



LAKE MINNETONKA CONSERVATION DISTRICT

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

AGENDA
LAKE MINNETONKA CONSERVATION DISTRICT
Wednesday, July 12, 2023
Wayzata City Hall
600 Rice Street, Wayzata, MN 55391

PUBLIC PARTICIPATION

Those attending the meeting, please complete the attendance sheet. Those desiring to participate in the meeting should complete the *Public Comment Form* at the meeting if the online [Public Comment Form](#) was not submitted. 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.

6:00 Work Session to discuss:

1. Revised Strategic Plan
2. Future Workshop Discussion List

FORMAL MEETING AGENDA

7:00 p.m.

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

- 1) **CALL TO ORDER**
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **ROLL CALL**
- 4) **APPROVAL OF AGENDA**
- 5) **CHAIR ANNOUNCEMENTS**

- 6) **APPROVAL OF MINUTES** (06/28/2023 LMCD Regular Board Meeting)
- 7) **APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (07/01/2023 – 07/15/2023)
- 8) **PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*
- 9) **PRESENTATIONS**
- 10) **PUBLIC HEARING**
 - A) New Multiple Dock License Groveland HOA- Reconfiguration of Non-Conforming Structure
- 11) **OTHER BUSINESS**
 - A) Moratorium on New Charter Boat Applications
- 12) **OLD BUSINESS**
 - A) Admin Fines
- 13) **NEW BUSINESS**
 - A) Scanning Agreement
- 14) **TREASURER REPORT**
- 15) **EXECUTIVE DIRECTOR UPDATE**
 - A) Boat Slip Application
 - B) Letter of Support – Subbasin Numbers on Lake Minnetonka Bays
- 16) **ADJOURNMENT**



**Lake Minnetonka Conservation District
Mission, Vision, Values, Strategic Plan
2023-2024 - Draft**

STRATEGIC PRIORITY	DESIRED OUTCOME
Docks, Applications, Licences, Surface Water Management, Per Code	Execution of strategic plan priorities with emphasis on surface water uses and safety.
	Analyze competing lake uses and lake management options Increase understanding of purpose and rules and regulations of the LMCD
Lake Use, Safety Per Code	Update code and policies, as needed.
	Ensure public safety on Lake Minnetonka with full support of water patrol activities.
Lake Protection	
	Annual funding strategies for STL funding Fund ongoing and new AIS treatment and prevention
Operational Effectiveness	Effective workshop and board discussions in a respectful manner
	Continual review of LMCD Fee structure. Maintain a 35% fund balance

Mission Statement

The mission of the Lake Minnetonka Conservation District is to preserve and enhance the “Lake Minnetonka experience.” This is accomplished by providing leadership in protecting, improving, and managing lake use through the regulation of surface water uses and provide consistent and effective public safety programs.

Vision Statement

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

Core Values

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

Operational Effectiveness	Utilize Officers Work Group to provide effective leadership. Provide training for Board regarding standards, process and procedures. Establish a process for onboarding. Continue with annual Board self-evaluation LMCD recognizes the value in positive and continuous relationships with all LMCD partners Develop a communications plan as part of the annual budget process. Develop a succession plan for LMCD Executive leadership
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ITEM 6

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

7:00 P.M., June 28, 2023
Wayzata City Hall

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Ann Hoelscher, Victoria; Jake Walesch, Deephaven; Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Bill Cook, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Ryan Nellis, Tonka Bay; Denny Newell, Woodland; and Nicole Stone, Minnetonka. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Environmental Administrative Technician; Maisyn Reardon, Administrative Coordinator; and Interim Executive Director Jim Brimeyer.

Members absent: Dan Baasen, Wayzata; Mark Kroll, Excelsior; and Deborah Zorn, Shorewood.

4. APPROVAL OF AGENDA

MOTION: Cook moved, Walesch seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. APPROVAL OF MINUTES- 6/14/23 LMCD Regular Board Meeting

MOTION: Brandt moved, Stone seconded to approve the 6/14/23 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (8), Abstained (3), (Newell, Jabbour, Walesch). Motion carried.

7. APPROVAL OF CONSENT AGENDA

MOTION: Walesch moved, Stone seconded to approve the consent agenda as presented. Items so approved included: **7A**) Audit of Vouchers (6/16/23 – 6/31/23); and **7B**) Resolution Accepting Save the Lake Contributions (5/10/23 – 6/09/23).

VOTE: Motion carried unanimously.

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

Lieutenant Rehman, Hennepin County Water Patrol, read a statement from the Sheriff related to the proposed ordinance change related to spotters. The Sheriff's Office opposes the change as it believes that it would make the lake less safe. The statement references the differences between Lake Minnetonka and other lakes in the state, the large number of inexperienced boat operators, and compared this ordinance change to supporting distracted driving.

Hoelscher commented that the Board values the input and experience of Water Patrol and will take that into account when considering the ordinance amendments.

9. PRESENTATIONS

A) Bowfishing Tournament Presentation from Home Town Heroes Outdoors

Curtis Cich, Edge Bow Fishing and Home Town Heroes Outdoors, commented that they are looking to request a variance to allow night bow fishing in order to host a veterans bow fishing tournament on Lake Minnetonka. He commented that the organization hosts a veterans night bow fishing tournament, and the lake would be a good fit for carp fishing. He explained that the tournament is held at night to better target the fish. He commented that there are 30 to 70 boats taking veterans out and is one of the largest events that they hold each year. He commented that the organization is fully insured and is alcohol free. He commented that the carp would be taken offsite after caught. He commented that the event would be on July 29th.

Walesch commented that it sounds like a cool event that would also get the carp out of the lake.

Hoelscher asked if the group would be in a certain area or all over the lake.

Cich commented that the lake is quite large and therefore they would stay in a more confined area. He commented that two or three boats could be in a bay without intermingling.

Cook commented that he is concerned with the distance to shore and distance to residential properties with lights and asked for more details.

Cich replied that they look at the lakeshore to find more open terrain and try to avoid residential areas. He provided more details on the State regulations.

Cook commented that there is a shallow area in St. Alban's Bay that has carp.

Hoelscher stated that there is a bow fishing ordinance and asked how this proposal would match up against that.

Tully commented that the group is looking for permission to bow fish outside of the normal hours.

Hoelscher noted that it is one night for a great cause. She commented that special events are typically permitted through Water Patrol.

Tully commented that the Board could take formal action or acknowledge support.

Hoelscher asked the representatives from Water Patrol if there were any objections, and none were expressed.

Jabbour asked if the violation of that code is of a criminal nature or civil nature as he did not believe a variance could be issued for a criminal issue.

Langel clarified that the hours set by code does not make it criminal, although there could be a penalty. He stated that unless the State law makes it a crime to bow fish after those hours, it would not be a crime. He commented that this would be a variance to the hours within the code.

Hoelscher confirmed the consensus of the Board to support the bow fishing tournament as presented. She noted that perhaps staff could also advertise on the website prior to the event so that residents are aware.

B) Special Event Presentation from Project Got Your Back

Paul Davis, Executive Director of Project Got Your Back, provided details about their event scheduled for August 19th where they intend to break two Guinness World Records. He noted that they have been working with LMCD staff and did receive a special event permit from the Sheriff's Office. He explained that the event will raise funds for their veteran orientated organization. He commented that they will be attempting to break the record for longest boat parade at a total of 1,180 and the second will be the most people floating on pool noodles noting that they would need 254 people for that record. He provided details on where the boat parade would start and travel as well as where the pool noodle portion would take place.

Newell commented that he supports the cause but was a bit concerned with the congestion that already exists near Big Island and Lord Fletchers. He stated that Excelsior Bay is probably a better area.

Mr. Davis commented that they have taken off Lord Fletchers for that same reason.

Jabbour commented that he thinks this is a horrible idea. He commented that they worked hard to get rid of the Big Island partying. He commented that he supports veterans and takes thousands out on the lake each year. He offered to make a donation in the amount the event would raise in lieu of the event.

Anderson echoed the comments of Jabbour. He commented that there was just a statement from Water Patrol and this event would be unpoliceable.

Brandt asked if this event would be aimed at lake residents or those trailering in boats.

Mr. Davis replied that they would be targeting lake residents. He recognized that it would be unlikely that they would break the boat parade record but is more confident that they could break the pool noodle record.

Brandt commented that while it might be fun for those involved, the parade would block traffic on the lake and would be a disaster for everyone else on the lake.

Mr. Davis estimated that the parade would be about 45 minutes.

Cook commented that 1,000 boats 20 feet long is four miles, so even four across would be one mile long.

Newell commented that he is also nervous about people floating in the water with 1,000 boats around.

Mr. Davis commented that the area would be roped off for the noodle float.

Walesch asked if this was simply a presentation and not a request.

Mr. Davis commented that it is his understanding that they have received the special event permit and was sharing the information with the LMCD.

Lieutenant Rehman commented that he will review the approval to determine what was included in the permit.

Kirkwood asked how the boats will be organized once they arrive.

Mr. Davis commented that they have a number of volunteers that would have admin boats to guide those participating as well as a lead boat that is very identifiable.

Hoelscher recognized that the LMCD does not have authority over the event but noted the safety concerns expressed by the Board.

Jabbour cautioned against blocking off public waters. He stated that he has 52 years of serving the lake and this is a terribly bad idea.

10. PUBLIC HEARING

A) Variance for 135 Mound Avenue

Walesch proposed that this issue be tabled in hopes that staff can work with the applicant to possibly look at language that would mitigate their concerns rather than attempting to work this out in a meeting setting.

Klohs commented that the Board has already ruled on this and therefore there is no reason to reopen it.

Hoelscher stated that she believes the applicant had issues with the findings of fact and therefore was required to submit a new application. She stated that the applicant is entitled to the public hearing and a decision from the Board.

MOTION: Walesch moved, Brandt seconded to table the variance application from Dennis G. Nelson and Barbara Franta for the property located at 135 Mound Avenue in Tonka Bay.

Further discussion: Langel asked and received confirmation that this motion would postpone this item to the next LMCD meeting.

VOTE: Ayes (9), Nays (2), (Kirkwood, Klohs). Motion carried.

Hoelscher asked if the applicant is comfortable with this process.

Dennis Nelson, 135 Mound Avenue, commented that he is comfortable with this process. He commented that he wanted a chance to have a discussion with the attorney and was told the only path to do so was to do so at a meeting.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

A) Administrative Fines Cover Memo, Notice of Violation, and Draft Ordinance

Brimeyer stated that if a violation cannot be resolved, the current path is to go to court which is a long, tedious, and expensive process. He commented that these are not criminal offenses and would be more akin to a zoning violation. He stated that municipalities gain compliance through administrative fines, which would be a more efficient process for the LMCD as well. He stated that he gained information from the White Bear Lake Conservation District and used that model as a template, with changes recommended by LMCD legal counsel. He provided a brief overview of the proposed administrative fine process.

Hoelscher used the scenario that a dock is out of compliance and the maximum fine is accumulated but the dock is then removed at the end of the season and replaced in the spring in violation. She asked if that would go forward to a criminal offense.

Brimeyer commented that in that case he would not recommend going through the fine process again and would recommend that case go to court.

Hoelscher asked for clarification on the education enforcement officer and a hearing officer.

Brimeyer commented that it could be the Executive Director, a Board member, or staff member from a member city.

He stated that in Spring Park they contracted with Minnetonka to provide that service.

Klohs asked for input on the White Bear Lake experience.

Brimeyer commented that he did not go into in-depth detail, but the ordinance has been very effective on that lake and with municipalities.

Klohs stated that he would be interested in more details.

Walesch asked how closely the fine and time periods compare to White Bear Lake.

Brimeyer commented that the two are very similar in that manner.

Walesch asked if the fine process has been challenged. He commented that sometimes there is a violation, but the property owner is working with staff to address the issue and asked if there would be flexibility in that instance.

Brimeyer confirmed that if someone is working on it and communicating with staff, that would be allowed before fines would begin.

Walesch asked if there would be any issues with this type of application that takes into account different circumstances.

Langel replied that there would not be any issues. He commented that it is uniform that the structure is provided in code, but they are always working with people to avoid fines and penalties. He confirmed that municipalities use this system.

Klohs commented that most people that have docks installed incorrectly are aware of that. He commented that when they are asked to change it, they do not and therefore it seems that this process would delay the court process by one year. He stated that the maximum value of the fines is still less than the value of lakeshore rights.

Brimeyer commented that they could increase the fines.

Walesch recognized the impression that every lakeshore owner is throwing money off the boat, but he believed that these fines would get people's attention.

Hoelscher stated that this seems to be another tool that would ease the burden on staff and could help to resolve some of the issues.

Jabbour commented that he likes a process where people have an appeal.

Hoelscher stated that this would provide that opportunity.

Jabbour commented that he likes people to have the opportunity to come before the Board. He did not feel

comfortable that people would have no recourse to speak with the Board. He stated that he does not like that violations are criminal as it could impact their futures. He commented that the enabling act limits the ability to levy a \$100 fine. He asked if the White Bear Lake enabling act is worded differently.

Brimeyer commented that he believes that the enabling act provides authority to do more than levy a \$100 fine.

Jabbour commented that there are big egos on the lake and a \$25,000 fine will make some people mad, therefore he wants to ensure there is legal ground to do this.

Brimeyer commented that if the LMCD wants to continue to go to court, it can do that.

Jabbour commented that he does like this process but would want to ensure that it is legal for the LMCD. He commented that he was at the mercy of bad staff during the past ten years and paid the price himself.

Nellis asked if Brimeyer has discussed this with any of the member cities.

Brimeyer replied that he did not ask that question, although cities have their own administrative fine process. He commented that he has reached out to the administrators that he knows.

Hoelscher commented that she thinks this is a good idea but has concern that it would be challenged. She stated that it would be interesting to know if White Bear Lake has been challenged.

Nellis commented that he believes that the member cities should be consulted, and the fees should be lower.

Hoelscher confirmed consensus of the majority of the Board with this concept but would like additional information on whether this concept has been challenged in White Bear Lake and whether this is allowed.

Langel commented that conceptually he believes that they are fine, and he is not concerned with overlapping the cities because the city authority is on land and the LMCD authority is on water. He confirmed that they could do some more work before bringing this back.

Klohs commented that there are pending issues and asked if those would go on hold and whether they would start over with the process if this were implemented.

Langel commented that would be the decision of the Board as it would become effective upon adoption.

Brimeyer commented that anything pending should continue to follow its current path.

Hoelscher asked and received confirmation that an egregious violation could proceed directly to court.

Anderson stated that his only concern is with the enabling ordinance mention of \$100.

B) Variance Fees, Escrow, Recording

Brimeyer stated that the current variance fee is \$500, of which \$250 is refundable. He noted that multiple variances have gone on for months with legal fees exceeding that cost. He stated that he spoke with multiple cities to obtain their variance process and related fees. He stated that with one exception, all variances are recorded. He stated that when a variance is not recorded it creates issues when properties change ownership. He recommended raising the fee from \$500 to \$750 to cover LMCD staff time. He also suggested that an escrow be required to cover additional costs such as legal fees, surveys, etc.

Nellis asked the maximum a lake owner would occur if they followed the variance process that ended up taking significant time.

Brimeyer commented that the only fee would be \$750. He stated that the \$1,500 escrow would be used, only if needed and if additional funds were needed the applicant would be responsible for that.

Walesch commented that in his experience all cities require an escrow for outside costs, which is unlimited if additional funds are needed. He commented that if a review has additional costs, that should be paid by the applicant and not the taxpayers.

MOTION: Walesch moved, Anderson seconded to approve the variance and escrow fee schedule and requirement for recording.

Further discussion: Stone commented that the recording element is key. She noted that with her experience in real estate that is important when properties change hands.

VOTE: Motion carried unanimously.

14. TREASURER REPORT

A) May Balance Sheet and I and E Reports

Anderson provided a brief overview. He noted the Save the Lake contributions received January through June and noted a discrepancy that needs correcting. He noted that the donation for solar lights should be moved from Save the Lake to the solar lighting line item.

15. EXECUTIVE DIRECTOR UPDATE

A) Summer Hours

Brimeyer commented that during the summer Fridays are pretty quiet. He noted that the LMCD offices in the Mound building, which has summer hours as do many of the lake communities. He stated that staff supports the change in hours as he is recommending.

MOTION: Jabbour moved, Kirkwood seconded to approve the new summer hours effective July 3, 2023, Monday through Thursday 7:30 a.m. to 5:00 p.m. and Fridays 8:00 a.m. to 11:30 a.m.

VOTE: Motion carried unanimously.

B) Staff Compensation

Brimeyer stated that he met with Anderson to discuss staff compensation and they developed a two-step process to determine the new formula using the hourly rate and overtime. He suggested that as of September 1st they go to a regular salary pay plan for all employees. He commented that these staff members have really stepped up to handle the LMCD office duties. He stated that he discussed this with the officers who supported this recommendation. He commented that if approved, this would go into effect the next payroll. He noted that LMCD still uses vacation and sick time, and he may bring forward a request to eliminate those and change it to paid time off.

Langel asked and received confirmation that the change tonight is just for hourly and not a change to salary.

Anderson stated that he supports this change. He noted water businesses have peaks and valleys of when they are busy, and the salary formula works good when both parties use it properly. He stated that with salaries the payments are exactly the same each time. He also provided some information from the perspective of finance.

Brimeyer commented that he would like to hold off on the salary change for now.

Langel agreed that they should hold off on the salary portion as there are IRS standards to meet.

MOTION: Anderson moved, Cook seconded to approve increasing staff compensation, retroactive to June 1, 2023.

VOTE: Motion carried unanimously.

C) Banking Update

Brimeyer provided an update on the proposed banking changes.

D) Scanning Update

Brimeyer provided an update to prepare for scanning noting that he is hoping to present a bid to the Board in July.

Nellis commented that he would want to ensure that the proposals are apples to apples comparison. He agreed to assist in reviewing the proposals.

E) Other

Brimeyer commented that staff did a great job organizing and running the boater education class. He and the Board commended Jay and the others involved in the event as well. He also provided an update on an ongoing LMCD case of noncompliance.

Hoelscher stated that she will schedule an officers work group for July 6th. She provided an update on Baasen who is currently hospitalized.

Jabbour provided a progress update on Baasen's condition.

Nellis commented that Jabbour's city refuses to accept his resignation from the LMCD Board.

Jabbour commented that the Mayor of Spring Park refused to accept his resignation from the LMCD Board and out of respect for that city he will continue to serve. He asked if a moratorium could be passed tonight.

Hoelscher replied that staff will work on that issue and if warranted would bring that back for the next meeting.

16. ADJOURNMENT

MOTION: Walesch moved, Cook seconded to adjourn the meeting at 8:37 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary

7:38 AM
07/06/23

Lake Minnetonka Conservation District
Check Detail
July 1 - 15, 2023

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
07/14/2023	EFT-23-69	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-9,317.37
			P.E.R.A	2020 · Payroll Liabilities -	Admin.	1,300.59
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-696.74
			ER/FICAMedicare - Admin	4021M10 · ER Share of Admin FICA/Medicare	Admin.	-710.70
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	27.12
			Contract Labor	4024 · Contract Labor	Admin.	-3,000.00
TOTAL						-12,397.10
07/14/2023	EFT-23-70	ADP Service Fee		Alerus Checking		
			Payroll 7/1/23 - 7/15/23	4180M10 · Professional Services - Admin.	Admin.	-92.25
TOTAL						-92.25
07/01/2023	EFT-23-71	Health Partners		Alerus Checking		
			Dental Insurance July 2023 (Cobra - Schleuning)	4380M10 · Employee Benefits - Admin.	Admin.	-60.91
			Dental Insurance July 2023 (Duncan)	4380M10 · Employee Benefits - Admin.	Admin.	-60.91
			Dental Insurance July 2023 (Tully)	4380M10 · Employee Benefits - Admin.	Admin.	-60.91
TOTAL						-182.73
07/01/2023	EFT-23-72	Medica		Alerus Checking		
			Health Insurance, July 2023 (Cobra - Vickie Schleuning)	4380M10 · Employee Benefits - Admin.	Admin.	-757.58
			Health Insurance, July 2023 (Tammy Duncan)	4380M10 · Employee Benefits - Admin.	Admin.	-757.58
			Health Insurance, July 2023 (Thomas Tully)	4380M10 · Employee Benefits - Admin.	Admin.	-757.58
TOTAL						-2,272.74
07/01/2023	EFT-23-73	P.E.R.A		Alerus Checking		
			Payroll 7/1/23 - 7/15/23	2020 · Payroll Liabilities -	Admin.	-1,300.59
TOTAL						-1,300.59
07/01/2023	EFT-23-74	Unum Life Insurance		Alerus Checking		
			Long Term Disabilities - July 2023	2020-LT · Payroll Liabilities - UNUM	Admin.	-61.68
TOTAL						-61.68
07/01/2023	EFT-23-75	WEX Health, Inc.		Alerus Checking		
			HSA Contribution July 2023 (Tully)	4380M10 · Employee Benefits - Admin.	Admin.	-125.00
			HSA Contribution July 2023 (Duncan)	4380M10 · Employee Benefits - Admin.	Admin.	-125.00
TOTAL						-250.00
07/13/2023	22387	AIS Advanced Imaging Solutions		Alerus Checking		
06/26/2023	Inv.#504885369		Copier Contract 6/20/34 - 7/20/23	4140M10 · Office Equipment R&M - Admin.	Admin.	-567.29
TOTAL						-567.29

7:38 AM
07/06/23

Lake Minnetonka Conservation District
Check Detail
July 1 - 15, 2023

Date	Num	Name	Memo	Account	Class	Paid Amount
07/13/2023	22388	LMCC		Alerus Checking		
06/29/2023	Inv.#1551		VOD Service for 6/28/23 Board Meeting	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-200.00
TOTAL						-200.00
07/13/2023	22389	NCPERS Group Life Insurance		Alerus Checking		
07/01/2023	June 2023		Life Insurance Coverage 7/1/23 - 7/31/23	4380M10 · Employee Benefits - Admin.	Admin.	-32.00
TOTAL						-32.00
07/13/2023	22390	Premier Materials Technology, Inc.		Alerus Checking		
06/23/2023	Inv.#48551		Solar Lights (1 Green, 10 Red, Bird Spikes)	4535M10 · Public Safety - SolarLights	STL	-2,469.00
TOTAL						-2,469.00
07/13/2023	22391	Ratwik, Roszak & Maloney, P.A.		Alerus Checking		
05/31/2023	May 2023		Civil Legal Fees, May 2023	4620M10 · Civil Legal Fees - Admin.	Admin.	-3,720.97
TOTAL						-3,720.97
07/13/2023	22392	United States Treasury		Alerus Checking		
07/01/2023	PCORI 2023		Annual PCORI Form 720 Federal Excise Tax - 2023	4380M10 · Employee Benefits - Admin.	Admin.	-8.49
TOTAL						-8.49
07/13/2023	22393	Your Computer Hero		Alerus Checking		
06/29/2023	Inv.#7894		File Maintenance, backups, etc	4181M10 · Professional Comp. Serv.-Admin.	Admin.	-750.00
TOTAL						-750.00
07/13/2023	22394	Chuck Struck		Alerus Checking		
07/06/2023	Inv.#INV0047		Board Meeting 6/28/23	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-90.00
TOTAL						-90.00
07/13/2023	22395	Innovative Office Solutions LLC		Alerus Checking		
06/29/2023	Inv.#IN4243924		Copy Paper, Staples, Glue	4220M10 · Office Supplies -Admin.	Admin.	-116.38
TOTAL						-116.38
07/13/2023	22396	Lynette M. Rohde Bookkeeping		Alerus Checking		
06/30/2023	Inv.#2023-052		Bookkeeping Services 6/6/23 and 6/28/23	4180M10 · Professional Services - Admin.	Admin.	-280.60
TOTAL						-280.60

7:38 AM
07/06/23

Lake Minnetonka Conservation District
Check Detail
July 1 - 15, 2023

Date	Num	Name	Memo	Account	Class	Paid Amount
07/13/2023	22397	TimeSaver Off Site Secretarial, Inc.		Alerus Checking		
06/30/2023	Inv.#M28347		Board Meeting 6/14/23 and 6/28/23	4230M10 · Meeting Exp. - Admin.	Admin.	-372.50
TOTAL						-372.50



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 12, 2023 (Prepared July 5, 2023)

TO: LMCD Board of Directors

FROM: Thomas Tully, Environmental Administrative Technician

CC: Jim Brimeyer, Interim Executive Director

SUBJECT: Multiple Dock License (Reconfiguration of a non-conforming Structure) for Groveland HOA in Woodland

ACTION

Board consideration of request for a new multiple dock license (Reconfiguration of a non-conforming Structure) request for the Groveland HOA, located at PID 0711722440158, in The City of Woodland, MN 55391, with shoreline on Wayzata Bay, and board consideration of public input as part of the public hearing process.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license from Groveland HOA for the property located at PID 0711722440158 in Woodland for final action at the July 26, 2023 LMCD Board meeting <subject to the following conditions>...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the multiple dock license from Groveland HOA for the property located at PID 0711722440158 in Woodland for final action at the July 26, 2023 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Mike Jilek ("Applicant") submitted an application for a new multiple dock license at PID 0711722440158 in Woodland, MN 55331, with shoreline on Wayzata Bay. The Applicant's property has approximately 482 feet of 929.4 OHW shoreline. The Applicant is proposing to reconfigure the non conforming structure to better the use of the DUA.

In summary, the applicant proposes the following:

- Reconfigure 3 Dock Structures into one single dock structure; and,
- Relocate the associated BSUs (10).
 - No additional dock structure is being proposed and,
 - The applicant's proposal would be the same total number of BSUs and,

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

- The same total linear length of BSUs in the original approval of the nonconforming structure on site.

CODE REVIEW

Reconfiguration of Nonconforming Structures

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

LMCD Code Section 2-8.11. Limitations.

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

- a) An increase in boat storage units;
 - No such change proposed.
- b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;
 - No such change proposed.
- c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
 - No such change proposed.
- d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
 - Volume of traffic remains the same.
- e) An increase in the nonconforming nature of the structure;
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.”
- f) The creation of any new nonconformities; or
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.” No additional nonconformities proposed.
- g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.
 - No extension proposed.

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Tonka Bay were provided information regarding the applications on July 5, 2023. City and agency comments are due by July 11, 2023. Comments received as of July 6, 2023 are

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

summarized below. Any comments received after July 6, 2023 will be provided at the Board meeting for review.

- No comments received.

No comments have been received from the general public. Written comments received after noon on July 6, 2023 will be shared at the July 12, 2023 Board meeting.

PUBLIC HEARING

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

A hearing notice was published in the April 13, 2023 edition of the Sun Sailor (official LMCD newspaper) and the April 16, 2023 edition of the Laker Pioneer. On April 18, 2023, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

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

1. Continue forward the Findings of Fact from 1998 allowing for the grandfathering of 2 Mooring areas into Slip storage.
2. Allow for the reconfiguration of 3 dock structures into 1 dock structure.
3. Allow for the relocation of 10 BSUs from old dock structure to new dock structure.
4. Ensure all Federal, State, County, and Municipal regulations are followed.
5. Standard LMCD 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. Current Site Plan
4. Proposed Site Plan
5. Multiple Dock License Application

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

6. Public Hearing Notice (Sun Sailor & Laker Pioneer)
7. Public Hearing Notice Mailing

LMCD CODE EXCERPTS



Article 2, Chapter 3. Authorized Dock Use Area

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.

(b) Commercial Structures – August 30, 1978. The authorized dock use area for sites with commercial uses that have a commercial structure that was in existence on August 30, 1978 shall extend into the Lake a distance of 200 feet. The lakeward extension of the authorized dock use area more than 100 feet from the shoreline shall be limited to the distance from shore of the docks in existence on said date and that portion of said docks more than 100 feet from the shoreline may not be altered or expanded.

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

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

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.

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

Article 2, Chapter 4. Watercraft Density and Shoreline Requirements.

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.

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.

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

Subd. 3. Non-Conforming Docks and Mooring Areas in Existence on May 3, 1978. Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978. No such docks or moorings may be maintained without first securing the required license or permit under Article 6.

Article 2, Chapter 8. Reconfiguration of Nonconforming Structures.

2-8.01. Purpose. The protection and preservation of the Lake has required increasingly strict regulatory measures. While the Board has determined that these measures are generally appropriate on a Lake-wide basis, it has recognized that requiring existing nonconforming structures to come into compliance with new requirements of the Code can impose substantial hardships. Therefore, as the regulation of docks and boat storage on the Lake has changed, the Board, in some cases, has allowed docks lawfully in existence at the time of adoption of new ordinances to continue. In conferring such nonconforming status, the Board has imposed limitations on alterations or expansions of such facilities to protect the Lake and to otherwise further the purposes of this Code. However, the Board has determined that these limitations may be unduly restrictive without significantly advancing the public interest. The purpose of this Chapter is to alleviate the undue hardship created by prohibiting changes or alterations to nonconforming structures by allowing reconfigurations and minor changes within certain limitations imposed to protect the spirit and intent of this Code. The Board also recognizes a need to allow some reasonable flexibility in the reconfiguration of nonconforming structures to enable owners to enhance the safety of their structures and respond to changing market demands and watercraft designs. The Board further recognizes that there may be alterations proposed to a nonconforming structure that comply with the requirements of the Code. The intent of the Board is to allow for such changes as part of an approved reconfiguration or minor change, provided the Board or the Executive Director finds the proposed changes do not increase the nonconforming nature of the structure and are otherwise consistent with the purpose of this Chapter. It remains a priority of the Board to encourage owners to bring their nonconforming structures into compliance with Code to the extent reasonably possible, but the Board determines it is not necessary, and can result in undue hardships, for an owner to be required to bring their nonconforming structure into conformance with the Code simply for seeking a reconfiguration of, or minor change to, the structure.

2-8.03. Applicability. This Chapter applies to all permanent docks, seasonal docks, and mooring areas that are not in compliance with the requirements of the Code applicable to new facilities, but that are lawfully in existence by reason of Code provisions explicitly allowing such nonconformities to continue.

2-8.05. Reconfigurations and Minor Changes Generally. This Section sets out the procedure to seek approval for the reconfiguration of a nonconforming structure and also provides a process to obtain administrative approval for a minor change to a nonconforming structure. Without limiting the specific requirements of this Chapter, the primary distinction between a reconfiguration and a minor change with respect to a nonconforming dock is that a reconfiguration proposes to substantially alter the principal structure of a dock, while a minor change only alters the secondary structure of a dock or a minimal portion of the principal structure.

The reconfiguration of a nonconforming structure, to the extent allowed by this Chapter, requires the submission of an application to the LMCD in accordance with Section 6-2.17, which requires the issuance of a new dock license or a new mooring area license. If a proposed reconfiguration qualifies as a minor change, a minor change application may be submitted to the LMCD in accordance with Section 6-2.19 and the Executive Director may approve the application without a public hearing, Board review, and without requiring a new license. The minor change process is only available if, in the determination of the Executive Director, the proposed reconfiguration complies with the limitations and criteria of this Chapter.

In considering a proposed reconfiguration or minor change to a nonconforming structure, the LMCD shall determine the number of boat storage units, total linear footage of the boat storage units, and the perimeter of the existing nonconforming structure. Each of these determinations, which must be made in accordance with Section 2-8.13, serve as limitations on the proposed and all future reconfigurations and minor changes to the structure. To the extent a proposed reconfiguration or minor change results in less than the full amount of the boat storage units, total linear footage, or perimeter area of the existing nonconforming structure being utilized, they are preserved as provided in Section 2-8.19 for future use.

2-8.07. Maintenance and Replacement. An owner may maintain, repair, restore, and improve a nonconforming structure without having to obtain a new dock or mooring area license or administrative approval of the minor change under this Chapter, provided that such work does not result in the alteration or relocation of any portion of the structure. The replacement of a majority of a dock shall require a minor change permit under Section 6-2.19.

2-8.09. Code Requirements. The reconfiguration of nonconforming structures must comply, in all respects, with the requirements of this Code, except as otherwise provided in this Chapter and as follows:

- (a) The provisions of Section 2-3.03, subdivision 2, which prohibit alteration of docks extending more than 100 feet from the shoreline;
- (b) The provisions which prohibit changes involving an increase in slip size without first securing a special density license under Section 6-2.13; and
- (c) The provisions of 2-6.25, which prohibit the expansion of nonconforming uses.

2-8.11. Limitations. Except to the extent expressly allowed by this Chapter, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new mooring area license, or grant administrative approval if the proposed reconfiguration would result in any of the following:

- (a) An increase in boat storage units;
- (b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;

- (c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
- (d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
- (e) An increase in the nonconforming nature of the structure;
- (f) The creation of any new nonconformities; or
- (g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.

2-8.13. Determination of Existing Boat Storage Units, Linear Footage, and Perimeter.

Subd. 1. Intent. The Board desires to allow the reconfiguration of, and minor changes to, nonconforming structures to accommodate the changing widths of watercraft and the needs of owners, but to do so in a way that ensures the reconfigured structure does not extend beyond the perimeter of the existing structure and that preserves for the owner, as a maximum, the original number and linear footage of the boat storage units of the existing structure. This Section sets out the process for confirming the number of existing boat storage units, the calculation of the total linear footage of the boat storage units, and for determining the perimeter of the existing nonconforming structure as part of a proposed reconfiguration. The determinations made under this Section are based on the existing licensed structure, not on any past or proposed future configuration of the structure. The LMCD may prepare and make available to the public diagrams to demonstrate how one or more of these determinations are made. Any such diagrams are for illustration only and are not controlling on the determinations made by the Executive Director or the Board under this Section regarding any particular application.

Subd. 2. Boat Storage Units. The number of boat storage units for the nonconforming structure is established as part of the license issued by the LMCD for the dock or the mooring area. If a proposed reconfiguration will result in a reduction of the number of boat storage units, the new dock license, mooring area license, or minor change permit issued for the reconfigured structure shall identify the number of boat storage units before and after the reconfiguration.

Subd. 3. Linear Footage. Part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow the transfer of linear footage of the boat storage units among slips and to otherwise reconfigure the boat storage units as the owner determines is appropriate, provided the total linear footage of the boat storage units of the existing structure is not exceeded. Where the license is based on multiple sites with non-continuous shoreline, the linear footage may be transferred among sites. The linear footage shall be determined as follows:

- (a) General Linear Footage Calculation. The linear footage of a boat storage unit contained by a slip structure shall be determined by a straight line measurement from the center of dock-side end of the slip to a point even with the outside edge of the slip structure, whether that is the end of the slip fingers, or other similar portion of the dock structure reasonably constituting the end of the slip;
- (b) Dolphin Poles or Similar. The linear footage of a boat storage unit with dolphin poles or that is not contained by a slip structure shall be determined based on the linear footage of the nearest slip finger or other similar portion of the dock structure reasonably constituting the end of the slip;
- (c) Mooring Areas. The linear footage of a mooring area shall be determined based upon the combined length of the watercraft, as identified in the most current license issued for the structure, allowed to be moored at the mooring area; and
- (d) Total Linear Footage. The total linear footage of the nonconforming structure shall be the combined linear footage of all the boat storage units.

Subd. 4. Reduction in Linear Footage. If a proposed reconfiguration of, or minor change to, a nonconforming structure will result in reducing the amount of linear footage used for boat storage units, the new dock license, mooring area license, or minor change permit issued for the reconfigured structure shall identify the total linear footage before and after the reconfiguration.

Subd. 5. Linear Footage Appeal. The Executive Director is authorized to resolve any questions and to decide the total linear footage of a nonconforming structure. The Executive Director may bring a question regarding the determination of the linear footage to the Board for a final decision. If an applicant disagrees with the Executive Director's determination of the total linear footage, that person may appeal the determination in writing to the Board for consideration at a regular meeting. The written appeal shall include an explanation of the basis of the appeal and describe the alleged error. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the total linear footage.

Subd. 6. Perimeter. Another part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow reconfigurations without being limited to a particular structural design or configuration, provided the reconfigured structure does not extend beyond the perimeter of the existing structure. Confining the reconfigured structure to the perimeter of the existing structure will help avoid the negative impacts that can result to the Lake and neighboring owners if the structure was allowed to expand or extend further into the Lake.

- (a) Perimeter Structure and Storage. All docks, moorings, watercraft storage, swimming floats, ski jump storage, diving towers, and similar items must be located within the perimeter as approved in accordance with this Code.
- (b) Perimeter Determination. The perimeter of the existing nonconforming structure shall be a closed line that extends from shoreline to shoreline around the outside portions of the structure (boxing in the structure). The perimeter shall be drawn by

extending straight lines from the shoreline on either side of the structure to the furthest point of the structure into the Lake, and then drawing a straight line between the two side lines that parallels the shoreline. The Executive Director is authorized to resolve any questions and to decide the perimeter of a nonconforming structure. The Executive Director may bring a question regarding the determination of the perimeter to the Board for a final decision. The established perimeter shall be included in and made part of the new dock license, mooring area license, or minor change permit issued for the reconfigured nonconforming structure. The established perimeter shall also be shown on any survey submitted with a proposed reconfiguration of the nonconforming structure.

- (c) Perimeter Appeal. If an applicant disagrees with the Executive Director's determination of the perimeter, that person may appeal the determination to the Board for consideration at a regular meeting. The written appeal shall include an explanation of the basis of the appeal and described the alleged error. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the perimeter.

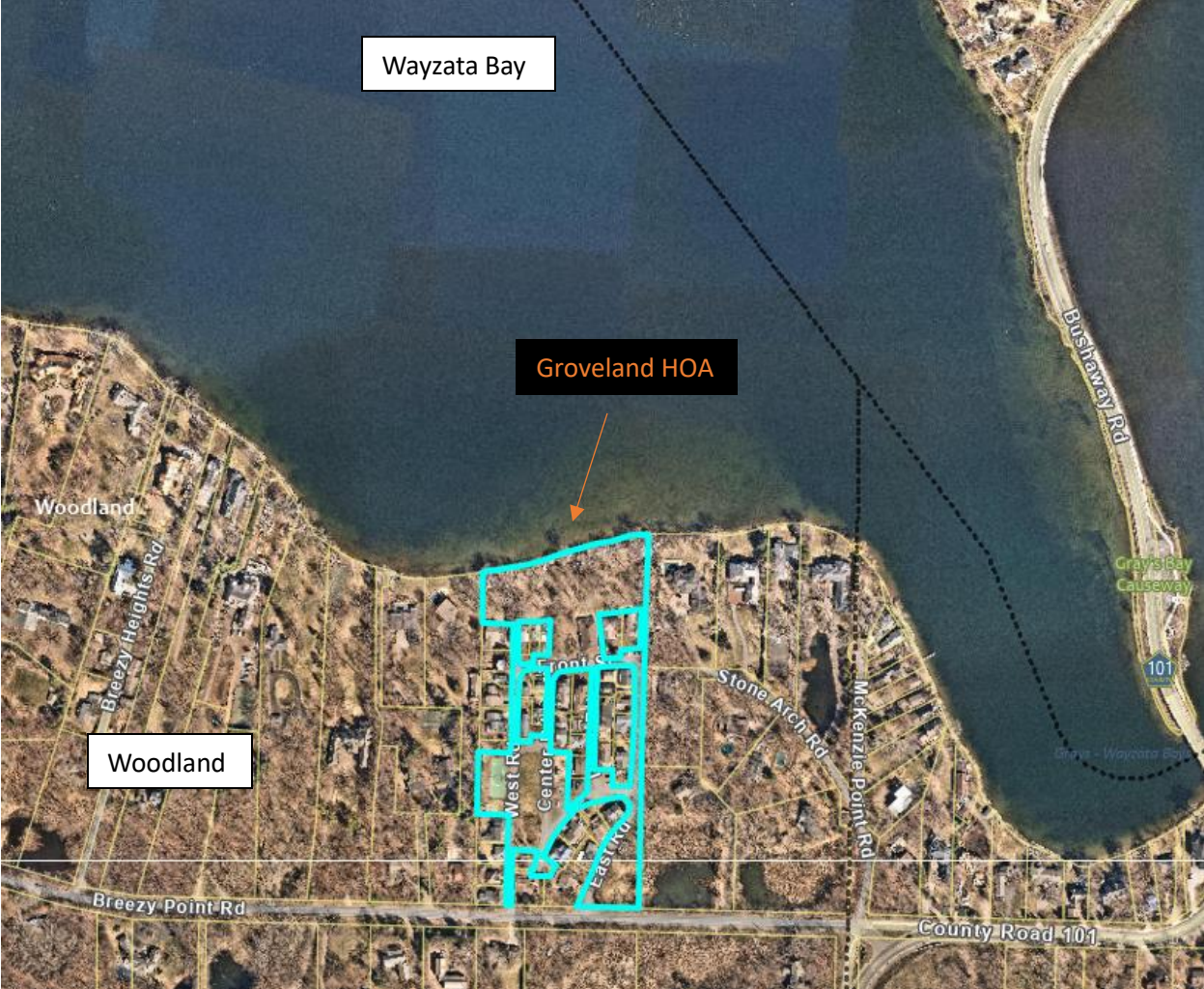
2-8.15. License to Reconfigure a Nonconforming Structure. The reconfiguration of a nonconforming structure may only occur to the extent allowed by, and in accordance with, this Chapter and then only after obtaining a nonconforming structure reconfiguration license under Section 6-2.17 and a new dock license or a new mooring area license in accordance with Article 6.

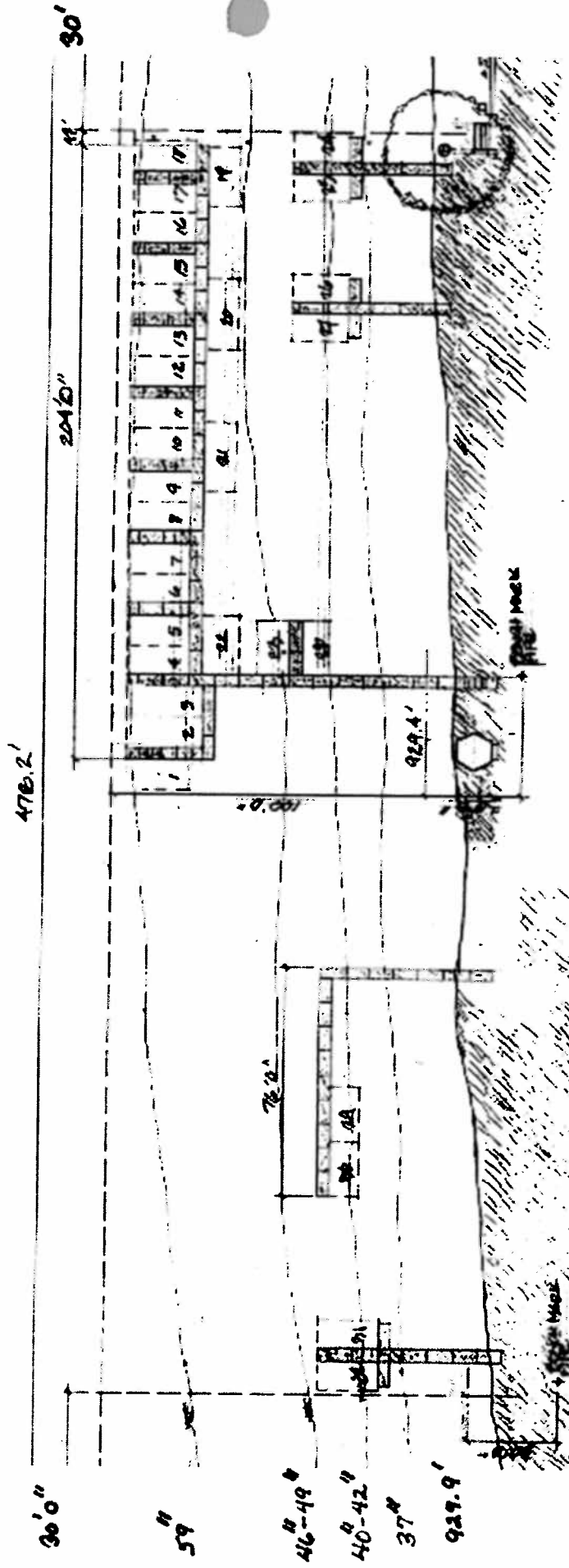
2-8.19. Preservation of Unused Boat Storage Units, Linear Footage, and Perimeter Area. If the reconfigured or changed nonconforming structure does not utilize the full number of boat storage units, the total linear footage, or the full perimeter area of the existing nonconforming structure, as determined in accordance with Section 2-8.13, the unused boat storage units, unused linear footage, and unused perimeter area shall be preserved and may be used for a future reconfiguration of the nonconforming structure, provided that any such future reconfiguration is in compliance with this Chapter. The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure. No expansion beyond the preserved number of boat storage units, linear footage, or perimeter shall be allowed unless such expansion is otherwise allowed by this Code or a variance is applied for and obtained prior to, or as part of, the issuance of the new dock license, mooring area license, or minor change permit for the newly reconfigured nonconforming structure.

2-8.21. No Vested Rights. It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of dock, mooring area, and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board. However, failure to

Multiple Dock License
PID 0711722440158 in Woodland
LMCD Board Meeting
July 12, 2023

include the statement in the license shall not be deemed to vest any additional rights upon the licensee and all such licensed facilities shall remain subject to any later-adopted policies and regulations of the Board.





Slip No's	Size
1-2	10x24
3-22	10x20
23	10x18
24-30	9x18
31-32	9x20

RECEIVED
 OCT 24 2006
 By _____

GLENCLIFF HOME HELP ASSOCIATION
 2008-2009 2010-2011 2012-2013
 2014-2015 2016-2017 2018-2019
 APPROVED AS PART OF 2018

2015-22
 2014-32
 2013-32
 2012-32
 2011-32
 2010-32
 2009-32
 2008-32

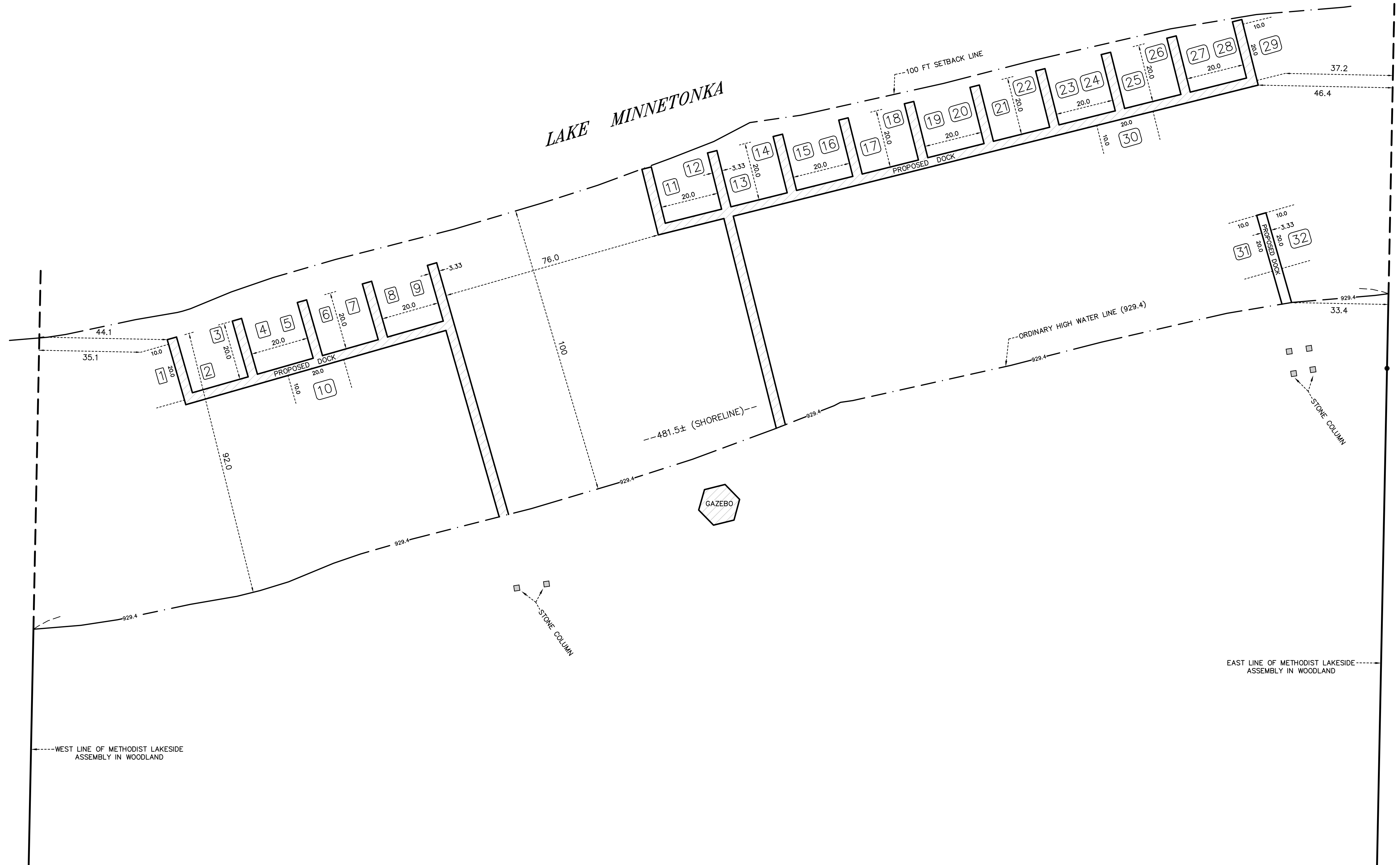
LEGAL DESCRIPTION:
 Lot 44, Methodist Lakeside Assembly in Woodland, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

1. Showing the east and west boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Existing building dimensions and setbacks measured to outside of siding or stucco.
5. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, found, unless otherwise noted.



DATE	REVISION DESCRIPTION	DRAWING ORIENTATION & SCALE	CLIENT/JOB ADDRESS	ADVANCE SURVEYING & ENGINEERING, CO.	I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.	SURVEYED DATE:	SHEET TITLE	SHEET NO.
3/27/23	TO ADD ADDITIONAL DOCK SLIP		GROVELAND HOMEOWNERS ASSOC. WOODLAND, MN	Advance <i>Surveying & Engineering, Co.</i> 17917 Highway No. 7 Minnetonka, Minnesota 55345 Phone (952) 474-7964 Web: www.advsur.com	Wayne W. Prehms #43503 LICENSE NO. MARCH 23, 2023 DATE	MARCH 15, 2023	DOCK PLAN	S1
6/15/23	NUMBER BSU'S AND REVISE DOCK LAYOUT					SHEET SIZE: 22 X 34		
6/19/23	REDUCE WESTERLY DOCK TO 92 FT					DRAWING NUMBER 230234 WP		
						DRAFTED DATE: MARCH 16, 2023		SHEET 1 OF 1



MULTIPLE DOCK
NEW LICENSE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD Use
Fee Amount: _____ Check # _____ Date Received: _____

1. CONTACT INFORMATION

Applicant: Groveland HOA Applicant Title (Owner, Authorized Agent, etc.): Mike Jilek

Address: 2805 Center Road, Wayzata, MN 55391

Phone: 952-239-4776 Email: mjilek@gmail.com

Owner of Site (if different from Applicant): _____

Address: _____

Phone: _____ Email: _____

2. SITE INFORMATION

Site Name (Business) & Address/PID: PID 0711722440158

Facility Use Classification (Check all that apply)

- Facility Use Classification options: a) Commercial Marina, b) Club, c) Municipal, d) Transient, e) Outlot Association, f) Residential Association, g) Residential Multiple Dock

Facility Type

- Facility Type options: a) Qualified Commercial Marina, b) Qualified Yacht Club, c) Qualified Sailing School, d) Not Applicable

Site Shoreline Measurement of 929.4 ft OHW: 481.5 feet

Existing Boat Storage Unit Density: 32 Requested Boat Storage Unit Density: 32

Describe type of dock construction (material, permanent/pilings, floating, etc.) and attach to-scale drawing per site plan instructions:

Dock (BSU) Reconfiguration application. BSU density remains at 32 BSUs.

Parking and zoning requirements: Check with the city staff in which the site is located.

Facilities & Services

- Facilities & Services checklist: Restroom facilities, Head pump-out facilities, Fuel offered, Fishing bait offered, Boat Maintenance Services, Public Launch Ramp



Site Square Footage (structures and maneuvering)

Total square footage of existing dock area and maneuvering space = 2297 sq. ft.
 Total square footage of new or additional dock area and maneuvering space = 2694 sq. ft.

Note: An EAW is mandatory when marina size reaches or surpasses 20,000 sq ft, and in 20,000 sq ft increments thereafter. A discretionary EAW may be required if potential for significant adverse environmental impacts could occur or where sensitive or protected aquatics may exist. Voluntary EAWs are supported.

Boat Storage Units (BSU) Computation

General Facility Applications: Lakeshore Frontage _____ feet divided by 50 = _____ BSU's potential under the 1 boat per 50-foot rule. If this number is less than the total BSU's applied for below, an application for a *Special Density License* is required per Code Section 2-4.05.

Qualified Facility Applications: Lakeshore Frontage _____ feet divided by 10 = _____ BSUs potential under the 1 boat per 10-foot rule.

Other code provisions regarding density may apply. _____ BSUs.

Number & Type of BSU's Requested

Number of BSUs in Each Type	
Slips	32
Slides	
Lifts	
Tie-ons	
Moorings	
Other	
TOTAL BSU's	32

Number of BSUs for Each USE	
Rent or lease	
Service work	
Company use	
Private use	32
Transient use	
Other	
TOTAL BSU's	32

Watercraft Storage Units (WSU) Computation

Enter the number of BSU and WSU in each slip size category. Complete and **provide a slip size chart** as an attachment to this application. Note: This is only for fee calculations and does not entitle the applicant to install the number of BSUs or WSUs.

<u>BSU</u>	<u>SLIP SIZE CATEGORIES</u>	<u>WSU</u>
<u>18</u>	BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide)	<u>18</u>
<u>14</u>	BSU @ 1.5 WSU (each slip more than 20' up to 24' long and/or up to 11' wide)	<u>21</u>
___	BSU @ 2 WSU (each slip more than 24' up to 32' long and/or up to 12' wide)	___
___	BSU @ 2.5 WSU (each slip more than 32' up to 40' long and/or up to 14' wide)	___
___	BSU @ 3 WSU (each slip more than 40' up to 48' long and/or up to 16' wide)	___
___	BSU @ 4 WSU (each slip more than 48' long and/or more than 16' wide)	___
<u>32</u>	Total BSUs	Total WSUs <u>39</u>

3. ATTACHMENTS

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

- Locator map, county plat map
- Certified land survey, legal description
- Slip size report (approved & proposed)
- Proposed facility site plan to scale in accordance with site plan requirements
- Existing facility site plan
- Copies of any additional agency approvals related to project, e.g., shoreland restoration, dredging, etc.
- Names and mailing addresses within 350 or 500 foot radius (See note)

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 or 500 feet depending on the type of application. The applicant is required to obtain mailing labels from Hennepin County for property owners within the radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the facility is located in Carver County, contact the LMCD office for assistance.

Visit www.LMCD.org for requirements regarding application and site plan submittals. 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.

4. FEES

Base Fee (Non-refundable)	\$500.00
Plus Number of Watercraft Storage Units (WSU) _____ x \$7.50	\$ _____
Total Fee Enclosed	\$500.00

I certify that I have legal authority to make this application and that the information provided herein and any attachments hereto are true and correct statements to the best of my knowledge. Further, no changes have been or will be made without LMCD approval at this site and that a new license will be obtained from the LMCD before making any change. I understand that any license issued may be revoked for violation of the LMCD code. I agree to reimburse the LMCD for any legal, surveying, engineering, inspection, maintenance, or other expenses required that be incurred by the LMCD in excess of the original fee. I agree to the provisions of the license, if granted; and I consent to permitting officers and agents of the LMCD to investigate at all reasonable times and to determine compliance with all applicable regulations.

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

Applicant's Signature: [Signature] Title Dock Director Date 3-27-23
 Name _____ Title Agent

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



**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, APRIL 26, 2023**

**GROVELAND HOA
FRONTAGE STREET,
WOODLAND, MN 55391
WAYZATA BAY,
LAKE MINNETONKA**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a New Multiple Dock application from Mike Jilek of Front Street, Woodland. The Groveland HOA seeks a new Multiple Dock Application to reconfigure the dock configuration at the site. The applicant proposes to install a dock structure that requires no adjustments to the Applicants dock use area or side setbacks. All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

The meeting will be held at Wayzata City Hall, 600 Rice Street E, Wayzata, MN 55391. Information about meeting location and meeting logistics will be available on the LMCD website, www.lmcd.org. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789

Published in the
Sun Sailor
April 13, 2023
1306310



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 5, 2023

TO: Property Owner

FROM: Thomas Tully, Environmental Administrative Technician

SUBJECT: Public Hearing Notice - Multiple Dock License (Reconfiguration of a non-conforming Structure) for Groveland HOA in Woodland

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for a variance for an adjusted dock use area including side setback adjustments. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. The site is located at Groveland HOA in Woodland and has shoreline on Wayzata Bay. The applicant is Mike Jilek.

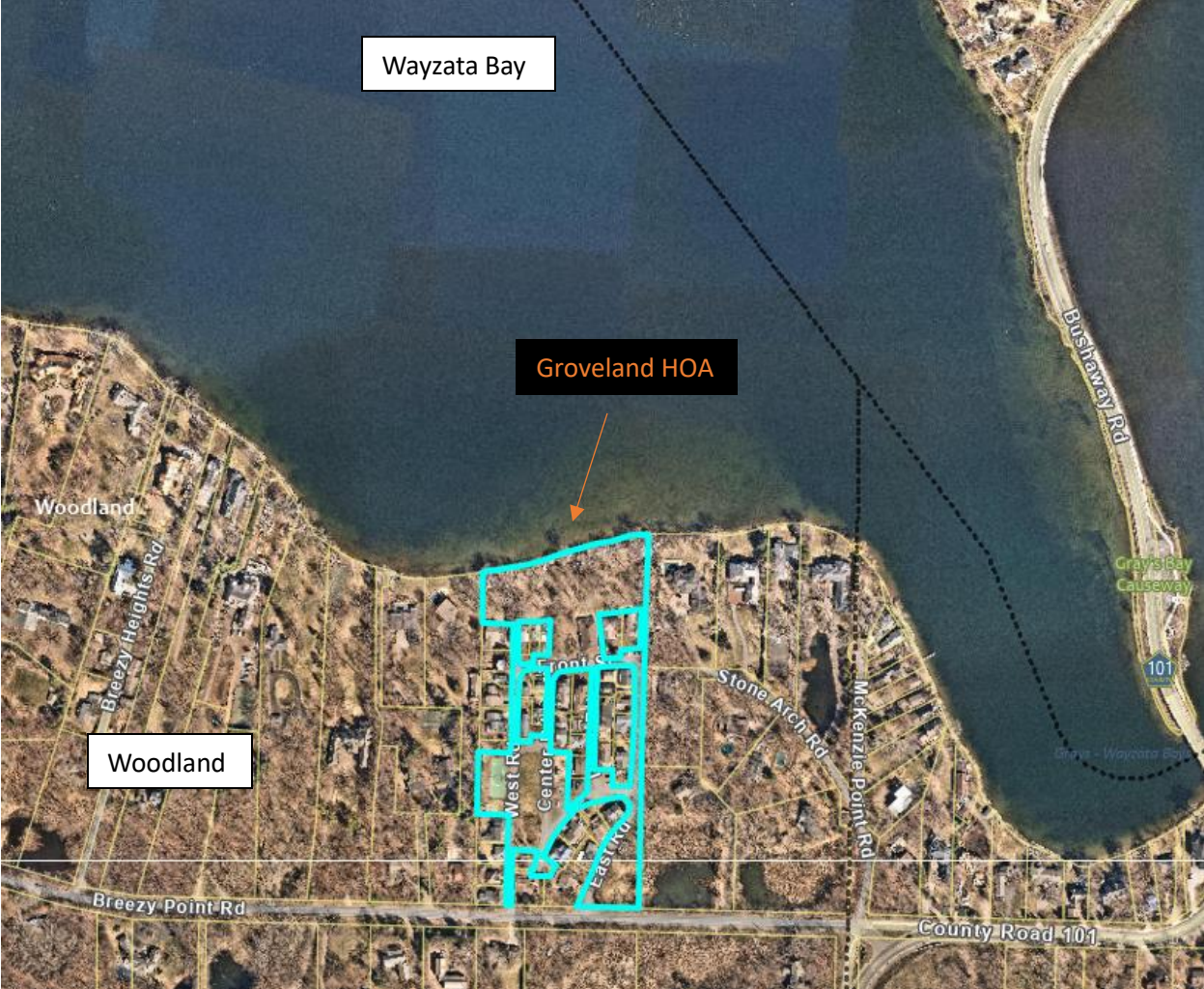
The applicant proposes to Reconfiguration of a non-conforming structure. All interested persons will be given an opportunity to comment. An aerial image and proposed site plan are enclosed for your reference.

Public Hearing Information

A public hearing will be held at 7:00 PM, July 12, 2023. 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 emailing staff at lmcd@lmcd.org.

Those desiring to participate in the hearing may also email the Environmental Administrative Technician at ttully@lmcd.org, or to receive more information. The meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

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



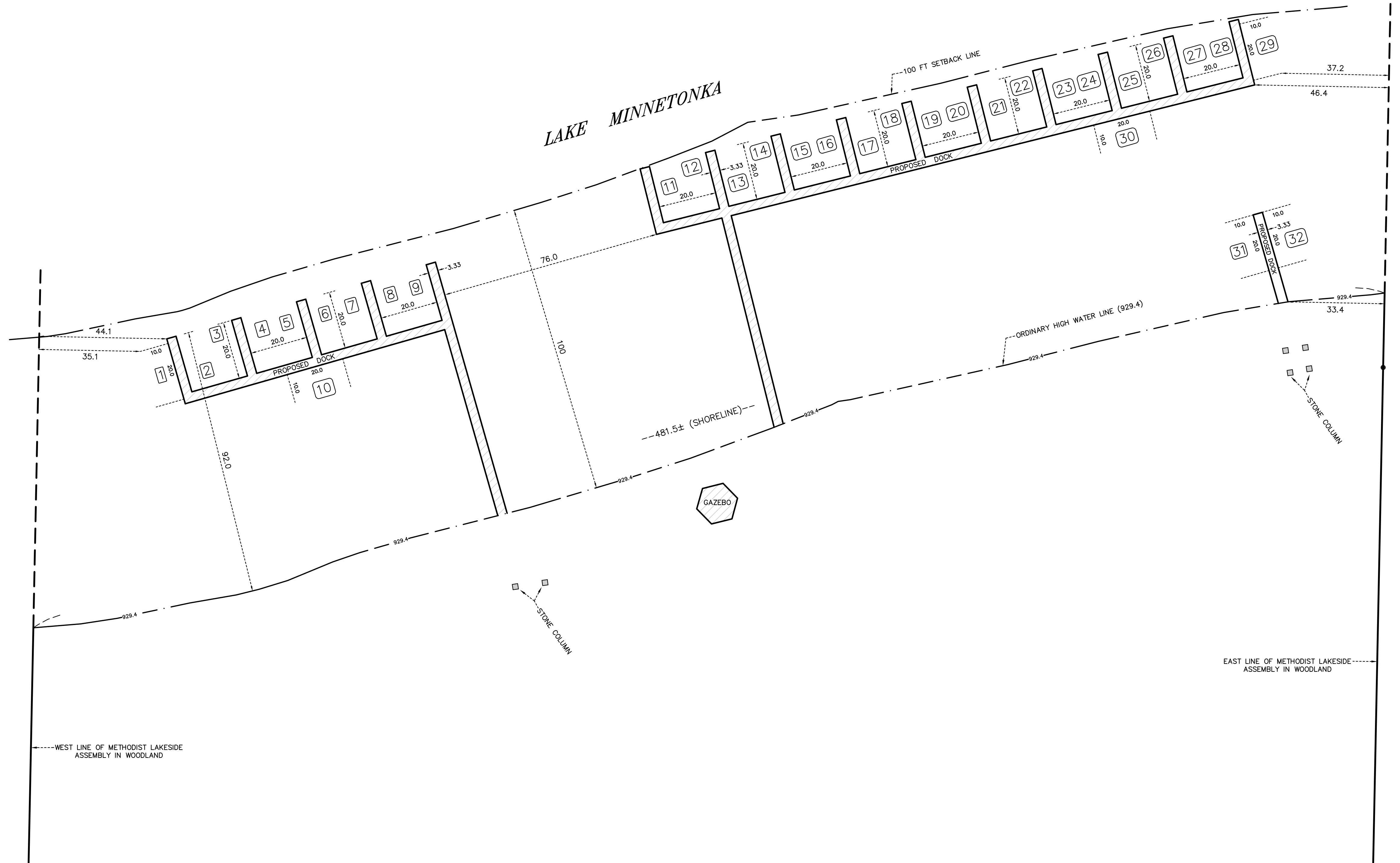
LEGAL DESCRIPTION:
 Lot 44, Methodist Lakeside Assembly in Woodland, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

1. Showing the east and west boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Existing building dimensions and setbacks measured to outside of siding or stucco.
5. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, found, unless otherwise noted.



DATE	REVISION DESCRIPTION
3/27/23	TO ADD ADDITIONAL DOCK SLIP
6/15/23	NUMBER BSU'S AND REVISE DOCK LAYOUT
6/19/23	REDUCE WESTERLY DOCK TO 92 FT

DRAWING ORIENTATION & SCALE

CLIENT/JOB ADDRESS

GROVELAND HOMEOWNERS ASSOC.

WOODLAND, MN

Advance
Surveying & Engineering, Co.

17917 Highway No. 7
 Minnetonka, Minnesota 55345
 Phone (952) 474-7964
 Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Wayne W. Prehms

Wayne W. Prehms
 #43503
 LICENSE NO.
 MARCH 23, 2023
 DATE

SURVEYED DATE:
 MARCH 15, 2023

DRAFTED DATE:
 MARCH 16, 2023

SHEET TITLE
DOCK PLAN

SHEET SIZE: 22 X 34

DRAWING NUMBER
 230234 WP

SHEET NO.

S1

SHEET 1 OF 1



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 12, 2023 (Prepared July 5, 2023)
TO: LMCD Board of Directors
FROM: Jim Brimeyer, *James J. Brimeyer* Interim Executive Director
SUBJECT: Moratorium – Watercraft for Hire

ACTION

Board consideration of an ordinance declaring a moratorium on licenses for watercraft for hire.

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

Approval

I make a motion to approve the Moratorium on Watercraft for Hire ordinance <with the following conditions/exceptions...>

Denial

I make a motion to deny the Moratorium on Watercraft for Hire ordinance <based on the following conditions...>

BACKGROUND

The current LMCD code permits a license on watercraft for hire subject to certain conditions such as boat size, required equipment, maximum number of passengers, pilot's license, mooring restrictions and so forth. There are no exceptions for smaller vessels with six or fewer passengers. Also, there are no regulations where a watercraft for hire may enter the lake or begin commercial use of the watercraft.

Existing regulations do not adequately address the varying needs of all applicants for watercraft for hire certificates.

In order to address the possible shortcomings in existing regulations, a moratorium is needed to provide time to study the issues and develop changes to the code.

The moratorium will take effect after passage and publication of the ordinance and will be effective for a period of three months.

Moratorium of Watercraft for Hire
LMCD Board Meeting
July 12, 2023

RECOMMENDATION _____

Approval of the ordinance is recommended calling for a moratorium on issuing licenses on watercraft for hire.

STRATEGIC PRIORITIES _____

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

ATTACHMENT _____

ORDINANCE 245: AN INTERIM ORDINANCE PLACING A MORATORIUM ON THE ISSUANCE OF WATERCRAFT FOR HIRE CERTIFICATES OF REGISTRATION

ORDINANCE 245

AN INTERIM ORDINANCE PLACING A MORATORIUM ON THE ISSUANCE OF WATERCRAFT FOR HIRE CERTIFICATES OF REGISTRATION

The Board of Directors of the Lake Minnetonka Conservation District ordains:

Section 1 – Purpose.

Pursuant to the authority granted under Minnesota Statutes section 103B.641, this ordinance imposes a moratorium on the issuance of certificates of registration for watercraft for hire.

Section 2 – Preliminary Findings.

1. The term “watercraft for hire” is defined as a watercraft carrying passengers for hire on the Lake. *LMCD Code §1-3.01, subd. 119*. Article 7 of the LMCD Code requires a certificate of registration to operate a watercraft for hire. That certificate must be renewed every year of operation.
2. Existing LMCD Code contains a number of requirements for watercraft for hire, including boat size, required equipment, maximum number of passengers, pilot’s license, mooring restrictions and so forth.
3. There are no exceptions to any watercraft for hire regulations for smaller vessels with six or fewer passengers.
4. There are no regulations concerning where a watercraft for hire may enter the lake or begin commercial use of the watercraft.
5. Existing regulations do not adequately address the varying needs of all applicants for watercraft for hire certificates. In order to address possible shortcomings in existing regulations while not exacerbating ongoing issues with continual issuances of additional certificates, a moratorium is needed to provide time to study the issues and develop changes to the Code.

Section 3 – Moratorium.

LMCD shall not accept or process applications for watercraft for hire under Article 7 of the LMCD Code for a period of three months following the effective date of this ordinance.

Section 4 – Study.

During the period of this moratorium, LMCD staff and the LMCD Board shall study and review issues related to existing watercraft for hire regulations. The LMCD Board may consider revisions to the LMCD Code as it pertains to watercraft for hire.

Section 5 – Effective Date.

This ordinance becomes effective from and after its passage and publication.

Adopted this 12th day of July 2023 by the Board of Directors of the Lake Minnetonka Conservation District.

Ann Hoelscher, Chair

ATTEST:

Mike Kirkwood, Secretary



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 12, 2023 (Prepared July 01, 2023)
TO: LMCD Board of Directors
FROM: Jim Brimeyer, *James J. Brimeyer* Interim Executive Director
SUBJECT: Administrative Fines

ACTION

Board consideration of the Administrative Fines. 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 Administrative Fines <with the following conditions/exceptions...>

Denial

I make a motion to deny the Administrative Fines <based on the following conditions...>

BACKGROUND

The Benefits: The only option available to many public agencies is a criminal prosecution and penalties. The criminal process does not always regard code violations as being important resulting in long delays in resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The burden of proof and the potential for heavy fines or incarceration are not usually appropriate for many administrative violations. The criminal process is too expensive to be useful for violations of administrative regulations. The Administrative Fine process has proven to be more effective at encouraging compliance, is more efficient and less burdensome. The experience of the LMCD staff is that 80-85% of the violations are resolved in a timely manner. This ordinance is intended to deal with the 15-20% that seem to be more difficult to resolve.

The White Bear Lake Conservation District has had the Administrative Fine provision in place for a number of years. They report it has been used on a limited number of occasions. When asked about the appointment of a Hearing Officer, they could not recall. Staff is recommending using the Minnetonka legal staff to serve as the LMCD Hearing Offices, if that should be necessary.

RECOMMENDATION

The Concept: Once a violation is registered and verified, the person committing the violation is sent a notice of the violation, what needs to happen to correct the violation and a reasonable time (depending upon the nature of the violation) in which to make corrections. If this does not happen within the timeframe, either imposed or negotiated, the initial fine per day is \$500.00 per day for a period of thirty day for a continuing, or subsequent violation and \$750.00 per day for fifteen days and a continuing, or subsequent, violation. The party cited can request, in writing, an appeal to the governing board. If this appeal is not filed within ten days of the notice, this constitutes an admission of guilt of the violation and appeal rights are waived.

The maximum fine levied, plus any costs, will not exceed \$25,000.00.

If the fine is not paid, the governing body can place a lien on the property which can be collected in the same manner as taxes. Also, the violation could result in the revocation of a license, permit or other approval required by code and possible ineligibility to receive a license or a permit. Ultimately, the violator could face a criminal charge and a sentence of up to ninety (90) days in jail.

The ordinance is effective upon passage and publication. Staff proposes to publish a summary of the ordinance rather than the entire ordinance to reduce the expense of a lengthy publication. The summary will refer interested parties to the LMCD website to view the complete document.

STRATEGIC PRIORITIES

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

ORDINANCE 246: AN ORDINANCE RELATING TO ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES FOR VIOLATION OF DISTRICT ORDINANCES.

ORDINANCE 246

AN ORDINANCE RELATING TO ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES FOR VIOLATION OF DISTRICT ORDINANCES.

The Board of Directors of the Lake Minnetonka Conservation District ordains:

Section 1 – Purpose.

Pursuant to the authority granted under Minnesota Statutes section 103B.641, this ordinance creates an administrative fine procedure to enhance LMCD Code enforcement efforts.

Section 2 – Administrative Citations.

The following language shall be added to the LMCD Code as Chapter 4 of Article 1.

PART I.

Purpose

1-4.01. Statement of Purpose. The Board of Directors finds that there is a need for educating the public and for alternative methods of enforcing the District ordinances. There are certain negative consequences for both the District and the accused when criminal fines and penalties are the only available enforcement mechanism. Criminal law enforcement personnel and the criminal enforcement process do not always regard District ordinance violations as having sufficient priority. The delay inherent in that system does not ensure prompt resolution. Reluctance to label citizens as criminals for violations of ordinances may discourage enforcement. The higher burden of proof and the potential of incarceration do not appear appropriate for administrative enforcement. Accordingly, the Board finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for District ordinance violations. The District thus enacts this ordinance in order to fully execute its duties as provided in Minnesota Statutes, sections 103B.601 to 103B.645.

PART II.

General Provisions

1-4.03. Administrative offense. A violation of a provision of the District ordinances is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

1-4.05. Civil penalty. An administrative offense may be subject to a civil penalty of \$200.00 per day for the first thirty (30) days for any continuing or subsequent violation; \$300.00 for the next

thirty (30) days for any continuing, or subsequent, violation; and \$500 per day for the next thirty (30) days for any continuing or subsequent violation, depending on the duration of the violation. Total fines will not exceed a total of \$25,000.00 plus any costs, including restitution or abatement, as provided herein.

1-4.07. Amount of civil penalty. The Board of Directors has adopted by resolution a schedule of civil penalties for offenses initiated by administrative citation. The Board of Directors is not bound by that schedule when a matter is appealed to it for administrative review.

1-4.09. Procedures. The Board of Directors must appoint one or more education and enforcement officers and adopt procedures to administer the administrative citation program.

1-4.11. Enforcement authority. The Board of Directors must authorize by resolution the appointment of one or more education and enforcement officers and any persons other than sworn peace officers who shall enforce District ordinances by means of administrative citation.

Part III.

Administrative Citation

1-4.13. Citation issuance. A person authorized to enforce provisions of the District ordinances may issue an administrative citation upon probable cause that a code violation has occurred. The citation must be issued in person or by mail to the person alleged to be responsible for the violation or may be attached to the watercraft or vehicle in the case of a watercraft or vehicle offense. The citation must state the date, time, and nature of the offense, the name of the authorized enforcement person issuing the citation, the amount of the scheduled civil penalty, and the manner for paying the civil penalty or appealing the citation.

1-4.15. Responsibility of the accused. The person responsible for the violation must either pay the scheduled civil penalty or request a hearing within ten days after personal service of the citation or 13 days after mailed service of the citation. Payment of the civil penalty constitutes admission of the administrative violation. A late payment fee of 10 percent of the scheduled civil penalty amount may be imposed under Section 7.04. Admission of an administrative violation shall not be admission to any crime.

1-4.17. Criminal option. Participation by any charged person in these administrative enforcement proceedings is voluntary. Any charged person may withdraw from these proceedings at any stage and elect to have the matter treated as a criminal proceeding by so informing the District or its representatives. The administrative citation will be withdrawn and a criminal citation or complaint issued for the same offense.

PART IV.

Administrative Hearing

1-4.19. Hearing officer. The Board of Directors will periodically appoint a hearing officer to hear and determine a matter for which a hearing is requested. The accused will have the right to

request no later than five days before the date of the hearing that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the Board. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she has reason to withdraw. If the hearing officer withdraws, the District Staff will assign another hearing officer. The hearing officer is not a judicial officer but is a public officer as defined by Minn. Stat. §609.415.

1-4.21. Orders. Upon the hearing officer's own initiative or upon written request of an interested party demonstrating the need, the officer may issue an administrative order served in the manner for serving subpoenas in a civil action for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the order is responsible for serving the order in the manner provided for civil actions and for paying the fees and expenses of a witness. A person served with an order may file an objection with the hearing officer promptly but no later than the time specified in the order for compliance. The hearing officer may cancel or modify the order if it is unreasonable or oppressive. A person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to such an order may be subject to such penalties, including default, as the hearing officer may deem fair under the circumstances. Alternatively, the party requesting the order may seek an order from district court directing compliance.

1-4.23. Notice. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least 10 days in advance, unless a shorter time is accepted by all parties.

1-4.25. Evidence. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. In a case of alleged pollution, alleged safety or sanitation violations, or alleged detriment to the quality of waters or wildlife, evidence of an improper or prohibited action may be considered sufficient proof without demonstrating that the action resulted in actual harm.

1-4.27. Determination. The hearing officer has the authority to determine that a violation occurred; to dismiss a citation; to impose the scheduled civil penalty; to reduce, stay, or waive a scheduled civil penalty either unconditionally or upon compliance with appropriate conditions; to refer the matter to the Board for suspension or revocation of a District-issued license; to order the accused person to cease and desist from conduct in violation; to order the performance remedial measures; and to impose or recover costs, including restitution and abatement of a nuisance or hazardous condition, as may be incurred by the District and other parties in conducting these proceedings and in undertaking cleanup or remedial measures. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

- (a) the duration of the violation;
- (b) the frequency or reoccurrence of the violation;
- (c) the seriousness of the violation;
- (d) the history of the violation;
- (e) subsequent remedial measures taken by the violator after issuance of the citation;

- (f) the good faith effort by the violator to comply;
- (g) the economic impact of the penalty on the violator;
- (h) the impact of the violation upon the community;
- (i) the impact of the violation upon the environment of the lake, shoreland, or watershed; and
- (j) any other factors appropriate to a just result.

1-4.29. Limited appeal. Except for matters subject to administrative review under Part V, the decision of the hearing officer is final without any further right of administrative appeal. In a matter subject to administrative review under Part V, the hearing officer's decision may be appealed to the Board of Directors by submitting a request in writing to the District staff within 10 days after the hearing officer's decision.

1-4.31. Failure to attend hearing. When the accused fails without good cause to attend the hearing, the hearing officer will either renotice the civil citation or refer the matter for criminal prosecution. Failure to appear a second time constitutes withdrawal from these administrative proceedings and the hearing officer will refer the matter for criminal prosecution. Examples of "good cause" are: death or incapacitating illness of the accused or a family member; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

PART V.

Administrative Review

1-4.33. Appeal to the Board. The hearing officer's decision in any of the following matters may be appealed by a party in writing to the Board of Directors for administrative review:

- (a) an alleged failure to obtain a permit, license, or other approval from the Board of Directors as required by an ordinance;
- (b) an alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, that was granted by the Board of Directors; and/or
- (c) an alleged violation of regulations governing a person or entity who has received a license granted by the Board of Directors.

1-4.35. Review by the Board. The review will be conducted by the Board of directors after notice served in person or by mail at least 10 days in advance. The Board may request parties to present oral or written arguments regarding the hearing officer's decision.

1-4.37. Board consideration. The Board of Directors must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The Board is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The Board's decision must be in writing.

1-4.39. Board finding, penalty, and order. If the Board makes a finding of a violation, it may impose a civil penalty not exceeding a total of \$15,000.00 per the schedule in the Notice of Violation letter and may consider any or all of the factors contained in Section 4.05(a) through

(j). The Board may also reduce, stay, or waive a civil penalty unconditionally or based on reasonable and appropriate conditions. In addition to the civil penalty, the Board may impose or recover costs, including restitution and abatement of a nuisance or hazardous condition, as may be incurred by the District and other parties in conducting these proceedings and in undertaking cleanup or remedial measures. Further, the Board may order the performance of remedial measures and may order the accused person to cease and desist from conduct in violation.

1-4.41. License revocation or suspension. In addition to imposing a civil penalty, the Board may suspend or revoke a District-issued license, permit, or other approval associated with the violation. The Board will suspend or revoke a license when, in its judgment, such action will serve to cease, abate, clean up, or remediate a violation.

Part VI.

Judicial Review

1-4.43. Judicial review. An aggrieved party may obtain judicial review of the decision of the hearing officer or the Board of Directors by proceeding under a writ of certiorari or other means authorized by law. At any time prior to the hearing herein, an aggrieved party may require the issuance of a criminal citation or complaint in lieu of an administrative citation.

Part VII.

Recovery of Civil Penalties

1-4.45. Failure to pay penalty. If a civil penalty is not paid within the time specified, it will constitute a personal obligation of the violator.

1-4.47. Property lien. Nothing in this provision precludes the District from seeking and obtaining a lien on the property of the violator to recover the civil penalty or costs incurred by the District or other parties, including restitution and abatement of a nuisance or hazardous condition, in undertaking cleanup or remedial measures.

1-4.49. Personal obligation. A personal obligation may be collected by appropriate legal means.

1-4.51. Late fee. A late payment fee of 10 percent of the civil penalty shall be assessed for each 30-day period, or part thereof, that the civil penalty remains unpaid after the due date.

1-4.53. Revocation of license. Failure to pay a civil penalty is grounds for suspension or revocation of a license related to the violation.

Part VIII.

Criminal Prosecution

1-4.55. Failure to pay penalty. Failure to pay a civil penalty within 30 days after it was imposed, or

such other time as may be established by the hearing officer or the Board of Directors, may be deemed by the hearing officer or the Board to constitute withdrawal from these administrative proceedings and the District may prosecute the offense as a criminal matter.

1-4.57. Limit to prosecution. After final adjudication under the administrative penalty procedure herein, the District may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the District from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

Part IX.

Adoption of State Laws and Rules

1-4.59. Enforcement. The Conservation District hereby adopts by reference, except where in conflict with District ordinance or resolution, the following state laws and rules which shall be enforceable under this ordinance:

- (a) Minnesota Statutes, Section 84.0895, regarding protection of threatened and endangered species;
- (b) Minnesota Statutes, Section 84.091, regarding destruction of aquatic vegetation in public waters;
- (c) Minnesota Statutes, Chapter 84D, and Minnesota Rules, Part 6216, regarding harmful exotic species management;
- (d) Minnesota Statutes, Chapter 86B, regarding water use policy including buoys and water safety;
- (e) Minnesota Statutes, Chapter 97A, regarding game and fish;
- (f) Minnesota Statutes, Chapter 97C, regarding discharge of pollutants into waters; permits required for structures in public waters; fishing contests and fishing houses;
- (g) Minnesota Statutes, Chapter 103D, regarding watershed law;
- (h) Minnesota Statutes, Chapter 103E, regarding drainage authority;
- (i) Minnesota Statutes, Chapter 103F, regarding soil loss and wetland preservation;
- (j) Minnesota Statutes, Chapter 103G, regarding alteration of public waters, filling and dredging in public waters, drainage of public waters, drainage of wetlands, work in public waters, surface water appropriations, deicing water bodies, harvesting or destruction of aquatic plants, and control of aquatic vegetation and organisms;
- (k) Minnesota Statutes, Chapter 115, regarding pollution of waters; and
- (l) Minnesota Rules, Part 6115, regarding fill, excavation, structures, water level controls, bridges, culverts, intakes and outfalls, permit reviews and coordination with other agencies, enforcement, drainage, and the conservation and use of water.

Enforcement of state law and rule under this ordinance is intended to supplement, not supplant, enforcement by state agencies and other local agencies.

Part X.

Severability

1-4.61. Severability. The provisions of this ordinance are severable. Should any part, section, subsection, clause or other provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 3 – Ordinance Summary.

The following is approved as a summary of this ordinance to be used for publication:

Administrative Citations and Civil Penalties Ordinance

The LMCD approved an ordinance creating a citation process for violations of LMCD code. The ordinance provides for the imposition of fines and an appeal process. The new citation procedures supplement existing violation remedies, such as criminal penalties. The full ordinance is available from LMCD.

Section 4 - Effective Date.

This ordinance becomes effective from and after its passage and publication.

Adopted this 12th day of July 2023 by the Board of Directors of the Lake Minnetonka Conservation District.

Ann Hoelscher, Chair

ATTEST:

Mike Kirkwood, Secretary



ITEM 13A

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 12, 2023 (Prepared July 3, 2023)
TO: LMCD Board of Directors
FROM: Jim Brimeyer, *James J. Brimeyer* Interim Executive Director
SUBJECT: Scanning Agreement

ACTION

Board consideration of the Scanning Agreement.

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 Scanning Agreement with ARC <with the following conditions/exceptions...>

Denial

I make a motion to deny the Scanning Agreement with ARC <based on the following conditions...>

BACKGROUND

Part I

The LMCD offices, including the coffee room, the director's office, the environmental office and even the garage contained documents from origination in 1967 to 2023. We regularly get data requests which consume a great deal of staff time pulling the documents, copying them and honor the request. When I first arrived here, we had a request for all dock permits, variances, etc from 1967 to present. The request asked for the documents in electronic form, which were not available.

That request and the history of these requests prompted a "pretend moving day" several months ago. Six large bins were hauled away for shredding purposes and the two dumpsters at Mound city hall were filled with recycling materials and disposable items.

Part II

The next step was to prepare a spreadsheet of the documents to be scanned, using state records retention policies and some input from the previous director. The spreadsheet included board packets, board meeting minutes, committees, code of ordinances,

Scanning Agreement
LMCD Board Meeting
July 12, 2023

budgets, audits, board rosters and city contacts, board appointments, management plans, multiple docks, permanent docks, liquor licenses, field insurance, variances, cancelled variances, de-icing, charter boats, district mooring, finances – 2016-2022, historical de-icing, historical charter, dock use committee and some miscellaneous. Each item was assigned a high, medium and low priority. The spreadsheet was sent to several firms who were invited to submit a proposal and to visit the LMCD offices. Four firms submitted proposals and all four made a trip to the offices, some of them 4-5 times to get a good understanding of the operation.

Part III

Staff reviewed all of the proposals ranging in price from \$22,000.00 to \$103,000.00. Three of the firms are located in the Twin Cities area and the fourth is in Saginaw, MI. The Saginaw firm was the highest, mainly due to travel and transportation expenses. After reviewing the proposals, staff invited the three local firms to meet and discuss/clarify their approach and related costs.

Staff agreed in advance that the low bid would not necessarily be the best bid. More importantly would be their understanding of our organizational needs, their approach and our comfort level in working with them over the 3-4 month period to complete the task. We also understood that any bids received might be subject to a 10-15% increase/decrease on final payment due to some unknowns in such a process.

The three firms that visited and their fee are:

Indigital at \$28,000.00;

Loffler at \$36,500.00;

ARC at \$22,000.00.

RECOMMENDATION

Part IV

Staff is recommending that the LMCD enter into an agreement with ARC to provide scanning services for an estimated fee of \$22,000.00 +- to provide scanning services to the LMCD.

ARC has 140 offices around the country. They have certifications from ISO27001, SOC2/3 and HIPAA. They take all of our binders, boxes, files, etc and load them into their standard boxes for transport to their offices in St Louis Park. Every box includes a bar code, a label, a master spreadsheet and chain-of-custody to ensure all boxes are received, processed and returned correctly. Each category of documents will have a parent folder, sub folders, file name and one text-searchable pdf per folder.

Scanning Agreement
LMCD Board Meeting
July 12, 2023

ARC will individually barcode each box, each file folder/binder and capture the desired index field from each; prepare each document by removing and clips and staples; scan each page at 200dpi in AutoColor and remove any blank pages; and perform a post scan quality check for orientation and image quality.

Upon completion, files will be delivered as a multipage PDF format and OCR processed for text-searchability. Digital files will be delivered monthly via physical media (USB Drive). Physical files will be placed back into original boxes post scanning and will be stored at ARC location for 90 days to allow time to review images. After 90 days, the documents will be returned to LMCD offices or shredded after written LMCD approval.

LMCD staff is recommending the shredding option.

Staff is also recommending that the scanned files be available through an email link vs USB devices. The scanned files will be in the LMCD shared server..

STRATEGIC PRIORITIES

Operational Effectiveness Clear & Timely Communications Effective Governance Lake Protection Other

ATTACHMENT

N/A



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: July 12, 2023 (Prepared July 5, 2023)
TO: LMCD Board of Directors
FROM: Jim Brimeyer, *James J. Brimeyer* Interim Executive Director
SUBJECT: Letter of Support – Subbasin Numbers on Lake Minnetonka Bays

ACTION

Board consideration of the Support for research by Professor Neuman

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 Letter of Support for Professor Neuman <with the following conditions/exceptions...>

Denial

I make a motion to deny the Letter of Support for Professor Neuman <based on the following conditions...>

BACKGROUND

It has been several years since Professor Neuman has interacted with LMCD but he has done invasive plant research on the lake since 1992. He is currently involved in projects with Ryan Thum to map watermilfoil genotypes in Minnesota and elsewhere. It is becoming apparent that it would be really useful to have all the bays of Lake Minnetonka designated as Division of Waters subbasins. Currently an odd collection of "water bodies" is listed. For example, he has samples from Phelps Bay, Smiths Bay and Veterans Bay but the closest subbasin we can use is Upper and Lower Lake.

According to the DNR website, anyone can petition to have subbasins listed. He thinks there is good justification for this and would like to see all the bays in the LMCD old list of harvested bays listed. These are or were management units, are on maps, and will allow them to more precisely map genotype distribution (and other activities that require a consistent location identifier. He is asking for support from the LMCD in his request to the MN DNR.

Subbasin Numbering
LMCD Board Meeting
July 12, 2023

The letter to support this effort is as follows:

The Lake Minnetonka Conservation District supports the request from Prof. Ray Newman to assign subbasin numbers and locations to the named bays of Lake Minnetonka. These designations will allow him to share the spatially explicit results of his watermilfoil research with other researchers, managers, lakeshore owners and the general public with a common set of identifiers. Official designation of sub-basins will also aid the communication of research and management results for other projects. Of immediate utility is the ability to spatially indicate and share the locations of known populations of different genotypes of hybrid and native watermilfoils. Management typically occurs at the bay level and the ability to represent the presence of specific genotypes in these bays will facilitate research and management. We also envision using these identifiers and their locations in future work of the District. We have long used a list of 42 bays and basins in Lake Minnetonka for our milfoil harvesting program and more recently for the application of herbicides, in agreement with individual bay leadership and the Lake Minnetonka Association.

The bays of Lake Minnetonka are listed in the attached document.

RECOMMENDATION

It is recommended that the Chair and Interim Director be authorized to sign and mail the letter of support to Professor Neuman.

STRATEGIC PRIORITIES

Operational
Effectiveness

Clear & Timely
Communications

Effective
Governance

Lake
Protection

Other

ATTACHMENT

Lake Minnetonka Estimated Shoreline and Bay Acreage

Lake Minnetonka Estimated Shoreline and Bay Acreage			
Bay	Acres of Water	Acres of Usable Surface Area	Miles of Shoreline
Big Island Passage	36.00	21.45	0.80
Black Lake	76.00	17.82	3.20
Browns Bay	696.00	632.36	3.50
Carmans Bay	294.00	223.09	3.90
Carsons Bay	116.00	66.91	2.70
Coffee Cove	57.00	24.27	1.80
Cooks Bay	343.00	303.00	2.20
Crystal Bay - East	487.00	410.64	4.20
Crystal Bay - West	325.00	279.55	2.50
East Upper Lake	814.00	748.55	3.60
Echo Bay	15.00	5.91	0.50
Emerald Lake	13.00	0.00	1.00
Excelsior Bay	90.00	68.18	1.20
Forest Lake	82.00	49.27	1.80
Gideons Bay	330.00	250.00	4.40
Grays Bay	180.00	121.82	3.20
Halsteds Bay	545.00	412.27	7.30
Harrisons Bay	215.00	151.36	3.50
Jennings Bay	290.00	226.36	3.50
Lafayette Bay	454.00	384.91	3.80
Libbs Lake	17.00	0.00	1.10
Lower Lake North	2,090.00	1,990.00	5.50
Lower Lake South	978.00	898.00	4.40
Maxwell Bay	300.00	232.73	3.70
North Arm Bay	319.00	233.55	4.70
Old Channel Bay	106.00	82.36	1.30
Phelps Bay	345.00	277.73	3.70
Priests Bay	144.00	105.82	2.10
Robinsons Bay	92.00	28.36	3.50
Seton Lake	44.00	4.00	2.20
Smiths Bay	266.00	231.45	1.90
Smithtown Bay	110.00	88.18	1.20
South Upper Lake	722.00	602.00	6.60
Spring Park Bay	378.00	330.73	2.60
St. Albans Bay	161.00	108.27	2.90
St. Louis Bay	20.00	9.09	0.60
Stubbs Bay	195.00	149.55	2.50
Tanager Lake	51.00	31.00	1.10
Veterans Bay	82.00	62.00	1.10
Wayzata Bay	778.00	678.00	5.50
West Arm	514.00	443.09	3.90
West Upper Lake	<u>873.00</u>	<u>789.36</u>	<u>4.60</u>
Estimated Total	14,043.00	11,772.99	125.30