of this Order to the Applicant.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 26th day of May 2021.

ATTEST:	Gregg Thomas, Chair	
Dan Baasen, Secretary		

EXHIBIT A

Proposed Dock Plan

[attached hereto]

DESCRIPTION OF PROPERTY SURVEYED

Tract B, Registered Land Survey No. 1488, Except Road, Hennepin County, Minnesota.

GENERAL NOTES

- 1) Site Address: 4681 Shoreline Drive, Spring Park, Minnesota 55384
- 2) P.L.S. Location: Southwest Quarter of the Southwest Quarter of Section 18, Township 117, Range23
- Latitude/Longitude: N44°56'10"/W093°38'41" (shown on map at end of dock)
- Benchmark: Elevations are based on Hennepin County Control Point "MOUND" = 937.83 Feet (NAVD88)

 Elevations were converted to NAVD 29 datum using Verticon (North American Vertical Datum Conversion) from National Geodetic Survey provided on the National Oceanic and Amospheric Administration web Survival Point (National Oceanic and Amospheric Administration) web 1975.
- 5) Tax Id: 18-117-23-33-0049
- 6) Zoning: C-2 Shopping Center
 - Adjoining property to the east and south: R-3 High Density Residential
 - Adjoining property north of Shoreline Drive: C-1 Commercial City of Mound: B-3 Neighborhood Business and R-1 Residential

SURVEY LEGEND

•	CAST IRON MONUMENT
	CATCH BASIN
◁	FLARED END SECTION
M	GATE VALVE

- < GUY WIRE
- SURVEY MONUMENT SET SURVEY MONUMENT FOUND SURVEY CONTROL POINT
- □ LIGHT POLE D POWER POLE
- S SANITARY MANHOLE

 SANITARY CLEANOUT
- 972.5 GROUND ELEVATION STORM DRAIN STORM MANHOLE Ö YARD LIGHT
- A/C UNIT
 C CABLE TV PEDESTAL
 E ELECTRIC TRANSFORMER
 C ELECTRIC MANHOLE
- © ELECTRIC METER

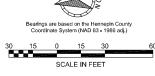
 © GAS METER © GAS VALVE •—•— GUARD RAIL
- H HAND HOLE SOIL BORING TREE CONIFEROUS
- TREE DECIDUOUS

 TELEPHONE MANHOLE
 TELEPHONE PEDESTAL TRAFFIC SIGNAL
- UTILITY MANHOLE U UTILITY PEDESTAL
- WELL









M A P	3 92				EDGE OF CATTAILS 2006 2006 2006 2006 2007 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008 2008
9	929.6 929.6 929.6		24 5 6 6 7 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
	929.5 929.6 929.6 93.6 93.6 93.6 93.6 93.6 93.6 93.6 9			Manore ook	
6			PROPERTY LINE EXTENDED		
	300 300 7-7-				
	10	11 111			
	li k		1/1/		
	100				

FIELD CREW	NO.	BY	DATE	REVISION
XXX	4	EMW	3/6/2017	ASBUILT
DRAWN	5	JPR	4/2/2018	REMOVED SLIPS 26 AND 31
DBP/BRV	6	EMW	2/28/2020	DOCK ADDITIONS
CHECKED	7	EMW	3/10/2020	DOCK REVISION
DBP	8	DLS	6/10/2020	ADDED 1 SLIP/SHOWED SLIP 26A
DATE	9	EMW	2/1/2021	REMOVED 1 SLIP/SLIP 26A
04/15/16	10	EMM	2/2/2021	ADDED SUID 26A/DENI IMPEDED

USE INCLUDING COPYING, DISTRIBUTION, ANDIOR CONVEYANCE OF INFORMATION) OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHER-EREGOUIST. INC, SEXPERSS WRITTEN AUTHORIZATION, USE WITHOUT SAID AUTHORIZATION, USE WITHOUT SAID AUTHORIZATION CONSTITUTES AND LLEGTIMATE USE AND SHALL THEREBY INDEMNIFY SATHRE-BERGOUIST, INC, OF ALL RESPONSBLITY, SATHRE-BERGOUIST, INC, RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.





TWP 117 - RGE 23 - SEC 18	
Project City: Spring Park	
Hennepin County	

DOCK ADDITION 5TH STREET VENTURES LLC ON BEHALF OF DOCK AND LIFT, INC

ITEM 7C ATTACHMENT 2

FILE NO. 21115-006

ITEM 7C ATTACHMENT 3



To preserve and enhance the "Lake Minnetonka experience"

4681 SHORELINE DRIVE SPRING PARK BAY, SPRING PARK MULTIPLE DOCK LICENSE AND VARIANCE APPLICATIONS PUBLIC HEARING

Lake Minnetonka Conservation District

Board Meeting

May 12, 2021

Presented by: Matthew Cook, Environmental Administrative Technician

OVERVIEW

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

BOARD ACTION

- Decision re: Discretionary EAW
 - Require Discretionary EAW
 - Do not require Discretionary EAW

- Decision re: MDL and VAR Requests
 - Approval of Request(s)
 - Continue Public Hearing
 - Denial of Request(s)

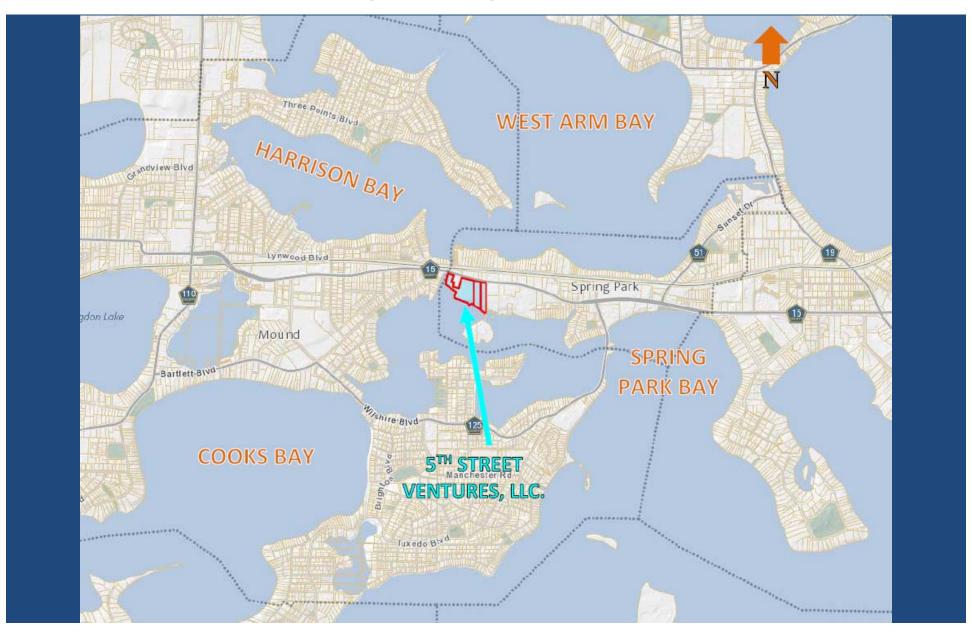
BACKGROUND

- Approximately 1,421 feet of total shoreline
 - Approximately 590 feet of open shoreline,
 - Approximately 240 feet in the channel
 - Approximately 350 feet open shoreline
 - Remainder of shoreline along significant amount of emergent vegetation / wetlands / bog
- Three shoreline parcels:
 - 4681 Shoreline Drive
 - 4665 Shoreline Drive
 - 4695 Shoreline Drive

APPLICATION SUMMARY

- Current Status
 - Qualified Commercial Marina (QCM)
 - 30 BSUs (1:47 Density if calculated total shoreline; 1:12 if calculated open shoreline)
 - 5 Transient BSUs; 25 Rent / Overnight Storage BSUs
 - Current dock extends approximately 180 feet from shore
- Request:
 - 20 additional BSUs (50 total)
 - 5 additional transient BSUs; 15 additional rent BSUs
 - Length Variance: longer dock 388 to 550 feet from shore north to south, depending on measuring point; roughly 900 feet from easternmost shoreline
 - Side Setback Variance: 46 feet from channel instead of 60 feet required (doubled side-opening slip)
 - Appears to require removal of some emergent vegetation

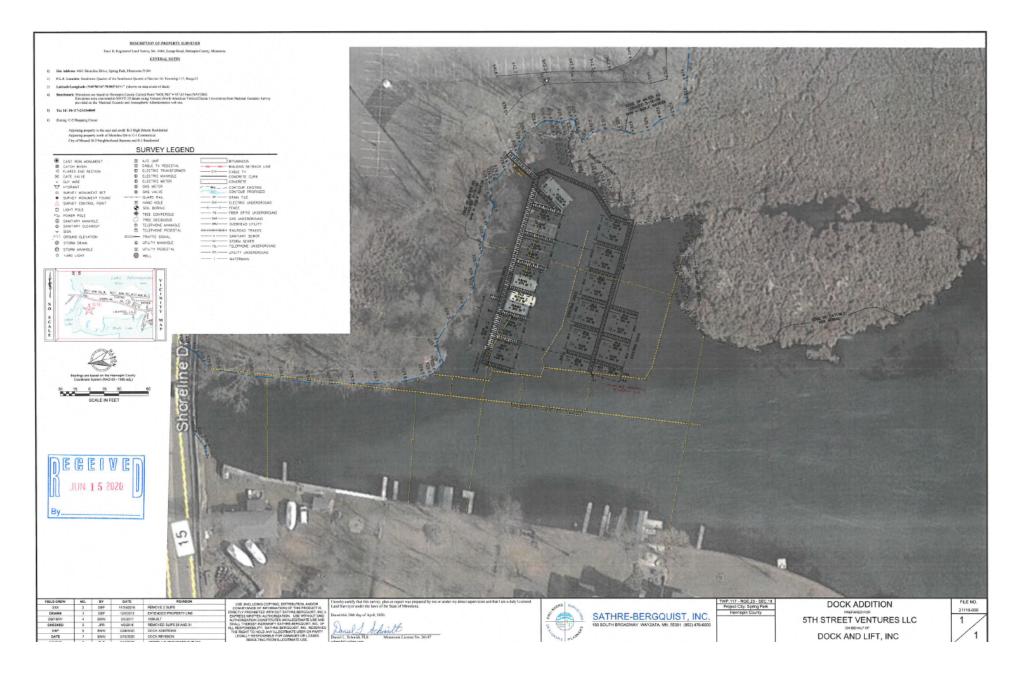
4681, 4665, AND 4695 SHORELINE DRIVE, SPRING PARK



4681, 4665, AND 4695 SHORELINE DRIVE, SPRING PARK



CURRENT APPROVED SITE PLAN

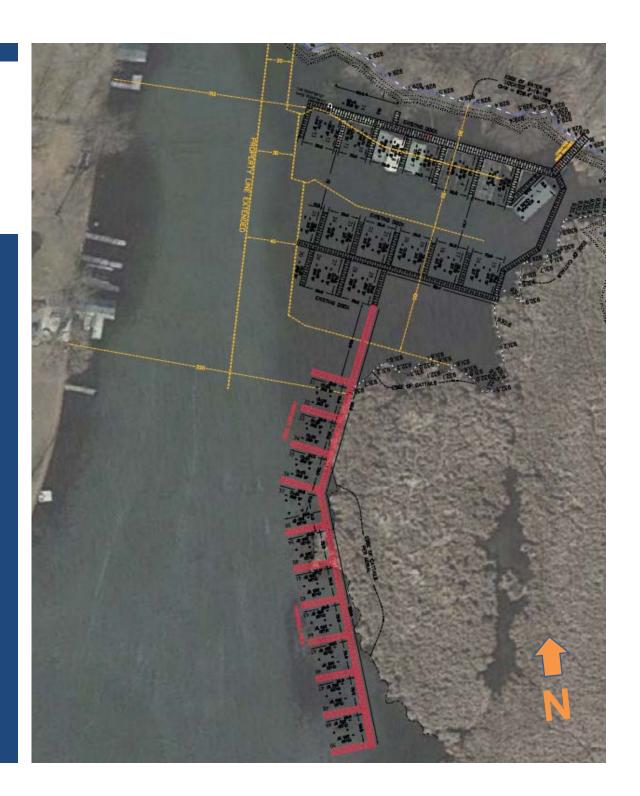


PROPOSED SITE PLAN

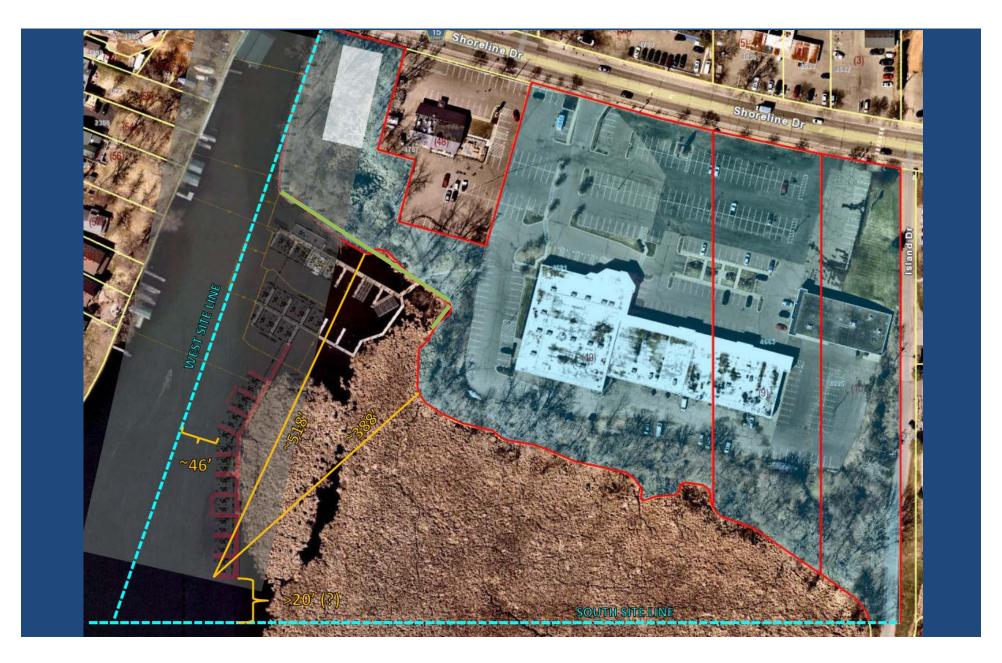


PROPOSED SITE PLAN EXCERPT

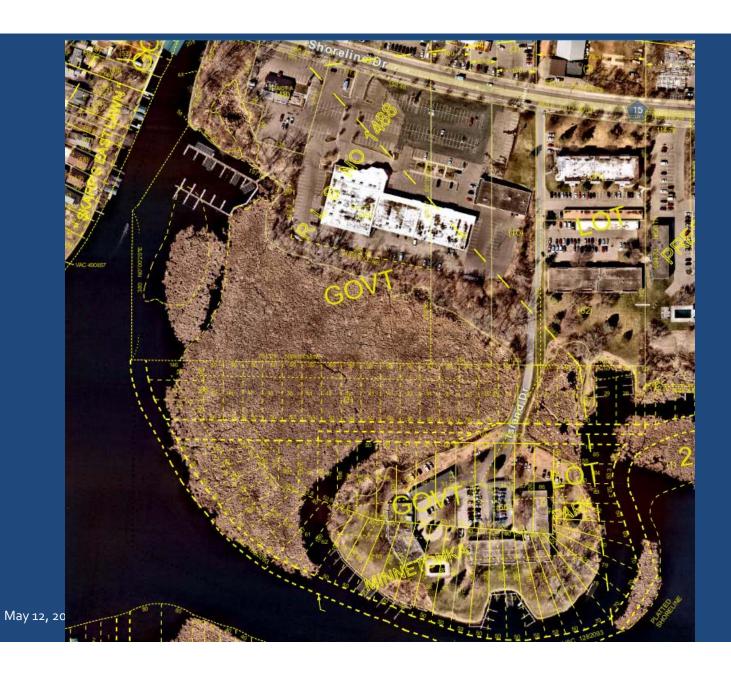
For illustrative purposes only



AERIAL OVERLAY W/ PROPOSED



PARCEL ANNOTATION



DOCK USE AREA

- LMCD Code Section 2-3.03, Subd. 2
 - See Item 10B, page 4
- (a) <u>Qualified Commercial Uses</u>. The authorized dock use area for qualified commercial marinas, qualified sailing school, and qualified yacht clubs extends into the Lake a distance of 200 feet.
 - The applicant's proposed dock reaches a maximum of at least 388 feet (over 500 feet in some places) from shore. The applicant has requested a variance for this length.

WATERCRAFT DENSITY

- LMCD Code Section 2-4.07, Subd. 1
 - See Item 10B, page 4

Subd. 1. General Rule – May 3, 1978. Up to one restricted watercraft may be moored or docked at a qualified commercial use on any site for each 10 feet of continuous shoreline in existence on May 3, 1978. When calculation of the number of restricted watercraft allowed results in a fractional restricted watercraft, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one additional watercraft.

MULTIPLE DOCK CRITERIA (SEE MEMO)

- LMCD Code Section 6-2.01, Subd. 3
 - See Item 10B pages 4-6
- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - The watercraft density is expected to increase from 1:47 to 1:28. If the applicant's site would remain a QCM, the increase would still meet the density allowed for Qualified Commercial Marinas per LMCD Code Section 2-4.07.
- (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - The Applicant has applied for variances to adjust the setback from the channel. A variance to adjust the setbacks for BSU #30 was previously approved in 2020. The applicant proposes to reaffirm this variance.
 - The new proposed BSUs are "side-opening slips" and would require a minimum setback of 60 feet. The side-opening slips come within 46 feet of the property line extended along the channel in the proposed site plan.
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
 - The new docks appear to be designed consistent with dock standards.

MULTIPLE DOCK CRITERIA (SEE MEMO)

- LMCD Code Section 6-2.01, Subd. 3
 - See Item 10B pages 4-6
- (d) Whether the structure will comply with the regulations contained in this Code;
 - The applicant has requested variances for the structure to the extent it does not meet the regulations of the LMCD's Code.
 - See LMCD Code Section 6-2.01 Sub. 4(c) regarding restriction of removal of emergent vegetation for qualified commercial uses.
- (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;
 - The volume of traffic in the lake will increase as a result of the 20 additional BSUs. Concerns have been expressed about the high traffic through the nearby channel.
- (f) Whether the proposed structure will be compatible with the adjacent development;
 - Insofar as the existing structure was compatible with the adjacent residential property with a multiple dock license, the proposed structure may be compatible. However, the Board may deem that the expansion into previously-undisturbed areas and proximity to the public channel and residential properties across the channel may be incompatible.

MULTIPLE DOCK CRITERIA (CONT)

- (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
- The proposed structure appears to require the elimination of some of the emergent vegetation in the wetland and may require dredging depending on the water depths. It will obscure and potentially impact a significant portion of the nearby bog / wetland. The code does not allow the removal of emergent vegetation for a qualified commercial marina (QCM). QCMs are allowed up to a 200-foot maximum dock length (versus 100-foot max length for commercial uses) and a higher watercraft density of 1 boat per 10 feet of shoreline (versus base density rule of 1 watercraft per 50 feet).
- (h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
- The proposed BSU is located towards the channel instead of the previously identified sensitive area with lily pads and wetland/bog. The navigation of boats more frequently in this location may suspend sediment into the water column and decrease water quality. Release of phosphorus and other nutrients that may lead to algal blooms, for example. Reports of boats being stuck in this location have been reported and requests for buoys have been made. Staff have observed shallow water conditions at existing BSUs near the wetland.

MULTIPLE DOCK CRITERIA (CONT)

- (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;
 - The increase in the number of watercraft and the expansion to previously-undisturbed areas may constitute an increase in nuisance characteristics for nearby residents and recreators. It may also encourage boat traffic to navigate closer to the residential properties across the channel.
- (j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Parking requirements are determined by the municipality (City of Spring Park). Sanitary facilities available during the business hours of Back Channel Brewing.
- (k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;
 - The rental slips and transient slips are / will be open to the general public.
- (l) 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
 - The proposed expansion is approximately 18,240 square feet. This location is a popular public fishing location due to the fish population and desirable species in this part of the Lake.
- (m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.09, subdivision 4(a).

N/A

QUALIFIED COMMERCIAL USE CRITERIA

- LMCD Code Section 6-2.01, Subd. 4
 - See Item 10B, page 7
- Subd. 4. Qualified Commercial Uses. If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
- (a) No license will be granted for a facility with an existing variance unless a new variance for the proposed facility is granted by the Board;
 - The Applicant has applied for a variance to and adjust the setback from the channel and for the length of structure.
- (b) No license will be granted for a proposed facility that overlaps the dock use area of another site;
 - The applicant's dock use area does not overlap the dock use area of another site.
- (c) No license will be granted for a proposed facility that will require removal of emergent native vegetation; and
 - Removal of emergent vegetation may be required in and around the proposed dock and BSUs. Further, dredging may be required depending on the water depth.
- (d) No license will be granted for a proposed facility that interferes with general public navigation, or impairs access to use of the dock use area of another site or a commercial mooring area.
 - Concerns have been expressed about the high traffic through the nearby channel and proposed watercraft entering and exiting with the proposed side opening slips.

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?

PUBLIC / REVIEW AGENCY COMMENTS

Agency Review of Application / Comments (General Permit)

- No comments received from the City of Spring Park
- MCWD: "... it does not look like the proposed work would require an MCWD permit... If the scope of work changes please keep MCWD in the loop..."
- MN DNR: "My comments represent the perspective of DNR public waters program. The layout and configuration appear to be consistent with state public water work rules. However, the state public water work rules prohibit structures that "will be detrimental to significant fish and wildlife habitat. Construction is prohibited in posted fish spawning areas". DNR Fisheries may have some feedback on those potential concerns. Any control of emergent vegetation, such as cattails, and the use of pesticides in public waters does require a DNR aquatic plant management permit. ... Aquatic plants such as cattail, bulrush, water lilies, and other aquatic vegetation are important because they reduce wave action (thereby reducing the threat of shoreline erosion), provide fish and wildlife habitat, buffer shorelines from pollutants, and provide other environmental benefits. ... Moving a floating bog also requires a DNR aquatic plant management permit."

Public Comments

 A comment was received regarding the continued expansion of the marina and the potential increases in negative impacts to the residents across the channel such as pushing channel traffic towards the residential properties, safety concerns in the busy channel, and environmental concerns.

EAW CONSIDERATION

- EAW Conducted in 2016 to review proposed expansion from 15 BSUs to 41 BSUs
- Negative Environmental Impact Statement (EIS)
 Declaration in 2016
- 25 total BSUs initially approved of 41 proposed
- 4 additional BSUs approved after sediment study and wetland delineation (29 BSUs total)
- 1 additional BSU approved in 2020 with variance (no additional structure; 30 BSUs total).
- Proposed expansion of ~18,240 square feet

EAW CONSIDERATION

- Staff notes the following with respect to this commercial marina and the proposed expansion:
 - The expansion area is immediately adjacent to, and encroaches into some areas of the wetland, and will block public water access to, a wetland area. The proposed docks will surround a bog/wetland that has been mobile as recently as 2014. Emergent vegetation is valuable to the ecology of the lake.
 - The water is shallow in the expansion area, and so extending docks into the area will result in the lake bottom being churned up, releasing nutrients into the water that can lead to degraded water quality and the establishment of blue-green algae in the area.
 - The MN DNR noted in its comments to the 2016 EAW that a rare species of fish (Pugnose Shiners) and a species of special concern (Least Darters) are in the Lake and while they were likely not directly affected by the original project, are vulnerable to the removal of aquatic vegetation and exposure to nutrients released from disturbing the Lake bottom. The proposed expansion in this wetland area will have the potential to negatively impact these species.

STAFF RECOMMENDATIONS

- Staff Recommendation based on information available prior to public hearing.
 - Recommend denial on the basis of the following:
- 1. The removal of emergent vegetation, which may include native emergent vegetation, is not permitted for a Qualified Commercial Marina per LMCD Code Section 6-2.01, Subd. 4(c).
- 2. The bog/wetland has been mobile in the past as recent as 2014 and installing docks surrounding the bog/wetland in its path could present safety hazards for dock users when the bog dislodges in the future, in addition to damage to structures and watercraft.
- 3. Water depths in the areas would need to be submitted and verified.

 Observations of shallow water and reports of boats being lodged near the bog have been reported. Dredging, if required for adequate water depth, would not be recommended in this area.
- 4. The proximity and orientation of the proposed dock structure and associated watercraft storage is closer to the wetland and busy public navigation channel than other structure and watercraft storage denied in the past.

STAFF RECOMMENDATIONS (CONT)

- Staff Recommendation based on information available prior to public hearing.
 - Recommend denial on the basis of the following:
- 5. Due to the size of the proposed dock structure and associated watercraft storage, a length variance and setback variance for the proposed structure may adversely affect: the purpose of the LMCD Code; public health, safety, and welfare; and/or reasonable access to or use of the Lake by the public or nearby riparian owners.
- 6. Due to the proximity of the proposed dock to nearby wetland area(s), unconsolidated sediment, and fish habitat as noted in previous environmental review of the site in 2016, LMCD staff recommend a Discretionary EAW be conducted if the proposed dock is further pursued by the applicant. If considered without an EAW, at minimum sediment study and wetland delineation are recommended. It is important to assess water depths and lake sediment for the boat slips since they are close to the bog/wetland. A lake sediment survey is recommended to determine the type of sediment such as silt material or solid substrate. This would help determine the impact to the environment and if the boat slips would be able to safely navigate in and out of the slips without dredging.
- 7. The setback to the southern property owned by Park Island Apartments and Park Islands West Apartments needs to be confirmed.

STAFF RECOMMENDATIONS CONT...

Previously Suggested Site & Standard Provisions to Include in Variances:

- Continue certain existing existing license conditions.
- 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.

PUBLIC HEARING

- Public Hearing Requirements
 - Posted in newspaper on April 29, 2021 (Sun Sailor)
 and May 1, 2021 (Laker Pioneer)
 - Owners of properties within 350 feet notified, 10-day notice sent April 28, 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

To preserve and enhance the "Lake Minnetonka experience"

QUESTIONS?

CONSERVATION DETACT

ITEM 7C ATTACHMENT 4

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 12, 2021 (Prepared May 7, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

RE: 5th Street Ventures, LLC Multiple Dock License and Variance(s)

ACTION

Board consideration of the 5th Street Ventures, LLC Multiple Dock License and Variance applications, and receive public input as part of the public hearing for the applications. The Board will also consider whether an EAW should be required as part of the review of this project. The applications were submitted by Mr. Josh Leddy of Back Channel Brewing, authorized agent of the owner of the 5th Street Ventures, ("Applicant"). The Applicant's property ("site") is located at 4681 Shoreline Drive, Spring Park, MN 55384 (PID 18-117-23-33-0049). The site includes shoreline at two adjacent parcels, 4665 Shoreline Drive (PID 18-117-23-33-0009) and 4695 Shoreline Drive (PID 18-117-23-33-0010). The site's shoreline is on the Seton Channel / Seton Lake.

1. Whether to Require EAW

The following motions are offered depending on whether the Board wishes to require an EAW and then whether it would like to approve, continue, or deny the request:

An initial decision must be made on whether the Board would like to exercise its authority as the responsible governmental unit ("RGU") to order a discretionary EAW. An EAW was prepared for this commercial marina in 2016. Because the proposed expansion involves approximately 18,240 square feet, a mandatory EAW is not required under Minn. R., part 4410.4300, subp. 25 (which is triggered at 20,000 square feet). However, because the proposed expansion is in an environmentally sensitive area of the Lake, the question becomes whether the Board would like to order a discretionary EAW.

Under Minn. R. 4410.4500, a "governmental unit with jurisdiction may order the preparation of an EAW for any project that does not exceed the mandatory thresholds . . . if the governmental unit determines that because of the nature or location of the proposed project the project may have the potential for significant environmental effects, and the project is not exempted pursuant to part 4410.4600." None of the exemptions apply, and so the Board may elect to require an EAW if it determines the proposed expansion may have a potential for significant environmental effects.

Staff notes the following with respect to this commercial marina and the proposed expansion:

- The expansion area is immediately adjacent to, and encroaches into some areas of the wetland, and will block public water access to, a wetland area. The proposed docks will surround a bog/wetland that has been mobile as recently as 2014. Emergent vegetation is valuable to the ecology of the lake.
- The water is shallow in the expansion area, and so extending docks into the area will result in the lake bottom being churned up, releasing nutrients into the water that can lead to degraded water quality and the establishment of blue-green algae in the area.
- The MN DNR noted in its comments to the 2016 EAW that a rare species of fish (Pugnose Shiners) and a species of special concern (Least Darters) are in the Lake and while they were likely not directly affected by the original project, are vulnerable to the removal of aquatic vegetation and exposure to nutrients released from disturbing the Lake bottom. The proposed expansion in this wetland area will have the potential to negatively impact these species.

For the reasons noted above, Staff recommends the Board determines the proposed expansion project has a potential for significant environmental effects and to require the preparation of an EAW. If the Board agrees to require an EAW, it will need to continue the hearing because it cannot make a final decision on the application until the EAW is completed.

Discretionary EAW

1. Require EAW:

I make a motion to require the applicant to prepare an Environmental Assessment Worksheet based on the findings contained in the staff report and a determination the proposed expansion project may have a potential for significant environmental effects.

Next

I make a motion to continue the public hearing on this matter to the July 14, 2021 Board meeting to allow the applicant sufficient time to complete the EAW.

2. Do Not Require EAW:

I make a motion to not require the applicant to prepare an Environmental Assessment Worksheet because there is insufficient evidence to suggest the proposed expansion project may have a potential for significant environmental effects.

<u>Next</u>

[Proceed with consideration of the application.]

2. Multiple Dock License and Variance Application

1. Approval:

I make a motion to direct staff and LMCD legal counsel to draft Findings of Fact and Order approving the 5th Street Ventures, LLC 2020 Multiple Dock License and Variance applications for the properties located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park as presented <or with additional amendments> for consideration at the May 26, 2021 Board meeting.

2. <u>Continue Hearing</u>:

I make a motion to continue the public hearing for the 5th Street Ventures, LLC's 2020 Multiple Dock License and Variance applications to the May 26, 2021 Board meeting for further consideration.

3. Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying 5th Street Ventures, LLC 2020 Multiple Dock License and Variance applications for the property located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park based on the following reasons... for consideration at the May 26, 2021 Board meeting.

BACKGROUND

The marina expanded in 2016 from 13 to 25 boat storage units (BSUs) after a bog/wetland near the site was relocated. A Mandatory EAW was conducted at that time, and some ecological concerns were noted. The LMCD Board of Directors ultimately issued a Negative EIS Declaration in 2016 and approved 25 total BSUs of the 41 proposed. 4 more BSUs (29 total) were eventually approved after completion of a sediment study and wetland delineation study. Another BSU (30 total) was approved in 2020 without installing any additional dock structure. With this application, the Applicant is proposing to install dock structures surrounding the wetland, which may require some removal of emergent vegetation and possible dredging depending on the water depth. The proposed expansion is approximately 18,240 feet.

APPLICATION SUMMARY

The applicant's property ("site") is located at 4681 Shoreline Drive, Spring Park, MN 55384 (PID 18-117-23-33-0049). The site includes shoreline at two adjacent parcels, 4665 Shoreline Drive (PID 18-117-23-33-0009) and 4695 Shoreline Drive (PID 18-117-23-33-0010); The shoreline at these parcels consists of primarily emergent vegetation. The site has approximately 1,421 feet of shoreline at the 929.4-foot elevation contour / OHW). The site is currently classified as a qualified commercial marina (QCM) as defined by LMCD Code.

The applicant seeks to reduce the setbacks to the Seton channel and increase the length of the docks beyond 200 feet. The applicant believes this extension of the docks will minimize the negative impact to emergent vegetation while expanding the marina. The applicant has submitted square footage calculations that estimate the proposed dock system would constitute an

expansion of 18,240 square feet.

The applicant requests a new multiple dock license to increase the number of watercraft stored at the site. The applicant proposes to add 20 BSUs, 5 of which would be transient and 15 would be for rent. The site currently has 30 BSUs, with 25 being for overnight rental and 5 for transient use. The applicant also requests variance(s) to adjust the dock use area of the site (length and side setbacks). The site's watercraft density would increase from 1:47 to 1:28.

Based on the proposed site plan, the installation of the proposed docks and storage of watercraft may require removal of emergent vegetation. LMCD Code does not allow a qualified commercial marina to remove emergent vegetation in order to extend a structure beyond 100 feet from shore or to increase the marina's watercraft density. Staff have noted shallow water depth and unconsolidated sediment in the areas nearest the bog/wetland. Shallow water and navigation obstructions have been reported in the proposed dock expansion areas.

SUMMARY OF CODE CONSIDERATIONS

Key LMCD Code items are listed below, with a description of the code section as it relates to this application. Code excerpts are attached for additional reference. *Staff comments regarding the application are written in italics below the relevant code language*.

Section 2-3.03. <u>Determination of Authorized Dock Use Area.</u>

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) <u>Qualified Commercial Uses</u>. The authorized dock use area for qualified commercial marinas, qualified sailing school, and qualified yacht clubs extends into the Lake a distance of 200 feet.
 - The applicant's proposed dock reaches a maximum of at least 388 feet from shore. The applicant has requested a variance for this length.

Section 2-4.07. Qualified Commercial Uses.

Subd. 1. <u>General Rule – May 3, 1978</u>. Up to one restricted watercraft may be moored or docked at a qualified commercial use on any site for each 10 feet of continuous shoreline in existence on May 3, 1978. When calculation of the number of restricted watercraft allowed results in a fractional restricted watercraft, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one additional watercraft.

Section 6-2.01. <u>Commercial Multiple Dock License</u>. An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.

Subd. 3. <u>Review Criteria</u>. 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;
 - The watercraft density is expected to increase from 1:47 to 1:28. If the applicant's site would remain a QCM, the increase would still meet the density allowed for Qualified Commercial Marinas per LMCD Code Section 2-4.07.
- (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - The Applicant has applied for variances to adjust the setback from the channel. A variance to adjust the setbacks for BSU #30 was previously approved in 2020. The applicant proposes to reaffirm this variance.
 - The new proposed BSUs are "side-opening slips" and would require a minimum setback of 60 feet. The side-opening slips come within 46 feet of the property line extended along the channel in the proposed site plan.
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
 - The new docks appear to be designed consistent with dock standards.
 - (d) Whether the structure will comply with the regulations contained in this Code;
 - The applicant has requested variances for the structure to the extent it does not meet the regulations of the LMCD's Code.
 - See LMCD Code Section 6-2.01 Sub. 4(c) regarding restriction of removal of emergent vegetation for qualified commercial uses.
- (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;
 - The volume of traffic in the lake will increase as a result of the 20 additional BSUs. Concerns have been expressed about the high traffic through the nearby channel.
- (f) Whether the proposed structure will be compatible with the adjacent development;
 - Insofar as the existing structure was compatible with the adjacent residential property with a multiple dock license, the proposed structure may be compatible. However, the Board may deem that the expansion into previously-undisturbed areas and proximity to the public channel and residential properties across the channel may be incompatible.
- (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - The proposed structure appears to require the elimination of some of the emergent vegetation in the wetland and may require dredging depending

on the water depths. It will obscure and potentially impact a significant portion of the nearby bog / wetland. The code does not allow the removal of emergent vegetation for a qualified commercial marina (QCM). QCMs are allowed up to a 200-foot maximum dock length (versus 100-foot max length for commercial uses) and a higher watercraft density of 1 boat per 10 feet of shoreline (versus base density rule of 1 watercraft per 50 feet).

- (h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - The proposed BSU is located towards the channel instead of the previously identified sensitive area with lily pads and wetland/bog. The navigation of boats more frequently in this location may suspend sediment into the water column and decrease water quality. Release of phosphorus and other nutrients that may lead to algal blooms, for example. Reports of boats being stuck in this location have been reported and requests for buoys have been made. Staff have observed shallow water conditions at existing BSUs near the wetland.
- (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:
 - The increase in the number of watercraft and the expansion to previouslyundisturbed areas may constitute an increase in nuisance characteristics for nearby residents and recreators. It may also encourage boat traffic to navigate closer to the residential properties across the channel.
- (j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Parking requirements are determined by the municipality (City of Spring Park). Sanitary facilities available during the business hours of Back Channel Brewing.
- (k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;
 - The rental slips and transient slips are / will be open to the general public.
- (l) 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
 - The proposed expansion is approximately 18,240 square feet. This location is a popular public fishing location due to the fish population and desirable species in this part of the Lake.
- (m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.09, subdivision 4(a).
 - N/A

- Subd. 4. <u>Qualified Commercial Uses</u>. If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
 - (a) No license will be granted for a facility with an existing variance unless a new variance for the proposed facility is granted by the Board;
 - The Applicant has applied for a variance to and adjust the setback from the channel and for the length of structure.
 - (b) No license will be granted for a proposed facility that overlaps the dock use area of another site;
 - The applicant's dock use area does not overlap the dock use area of another site.
 - (c) No license will be granted for a proposed facility that will require removal of emergent native vegetation; and
 - Removal of emergent vegetation may be required in and around the proposed dock and BSUs. Further, dredging may be required depending on the water depth.
 - (d) No license will be granted for a proposed facility that interferes with general public navigation, or impairs access to use of the dock use area of another site or a commercial mooring area.
 - Concerns have been expressed about the high traffic through the nearby channel and proposed watercraft entering and exiting with the proposed side opening slips.

VARIANCE STANDARDS

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 Minnetonka were provided information regarding the applications on April 28, 2021. City and agency comments were due by May 7, 2021. Comments received as of noon on May 7, 2021 are summarized below. Any comments received after noon on May 7, 2021 will be provided at the Board meeting for review.

- MN DNR: "Thank [you] for the opportunity to review and comment on this proposal. My comments represent the perspective of DNR public waters program. The layout and configuration appear to be consistent with state public water work rules. However, the state public water work rules prohibit structures that "will be detrimental to significant fish and wildlife habitat. Construction is prohibited in posted fish spawning areas". DNR Fisheries may have some feedback on those potential concerns. Any control of emergent vegetation, such as cattails, and the use of pesticides in public waters does require a DNR aquatic plant management permit. from DNR Fisheries. Aquatic plants such as cattail, bulrush, water lilies, and other aquatic vegetation are important because they reduce wave action (thereby reducing the threat of shoreline erosion), provide fish and wildlife habitat, buffer shorelines from pollutants, and provide other environmental benefits. DNR aquatic plant management permits are issued through Aquatic Plant Management Permitting Staff. The rules governing the destruction of aquatic vegetation are found in Minnesota Rules Chapter 6280 Moving a floating bog also requires a DNR aquatic plant management permit."
- MCWD: "Following up on the proposed dock extension at this address, at this time it does not look like the proposed work would require an MCWD permit as the District does not regulate docks, aquatic plant management, and WCA is not applicable to DNR public waters. If the scope of work changes please keep MCWD in the loop, otherwise if you have any questions, please let me know."

As of May 6, 2021 a comment was received regarding the continued expansion of the marina and the potential increases in negative impacts to the residents across the channel such as pushing channel traffic towards the residential properties, safety concerns in the busy channel, and environmental concerns. Comments received after noon on May 7, 2021 will be shared at the May 12, 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 29, 2021 edition of the Sun Sailor (official LMCD newspaper) and the May 1, 2021 edition of the Laker Pioneer. On April 28, 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 support local marinas as providers of important services for the lake. It is important to also balance the use of the lake for all stakeholders and protect the health of the lake.

Based on information available at the time of this report, LMCD staff recommends Board denial for the reasons listed below. The recommendation may change based on information reviewed or presented as part of the public hearing process.

- 1. The removal of emergent vegetation, which may include native emergent vegetation, is not permitted for a Qualified Commercial Marina per LMCD Code Section 6-2.01, Subd. 4(c).
- 2. The bog/wetland has been mobile in the past as recent as 2014 and installing docks surrounding the bog/wetland in its path could present safety hazards for dock users when the bog dislodges in the future, in addition to damage to structures and watercraft.
- 3. Water depths in the areas would need to be submitted and verified. Observations of shallow water and reports of boats being lodged near the bog have been reported. Dredging, if required for adequate water depth, would not be recommended in this area.
- 4. The proximity and orientation of the proposed dock structure and associated watercraft storage is closer to the wetland and busy public navigation channel than other structure and watercraft storage denied in the past.
- 5. Due to the size of the proposed dock structure and associated watercraft storage, a length variance and setback variance for the proposed structure may adversely affect: the purpose of the LMCD Code; public health, safety, and welfare; and/or reasonable access to or use of the Lake by the public or nearby riparian owners.
- 6. Due to the proximity of the proposed dock to nearby wetland area(s), unconsolidated sediment, and fish habitat as noted in previous environmental review of the site in 2016, LMCD staff recommend a Discretionary EAW be conducted if the proposed dock is further pursued by the applicant.
 - If considered without an EAW, at minimum sediment study and wetland delineation are recommended. It is important to assess water depths and lake sediment for the boat slips since they are close to the bog/wetland. A lake sediment survey is recommended to determine the type of sediment such as silt material or solid substrate. This would help determine the impact to the environment and if the boat slips would be able to safely navigate in and out of the slips without dredging.
- 7. The setback to the southern property owned by Park Island Apartments and Park Islands West Apartments needs to be confirmed.

ATTACHMENTS

- 1. LMCD Code Excerpts
- 2. Aerial Map(s) of Proposed Area
- 3. Existing Approved Site Plan
- 4. Proposed Site Plan
- 5. Aerial Overlay with Site Plan
- 6. Square Footage Calculations (as submitted by applicant)
- 7. Multiple Dock License and Variance Application Forms and Additional Materials
- 8. Current Approved LMCD Findings of Fact and Order Document(s)
- 9. Public Hearing Notice
- 10. Public Hearing Notification to Property Owners

ITEM 11A



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 26, 2021 (Prepared May 21, 2021)

TO: LMCD Board of Directors

FROM: Vickie Schleuning, Executive Director

SUBJECT: Preliminary 2022 LMCD Budget

ACTION

Board discussion and approval of the preliminary 2022 budget, and direction to staff to communicate with member cities to seek input.

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

Approval

I make a motion to approve the preliminary 2022 budget <subject to any stated modifications>, and direct staff to seek input from the member cities.

Denial

I make a motion to deny the preliminary 2022 budget for the following reasons...

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 Rich Anderson and Directors Bill Cook, Denny Newell, and Nicole Stone. This is the preliminary budget the Finance Committee recommends and was discussed by the Board at the May 12, 2021 LMCD Board Meeting. A copy of the preliminary budget is attached. Further, the draft city letter is attached that includes the proposed preliminary budget, budget highlights, historical information, and projections. Please note that budget projections may change based on actual income and expenses.

Budget Highlights

• **Overall Budget.** Total budget increase from \$595,000 to \$659,000, an increase of \$64,000 (10%). The majority of increase is due to increased funding of \$84,000 for dedicated water patrol and emergency response services through contributions to Save the Lake, not levy.

- Municipal Levy. Decrease of \$75,000 (20%) in municipal levy with program costs funded through reserve funds for 2022. This portion of the fund has been historically associated with AIS management harvesting program and other AIS activities. The harvesting program has been discontinued. This portion is being suspended in 2022 to reduce reserve amounts and allow time to finalize the AIS strategy and master plan. Typical levy amounts will be considered in future budgets.
- **Reserve Funds.** Use of \$100,000 of reserve funds to offset the 2022 municipal levy reduction. The auditor recommends 30-50% of reserve funds for the General and AIS fund accounts.
- **AIS Fund.** The AIS fund will be combined with the General Fund.
- Elimination of Equipment Replacement Fund. Funds for replacement equipment such as watercraft, vehicles, etc. will be combined with the general fund.
- Save the Lake Fund. Proposed funding of \$84,000 for water patrol and emergency services with the use of \$42,000 of reserve funds. Some expenses for solar lights, boater education, buoys and other activities have been reallocated to the General Fund. Save the Lake Funds are contributions and not funded through levies and historically have been stipulated for supplemental environmental and safety initiatives.
- **Court Fines.** Maintain current level of projected court fines anticipating another extremely busy season.
- **Legal Fees.** Additional decrease in legal fees of \$3,500 (0.05%) for civil and prosecution services, holding room and board, legal publications, and miscellaneous activities.
- **Communications.** Increase of \$5,000 (25%) for public education and legislative initiatives.

Please refer to the 2021 Budget Summary, indicating the history of the revenues and expenses from 2015 to the Preliminary 2022 Budget. In addition, the City Levy Share chart shows the distribution of city levy based on the Preliminary 2022 Budget. Additional charts are provided to reflect the historical fund accounts, preliminary budget, and impact in the draft City Memo.

Anticipated Upcoming Budget Process & Timeline

- Wednesday, 05/26/2021-- Board approval of the preliminary budget. After approval, a letter will be sent to the cities seeking feedback.
- Week of 06/14/2021 Seek feedback from member cities.
- Wednesday, 06/23/2021 (Last possible approval 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

LMCD Board Meeting May 26, 2021 2022 Preliminary Budget Page 3

and long-term? E.g. Ecology, health, safety, nuisances, economics, etc.

- What are the short-term financial impacts of the actions?
- What are the long-term financial impacts and sustainability of the actions?

BUDGET See the attached budget	BUDGET See the attached budget summary.													
STRATEGIC PRIO X Operational Effectiveness	Clear & Timely Communications	X Effective Governance	X Lake Protection	Other										
ATTACHMENTS														

- Budget Summary and Notes
 - Draft City Preliminary Budget Memo

LMCD Board Meeting May 26, 2021 2022 Preliminary Budget Page 4

		STA	TEMENT			MINNETC JUF EXP								ND BAI	ΑN	ICES				
			ACTUAL I																	
						2015 Actual		2016 Actual		2017 Actual		2018 Actual		2019 Actual	F	2020 Budget		2021 Budget		2022 Budget
REVENUES																				
1	Admin Mu	nicipal Due:	s		\$	247,992	\$	235,866	\$	253,456	\$	271,269	\$ 2	287,610	\$	286,500	\$	300,000	\$	300,00
2	AIS Munic	ipal Dues			\$	94,500	\$	70,999	\$	66,795	\$	75,534	\$	81,170	\$	82,000	\$	75,000	\$	-
3	Grants an	d rebates			\$	54,000	\$	14,015	\$	20,995	\$			20,000	\$	2,000	_	-	\$	-
4	Interest ar	nd other			\$	4,455	\$	3,793	\$	1,158	\$			12,153	\$	3,000	\$	8,000	\$	8,00
5	Licenses a	and Permits	3		\$	107,510	\$	112,979	\$	118,149	\$	115,590	\$ ′	123,402	\$	110,000	\$	120,000	\$	122,00
6	Court Fine	s			\$	33,974	\$	35,598	\$	80,908	\$	42,967	\$	40,344	\$	45,000	\$	45,000	\$	45,00
7	Donations				\$	50,757	\$	21,425	\$	29,978	\$	35,877	\$	29,715	\$	45,000	\$	40,000	\$	42,00
8	Transfers	In- Genera	I/AIS		\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	7,000	÷	100,00
9	Transfers	In- STL																	\$	42,00
					\$	593,188	\$	494,675	\$	571,439	\$	573,773	\$ 5	594,394	\$	573,500	\$	595,000	\$	659,00
EXPENSES																				
	Personnel	Services			\$	281,849	\$	296,900	\$	235,542	\$	259,300	\$ 2	260,502	\$	325,000	\$	300,000	\$	306,77
	Office and				\$	53,533	\$		_	57,613			_	55,851	\$					55,90
	Legal				\$	90,651	÷	98,449		97,268	\$	- '			\$		÷			66,50
		fessional S	Services		\$	28,768	\$		·	20,582	\$			32,350	\$		_	25,000	_	22,25
			gement (Ma	aster Pla	_	37,571	\$	•	\$	31,663	\$		_	118,238	_		\$			80,00
			rvesting pro		\$	48,251	\$		\$	50,969	\$	50,000	\$	8,799	\$	50,000	\$	5,000	_	-
		t Replacem		,	\$	786	\$	744	\$	1,220	\$	-		· ·			\$	-		-
		ts and Prog			\$	67,233	\$	42,800	\$	35,307	\$	34,625	\$	38,614	\$	40,000	\$	40,000	\$	84,00
	Budget An					,	Ė	· · · · · · · · · · · · · · · · · · ·		,		,		· ·			Ė	<u> </u>		,
	Communic																\$	20,000	\$	25,00
20	Transfers	Out			\$	38,192	\$	-	\$	15,000	\$	-					Ė			
21	Other/Safe	ety Educati	ion/Buoy Su	pport															\$	18,580
		XPENDITU			\$	646,834	\$	588,457	\$	545,164	\$	498,845	\$ 5	88,947	\$	573,500	\$	595,000	\$	
	EYCESS	DEVENITE	S (EXPEND	ITI IDEQ	ć	(53,646)	ć	(93,782)	ć	26,275	Ś	74,928	\$	5,447	\$		\$		\$	
	LACESS	IVE A EIAOE	CAFEND	III UNES	Ą	(33,040)	۶	(33,762)	Ą	20,275	ş	14,328	φ	J,447	φ	-	Ψ		ĮΨ	-
Reserve Amo	unts													E 2019	_	/E 2020				
	General												\$ 2	258,429	\$	270,620				
	AIS												\$	79,590	\$	156,978				
		t Replacem	nent										\$ ′	125,652	\$	126,454				
	Save the L	₋ake											\$ ′	157,788	\$	143,656				
	TOTAL O	F ALL FUN	DS										\$ 6	521,459	\$	697,708				

BUDGET NOTES:

The budget notes are a presentation of each first level budget line item for all funds. Further definition of the contents of each line item and specific fund data are available on in the audit report and Income & Expense Statements.

1 Municipal dues for administration remain the same as in 2021. Reserve funds will supplement funding gaps.

- 2 Municipal dues for administration are reduced by \$75,000. Reserve funds will supplement funding gaps.
- Grants are often pass through items that show up in equal amounts in the income and expense line, and so may not be included in the budget. Rebates are included in typical amounts.
- 4 Interest amounts are variable.
- 5 License and Permit fees are expected to increase due to projects.
- 6 Court fines are also expected to remain at similar levels.
- 7 Donations are anticipated to remain the same with increase in initiatives.
- 8 Transfers in are from the reserve funds for General and AIS funds.
- 9 Transfers in are from the reserve funds for Save the Lake contributions.
- Personnel services have slight increase for typical increases, dependent on workload needs and additional staff hours anticipated to provide services.
- Office and supplies was decreased and also provides resources to produce routine communication mailings and education pieces.
- Legal includes both the administrative, prosecution fees, legal publications and other legal activities. Legal fees have been reduced.
- Professional Services primarily includes the cost of producing and broadcasting the Board Meeting, Audit fees, and IT consulting fees. It has been reduced.
- Als Prevention Program includes the activities related to current and long-term projects for the prevention of Als, inspection activities, and similar. Grants may be received and passed through to other service providers.
- 15 The harvesting program has been discontinued and may be contracted where needed to ensure safe navigation.
- The Equipment Replacement Fund has been eliminated. Equipment purchases will be funded out of the General Fund.
- 17 STL are the Save the Lake Grants that are funded from contributions and donations received from the STL program. An increase in STL expenses is targeted for water patrol and emergency services. STL programs have historically funded the ongoing Solar Light Program, Boater Safety Training Classes, and other lake protection and safety programs.
- 19 Funds support communications and legislation relations activities for lake conservation and safety including consulting fees.
- Solar lights program, safety education, buoy support and other past STL programs are being transferred to the General Fund account.

ATTACHMENT



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May XX, 2021

TO: LMCD Member City Mayors, Managers, Administrators, & Clerks

FROM: Gregg Thomas, LMCD Chair

LMCD Finance Committee Members: Rich Anderson, Treasurer; and Board

Directors Bill Cook, Denny Newell, and Nicole Stone

Board Directors: Ann Hoelscher, Ben Brandt, Dan Baasen, Gary Hughes, Mike

Kirkwood, Dennis Klohs, Mark Kroll, Jake Walesch, and Deborah Zorn

VIA: Vickie Schleuning, Executive Director

SUBJECT: Preliminary 2022 LMCD Budget

A copy of the preliminary 2022 Lake Minnetonka Conservation District (LMCD) Budget is enclosed. You are invited to provide comments.

By State statute, the allocation of levy to the 14 member cities is based on their percentage of the total net tax capacity, with no city paying greater than 20% of the overall levy. The LMCD Board performed a review of the budget, resulting in projected expenses and revenues for 2022. A total increase of \$64,000 (10%) is anticipated, with a city levy decrease of \$75,000 (collective decrease of 20%). Reserve funds are proposed to fund the budget gap. The proposed city levy amount is considerably less than the maximum levy allowed by state law. Each cities' percentage of levy increase varies in relation to taxable market values (as required by statute). Because some cities experience greater yearly gains in Total Taxable Market Value, the distribution of levy may also change each year.

One objective during budget preparation was to reduce overall fund reserves. Although revenues over the past few years have decreased primarily due to loss of grants, the LMCD, in partnership with stakeholders and volunteers, continues to provide essential services to enhance the Lake Minnetonka experience, including continued work on finalizing the Lake Minnetonka Vegetation and AIS Master Plan, boater safety education, promoting a clean and safe environment, and protecting the lake. We are anticipating another exceptionally busy year on the lake, partially due to the COVID-19 aftermath.

Because many agency budgets are considered on a calendar year basis, some budget information was not available during this budget preparation. Therefore, while the LMCD continues to review all aspects of our budget, the preliminary budget is based on historical analysis, projections, and review.

Charts are included to provide historical LMCD budget perspectives and city levy amounts from 2008 to Preliminary 2022 Budget. This chart indicates minimal changes over the years to the LMCD budget and city levy. The following is a highlight of the Preliminary 2022 LMCD Budget.

Budget Highlights

- **Overall Budget.** Total budget increase from \$595,000 to \$659,000, an increase of \$64,000 (10%). The majority of increase is due to increased funding of \$84,000 for dedicated water patrol and emergency response services through contributions to Save the Lake, not levy.
- Municipal Levy. Decrease of \$75,000 (20%) in municipal levy with program costs funded through reserve funds for 2022. This portion of the fund has been historically associated with AIS management harvesting program and other AIS activities. The harvesting program has been discontinued. This portion is being suspended in 2022 to reduce reserve amounts and allow time to finalize the AIS strategy and master plan. Typical levy amounts will be considered in future budgets.
- **Reserve Funds.** Use of \$100,000 of reserve funds to offset the 2022 municipal levy reduction. The auditor recommends 30-50% of reserve funds for the General and AIS fund accounts.
- **AIS Fund.** The AIS fund will be combined with the General Fund.
- Elimination of Equipment Replacement Fund. Funds for replacement equipment such as watercraft, vehicles, etc. will be combined with the general fund.
- Save the Lake Fund. Proposed funding of \$84,000 for water patrol and emergency services with the use of \$42,000 of reserve funds. Some expenses for solar lights, boater education, buoys and other activities have been reallocated to the General Fund. Save the Lake Funds are contributions and not funded through levies and historically have been stipulated for supplemental environmental and safety initiatives.
- **Court Fines.** Maintain current level of projected court fines anticipating another extremely busy season.
- **Legal Fees.** Additional decrease in legal fees of \$3,500 (0.05%) for civil and prosecution services, holding room and board, legal publications, and miscellaneous activities.
- **Communications.** Increase of \$5,000 (25%) for public education and legislative initiatives.

Please refer to the 2021 Budget Summary, indicating the history of the revenues and expenses from 2015 to the Preliminary 2022 Budget. In addition, the City Levy Share chart shows the distribution of city levy based on the Preliminary 2022 Budget. Additional charts are provided to reflect the historical fund accounts, preliminary budget, and impact.

The LMCD would appreciate your input. We hope you can attend the online informational session scheduled for Thursday, June x, 2021, at 11 a.m. <Add Zoom Info> Please contact Executive Director Vickie Schleuning or your member city representative if you would like to discuss the Preliminary 2022 LMCD Budget or to review LMCD activities and projects. Review and approval of the budget by the LMCD Board is scheduled for the June X, 2021 meeting.

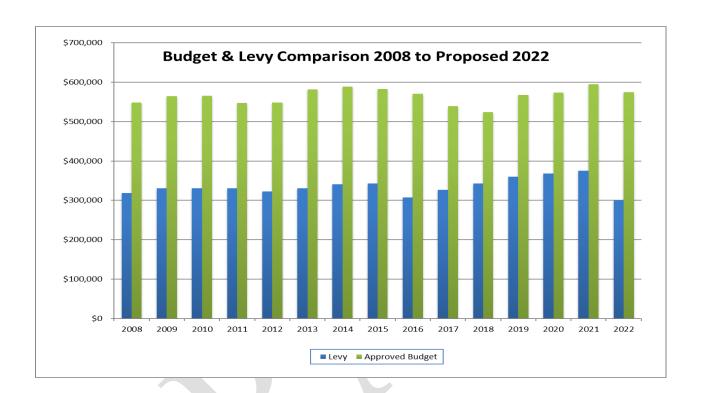
ATTACHMENTS

- I. Budget and Levy Comparison 2008 Through Preliminary 2022
- II. 2022 All Funds Budget Summary
- III. City Levy Share
- IV. Fund Account History & Projections



I. Budget and Levy Comparison 2008 Through Preliminary 2021

Since 2009, the LMCD budget has been variable with minimal increases. The 2022 proposed levy is \$300,000 a reduction of \$75,000; the maximum levy by State law is \$680,521.



II. 2022 All Funds Budget Summary

				LAK	ΕN	/INNETC	N	KA CONS	SEF	OITAVS	N E	DISTRICT	•					
			TEMENT ACTUAL F						_ ′									
		,	TOTOTE	01(201	J 2	2010, DOL	,,,	LITOR	201	2021,	7 (1	NOTICE	.1101111 47	1111 2	.02			
						2015 Actual		2016 Actual		2017 Actual		2018 Actual	201 Acti	-	E	2020 Budget	2021 Budget	2022 Budget eliminary
REVENUES																		
1	Admin Mur	nicipal Dues	3		\$	247,992	\$	235,866	\$	253,456	\$	271,269	\$ 287	,610	\$	286,500	\$ 300,000	\$ 300,00
2	AIS Munic	ipal Dues			\$	94,500	\$	70,999	\$	66,795	\$	75,534	\$ 81	,170	\$	82,000	\$ 75,000	\$ -
3	Grants and	d rebates			\$	54,000	\$	14,015	\$	20,995	\$	28,830	\$ 20	,000	\$	2,000	\$ -	\$ -
4	Interest ar	nd other			\$	4,455	\$	3,793	\$	1,158	\$	3,706	\$ 12	,153	\$	3,000	\$ 8,000	\$ 8,00
5	Licenses a	and Permits			\$	107,510	\$	112,979	\$	118,149	\$	115,590	\$ 123	,402	\$	110,000	\$ 120,000	\$ 122,00
6	Court Fine	S			\$	33,974	\$	35,598	\$	80,908	\$	42,967	\$ 40	,344	\$	45,000	\$ 45,000	\$ 45,00
7	Donations				\$	50,757	\$	21,425	\$	29,978	\$	35,877	\$ 29	,715	\$	45,000	\$ 40,000	\$ 42,000
8	Transfers	In- General	/AIS		\$	-	\$	-	\$	-	\$	-	\$	-	\$		\$ 7,000	\$ 100,000
9	Transfers	In- STL										•						\$ 42,000
					\$	593,188	\$	494,675	\$	571,439	\$	573,773	\$ 594	,394	\$	573,500	\$ 595,000	\$ 659,000
EXPENSES																		
10	Personnel	Services			\$	281,849	\$	296,900	\$	235,542	\$	259,300	\$ 260	,502	\$	325,000	\$ 300,000	\$ 306,770
11	Office and	Supplies			\$	53,533	\$	51,804	\$	57,613	\$	48,720	\$ 55	,851	\$	63,500	\$ 60,000	\$ 55,900
12	Legal				\$	90,651	\$	98,449	\$	97,268	\$	75,500	\$ 74	,592	\$	75,000	\$ 70,000	\$ 66,500
13	Admin Pro	fessional S	ervices		\$	28,768	\$	16,509	\$	20,582	\$	20,700	\$ 32	,350	\$	20,000	\$ 25,000	\$ 22,250
14	AIS Preve	ntion/Mana	gement (Ma	aster Pla	\$	37,571	\$	25,148	\$	31,663	\$	10,000	\$ 118	,238			\$ 75,000	\$ 80,000
15	AIS Manag	gement (ha	rvesting pro	ogram)	\$	48,251	\$	56,103	\$	50,969	\$	50,000	\$ 8	,799	\$	50,000	\$ 5,000	\$ -
16	Equipment	Replacem	ent		\$	786	\$	744	\$	1,220	\$						\$ -	-
17	STL Grant	s and Prog	rams		\$	67,233	\$	42,800	\$	35,307	\$	34,625	\$ 38	,614	\$	40,000	\$ 40,000	\$ 84,000
18	Budget An	nendment																
19	Communic	ations															\$ 20,000	\$ 25,000
20	Transfers	Out			\$	38,192	\$	-	\$	15,000	\$	-						
21	Other/Safe	ety Education	on/Buoy Su	pport														\$ 18,580
	TOTAL EX	KPENDITU	RES		\$	646,834	\$	588,457	\$	545,164	\$	498,845	\$ 588	,947	\$	573,500	\$ 595,000	\$ 659,000
																	•	
	EXCESS F	REVENUES	(EXPEND	ITURES)	\$	(53,646)	\$	(93,782)	\$	26,275	\$	74,928	\$ 5	,447	\$	-	\$ -	\$ -
Reserve Amo	unts												YE 2	019	Y	E 2020		
	General												\$ 258	,429	\$	270,620		
	AIS			V		Ţ							\$ 79	,590	\$	156,978		
	Equipment	Replacem	ent										\$ 125	,652	\$	126,454		
	Save the L	ake		1	7								\$ 157	,788	\$	143,656		
	TOTAL OF	F ALL FUN	DS										\$ 621	,459	\$	697,708		
TREASURER	REFEREN	ICE TOTAL	EXPENDI	TURES 2	202	0									\$	493,698		

BUDGET NOTES:

The budget notes are a presentation of each first level budget line item for all funds. Further definition of the contents of each line item and specific fund data are available on in the audit report and Income & Expense Statements.

1 Municipal dues for administration remain the same as in 2021. Reserve funds will supplement funding gaps.

- 2 Municipal dues for administration are reduced by \$75,000. Reserve funds will supplement funding gaps.
- Grants are often pass through items that show up in equal amounts in the income and expense line, and so may not be included in the budget. Rebates are included in typical amounts.
- 4 Interest amounts are variable.
- 5 License and Permit fees are expected to increase due to projects.
- 6 Court fines are also expected to remain at similar levels.
- 7 Donations are anticipated to remain the same with increase in initiatives.
- 8 Transfers in are from the reserve funds for General and AIS funds.
- 9 Transfers in are from the reserve funds for Save the Lake contributions.
- Personnel services have slight increase for typical increases, dependent on workload needs and additional staff hours anticipated to provide services.
- Office and supplies was decreased and also provides resources to produce routine communication mailings and education pieces.
- Legal includes both the administrative, prosecution fees, legal publications and other legal activities. Legal fees have been reduced.
- Professional Services primarily includes the cost of producing and broadcasting the Board Meeting, Audit fees, and IT consulting fees. It has been reduced.
- Als Prevention Program includes the activities related to current and long-term projects for the prevention of Als, inspection activities, and similar. Grants may be received and passed through to other service providers.
- 15 The harvesting program has been discontinued and may be contracted where needed to ensure safe navigation.
- 16 The Equipment Replacement Fund has been eliminated. Equipment purchases will be funded out of the General Fund.
- 17 STL are the Save the Lake Grants that are funded from contributions and donations received from the STL program. An increase in STL expenses is targeted for water patrol and emergency services. STL programs have historically funded the ongoing Solar Light Program, Boater Safety Training Classes, and other lake protection and safety programs.
- 19 Funds support communications and legislation relations activities for lake conservation and safety including consulting fees.
- Solar lights program, safety education, buoy support and other past STL programs are being transferred to the General Fund account.

III. City Levy Share



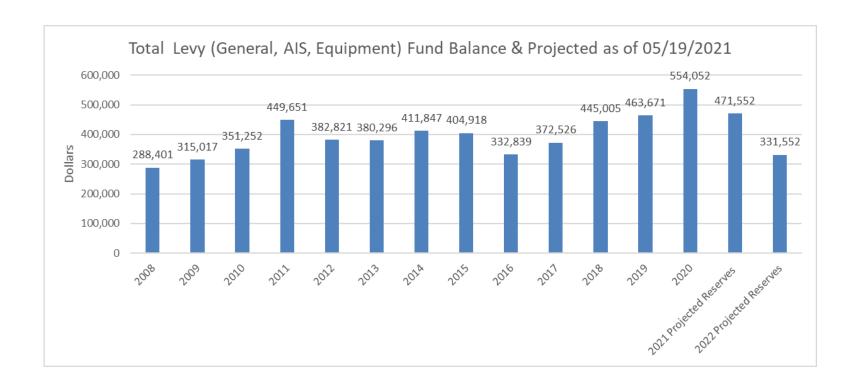
LAKE MINNETONKA CONSERVATION DISTRICT 2022 BUDGET AND LEVY (Preliminary DRAFT)

City	2010 U.S. Census Population Data		020 Estimated Market Value	2	020 Net Tax Capacity	% of Total Net Tax Capacity (Note 1)	Share of Admin. Levy in 2022	Share of AIS Levy in 2022	Share of Total Levy in 2022	Share of Total Levy in 2021	Change in Total Levy from 2021	% Change from 2021
DEEPHAVEN	3,642	\$	1,442,019,500	\$	16,556,653	5.0%	\$20,032	\$0	\$20,032	\$25,561	-\$5,529	-21.63%
EXCELSIOR	2,188	\$	608,817,000	\$	7,711,079	2.3%	\$9,330	\$0	\$9,330	\$11,555	-\$2,225	-19.26%
GREENWOOD	688	\$	403,204,200	\$	4,778,360	1.4%	\$5,781	\$0	\$5,781	\$7,335	-\$1,554	-21.18%
MINNETONKA	49,734	\$	10,833,743,300	\$	132,459,172	40.0%	\$60,000	\$0	\$60,000	\$75,000	-\$15,000	-20.00%
MTKA BEACH	539	\$	396,316,100	\$	4,711,441	1.4%	\$5,700	\$0	\$5,700	\$7,028	-\$1,328	-18.89%
MINNETRISTA	6,384	\$	1,963,840,700	\$	21,101,097	6.4%	\$25,530	\$0	\$25,530	\$31,819	-\$6,289	-19.76%
MOUND	9,052	\$	1,564,564,700	\$	16,540,281	5.0%	\$20,012	\$0	\$20,012	\$24,147	-\$4,135	-17.12%
ORONO	7,437	\$	3,441,380,700	\$	39,732,951	12.0%	\$48,073	\$0	\$48,073	\$59,500	-\$11,427	-19.21%
SHOREWOOD	7,307	\$	1,951,455,600	\$	21,702,658	6.6%	\$26,258	\$0	\$26,258	\$32,985	-\$6,727	-20.39%
SPRING PARK	1,669	\$	339,411,400	\$	4,071,042	1.2%	\$4,926	\$0	\$4,926	\$6,013	-\$1,087	-18.09%
TONKA BAY	1,475	\$	645,125,300	\$	7,421,441	2.2%	\$8,979	\$0	\$8,979	\$11,319	-\$2,340	-20.67%
VICTORIA	7,345	\$	1,823,878,200	\$	19,143,794	5.8%	\$23,162	\$0	\$23,162	\$29,463	-\$6,301	-21.39%
WAYZATA	3,688	\$	2,368,535,600	\$	30,895,419	9.3%	\$37,380	\$0	\$37,380	\$47,215	-\$9,835	-20.83%
WOODLAND	437	\$	338,409,300	\$	3,998,051	1.2%	\$4,837	\$0	\$4,837	\$6,059	-\$1,222	-20.16%
	101,585	\$	28,120,701,600	\$	330,823,439	100.0%	\$300,000	\$0	\$300,000	\$375,000	-\$75,000	-20.00%
Maximum Levy Per	MN statute 1	03B	6.635 (Total Taxab	le l	Market Value *	0.00242%):			\$680,521			
(Note 1) Per MN statut	e 103B.631, no	city r	may pay more than 20	o% (of the total levy.	The City of Minne	etonka would pa	y a constant 20% o	f any amounts to	o be levied.		
Remaining cities factor	for determining I	evy a	amounts is computed	as:	(City Net Tax Ca	pacity / (Total N	et Tax Capacity	- Minnetonka Net T	ax Capacity)) *	* 80%		
Total Net Tax Capacity					330,823,439							
less Minnetonka Net	Tax Capacity				(132,459,172)							

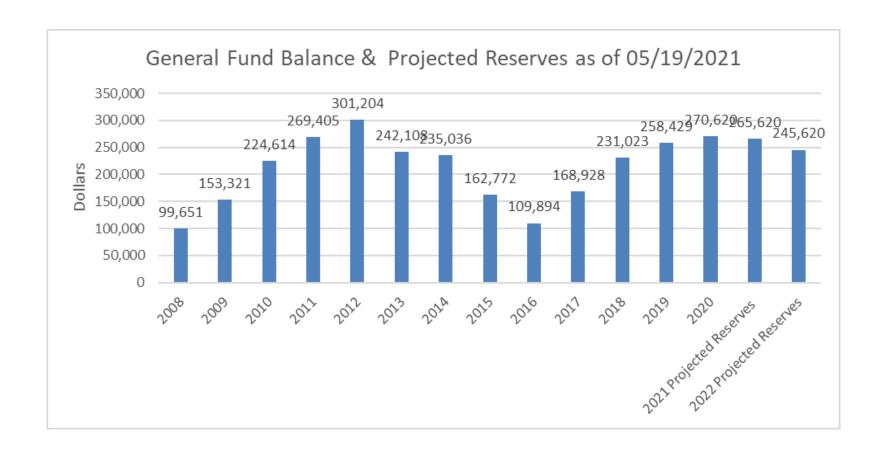
IV. Current and Projected Fund Balances

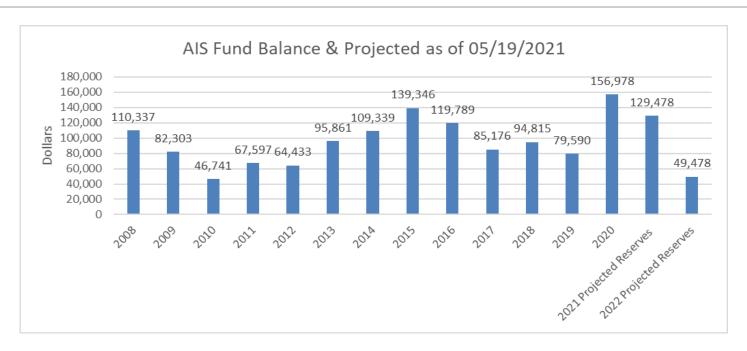
Reserve Fund Balance Projections Based on Pending and Proposed Use of Reserves. Actual income and expenses will affect the projections.

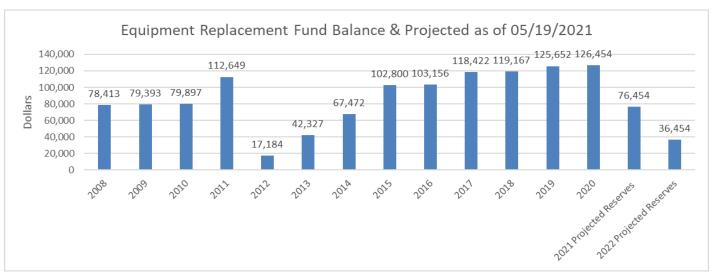
Combined Funds Per Board Action on May 12, 2021- General Fund, AIS Fund, Equipment Replacement Fund



Distribution Within Funds Prior to Combining

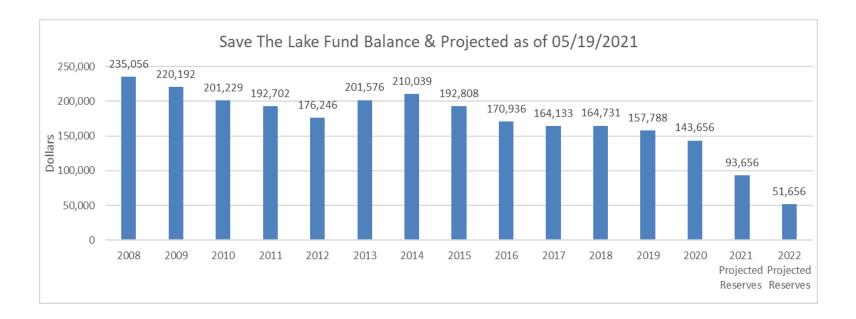






Save the Lake Fund Balance

These funds are received through contributions. Reserve fund balance projections are based on pending and proposed use of reserves. Efforts are underway to increase annual contributions to offset expenses. Any changes to income and expenses will affect the projections.





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: May 26, 2021

SUBJECT: Executive Director Update

The following items are highlights of current LMCD and other lake-related activities.

Solar Lights

Solar lights installation began last week on certain navigation buoys across the lake with the help of volunteers from Al & Alma's and Paradise Charter Cruises. Please report loose or broken lights to the LMCD office.

• Low Water Information

Lake Minnetonka Water Levels

On May 21, 2021, the lake water level was measured at 929.33 feet above sea level. According to MCWD, Gray's Bay Dam was opened on May 14, 2021 to retain lake water and prolong creek flow in case conditions remain abnormally dry. Ordinary high water mark for Lake Minnetonka is 929.4 feet. This spring has been a dry spring with very little precipitation until recently resulting in lower than normal lake water levels.

• LMCD staff have received several inquiries about low water dock adjustments due to this spring's unusually dry weather. When the Lake level falls below elevation 928.0 NGVD, the Board may declare low water conditions by resolution.

Temporary Extension of Residential Docks (LMCD Code 10-2.03)

During periods of declared low water conditions, the owner of a residential dock may temporarily extend the dock pursuant to a general permit issued by the LMCD for the Lake without needing to obtain an individual permit, but only upon compliance with the specific requirements. Temporary dock extensions may be left in place until November 15th of that year, even if the declaration of low water conditions is cancelled within the season.

Temporary Extensions for All Other Docks (LMCD Code 10-2.05)

During periods of declared low water conditions, an owner of a dock that does not qualify for a temporary extension under Section 10- 2.03 may apply to the LMCD for temporary low water dock extension permit. The Board determines whether to issue a low water extension permit, but a public hearing is not required unless ordered by the Board.

• Clean Drain Dry Initiative- Focusing on Bait
In 2021, the Wildlife Forever organization to spread
the important message about the proper use and
disposal of bait as part of the "Clean, Drain, and Dry"
message. The county is targeting popular destinations,
like Lake Minnetonka, to engage anglers and
recreational users to stop the spread of invasive
species. Educational materials will be printed on yard
signs, fuel pump toppers, bait bags (photo right), and
more.



• Stop Spiny Waterflea

The U of M is promoting the Stop Spiny Waterfleas campaign this summer. Researchers have discovered that Swedish dish cloths, made of a sponge-like material, are an effective tool in removing spiny waterfleas from fishing lines and other equipment. These dish cloths are available at kitchen stores, gift shops, and online. LMCD may purchase some of the dish cloths as part of the campaign. Is the Board interested in purchasing these AIS prevention giveaways? For more information about spiny waterfleas, visit stoppiny.org.

Additional AIS Updates.

Please see the attached newsletter from Hennepin County that provides additional AIS updates.

Please let me know if you have questions.

COMMUNICATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

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

Virtual

1. CALL TO ORDER

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

2. ROLL CALL

Members Present: Chair Ann Hoelscher, Mike Kirkwood, Jake Walesch, Dan Baasen, and Gary

Hughes (arrived 9:15am). Also present: Executive Director Vickie Schleuning.

Members Absent: Dennis Klohs

3. APPROVAL OF MINUTES

- A) Approval of Minutes from February 25, 2021 meeting: Moved and seconded; unanimous approval as submitted.
- B) Approval of Minutes from March 4, 2021 special meeting: Motion moved and seconded; unanimous approval as submitted.

4. TOPICS

A) Strategic Plan elements for Communications Committee

- i. Edits and additions from Walesch reviewed.
- ii. Discussion of metrics for success.
- iii. Hoelscher will capture today's thoughts as it affects Goals and pass on to Deb Zorn.

B) Legislative update

- i. Status on invited guests to LMCD Board meetings:
 - i. Rep. Greg Boe: Hoelscher will contact.
 - ii. Sen Osmek's office responded, asked deferment to summer for LMCD visit due to legislative load; legislative aide asked about our issues and appreciated briefing on our concerns for HF 1606/SF 1636. Kirkwood to reinvite.
 - iii. Senator Julia Coleman; Hoelscher will contact.
- ii. Discussed inviting other agency representatives, sheriff and water patrol for future visits/presentations. Schleuning to craft standard invite letter for review by Hoelscher for sending.

C) MN Lakes and Rivers Advocates

- i. Advocacy group solely focused on protecting Minnesota's lake and river heritage by forging powerful links between lakes, lake advocates and policy makers.
- ii. \$200 for LMCD to join as an organization. They have connections in legislature and many other lake associations and organizations around the state.
- iii. Motion made [Baasen] and seconded [Hughes] to join the organization, with intent to renew year over year.

iv. Hoelscher to draft the request and send to Schleuning for inclusion on next LMCD board agenda

D) Save the Lake Article

- i. Schleuning to call and confirm Laci Gagliano [writer] preference for by-line ownership
- ii. Schleuning to present article to local newspaper contacts for publication

E) Summer Rules brochure

- i. Updated and sent to LMCD Board members and water patrol for feedback.
- ii. When finalized, will be posted on LMCD website, and then linkages passed to social media sites.
- iii. Board members should review and send any comments/feedback ASAP.

F) Charter boat vendors conducting training week of March 29.

- i. LMCD staff drafting news release to showcase what they are learning and help promote them to the public.
- ii. Board members should read and review for background.

G) Website

- i. Buildout at critical point in process.
- ii. Communication committee members should review and react ASAP.
- iii. Wakeboat video message the wakesurf video regarding etiquette key messages align very well with interests/concerns of LMCD. Schleuning to ask permission to post it on LMCD website.
 - https://www.facebook.com/midwestwakesurf/videos/1112881099224148

H) Next meeting: April 29, 2021; 9:00AM

- i. Select next writing project(s) to promote LMCD and decide who would proceed to produce; make decisions to have several in the pipeline.
- ii. Secretary to be Dennis Klohs

I) ADJOURNMENT

The meeting was adjourned at 9:59 a.m.

Respectfully Submitted,

Mike Kirkwood,

LMCD Communications Committee Member

OPERATIONS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

10:00 a.m., April 20, 2021

Virtual

1. CALL TO ORDER

The meeting called to order at 10:05 a.m.

2. ROLL CALL

Members Present: Richie Anderson, Ann Hoelscher, Gary Hughes and Deborah Zorn.

Members Absent: Gregg Thomas

3. CHAIR ANNOUNCEMENTS

None.

4. APPROVAL OF MINUTES

Motion to approve 03/16/2021 Operations Committee minutes was made and seconded. Motion passed.

5. TOPICS

A) Strategic Plan Draft

Committee discussed updates to the Strategic Plan. Zorn received feedback from Communications Committee, Finance Committee and Governance comments. Zorn will prepare a new draft with Strategic Priorities aligning with current committee structure – Finance, Communications, Operations, AIS and Save the Lake.

B) Succession Plan Draft

Committee discussed scope of succession plan. Zorn will reach out to Jim Brimeyer for samples and will prepare a draft for review.

C) Other

None.

6. ADJOURNMENT

The meeting was adjourned at 10:49 a.m.

Respectfully Submitted,

Ann Hoelscher,

LMCD Operations Committee Secretary

SAVE THE LAKE COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

5:00 p.m., March 9, 2021

Virtual

1. CALL TO ORDER

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

2. ROLL CALL

Members Present: Dan Baasen, Denny Newell, Mark Kroll, Rich Anderson, & David Gross. Members Absent: Gregg Thomas & Bill Cook.

3. APPROVAL OF MINUTES

Kroll moved and Anderson seconded, minutes from 01/12/2021 Save the Lake Meeting were approved as submitted.

4. TOPICS

A) 2021-2022 Priorities

Committee reviewed priorities for 2021-22, its goals and plans to get there. After discussion, it was moved by Anderson seconded by Newell to reset budget for 2021 Appeal to \$60,000 pursue a theme of "Fund a Need". It was agreed to concentrate on Safety through expanding the designated officer program through the HCSWP to 1.5 Officers Program Between Memorial Day and Labor Day 2021. This was based on the assumption that lake use estimates provided by HCSWP saw continued rise in activity on Lake Minnetonka and the challenges it brings. Unanimously supported by STL Committee.

B) Board Involvement & Support

There was discussion on how we could broaden support from the lake community and includes goal of 100% support from the LMCD Board of Directors.

C) Save the Lake Committee Membership

The committee discussed Non-Director membership on the Save the Lake Committee to broaden our Community participation. Rich Anderson nominated two new members of the committee: Jay Soule & Gabriel Jabbour. David Gross expressed his desire to continue on the committee. Unanimously approved for submission to the Board of Directors.

5. ADJOURNMENT

The meeting was adjourned at 6:20 p.m.

Respectfully Submitted,

Dan Baasen

LMCD Save the Lake Committee Chair

SAVE THE LAKE COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

5:00 p.m., April 27, 2021

Virtual

1. CALL TO ORDER

Chairman Dan Baasen called the meeting to order at 5:10 p.m.

2. ROLL CALL

Members Present: Mark Kroll, Rich Anderson, Denny Newell, Dan Baasen, Gabriel Jabbour,

Bill Cook, Gregg Thomas, and Jay Soule.

Members Absent: Dave Gross.

3. APPROVAL OF MINUTES

Minutes from the 03/09/2021 Save the Lake Committee meeting were reviewed and approved.

4. TOPICS

A) Hennepin County Sheriff's Office Water Patrol Request

Chair Baasen addressed and reviewed the proposal from Hennepin County Sheriff Water Patrol to continue and increase coverage on Lake Minnetonka during the period of 5/15/2021 through Labor Day 2021. The increased need for funding and coverage stems from significant increased traffic and challenges facing the Lake and forecasted traffic in 2021. Coverage would be expanded with two designated full-time officers and an extended period of contracted coverage. The committee had earlier discussed expanding safety issues facing the Lake and the possibilities for increasing donations to STL.

The group discussed the April 2021 request to increase coverage that was submitted by HCSWP with coverage by two designated officers for the period 05/15/2021 through Labor Day. It was a well outlined request that the Committee supported at the full request of \$84,000. Baasen advised the Committee that a Resolution 118 adopted in 2008 by LMCD governed distribution of funds from STL at 25% of reserve balances for STL. That resolution would have to be revoked and eventually replaced to move forward.

The Committee resolved that a motion to fund HCSWP's request be funded in full and if necessary, funds would be authorized up to \$50,000 from STL Reserve Fund should there be a shortfall in fundraising. That motion passed. Baasen agreed to present the motion to the full board.

B) 2021 Priorities

The committee discussed and agreed unanimously to prioritize:

- Lake Safety through "Fund a Need"
- Boater Safety instruction
- Solar Light Navigation Maintenance
- To be determined

Save the Lake Committee Minutes April 27, 2021 Page 2

C) 2021 Fundraising

The Committee confirmed to continue using twice annual solicitation appeals through mail but supplement them with Direct active fund raising to meet needs not covered by levy from the Cities.

D) Spring Summer Solicitation Letter

The Spring Summer appeal letter was discussed and it was suggested that the Committee have a proposed letter by the next STL meeting.

E) Review LMCD Strategic Plan

Discussion of the LMCD Strategic Plan STL focus for 2021-2022 was postponed until the 05/11/2021 Save the Lake meeting.

5. ADJOURNMENT

The meeting was adjourned at 6:25 p.m.

Respectfully Submitted,

Dan Baasen LMCD Save the Lake Committee Chair