



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA **LAKE MINNETONKA CONSERVATION DISTRICT** **Wednesday, April 13, 2022** **Wayzata City Hall** **600 Rice Street, Wayzata, MN 55391**

PUBLIC PARTICIPATION

Those desiring to participate in the meeting should complete the online [Public Comment Form](#) one day prior to the meeting. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. Please see *Public Comments* Section for more information.

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. Managing Risk: State Open Meeting Laws, Conflict of Interest, LMCD Business Policies

FORMAL MEETING AGENDA

6:00 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** (02/23/2022 LMCD Regular Board Meeting)
- 7) **APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (04/01/2022 – 04/15/2022)

8) CONTRIBUTION RECOGNITION

- 9) PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes and should not be used to make personal attacks or to air personality grievances. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*

10) PUBLIC HEARING

- A) Joint Variance Applications for 21100 Excelsior Blvd and 5600 Maple Heights Road, Greenwood, MN 55331, St. Albans Bay, Adjusted Dock Use Area (Setbacks)
- B) Petition for Quiet Water Area on Buoy Channel at Cedar Point West between Cooks Bay and Upper Lower Lake

11) OTHER BUSINESS

12) OLD BUSINESS

13) NEW BUSINESS

- A) Hennepin County Sheriff's Office Funding Request for Dedicated Water Patrol Services for 2022

14) TREASURER REPORT

15) EXECUTIVE DIRECTOR UPDATE

16) STANDING LMCD COMMITTEE UPDATE

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

17) ADJOURNMENT

Future Items for Review – Tentative

- Lake Use Vision and Policy Discussion Continuing Series
 - Deicing Eligibility Expansion Review

ITEM 6

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

7:00 P.M., March 23, 2022

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.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Dan Baasen, Wayzata; Ben Brandt, Mound; Mark Chase, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and, Deborah Zorn, Shorewood. Also present: Jason Hill, LMCD Legal Counsel; and Vickie Schleuning, Executive Director.

Members absent: Bill Cook, Greenwood; Michael Kirkwood, Minnetrista; and Jake Walesch, Deephaven.

Persons in Audience:

Edward De Gregoire, Steven Tallen, Bret Cline, Tyler See, Chad Tokowicz, Chris Bank, TJ Ortmann, Eric Evenson, Jon Holper, Eric Forsberg, Gabriel Jabbour, John Bendt.

The following username were present, but the user did not identify themselves: j Michael's iPad, James H.

4. APPROVAL OF AGENDA

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

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Chase	aye
Cook	absent
Hoelscher	aye
Kirkwood	absent
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye

Walesch	absent
Zorn	aye

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

A) Statement Regarding Holding Meetings via Telephone or Other Electronic Means

Chair Thomas commented that it has been determined that the Board should no longer be eligible to meet via Zoom and he has signed a presiding officer statement which he presented to the Board. He stated that the Board will return to in person meetings following this meeting. He stated that a committee chair has inquired whether committees can meet via Zoom but noted that legal counsel has stated that all committees will need to resume in person meetings beginning tomorrow. He noted that staff can assist in providing a conference room at the LMCD office location.

Anderson asked whether legal counsel has stated that committees must meet in person.

Thomas confirmed that legal counsel did provide that direction.

Hill stated that they have reached a point where the justification to meet remotely under the statute has passed and in person meetings should return. He confirmed that would apply to all committees or boards of a local governmental entity.

Thomas commented that the open meeting law was not put in place to make it convenient for the members to attend but to provide transparency to the public.

Zorn recalled previous discussions that explored hybrid options and asked if that could continue to be explored.

Thomas stated that while that is a potential there are a lot of requirements, noting that staff has been working with Wayzata City Hall and the videographer to determine if technology would support that. He stated that if a member chooses to attend virtually, they would need to disclose their location and make it available to the public.

Hill confirmed that there would be an option for members to appear remotely, but that remote location would need to be noticed and open to the public. He noted that the remote member would also need to see and hear all comments, testimony, and votes from the meeting location. He stated that he has seen cities spend funds to ramp up their Council chambers to support that activity, but it can be an onerous task.

Thomas commented on the logistics of the City Hall location where the Board meets and believed that hybrid attendance would require at minimum, dual screen technology.

Schleuning commented that functionally all the requirements can be met except for all people being always visible. She commented that she was advised that the cost to upgrade the AV and video is estimated at \$60,000 to \$100,000.

Brandt thanked Hill for the legal input. He thanked Thomas and Schleuning for accommodating virtual meetings for the past two years, recognizing the work that goes into holding successful virtual meetings. He commented that he looks forward to in person meetings but believed that looking into a hybrid option would be beneficial. He recognized the high cost but would like to consider that as an option down the road.

Kroll asked if Wayzata would be willing to contribute towards that cost.

Schleuning commented that Wayzata would unofficially have interest in that. She noted that the first quote came back higher than anticipated and stated that staff would continue to investigate options but did not believe Wayzata was motivated at this time.

Anderson commented the Excelsior is already setup for virtual attendance and asked if the LMCD could meet at another city hall location. He stated that he is not interested in a cost of \$60,000 to \$100,000 but would instead pursue meeting in Excelsior.

Kroll commented that Excelsior does not have enough seating at the dais.

Anderson stated that he would still like to explore that option.

Brandt understood that committees will need to meet in person. He asked if a committee member could still attend via phone if they do not vote.

Hill stated that the member would not be allowed to participate.

Thomas asked if Hill's firm represents the City of Excelsior.

Hill replied that he is unsure of that representation and was unsure how that city is operating.

Kroll replied that Excelsior has used a hybrid option for the past year.

Zorn stated that the committees began during the pandemic and her concern would be that without a hybrid option, her participation and the participation of others would diminish.

Brandt commented that the committees are open meetings and therefore to not allow a member of the committee to participate would seem contradictory. He asked why a committee member would be excluded if the public can attend.

Hill commented that the open meeting law is not excluding anyone. He noted that the purpose of the open meeting law is not to make it convenient for members to attend but for the benefit of the public. He

commented that multiple cities and other entities have become adjusted to the virtual format over the past two years, but given the conditions, they must return to pre-pandemic formats where everyone was at the meeting. He stated that hybrid could be an option if the requirements are met to see and hear everyone.

Brandt thanked Hill for the additional clarification.

Baasen commented that this seems sudden and asked if the date of March 24th is absolute or whether there is leeway.

Thomas commented that the date came from discussions with Gilchrist as this is the last Board meeting of March and there are no committee meetings scheduled for March, therefore there did not appear to be a difference between this date and April 1st.

Stone stated that she attended the City Council meeting for Minnetonka and that Council made the same decision to return to in person meetings at its next meeting.

Thomas commented that the Tonka Bay Council is also following the same direction.

Chase commented that given his work schedule, attending committee meetings at the scheduled times will make it difficult to attend. He noted that the committee model should be reviewed or at minimum, the meeting times, to allow in person attendance.

Thomas commented that he has enjoyed the ability to meet via Zoom as the attendance has never been better and participation has been great. He recognized the comments from Zorn related to the committee meeting schedules and noted that the committees will need to rethink the meeting times or who would be available to attend. He recognized that people have become accustomed to meeting via Zoom, but until they can determine whether they could meet the requirements to offer a hybrid method, they will be returning to in person attendance.

5. PRESENTATIONS

A) Prosecution Update: Steven Tallen, Attorney

Tallen introduced himself noting that he has represented the LMCD in prosecution services for the past 36 years. He noted that the last year has been more diverse than past years noting a navigation hazard allegation and the issue of illegal charter boats and improper rentals. He stated that last year the Water Patrol and LMCD realized that there was a severe problem, receiving complaints from residents and legal charter operations. He stated that the Sheriff's Office focused attention on the issue, noting 15 to 18 cases, most of which have not settled. He noted that more people are getting out on the lake during the summer months because of the more limited options during the past two years. He reviewed the expense for his services and revenue generated from the cases he prosecuted, noting a revenue of \$30,000. He also provided an update on underaged drinking, noting the drastic reduction since the social host ordinance was adopted.

Lieutenant Cline stated that Water Patrol does its best to get out there and be present to stop underage drinking. He agreed that those incidents have been dramatically reduced in the past three years. He commented that the issue with illegal charters will continue be a focus and will be hit hard in the beginning of the season for the word to spread.

Anderson commented that it would be difficult to complain about the finances on the profit and loss spreadsheet. He asked the number of illegal charters that were prosecuted and whether there were repeat offenders.

Tallen stated that seventeen cases were open, and three to five cases have been closed. He noted that some of those offenders have not yet appeared in court because of the backups still experienced in the courts from COVID. He stated that he does try to settle out of court, but his position has been that these people are charging between \$800 and \$1,500 per trip on a weekend. He noted that the maximum fine the LMCD can implement is \$1,000 and therefore it is sometimes being considered a cost of business. He stated that most of the people he deals with get the message and do not want to offend again. He stated that if there is a repeat offender, the LMCD will not be as easy on them.

Anderson agreed that a \$1,000 fine is nothing to some of those people but going to court has additional legal costs.

Tallen commented that going to court has legal costs for each party and therefore he would prefer to resolve outside of court.

Anderson asked the number of illegal rentals.

Tallen replied that number included illegal charters and renters.

Anderson asked if this information is also passed to the IRS, as most of the illegal charters would not be claiming income.

Tallen commented that he would not pass that information to the IRS and was unsure if the IRS would even be interested in that type of income.

Anderson commended Tallen for the excellent work he continues to do on behalf of the LMCD.

Thomas thanked Tallen and Cline for their comments.

7. APPROVAL OF MINUTES- 02/23/2022 LMCD Regular Board Meeting

MOTION: Baasen moved, Brandt seconded to approve the 02/23/2022 LMCD Regular Board Meeting minutes as submitted.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

Anderson noted a line item for insurance for Matt Cook on the audit of vouchers and asked for clarification.

Schleuning stated that will be rebated. She explained how the cobra process works, noting that he has not yet signed up for COBRA. She stated that the LMCD would go forward with the 60 days as required and then likely be rebated.

Hoelscher stated that there is one renewal for Venture Holdings LLC that states none for the type on the alcoholic beverage license renewals and asked for an update.

Schleuning stated that the business is in the application process. She noted that if the requirements for the watercraft for hire are not met, they would not receive the alcoholic beverage license. She stated that this would cover the review and approval, should the requirements of watercraft for hire be met. She explained that the type of license would allow patrons to bring their own alcohol, but the business could not supply the alcohol.

MOTION: Baasen moved, Kroll seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (03/0120/22 – 03/15/2022) and (03/16/2022 – 03/31/2022); **7B)** Resolution Accepting Save the Lake Contributions (03/01/2022 – 03/11/2022); **7C)** Resolution Approving 2022 Alcoholic Beverage License Renewals Resolution; and **7D)** Executive Director Performance Assessment.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

9. CONTRIBUTION RECOGNITION

Bassen recognized Thomas for his leadership of the Board and for being one of the first donors for the year.

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

Edward De Gregoire commented that the association he belongs to owns the lake lot that goes from Minnetonka into Wayzata Bay. He stated that there are two buoys that have been in the same place for 50 years. He commented that the boats are larger and there are more wake boats and believed that moving the buoys out would alert boats sooner to allow them to slow down more quickly. He commented that his boats have experienced damage from the wake. He stated that he was unfamiliar with the process but will submit a formal letter. He hoped that the Board would allow the adjustment of the buoys a little further to prevent those boats from wreaking havoc on the neighborhood association docks.

Gabriel Jabbour, 985 Tonkawood Road, commented that in the past 30 years, he and a previous chair of the Board worked hard to develop an operator permit. He stated that last year, a coalition was formed, and they are proud to have gotten this far on the operator permit. He referenced communication from LMCD staff related to the process that the Board will discuss related to the wake study. He commented about concerns of the timing of the LMCD taking on the wake issue and a letter was sent to the LMCD on this topic asking the LMCD to delay its effort until the process is concluded. He stated that this has passed through the Senate in two committees, and two committees in the House. He commented that they believe, that as well intended as the LMCD is, its action could have a negative effect on their efforts in the legislature. He stated that the LMCD has waited a long time to address the issue and did not believe waiting another two to three months would hurt the LMCD. He welcomed calls from the Board to provide additional details. He asked the LMCD to trust him and members of the coalition noting that Sheriff Magnuson is also involved and asking the Board to delay its action.

Thomas commented that the LMCD has gone on record supporting the efforts of the coalition and has provided a letter of support as well.

Jabbour commented on the hours and expense that has been spent by the members of the coalition on this effort, noting that success is within their scope.

Jill Sims, National Marine Manufacturers Association (NMMA), stated that the House and Senate files are moving along incredibly well with four hearings in four weeks. She commented that things are moving well and contributes that to the broad coalition that is working together on this topic. She believed that this all ties back to education and thanked the LMCD for the letters of support it has sent on this behalf. She commented that this is an exciting time with a broad scope of people, businesses, and entities involved and supporting the effort. She stated that things at the legislature will wrap up in late May and asked the LMCD to delay discussion and/or action on the wake topic until after that time. She commented that this is a big moment for water recreation.

Chris Banks, 2600 West Lafayette Bay, and member of Midwest Wake Surf Association commented that opening discussion on the wake topic would be putting the cart before the horse, as the previous speakers have mentioned. He stated that in the bigger picture his association focuses on education and how to do any water sport safely. He stated that if a license is required for water recreation, he believed that would make more progress towards education and the ability to track activity. He asked the Board to table that item for the time being.

11. PUBLIC HEARING

There were no public hearings.

12. OTHER BUSINESS

There was no other business.

13. OLD BUSINESS

A) Revert Application for The Yacht Club, 4165 Shoreline Drive (PID 18-7-23-44-0022) Spring Park, MN 55384 to Former Commercial Multiple Dock Club Facility Classification for 2022

Schleuning reported that the Yacht Club previously requested a change to a qualified commercial marina, but the City of Spring Park expressed concerns for this recent request. She stated that the applicant's request is to revert the qualification to a yacht facility, and everything would revert to the original license. She noted that no changes have been made to the facility, therefore staff believed this would make sense to help resolve the situation between the Applicant and the City. She noted that this would allow the facility to operate as it has historically operated, with no anticipated impact either way.

Anderson asked if there would be an issue with the applicant going out beyond one hundred feet.

Schleuning stated that the applicant would like to have an extension to allow the existing dock to remain in its location which exceeds the 100-foot mark by approximately sixteen feet. She noted that there is another purchase agreement with a new owner and that is going through Spring Park. She asked if the Board would like to allow a one season extension to allow the additional sixteen feet. She confirmed that the extension could be added to the motion tonight.

Anderson commented that he believed that the facility was already allowed to go out to two hundred feet as a qualified commercial marina and therefore he did not see an issue with the extension.

MOTION: Anderson moved, Newell seconded to approve the Findings of Fact and Order per a request by The Yacht Club, LLP to revert to its Previous Commercial Multiple Dock Licenses as a Club Facility with Special Density License for the property located at 4165 Shoreline Drive in the City of Spring Park with the additional allowance for the 16-foot dock length extension for the 2022 year.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

14. NEW BUSINESS

A) 2021 Financial Audit Annual Presentation

Tyler See, Abdo, Eick and Meyer, presented the 2021 financial statement audit. He reviewed the responsibility of the auditors and reported an unmodified opinion with no compliance issues. He stated that there was one audit finding related to the preparation of financial statements. He stated that the firm drafts the financial statements and completes the audit, therefore this is a recurring finding and is common for an entity of this size. He provided information on the general fund, AIS fund, Save the Lake fund, and equipment replacement fund.

Anderson commented that he met with See the previous day via Zoom to review the audit. He provided suggestions that would allow the LMCD to earn interest. He thanked See for the excellent job he did on the audit and for responding to his questions. He believes that quarterly reports will provide benefit in the audit process. He recognized that it would be too quick to complete a first quarter report, but a first half of the year report and then quarterly reports could be done after that by Abdo, Eick and Meyer.

Thomas noted that the LMCD does have an investment policy and procedure, which is conservative. He commented that the Board has a fiduciary responsibility, and the audit ensures that responsibility is being met.

Brandt commented that each year the audit seems to go smoothly and recognized the due diligence of staff and the Treasurer to ensure the finances are in good standing.

Schleuning recognized office staff and Tammy for doing an excellent job preparing for the audit.

B) Annual Salary Compensation for Executive Director

Thomas commented that following the Board review of the Executive Director performance, he drafted a suggested salary increase for the position. He recommended a three percent increase retroactive to January 1, 2022. He noted that increase is consistent with the other employees and staff from other cities.

MOTION: Thomas moved; Anderson seconded to approve the annual base wage adjustment for the Executive Director in 2022 at a rate of three percent retroactive to January 1, 2022.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

C) Draft Process to Review Wave Impact on Lake Minnetonka

Thomas stated that for the past year or two there have been concerns expressed related to the impact of waves on the lake and the impact of some water activities on the lake. He noted that input has been received from both sides of the issue. He stated that about one year ago the LMCD Board decided to wait to have further discussion until the U. of M. St. Anthony Falls study was completed. He stated that the study was released in February, and it is now known that was phase one and that there will be an additional phase. He stated that at the last meeting he committed to draft a process to review wave impact on the lake. He noted that his intent was not to discuss the matter tonight, but to discuss the process itself. He stated that tonight there were comments provided by the public asking the Board to hold on this process until at least May.

Hoelscher stated that she has reviewed the process and likes it as outlined, but after receiving input tonight she is not opposed to waiting on this as requested. She stated that education is important and supported by LMCD and believed it would be better to hold off until the end of May.

Thomas agreed that the LMCD has supported the work of the coalition for education and boat operator licensure.

Baasen stated that he also supports the process as laid out. He stated that the LMCD has supported the work of the coalition and agreed that action should be postponed until the end of the legislative session.

Kroll stated that he is strongly in favor of boater education. He stated that he has a number of unanswered questions such as what will happen in two months if the boater education is approved by the governor and whether this would get pushed out to the end of the season. He asked if there is a contradiction between education and the environment. He asked what would happen in the boater education bill allows people to be grandfathered in and not be required to complete the boater education program. He asked what would be taught to people in terms of boater education if there are not rules in place. He stated that the current regulations have not kept up with the boats. He did not see harm in the LMCD discussing the wave/wake issue.

Newell commented that he agrees with many of the comments of Kroll. He stated that he is a big proponent of education and has lived most his life on the lake. He did not see boater regulation and education as mutually exclusive. He hoped that the legislature would develop a plan for education but believed that it could take as much as two years or more to get people properly certified. He asked if pushing this off two months further could result in additional delays. He stated that he approves the process and believes that the LMCD could start its discussion.

Stone agreed that boater education is important. She believed that it would be fine for the LMCD to wait until May to begin discussion.

Zorn stated that she approves the process but would agree to pause given the comments received from the public.

Brandt stated that he is encouraged by the cooperation of multiple organizations across the state, which would make a larger impact than just Lake Minnetonka. He believed that discussion related to wake at this time would be premature.

Chase commented that he agrees with the process as outlined. He stated that he supports boater education and delaying this for a few months to better support the coalition.

Anderson commented on the educational support the LMCD has supported throughout the years including Own Your Wake. He stated that the coalition has groups with many different interests working together. He noted that process will involve a lot of cooperation and effort. He stated that the LMCD could wait and follow the guidance/law that will come from the State. He noted that educational efforts could be supported through the LMCD budget.

Klohs commented that the LMCD is fortunate to have the St. Anthony Falls Laboratory in its backyard noting that entity is 100 percent nonbiased. He stated that a report has been produced with information that has never been produced before. He stated that there is a webinar available with the data. He stated that his number one goal for the LMCD would be to have the organization be viewed like St. Anthony Falls in that it is not biased. He stated that there is one group making comments tonight asking the LMCD to delay action. He stated that if the LMCD delays action because of that input, it would be viewed as biased. He stated that the LMCD action should be separate from the input received. He did not believe this would be resolved in two to three months. He stated that the listening process itself will take two to three months and commented that it would be nice to begin that now so that the LMCD could begin its work when the legislative session is over. He stated that if action is delayed by two to three months, nothing would be done for this boating season. He noted that even the wake boat industry does not believe the current regulation is sufficient. He believed that a listening session should be scheduled for April.

Jabbour stated that they are not requesting a delay for functionality but so that people do not fall on either side of the issue and lose focus on the mandatory education. He commented that those that have spoken tonight are not special interest and are concerned with protecting the resource.

Thomas stated that there continues to be unanimous support for the proposed legislation going through the legislature. He stated that there also seems to be support for the draft process included in the agenda. He recognized that there were varied opinions on whether to pause but noted that there was consensus to pause this discussion until the legislative session ends in May. He recognized the work the coalition has done to get to the legislature and did not want to interfere with that activity.

Klohs commented that his suggestion is to begin the listening sessions in April with no discussion of potential ordinance until after the legislative session concludes.

MOTION: Thomas moved, Baasen seconded to pause this discussion until the legislative session concludes in May.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Chase	aye

Cook	absent
Hoelscher	aye
Kirkwood	absent
Klohs	nay
Kroll	nay
Newell	nay
Stone	nay
Thomas	aye
Walesch	absent
Zorn	aye

Motion carried.

D) AIS Management Funding Request

- i. Black Lake
- ii. Browns Bay
- iii. Crystal Bay

Brandt stated that applications for treatment funding have been received from Black Lake, Browns Bay, and Crystal Bay for treatment in 2022. He noted that the AIS Committee reviewed these applications and unanimously recommended approval as noted in the staff report. He explained that separate action is proposed for each request and noted that funding is contingent upon the applicant providing the matching funds required. He reviewed the details of the request, the cost estimate, and recommended funding from the AIS Committee for the Black Lake request. He confirmed that the LMCD would receive the data from the surveys and treatments.

Klohs asked if the Lake Minnetonka Association (LMA) is the applicant rather than a resident living on Black Lake.

Brandt explained that the LMA is organizing the effort with the residents.

Klohs asked if this would have happened without the LMA being involved.

Anderson replied that it would not.

Klohs stated that it would then appear the LMCD is just providing funds to LMA.

Brandt stated that he does not see it like that and instead sees it as the Board assisting residents in treating invasive species in their lake area. He stated that if the residents are not interested, the project would be canceled, and the funds would never be paid out as they are only paid to the vendor upon completion of the project.

MOTION: Anderson moved, Newell seconded to authorize funding for Black Lake for Aquatic Invasive Species (AIS) management up to 35 percent for vegetation surveys and up to 25 percent for AIS treatment, with additional actual project costs and services rendered not to exceed \$4,000 of the estimated costs in the application. LMCD funding is contingent upon the applicant and/or pay raising the remaining balance of

funding needed. The payment distribution will be approved via the collaboration of the Finance and AIS Committees and be made directly to the service provider upon verification and completion of the project.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Brandt reviewed the details of the request, the cost estimate, and recommended funding from the AIS Committee for the Browns Bay application.

MOTION: Anderson moved, Kroll seconded to authorize funding for Browns Bay for Aquatic Invasive Species (AIS) management up to 35 percent for vegetation surveys and up to 25 percent for AIS treatment, with additional actual project costs and services rendered not to exceed \$9,000 of the estimated costs in the application. LMCD funding is contingent upon the applicant and/or bay raising the remaining balance of funding needed. The payment distribution will be approved via the collaboration of the Finance and AIS Committees and be made directly to the service provider upon verification and completion of the project.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Chase	aye
Cook	absent
Hoelscher	aye
Kirkwood	absent

Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	absent
Zorn	aye

Motion carried unanimously.

Brandt reviewed the details of the request, the cost estimate, and recommended funding from the AIS Committee for the Crystal Bay request.

Thomas noted that this application does not have the survey box checked and asked for clarification.

Anderson replied that he believes the necessary data was provided by the survey completed last year. He noted that they have accounted for the scenario in which an additional survey would be needed.

Brandt confirmed that if a new survey is not needed, the amount paid to the vendors would be reduced.

MOTION: Anderson moved, Zorn seconded to authorize funding for Crystal Bay for Aquatic Invasive Species (AIS) management up to 35 percent for vegetation surveys and up to 25 percent for AIS treatment, with additional actual project costs and services rendered not to exceed \$12,500 of the estimated costs in the application. LMCD funding is contingent upon the applicant and/or bay raising the remaining balance of funding needed. The payment distribution will be approved via the collaboration of the Finance and AIS Committees and be made directly to the service provider upon verification and completion of the project.

VOTE: A roll call vote was performed:

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

Zorn aye

Motion carried unanimously.

Thomas referenced the comments from Klohs related to the payment to LMA. He noted that he previously made comments about providing funding to LMA, as his city provides funding to LMA and he, as a homeowner, also provides funds to LMA. He noted that he does not view this situation as providing funding to LMA. He explained the Eric Evenson organizes residents within the bays for treatment and therefore views this as a great partnership opportunity. He noted that this is seed money to begin treatment and does not provide subsequent funding.

Brandt confirmed that the intent is to help organize and provide seed money for areas of the lake that have never completed or considered treatment. He agreed that this is a great partnership as Evenson is well versed in this topic and is great at organizing people together.

Newell commented that it has been a joy to work with the AIS Committee to bring this concept forward and see it being used. He commented that he believes this is an excellent format to continue forward.

15. TREASURER REPORT

No report.

16. EXECUTIVE DIRECTOR UPDATE

Schleunig provided the following information:

- Highlighted a number of upcoming application requests.
- Staff is attempting to streamline the license application process for applicants and set clear expectations on the length of application review since many are not submitted in a manner to meet the season expectations.
- Updates have been made to the website related to low water restrictions.
- Information is being drafted related to private rental slips and related to water density.
- LMCD was awarded the Hennepin County Grant for a CD3 unit at the Carson's public launch.
- Interviews began for the vacant staffing position.

17. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: No report.

Communications: Hoelscher reported that the group met on March 1st and letters have been sent inviting legislatures to speak to the LMCD. The next meeting is April 5th. She asked the committee members if they have a conflict with the meeting time.

Finance: Anderson reported that the committee will begin its work on the strategic initiatives and budgeting.

Operations: Zorn reported that the committee met and will meet again in April. She stated that the meeting time will need to be adjusted to allow in person attendance. She stated that she will be reaching out to the committee chairs to recap the strategic initiatives work from 2021.

Save the Lake: Baasen reported that the meeting time will need to be reevaluated as meetings are now required to be held in person.

18. ADJOURNMENT

MOTION: Zorn moved; Kroll seconded to adjourn the meeting at 9:41 p.m.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary

2:53 PM

04/05/22

Lake Minnetonka Conservation District
Check Detail
April 1 - 15, 2022

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
04/08/2022	EFT-22-38	ADP Service Fee		Alerus Checking		
			Payroll 4/1/22 - 4/15/22	4180M10 · Professional Services - Admin.	Admin.	-84.55
TOTAL						-84.55
04/08/2022	EFT-22-39	SelectAccount Group Service Cent...		Alerus Checking		
			HSA Employer Contribution for April 2022 - Vickie Schleuning	4380M10 · Employee Benefits - Admin.	Admin.	-116.67
			HSA Employer Contribution for April 2022 - Tammy Duncan	4380M10 · Employee Benefits - Admin.	Admin.	-116.67
TOTAL						-233.34
04/04/2022	EFT-22-40	Unum Life Insurance		Alerus Checking		
			Long Term Disability - April 2022	2020-LT · Payroll Liabilities - UNUM	Admin.	-154.59
TOTAL						-154.59
04/14/2022	EFT-22-41	P.E.R.A		Alerus Checking		
			Payroll 4/1/22 - 4/15/22	2020 · Payroll Liabilities -	Admin.	-754.35
TOTAL						-754.35
04/14/2022	EFT-22-42	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,174.28
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,139.00
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-610.18
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medic...	Admin.	-622.41
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	81.16
TOTAL						-8,186.71
04/14/2022	22101	Abdo		Alerus Checking		
03/18/2022	Inv.#455159		2021 Audit - Balance Due	4040M10 · Auditing - Admin.	Admin.	-2,000.00
TOTAL						-2,000.00
04/14/2022	22102	AIS Advanced Imaging Solutions		Alerus Checking		
04/10/2022	Inv.#468634381		Copier Contract 3/20/22 - 4/20/22	4140M10 · Office Equipment R&M - Admin.	Admin.	-279.52
TOTAL						-279.52
04/14/2022	22103	ECM Publishers, Inc.		Alerus Checking		
03/19/2022	Inv.#882465		Sun Sailor Maher/Hagel	4110M10 · Public Info Legal Fees- Admin.	Admin.	-89.25

2:53 PM

04/05/22

Lake Minnetonka Conservation District
Check Detail
 April 1 - 15, 2022

Date	Num	Name	Memo	Account	Class	Paid Amount
			Laker Pioneer Maher/Hagel	4110M10 · Public Info Legal Fees- Admin.	Admin.	-57.83
			Sun Sailor Quiet Waters - Cedar Point West	4110M10 · Public Info Legal Fees- Admin.	Admin.	-35.70
TOTAL						-182.78
04/14/2022	22104	Excelsior-Lake Minnetonka Chamb...		Alerus Checking		
04/01/2022	Art on the Lake		Art on the Lake 2022	4111M20 · Public Servi/Edu/Safety - S/L	STL	-110.00
TOTAL						-110.00
04/14/2022	22105	Innovative Office Solutions LLC		Alerus Checking		
03/30/2022	Inv.#IN3730795		Copy Paper and Supplies	4220M10 · Office Supplies -Admin.	Admin.	-272.93
TOTAL						-272.93
04/14/2022	22106	Kennedy & Graven		Alerus Checking		
04/04/2022	February 2022		Legal Fees February 2022	4620M10 · Civil Legal Fees - Admin.	Admin.	-5,638.18
TOTAL						-5,638.18
04/14/2022	22107	LMCC		Alerus Checking		
04/04/2022	Inv.#1474		VOD Services for Meeting 3/23/22	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
04/14/2022	22108	MN Lakes & Rivers		Alerus Checking		
03/25/2022	2022 Membership		2022 Membership	4360M10 · Subs/Memberships - Admin.	Admin.	-200.00
TOTAL						-200.00
04/14/2022	22109	NCPERS Group Life Insurance		Alerus Checking		
04/04/2022	April 2022		Life Insurance, April 2022 (Schleunig & Duncan, Cook not on plan)	4380M10 · Employee Benefits - Admin.	Admin.	-32.00
TOTAL						-32.00
04/14/2022	22110	Tallen & Baertschi		Alerus Checking		
04/01/2022	March 2022		Prosecution Cost March 2022	4640M10 · Prosecution Legal Fees - Admin.	Admin.	-2,475.95
TOTAL						-2,475.95
04/14/2022	22111	Your Computer Hero		Alerus Checking		
04/05/2022	Inv.#6838		Battery Backup, Diagnostics, Replace Hard Drive, Reinstall Windows etc.	4181M10 · Professional Comp. Serv.-Admin.	Admin.	-222.00

2:53 PM

04/05/22

Lake Minnetonka Conservation District
Check Detail
April 1 - 15, 2022

Date	Num	Name	Memo	Account	Class	Paid Amount
TOTAL						-222.00




LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 13, 2022 (Prepared April 8, 2022)

TO: LMCD Board of Directors

FROM: Vickie Schleuning,  Executive Director

SUBJECT: Joint Variance Requests for Adjusted Dock Use Area and Setbacks for 21100 Excelsior Blvd, Greenwood MN 55331 and 5600 Maple Heights Rd, Greenwood MN 55331

ACTION

Board consideration of joint variance requests for an adjusted dock use area, side setbacks, and length for two parcels: 21100 Excelsior Blvd, Greenwood MN 55331 and 5600 Maple Heights Rd, Greenwood MN 55331 on St. Albans 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 Keenashanne Maher, owner of 21100 Excelsior Blvd and Jordan Hagel, owner of 5600 Maple Heights Rd for final action at the April 27, 2022 LMCD Board meeting <subject to the following conditions>...

Continuation

I make a motion to continue the public hearing for the variance application from Keenashanne Maher, owner of 21100 Excelsior Blvd and Jordan Hagel, owner of 5600 Maple Heights Rd for final action at the April 27, 2022 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 Keenashanne Maher, owner of 21100 Excelsior Blvd and Jordan Hagel, owner of 5600 Maple Heights Rd for final action at the April 27, 2022 LMCD Board meeting based on...

APPLICATION SUMMARY

The joint Applicants, Keenashanne Maher, owner of 21100 Excelsior Blvd and Jordan Hagel, owner of 5600 Maple Heights Rd for final action at the April 27, 2022 LMCD Board meeting (collectively, "Applicants") submitted a variance application their respective properties located on St. Albans Bay (collectively, "Site") for an adjusted dock use area 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:

Joint Variance Requests on St. Albans Bay, Greenwood
LMCD Board Meeting
April 13, 2022

- The combined sites have 53.7 feet of 929.4 OHW shoreline.
 - 21100 Excelsior Blvd., 26 feet of OHW shoreline, owner Keenashanne Maher
 - 5600 Maple Heights Rd., 27.7 feet of OHW shoreline, owner Jordan Hagel
 - Easement Holder: 21080 Excelsior Blvd (Ashley Bergdoll, Brandon Audette)

Over the years, LMCD staff have spent a considerable amount of time discussing dock configurations and watercraft storage arrangements for the two sites with the two joint variance Applicants and the existing easement holder. The current dock use area is prescribed by a previous court order and variance (approximately 2007). While the easement holder does not have lakeshore property, the shared riparian rights are being considered as part of the joint variance applications.

In the past couple of years, some lakeshore property boundaries that could impact the dock use area have been in dispute resulting in litigation. The ownership of the properties have changed, and all parties wish to resolve the current ongoing litigation with their intention of providing a more desirable, safer docking arrangement for all three parties. Therefore, the two lakeshore property owners have submitted joint variance applications for consideration.

Watercraft Storage

The Applicants are proposing three boat storage units (BSUs) across the two sites. The BSUs measure approximately 10.75 feet wide by 32 feet long, 10.75 feet wide by 30 feet long, and 10 feet wide by 24 feet long.

Generally, 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

Setbacks

The proposed dock structures would be setback approximately 1 foot from the southern site line for 12100 Excelsior Blvd and 0 feet from the northern site line for 5600 Maple Heights Rd. from adjacent properties. The internal setback for these properties is zero. These proposed setbacks require a variance from LMCD Code Section 2-3.03. These are similar to the exterior side setbacks previously prescribed by a court order and LMCD variance.

A covering with materials of less than 30 inches in vertical height is proposed over the 2 BSUs at 12100 Excelsior Blvd. If the material was greater in height, it would be considered a canopy, which requires a typical 20-foot setback required by LMCD Code.

Length

The proposed dock structure is 62.5 feet on the southern side and 64.8 feet on the northern side. For the combined properties, the LMCD Code Section 2-3.03 permits a maximum length of 60 feet as measured from 929.4 feet OHW. The previously prescribed dock length for these sites varied from 28 feet for 21100 Excelsior Blvd to 80 feet for 5600 Maple Heights. The Applicants are requesting a length variance to 65 feet.

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 a 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 Greenwood were provided information regarding the applications on March 28, 2022. City and agency comments were due by April 7, 2022. A comment was received from the City of Greenwood. Any comments received will be provided at the Board meeting for review.

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 March 17, 2022 edition of the Sun Sailor (official LMCD newspaper) and the March 19, 2022 edition of the Laker Pioneer. On March 28, 2022, 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 history of these sites, the request, and overall legal consequences based on the LMCD code and case law. The LMCD may continue to work with the parties to accomplish an agreed upon resolution to the litigation in some manner without creating precedent.

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, without overall creating a greater impact to the lake than previously approved by the court order and variance. The reconfiguration appears to provide safer use and navigation than the prior configuration.

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

1. The setbacks as indicated by the variance request and plan. Even though the dock use area is moderately expanded beyond the previously prescribed requirements with the watercraft navigation extending beyond the extended side site lines, the configuration does not appear to create navigation hazards or obstruct access to adjacent sites. The adjacent site owner to the north has not expressed any objection at this point.
2. The length of the docks as indicated by the site plan.
3. No canopies, as described per LMCD code, are allowed.
4. The BSUs must be used solely by persons who reside at one of the three properties to include:
 - a. One BSU 21100 Excelsior Blvd.
 - b. One BSU 5600 Maple Heights Rd.,
 - c. One BSU for 21080 Excelsior Blvd (Easement Holder)
5. Consider removal of the triangle pieces of dock section.
6. If the easement agreement is discontinued, a new variance application must be submitted to adjust the authorized dock use area.
7. No extensions granted during low water.
8. Structures and watercraft stored in the dock use area shall be in strict conformance to the site plan.
9. Other standard variance conditions are applied.

BUDGET

N/A

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input checked="" type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
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ATTACHMENTS

1. LMCD Code Excerpts
2. Location Map
3. Site Plans
4. Application Narrative (as submitted by Applicants)
5. Variance Application
6. Public Hearing Notice (Sun Sailor & Laker Pioneer)
7. Public Hearing Notice Mailing
8. Prior Variance and Court Order (2007)



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

Subd. 1. Generally. The dimensions of an authorized dock use area for sites bordering the Lake are determined in accordance with this Section. The authorized dock use area shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum of 1929 (“NGVD”). The authorized dock use area includes the area on, under, and over the surface of the Lake.

Subd. 2. Length. The length of the authorized dock use area is measured on a line parallel to the site side lines as extended into the Lake and is limited as provided in this subdivision.

(a) General Limit. The length of an authorized dock use area extends into the Lake a distance equal to the length of shoreline frontage of the site as measured at right angles to the side site lines as extended into the Lake. The total length of the authorized dock use area shall not extend beyond 100 feet, even if the site has more than 100 feet of shoreline frontage, unless otherwise specifically provided in this Section.

(d) Existing Site – February 5, 1970. The authorized dock use area for a site in existence on February 5, 1970 shall be determined as follows:

(1) Over 40 feet of Frontage. If the site has a Lake frontage of 40 feet or more, but less than 60 feet, the authorized dock use area extends into the Lake a distance of 60 feet.

(2) Under 40 feet of Frontage. If the site has a Lake frontage of less than 40 feet, the authorized dock use area extends into the Lake to the point necessary to reach a water depth of four feet, measured from 929.4 NGVD, except that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed unless the Board issues a setback variance under Section 6-5.01.

Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision.

(a) Setbacks. The width of an authorized dock use area is limited by the following setbacks, which are measured from the side site lines as extended in the Lake:

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

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

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.

- (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.

(c) Sites with 50 feet of Width or Less – February 2, 1970. If a site in existence on February 2, 1970 has an authorized dock use area with a width of 50 feet or less, the authorized dock use area may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.

- (d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

Section 2-4.05. General Density Rule.

Subd. 1. How Density is Determined. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, a site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Chapter are moored, docked, anchored, or secured at the site, for any period of time, on three or more calendar days in any 14-day period.

Subd. 2. General Density Rule. A site is allowed one restricted watercraft density for each 50 feet of continuous shoreline. If the site has continuous shoreline greater than 100 feet and the shoreline measurement would result in the allowance of a fractional restricted watercraft density, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one additional restricted watercraft density.

Subd. 3. Compliance with Density. No docks or mooring areas shall be constructed, established or maintained that provide space for, or are used for, mooring or docking a greater number of restricted watercraft than is allowed under this Section unless authorized to do so by special density license issued in accordance with Sections 2-4.11 and 6-2.13.

Section 2-4.09. Special Density Rules.

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

Subd. 1. Additional Watercraft Density. Unless a greater number is authorized under this Section, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site if all of the conditions of this subdivision are met.

(a) There must be one, and no more than one, single-family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel, or other piece of property may be designated to be a part of one site by the owner for purposes of this subdivision if it:

- (1) Is legally subdivided and recorded in the office of the County Recorder;
- (2) Adjoins the site or is separated from the site only by a public right-of-way;
- (3) Is under common ownership and unified use with the site; and
- (4) Is occupied by one single-family residential structure.

(b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph (a) of this subdivision is located.

(c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph (a) of this subdivision.

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

Section 6-5.01. Variances.

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

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

mooring area, or other structure in a location different from that permitted by this Code or to permit or require the owner of any adjacent or nearby site to do so.

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

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



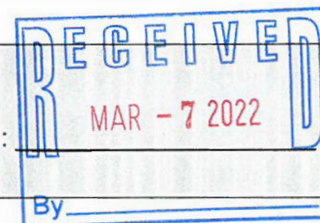
ITEM 10A Attachment 1

VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: _____ Check # _____ Date Received: _____



1. CONTACT INFORMATION

Applicant: Keenashanne Maher Title (Owner, Authorized Agent, etc.): Owner

Address: 21100 Excelsior Blvd

City, State, Zip: Greenwood MN 55331

Phone: 612-325-4071 Email: Keena5336@gmail.com

Property Owner (if different from applicant): _____

Relationship to Property Owner: _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

2. PROPERTY INFORMATION

Site Address: Same as above. - St Albans Bay - Minnetonka

Abutting Lakeshore Property Owners (Name and Mailing Address)

North or West: Ken and Sue Allen 21120 Excelsior Blvd , Greenwood MN 55331

South or East: Jordan Hagel 5600 Maple Heights Road Greenwood , MN 55331

Other affected parties: Ashley Bergdoll and Brandon Audette 21080 Excelsior Blvd Greenwood , MN 55331 (easement w 5600 Maple Heights) 212

Steve Grunewald 5540 Maple Heights Rd Greenwood , MN 55331

3. PROPOSED VARIANCE

Type of Variance: Amendment to existing variance . Combining AUDA for 3 adjoining properties to maximize small convex of lakeshore line .

State practical difficulties causing the variance to be required: _____

Shape of lakeshore in relation to the property lines makes a joined dock between 3 properties more usable, safe and neighborly.

4. ATTACHMENTS

Documents listed below are required; check that they are attached:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Locator map, county plat map | <input checked="" type="checkbox"/> Proposed facility site plan with scaled drawing of docks on abutting and other affected dockage |
| <input checked="" type="checkbox"/> Certified Land Survey, Legal Description | |
| <input checked="" type="checkbox"/> Existing facility site plan | <input checked="" type="checkbox"/> Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.) |

***Names & Mailing Addresses: The LMCD provides notice of a public hearing, which is published and mailed to owners within 350 feet of the subject property. The applicant is required to obtain mailing labels from Hennepin County for property owners within a 350-foot radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/default.asp>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the property is located in Carver County, contact the LMCD office for assistance.

Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.

5. FEES

Application Fee (Non-refundable)	\$250.00
Deposit (Refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required.)	<u>\$250.00</u>
TOTAL FEE ENCLOSED (This fee is for processing of the application and does not entitle the applicant to a variance.)	<u>\$500.00</u>

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

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

Applicant's Signature:

<u>Keenashanne Maher</u>	<u>Owner</u>	<u>3/7/2022</u>
Name	Title	Date

Return to:

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



ITEM 10A Attachment 2
VARIANCE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: _____ Check # _____ Date Received: _____



1. CONTACT INFORMATION

Applicant: Keenashanne Maher Title (Owner, Authorized Agent, etc.): Owner

Address: 21100 Excelsior Blvd

City, State, Zip: Greenwood MN 55331

Phone: 612-325-4071 Email: Keena5336@gmail.com

Property Owner (if different from applicant): _____

Relationship to Property Owner: _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

2. PROPERTY INFORMATION

Site Address: Same as above. - St Albans Bay - Minnetonka

Abutting Lakeshore Property Owners (Name and Mailing Address)

North or West: Ken and Sue Allen 21120 Excelsior Blvd , Greenwood MN 55331

South or East: Jordan Hagel 5600 Maple Heights Road Greenwood , MN 55331

Other affected parties: Ashley Bergdoll and Brandon Audette 21080 Excelsior Blvd Greenwood , MN 55331 (easement w 5600 Maple Heights) 212

Steve Grunewald 5540 Maple Heights Rd Greenwood , MN 55331

3. PROPOSED VARIANCE

Type of Variance: Amendment to existing variance . Combining AUDA for 3 adjoining properties to maximize small convex of lakeshore line .

State practical difficulties causing the variance to be required: _____

Shape of lakeshore in relation to the property lines makes a joined dock between 3 properties more usable, safe and neighborly.

4. ATTACHMENTS

Documents listed below are required; check that they are attached:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Locator map, county plat map | <input checked="" type="checkbox"/> Proposed facility site plan with scaled drawing of docks on abutting and other affected dockage |
| <input checked="" type="checkbox"/> Certified Land Survey, Legal Description | |
| <input checked="" type="checkbox"/> Existing facility site plan | <input checked="" type="checkbox"/> Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.) |

***Names & Mailing Addresses: The LMCD provides notice of a public hearing, which is published and mailed to owners within 350 feet of the subject property. The applicant is required to obtain mailing labels from Hennepin County for property owners within a 350-foot radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/default.asp>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the property is located in Carver County, contact the LMCD office for assistance.

Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.

5. FEES

Application Fee (Non-refundable)	\$250.00
Deposit (Refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required.)	<u>\$250.00</u>
TOTAL FEE ENCLOSED (This fee is for processing of the application and does not entitle the applicant to a variance.)	<u>\$500.00</u>

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

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

Applicant's Signature:

<u>Keenashanne Maher</u>	<u>Owner</u>	<u>3/7/2022</u>
Name	Title	Date

Return to:

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

ITEM 10A Attachment 4

St. Albans Bay Joint Variance Applications

Properties: 5600 Maple Heights Road (Jordan Hagel); 21100 Excelsior Blvd (Keenashanne Maher)

Easement 21080 Excelsior Blvd (Ashley Bergdoll, Brandon Audette)

For illustrative purposes only. Taken from Hennepin County Property Information Map 03/28/2022.





ITEM 10A Attachment 5

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 10, 2022

TO: Sun Sailor & Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (03/17/2022 Edition of Sun Sailor; 03/19/2022 Edition of Laker Pioneer)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, APRIL 13, 2022

Keenashanne Maher
21100 Excelsior Blvd, Greenwood MN 55331
St. Albans Bay, Lake Minnetonka

Jordan Hagel
5600 Maple Heights Rd, Greenwood MN 55331
St. Albans Bay, Lake Minnetonka

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider joint variance requests from two adjacent parties for sites located along Excelsior Blvd and Maple Heights in Greenwood. The applicants propose to adjust existing variances for the dock use area (length, side setbacks, and structure dimensions), along with the configuration. All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

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

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



ITEM 10A Attachment 6

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 28, 2022
TO: Property Owner or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of sites being considered for variances for adjusted dock use area (length and side setbacks). The sites are located at 5600 Maple Heights Road and 21100 Excelsior Boulevard in Greenwood. The sites have lake frontage on St. Albans Bay.

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

Public Hearing Information

A public hearing will be held at 7:00 PM, April 13, 2022. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The meeting may be conducted in-person. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means if the LMCD's usual meeting room is not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website.

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



ITEM 10A Attachment 7

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 28, 2022
TO: Property Owner or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

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Public Hearing Information

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Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The meeting may be conducted in-person. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means if the LMCD's usual meeting room is not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website.

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

St. Albans Bay Joint Variance Applications

Properties: 5600 Maple Heights Road (Jordan Hagel); 21100 Excelsior Blvd (Keenashanne Maher)
Easement 21080 Excelsior Blvd (Ashley Bergdoll, Brandon Audette)

For illustrative purposes only. Taken from Hennepin County Property Information Map 03/28/2022.



ITEM 10A Attachment 9

LAKE MINNETONKA CONSERVATION DISTRICT

RE: VARIANCE FOR 5600 MAPLE HEIGHTS ROAD

Pursuant to Order of the Hennepin County District Court in the case of Lake Minnetonka Conservation District v. Miles and Pamela Canning, Court File No. 27-CV-05-1854, dated December 13, 2007, the Lake Minnetonka Conservation District Board of Directors makes the following Order.

1. The following variance is granted for property located at 5600 Maple Heights Road, Greenwood, Minnesota, legally described as Lots 12, 13 and 14, Maple Heights, Hennepin County, Minnesota (the "Subject Property"):

a. For purposes of determining the Authorized Dock Use Area (ADUA) for the Subject Property, the extended lot line between the Subject Property and the property to the south is adjusted by deflecting the line 23° to the north from the point at which the property line crosses the shoreline at elevation 929.4 NGVD, and the ADUA shall be measured from the lot line extension so adjusted.

b. Side setbacks on both the north and south sides of the ADUA for the Subject Property shall be 0 feet except that a one-foot setback shall be maintained from the adjusted south lot line for the first 28 feet from the shoreline.

c. The ADUA for the Subject Property may extend to a length of 80 feet from the shoreline measured at 929.4 NGVD.

2. If the owners of the Subject Property shall at any time in the future seek a variance from LMCD code provisions for their ADUA, such variance shall be considered in light of the original extended property lines and pursuant to the LMCD Code. The adjusted property lines as reflected in paragraph 1a of this Order shall have no impact on any such application or on the ADUA of the Subject Property except as stated herein.

The variance herein provided shall grant no vested rights to the use of Lake Minnetonka. Such use shall, at all times, remain subject to regulation by the District to assure the public of reasonable and equitable access to the Lake.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 9th day of January, 2008.



Tom Skramstad, Chair

ATTEST:



Tom Scanlon, Secretary

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

[Signature]
FOURTH JUDICIAL DISTRICT

Lake Minnetonka Conservation District,
a corporate and political body and
political subdivision of the State of
Minnesota,

Plaintiff,

v.

Miles B. Canning and Pamela F. Canning,

Defendants.

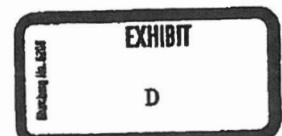
Case Type: Other Civil
Court File No: MC 05-001854
Honorable John Q. McShane

Order Pertaining to the
Authorized Dock Use Area of
Property at 21120 Excelsior
Boulevard, Greenwood, MN 55331

This matter initially came on for hearing on cross-motions for summary judgment before the undersigned on the 21st day of June, 2005. Both parties appeared via counsel. The Court ruled in favor of the Lake Minnetonka Conservation District ("LMCD") and against Defendants. Defendants appealed and the matter was reversed and remanded by the Court of Appeals by Order dated June 27, 2006, which stated that "[o]n remand, the district court should determine the extent of appellants' riparian rights subject to reasonable enforcement of LMCD regulations against appellants' property in a manner that is fair and equitable, while still addressing public safety concerns." The parties have entered a Settlement Agreement in the captioned matter.

As a portion of that Settlement Agreement and as described in detail therein, an alteration to the Authorized Dock Use Area ("ADUA") for the property located at 21120 Excelsior Boulevard, Greenwood, MN 55331 and legally described as Tract B, Registered Land Survey No. 1004, Hennepin County, Minnesota (the "Property") is necessary.

The LMCD has the authority to enforce its Code of Ordinances and to issue variances under appropriate circumstances. Interested parties have been given notice and an opportunity to

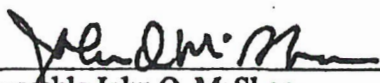


be heard and the owners of the Property have appeared and have consented to such alteration, in consideration of the following relief:

1. The ADUA for the Property shall be adjusted so that its setbacks under the LMCD code are reduced to zero feet from the original extended property lines, except for a 1' setback from the 28' ADUA of the neighboring property at 21100 Excelsior Boulevard.
2. If the owners of the Property shall at any time in the future seek a variance from LMCD Code provisions for their ADUA, such variance shall be considered in light of the original extended property lines and pursuant to the LMCD Code. The adjusted property lines as reflected in the Settlement Agreement pursuant to which this Order is entered shall have no impact on any such application or upon the ADUA of the Property except as stated therein.

Due to the nature of the proceedings before this Court, the hardship on the Property as a result of the Settlement Agreement, upon the appearance and participation of the owners of the Property and with notice to and an opportunity to be heard for all interested parties, and pursuant to the remand order of the Court of Appeals in the captioned matter dated June 27, 2006, this Court HEREBY ORDERS that the LMCD shall grant the necessary variance or variances, upon no further application or hearing, to effectuate the relief as stated herein.

Dated: 11/15/2007


Honorable John Q. McShane
Judge of District Court



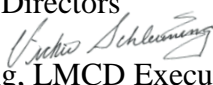
LAKE MINNETONKA CONSERVATION DISTRICT

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

ITEM 10B

DATE: April 13, 2022 (Prepared April 6, 2022)

TO: LMCD Board of Directors

FROM: Vickie Schleuning, LMCD Executive Director 

RE: Petition for Quiet Waters Area Buoy Channel at Cedar Point West between Cooks Bay and Upper Lower Lake

ACTION

Board consideration of a Petition for a Quiet Waters Area (QWA) at the Buoy Channel located at Cedar Point West and receive public input as part of a public hearing for the Petition. The site is located between Cooks Bay and Upper Lower Lake.

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

Approval:

I make a motion for the legal counsel to prepare a code amendment to designate the Buoy Channel at Cedar Point West between Cooks Bay and Upper Lower Lake as a designated Quiet Water Area <or with additional amendments> for approval at the April 27, 2022 Board meeting.

Continue:

I make a motion to continue the public hearing for the consideration of a Quiet Waters Area at the Buoy Channel at Cedar Point West at the April 27, 2022 Board meeting.

Denial:

I make a motion to deny the Petition for a Quiet Waters Area Buoy Channel at Cedar Point West based on the following reasons... for consideration at the April 27, 2022 Board meeting.

BACKGROUND

The LMCD Office received concerns regarding the buoy channel on Cedar Point West, between Cooks Bay and Upper Lower Lake. The City of Minnetrista submitted a letter expressing its concerns regarding the high traffic levels, large wakes, and safety as the reasoning for the request to designate a QWA at this buoy channel. Since receiving the original concerns, LMCD staff have made observations of traffic, violations, and potential safety issues.

At the February 23, 2022 LMCD Board meeting, the observations were presented to the Board. Director Mike Kirkwood, representing the City of Minnetrista, provided additional background information about the issue in an Attachment. After the request was brought forward to the Board, it was decided by the Board to continue further review of the request at a public hearing.

PUBLIC COMMENTS

Beginning April 2, 2022, comments have been received from the general public. These parties have submitted their comments in writing. Written comments received no later than noon on April 13, 2022 will be provided for the Board at or before the April 13, 2022 LMCD Board meeting.

PUBLIC HEARING

The public hearing provides 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.

The public hearing notice was published in the March 31, 2022 edition of the Sun Sailor and the April 2, 2022 edition of the Laker Pioneer. Residents and owners of property within 500 feet of the site were notified via a mailing sent out March 28, 2022. In addition, the Board packet will be posted online.

CONSIDERATIONS

- Does the Board need additional information?
- What impact, if any, would a QWA have on the safety and lake environment?
- Are there alternative means specific to this location, such as relocating buoys, which would improve safety?

RECOMMENDATION

Based on observations and communication with Hennepin County Sheriff Office Water Patrol, staff is recommending a designated QWA for the Cedar Point West buoy channel. Specific locations will be reviewed with the Board. This recommendation is contingent of any follow up required based on the outcome of the Public Hearing

BUDGET

If the Board approves the Quiet Water Area, staff will work with Hennepin County regarding installation, possible relocation of other buoys, and other options. The cost of buoy and installation/removal may become LMCD's responsibility. Buoys, associated equipment, and installation/removal can cost a couple thousand dollar per buoy in small quantities. More information will be provided depending on the Board decision.

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input checked="" type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
--	--	---	---	--------------------------------

ATTACHMENTS

1. Letter from City of Minnetrista re: Slow No Wake Zone
2. Cedar Point West QWA Request
3. Aerial Map (created by LMCD staff)
4. Cedar Point West Buoy Distance Map (created by LMCD staff)
5. Public Hearing Newspaper Notice (Sun Sailor and Laker Pioneer)
6. Public Hearing Mailing Notice
7. LMCD QWA Policy 1986



January 27, 2021

Dear Ms. Schleuning and Chair Thomas:

At our City Council meeting on January 19th, the Minnetrista City Council received our annual update from our LMCD representative, Michael Kirkwood.

One of the items that was brought up and discussed was a potential safety issue in the channel off of Cedar Point.

The Council unanimously agreed that for safety, as well as shoreline protection, this channel should be designated as a slow, no-wake zone. Our decision was based on information from our representative, and from a petition signed by 43 residents, most of which reside in Minnetrista.

As a former Chair for the LMCD and a Chair for a Watershed Commission I know how important safety and shoreline protection are for all of our lakes. Since there is a larger area immediately adjacent to this channel for boats to travel at higher speeds we feel this is a reasonable request.

Please consider this request in a timely manner so that it may be implemented for the next boating season.

Again, our first and foremost concern is for the safety of Minnetrista residents and all boaters on Lake Minnetonka.

Thank you for your consideration.

Regards,

Lisa Whalen

Lisa Whalen
Minnetrista Mayor

cc: Michael Kirkwood

ITEM 10B Attachment 2

Cedar Point Safety Campaign: Quiet Waters Public Hearing Request for Cedar Point (West)

1. Determination of Need as expressed by the Applicant:

Conversations with over 45 neighbors along the shore, various lake service providers, Minnetrista Mayor Lisa Whalen and the city council of Minnetrista have all confirmed a common concern for the safety of all boat traffic transiting the channel at Cedar Point.

I am Mike Kirkwood, the Minnetrista LMCD representative for the city of Minnetrista. I have lived near Cedar Point in Minnetrista over 28 years, wherein I've observed countless incidents of near collisions and injury from the volume and speed of traffic transiting the channel at Cedar Point (west).

Therefore, we seek a public hearing and subsequent ruling by the LMCD to have this high traffic area designated as a "Quiet Waters [No Wake] Area" for a distance of at least 150 feet on either side of the current channel markers, to be marked with two white slow buoys. Such a change will allow for safer transits, and avoid the certainty of someone getting seriously hurt.

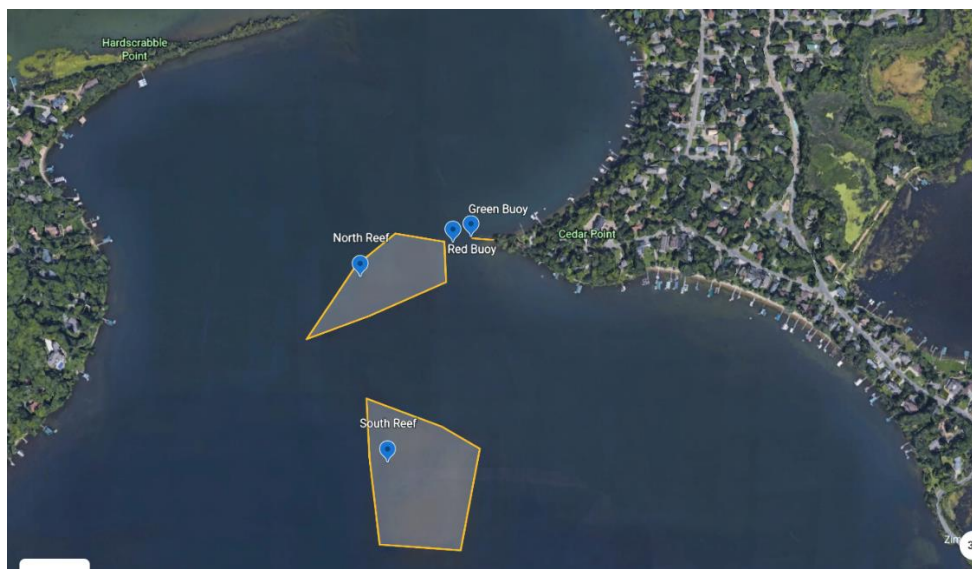
The setting:

Currently a pair of red/green channel markers mark the boundary between Cooks bay and West Upper Lake Minnetonka. Traffic exiting Cooks Bay uses this channel to round Cedar Point and head east on West Upper Lake. Because of marked shallow reef areas to the west and south, northbound traffic leaving the West Upper Lake area and southbound traffic exiting Cooks Bay is funneled into this same channel.

The red buoy stands approximately 120 feet off the rocks at Cedar Point. There is approximately 110 feet between the red and green buoys. There is a "reef" of shallows with thick weeds about 50 feet west of the green buoy inhibiting any widening of the channel opening.

On the west side of that reef/weed bed there is a clear space of 1,300 feet between the weed bed and the western shore that enables navigation at normal lake speeds.

The Hennepin County Water Patrol currently identifies this as a "fast" speed channel.



Risk Factors:

While there have been no recorded accidents there of record, the risks are high. On all good weather weekends, and many evenings in high usage season, there are upwards of 100-150 boats/hour transiting the opening at up to 40 mph.

- At many points in an hour, 3 or 4 boats are transiting the narrow opening simultaneously. Many of these are passing at crossed angles.
- While it is not legal, many boats are towing small children on inflatables through the channel. They are at risk of being bounced off in the surging waves created by the cross-wakes, or hit by a boat crossing their path. When high speed boats navigate in the cross traffic it would be easy to fail to see the towed inflatable.
- Canoes, kayaks, small fishing boats have been overtaken and cut off by high speed boats, and struggled for control in 3-4 foot swells. Sailboats under sail are sometimes challenged to complete a transit without conflict with speeding powerboats.
- Al & Alma's charter fleet transits this channel 2-3 times an hour, at "no-wake" speeds. They are piloted by some of the safest captains on the lake, and by themselves, are safe, excellent lake neighbors. However, their presence in the restricted channel space sometimes fosters unsafe maneuvering by the high speed small-craft.
- Frequently, high speed near collisions have been observed. A momentary driver distraction would be deadly. At 40 MPH a boat covers 100 feet in 1.7 seconds. A glance away, a distraction of any sort, and a driver could easily cover 100 feet and collide with other traffic in the channel, or be pushed off-course by a surging wave.
- Waves of 3 to 4 feet have been generated causing waves to overtop the deck of a 21' launch transiting the passage.
- The large waves generated travel some 700 feet along the upper lake shoreline, bouncing boats off their boat lifts during launch and retrieval.

A "no wake" zone in this channel would need not diminish the enjoyment of the lake, nor unnecessarily force a boat to take a "slow route." Boats not wishing to transit Cedar point channel at slower speeds have an option. There is ample room for legal high-speed transit just 400 feet west of the Cedar Point Channel, in an area that has a deep water transit zone over 1,300 feet wide, and still 150 feet off the west shoreline.

There is broad support for the slow buoys from Minnetrista and Mound lakeshore residents familiar with the traffic at Cedar Point. Residents living near Cedar Point were randomly contacted and invited to comment on their support for a no-wake/quiet water zone. Forty-three individuals took the time to return cards indicating their support. Only one individual was opposed to the idea of slow buoys at Cedar Point.

A City of Minnetrista initiative

In January, 2021, the Minnetrista City Council voted unanimously that for safety, as well as shoreline protection, this channel should be designated a slow, no-wake zone. The Mayor's letter reporting that decision was copied to LMCD Chair Greg Thomas, and Executive Director Vicki Schleuning.

- ***Won't boats slowing down and then speeding up again to get on plane create larger waves?***
 - Yes, some larger wakes could be generated. However, lakeshore owners for over 1,000 feet on either side of Cedar Point have installed robust rip-rap along their waterlines to protect shorelines from large weather driven waves as well as boat wakes.
- ***Why haven't many speeding calls or incidents been reported to the Sherriff's Water Patrol?***
 - It's not that the speed and risks haven't been noticed....as witnessed by the comments from the 40+ neighbors who have expressed a concern. However, neighbors also commented that they recognized the water patrol has limited ability to respond quickly enough to catch risky boat drivers and speed violators, and therefore they don't often call. Under-reporting doesn't indicate the problem is not there.
 - Unless the water patrol witnesses it, they would be unable to confront a boater for speeding. Even when on duty station nearby, speed tickets are difficult to give without verification by a radar speed detector and the difficulty of getting a defensible reading.
 - However, in a no wake zone as is being requested, the Water Patrol's role of enforcing speed in the area is much easier: they can stand off at a distance and still recognize large wakes made by speeding boats, and confront the no-wake violator.
- ***"Everyone wants a slow buoy in front of their house."***
 - While that may be a common desire, the traffic conditions here are more *intense* than along most open shorelines, due to the funneling effect as boats cross around the point.
 - It's part of our job as LMCD and Water Patrol to respond to any safety issues someone would say is serious enough to deserve attention or change in governance or enforcement.

Lt. Bret Cline of the Hennepin County Water Patrol reviewed this initiative and reported that he had no objection to designating this a Quiet Waters Area. In addition to safety concerns and the advantages to safety with a QWA designation in the channel, he indicates that enforcement of speeds in no wake areas can be accomplished more easily than in open waters due to the size of any wakes.

We have been fortunate so far to avoid any deaths at Cedar Point. But the risks are clear. We were pleased that Lt. Cline willingly acknowledged that it doesn't make sense to wait for a death or injury before designating this a QWA.

Respectfully submitted,

Mike Kirkwood

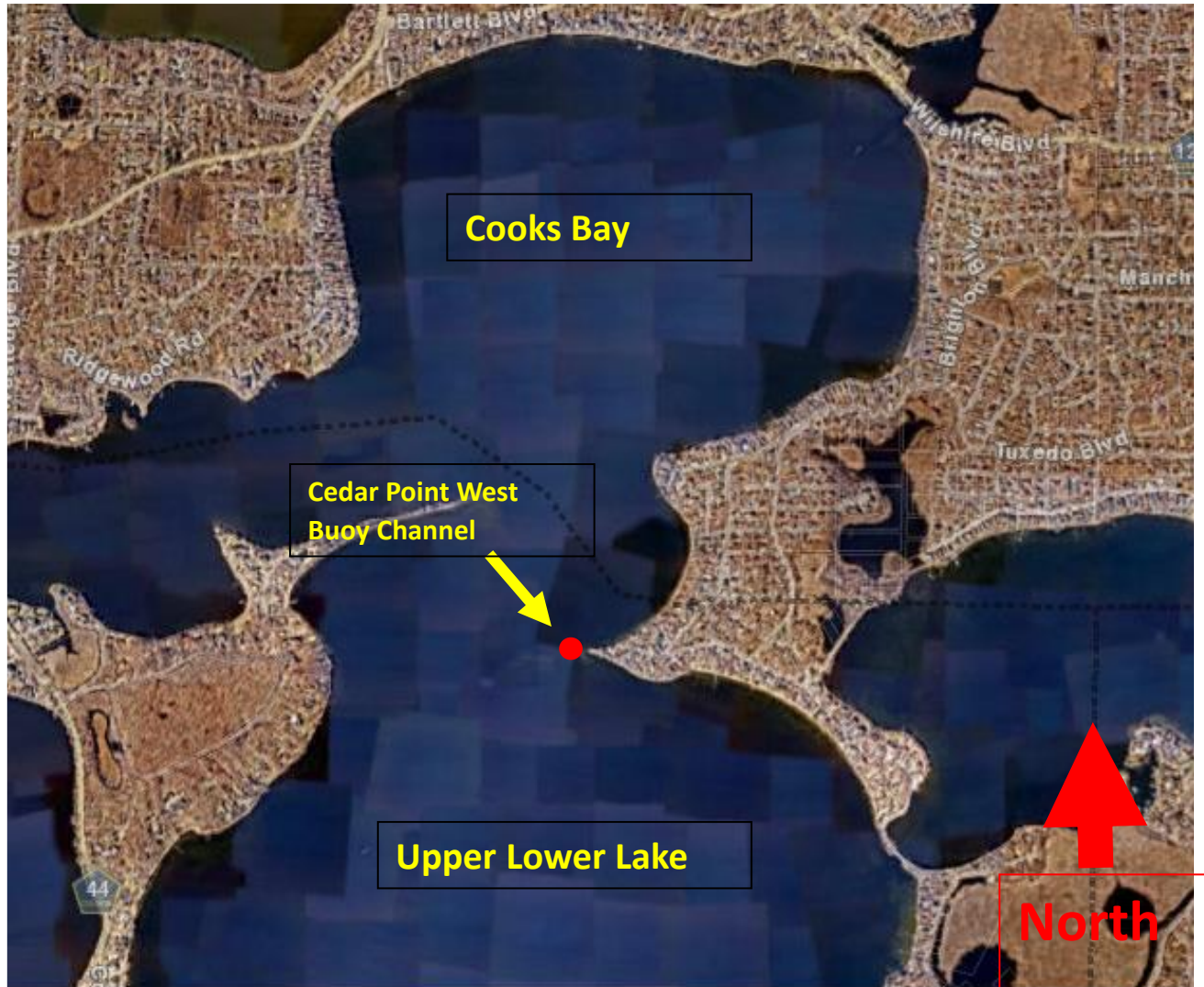
January, 2022

LMCD for Minnetrista

Cedar Point West Buoy Channel

Between Cooks Bay and Upper Lower Lake

For illustrative purposes only. Taken from Hennepin County Property Information Map 03/28/2022





ITEM 10B Attachment 4

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 22, 2022

TO: Sun Sailor & Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (03/31/2022 Edition of Sun Sailor; 04/02/2022 Edition of Laker Pioneer)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, April 13, 2022
Wayzata City Hall
600 Rice Street, Wayzata, MN 55391

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a petition for a Quiet Water Area (QWA) at the buoy channel on Cedar Point West, between Cooks Bay and Upper Lower Lake. All interested persons will be given an opportunity to comment.

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



ITEM 10B Attachment 5

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 28, 2022
TO: Property Owner and/or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 500 feet where a public hearing will be held to consider a petition for a Quiet Water Area (QWA) at the buoy channel on Cedar Point West, between Cooks Bay and Upper Lower Lake.

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

Public Hearing Information

A public hearing will be held at 7:00 PM, April 13, 2022. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

Those desiring to participate in the hearing may also email the Executive Director at vschleuning@lmcd.org for information on how to connect. The meeting may be conducted in-person. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means if the LMCD's usual meeting room is not available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website.

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

LAKE MINNETONKA CONSERVATION DISTRICT

A POLICY FOR ESTABLISHMENT OF QUIET WATERS AREA

ON LAKE MINNETONKA

GOAL. The goal of recreational management should be to insure each recreational demand the highest possible availability of satisfaction of that demand consistent with satisfaction of other recreational demands and preservation of the Lake itself as a recreational resource.

The goal of the Quiet Waters program is to maintain and improve the quality of recreational experience on Lake Minnetonka in the least restrictive manner.

POLICY. It is the policy of the District to establish Quiet Waters areas in strictly limited areas of the Lake where public safety, environmental and recreational needs are demonstrated consistent with the quiet waters and recreational goals of the District.

GENERAL. To improve the recreational experience on Lake Minnetonka the District has established general pollution, winter use, water structures, and boating safety rules, and has restricted activity in some traditionally congested areas (such as channels) using the quiet waters concept.

The District has adopted lakewide regulations including the establishment of Quiet Waters areas within 150' of the shoreline or lake structures around the Lake and general speed limits which may affect specific Quiet Waters proposals.

The District has responded to expressed need to improve the effectiveness of Quiet Waters areas by modification, i.e.:

1. changing the boundaries of regulated areas.
2. changing numbers and/or location of Slow buoys.
3. changing time and type of regulation.
4. requesting special attention by the Water Patrol.
5. placing of special regulatory signs.
6. placing of general information signs at accesses.
7. circulation of boating information folders.
8. other.

REASONS FOR REQUESTS. Many reasons have been expressed for requesting Quiet Waters areas or changes, among them:

1. Excessive noise.
2. Traffic congestion.
3. General high level of boating activity.
4. Waterskiing.
5. Intimidation of swimmers by waterskiers.
6. Waterskiing too close to structures or boats.
7. Wash and wake damage to boats and dockage.
8. Wash and wake damage to the shoreline.
9. To preserve natural areas.
10. To protect fishing areas.
11. To reduce environmental impact.
12. Area too small for general boating.

13. Smaller boats need protection.
14. Quiet Waters needed on weekends, not during week.
15. Only area affected needs Quiet Waters, not whole bay.
16. May encourage weed growth.
17. Rule changes should be based on accident records.
18. Establishment should include adequate signing and enforcement.
19. Recent increase in traffic.
20. Normal wave action is intensified by power boats.
21. Navigational buoys are ignored.
22. Area is critical under LMCD boat density standards.
23. Buoy placement changes needed to be effective.
24. Specified areas of shorezone need buoys.
25. Area is really an extended channel (high traffic) area.
26. Lack of adequate law enforcement.
27. Slow buoys are more effective for traffic control than navigation markers.
28. Mixing of drinking and boating near transient facilities.
29. Increased traffic around marinas, restaurants, launching ramps or other multiple facilities.
30. To protect sailboat mooring areas.
31. Large waves of 4 feet to 6 feet from wakes.
32. Area is part of the "circle" route.
33. Other.

CRITERIA for determining need to consider the establishment of a Quiet Waters area.

1. Determination of need as expressed by the applicant.
2. Determination of the boating safety record for the area.
3. Determination of LMCD boating density index for the area.
4. Observation of the proposed Quiet Waters area during at least three normal high-use periods for one boating season by the LMCD.
5. Determination of any natural or special geographic features of the area which need to be considered.
6. Determination of any special boating or other use characteristics affecting the area.
7. Conduct a public hearing to develop further information about the application.
8. Determination of affects of the establishment of the Quiet Waters area on nearby areas, or on the Lake as a whole.
9. Determination of whether or not the establishment of the Quiet Waters area would be essentially of private or of general public benefit.

10. Determination of any effects on the public health, welfare, and safety and the most general public use of the Lake.

Adopted by the Lake Minnetonka Conservation District Board of Directors
this 24th day of September, 1986.

/s/ Robert Rascop
Robert Rascop, Chairman

ATTEST:

/s/ Frank Mixa
Frank Mixa, Executive Director



ITEM 13A

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 13, 2022 (Prepared April 8, 2022)

TO: LMCD Board of Directors

FROM: Maisyn Prueter, Administrative Coordinator

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Hennepin County Sheriff's Office Funding Request

ACTION

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

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

Approval

I make a motion to approve the Hennepin County Sheriff's Office funding request in the amount of \$84,000 from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services.

OR

I make a motion to approve \$84,000 from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services.

Denial

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

BACKGROUND

Save the Lake (STL) funds have been used to supplement water patrol services for Lake Minnetonka and ensure resolute personnel are available during peak boating times. The Board has recognized the need to provide a dedicated level of emergency and public safety services for the highly used Lake. This is similar to concepts used by cities, businesses, and associations to provide or supplement public safety services for routine, special events,

HCSO Water Patrol Funding Request

LMCD Board Meeting

April 13, 2022

emergency services, etc. The basis of their request is the increased use of the lake (partly due to COVID-19) and staffing issues including the decline of volunteer special deputies.

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

- 2021 – 84,000
- 2020 -- \$42,000 (\$38,000 original funding, with an addendum of \$4,000 additional funding through earmarked STL contributions
- 2019 – \$30,000
- 2018 – \$25,000
- 2017 – \$30,000
- 2016 – \$29,000

The Save the Lake Committee will meet on April 12, 2022 and discuss expanding the designated officers program through the HCSO Water Patrol to two officers.

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

CONSIDERATIONS

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

BUDGET

In 2021, \$78,250 was collected in contributions for dedicated water patrol services for 2022. Funding sources above this amount may be taken out of the Save the Lake reserves unless additional contributions are received for 2022.

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input checked="" type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
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ATTACHMENT

- HCSO Funding Request
- 2021 Hennepin County Sheriff Water Patrol Service Agreement

Save the Lake Request for Funds

Applicant: Hennepin County Sheriff's Office

Contact:

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

Phone: 612-282-0082

Fax: 612.348.4208

Email: jeffery.storms@hennepin.us

Executive Summary:

The Hennepin County Sheriff's Office requests \$84,000 to support dedicated Water Patrol on Lake Minnetonka during peak boating periods. This is for the HCSO to increase from one to two deputies to be dedicated to Lake Minnetonka during the Summer of 2022. HCSO has been requested by the Lake Minnetonka Conservation District (LMCD) to develop a program to provide additional boating safety patrol hours on Lake Minnetonka. The program is designed to add hours: 1) to focus patrol of Lake Minnetonka; 2) during times when use is highest; and 3) during nighttime hours when accidents may occur. The grant period will start in mid-May and end on Labor Day.

From 2013-2019, Lake Minnetonka received 7,855 average hours of Patrol coverage each year. In 2019 the lake hours went up to 8,984. In 2021 the lake hours increased slightly to 10,196. These hours included one additional, dedicated Water Patrol Deputy, funded by the LMCD grant, and a second deputy temporarily assigned to Water Patrol to also assist mostly with patrols on Lake Minnetonka. This upcoming year, we likely may not be able to assign an extra deputy to Water Patrol to assist with Lake Minnetonka due to staffing issues. Our volunteer special deputy numbers have also steadily declined. With the two dedicated Lake Minnetonka deputies, we will add approximately an additional 1200 dedicated hours of patrol to Lake Minnetonka (May 23rd to Labor Day) during the program instead of 600.

Project Description, Goals, Objectives, and Activities:

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

Project timeline:

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

- April 2022, continued partnership funding request through the LMCD
- April 2022, grant funding announced
- April 30, 2022, staffing plan for Lake Minnetonka coverage for summer boating season finalized
- May 8th, 2022, dedicated staffing begins
- July 18th, 2022, report made to LMCD on previous month staffing
- August 15th, 2022, report made to LMCD on previous month staffing
- September 5th, 2022, Labor Day, last day of dedicated staffing funded by grant
- October 17, 2022, grant close out report made to LMCD

Project Evaluation - Explain how the effectiveness and the success of the project will be measured:

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

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

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

Project Administrator:

Lt. Bret Cline will be the project manager for this grant. Lt. Cline has been with The Hennepin County Sheriff's Office for 13 years. Lt. Cline will assign staff for this duty, ensure all grant requirements are met, and attend regular meetings of LMCD to report out activity.

ITEM 13A Attachment 2

AGREEMENT

THIS AGREEMENT is made the 28th day of April, 2021, by and between the Lake Minnetonka Conservation District, a Minnesota political subdivision, (hereinafter "LMCD") and Hennepin County, on behalf of the Hennepin County Sheriff's Office (hereinafter "Grantee"). The LMCD and the Grantee may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. BACKGROUND

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

2. SERVICES

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

3. PAYMENT OF GRANT

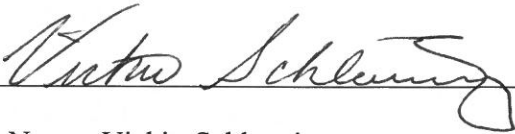
- 3.1. Payments. LMCD shall pay Grantee for the hours of Services performed by Grantee's personnel under this Agreement. Grantee shall invoice, and LMCD shall pay, for hours of Services performed by Grantee personnel at the rate of seventy-four dollars (\$74.00) per hour. The maximum amount that LMCD shall be obligated to pay hereunder shall be eighty-four thousand dollars (\$84,000). Grantee shall provide a list of invoiced reimbursable expenses and, as applicable, receipts or copies of receipts therefor. Only those expenses directly related to providing the Services, as determined by the LMCD, are eligible for reimbursement under this Agreement. The LMCD will not be liable or responsible for paying any amounts, or reimbursing any expenses, that exceed the scope of this Agreement or that are not otherwise eligible for payment under this Agreement. The LMCD will pay invoices submitted by Grantee within 30 days of receipt of such invoices.

4. GENERAL TERMS

- 4.1. Term. This Agreement will commence on April 28, 2021 and will expire when the Services are completed, a final report submitted, all invoices have been submitted and paid. LMCD's obligation to pay Grantee is limited to Services performed from Memorial Day week-end through Labor Day. The parties shall exercise reasonable efforts to complete performance obligations and invoice herein prior to December 31, 2021.
- 4.2. Termination of Agreement. Either Party may terminate this Agreement for any reason upon 30 days' written notice to the other Party. Also, either Party may terminate this Agreement by giving written notice to the other Party in the event the other Party is in material breach of this Agreement and has failed to cure such breach within 10 days of receipt of written notice from the other Party.
- 4.3. Independent Contractor. Grantee will act in all respects as an independent contractor under this Agreement and will be solely responsible for performance of Services required hereunder as well as the means and manner of performance thereof. The LMCD will not be an employer, partner, or co-venturer with Grantee for any purpose. Nothing herein authorizes Grantee to act as an agent or representative of the LMCD for any purpose whatsoever.
- 4.4. Contact. Major Jeffrey Storms, Jeffrey.storms@hennepin.us or his designee shall serve as Grantee's contact throughout the term of this Agreement. The LMCD Executive Director Vickie Schleuning, vschleuning@lmcd.org shall serve as the contact for the LMCD.
- 4.5. Mutual Indemnification Obligation. Each Party will indemnify and hold harmless the other Party and its representatives from all claims that may be asserted against the other Party that result from the negligent acts or omissions of the indemnifying Party related to the performance of this Agreement. Such right of indemnification will remain in full force and effect after this Agreement terminates. Nothing in this Agreement shall be construed as waiving any exceptions or limitations on liability available to either Party under law.
- 4.6. Data Practices. All of the data created, collected, received, stored, used, maintained, or disseminated by Grantee in performing the Services are subject to the requirements of the Minnesota Government Data Practices Act ("Act"), Minnesota Statutes, chapter 13 and shall be maintained and released in accordance with the Act.
- 4.7. Representations. LMCD represents and warrants that this Agreement and the rights granted herein shall not conflict with the terms of any other agreement, grant or obligations imposed by a third-party funding source on the LMCD. To the extent a claim is made against Grantee demanding forfeiture or other repayment of amounts due, payable, or paid hereunder, LMCD shall defend, indemnify, and hold harmless Grantee from any such claims, repayment obligation, cost, expense, or liability related directly or indirectly thereto. Grantee represents and warrants it has and can provide licensed and trained personnel, as well as sufficient equipment, to enable it to provide the Services required under this Agreement.

LMCD APPROVAL

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

By: 

Printed Name: Vickie Schleuning

Printed Title: Executive Director

Date: May 17, 2021

COUNTY ADMINISTRATOR APPROVAL

Reviewed by the County
Attorney's Office

COUNTY OF HENNEPIN
STATE OF MINNESOTA

By: _____

Assistant/Deputy/County Administrator

Department Director of _____

Date: _____

Date: _____

HENNEPIN COUNTY SHERIFF'S OFFICE CONTRACTOR

Tracy Martin
Chief Deputy
Hennepin County Sheriff's Office

Date: _____