



# 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, March 8, 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.**

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

**1. No Work Session- Meeting Begins at Formal Meeting**

## **FORMAL MEETING AGENDA**

**7:00 p.m.**

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*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, Acting Chair Hoelscher**
  - A) Oath of Office to Ryan Nellis (Tonka Bay), Rich Anderson (Orono), Bill Cook (Greenwood), Ann Hoelscher (Victoria), Mike Kirkwood (Minnetrista), Mark Kroll (Excelsior), Denny Newell (Woodland), Deborah Zorn (Shorewood), Jake Walesch (Deephaven)

- B) Gregg Thomas Acknowledgement
- 6) **APPROVAL OF MINUTES** (01/25/2023 LMCD Regular Board Meeting)
- 7) **APPROVAL OF CONSENT AGENDA**
  - A) Audit of Vouchers (02/01/2023 – 02/15/2023, 02/16/2023 – 02/28/2023, and 03/01/2023 – 03/15/2023)
  - B) Resolution Accepting Save the Lake Contributions (02/07/2023 – 02/13/2023)
  - C) Pay Equity Report
  - D) Findings of Fact and Order for Denial of Commercial Multiple Dock License, Dan Gustafson, Lake Minnetonka Real Estate II, LLC; PID 11-117-23-22-0013, Outlot B Dragonfly Hill, along Shoreline Drive, Orono, 55391, Browns Bay
- 8) **RECOGNITIONS**
  - A) Save the Lake Contributions
- 9) **PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes and should not be used to make personal attacks or to air personality grievances. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*
- 10) **PRESENTATIONS**
- 11) **PUBLIC HEARING**
  - N/A
- 12) **OTHER BUSINESS**
- 13) **OLD BUSINESS**
  - A) Review of LMCD Strategic Plan
- 14) **NEW BUSINESS**
  - A) Nomination and Election of 2023 LMCD Board Officers
  - B) Update Regarding Executive Director Selection Process
  - C) Update Regarding Goff Communications
- 15) **TREASURER REPORT**
  - A) January Financials - Income and Expense Reports
  - B) Balance Sheet
- 16) **EXECUTIVE DIRECTOR UPDATE**

**17) STANDING LMCD COMMITTEE UPDATE**

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

**18) ADJOURNMENT**

**Future Items for Review – Tentative**

- Code Change for Qualified Commercial Marina
- Watercraft for Hire- Additional Review of Berthing Requirements
- Deicing Operation License Eligibility Expansion Discussion



## LAKE MINNETONKA CONSERVATION DISTRICT

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January 30, 2023

Gregory Thomas  
50 Highland Avenue  
Tonka Bay, MN 55331

Hello Gregg:

Thank you for serving on the Lake Minnetonka Conservation District (LMCD) Board from 2014 to 2022. During your appointment, you served as LMCD Board Chair from 2019 through 2022, and various committees and workgroups including:

- Save the Lake Committee (2015 – 2020)
- Officer's Workgroup (2019 – 2022)
- Communications Workgroup (2020)
- Operations Committee (2021 – 2022)

LMCD is governed by a voluntary Board of Directors composed of one member appointed by the City Councils of the 14 municipalities that border Lake Minnetonka. Terms on the LMCD Board run from February 1st through January 31st of the following year. Board members typically serve three-year terms subject to recall by the cities. In addition to the formal board meetings, members are active on committees, workshops, or special projects, as well as in their communities. Board meetings are generally held two times per month, except November and December, where one meeting is held per month.

The Board provides direction for the organization, develops policies and initiatives, and helps build partnerships to carry out the mission of preserving and enhancing the Lake Minnetonka experience. We appreciate your service on the Board and guiding the future of Lake Minnetonka, helping to protect the lake, the surrounding communities, and all those who enjoy it.

Gregg, thank you for your professionalism, contributions, and dedication to the Lake and its stakeholders.

Respectfully,

A handwritten signature in black ink, appearing to read 'Vickie Schleuning'.

Vickie Schleuning, MBA, REHS  
Executive Director

cc: Ann Hoelscher, Acting Chair



**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., January 25, 2023  
Wayzata City Hall

**1. CALL TO ORDER**

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

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**Members present:** Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Denny Newell, Woodland (arrived at 7:06pm); Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Joe Langel, LMCD Legal Counsel; Vickie Schleuning, Executive Director; Thomas Tully, Environmental Administrative Technician; and Maisyn Reardan, Administrative Coordinator.

**Members absent:** Gabriel Jabbour, Spring Park; and Mark Kroll, Excelsior.

**Persons in Audience:** Jim Brimeyer, Marc Simpson, Soren Mattick, William Dickel, Archelle Georgia Feldshon, David Feldshon, Dan Gustafson.

**4. APPROVAL OF AGENDA**

**MOTION:** Hoelscher moved; Cook seconded to amend the agenda to move Item 7C to be considered as 13A.

**VOTE:** Motion carried unanimously.

**MOTION:** Walesch moved; Stone seconded to approve the agenda as amended, making the change noted above.

**VOTE:** Motion carried unanimously.

Director Denny Newell arrived at 7:06 p.m.

**5. CHAIR ANNOUNCEMENTS**

Acting Chair Hoelscher commented that this is the last meeting for Schleuning who will be resigning from her position with the LMCD at the end of the month. She thanked Schleuning for her service to the LMCD and Lake Minnetonka community. She recognized the progress and leadership that Schleuning has provided in her time with the organization.

**6. APPROVAL OF MINUTES-** 01/11/2023 LMCD Regular Board Meeting

**MOTION:** Cook moved; Stone seconded to approve the 01/11/2023 LMCD Regular Board Meeting minutes

as submitted.

**VOTE:** Ayes (10), Abstained (2), (Brandt and Baasen). Motion carried.

Anderson asked if a member were not present but watched the video and read the minutes, would they still have to abstain.

Hoelscher stated that if a member were to watch the video, it was her understanding that they could vote.

Langel commented that while it could be done that way, most times a person would not vote on the minutes if they were not at the meeting.

## 7. APPROVAL OF CONSENT AGENDA

**MOTION:** Zorn moved; Baasen seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (01/16/2023 – 01/31/2023); **7B)** Resolution Accepting Save the Lake Contributions (01/01/2023 – 01/19/2023); **7C)** Approval of New Commercial Multiple Dock License, Dan Gustafson, Lake Minnetonka Real Estate II, LLC; PID 11 117 23 22 0013, Outlot B, Dragonfly Hill, along Shoreline Drive, Orono, 55391, Browns Bay; **7D)** LMCD Executive Director Performance Evaluation; and **7E)** LMCIT Liability Waiver Form.

**VOTE:** Motion carried unanimously.

## 8. RECOGNITIONS

### A) Save the Lake Contributions

Baasen recognized recent contributions to Save the Lake.

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

There were no public comments.

## 10. PRESENTATIONS

There were no presentations.

## 11. PUBLIC HEARING

There were no public hearings.

## 12. OTHER BUSINESS

There was no other business.

### 13. OLD BUSINESS

- A) Approval of New Commercial Multiple Dock License, Dan Gustafson, Lake Minnetonka Real Estate II, LLC; PID 11-117-23-22-0013, Outlot B, Dragonfly Hill, along Shoreline Drive, Orono, 55391, Browns Bay

Schleunig stated that staff has received a few different emails in the past few days questioning the riparian rights of the parcel and therefore there are parties present tonight to speak about the riparian rights.

Hoelscher asked that speakers focus on the issue of riparian rights.

Mark Simpson, attorney representing the property owners at 1420 Shoreline Drive in Orono, stated that he would like to address the issue of riparian rights of the parcel identified at Outlot B. He stated that Outlot B is owned in fee title by the City of Orono. He reviewed the history of the outlot and when it was conveyed to the City, noting that the Duffs retained the riparian rights at that time. He stated that his clients and the City of Orono were parties of a Hennepin County District Court case that involved the riparian rights which was filed in 2017. He provided details on the District Court decision dated May 10, 2018 as well as subsequent order from the court related to the decree of descent, and probate findings. He stated that it was determined that the riparian rights were owned by the heirs of the Duffs. He stated that there is a quit claim deed from one of the children dated March 25, 2019 which provides those riparian rights to his clients. He stated that the applicant bases their riparian rights on a document dated April 12, 2021. He referenced documents provided to the LMCD which showed a date of April 7, 2021. He stated that the decree of descent was clear that the riparian rights were transferred to the three children of Ann Duff, which was subject to any prior disposition. He stated that Andrew Duff had previously disposed of his rights to the riparian rights to his clients. He stated that as of the date of the document that the applicant bases their riparian rights on, the estate had nothing to convey and therefore that document does not provide the applicant with any rights. He believed that it was clear that because the applicant does not hold riparian rights or fee title of the property, it would have no basis for pursuing the application and should therefore be denied.

Soren Mattick, representing the City of Orono, commented that the City of Orono does own the subject parcel which is clear in the report. He stated that the LMCD Code requires the property owner to consent and the City of Orono does not consent to this application. He stated that in regard to riparian rights, he agrees with the conclusions of Mr. Simpson. He stated that he handled the litigation on behalf of the City of Orono and noted that the court order does not assign or determine who has those riparian rights. He stated that during that case, the City of Orono as a property owner, also has riparian rights as the lakeshore owner. He stated that as part of the analysis, Orono would have riparian rights of its property. He stated that the City objects to this request as the property owner and a holder of riparian rights. He stated that Orono submitted a letter from Ms. Oakton with other objections related to inconsistency with zoning. He stated that the City of Orono objects as one of the holders of riparian rights and asked that the Board deny this request.

William Dickel, attorney representing the applicant, stated that riparian rights are a legal land right and as the court determined in the lawsuit, the riparian rights were still in possession of the Duffs who had passed away

and therefore the rights were part of the Ann Duff estate. He stated that the riparian rights were never transferred from Ann's estate when her will was initially submitted and therefore the legal rights were still in the possession of the estate. He stated that Ann's daughter submitted an application for special administration in the probate court and the decree stated that all riparian rights were part of the estate and the three legal heirs consented to the application for special administration. He stated that the court appointed one of the children to be the administrator of the estate, Elizabeth Duff, who then negotiated with the applicant the sale of the riparian rights. He stated that as of today, Dan Gustafson is the owner of the riparian rights. He referenced the quit claim deed signed by Andrew Duff in 2019 and recorded this last week, noting that is a conveyance of interest if there were any interest. He stated that there was no interest at that time as the rights were still part of the estate at that time.

Hoelscher referenced a letter from the Lake Minnetonka Association and its President, noting that it will become a part of the record. She asked for input from staff and legal counsel.

Langel stated that there are three attorneys present claiming different riparian rights over the parcel and provided a summary of each claim of riparian rights. He stated that there is a clear dispute over the riparian rights of the property. He stated that a threshold of the application is that the applicant must prove riparian rights and consent from the property owner. He stated that the LMCD does not have the jurisdiction to adjudicate property rights and therefore he does not see how the Board could move forward on the application with this issue looming. He stated that he would suggest a recommendation that staff prepare a motion of denial based on the disagreement of riparian rights. He noted that if the riparian rights are decided upon, and it could be demonstrated that the issue has been resolved, the application could come back for consideration.

Newell commented that he agrees with Langel.

Walesch stated that based upon the recommendation of Langel, he agrees that this is not something the LMCD can resolve as there is a clear dispute. He stated that it appears the riparian rights were sold or transferred twice.

**MOTION:** Walesch moved, Zorn seconded to deny the current findings of fact that approve the application and direct staff to prepare findings and order denying the application.

Further discussion: Kirkwood asked if the LMCD could ask the City of Orono to speak to their interest and intent on the lakeshore and whether it would allow a dock.

Hoelscher stated that the request has been made and it would be the decision of Orono on whether it wants to reach out and/or work with staff in the future.

Langel noted that the first part of the motion is not necessary and therefore it could simply include the second portion.

Walesch restated his motion as follows:



Walesch moved; Zorn seconded to direct staff to prepare findings and order denying the application.

Zorn confirmed her second.

**VOTE:** Motion carried unanimously.

**B) Discussion of Proposals and Authorization of Facilitator for Board Retreat**

Brimeyer stated that at the last meeting he reviewed several timelines that ran January through June. He provided a recap of that timeline. He stated that with the assistance of staff and Hoelscher, he developed an RFQ for proposals and received two responses. He highlighted the differences between the proposals and recommended the HueLife proposal.

**MOTION:** Anderson moved; Cook seconded to authorize staff to negotiate an agreement with HueLife for facilitation of a Board retreat with Dr. Irina Fursman as the facilitator.

Further discussion: Walesch stated that he read both proposals and believed they would both work but supports using HueLife. He suggested that there be an intro to the Carver model as that may be something the Board chooses not to pursue. He stated that he will be out of town for the second date because of spring break and asked that perhaps a different date is chosen for the second meeting.

Brimeyer asked how many members would anticipate they would not be able to attend the second date. At least four members stated they could not attend the second date. He stated that he will follow up to determine if a different date could be chosen for the second session.

Hoelscher stated that perhaps there is not even a Board meeting that week.

Newell asked if people could attend via Zoom if they were not able to attend in person.

Hoelscher stated that will be discussed later tonight.

Walesch stated that he will be in Mexico and other members may be traveling during that week as well.

Brimeyer commented that he will follow up to determine available dates HueLife would have for a second session.

Hoelscher asked and received consensus that the Board would be open to meeting outside of a regular Board meeting date to hold the second session.

Walesch noted that the Spano proposal included a forum where they would speak with each Board member for feedback, up to 30 minutes. He stated that it would be nice to have that type of contact with the Board, whether that is done via phone or written which would allow the members of the Board to provide direct input outside of the survey.

Brimeyer stated that could be built into the survey.

Newell referenced the language “strong executive role” as it was mentioned in the Carver model.

Brimeyer provided additional details on the Carver model.

Kirkwood asked for input on what the Board would be doing right and wrong in terms of policy and that model.

Brimeyer commented that he will not answer that at this time. He provided additional details on how he would expect to communicate with the Board and staff when he is out of town as well as when he returns. He commented that he will not be able to accomplish the same workload that Schleuning was. He received confirmation that the election of officers would be done at the second meeting date in February as the first meeting in February was canceled.

**VOTE:** Motion carried unanimously.

**B) Update Regarding Board Meetings and Committee Meetings Remote Access**

Schleuning stated that staff has been in discussion with the City of Wayzata as the city is planning to do updates to its Council Chambers. She stated that staff and some members of the Board met with Wayzata and LMCC staff recently to discuss potential updates that would allow remote attendance. She stated that they are still waiting to hear if Zoom could be integrated. She stated the School Board and City of Wayzata are not interested in a hybrid model and therefore if the Board were interested, the cost would fall upon the LMCD. She stated that the estimate that was provided was \$10,000. She asked if the Board were interested in moving forward on this item if it is feasible.

Kirkwood asked for details on how someone could attend remote and the obligations they would have to meet the requirements of the law.

Schleuning provided details on how a person could attend via Zoom and related requirements.

Hoelscher asked if the reason for remote attendance could be that the person is out of town.

Langel provided details on the statute language. He stated that someone could state that they are vacation.

Kirkwood stated that this would be different than the Zoom meetings they did during COVID, as there would be an obligation to open your location to the public.

Walesch asked for additional details.

Langel stated that the location has to be detailed enough that a member of the public could join the remote attendee if desired.

Walesch stated that the cost would be money well spent if it meant that people could participate remotely if desired. He asked if Baasen would utilize that option.

Baasen stated that he would have no problem disclosing the location and it would increase his attendance.

Walesch asked if every vote would need to be done via roll call if someone attended virtually.

Langel confirmed that if someone attended remotely, roll call votes would be necessary.

Zorn asked if they would be pursuing two options, the first to work with Wayzata to install equipment at this location as well as installation of the equipment at the LMCD office that was donated by Jabbour.

Hoelscher stated that those would be two separate considerations.

Zorn asked if others would be using the technology paid for by LMCD if it were installed at the City Hall.

Schleuning stated that it could be used by others.

Hoelscher asked the length of commitment with Wayzata for use of the City Hall.

Schleuning replied that the agreement is renewed annually.

Zorn asked if members of the public would be allowed to attend via Zoom.

Schleuning replied that would not be required to be offered for members of the public. She noted that they would not have the capability for that.

Newell stated that he attended the meeting with the City of Wayzata and LMCC staff. He noted that even if the Board supports this, it would take four to six months. He stated that this seems to be a seasonal need for those that spend the winter away and therefore did not see immediacy in making the decision. He stated that the cost would be \$10,000 and the LMCD would own the equipment/software. He commented that it would be clunky on both ends. He stated that perhaps if there were better Board management and less meetings, people could more easily attend, and this would not be necessary.

Kirkwood commented that he misses the people that are not there when they are not there. He stated that he values the input that those members provide, and the members owe it to their cities to attend the meetings when possible. He stated that as good as Zoom was when they were doing it, sometimes the person was simply identified by a phone number rather than video. He did not want to create an opportunity where half the Board would attend virtually.

Walesch stated that if he were on vacation, he would not choose to attend via Zoom. He stated that for the snowbirds, they have worked that out with their cities. He stated that Baasen and Jabbour have stated that

they would use this technology. He recognized that this would be cumbersome, but he would not be against it if people would use it.

Zorn commented that she would utilize it at certain times. She commented that this is a volunteer Board, and this would provide an option to meet people where they are in their life. She also recognized the value of being together. She stated that she could go either way.

Hoelscher stated that everyone got used to Zoom but it was a different way of conducting business and believed that the Board is more functional in person. She had concern with donating equipment to a space that is rented on an annual basis. She stated that perhaps the legislation and requirements will change in the future, following COVID. She stated that it sounds like more work and that it would make meetings harder to run.

Newell commented that Brimeyer participated in the meeting and the concept of a surrogate was discussed. He noted that if a city representative were going to be out of the state for an extended amount of time, the city could appoint a surrogate to act in their place.

Hoelscher confirmed that there have been surrogates on the Board in the past.

Klohs stated that efficient use of staff time should be a priority. He noted that they do not have the luxury of burdening staff.

Hoelscher stated that it seems that this topic should be tabled at this time. She noted that they could revisit this topic in the future.

Brimeyer stated that perhaps they meet with Wayzata a few more times to determine what is developed on the details and technical capacity to determine if a hybrid model could even be supported.

Schleuning stated that it would be an add on piece of equipment that could be added in the future.

Hoelscher stated that the committee meetings have been paused for the time being and they will discuss committee structure at the Board retreat. She asked if the LMCD office conference room could be setup for Zoom attendance.

Schleuning confirmed that could be done.

Hoelscher stated that Jabbour had offered to set that up and asked if staff had been in conversation with him.

Schleuning commented that she had not.

Brimeyer commented that the rotary club allows virtual attendance.

Schleuning stated that the same requirements would apply for committee meetings as Board members.

Hoelscher stated that seems to be a reasonable source of funds or donation through a Board member to setup the conference room at the LMCD office for Zoom meetings.

Anderson stated that he likes the committee structure and received confirmation that the location would need to be disclosed if attending via Zoom. He asked if work groups could function via Zoom.

Walesch stated that there needs to be discussion between committees and work groups.

Hoelscher stated that the title does not matter, the same rules would apply. She asked that topic be deferred to the retreat. She confirmed the consensus of the Board to direct staff to work to setup the allowance for Zoom attendance at the LMCD conference room. She suggested that staff first reach out to Jabbour to determine if he would still want to donate equipment.

**C) Update Regarding Document Management and Public Access**

Schleuning reviewed the different areas of document management that is being investigated at this time and the potential costs.

Hoelscher asked if this was meant for informational purposes.

Schleuning commented that this will be a big undertaking and she was simply passing on the information as she will not be able to get it done before she leaves.

Baasen asked if it would be possible to streamline the process and identify the length of time records are required to be kept.

Schleuning stated that some things are required to be kept permanently and, but some are not and that will be a part of the document management process.

Newell stated that this would seem to be an issue of digital versus paper-based storage and asked the ratio currently.

Schleuning stated that almost everything is in digital format since she has been at the office and there are some items that have been digitalized, but they are a long ways away from that goal.

Newell asked if the North Shore Marina issue was digital, or paper based in terms of prior records.

Schleuning commented that some of that was paper based.

Newell stated that it would then appear that the organization is mostly paper based and therefore the individual documents would need to be scanned into a system.

Schleuning confirmed that to be true. She estimated a cost of at least \$50,000.

Anderson commented that he experienced a fire that caused document loss and therefore believes that this is something that should be prioritized.

Hoelscher stated that this has been put on the radar and will come back in the next few months for additional consideration. She recognized that it would be a progressive undertaking.

#### 14. NEW BUSINESS

##### A) Authorization to Enter Agreement for Website Maintenance Services

Schleuning stated that she was asked to identify tasks that could be moved off the plate of staff. She commented that certain things need to be done, which she typically completed outside of her normal work during the day, and there will not be sufficient staff available to do that. She stated that this vendor has a good technical background and has provided the quote for services.

Hoelscher asked who would collaborate with the vendor.

Schleuning commented that she will be working to assign tasks to the available LMCD staff before she leaves.

**MOTION:** Newell moved; Cook seconded to authorize staff to enter into an agreement with Brandography to provide backend maintenance of the website.

**VOTE:** Motion carried unanimously.

##### B) Authorization to Enter Agreement for Computer and Network Technology Services

Schleuning stated that over the years the requirements for cyber security have increased. She provided details on the proposal and recommended that the Board accept the proposal from My Computer Hero with block hours which would have a cost of \$480 per month. She noted that after the security risk is completed, there could be additional consideration.

Newell asked how vulnerable the organization is and whether other similar agencies have had issues.

Schleuning stated that smaller law firms have had issues with ransomware.

Baasen left meeting at 9:48 p.m.

**MOTION:** Walesch moved; Kirkwood seconded to authorize staff to enter into an agreement with My Computer Hero to provide computer and network technology maintenance services with block hours and further analysis of needs.

**VOTE:** Motion carried unanimously.

**C) Draft Updated Data Practices Policy for Public**

Schleuning commented on the data requests that the LMCD receives. She stated that the organization would benefit from some changes to its policy. She stated that an updated draft of the policy was presented in the packet and recommended adoption of the policy tonight. She noted that this would make for more efficient and effective processing of data requests and would also be compliant with state law.

Walesch stated that he read the policy and if staff and legal counsel agree, he would agree as well. He noted a few grammatical issues that he could send to staff.

**MOTION:** Walesch moved; Stone seconded to approve the updated data practices policy for the public as presented.

**VOTE:** Motion carried unanimously.

**15. TREASURER REPORT**

Anderson stated that the year-end P & L was sent tonight before the meeting but noted that he still needs to review that information. He demanded that the P & L be received each month so that he can review that and provide a report. He stated that if it is decided that monthly reporting is not necessary, the bylaws should be amended to require the report quarterly.

Cook commented that he believes there should be a monthly P & L as that is what he was used to. He noted that commentary is not required each month, but the P & L should be updated each month and people would be provided the opportunity to ask questions which would fulfil the requirement.

Schleuning stated that in the past they did the monthly P & L, but the Board requested that not to be done. She stated that they often do not receive the information from vendors until the end of January or even February. She stated that the P & L reports could be provided monthly.

Hoelscher stated that the Treasurer wants that report, so it should be provided monthly.

**16. EXECUTIVE DIRECTOR UPDATE**

Schleuning thanked everyone for the time they have spent working together. She commented that a lot of progress has been made and recognized that it is not easy to be on the Board. She wished everyone well.

**17. STANDING LMCD COMMITTEE/WORKGROUP**

Aquatic Invasive Species: No report.

Communications: Hoelscher stated that the group has not met. She stated that she and Klohs had a call with the consultant today related to the spring publication related to the distance from shore changes and educational materials.

Kirkwood commented that he really enjoyed the new newsletter that was sent out.

Schleunig stated that staff collaborated with the consultant to develop the template and new format. She noted that good feedback was also received from the Communications Committee. She noted that staff has received positive feedback.

Hoelscher agreed that it was a big improvement.

Finance: Anderson commented that the group has not met. He stated that he met with the auditor via Zoom, along with Hoelscher, Cook and staff. He noted that a meeting has been scheduled with the auditor on March 23<sup>rd</sup>.

Nominations: Zorn stated that the timeline was pushed into February, and they will work with staff to distribute the updated timeline. She stated that February 3<sup>rd</sup> is the new deadline for self-nominations.

Operations: No report.

Save the Lake: Newell thanked recent donors.

## 18. ADJOURNMENT

Being there is no further business, the meeting was adjourned at 8:58 p.m.

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Ann Hoelscher, Acting Chair

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Dan Baasen, Secretary



9:21 AM  
02/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
**February 1 - 15, 2023**

**ITEM 7A**

Date	Num	Name	Memo	Account	Class	Paid Amount
02/09/2023	EFT-23-7	ADP Service Fee		<b>Alerus Checking</b>		
			Payroll 2/1/23 - 2/15/23	4180M10 · Professional Services - ...	Admin.	-89.62
TOTAL						-89.62
02/09/2023	EFT-23-8	ADP Service Fee		<b>Alerus Checking</b>		
			Adjust Payroll 1/31/22	4180M10 · Professional Services - ...	Admin.	-137.62
TOTAL						-137.62
02/15/2023	EFT-23-9	ADP		<b>Alerus Checking</b>		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-22,149.20
			P.E.R.A	2020 · Payroll Liabilities -	Admin.	928.66
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-497.50
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FIC...	Admin.	1,441.43
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	27.12
			Brimeyer 1/8/23 - 1/31/23	4024 · Contract Labor	Admin.	-3,280.00
TOTAL						-23,529.49
02/15/2023	EFT-23-10	ADP Service Fee		<b>Alerus Checking</b>		
			W-2's & Year End Reports	4180M10 · Professional Services - ...	Admin.	-101.40
TOTAL						-101.40
02/15/2023	EFT-23-11	P.E.R.A		<b>Alerus Checking</b>		
			Payroll 2/1/23 - 2/15/23	2020 · Payroll Liabilities -	Admin.	-928.68
TOTAL						-928.68
02/09/2023	EFT-23-12	Unum Life Insurance		<b>Alerus Checking</b>		
			Long Term Disability - February 2023	2020-LT · Payroll Liabilities - UNUM	Admin.	-169.92
TOTAL						-169.92
02/09/2023	EFT-23-13	WEX Health, Inc.		<b>Alerus Checking</b>		
			HSA Contribution February 2023 (Schleuning)-CR to follow	4380M10 · Employee Benefits - Ad...	Admin.	-125.00
			HSA Contribution February 2023 (Tully)	4380M10 · Employee Benefits - Ad...	Admin.	-125.00
			HSA Contribution February 2023 (Duncan)	4380M10 · Employee Benefits - Ad...	Admin.	-125.00
TOTAL						-375.00

9:21 AM  
02/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
February 1 - 15, 2023

Date	Num	Name	Memo	Account	Class	Paid Amount
<b>02/09/2023</b>	<b>22293</b>	<b>Brandography</b>		<b>Alerus Checking</b>		
01/31/2023	Inv.#6013		Annual Website Maintenance	4070M10 · Webpage & Digital	Admin.	-3,500.00
TOTAL						-3,500.00
<b>02/09/2023</b>	<b>22294</b>	<b>NCPERS Group Life Insurance</b>		<b>Alerus Checking</b>		
01/01/2023	February 2023		Life Insurance, February 2023	4380M10 · Employee Benefits - Ad...	Admin.	-48.00
TOTAL						-48.00
<b>02/09/2023</b>	<b>22295</b>	<b>Ratwik, Roszak &amp; Maloney, P.A.</b>		<b>Alerus Checking</b>		
12/31/2022	December, 2022		Civil Legal Fees, December 2022	4620M10 · Civil Legal Fees - Admin.	Admin.	-776.00
TOTAL						-776.00
<b>02/09/2023</b>	<b>22296</b>	<b>Minnesota Trophies</b>		<b>Alerus Checking</b>		
01/25/2023	48.12		Name Plate for Joseph Langel, Maisyn Reardan, Jim Brimeyer	4230M10 · Meeting Exp. - Admin.	Admin.	-48.12
TOTAL						-48.12
<b>02/09/2023</b>	<b>22297</b>	<b>Lynette M. Rohde Bookkeeping</b>		<b>Alerus Checking</b>		
01/25/2023	Inv.#2023-008		Bookkeeping Services 1/23/2023	4180M10 · Professional Services - ...	Admin.	-161.00
TOTAL						-161.00
<b>02/09/2023</b>	<b>22298</b>	<b>LMCC</b>		<b>Alerus Checking</b>		
01/26/2023	Inv.#1529, 1513,1514		VOD Services for Meeting 1/25/2023 VOD Services for Meetings 10/26/22 and 11/9/22	4182M10 · Media (Cable/Internet) - ... 4182M10 · Media (Cable/Internet) - ...	Admin. Admin.	-200.00 -200.00
TOTAL						-400.00
<b>02/09/2023</b>	<b>22299</b>	<b>DVS Renewal</b>		<b>Alerus Checking</b>		
11/01/2022	2007 Midi Trl		Tabs for 2007 Midi Trl	4099M10 · DMV Admin	Admin.	-20.25
TOTAL						-20.25
<b>02/09/2023</b>	<b>22300</b>	<b>Chuck Struck</b>		<b>Alerus Checking</b>		
01/30/2023	Inv.#INV0035		Board Meeting 1/25/23	4182M10 · Media (Cable/Internet) - ...	Admin.	-90.00
TOTAL						-90.00

9:21 AM  
02/02/23

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

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Class</u>	<u>Paid Amount</u>
02/09/2023	22301	AIS Advanced Imaging Solutions		Alerus Checking		
01/27/2023	Inv.#492967856		Copier Contract 1/20/23 - 2/20/23	4140M10 · Office Equipment R&M -...	Admin.	-447.95
TOTAL						-447.95

10:20 AM  
02/15/23

Lake Minnetonka Conservation District  
Check Detail  
February 16 - 28, 2023

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
02/22/2023		US Bank		Alerus Checking		
				1087M10 · US Bank (Credit Card)	Admin.	-1,338.49
TOTAL						-1,338.49
02/28/2023	EFT-23-14	ADP Service Fee		Alerus Checking		
			Payroll 2/28/23	4180M10 · Professional Service...	Admin.	-89.62
TOTAL						-89.62
02/23/2023	EFT-23-15	Health Partners		Alerus Checking		
			February Dental Insurance (Schleuning)	4380M10 · Employee Benefits - ...	Admin.	-60.91
			February Dental Insurance (Duncan)	4380M10 · Employee Benefits - ...	Admin.	-60.91
			February Dental Insurance (Tully)	4380M10 · Employee Benefits - ...	Admin.	-60.91
TOTAL						-182.73
02/23/2023	EFT-23-16	WEX Health, Inc. Service Fee		Alerus Checking		
			HSA Svc Fee February 2022 (Schleuning)	4380M10 · Employee Benefits - ...	Admin.	-2.75
			HSA Svc Fee February 2022 (Tully)	4380M10 · Employee Benefits - ...	Admin.	-2.75
			HSA Svc Fee February 2022 (Duncan)	4380M10 · Employee Benefits - ...	Admin.	-2.75
TOTAL						-8.25
02/23/2023	EFT-23-17	Medica		Alerus Checking		
			Health Insurance, February 2023 (Vickie Schleuning)	4380M10 · Employee Benefits - ...	Admin.	-757.58
			Health Insurance, February 2023 (Tammy Duncan)	4380M10 · Employee Benefits - ...	Admin.	-757.58
			Health Insurance, February 2023 (Thomas Tully)	4380M10 · Employee Benefits - ...	Admin.	-757.58
TOTAL						-2,272.74

10:20 AM  
02/15/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
February 16 - 28, 2023

Date	Num	Name	Memo	Account	Class	Paid Amount
02/28/2023	EFT-23-18	ADP		<b>Alerus Checking</b>		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-6,793.81
			P.E.R.A	2020 · Payroll Liabilities -	Admin.	947.30
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-507.48
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin F...	Admin.	517.66
			Long Term Disability	2020-LT · Payroll Liabilities - UN...	Admin.	27.12
			Brimeyer 2/1/23 - 2/14/23	4024 · Contract Labor	Admin.	-1,260.00
				*Uncategorized Expenses	Admin.	-1,035.32
TOTAL						-8,104.53
02/23/2023	EFT-23-19	P.E.R.A		<b>Alerus Checking</b>		
			Payroll 2/16/23 - 2/28/23	2020 · Payroll Liabilities -	Admin.	-944.06
TOTAL						-944.06
02/23/2023	22302	Goff Public		<b>Alerus Checking</b>		
01/31/2023	Inv.#18391		Public Relations, Newsletter web version, winter rules...	4183M10 · Prof/ Serv. - Commu...	Admin.	-4,353.75
TOTAL						-4,353.75
02/23/2023	22303	Innovative Office Solutions LLC		<b>Alerus Checking</b>		
02/02/2023	Inv.#INV408...		Copy Paper	4220M10 · Office Supplies -Adm...	Admin.	-36.99
TOTAL						-36.99
02/23/2023	22304	City of Mound		<b>Alerus Checking</b>		
02/02/2023	March 2023		Rent, March 2023	4320M10 · Office Rent - Admin.	Admin.	-1,733.48
TOTAL						-1,733.48
02/23/2023	22305	Steven M. Tallen Attorney At Law		<b>Alerus Checking</b>		
02/01/2023	January 2023		Prosecution Cost January 2023	4640M10 · Prosecution Legal Fe...	Admin.	-4,673.09
TOTAL						-4,673.09

10:20 AM  
02/15/23

Lake Minnetonka Conservation District  
**Check Detail**  
February 16 - 28, 2023

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Class</u>	<u>Paid Amount</u>
02/23/2023	22306	TimeSaver Off Site Secretarial, Inc.		Alerus Checking		
02/01/2023	Inv.#M27946		Board Minutes 1/11/23 and 1/25/23	4230M10 · Meeting Exp. - Admin.	Admin.	-611.00
TOTAL						-611.00
02/23/2023	22307	Sta-Safe Locksmiths		Alerus Checking		
02/01/2023	Inv.#0007957		Open and adjust Tech Office Door	4220M10 · Office Supplies -Adm...	Admin.	-104.00
TOTAL						-104.00

7:52 AM  
03/02/23

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

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
03/09/2023	EFT-23-20	ADP Service Fee		Alerus Checking		
			Payroll 3/15/23	4180M10 · Professional Service...	Admin.	-89.62
TOTAL						-89.62
03/01/2023	EFT-23-21	WEX Health, Inc.		Alerus Checking		
			HSA Contribution February 2023 (Schleuning)-CR	4380M10 · Employee Benefits - ...	Admin.	125.00
			HSA Contribution March 2023 (Tully)	4380M10 · Employee Benefits - ...	Admin.	-125.00
			HSA Contribution March 2023 (Duncan)	4380M10 · Employee Benefits - ...	Admin.	-125.00
TOTAL						-125.00
03/15/2023	EFT-23-22	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-5,869.29
			P.E.R.A	2020 · Payroll Liabilities -	Admin.	817.87
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-438.15
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin F...	Admin.	-446.94
			Long Term Disability	2020-LT · Payroll Liabilities - UN...	Admin.	27.12
			Brimeyer 2/15/23 - 2/27/23	4024 · Contract Labor	Admin.	-560.00
TOTAL						-6,469.39
03/15/2023	EFT-23-23	P.E.R.A		Alerus Checking		
			Payroll 3/1/23 - 3/15/23	2020 · Payroll Liabilities -	Admin.	-817.92
TOTAL						-817.92
03/09/2023	22308	AIS Advanced Imaging Solutions		Alerus Checking		
02/27/2023	Inv.#495306...		Copier Contract 2/20/23 - 3/20/23	4140M10 · Office Equipment R&...	Admin.	-447.95
TOTAL						-447.95
03/09/2023	22309	American Mailing Machines		Alerus Checking		
02/21/2023	Inv.#IN117267		Cartridge for Postage Meter	4080 · Postage	Admin.	-304.09
TOTAL						-304.09

7:52 AM  
03/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
March 1 - 15, 2023

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Class</u>	<u>Paid Amount</u>
03/09/2023	22310	FRANCOTYP-POSTALIA, INC.		Alerus Checking		
02/21/2023	Inv.#RI1056...		Quarterly Rental Fee for Postage Meter	4080 · Postage	Admin.	-86.85
TOTAL						-86.85
03/09/2023	22311	NCPERS Group Life Insurance		Alerus Checking		
02/27/2023	March 2023		Life Insurance, March 2023	4380M10 · Employee Benefits - ...	Admin.	-48.00
TOTAL						-48.00
03/09/2023	22312	Ratwik, Roszak & Maloney, P.A.		Alerus Checking		
02/27/2023	January 2023		Civil Legal Fees, January 2023	4620M10 · Civil Legal Fees - Ad...	Admin.	-7,872.23
TOTAL						-7,872.23
03/09/2023	22313	North Shore Marina (Browns Bay)		Alerus Checking		
03/02/2023	Refund of App		Refund of New MDL Application	3110M10 · Multiple/Perm. Dock ...	Admin.	-2,423.75
TOTAL						-2,423.75





## ITEM 7B

### RESOLUTION 250

#### A RESOLUTION ACCEPTING CONTRIBUTION(S) TO THE LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

**WHEREAS**, the LMCD is a regional government agency established by Minnesota Statutes Section 103B.605, Subd. 1; and

**WHEREAS**, contributions to the LMCD "Save the Lake" fund are generally tax deductible to individuals under the IRS Code 26 USC Section 170 (b)(1)(a) because contributions to any political subdivision of any state for exclusively public purposes are deductible; and

**WHEREAS**, municipalities are generally authorized to accept donations of real and personal property pursuant to Minnesota Statutes Section 465.03 for the benefit of its stakeholders, and is specifically authorized to accept gifts; and

**WHEREAS**, LMCD wishes to follow similar requirements as established for municipalities for accepting donations; and

**WHEREAS**, the attached listed person(s) and entity(ies) have offered to contribute the cash amount(s) set forth with any terms or conditions as outlined in Attachment I to the LMCD; and

**WHEREAS**, such contribution(s) have been contributed to the LMCD for the benefit of the public, as allowed by law; and

**WHEREAS**, the LMCD Board of Directors finds that it is appropriate to accept the contribution(s) offered.

**NOW THEREFORE**, BE IT RESOLVED BY THE LMCD BOARD, STATE OF MINNESOTA AS FOLLOWS:

1. The contribution(s) described with Attachment I is/are accepted and shall be used to establish and/or operate services either alone or in cooperation with others, as allowed by law.

RESOLUTION #250

Page 2

2. The executive director is hereby directed to issue receipt(s) acknowledging the LMCD's receipt of the contributor's contribution(s).

Adopted by the Board this 8<sup>th</sup> day of March 2023.

ATTEST:

\_\_\_\_\_  
Ann Hoelscher, Acting Chair

\_\_\_\_\_  
Dan Baasen, Secretary

DRAFT

**Lake Minnetonka Conservation District  
Transaction Detail By Account  
February 7 - 13, 2023**

**Resolution #250 - Save the Lake Contributions**

<b>Date</b>	<b>Num</b>	<b>Name</b>	<b>Memo</b>	<b>Amount</b>
<b>Contributions</b>				
<b>3001M20 · Donations (General) - S/L</b>				
02/07/2023	9363	Max or Sheryl Daubenberger	STL Donation (In Memory of Bill Weeks)	25.00
02/07/2023	13085931	Thuening Family Fund	STL Donation (In Memory of Bill Weeks)	200.00
02/07/2023	13559	James & Corrine Beck	STL Donation (In Memory of Bill Weeks)	100.00
02/07/2023	6122	Thomas Brossard	STL Donation (General)	100.00
02/07/2023	13095364	Mr. & Mrs. Getchell	STL Donation (General)	250.00
02/07/2023	38934319	Jim Gray	STL Donation (General)	250.00
02/07/2023	4856	Fred Badiyan	STL Donation (General)	50.00
02/07/2023	2511	Gregg Thomas & Carol Downie	STL Donation (General)	500.00
02/07/2023	10958	Jack & Gretchen Norqual	STL Donation (General)	500.00
02/07/2023	16313	Bonnie Engler	STL Donation (General)	100.00
02/07/2023	14774	Henri & Marjorie Heystek	STL Donation (General)	100.00
02/07/2023	1658	Chris Dennis, Lakes Area Realty	STL Donation (General)	500.00
02/07/2023	17897	Sharon Corl	STL Donation (General)	50.00
02/07/2023	6511	Dimitrios & Jennifer Smyrnios	STL Donation (General)	500.00
02/07/2023	9043	Dock & Lift, Inc	STL Donation (General)	2,500.00
02/07/2023	PayPal	Pricilla Diethelm	Transfer from PayPal (50.00) (In Memory of Bill Weeks)	48.06
02/07/2023	PayPal	Robert Dillon	Transfer from PayPal (100.00)	96.62
02/07/2023	PayPal	Stephen Bakke	Transfer from PayPal (50.00)	48.06
<b>Total 3001M20 · Donations (General) - S/L</b>				<b>5,917.74</b>



# ITEM 7C

## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** March 8, 2023  
**TO:** LMCD Board of Directors  
**FROM:** Jim Brimeyer, Interim Executive Director  
**SUBJECT:** Approval of 2023 Draft Pay Equity Report

### **STAFF RECOMMENDED ACTION**

Consider approval of the Lake Minnetonka Conservation District's Draft 2023 Pay Equity Report as presented or amended.

### **BACKGROUND**

The Local Government Pay Equity Act (Act), M.S. 471.991-471.999 and Minnesota Rules Chapter 3920 require local government jurisdictions to submit a Pay Equity Report to the State of Minnesota every three years. The previous Lake Minnetonka Conservation District (LMCD) Pay Equity Reports were approved by the Board and submitted to the State in 2020 and 2017. Both reports indicated compliance with the Act. State law requires the Report to be approved by the governing body. A copy of the prepared Pay Equity Report and Public Notice is attached for Board review.

What does Pay Equity mean? "Pay Equity is a method of eliminating discrimination against women who are paid less than men for jobs requiring comparable levels of expertise. This goes beyond the familiar idea of equal pay for equal work where men and women with the same jobs must be paid equally. A policy to establish pay equity usually means: 1) that all jobs will be evaluated and given points according to the level of knowledge and responsibility required to do the job; and 2) that salary adjustments will be made if it is discovered that women are consistently paid less than men for jobs with similar points." <sup>1</sup> <https://mn.gov/mmb/employee-relations/compensation/laws/local-gov/local-gov-pay-equity/>

### **REPORT/DUE DATE (January 31, 2023)**

Staff confirmed the Report is to document the approved classes (positions) in existence as of the end of the prior year. The point scale for each class is chosen by staff from a State provided Job Match Evaluation system. Because the LMCD has three or fewer male classes, an alternative analysis test and not a statistical analysis test will be used to compare the salaries.

If the report is not submitted by January 31, 2023, the LMCD will be considered out of compliance. After the report is submitted, the State of Minnesota will notify the LMCD whether the status is "in compliance" or "out of compliance". Any additional notifications of non-compliance could result in penalties.

ATTACHMENT – Draft 2023 Pay Equity Report

[www.lmcd.org](http://www.lmcd.org) • [lmcd@lmcd.org](mailto:lmcd@lmcd.org)

To preserve and enhance the "Lake Minnetonka experience"

Posting date: February 23, 2023

Jurisdiction Name: Lake Minnetonka Conservation District



## NOTICE

### 2023 Pay Equity Report

This jurisdiction is submitting a pay equity implementation report to Minnesota Management & Budget as required by the Local Government Pay Equity Act, Minnesota Statutes 471.991 to 471.999. The report must be submitted to the department by January 31, 2023.

The report is public data under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. That means that the report is available to anyone requesting this information.

This notice is being sent to all union representatives (if any) in this jurisdiction. In addition, this notice must remain posted in a prominent location for at least 90 days from the date the report was submitted.

For more information about this jurisdiction's pay equity program, or to request a copy of the implementation report, please contact:

James Brimeyer, Interim Executive Director

Lake Minnetonka Conservation District

5341 Maywood Road, Suite 200  
Mound, MN 55364  
952-745-0789 (Office)  
[www.lmcd@lmcd.org](http://www.lmcd@lmcd.org) (Website)  
[lmcd@lmcd.org](mailto:lmcd@lmcd.org) (Email)

For more information about the state pay equity law, you may contact the Pay Equity Office at:

[pay.equity@state.mn.us](mailto:pay.equity@state.mn.us)

Pay Equity Office  
Minnesota Management & Budget  
400 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155

Minnesota Pay Equity Management System - Lake Minnetonka SWCD(23-Submitted) [Click for ADA Version](#)

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[Utilities](#)

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SWCD - Soil  
Jurisdiction and Water  
Type: Conservation  
District

ID: 1236

**Contact List**

Name: Lake Minnetonka SWCD  
Address 1: 5341 Maywood Road, Suite 200  
Address 2:  
City: Mound  
State: MN  
Zipcode: 55364  
Main Phone: 952-745-0789  
Fax: 952-745-9085  
Next Report Year: 2023

<u>Name</u>	<u>Title</u>	<u>Primary Contact</u>	<u>Email</u>	<u>Phone</u>	<u>Edit</u>	<u>Delete</u>
James Brimeyer	Interim Executive Di	<input type="checkbox"/>	jbrimeyer@lmcd.org	952-745-0789	<a href="#">Edit</a>	<a href="#">Delete</a>
Tammy Duncan	Admin Assist	<input checked="" type="checkbox"/>	lmcd@lmcd.org	952-745-0789	<a href="#">Edit</a>	<a href="#">Delete</a>
						<a href="#">Add</a>

Follow Up Type: Value Not Set  
Follow Up Date: Value Not Set

[Modify Jurisdiction](#)

We have worked to ensure this product is accessible and compliant with the standard WCAG 2.0 level AA. We have tested accessibility using the JAWS software from Freedom Scientific. We found it to work correctly for us. If you find errors in accessibility, please let us know at [pay.equity@state.mn.us](mailto:pay.equity@state.mn.us) so that we can follow up. Thank you.

**Minnesota Pay Equity Management System - Lake Minnetonka SWCD(23-Submitted)** [Click for ADA Version](#)

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[<--Jurisdiction Info](#)

[See Results-->](#)

Jurisdiction: ID # 1236 - Lake Minnetonka SWCD

Number of cases found: 8

<a href="#">View/Add</a>	<a href="#">Export</a>	<a href="#">Report Year</a>	<a href="#">Case ID</a>	<a href="#">Case Description</a>	<a href="#">Case Status</a>	<a href="#">Edit</a>	<a href="#">Delete</a>	<a href="#">Revert</a>
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	1999	1	1999 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2003	2	2003 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2008	3	2008 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2011	1	2011 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2014	1	2013 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2017	1	2016 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2020	1	2019 DATA	In Compliance			
<a href="#">View Jobs</a>	<a href="#">Export Jobs</a>	2023	1	2022 DATA	Submitted			
<a href="#">Add New Case</a>								

Jurisdiction # 1236 - Lake Minnetonka SWCD || Report Year 2023 || Case # 1 - 2022 DATA

Number of jobs in this case: 4

<a href="#">Job Nbr</a>	<a href="#">Title</a>	<a href="#">Males</a>	<a href="#">Females</a>	<a href="#">Non-Binary</a>	<a href="#">Points</a>	<a href="#">Min Sal</a>	<a href="#">Max Sal</a>	<a href="#">Yrs To Max</a>	<a href="#">Yrs Srv</a>	<a href="#">Exceptional Srv</a>
7	Administrative Coordinator	0	1	0	102	3639.00	3639.00	1.00	0.50	
1	Administrative Assistant	0	1	0	203	3873.00	3873.00	0.00	11.17	
2	Administrative Technician	1	0	0	275	5196.00	5196.00	1.00	0.92	
6	Executive Director	0	1	0	483	8630.00	8630.00	0.00	6.00	

We have worked to ensure this product is accessible and compliant with the standard WCAG 2.0 level AA. We have tested accessibility using the JAWS software from Freedom Scientific. We found it to work correctly for us. If you find errors in accessibility, please let us know at [pay.equity@state.mn.us](mailto:pay.equity@state.mn.us) so that we can follow up. Thank you.

# Compliance Report

Jurisdiction: Lake Minnetonka SWCD  
5341 Maywood Road, Suite 200

Report Year: 2023  
Case: 1 - 2022 DATA (Submitted)

Mound, MN 55364

Contact: Tammy Duncan

Phone: (952) 745-0789

E-Mail: lmcd@lmcd.org

The statistical analysis, salary range and exceptional service pay test results are shown below. Part I is general information from your pay equity report data. Parts II, III and IV give you the test results.

For more detail on each test, refer to the Guide to Pay Equity Compliance and Computer Reports.

## I. GENERAL JOB CLASS INFORMATION

	Male Classes	Female Classes	Balanced Classes	All Job Classes
# Job Classes	1	3	0	4
# Employees	1	3	0	4
Avg. Max Monthly Pay per employee	5196.00	5380.67		5334.50

## II. STATISTICAL ANALYSIS TEST

### A. Underpayment Ratio = 0 \*

	Male Classes	Female Classes
a. # At or above Predicted Pay	1	3
b. # Below Predicted Pay	0	0
c. TOTAL	1	3
d. % Below Predicted Pay (b divided by c = d)	0.00	0.00

\*(Result is % of male classes below predicted pay divided by % of female classes below predicted pay.)

### B. T-test Results

Degrees of Freedom (DF) = 2	Value of T = 0.000
-----------------------------	--------------------

a. Avg. diff. in pay from predicted pay for male jobs = 0

b. Avg. diff. in pay from predicted pay for female jobs = 0

## III. SALARY RANGE TEST = 100.00 (Result is A divided by B)

A. Avg. # of years to max salary for male jobs = 1.00

B. Avg. # of years to max salary for female jobs = 1.00

## IV. EXCEPTIONAL SERVICE PAY TEST = 0.00 (Result is B divided by A)

A. % of male classes receiving ESP = 0.00 \*

B. % of female classes receiving ESP = 0.00

\*(If 20% or less, test result will be 0.00)



February 14, 2023

Local Government Official  
Lake Minnetonka SWCD  
5341 Maywood Road, Suite 200

Mound, MN 55364

Dear Local Government Official:

Congratulations! I am very pleased to send you the attached notification of compliance with the Local Government Pay Equity Act. Since the law was passed in 1984, jurisdictions have worked diligently to meet compliance requirements and your work is to be commended.

Minnesota Rules Chapter 3920 specifies the procedure and criteria for measuring compliance and your jurisdiction's results are attached. You may find a copy of our "Guide to Understanding Pay Equity Compliance" and other resources on our Local Government Pay Equity webpage at: <https://mn.gov/mmb/employee-relations/compensation/laws/local-gov/local-gov-pay-equity/>.

This notice and results of the compliance review are public information and must be supplied upon request to any interested party.

If you have questions or need assistance, please contact Dominique Murray at (651) 259-3805, or by email: [pay.equity@state.mn.us](mailto:pay.equity@state.mn.us)

Again, congratulations on your achievement!

Sincerely,  
Dominique Murray  
Pay Equity Coordinator



# Notice of Pay Equity Compliance

*Presented to*

## Lake Minnetonka SWCD

For successfully meeting the requirements of the Local Government Pay Equity Act M.S. 471.991 - 471.999 and Minnesota rules Chapter 3920. This notice is a result of an official review of your 2023 pay equity report by Minnesota Management & Budget.

Your cooperation in complying with the local government pay equity requirements is greatly appreciated.

February 14, 2023

Date

A handwritten signature in black ink, reading 'Jim Schowalter'.

Jim Schowalter, Commissioner

## Results of Tests for Pay Equity Compliance

Date: February 14, 2023

Jurisdiction: Lake Minnetonka SWCD

ID#: 1236

### 1. Completeness and Accuracy Test

Passed. Required information was submitted accurately and on time.

### 2. Alternative Analysis Test

Passed. Jurisdiction had three or fewer male classes and there was no compensation disadvantage for at least 80% of female classes compared to male classes.

Passed. Jurisdiction had four or five male classes, an underpayment ratio below 80%, but no compensation disadvantage for at least 80% of female classes compared to male classes. Jurisdictions in this category started in the statistical analysis but moved to the alternative analysis because of the combination of factors listed.

Passed. Jurisdiction had at least six male classes, no classes with a salary range, an underpayment ratio below 80%, but no compensation disadvantage for at least 80% of female classes compared to male classes. Jurisdictions in this category started in the statistical analysis but moved to the alternative analysis because of the combination of factors listed.

### 3. Salary Range Test

Passed. Too few classes had an established number of years to move through a salary range.

Passed. Salary range test showed a score of 80% or more.

### 4. Exceptional Service Pay Test

Passed. Too few classes received exceptional service pay.

Passed. Exceptional service pay test showed a score of 80% or more.

If you have questions or need assistance, please contact Dominique Murray at (651) 259-3805, or by email: [pay.equity@state.mn.us](mailto:pay.equity@state.mn.us)



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 8, 2023 (Prepared February 28, 2023)
TO: LMCD Board of Directors
FROM: Thomas Tully, Environmental Administrative Technician
CC: Jim Brimeyer, Interim Director

SUBJECT: New Commercial Multiple Dock License, PID 11-117-23-22-0013 Outlot B, Dragonfly Hill, along Shoreline Drive, Browns Bay, Orono, MN 55331

ACTION

Board approval of Findings of Fact and Order for denial of the new commercial multiple dock license application for Dan Gustafson, on behalf of Lake Minnetonka Real Estate II LLC, for the property located at Outlot B, Dragonfly Hill on Browns Bay in the City of Orono (PID 11-117-23-22-0013).

BACKGROUND

The LMCD held a public hearing on January 11, 2023 to consider the application of Dan Gustafson ("Applicant") for a new commercial multiple dock license for the property located at Outlot B, Dragonfly Hill on Browns Bay in the City of Orono (PID 11-117-23-22-0013).

On January 11, 2023, the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for approval of the new commercial multiple dock request with conditions. To be brought back for final approval the January 25, 2023 Board meeting.

Additional comments were received prior to and at the Board meeting on January 25, 2023. The final approval was removed from the consent agenda and the new information was presented at the January 25, 2022 Board meeting.

On January 25, 2023 the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for denial of the new commercial multiple dock request. The Findings of Fact and Order is attached.

BUDGET

N/A

STRATEGIC PRIORITIES

Operational Effectiveness, Clear & Timely Communications, Effective Governance, X Lake Protection, Other

ATTACHMENTS

- 1. Findings of Fact and Order
2. Proposed Site Plan
3. Board Memo of January 11, 2023, without attachments

**Type:** Denial – Commercial Multiple Dock License  
**Date:** March 8, 2023  
**Applicant:** Daniel G. Gustafson  
Lake Minnetonka Real Estate II LLC  
**Site PID:** 11-117-23-22-0013  
**Address:** Outlot B, Dragonfly Hill, along Shoreline Drive, Browns Bay, Orono, MN 55331

**LAKE MINNETONKA CONSERVATION DISTRICT  
HENNEPIN COUNTY, MINNESOTA**

IN RE:

Application of Daniel G. Gustafson, Lake Minnetonka Real Estate II, LLC, for a Commercial Multiple Dock License for Property Located in the City of Orono

**FINDINGS OF FACT  
AND ORDER**

The Lake Minnetonka Conservation District (“LMCD”) received an application from Daniel G. Gustafson, Lake Minnetonka Real Estate II, LLC (“Applicant”) for a commercial multiple dock license for the property (PID 11-117-23-22-0013), Outlot B Dragonfly Hill, along Shoreline Drive, described in EXHIBIT A (“Subject Property”). Fee title to the Subject Property is owned by the City of Orono. The Applicant provided information indicating ownership of all riparian rights. The Applicant requests a new commercial multiple dock license in order to store nine watercraft at the site. The LMCD Board of Directors (“Board”) held a public hearing, after due notice having been provided, on the requested commercial multiple dock license on January 11, 2023. The hearing was originally scheduled for August 24, 2022, but was continued to January 11, 2023, per request of the Applicant. Additional comments were received at the Board meeting on January 25, 2023. Based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

**FINDINGS OF FACT**

- a. In 2019, the Legislature reduced the LMCD’s authority for land-based activities at commercial marinas, as reflected in Minn. Stat. § 103B.611, subd. 3(a)(8). The proposed structure would constitute a commercial marina and is across the street from a residential house and is north of an existing commercial multiple dock and is not anticipated to impact current adjacent dock structures. However, given that the proposed structure is adjacent to a heavily traveled County road and the narrow property has no space for parking, safety and parking may be an issue with this location. But, after the 2019 legislative changes, such “land-based marina activities” are not subject to the LMCD’s authority.

- b. The Subject Property is located in the City of Orono, on Browns Bay, which is part of Lake Minnetonka (“Lake”) and includes approximately 428 feet of 929.4 feet OHW shoreline.
- c. The Applicant proposes to install nine boat storage units (“BSUs”) for rent to the public. Each of the nine BSUs would measure 18 feet wide by 48 feet long, with walkways six feet in width.
- d. Storage of five or more watercraft at a site requires a multiple dock license. Applicant proposes to install a seasonal or permanent dock and would be eligible for a deicing license per Section 10-3.03(a) of the LMCD Code of Ordinances (“Code”).
- e. Based on the approximately 428 feet of shoreline, the Subject Property’s BSU density is 1:50.
- f. The dock structure proposed by the Applicant is shown on the site plan attached hereto as Exhibit B (“Proposed Site Plan”).
- g. The proposed dock structure would extend approximately 90 feet into the Lake from the 929.4 OHW.
- h. The layout of the proposed dock structure is approximately 19,950 square feet for combined structures, boat storage, and navigation area, which is below the 20,000 square feet at which a mandatory environmental assessment worksheet (“EAW”) is required. The Board finds no reason to require a discretionary EAW in this case.
- i. Additional information regarding this matter is provided in the LMCD staff report related to this application dated January 11, 2023, and the presentation made thereon at the meeting (collectively, the “Staff Reports”). The Staff Reports are incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.
- j. An application for a commercial multiple dock is processed and acted on in accordance with Section 6-2.01 of the Code.
- k. The LCMD received no comments on the application from the Minnesota Department of Natural Resources (“MN DNR”) or the Minnehaha Creek Watershed District (“MCWD”).
- l. The City of Orono opposed the application and refused to consent, as fee owner, to the proposed commercial marina. The City stated that a commercial marina is not an allowed use under the current zoning; parking requirements cannot be met; the proposed use is too intense; no vegetation removal was approved on land; and the proposed use is a safety hazard.
- m. The Hennepin County Transportation Department opposes the application because of the lack of parking and likely traffic problems. The County indicated that it would not permit any construction in the County’s right-of-way or any stairway that crosses the right-of-way to the proposed dock. Further the County stated that half of the gravel parking area north of

the site is County right-of-way, half of which is for limited parking and the other half is reserved for City of Orono emergency vehicles.

- n. David Feldshon and his wife Archelle Georgiou Feldshon, 1420 Shoreline Drive, Wayzata, objected to the application because of the lack of parking or sidewalk access and existing heavy traffic, which pose significant safety concerns. They further indicated that the riparian rights were intended for residential use. Their attorney further indicated that the City of Orono did not consent; the application is not consistent with City zoning; there is insufficient road access and parking; the proposed use is inconsistent with the Feldson's residential use across the road; and the Feldson's believe that they own part or all of the riparian rights.
- o. Al and Theresa Lampe, 1395 Orono Lane, Orono, opposed the application on safety grounds due to increased boat activity, the high traffic volume on the County road, and lack of parking.
- p. Bob and Keri Ganz, 1432 Shoreline Drive, Orono, opposed the application on safety grounds due to heavy traffic on the County road with its dangerously narrow shoulders.
- q. Kim Brown, 1300 Shoreline Drive, Orono, opposed the application because boat traffic is an issue, there are no bathrooms or attendant on site, there are parking concerns and safety hazards because of the County road.
- r. The proposed dock structure complies with the Code including Code Section 2-3.01 and 2-3.03 (regarding authorized dock use area), and otherwise does not require the issuance of any variances.
- s. As required by Code Section 6-2.01, the Board considered the applicable criteria in Code Section 6-2.01, Subd. 3 and determines the requested commercial multiple dock license is consistent with the criteria to the extent said criteria are relevant under Minn. Stat. § 103B.611, subd. 3(8). Specifically, the Board finds that the proposed structure:
  - i. Meets density requirements.
  - ii. Meets setback and length requirements.
  - iii. Will be structurally safe, if installed as required.
  - iv. Will generally comply with LMCD regulations.
  - v. Will not create an unsafe volume of traffic in the vicinity.
  - vi. Will be generally compatible with the maintenance of the Lake.
  - vii. Will not significantly affect Lake water quality.
  - viii. Will serve the general public.
- t. Additional Information regarding conflicting ownership of the riparian rights associated with for the property (PID 11-117-23-22-0013), Outlot B Dragonfly Hill, along Shoreline Drive was received by LMCD Staff prior to the January 25, 2023 Board meeting. The proposal was therefor pulled from the consent agenda and moved to Item 13A to allow for the new

information to be presented before the Board. The new information was posed in an amended Board packet and posted online and presented thereon at the meeting.

- u. Mark Simpson, attorney representing the property owners at 1420 Shoreline Drive in Orono, addressed the issue of riparian rights of the Subject Property, stating that Decree of Descent provided by the applicant shows that the Estate of Anne B. Duff had no riparian rights to convey to the applicant, and therefore the applicant has no ownership rights on which to base the multiple dock license application. Mr. Simpson further asserted that his clients own at least part of the riparian rights to the Subject Property and do not consent to the proposed use.
- v. Soren Mattick, representing the City of Orono, stated that the City owns the Subject Property, does not consent to the proposed use as the fee owner, and agrees with the arguments made by Mr. Simpson. Mr. Mattick further stated that as the fee owner of the Subject Property, the City also has riparian rights and, as a riparian rights owner, does not consent to the proposed use.
- w. William Dickel, attorney representing the applicant, stated that the Estate of Ann B. Duff owned the riparian rights to the Subject Property; Elizabeth Duff was duly appointed special administrator of the Estate; and Ms. Duff was authorized to quit claim the riparian rights to the applicant. The applicant, therefore, does have the requisite riparian rights to apply for the multiple dock license. Mr. Dickel further stated that the quit claim deed from Andrew Duff to Feldshon conveyed nothing, as Mr. Duff had no rights to convey.
- x. Ownership of the riparian rights to the Subject Property are in dispute.
- y. The LMCD has no jurisdiction over riparian rights disputes and cannot resolve a legal dispute over whether an applicant has authority to submit an application for a multiple dock license.
- z. The Lake Minnetonka Association sent a letter to the LMCD, which was read into the record.
- aa. Due to the nature of the conflicting arguments regarding ownership of the riparian rights of the Subject Property, the LMCD staff and legal counsel recommended denial of the request. It was suggested that those parties who claim ownership in the Subject Property resolve the ownership issue by whatever means necessary before a new multiple dock license application is submitted.

### **ORDER**

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

1. Denial. The Applicant's Request for a commercial multiple dock license for a total of nine BSUs as shown on the Site Plan attached hereto as Exhibit B, is hereby denied.
2. Authorizations. The LMCD staff is authorized and directed to provide a copy of this Order to the Applicant.



BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 8<sup>th</sup> day of March 2023.

---

Ann Hoelscher, Acting Chair

ATTEST:

---

Dan Baasen, Secretary

DRAFT

**EXHIBIT A**

Subject Property

Outlot B, Dragonfly Hill, according to the recorded plat thereof on file and of record in the office of the Hennepin County Recorder, State of Minnesota.

DRAFT

**EXHIBIT B**

Proposed Site Plan

[attached hereto]

DRAFT

DRAGONFLY

Owner: A Harrison & I L Harrison Tr  
Address: 1410 Shoreline Dr  
P.I.D. 021172330010

LOT 1

BLOCK 1

Owner: S D Feldshon & A G Feldshon  
Address: 1420 Shoreline Dr  
P.I.D. 1111723220015

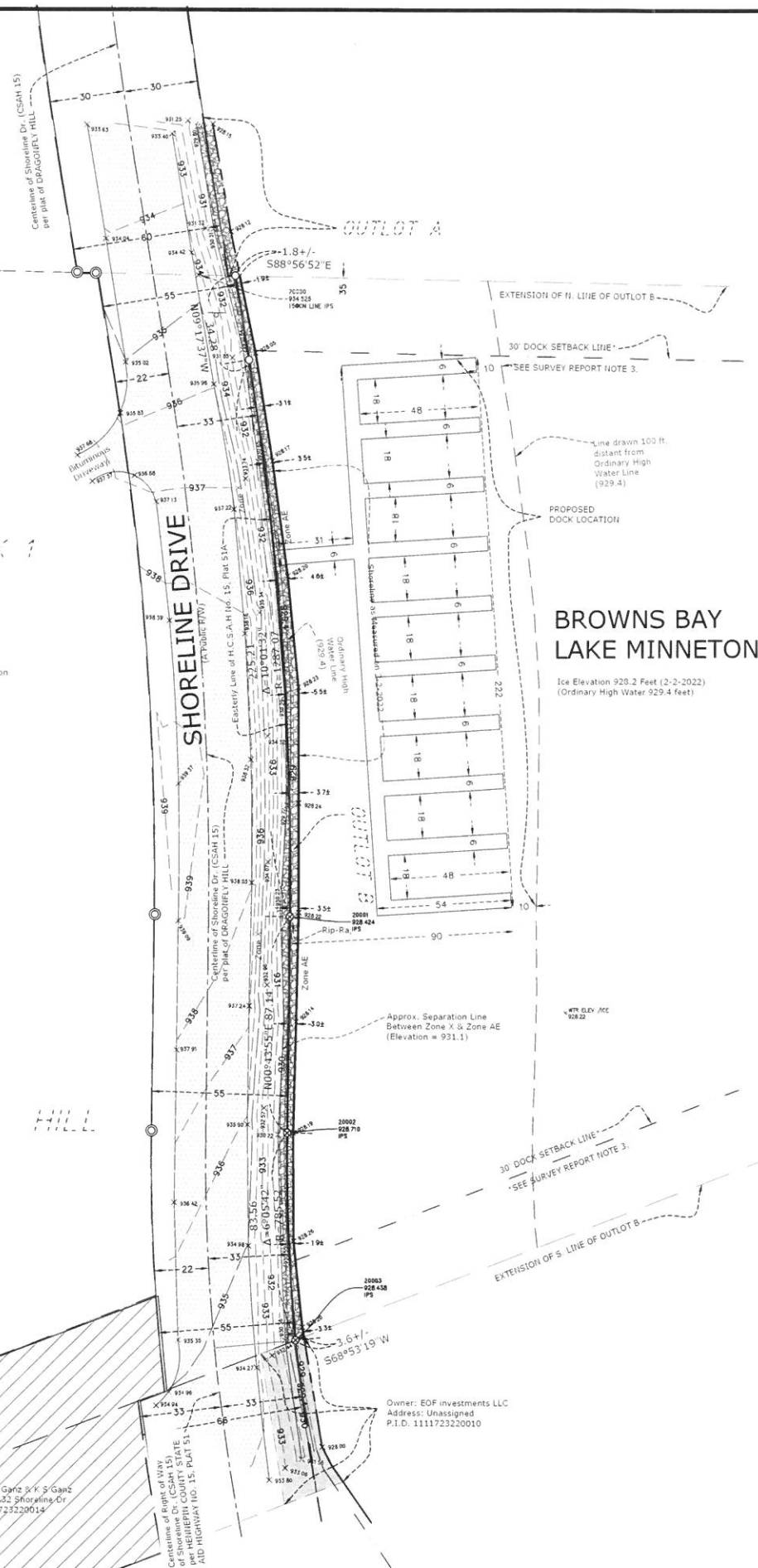
LOT 2

TANAGER LAKE

Owner: R A Ganz & X S Ganz  
Address: 1432 Shoreline Dr  
P.I.D. 1111723220016

Centerline of Right of Way of Shoreline Dr (CSAH 15) AND HIGHWAY NO. 15, PLAT 15.

Owner: EDF Investments LLC  
Address: Unassigned  
P.I.D. 1111723220010



### BROWNS BAY LAKE MINNETONKA

Ice Elevation 929.2 Feet (2-2-2022)  
Ordinary High Water 929.4 Feet

#### DESCRIPTION OF PROPERTY SURVEYED

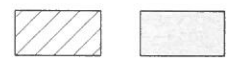
Outlot B, Dragonfly Hill, according to the recorded plat thereof on file and of record in the office of the Hennepin County Recorder.  
Reserving to said Grantors riparian access and docking and boat buoy rights, and the right to install and maintain the same.

#### GENERAL SURVEY NOTES

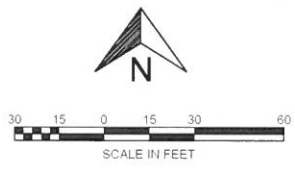
- Bearings are based on the Hennepin County Coordinate System (1986 Adjustment).
- Elevations are based on the NGVD 29 Datum.
- We have shown the location of utilities to the best of our ability based on observed evidence together with evidence from the following sources: plans obtained from utility companies, plans provided by client, markings by utility companies and other appropriate sources. We have used this information to develop a view of the underground utilities for this site. However, lacking excavation the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property.
- Site Address: Unassigned, Shoreline Drive, Orono, MN 55391 (PID:1111723220013).
- This property is contained in Zone X (area determined to be outside the 0.2% annual chance floodplain) and partially in Zone AE (Special Flood Hazard Areas subject to inundation by 1% annual chance flood with base elevation = 931.1) per Flood Insurance Rate Map, Community Panel No. 27053C0305F, effective date of November 4th, 2016. We have shown hereon the approximate separation line at the 931.1 contour line between Zone X and Zone AE.
- The Gross land area is 1.464 +/- square feet or 0.03 +/- acres.
- The names of the adjoining owners of the platted lands, as shown hereon, are based on information obtained from the Hennepin County Interactive Property Map.

#### SURVEY REPORT

- This map and report was prepared without the benefit of a Commitment for Title Insurance. The property description shown hereon is per Quit Claim Deed, recorded January 23, 1984, as Document Number 4561621, provided by the client and may not be the latest description of record. There may be easements for other matter of record we are unaware of and thus not shown hereon.
- Properties delineated with hatching are shown per Hennepin County record information and Surveys or Drawings prepared by others which were provided by client.



- 30 Ft. Dock Setback Line is per the LAKE MINNETONKA CONSERVATION DISTRICT CODE OF ORDINANCES, ARTICLE 2, CHAPTER 3: 2-3.03. Determination of Authorized Dock Use Area, Subd. 3 (a) Setbacks, and Subd. 3 (b) Setbacks Doubled.



#### Linetype & Symbol Legend

—E—	ELECTRIC LINE (RECORD)	⊠	AIR CONDITIONER	⊠	UTILITY VAULT
—E—	ELECTRIC LINE (RECORD)	⊠	CABLE TV BOX	⊠	UTILITY MANHOLE
—F—	FIBER COMM. LINE (RECORD)	⊠	ELECTRIC MAINHOLE	⊠	ELECTRICAL OUTLET
—F—	FIBER COMM. LINE (RECORD)	⊠	ELECTRIC TRANSFORMER	⊠	WASH HOLE
—G—	GAS MAIN (RECORD)	⊠	ELECTRICAL METER	⊠	BOLLARD
—G—	GAS MAIN (RECORD)	⊠	FIBER/COMM. MAINHOLE	⊠	FLAG POLE
—OH—	OVERHEAD UTILITIES	⊠	POWER POLE	⊠	FUEL TANK
—S—	SANITARY SEWER (RECORD)	⊠	GUY WIRE	⊠	HANDICAP SYMBOL
—S—	SANITARY SEWER (RECORD)	⊠	GAS METER	⊠	LIGHT POLE
—S—	SANITARY SEWER (RECORD)	⊠	GAS MAINHOLE	⊠	MAIL BOX
—S—	SANITARY SEWER (RECORD)	⊠	GAS VALVE	⊠	SIGN
—S—	SANITARY SEWER (RECORD)	⊠	ROOF DRAIN	⊠	CONFEROUS TREE
—S—	SANITARY SEWER (RECORD)	⊠	SEWER CLEAN OUT	⊠	DECIDUOUS TREE
—S—	SANITARY SEWER (RECORD)	⊠	SANITARY MAINHOLE	⊠	SOIL BORING
—S—	SANITARY SEWER (RECORD)	⊠	STORM MAINHOLE	⊠	FOUND IRON MONUMENT
—S—	SANITARY SEWER (RECORD)	⊠	CATCH BASIN	⊠	SET IRON MONUMENT
—S—	SANITARY SEWER (RECORD)	⊠	FLARED END SECTION	⊠	CAST IRON MONUMENT
—S—	SANITARY SEWER (RECORD)	⊠	TELEPHONE BOX		
—S—	SANITARY SEWER (RECORD)	⊠	TELEPHONE MAINHOLE		
—S—	SANITARY SEWER (RECORD)	⊠	TELEPHONE LINE (RECORD)		
—S—	SANITARY SEWER (RECORD)	⊠	WATER MAIN		
—S—	SANITARY SEWER (RECORD)	⊠	WATER MAIN (RECORD)		
—S—	SANITARY SEWER (RECORD)	⊠	CHAINLINK FENCE LINE		
—S—	SANITARY SEWER (RECORD)	⊠	WOODEN FENCE LINE		
—S—	SANITARY SEWER (RECORD)	⊠	GUARDRAIL		
—S—	SANITARY SEWER (RECORD)	⊠	CONCRETE SURFACE		
—S—	SANITARY SEWER (RECORD)	⊠	PAVER SURFACE		
—S—	SANITARY SEWER (RECORD)	⊠	BITUMINOUS SURFACE		
—S—	SANITARY SEWER (RECORD)	⊠	GRAVEL/LANDSCAPE SURFACE		

PROJECT  
**xx Shoreline Dr (PID:111723220013)**

Orono, Hennepin County, Minnesota 55391

Dan Gustafson

235 East Lake St., Wayzata, MN 55391

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

RORY L. SYNSTELIEN  
DATE 2-18-2022 LICENSE NO. 44565

QA/QC
FIELD CREW SW
DRAWN BY THM
REVIEWED BY CJT
UPDATED BY TH



REVISION SUMMARY	
DATE	DESCRIPTION
3-22-22	CLIENT COMMENTS
4-21-22	CL OF CSAH 15, LABEL OUTLOT B
5-18-22	ADDED PROPOSED DOCK
6-20-22	added dock dimensions
6-20-22	added as stakeout points
7-5-22	block setbacks
PROJECT NO. 22020	

**BOUNDARY & TOPOGRAPHIC SURVEY**  
**V1.0**



## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** January 11, 2023 (Prepared January 4, 2023)

**TO:** LMCD Board of Directors

**FROM:** Thomas Tully, Environmental Administrative Technician

**THROUGH:** Vickie Schleuning, *Vickie Schleuning* Executive Director

**SUBJECT:** Multiple Dock License for Daniel G. Gustafson, Lake Minnetonka Real Estate II (“LMRE”), LLC, PID: 11-117-23-22-0013, Outlot B, Dragonfly Hill, along Shoreline Drive in Orono, Browns Bay

### ACTION

Board consideration of the new commercial Multiple Dock License Application, and receive public input as part of the public hearing for the application. This site is located at PID: 11-117-23-22-0013, Outlot B, Dragonfly Hill, along Shoreline Drive in the City of Orono MN 55391, Browns Bay.

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 commercial multiple dock license application for the property located at PID: 11-117-23-22-0013, along Shoreline Drive in Orono for final approval at the January 25, 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 commercial multiple dock license application for the property located at PID: 11-117-23-22-0013, along Shoreline Drive in Orono for final approval at the January 25, 2023 LMCD Board meeting based on...

#### Continue Hearing

I make a motion to continue the public hearing for the Daniel G. Gustafson, Lake Minnetonka Real Estate II, LLC, for a new Multiple Dock License to the January 25, 2023 Board meeting for further consideration

### APPLICATION SUMMARY

The Lake Minnetonka Conservation District (LMCD) received a commercial multiple dock application from Dan Gustafson, Lake Minnetonka Real Estate II, LLC. The Applicant requested

a continuance of the public hearing that was originally scheduled for August 24, 2022. The legal notice and public notification were re-noticed. The proposed dock structure and storage is new for this site. The Applicant's property is located along Shoreline Drive, PID: 11-117-23-22-0013, in Orono MN 55391 with a legal description of Outlot B, Dragonfly Hill. The Applicant's site is currently an undeveloped outlet residing alongside Shoreline Dr. on Browns Bay.

The property is owned by the City of Orono, but LMRE indicates it legally owns the riparian rights on Lake Minnetonka along that shoreline property. The Applicant has submitted information and court documents in support of its position. Documents are attached.

#### Site Background

The applicant has submitted an application for a new commercial multiple dock license to develop a commercial multiple dock facility. The applicant proposes to construct a dock which would have a total of nine (9) BSUs. No protected species have been noted at this point. Parking is not proposed at this site due to the limited size of the land portion of the site. The survey provided by the applicant stated the approximate locations of underground features were marked using plans obtained from utility companies, however exact locations could not be accurately placed. Excavation may be necessary.

#### Applicant Proposal

Applicant's property has approximately 428 feet of 929.4 feet OHW shoreline on the eastern portion of the parcel residing along Browns Bay. The Applicant proposes a dock structure of approximately 222 feet in width and up to 100 feet in dock length. Nine (9) boat storage units (BSUs) are proposed. Each of the 9 BSUs would be 18 feet wide by 48 feet long, with walkways six (6) feet in width. The Applicant proposes 9 boat storage units (BSUs), with the majority of the boat slips available for rent by the general public with one slip for use by the owner.

**Setbacks.** Setbacks meet the double setback requirement of 30 feet with 30 feet on the northern side site line and 138 feet on the southern side site line.

**Dock Length.** The proposed dock length is up to 100 feet in length, the maximum for the requested commercial multiple dock facility.

**Boat Density.** The Applicant proposes 9 boat storage units (BSUs). The proposed facility would have a boat density of 1:50. The 1 boat per 50 feet of shoreline would allow 8.56 BSUs. By Code, this fractionalized number is rounded up to 9 BSUs.

#### EAW

The originally proposed multiple dock facility calculation for structure and navigation would have exceeded the EAW mandatory threshold of 20,000 square feet. Therefore, the Applicant submitted a new configuration approximately 19,950 square feet in structure and navigation, which is minimally below the mandatory threshold of 20,000 square feet. Depending on installation, poles or other structures may exceed the mandatory threshold. The applicant has been advised that installation of permanent dock pilings may result in a mandatory EAW if the

square footage is over the threshold. The Board may consider a discretionary EAW, given this is a new multiple dock facility in this location.

## **CONSIDERATIONS OF A COMMERCIAL MULTIPLE DOCK LICENSE**

The following items should be considered when considering granting a commercial multiple dock license as referenced to the code section below:

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

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

- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
  - *The Applicant's proposal meets density requirements (less dense than 1:50).*
- (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
  - *The Applicant's proposal meets setback and length requirements.*
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
  - *The Applicant is proposing and will be required to install and maintain a structurally safe facility.*
- (d) Whether the structure will comply with the regulations contained in this Code;
  - *The proposal generally appears to comply with regulations of the LMCD Code.*
- (e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
  - *LMCD staff do not regard this proposal as a significant increase to traffic on the lake in relation to the Code allowances.*
- (f) Whether the proposed structure will be compatible with the adjacent development;
  - *The proposed structure is across the street from a residential house and is north of an existing commercial multiple dock and not anticipated to impact current adjacent dock structures. However, given that the proposed structure is adjacent to a heavily traveled road and the property has no space for parking, safety and parking may be an issue with this location. After 2019 legislative changes to the statute governing the LMCD's jurisdiction, "land-based marina activities" are not subject to the LMCD's authority.*

- (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
  - *LMCD staff do not regard this proposal as an incompatible with the maintenance of the lake in relation to the Code allowances.*
- (h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
  - *It does not appear the proposal will significantly affect the water quality in relation to code allowances and other commercial multiple dock facilities.*
- (i) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
  - *The proposed structure is located directly across the road from a residence. It does not appear the proposed lake use (structure or water storage) would negatively impact the area. See other comments regarding land-based activities.*
- (j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
  - *The Applicant would need to address any activities or lack of facilities if negative impacts occur in or on the lake. See other comments regarding land-based activities.*
- (k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;
  - *The majority of the proposed BSUs at the commercial marina are available for the general public to rent. One BSU is proposed as private ownership.*
- (l) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public; and
  - *The proposal generally meets dock use area Code allowances.*
- (m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.07, subdivision 4(a).
  - *N/A*

## **PUBLIC COMMENTS**

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In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Orono were provided information regarding the applications. Agency comments are provided below. General public comments received as of January 5, 2023 are summarized below. Any comments received after January 5, 2023 will be provided at the Board meeting for review.



- The City of Orono provided feedback with concerns for the proposed commercial multiple dock located at PID 11-117-23-22-0013 in Orono on August 18, 2022 as follows:

The City of Orono stated that The City of Orono is the owner of the parcel and does not consent to the proposed use of City owned land. In addition to this the City has following concerns based on City of Orono Regulations:

1. The parcel is zoned LR-1A, Lakeshore Residential District. This zoning district does not identify marinas as an allowed use. A marina would not be permitted according to City Code Sec 78-665.

2. Marinas are only permitted within the B-2, Lakeshore Business District. City Code 94-72 and 78-622. This parcel is not located within the B-2 district.

3. City Code Section 78-668 identifies requirements for off-street parking for marinas. Parking requirements are not being met with this application.

4. Performance and landscaping standards in City Code Section 78-670 and 78-671 outline requirements for site improvement and hours of operations for marinas. The City has concerns with the intense use of a commercial marina on the parcel.

5. No tree removal or intensive vegetation clearing is permitted within the 75 feet of the Ordinary High Water Lever per City Code Section 78-1285. No vegetation alterations have been reviewed or permitted to facilitate access to the proposed dock space.

6. The proposed use would pose a hazard to the area and a safety risk regarding accessibility to the site along the County road with no parking or usable space on the property.

Based on the information provided The City of Orono does not support the proposed commercial multiple dock.

- The City of Orono provided additional feedback on January 4, 2023. The City of Orono stated that the City's position has not changed since our previous correspondence and the City of Orono continues to object to the request based on the reasons stated above.
- Hennepin County Public Works Transportation provided feedback regarding concerns for the proposed commercial multiple dock located at PID 11-117-23-22-0013 on August 17, 2022. Hennepin County stated that the County sees nothing but traffic problems for the dock area. It worries it will become an unofficial drop-off and pick up loading zone, and that there is not enough shoulder of road which would result in a traffic build up. It was also noted that the section of gravel parking area just north of the parcel is a Hennepin County Right of Way (ROW), half of which is marked for limited parking and the other half for use by the City of Orono emergency vehicles only. Hennepin County would not be supportive of this dock placement and would not permit any construction from the County's ROW or any stairway that crosses the ROW to the dock.
- One public comment voicing concern for the proposed commercial multiple dock was received on August 23, 2022 from David Feldshon and Archelle Georgiou Feldshon, who

are the homeowners at 1420 Shoreline Drive in Orono as follows:

The homeowners stated that their property is directly across Shoreline from the proposed dock. They wished to inform the LMCD of a few items:

1. The riparian rights forming the basis of the dock request originally belonged with our property and were intended for residential use.
2. The location in question has no parking or sidewalk access. Thus, the proposed boat slips pose significant safety concerns.
3. There is heavy traffic on Shoreline Drive making access to the proposed dock unsafe.
4. The strip of land between the waterline and Shoreline Drive is owned by the City of Orono. A dock would require approval of the City.

Therefore, they do not support the approval of the proposed commercial multiple dock

## **PUBLIC HEARING**

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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.

The Applicant had requested a continuance of the public hearing that was originally scheduled for August 24, 2022. Due to the extended time since the original public notification, an additional hearing notice was published in the December 29, 2022 edition of the Sun Sailor (official LMCD newspaper) and December 31, 2022 edition of the Laker. Further, an additional public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site on December 27, 2022. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

## **RECOMMENDATION**

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In consultation with LMCD legal counsel, LMCD staff are recommending approval of the new commercial multiple dock classification. After 2019 legislative changes to the statute governing the LMCD's jurisdiction, "land-based marina activities" are not subject to the LMCD's authority. While the legislation may not be in the best interest of the lake or all stakeholders, the LMCD cannot reasonably deny a request solely because the applicant may need to secure further approvals from other entities. In this case, the applicant may need to secure approvals from the City and/or County and can pursue such approval after receiving approval from the LMCD.

Based on information available at the time of this report, LMCD staff recommends the Board approve the request with the conditions listed below since the proposal generally meets the license review criteria. The recommendation may change based on information reviewed or presented as part of the public hearing process.

1. Not exceed 20,000 square feet per the mandatory EAW requirement, which may require further reduction of the structure depending on installation type. Any future expansion will require an EAW. This is recommended if the Board does not choose a discretionary

EAW.

2. All watercraft storage must be contained within the boat slip structure, not extend beyond the boat slip structure.
3. If a permanent dock is installed, appropriate lighting or reflectors at the ends of the dock towards the lake must be provided.
4. The areas of sanitation to prevent pollution of the lake and safe access to the lake such as parking must be addressed.
5. Emphasize the need to work with other agencies for applicable regulations such as zoning.
6. Any license would be contingent on the Applicant retaining riparian rights to the site.
7. Highlight the details of what is being approved.
8. Include standard license provisions.

**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. Aerial Imagery of Site
3. Proposed Site Plan
4. Multiple Dock License Application and Submittals
5. Applicant Time Limit Extension Request
6. Public Hearing Notice (Sun Sailor)
7. Public Hearing Notice Mailing
8. Public Comments

# ITEM 11A ATTACHMENT

LMCD Code Excerpts



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

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

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

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

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

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

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

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

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

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

#### **Section 2-4.05. General Density Rule.**

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

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

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

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

- (n) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
- (o) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
- (p) Whether the proposed structure will be structurally safe for use by the intended users;
- (q) Whether the structure will comply with the regulations contained in this Code;
- (r) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;

- (s) Whether the proposed structure will be compatible with the adjacent development;
- (t) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
- (u) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
- (v) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
- (w) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
- (x) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;
- (y) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public; and
- (z) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.07, subdivision 4(a).

Subd. 5. Limitations. The following limitations and restrictions apply to structures licensed under this Section.

- (a) Zoning Districts. No commercial single dock shall extend across the extended zone line between sites zoned differently by a municipality.
- (b) Non-Continuous Shoreline. If the dock use area of the site includes non-continuous shoreline, the limitations in Section 2-4.09, subdivision 4(a) apply.

Subd. 6. As-Built Survey. Upon completion of the dock installation, the licensee shall provide the LMCD an as-built survey of the docks and site indicating the 929.4 NGVD foot shoreline, a line indicating the 100 foot distance from shore, dock dimensions, setbacks from the extended property lines, and witness marks for seasonal docks. The Executive Director or the Board may waive this requirement in writing.

## Daniel G. Gustafson

1040 East Circle Drive  
Wayzata, MN 55391  
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Lake Minnetonka Conservation District  
Board of Directors  
% Ann Hoelscher, Acting Chair  
5341 Maywood Road  
Suite 200  
Mound, MN 55364

3/8/2023

RE: Multiple Dock License Application, Outlot B Dragonfly Hill - LEFEVRE

Dear Ladies and Gentleman,

In 1994, the LMCD approved an application from **Michael Revier** for a variance for a dock use area due to converging lot lines. One of the main opponents to the application was a **Mr. Runkle**, a neighbor. Runkle and his attorney disputed the ownership of Revier's and the **State of Minnesota's** real property interests.

**Gene Strommen** was then **Executive Director** for the **LMCD**, and **Charlie LeFevre** was the **LMCD Attorney**. The solution LeFevre and Strommen recommended to the board in the processing of the application in the face of the dispute was to make part of the findings & facts for **APPROVAL** a statement which indicated, *"Nothing in this order is intended to be an adjudication of the respective real property rights associated with the Revier or the Runkle Sites or to confer upon the applicant any rights which violate real property rights of the owners of the Runkle Site, in excess of the authority of the LMCD."*

A letter from Mr. LeFevre acting as LMCD counsel to Executive Director Strommen dated August 13, 1993 states:

"The problem, however, with denying a variance on the basis suggested is that the LMCD board of directors is not a proper forum, in my opinion, for the adjudication of such property rights.

Even if the board were to attempt to determine the legal rights of the parties, such a determination would have no effect whatsoever on the actual legal rights of the parties. Those rights could only be determined in district court, and the decision of the court would in no way be influenced by a decision of the LMCD board of directors. If a variance were denied on the ground that the Reviers had no legal right to build a dock at the location requested, the LMCD could be placed in the middle of an expensive and time consuming real estate dispute between the two private parties. In other words, if such a denial were challenged by the Revier's by an appeal to district court, the LMCD would have to defend its denial by establishing the legal rights of the Runkles, a responsibility which I would suggest ought properly to rest with the Runkles themselves.

If a variance were granted by the board, and the applicant were to construct a dock, the Runkles would have the option to attempt to prevent construction by either a trespass or a quiet title action in district court. It would not be illegal for the board to involve itself in this dispute, but it strikes me that it may not be a dispute to which the district wishes to devote its money and energies. *Whenever the board acts on any application, it does so on the assumption that the applicant has the legal property rights, necessary to do what it proposes to do, without requiring any proof such entitlement from the applicant. Therefore, the board may choose, for purposes of action on*

*this application, simply to assume that the applicant has the legal property rights to do what he proposes to do, and allow those who have an adverse claim to the real estate to establish that claim by separate appropriate action in district court.”*

In the Revier case, in spite of the dispute proffered by an opponent to the application, the Board APPROVED the variance declaring they made no findings as to the ownership. This allowed the Board to side step litigation both from the applicant and the opponent of the application by stating in the facts and findings it was making no findings as to the ownership.

Additionally, if the board denies the application based on the claims of Feldshon and the verbal claims of the City of Orono, it will be easier to argue in a court action that the Board is acting in an arbitrary and capricious way given the Revier case; and a new precedent adopted where any opponent to any application may simply vocalize an interest in the applicant's property and the board now, based upon the board's newly adopted policy, will make judicial determination about a party's legal property ownership.

The board must reject LMCD attorney **Joseph Langel's** current advice to the LMCD, and instead adopt the advice of the far more seasoned LMCD attorney LeFevre. **Langel's inexperience as the staff attorney is resulting in bad legal advice to the Board, bad legal advice to the applicant, and bad legal advice to the opponents of the application. The end result if followed will be needless litigation in court for all parties.**

**Finally, the practical effect of denying the application based upon the alleged dispute is that the LMCD will certainly be pulled into litigation as a substitute for the Feldshons and the City of Orono.** The LMCD should not fight the Feldshon's or the City of Orono's battles with LMCD time and LMCD money. Those battles should be fought by the persons making the claims--namely David Feldshon and the City of Orono.

Sincerely,



Daniel G. Gustafson



**HOLMES & GRAVEN**  
CHARTERED

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ROBERT L. DAVIDSON

August 13, 1993

**Gene Strommen**  
**Executive Director**  
**Lake Minnetonka Conservation**  
**District**

900 E. Wayzata Blvd., Suite 160  
Wayzata, MN 55391-1836

RE: Revier Variance

Dear Gene:

I have just received a copy of a letter from David and LuAnn Runkle relating to the Revier dock use area variance application, and two accompanying legal opinions.

Unfortunately I am leaving this afternoon for a one week vacation and will not have time to respond fully to this correspondence prior to the meeting of the dock committee on Saturday. However, I do have several comments which may be helpful to the committee.

The first opinion letter which is attached to the Runkle letter is from Mr. McLagan. Mr. McLagan asserts that the construction of the Revier dock would extend onto property owned by the Runkles and that therefore the Reviers would be committing trespass by constructing the dock as proposed.

Mr. McLagan's opinion is based on three assumptions. The first is that the ordinary low water mark is where he describes it to be in the letter. However, I have discussed this issue with Mr. McLagan, and he advises me that he is not aware that the ordinary low water mark has ever been judicially determined. He also acknowledges that the fact that the land is platted does not necessarily mean that it is above the ordinary low water mark.

The second assertion upon which Mr. McLagan's opinion depends is that the Runkles own the land between the Revier property and the ordinary low water mark. The third assertion of Mr. McLagan is that the applicant cannot gain a right to construct a dock on the neighbor's property between the ordinary low water mark and the ordinary high water mark simply by securing a permit from the LMCD.

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Gene Strommen  
August 13, 1993  
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I do not necessarily disagree with Mr. McLagan's conclusions as a legal matter. The problem, however, with denying a variance on the basis suggested is that the LMCD board of directors is not a proper forum, in my opinion, for the adjudication of such property rights.

Even if the board were to attempt to determine the legal rights of the parties, such a determination would have no effect whatsoever on the actual legal rights of the parties. Those rights could only be determined in district court, and the decision of the court would in no way be influenced by a decision of the LMCD board of directors. If a variance were denied on the ground that the Reviers had no legal right to build a dock at the location requested, the LMCD could be placed in the middle of an expensive and time consuming real estate dispute between the two private parties. In other words, if such a denial were challenged by the Revier's by an appeal to district court, the LMCD would have to defend its denial by establishing the legal rights of the Runkles, a responsibility which I would suggest ought properly to rest with the Runkles themselves.

If a variance were granted by the board, and the applicant were to construct a dock, the Runkles would have the option to attempt to prevent construction by either a trespass or a quiet title action in district court. It would not be illegal for the board to involve itself in this dispute, but it strikes me that it may not be a dispute to which the district wishes to devote its money and energies. Whenever the board acts on any application, it does so on the assumption that the applicant has the legal property rights necessary to do what it proposes to do, without requiring any proof of such entitlement from the applicant. Therefore, the board may choose, for purposes of action on this application, simply to assume that the applicant has the legal property rights to do what he proposes to do, and allow those who have an adverse claim to the real estate to establish that claim by separate appropriate action in district court.

The second legal opinion which is attached to Runkle's letter is from Mr. David Sellergren. Mr. Sellergren's letter relates to the appropriateness of granting a variance generally. I will present the board with a more thorough analysis of the points raised in Mr. Sellergren's letter as soon as I am able to do so. However, it may be helpful to respond, in a preliminary way, to some of the points raised in the letter.

One of the points raised by Mr. Sellergren is that the variance should not be granted because the Reviers have adequate access to the lake through a deeded right to share a dock on the Amundson lot. I have noted above, with respect to the McLagan opinion, that the district may elect to decline to become involved in the property dispute between the Reviers and the Runkles. If the board decides to disregard the adverse real estate claim of the Runkles, it would not be inquiring into the real estate interests of those two parties. However, it seems to me that the entitlement of Revier to construct a dock on the Amundson parcel may stand on a somewhat different footing.

Gene Strommen  
August 13, 1993  
Page 3

For example, if an applicant for a variance on one platted lot also owned the adjacent platted lot, the board would presumably consider the combined ownership interest of the applicant in determining whether the applicant had reasonable access to the lake. The Revier application may be analogous to this example if the Revier property rights include the rights to construct a dock, even though it is not on the parcel upon which the Reviers would prefer to construct a dock. Therefore, it may be necessary to determine the existence and exact nature of the Reviers' right to maintain a dock on the Amundson parcel.

Mr. Sellergren's opinion is also based in part on Minnesota Statutes, § 462.357, subd. 6(2). Mr. Sellergren also cites a number of cases decided under that section. The section quoted is from the portion of Minnesota Statutes which authorizes cities and towns to adopt zoning ordinances and to grant variances in certain cases. The LMCD, however, is not a city or a town, and in adopting its ordinances is not proceeding under the authority of that section of the statutes. Likewise, the decisions of the LMCD board of directors are not necessarily governed by limitations set forth in that statute relating to variances. This is not to say that the LMCD should not look to the law of variances granted by cities from local zoning regulations for legal guidance; however, it seems to me that the LMCD's authority to grant variances stands on a somewhat different footing than that provided in the statute quoted by Mr. Sellergren.

Mr. Sellergren notes that the LMCD has granted variances for pie shaped lots in the past, but that that does not create a legally binding precedent for the LMCD in future cases. I would agree with this assertion to some extent. The case law establishes that granting a variance does not establish, as a matter of law, that all property owners with similar situations are entitled to variances in the future. However, action by the board may not be arbitrary and capricious, and evidence that the board has granted similar variances in the past would presumably be pointed to as evidence that a decision denying a variance in a similar situation was not reasonable or that the board denied the variance requested for some other improper reason.

Finally, Mr. Sellergren asserts that the applicant has the obligation of establishing a hardship and that the reasonableness of granting the hardship is measured by the standards set out in the local ordinance. He goes on to conclude that the board should conclude that this burden is not met in light of the fact that the Revier lot has the right to use the Amundson dock use area. I do not necessarily agree that even if the Reviers have such a right, granting a variance would therefore be unreasonable as a matter of law. However, it does seem appropriate to me to consider any access to the lake which is associated with the Revier parcel in deciding whether the variance requested should be granted.

Very truly yours,



**Charles L. LeFevre**  
CELL:ckr

**LAKE MINNETONKA CONSERVATION DISTRICT**

**In Re: Application of Michael D. Revier**

The applicant in this case is Michael D. Revier. Mr. Revier seeks a variance to adjust his dock use area to allow construction of a dock and storage of boats at the subject property which is located at 2691 Ethel Avenue in the city of Orono. The property is located on Carmans Bay .

This case also involves several adjacent and nearby properties. From the north, the first of these properties is located at 2684 Casco Point Road and is owned by Mr. and Mrs. David Runkle (the "Runkle Site"). The next property is owned by Mr. Michael Revier, the applicant in this case (the "Revier Site"). The next property to the south is owned by Mr. C. Gordon Amundson, 2697 Ethel Avenue (the "Amundson Site"). To the south of the Amundson Site, is a parcel owned by Mr. R. Kauffmann at 2696 Ethel Avenue (the "Kauffmann Site").

The Revier Site has approximately 26 feet of shoreline at the ordinary high water level. The hardship asserted by the applicant for the variance requested is that the extended lot lines of the Revier Site converge as they enter the lake and do not allow a dock use area of a reasonable size or shape for the storage of watercraft. The board finds that this fact does constitute a hardship within the meaning of LMCD code section 1.07.

The owner of the Revier Site has a deeded right to construct a dock and store boats on the Amundson Site which has 15 feet of shoreline. The Amundson Site, by itself, is not sufficiently large to allow reasonable construction of a dock or boat storage. The board also finds that this constitutes a hardship within the meaning of LMCD code section 1.07.

If the Revier and Amundson Sites are considered together, the combined site would have 41 feet of shoreline. However, because of the converging lot lines, there is not sufficient room for reasonable dockage and boat storage even if the two parcels

are combined; and the board finds that a hardship exists within the meaning of code 1.07 even if the two sites are considered as one.

The owners of the Revier and Amundson Sites have agreed to combine their dock use areas and use their combined shoreline for a single common dock facility of sufficient size to allow each to store one watercraft.

The board finds that the use proposed by the applicant and the owner of the Amundson Site is reasonable. Given 41 feet of shoreline, it is reasonable to expect to be able to store two boats along a straight dock, 40 feet in length, as proposed by the applicant.

The board finds that it would be unreasonable to require conformance to the ordinance given the converging lot lines which create a dock use area which is not sufficiently large, even by combining the two parcels, for reasonable dockage or boat storage.

The difficulty of conforming to the ordinance is due to circumstances which are unique to the property. It is not created by a desire of the applicant, but rather results from the combination of the facts that the dock use area is defined under the LMCD code by reference to setbacks from lot lines extended into the lake and that the lot line extensions in this case converge as they enter the lake, resulting in a dock use area which is unreasonably small for 41 feet of shoreline.

The owner of the Runkle property has objected to the granting of a variance on the ground, among others, that the hardship is created by the applicant. Mr. Runkle asserts that the applicant acquired his property after the LMCD code was in effect and therefore the hardship is self created. The board finds that the hardship is not self created in any sense that would preclude the board from granting a variance in this case, as more fully explained in the attached memorandum which is hereby made a part of this order.

The board finds that the variances granted do not alter the essential character of the locality. The proposed dock is in a residential area, and the nature and size of the proposed facility will not be out of scale with other residential dock and boat storage along the shoreline. The Runkle and Kauffmann Sites each have approximately 100 feet of shoreline. Therefore, adding storage for two boats at the combined Revier and Amundson Sites will not create unreasonable congestion in the area.

Mr. Runkle asserts that a variance may not be granted to Mr. Revier which allows him to install a dock or store boats on the Runkle side of the extended line between the Runkle and Revier Sites. This question is more fully addressed in the attached memorandum. **For the reasons explained in the memorandum, the board makes no finding as to the respective real property interests of the owners of the Runkle and Revier Sites.**

Mr. Runkle stated that he would agree to a dock plan which would not involve crossing the extended lot line between the Runkle and the Revier Sites. He argues that there is no hardship which justifies a variance adjusting this lot line because a dock has been in place in the past which did not extend over the extended lot line. It appears to be true that a dock has been constructed in the past at the Revier or Amundson Site which did not extend beyond the extended lot line between the Runkle and Revier Sites. However, this dock was not in compliance with the requirements of the LMCD code and extended substantially into the dock use area of the Kauffmann Site.

Likewise, Mr. Runkle urges the board to adopt a plan agreed upon by Mr. Revier and Mr. Runkle in an attempt to resolve this issue through mediation. That agreement, however, also avoided crossing Mr. Runkle's extended lot line at the expense of the Kauffmann Site, and Mr. Kauffmann apparently declined to approve the proposed settlement.

The board finds that the proposals offered by Mr. Runkle would be unfair to the owner of the Kauffmann Site and that the variance hereinafter granted and ordered is a more reasonable, fair, and equitable allocation of dock rights to the parties involved.

Finally, the board finds that the variances granted by this order do not adversely affect the purposes of the LMCD code of ordinances, the public health, safety, and welfare, or reasonable access to or use of the lake by the public or other riparian owners.

ON THE BASIS OF THE FOREGOING, IT IS ORDERED that the dock use areas be determined by reference to lot lines adjusted from the point at which the lot lines reach elevation 929.4 feet NGVD as follows: the lot line between the Runkle and Revier Sites is adjusted 25 degrees to the north; and the lot line between the Amundson and Kauffmann Sites is adjusted 25 degrees to the south. The variance hereby ordered is subject to the following conditions:

1. Nothing in this order is intended to encourage or require the owner of the Revier or Amundson Sites to construct a dock over the extended lot line between the Revier and the Runkle Sites.
2. Nothing in this order is intended to be an adjudication of the respective real property rights associated with the Revier or the Runkle Sites or to confer upon the applicant any rights which violate real property rights of the owners of the Runkle Site, in excess of the authority of the LMCD.
3. This order shall not be effective until the applicant has recorded a copy of this order with Hennepin County against the title to both the Revier and the Amundson Sites, together with any such other documents as may be necessary to effect its recording, as approved by legal counsel to the district.
4. The variance granted hereby shall authorize construction of only one straight dock at the combined shoreline of the Revier and Amundson Site, and no dock may be constructed at either parcel pursuant to this variance without the consent of the owners of both parcels.
5. No more than two boats may be stored at the docks at the combined Revier and Amundson Sites, neither of which boats may have a beam in excess of 8 and 1/2 feet.

6. The length of the dock constructed at the Revier and Amundson Sites shall not exceed 40 feet measured from elevation 929.4 feet NGVD.
7. No canopies shall be constructed at the dock located at the Revier and Amundson Sites.
8. The dock located at the Revier and Amundson Sites shall maintain a setback on each side of at least 5 feet from the adjusted lot line.

The variance authorized and ordered herein shall grant to vested right to the use of Lake Minnetonka. Such use shall remain at all times subject to regulation by the district to assure the public of reasonable and equitable access to the lake.

By order of the Lake Minnetonka Conservation District Board of Directors,  
this 26th day of January, 1994.

  
Eugene R. Strommen, Executive Director



LAKE MINNETONKA CONSERVATION DISTRICT

In Re: Application of Michael Revier

MEMORANDUM

In the above referenced case, the owner of the property adjacent to the applicant's parcel to the north, Mr. David Runkle, objected to the granting of the variance for a number of reasons. The board has chosen to address two of these issues in this memorandum. **The first of these arguments raised by Mr. Runkle is that the applicant does not have the legal right to construct the docks over the extended lot line between the Revier and the Runkle properties on land which is under water below the ordinary high water mark.**

Although land between the ordinary high water mark (OHWM) and the ordinary low water mark (OLWM) may be privately owned, the board is not aware that the OLWM has ever been determined for Lake Minnetonka. Without such a determination, it would not be possible to evaluate the merits of Mr. Runkle's claim because the land below the OLWM is owned by the state of Minnesota and cannot be privately owned. Moreover, the between the OHWM and OLWM, the use of private property is subject to reasonable regulation by public authority. Whether allocating lake access among riparian owners may constitute such reasonable regulation has not been determined. In any case, the board must decline to decide the case on the basis of this claim for both legal and practical reasons. **Legally, the board has no authority to adjudicate adverse claims to real property. Because the board has no legal authority, it would make little sense as a practical matter for the board to attempt to decide the issue on the basis of its opinion about real property interests of the parties. Any decision made on the basis of the board's findings on real property interests would properly be subject to challenge by either of the parties, and the board would be placed in the position of attempting to defend private real property rights of one citizen against the adverse claims of another.**

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Such questions are better left to courts of competent jurisdiction in a legal action involving the interested parties should either party feel that it is appropriate or necessary to have their respective rights adjudicated.

An additional claim of Mr. Runkle which warrants separate comment in this memorandum is his assertion that the applicant cannot qualify for a variance because he acquired the property after the LMCD code provisions were in place. He argues, therefore, that the hardship is self-created. There is some precedent which is supportive of this position in land use law. However, there is also a good deal of precedent to the contrary. Under the LMCD code, the board is allocating among riparian owners dockage rights over the public waters. It is not regulating the use of private property under the authority of Minnesota Statutes, § 462.357, subd. 6 which applies to the granting of land use variances by cities. In many cases, the hardships or practical difficulties which are the basis for granting variances under LMCD Code Section 1.07 are simply the result of the fact that the LMCD has chosen, as a matter of convenience, to use as a starting point for allocating dock rights among riparian owners, an imaginary line created by extending the side property line into the lake on a straight line from the point at which it meets the OHWM. Over the years this has proven to work reasonably well in most cases. The obvious advantage of this convention is that the lot lines can be readily determined by survey. The determination of an authorized dock use area would be much more difficult if the board had decided to use some other convention such as a line perpendicular to the shoreline or a line extending to the center of the bay. However, the strict application of the code does not always result in a fair or reasonable allocation of dock rights or allow riparian owners reasonable access to the lake. Therefore, the board has found it appropriate to adjust dockage rights in such cases through the granting of "variances" from the provisions of the code.

If there are hardships or practical difficulties relating to the dockage rights of a given parcel of riparian property and a variance is appropriate under the code, the board does not feel that it is appropriate to refuse to grant reasonable dockage rights to that same parcel merely on the ground that the ownership of the property has changed hands. In other words, if granting a variance is appropriate under the facts of any given case on the day before a transfer of title, it will generally be appropriate on the day after title is transferred as well. The board has not declined to grant variances in the past on the ground that a transfer of title creates an improper "self-created" hardship, and it does not find that it is appropriate to do so in this case.

LAKE MINNETONKA CONSERVATION DISTRICT

**Public Hearing:** To consider a variance application for **Michael D. Revier**, 2691 Ethel Avenue, Orono, Carmans Bay. The variance is for an adjusted dock use area due to the converging lot lines of the site. The lot has approximately 28' of shoreline.

**Meeting:** 7:00 PM., Wednesday, July 28, 1993  
Tonka Bay City Hall

**Members Present:** Tom Penn, Vice Chair, Tonka Bay; Bert Foster, Deephaven; James Grathwol, Excelsior; Wm. Johnstone, Minnetonka; Mike Bloom, Minnetonka Beach; Scott Carlson, Minnetrista; Thomas Reese, Mound; JoEllen Hurr, Orono; Robert Rascop, Shorewood; Douglas Babcock, Spring Park; George Owen, Victoria. Also Present: Charles LeFevere, Counsel, Rachel Thibault, Administrative Technician; Eugene Strommen, Executive Director.

Vice Chair Penn called the Public Hearing to order at 7:05 PM.

The staff memo submitted to the Board states that, according to the City of Orono, Revier's lot was platted on 9/17/52. The LMCD Code would allow 5' side setbacks and a dock length to 4' water depth or 60' maximum on this size lot, if the property lines did not converge.

Thibault explained that the Revier property is adjacent to a 15' corridor, Lot B R.L.S. 115, owned by Gordon Amundson, 2697 Ethel Avenue. Because the Revier property, with approximately 28' of shoreline and converging lot lines, essentially does not have a dock use area, Revier would like to create a shared dock use area with Amundson.

Thibault said a point has been raised by the neighbor to the north, David Runkle, 2684 Casco Point Road, that the Revier property title shows access to use Lot B, the 15' strip for bathing and dock use. It is Thibault's understanding that the shared dock would be angled toward the south, away from the Runkle property. Thibault submitted photos, supplied by Revier, showing the area.

Revier said he shares a dock with Amundson, neighbor to the south. The Amundson dock has been there for about 30 years. The location of the dock was established to meet the 5' setback and to retain 4' of water as the Lake level drops. The proposal is to start the dock at the common property line and to extend the dock to follow the property line.

Dick Kauffmann, 2696 Ethel Avenue, owner of the property to the south of Amundson, asked for an explanation of the dotted lines in the Lake on the Hennepin County half-section map. Kauffmann is concerned that they may indicate that Revier owns the lake bed and he does not have any dock rights. Thibault said she has been told the dotted lines indicated lot lines when the property was originally platted and the water level was much lower, exposing more lakeshore. LeFevere explained that Lake Minnetonka was a navigable body of water when Minnesota entered the union. The bed and body of the Lake is owned by the State of Minnesota and cannot be sold. That applies to the lake bed below

the "ordinary low water mark" (OLWM). The OLWM has never been determined for Lake Minnetonka. The Lake bed can be privately owned to the OLWM, but that land would be subject to the rules of the LMCD. The LMCD has ignored that fact because it cannot determine who owns real estate. The LMCD tries to provide everyone who has riparian lake shore access to the Lake. LeFevere suggested ignoring the dotted lines unless they become part of the solution.

Foster suggested just whiting out the dotted lines and work with the 929.4' OHWL.

Hurr said the dotted lines are on a Hennepin County plat map. The City of Orono, in discussing the application, determined the dotted lines define the area that may be used by the property owners for their docks. Orono says Amundson has 20' of shoreline and Revier has 20', for a total of 40'. The Revier Certificate of Title refers to bathing and boating rights on Lot B, the Amundson property. The 40' wide dock use area defined by the dotted lines does not infringe on the neighbor to the north.

LeFevere said, under the LMCD Code, each site is treated as having its own dock use area. The Code does not say how many people can share a site.

Amundson said his dock has been there for 30 years. Revier's lot is the only one that has an interest in his property.

Grathwol said the purpose of this hearing is to get information. The Board needs a copy of the title language for the record. The survey submitted by Revier does not show the 929.4' line. That information should be available. If there is a shared dock between Amundson and Revier, the District should have information about that agreement. The District needs a scaled drawing showing the Runkle, Revier, Amundson and Kauffmann dock locations. The District tries to solve the problem of converging lot lines by making arrangements with the neighbors to make the docks fit with the land.

Kauffmann said there is no hardship to anyone down the line in this instance.

Bloom asked for an explanation of the two docks shown on the drawing. Revier said the one running almost east is the current dock. The dock running to the northeast is the proposed dock. Revier said there is nothing unique about the area.

Foster said there seems to be different information being given. There should be agreement as to what the dotted lines mean. He requested that LeFevere resolve that question. LeFevere said he is not sure there is disagreement between himself and the Orono opinion. He is suggesting a more practical than legal method of resolving the problem. No one knows where the low water line is. That is something which would have to be determined by a District Court. Without that information the Board could be in the position of giving someone a right to build a dock on someone else's private land. This is not the place to determine the legal property rights. If necessary that should be determined by someone else.

**PUBLIC HEARING - REVIER**

**July 28, 1993**

Runkle presented a summary of his opposition to the dock variance request of Revier. His conclusion is that a dock or setback variance should be denied and documented for future owners of Tract C, R.L.S 115. It is his belief the Revier property was platted without access. He presented a picture of the area taken from the Lake.

Amundson responded that the dock was there when Runkle bought his lot. Kauffmann objected to the picture submitted by Runkle as being deceptive as to his lot line location.

Penn said this variance request and public hearing information will be submitted to the Water Structures Committee for its meeting, 7:30 AM., August 14, 1993 at the LMCD offices.

The Public Hearing was closed at 7:40 PM.

**Findings of Fact:**

1. Michael Revier has submitted a variance application for his property at 2691 Ethel Avenue, Orono on Carmans Bay. The variance is for an adjusted dock use area, the hardship being converging lot lines.
2. Revier has submitted that there is 28' of shoreline at the property. The survey shows 20' at the 928.75' elevation water level.
3. The property was platted on 9/17/52. The Code would allow 5' side setbacks and a dock length to 4' water depth, or 60' maximum on this amount of shoreline if the property lines did not converge.
4. The Certificate of Title for Revier's property grants the right to use of the shore for private bathing and docking on Lot B, a 15' strip of land lying southeast of and adjacent to the southeast lot line of Revier's property. Lot B is owned by Gordon Amundson, 2697 Ethel Avenue.
5. Revier and Amundson have indicated that they plan to share a dock which will be located on the common property line.

**RECOMMENDATIONS:**

**August 14, 1993 Water Structures Committee meeting**

Babcock reviewed the Public Hearing report and Findings of Fact from 7/28/93 to consider the application of Michael Revier for a dock use area variance.

The committee received a packet of information from staff including material made available at the public hearing. A letter dated 8/12/93 from David and LuAnn Runkle, 2684 Casco Point Road, objecting to the variance was submitted. The Runkle letter included attachments, with letters from attorneys Clinton McLagan and David Sellergren supporting the Runkle objection.

The Runkles' objection is based on the contention that the proposed Revier dock will encroach on their property rights. They state Revier has the right to share an existing dock with the neighbor the south, C. Gordon Amundson, 2697 Ethel Avenue, that Revier purchased his lot knowing of the limited docking situation and at the Orono Planning Commission meeting, Revier stated he did not intend to build a dock.

Also submitted was a letter dated 8/13/93 from Charles LeFevere, LMCD Counsel, commenting on the Revier variance application. LeFevere concluded that granting the variance would not be unreasonable. However, according to LeFevere, it would be appropriate to consider any access to the lake which is associated with the Revier parcel in deciding whether the variance requested should be granted. LeFevere advised against the LMCD becoming involved in determining the property rights of Revier and the Runkles. Those rights should be determined by a court of law.

An additional letter with attachments furnished by Runkle, dated 8/13/93, was received by the committee at this meeting. Babcock said the submittals will take some time to review. Babcock also noted LeFevere's request for more time to complete his review. Revier responded to a question from Cochran, stating the house on his lot will be completed in October. Cochran suggested the committee could delay action for more study. Babcock said he would like some discussion at this time because all parties concerned were present.

The discussion resulted in the following additional information:

- \* Revier estimates his shoreline at 28'. He agreed to have a survey to determine more precisely the shoreline frontage at 929.4" OHWL. Babcock told Revier the committee will consider a dock length to reach 4' of water depth from the 929.4' level.

- \* Revier said he would want to proceed with the variance based on dock shared with Amundson.

- \* Foster asked how far out a shared dock can go when one lot is 30' and the other 50'. Can they be combined for an 80' dock? Thibault said 50' would be the authorized dock length as the Code only allows the neighbors to waive the common setback requirement. Babcock would like an opinion from LeFevere if that becomes an issue.

- \* Runkle said he believes there is adequate room for a shared dock on Amundson's property (Lot B) without a variance. He showed an overhead projection of the area. Runkle believes that any problems regarding dock rights lie within R.L.S. 115 which includes the Revier, Amundson and Kauffmann properties. Runkle said it is possible to construct a dock entirely within R.L.S. 115. Babcock noted the property was originally platted when the lake level was below 929.4' and therefore some of the lots were platted to include land that is now under water. The ownership of the property platted below the 929.4' shoreline is questionable and may only be determined by the courts.

JULY 28, 1993

\* R. Kauffmann, 2696 Ethel Avenue, owner of the property south of the Amundson property, said his attorney advises the State of Minnesota owns the property under the water. He believes, if Runkle wants to prove anything different, it should be adjudicated in court. He is agreeable to Revier and Amundson sharing a dock if it can be constructed so as not to interfere with anyone else. He agreed with the LMCD staff recommendation as prepared by Thibault and included in the staff packet.

\* Runkle does not agree with the LMCD staff recommendation. He believes the matter of dockage was settled in 1956 when the property was platted by giving Revier dockage rights over the Amundson property.

\* Reese said he believes there is a possibility of compromise. He believes the proposal is reasonable, but recommended drawing a dock location in the area defined on the staff recommendation.

**MOTION:** Cochran moved, Reese seconded, to have the applicant work with staff and the other parties involved, to draw the dock and boat locations in the dock use area defined on the staff recommendation, staying as far away from the north line as possible. The application is to be held over to the next committee meeting for an expanded opinion from LeFevere.

**DISCUSSION:** Babcock asked Revier and Amundson if there was a limitation on boat size that they would consider acceptable. Revier and Amundson said they have 25' and 21' boats, respectively. Kauffmann said he would have to move his dock further south. He believes the angle could be modified to some extent.

Cochran asked for the shoreline frontage on the Kauffmann and Runkle properties. Kauffmann said he has approximately 100' and Runkles' have approximately 110'.

Mrs. Runkle asked for consideration of their plan. It was suggested the Runkle proposal be overlaid on the staff proposal to show the area of disagreement. Any new material is to be submitted to staff at least 8 days before the next committee meeting.

**VOTE:** Motion carried unanimously.

September 11, 1993 Water Structures Committee meeting

At the 8/14/93 meeting, the committee received the report and Findings of the Public Hearing held on 7/28/93 regarding a variance application from Michael Revier. The variance is for an adjusted dock use area due to the converging lot lines of the site.

At the 8/14/93 meeting, the committee voted to have the applicant work with staff and the other parties involved to draw the dock and boat locations into the dock use area proposed by staff, staying as far away from the north line as possible. The application was referred to the next committee meeting for an expanded opinion from LeFevere in response to the letters submitted by Runkles, 2684 Casco Point Road, opposing the variance.

Revier submitted a revised site survey with the 929.4' shoreline indicated, showing he has 26' of shoreline and neighbor to the south, Gordon Amundson, has 15' of shoreline.



Babcock reported that he, Cochran, and Thibault met with Counsel LeFevere on 9/10/93 to discuss the application. LeFevere suggested the neighbors, Revier, Amundson and Runkle, try to solve the problem through the use of a mediator. Babcock added that the LMCD Board can make a decision but a better solution would be to have the neighbors reach a mutually satisfactory agreement.

Revier said they have tried that on their own with no success. He said the problem cannot be resolved without the involvement of the LMCD and they would like to have a decision made as soon as possible. He said it seemed to him that everyone was happy with the LMCD staff proposal except Runkle.

Babcock explained that the suggested mediation service is available through Hennepin County and/or other government agencies, at no cost. The LMCD would like to see that approach used, with all the involved parties returning to the committee with a proposal. Babcock said he believes there is enough shoreline between the Revier and Amundson property to support a joint dock.

Babcock said the committee understands Revier's position. It also understands that Runkle contends the dock would encroach on his property which is now under water. Revier responded that Runkle has to prove that he owns the property under the water (below the 929.4' shoreline).

Babcock said he believes both parties' contentions have merit after his review of the comments of LeFevere and the Runkles' attorney. If the suggested mediation is not followed it is possible that both parties will lose. The Runkles may wind up with a dock encroaching on what they believe to be their property. The Reviers and Amundsons may have limitations imposed on both properties' dock use areas which will not allow them to retain boats of the current sizes they desire.

MOTION: Foster moved, Babcock seconded, to table the discussion of the Revier variance application, recommending the interested parties contact a professional mediator. The committee will consider any recommendation which would be forthcoming.

VOTE: Motion carried unanimously.

Runkle said his attorney has indicated that would be satisfactory.

Babcock addressed the parties present by stating the committee is not trying to put them off. Because of the season of the year there are several months to work on a solution. He said the parties could proceed on their own or contact the LMCD staff for assistance.

Reese said the tabling motion precluded discussion and he wanted to make some comments. He favored the staff plan. Eighty percent of the people were in favor of it.

Babcock said there were several reasons to table. One was that the new survey was not received from Revier until 9/11 and there was no opportunity for the staff to review it. Secondly, LeFevere recommended the use of a mediation service. There also is the question of allowing a dock across the Runkles' extended side site lines, even if platted below the 929.4' shoreline. Babcock said time should be taken to find a solution agreeable to all parties. Babcock said he, personally, is concerned about whether the small shoreline involved can support a 26' long boat.

Foster agreed that the mediation service is an excellent way of trying to solve the problem.

PUBLIC HEARING - REVIER

July 28, 1993

WATER STRUCTURES COMMITTEE

October 9, 1993

Babcock reported that the Dock Use Area variance application from Michael Revier is pending the outcome of mediation between the applicant and the neighbors. The mediation is scheduled for 10/16. Babcock said discussion will be tabled until the mediation is concluded.

David Runkle, 2684 Casco Point Road, questioned why the subject was on the agenda. Thibault explained the agenda is prepared ten days before a meeting and the mediation date was not known at that time. Runkle said the mediation may take more than one meeting.

WATER STRUCTURES COMMITTEE

November 20, 1993

The committee received a report from the West Suburban Mediation Center, dated 11/10/93, on the outcome of mediation between Revier and his neighbors.

According to the report a mediation took place on 10/16/93 between Mike Revier and David Runkle and two of West Suburban's mediators. At the end of the session Revier and Runkle agreed to meet for a second session which would include the other two neighbors, Dick Kauffmann and Gordon Amundson. Kauffmann declined mediation, saying he was willing to go along with the LMCD proposal. October 20, 1993 Mr. Amundson agreed to attend the next mediation. Subsequently on 11/9/93 Revier advised West Suburban that he did not wish to continue with the mediation and Amundson was not willing to participate in the second mediation either.

Runkle said there was agreement to a dock plan from which to work at the first session. Amundson said he would participate only if the dock use area could pass over the extended lot lines of Runkle's property which he says he owns under the water.

Revier said the issue should be settled at the committee level. Amundson and Kauffmann do not want to participate in mediation. He feels everyone has dug their heels in and will not move. It is his opinion that all are willing to go with the LMCD staff proposal and give a little except Runkle. Foster said he would like them to proceed with the mediation service.

MOTION: Reese moved, Slocum seconded, to recommend to the Board approval of the LMCD staff recommendation described as follows: The extended north side site line of Revier's property is to be adjusted 25 degrees to the north on the Runkle side and the extended side site lines of Revier's and Amundson's properties to be adjusted 25 degrees to the south on Amundson's and Kauffmann's side. Revier and Amundson are to share a common dock for storage of no more than two boats, with a beam limit of 8.5'. The dock length is limited to 40'. The 5' side setbacks must be maintained with no canopies allowed.

July 28, 1993

**DISCUSSION:** Rascop questioned at what point a lot is too small to have a dock. Babcock responded that Revier and Runkle have 41' between them to create a combined dock use area for one dock with space for two boats. Carlson said at some point the District has to establish that a certain lot width does not support a dock.

Runkle submitted a letter dated 11/18/93 to supplement his letter of May 18, 1992 in which he recommended that there not be a dock in this area.

Babcock said there does not appear to be agreement between the four parties. A dock length has been established. There is a need to establish the dock corridor. The mediator's proposal affects Kauffmann more than the staff proposal. Babcock said he would prefer a second mediation session. Reese said the motion to approve the staff recommendation may induce the parties to go back to mediation.

Runkle said he is paying for a survey involving all four parties.

Carlson suggested sending them back to mediation, have them submit two proposals and the committee will select one. Grathwol said unless Revier and Amundson are willing to find a Dock Use Area he will have to vote to deny any variance. Slocum said the parties involved can still return to mediation. Babcock said he would like to see an agreement worked out with the neighbors. He believes there is room for a workable plan to bring to the table.

Strommen said there remains the question of Runkle's property under the water. Grathwol said he does not believe the committee has to address the bottom of the Lake. That will have to be determined elsewhere. The District controls the surface water of the Lake.

Penn arrived.

Runkle said he does not agree with the proposal as it stands. He added that Revier had stated at an Orono meeting that he did not plan to have a dock when he developed the property.

**VOTE:** Slocum, Carlson, Johnstone, Babcock, Reese and Grathwol voted aye. Rascop and Foster voted nay. Penn abstained. Motion carried.

#### LMCD BOARD OF DIRECTORS

December 1, 1993

The committee recommended approval of an adjusted dock use area per the 10/5/93 site plan, with conditions per 11/20/93 committee minutes.

**MOTION:** Babcock moved, Reese seconded, to approve the LMCD staff recommendation described as follows: The extended north side site line of Revier's property is to be adjusted 25 degrees to the north on the Runkle side and the extended side site lines of Revier's and Amundson's properties to be adjusted 25 degrees to the south on Amundson's and Kauffmann's side. Revier and Amundson are to share a common dock for storage of no more than two boats, with a beam limit of 8.5'. The dock length is limited to 40'. The 5' side setbacks must be maintained with no canopies allowed.

July 28, 1993

**DISCUSSION:** David Sellergren, attorney representing the Runkles, said the Runkles are opposed to the variance because: 1) There is no showing that what worked in 1993 or was suggested by the mediator does not work. 2) The record does not show any practical difficulties or unnecessary hardship in complying with the regulations. 3) Revier (the applicant), Amundson and Kauffmann all own land in R.L.S. 115. The Revier, Amundson and Kauffmann deeds state Revier is allowed use of the 15' owned by Amundson for a dock. That has been the situation since 1956. The applicant states limiting his use to the 15' is a hardship. Revier was aware, when he purchased the property, of the limitations. Amundson and Revier used a dock in 1993 without a variance. Photos show them anchored in the right places and not over Runkle's extended lot line. Runkle has no objection to them using it that way again. 4) At the Board's direction and after discussion with LeFevere, the parties went through mediation resulting in a plan, suggested by the mediator, which requires no adjustment of the lines, as recommended by staff. It did require the Runkles to accept a zero setback along their south property line. There is no evidence that would not work. Kauffmann and Amundson did not complete participation in the mediation process.

Sellergren said there appear to be two solutions that work. If there are two plans that work, there cannot be a hardship. The committee recommendation is for a 40' straight dock, 2 boats with a maximum beam of 8-1/2' and no canopy. Those conditions are fine. The problem is with the 25 degree variance which results in the extension of the dock approximately 20' over the extended lot line of the Runkles. It affects the view from their home and crosses their extended property line. It affects their property value.

Sellergren said the burden is on the applicant, Revier, to show a practical difficulty. It appears neither he, Kauffmann nor Amundson will agree to the 1993 solution or the mediator's solution. There is no hardship because he knew what he was buying. It is a self-created hardship. He made arrangements to use the 15' for a dock. Therefore he cannot say he has to have a dock in another location. In 1993 the dock worked as it paralleled the extended lot line of the Runkles. Sellergren believes inconvenience is the hardship. If that is the case the inconvenience among Revier, Amundson and Kauffmann should be decided among themselves and not through an LMCD variance. Sellergren believes Revier would be maximizing his property value at the expense of the Runkles. To grant the variance would reward the others who refused to participate in the mediation process.

Grathwol asked if the Runkles' objection would hold true if the dock does not go over their extended property line. Runkle said he would like to see the dock location defined and drawn out.

Markus asked what would happen if Kauffmann moved his dock north, forcing Revier and Amundson into shallow water. Sellergren said Kauffmann has information on his deed that there is a right to a dock on the 15' and he could not obstruct that right. Babcock said Kauffmann is not willing to give up more of his dock use area so there is no encroachment on the Runkles.

Amundson said he had a hardship with the dock location in 1993. He had to put his 26' boat at a commercial marina. He has had a dock extending straight out from his property for 30 years, as he was a partner with the previous owner of the Revier property.

Foster said he is troubled about granting a variance when people will not go to mediation. In this case there was a staff recommendation that was agreeable to Revier and Amundson but not Runkle. Foster does not believe there should be staff recommendation in the future as then there is no reason to go to mediation. It is Foster's belief that the variance should be denied because they did not mediate. Cochran said he does not believe this is any different from other solutions from staff which have been approved.

Bloom said, because of the information in the Amundson, Revier and Kauffmann legal descriptions, it should be known to Kauffmann that Revier and Amundson would share a dock use area. He does not believe the dock should go to the north on the Runkle property.

Reese said he does not believe a mediator can understand these complex situations without the background of the District. He believes the staff has made a fair and unbiased solution.

Slocum suggested thrusting the dock more to the Amundson side. Babcock said this is a combined dock use area. The Revier/Amundson lot line is immaterial. The staff proposal adjusted the dock use area, leaving the placement of the dock up to Revier and Amundson.

Babcock asked LeFevere to comment on the District position in the past in extending lot lines from the 929.4' shoreline and taking into consideration lot lines platted below the Ordinary High Water Level (OHWL). LeFevere said the Ordinary Low Water Level (OLWL) on Lake Minnetonka has never been determined. In the past, during low water, whole bays were exposed. The District cannot take into account where those plat lines are located. Until there is an adjudication, and that is for the courts to decide, the District should extend the lines from the OHWL according to the LMCD Code.

Sellergren said the Runkles are not suggesting addressing the question of who owns what below 929.4'. He said Revier, Amundson and Kauffmann have always contemplated that there would be a dock in the 15' owned by Amundson. The staff report puts the dock somewhere else. He said the dock should be in the 15' or the variance denied.

LeFevere, commenting on the subject of mediation, said mediation has the potential to help in getting a better solution. It is not a good idea to force people into mediation. It has to be undertaken voluntarily and the resolution agreed to by both parties. Mediation is not the same as arbitration. He said it is counter-productive for the district and a waste of the mediator's time to force people into mediation. He added that it was said the mediator suggested a dock plan. Mediation is a private matter. The mediator has no business proposing a dock plan. The mediator is not to make recommendations.

July 28, 1993

Amundson said he called the mediation service and said he would come to the second session. They never called back with a date.

LeFevere added that the 1993 plan and the mediator's solution both require a variance. The mediator's solution shows the Revier boat parked next to the Runkle lot line. Runkle would have to agree to a zero setback. Also the Kauffmann extended lot line runs through the whole dock plan.

Foster asked if Kauffmann has used the 15'. Thibault explained that only Revier and Amundson have the right to use the 15'. The notation on the Kauffmann deed is for information only.

Grathwol said he is disturbed that the Board is taking a neighborhood that was getting along fine for 35 years. Now the Board is saying Amundson and Revier are to have a combined dock use area. Grathwol then made a motion which he and seconder agreed to separate into two parts.

**MOTION TO AMEND:** Grathwol moved, Foster seconded, to amend the motion by adding a condition that the Board is not encouraging the applicant to extend the dock over the Runkles' extended property line.

**DISCUSSION:** LeFevere said the staff recommendation would move Revier's north extended lot line 25 degrees to the north. That would still give Amundson a 15' wide corridor. There would be a more rectangular dock use area for Revier. If they do not combine Amundson does not have the right to use the Revier property.

**VOTE ON AMENDMENT:** Motion carried. Grathwol, Foster, Bloom, Markus, Cochran and Babcock voted aye. Rascop, Slocum, Reese, Carlson and Penn voted nay.

**MOTION TO AMEND:** Grathwol moved, Foster seconded, that a condition of the Order is to require Amundson and Revier to record these actions on their deeds.

**VOTE ON AMENDMENT:** Motion carried unanimously.

**MOTION AS AMENDED:** The original motion, as amended, is to have staff and the attorney prepare the Findings and Order as directed.

**DISCUSSION:** Carlson expressed concern that the variance criteria in the Code have not been addressed. He would like more discussion of the criteria before voting on the Findings and Order.

In response to a question from Slocum about water depths it was reported there is just about 4' of water depth at the apex of the dock use area.

**VOTE ON MOTION AS AMENDED:** Motion carried, Foster and Bloom voted nay.

WATER STRUCTURES COMMITTEE

January 8, 1994

The committee received the draft Findings and Order approving variances for Michael Revier. Dick and Janet Kauffmann, 2696 Ethel Avenue, property owners to the south of the Revier-Amundson properties, sent a letter dated 1/4/94 expressing agreement

PUBLIC HEARING - REVIER

July 28, 1993

with the Order. David and LuAnn Runkle, 2684 Casco Point Road, property owners to the north of Revier, submitted a three page critique of the order, dated 1/5/94, concluding that no hardship exists and the variances should be denied. The Runkle communication was referred to Charles LeFevere, LMCD Counsel. LeFevere could find nothing in the Runkle information to warrant changing the Findings and Order.

MOTION: Babcock moved, Reese seconded, to recommend approval of the Findings and Order granting variances to Michael Revier, 2691 Ethel Avenue, Orono.

VOTE: Motion carried unanimously.

The communication from the Runkles is to be forwarded to the Board for its review.

Grathwol arrived

LMCD BOARD OF DIRECTORS

January 26, 1994

C. Revier Variance, 2691 Ethel Ave., Orono, Carmans Bay

MOTION: Babcock moved, Reese seconded, to approve the draft Findings and Order regarding the variance application of Michael Revier.

Thibault distributed a letter from Mr. and Mrs. C. Gordon Amundson, 2697 Ethel Avenue, responding to the comments of David Runkle, 2684 Casco Point Road, 1/5/94.

Runkle said he and his wife have tried their best to document their position. They do not feel there is a hardship and there is no documentation of a hardship in the Findings.

VOTE: Motion carried, Markus and Rascop voting nay.



# LAKE MINNETONKA CONSERVATION DISTRICT

900 EAST WAYZATA BOULEVARD, SUITE 160 • WAYZATA, MINNESOTA 55391 • TELEPHONE 612/473-7033

EUGENE R. STROMMEN, EXECUTIVE DIRECTOR

## BOARD MEMBERS

William A. Johnstone  
Chair, Minnetonka  
Tom Penn  
Vice Chair, Tonka Bay  
Douglas E. Babcock  
Secretary, Spring Park  
Robert Rascoy  
Treasurer, Shorewood  
Mike Bloom  
Minnetonka Beach  
Scott Carlson  
Minnelrista  
Dave Cochran  
Greenwood  
Albert (Bert) Foster  
Deephaven  
James N. Grathwol  
Excelsior  
Duane Markus  
Wayzata  
George C. Owen  
Victoria  
Tom Reese  
Mound  
Robert E. Stocum  
Woodland  
Orono

February 8, 1994 - Certified Mail

Mr. **Michael Revier**  
2691 Ethel Ave.  
Wayzata MN. 55391

Dear Mr. Revier:

We are pleased to enclose a copy of the Findings and Order granting a variance for an adjusted dock use area, with conditions as stated, at your property.

Your variance application for an adjusted dock use area was completed with the approval of the Findings & Order by the LMCD Board on 1/26/94.

The attached expense summary is a itemization of the costs involved with processing your application. Also enclosed is a detail of the attorney's fees related to your application.

The total expenses of \$2,316.38, less the application fee and deposit in the amount of \$500, leaves a balance due of \$1,816.38.

This balance is due within 30 days of receipt of this letter.

Please call if you have any questions about the expense summary.

Sincerely,

LAKE MINNETONKA CONSERVATION DISTRICT

Eugene R. Strommen  
Executive Director

ERS/rst

Encl.







# ITEM 13A

## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** March 8, 2023 (Prepared March 1, 2023)

**TO:** LMCD Board of Directors

**FROM:** Maisyn Reardan, Administrative Coordinator

**SUBJECT:** Review of the LMCD Strategic Plan

### **ACTION**

Board review and discussion regarding the LMCD Strategic Priorities and the format of the strategic plan.

### **BACKGROUND**

Strategic plans are useful tools to communicate the organization’s goals and the actions needed to achieve the desired results. They provide direction and guidance to the leadership and staff.

Attached is the 2021-2022 LMCD Strategic Plan that was adopted on September 9, 2021. The Board has requested the plan be brought forward in order to review the organizations strategic priorities and initiatives as well as identify and suggest any changes that need to be made to the plan for 2023.

### **CONSIDERATIONS**

- Does the board think the priorities adequately reflect the mission, vision, and core values of the organization?
- Are there areas that should be addressed and are not reflected by the revised Strategic Priorities?
- Is the format effective in presenting the strategic plan or are there other suggestions?

### **BUDGET**

N/A

### **STRATEGIC PRIORITIES**

Operational Effectiveness  
  Clear & Timely Communications  
  Effective Governance  
  Lake Protection  
  Other

### **ATTACHMENT**

- 2021-2022 LMCD Strategic Plan Adopted 09/09/2021.
- 2021-2022 LMCD Mission, Vision, and Core Values



**LMCD Strategic Plan 2021-2022**

(September 09, 2021: Strategic Plan and Business Plan )

Strategic Priority	Desired Outcome	Key Outcome Indicator (KOI)	Strategic Initiatives 2021/2022
<b>I. FINANCE</b>	<ol style="list-style-type: none"> <li>Capacity to deliver core functions</li> <li>Execution of strategic plan priorities</li> <li>Maintaining a strong financial foundation</li> </ol>	<ol style="list-style-type: none"> <li>Quarterly reports</li> <li>Major fund reserves year-end balances</li> </ol>	<ol style="list-style-type: none"> <li>Explore investment fund options</li> <li>Finalize and maintain a Capital Equipment Plan</li> <li>Create new funding sources analysis</li> <li>Review LMCD fee structure</li> <li>Assess legal fees and use of attorney</li> <li>Fund reserves of 30% to 50% (target 35% and distribute excess over 5 years)</li> </ol>
<b>II. COMMUNICATIONS</b>	<ol style="list-style-type: none"> <li>Board and staff follow communication protocols</li> <li>Partners &amp; stakeholders find value in relationship</li> <li>Increased understanding of purpose, rules &amp; regulations</li> </ol>	<ol style="list-style-type: none"> <li>Stakeholder &amp; partner feedback</li> <li>Positive vs negative representation of LMCD in outside media coverage</li> <li>Amount of information communicated to stakeholders via websites, articles, brochures and other delivery methods.</li> </ol>	<ol style="list-style-type: none"> <li>Identify and utilize most effective outlets to convey public information about safety, rules and best practices</li> <li>Continue to develop relationships with and regularly update cities, legislators, agencies and others regarding LMCD initiatives</li> <li>Continue to refine feedback mechanisms for stakeholder and partner initiatives</li> <li>Communications Committee to set priorities and initiatives and develop recommendation to Board for annual budget</li> </ol>
<b>III. OPERATIONS, GOVERNANCE &amp; REGULATION</b>	<ol style="list-style-type: none"> <li>Effective Board and Committee meetings</li> <li>Well-trained Board and staff</li> <li>Effective and respectful Board and staff relations</li> <li>Board meeting civility</li> <li>Reduction of staff time processing applications</li> </ol>	<ol style="list-style-type: none"> <li>Number of meetings</li> <li>Meeting length</li> <li>Decision processing</li> <li>Training records</li> </ol>	<p style="text-align: center;"><u>COMMITTEE Role</u></p> <ol style="list-style-type: none"> <li>Develop Succession Plan for LMCD Executive Leadership</li> <li>Develop training plan for Board regarding standards, process, inclusion &amp; diversity, etc.</li> <li>Continue annual Board self-evaluation process</li> <li>Review opportunities for continued officer and board member engagement in LMCD initiatives and committees</li> <li>Update wake, high water and quiet water area policies</li> <li>Analyze competing lake uses, impacts and lake management options (ex. Watercraft types, density, etc.)</li> </ol> <p style="text-align: center;"><u>STAFF Role</u></p> <ol style="list-style-type: none"> <li>Update prioritized annual calendar/work plan</li> <li>Maintain an effective reporting system</li> <li>Continue to assess staffing/capacity needs (complaints, data requests, etc.)</li> <li>Update Board Members Handbook</li> <li>Continue to create and update instructions sheets for new applications (website, handouts, etc.)</li> <li>Implement secure licensee portals for renewal applications depending on staff time and budget</li> <li>Update Plan for reviewing dock applications</li> </ol>
<b>IV. LAKE PROTECTION &amp; AIS</b>	<ol style="list-style-type: none"> <li>Ensure a plan for addressing Aquatic Invasive Species</li> </ol>	<ol style="list-style-type: none"> <li>Special events</li> </ol>	<ol style="list-style-type: none"> <li>Close out master plan and roll into a board approved adopted AIS Strategy</li> <li>Explore grants/other funding opportunities (e.g., state, federal, local, institution, fees, etc.)</li> <li>Finance \$80,000 funded from reserves for 2022</li> <li>Support new ongoing funding mechanisms for AIS treatment and prevention</li> </ol>
<b>V. SAVE THE LAKE</b>	<ol style="list-style-type: none"> <li>Ensure public safety on Lake Minnetonka</li> <li>Execution of strategic plan priorities</li> <li>Maintaining a strong financial foundation</li> </ol>	<ol style="list-style-type: none"> <li>Semi-annual donor letter</li> <li>Quarterly reports &amp; updates</li> <li>Special events</li> <li>Financial results</li> </ol>	<ol style="list-style-type: none"> <li>Fund Hennepin County Sheriff Office Water Patrol Officers as requested and validated</li> <li>Develop and improved fundraising strategy and protocol</li> <li>Provide for expanded boater education through online curriculum</li> </ol>



## Lake Minnetonka Conservation District Mission, Vision, Values, Strategic Plan 2021-2022

### **Mission Statement**

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

### **Vision Statement**

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

### **Core Values**

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

STRATEGIC PRIORITY	DESIRED OUTCOME
<b>Operational Effectiveness</b>	Capacity to Deliver core functions
	Execution of strategic plan priorities
	Maintaining a strong financial foundation
<b>Clear and Timely Communications</b>	Board and staff follow communications protocols
	Partners and stakeholders find value in relationship
	Increased understanding of purpose, rules and regulations
<b>Effective Governance</b>	Board meeting civility
	Effective Board/Committee Meetings
	Well-trained Board and staff
	Effective & respectful Board and staff relations
<b>Lake Protection and Regulation Compliance</b>	Ensure public safety on Lake Minnetonka
	Reduction of staff time processing applications
	Up-to-date rules and regulations

Adopted 09/08/2021



## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** March 8, 2023 (Prepared February 16, 2023)

**TO:** LMCD Board of Directors

**FROM:** Nominating Committee: Mark Kroll, Nicole Stone, and Deborah Zorn

**SUBJECT:** Nomination and Election of 2023 LMCD Board Officers

### **ACTION**

Board consideration of the Nominating Committee's recommendations and election of 2023 Board Officers. The following motions are offered depending on whether the Board wishes to approve or deny the request.

#### Approval:

I make a motion to appoint Ann Hoelscher as Chair, Jake Walesch as Vice Chair, Michael Kirkwood as Secretary, and Rich Anderson as Treasurer <or amend as follows> for 2023.

#### Denial:

I make a motion to deny the appointment of the 2023 Officers for the following reasons...

### **BACKGROUND**

The Lake Minnetonka Conservation District (LMCD) is required by state statute to annually elect officers from the members of the Board. Further, the LMCD Bylaws indicate the Board is to elect a Chair, Vice Chair, Secretary, and Treasurer annually in February. The Nominating Committee is charged with assisting in the election process by recommending a slate of officers to the Board. This Committee is a temporary committee that will extend until the officers are elected.

On September 14, 2016, the LMCD Board of Directors approved Resolution 150, Approving and Ratifying a Nominating Process for Board Officers (attached). This process was utilized in 2015 at the recommendation of the LMCD legal counsel in which the Board desired to formally approve and ratify the process for the annual selection of its officers.

The following is an update regarding the Nominating Committee process and recommendations for the slate of Officers for the LMCD Board for 2023.

#### 1. Overview of Process

- Received five (5) self-nominations: three (3) incumbent officers + two (2) Directors.
- Conducted interviews on February 8th.
- Unanimous agreement on slate of officers for 2023.
- Note: Timeline shifted later due to cancellation of the 1st Board meeting in February.

2. Recommended Officers for 2023

- Chair: Ann Hoelscher
- Vice Chair: Jake Walesch
- Secretary: Michael Kirkwood
- Treasurer: Rich Anderson

3. Nominating Committee Comments/Advice to Officers

- Recommendation is based on continuity, new leadership involvement (2 incumbent + 2 new) and individual request to be considered for specific officer positions.
- Key highlights and advice for 2023:
  - Increased engagement to ensure recruitment and transition of Executive Director position.
  - Focus energy on Board alignment around mission and purpose.
  - Encourage continued focus on meeting decorum and efficiency.
  - Highly endorse continuing utilizing virtual meetings to maintain Committee involvement and progress across areas of: Operations, Finance, Communications, AIS and Save the Lake.

**BUDGET** \_\_\_\_\_

N/A

**STRATEGIC PRIORITIES** \_\_\_\_\_

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

- Nominating Committee Procedures
- Resolution 150 – Nominating Committee

# ITEM 14A ATTACHMENT

## RECOMMENDED NOMINATION PROCESS

### Nominating Committee

1. The Committee develops a recommended slate of officers for presentation to the full Board.
2. The Committee develops a recommended procedure the Board may use to address any nominations at the meeting.

### Nomination Procedures

1. The Board Chair asks the Chair of the Nominations Committee to present the recommended slate of officers.
2. The Chair asks the Board if there are any other nominations for any of the positions.
  - a. The member making the nomination must state the name of the person being nominated and the position to which the person is being nominated.
  - b. Nominations do not require a second.
  - c. No member shall be nominated for more than one position.
  - d. A Board member may not nominate himself or herself.
  - e. A nominated member may reject the nomination by the person announcing he or she does not accept immediately after the nomination is made. A member who does not accept a nomination for a position remains eligible to be nominated for another position.
3. If there are no additional nominations, the Board Chair calls for a motion and a vote on the recommended slate of officers.
4. If there are any additional nominations made “from the floor”, the positions for which there were additional nominations are pulled from the recommended slate and the Board Chair calls for a motion and a vote on the remainder of the recommended slate of officers (if any positions remain unchallenged).
5. The challenged officer positions must be voted on individually, which is conducted by the Board Chair identifying the officer position and announcing the name of the member recommended for the position by the Nominating Committee and the names of those nominated for the position from the floor. Each of the nominated members may be allowed up to three minutes to provide background on themselves and why they are interested in the position.
6. The Board Chair announces that voting will be conducted by a show of hands with each member voting only once for each officer position. The nominated members are eligible to vote. The nominee with the most votes at the end of the voting wins the position. If the vote ends in a tie between the two highest vote getters, another vote shall be conducted between just those two members (any other nominees for the position are dropped from the voting) until a winner is selected.
7. The Board Chair then calls for a vote for the position by calling each of the names and then asking members to raise their hand if voting for that person for the position (“All those in favor of Bill Smith for Secretary raise your hands. [count votes] All those in favor of Cindy Jones for Secretary raise your hand. [count votes]” Etc.)
8. The person with the highest number of votes for the position is then announced as being selected for the position.
9. The Board Chair then moves onto to the next challenged position, announces the nominees, and proceeds with voting in the same manner until all of the positions are filled.

# ITEM 14A ATTACHMENT



## STATE OF MINNESOTA LAKE MINNETONKA CONSERVATION DISTRICT

### RESOLUTION NO. 150

#### A RESOLUTION APPROVING AND RATIFYING A NOMINATING PROCESS FOR BOARD OFFICERS

**WHEREAS**, the Board of Directors (“Board”) of the Lake Minnetonka Conservation District (“LMCD”) is required by Minnesota Statutes, section 103B.615 to annually elect officers from among the Board members;

**WHEREAS**, Article II, Section 2.4 of the Bylaws of the Lake Minnetonka Conservation District (“Bylaws”) indicates that the Board is to annually elect a Chair, Vice Chair, Secretary, and Treasurer in February;

**WHEREAS**, the Board has utilized a nominating committee (“Committee”) to assist in the election process by recommending a slate of officers to the Board as is permitted by Section 2.4 of the Bylaws; and

**WHEREAS**, the Committee, with input from the LMCD civil attorney, created and utilized a nominating process for the 2016 election that the Board desires to formally approve and ratify as the standing nominating process for its elections.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby approves and ratifies the attached nominating process as the official process to be followed by the Committee and the Board in the annual selection of its officers.


**BE IT FINALLY RESOLVED**, that the Committee and Board members may make recommendations for amendments to the nominating process, but the process may only be amended by resolution adopted by a majority vote of all Board members at least 30 days before the date of the election at which the amended process is to be used.

Adopted this 14<sup>th</sup> day of September, 2016 upon a majority vote of all members.

**BY THE BOARD OF DIRECTORS**

  
James Jay Green, Chairperson

Attest:

  
Gregory J. Thomas, Secretary

vote. The nominee with the most votes at the end of the voting wins the position. If the vote ends in a tie between the two highest vote getters, another vote shall be conducted between just those two members (any other nominees for the position are dropped from the voting) until a winner is selected.

7. The Board Chair then calls for a vote for the position by calling each of the names and then asking members to raise their hand if voting for that person for the position (“All those in favor of Bill Smith for Secretary raise your hands. [count votes] All those in favor of Cindy Jones for Secretary raise your hand. [count votes]” Etc.)
8. The person with the highest number of votes for the position is then announced as being selected for the position.
9. The Board Chair then moves onto to the next challenged position, announces the nominees, and proceeds with voting in the same manner until all of the positions are filled.



# ITEM 14C Attachment

LMCD spring education campaign plan  
DRAFT as of February 2023

## COMMUNICATIONS GOALS

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- Raise awareness for the new speed limit among lake users and the general public in an effort to reduce violations.
- Prepare key LMCD partners and stakeholders and encourage them to share information about the rule with their audiences.

## KEY MESSAGES

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Tagline/headline for materials: Know the Distance. Go the Distance. Own Your Wake

- The Lake Minnetonka Conservation District has a new rule that places a five miles-per-hour speed limit on all boats within 300 feet from the shore. This is an increase from the current 150-foot distance.
- The current rule requiring a 150-foot distance from docks, anchored boats, swimmers or scuba divers' warning flags throughout the lake has not changed.
- The Lake Minnetonka Conservation District board approved this updated rule last summer after hosting a listening session, engaging community members and conducting research.
- You can learn more about the new rule at [www.lmcd.org/safety/](http://www.lmcd.org/safety/)

Note: Reporters and the public will also ask why the board made this rule change. Goff Public will develop a sample response for board approval.

## STRATEGY, TACTICS AND TIMELINE

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### February – Determine partners and stakeholders

Partners (active participants who may want to provide a quote in the press release, weigh in on communications strategy and materials, etc.)

- Minnesota Department of Natural Resources
- Hennepin County Sheriff's Office Water Patrol

Stakeholders (groups who should be communicated with leading up to and after the announcement and could share campaign materials through their communications channels)

- Cities
- Marina owners and associations
- Lake service providers, including rental companies
- Boat clubs
- Hennepin County
- Carver County

### March – Engage partners

Reach out to partners to discuss the communications plan and seek their involvement.

### **March-April – Create and finalize communications materials**

- Video (created)
- Brochure or handout
- News release
- Print signage by launches
- Toolkit for partners and stakeholders to share information, which would include:
  - o Email content
  - o Social media content with graphics to help explain the new rules
  - o Digital signage for municipalities
    - Could be used both on digital signs in offices and public access cable channels
  - o Brochure/handout
- LMCD email
- LMCD social media content
- LMCD website content
- Giveaway item
  - o Key chain, water bottle or drink koozie or with new rule reminder
  - o Could come with a handout or small card that has additional messaging
  - o Can be distributed to lake users by both stakeholders and the LMCD

### **Early April – Share rule reminder in spring printed newsletter**

- Have the main article in the spring newsletter focus on the new rule.

### **Mid- to late April – Reach out to partners and stakeholders and distribute materials**

- Send communications materials to partners and stakeholders so that they can help share the messages when communications launch in May and there after

### **Early to mid-May – Launch communications (after ice out)**

- News release
  - o Spokespeople for interviews likely would be executive director and/or board chair
  - o Also include a quote from Water Patrol if possible
- LMCD website
- LMCD social media
- LMCD email
- Partner and stakeholder sharing

### **Ongoing – Continue to communicate about the new rule on LMCD channels**

- LMCD social media
- LMCD email
- LMCD website updates as needed
- At any events that the LMCD has a presence at this summer

### **Additional considerations**

- Include new rule in 2023 summer rules brochure

- Aim to distribute this brochure to partners and stakeholders at the same time as the spring education campaign materials in April

# ITEM 14C Attachment

## **LMCD reactive message for boat wakes rule change DRAFT as of February 7, 2023**

*The following is a reactive message for when reporters, stakeholders and members of the public ask why the board changed its rule regarding speed limits near the shore.*

- Community members voiced concerns regarding the impact of large wakes caused by wake boats and large cruisers.
- At the same time, we heard from many people that these boats are a great recreational outlet and are an important part of their Lake Minnetonka experience.
- After soliciting input and hosting a public listening session, the Lake Minnetonka Conservation District Board determined that our current regulation was outdated and enacted this new rule as a compromise.



ITEM 14C Attachment

# *Lake Minnetonka*

## **SUMMER RULES 2023**

— *Enjoying the lake safely and responsibly* —

# LAKE MINNETONKA SUMMER RULES 2023

Lake Minnetonka & the Conservation District	2
What's new in 2023	3
Summer access map	4
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Stop aquatic hitchhikers	14
Agency links & resources	Back Cover

This brochure offers the most common rules of conduct for Lake Minnetonka, one of the busiest lakes in the area. These regulations help protect the public’s health, safety and welfare, as well as the lake. Please remember that in addition to meeting the minimal code requirements, being courteous of the residents, businesses and visitors of Lake Minnetonka is also important. Thank you for your cooperation in protecting Lake Minnetonka and all those who enjoy it.

Lake Minnetonka Conservation District (LMCD)

Main Office: 952-745-0789 | [lmc.org](http://lmc.org) | email: [lmc@lmc.org](mailto:lmc@lmc.org)

5341 Maywood Road, Suite 200 | Mound, MN 55364



## DID YOU KNOW?

### Lake Minnetonka is known for its:

- 125 miles of shoreline
- 14,043 acres of surface area—the ninth-largest lake in Minnesota
- 42 bays/named bodies of water
- Deepest bay of 113 feet (Crystal Bay)
- 30-foot mean water depth
- Water depth of less than 15 feet for 39 percent of the lake
- Vibrant community, including 14 cities in 2 counties surrounding the lake
- Sacred Indigenous areas, featured in Dakota legends
- Dakota name of “Minn-ni-tanka,” meaning “Big Water”
- Location within the Minnehaha Creek Watershed
- Abundance of nature, including regional parks, islands and trails
- Numerous sightings of “Lou,” a legendary sturgeon in excess of 10 feet in length (per local folklore)
- First known “electric-lit” inland steamboat in the U.S. (1881)



Visit the [LMCD.org](https://www.lmcd.org) website and join us on Facebook and Twitter for more information about Lake Minnetonka.



## WHO WE ARE AND WHAT WE DO

For more than 50 years, the Lake Minnetonka Conservation District (LMCD) has been managing the use of Lake Minnetonka in its mission to preserve and enhance the “Lake Minnetonka experience.” The LMCD is a regional governmental agency that brings together 14 different cities, two counties, and many state and local agencies to protect, preserve and enhance Lake Minnetonka’s economy and vitality. Since 1967, LMCD has worked to adopt rules, provide resources and funding, and create educational programs.

## A NOTE FROM OUR INTERIM EXECUTIVE DIRECTOR

Hello,

My name is Jim Brimeyer, the new interim executive director for the Lake Minnetonka Conservation District (LMCD). It is an honor to have been selected for this important role.

Over the past four decades, I have devoted my life to public service. Most recently, I was the interim city administrator for the city of Spring Park. Some of you may recognize me, as I previously served as LMCD's interim executive director in 2016.

My goal in this role will be to continue the efforts of the LMCD to ensure that your family and future generations can enjoy Lake Minnetonka to its fullest extent.

I am deeply appreciative of our stakeholders and the work they do to make Lake Minnetonka a great place to be all year long. I look forward to a safe and fun 2023!

**JIM BRIMEYER**

INTERIM EXECUTIVE DIRECTOR



## NEW WATERCRAFT SPEED LIMIT NOW IN EFFECT

The LMCD has a new rule that places a 5-miles-per-hour speed limit on all boats within 300 feet from the shore. This is an increase from the previous 150-foot distance.

The rule requiring a 150-foot distance from docks, anchored boats, swimmers or scuba divers' warning flags throughout the lake has not changed.

The LMCD board approved this updated rule last summer after hosting a listening session, engaging community members and conducting research.

You can learn more about the new rule at [LMCD.org/safety/safety-boat-generated-wakes](https://www.lmcd.org/safety/safety-boat-generated-wakes).





# [PLACEHOLDER FOR SUMMER ACCESS MAP]

## MAXIMUM WATERCRAFT SPEED LIMITS



### DAYTIME

Speed limit: **40 mph**



### NIGHTTIME

Speed limit: **20 mph**



### AT ALL TIMES

Speed limit: **5 mph** within

- 150 feet of the shore; dock structure—except where a person is being towed from; of an authorized bathing area, swimmer, scuba diver's flag, anchored craft or structure
- 300 feet for personal watercrafts (PWCs) and repetitive passes

## LAKE MINNETONKA QUIET WATER AREA LOCATIONS

### PARTIAL BAYS

- Black Lake—north side
- Coffee Cove—east of Fagerness Point to Park Lane
- Excelsior Bay—south end
- Harrisons Bay—north of Seton channel area
- Lower Lake North—north side of Big Island/Cruiser's Cove
- Maxwell Bay—south shore from Noerenberg Bridge to Boy Scout Bridge and Noerenberg Inlet
- St. Albans Bay—southwest corner
- Wayzata Bay—southeast corner near Hwy 101 Causeway

### CHANNEL AREAS

- All channels between bays
- Channels between Black/Emerald/Seton Lakes Echo and Lafayette Bays—west end of Big Island by West Point
- Lower Lake North—west side, northwest of Huntington Point and Arcola Bridge Lower Lake North and Lafayette Bay—south of Huntington Point
- Wayzata Bay—south side, north of Cedar Point east of Huntington Point
- Cedar Point [West] – 150' north and south of Cedar Point on the Upper Lake

## KEY DEFINITIONS

**QUIET WATER AREAS (QWAs):** Established areas where motor-operated watercraft (including waterborne aircraft) cannot be operated in excess of 5 mph or at a speed that results in more than a minimum wake. Designated QWAs are delineated by waterway markers.

**WATERCRAFT:** Any vessel, boat, sailboat, canoe, raft, barge, paddleboard, sailboard, or any similar device used or usable for carrying and transporting persons on the lake.

**MINIMUM WAKE:** The wave moving out from a watercraft and trailing in a widening 'V' of insufficient size to affect other watercraft or be detrimental to the shoreline.

**DAYTIME:** Thirty minutes before sunrise to 30 minutes after sunset—except when weather or other conditions do not provide sufficient light to see people or watercraft at a distance of 500 feet.



## CARBON MONOXIDE ALARMS SAVE LIVES

Sophia's Law, named for a seven-year-old who died from carbon monoxide (CO) poisoning while boating on Lake Minnetonka, requires functioning marine-grade CO alarms on certain motorboats. To learn more about CO alarms, stickers and when they are required, visit the Minnesota Department of Natural Resources website at [dnr.state.mn.us/safety/boatwater](https://dnr.state.mn.us/safety/boatwater).

## BEWARE OF ELECTRIC SHOCK DROWNING (ESD)

ESD results from paralysis caused by electrical currents in the water—from electricity leaking into the water from faulty wiring of boats, docks and lifts. ESD kills both humans and animals. There are many ways to prevent ESD. The most important is to never enter water around boats and docks using electrical power. For more information, visit [ElectricShockDrowning.org](https://ElectricShockDrowning.org) or [LMCD.org](https://LMCD.org).

The LMCD Code and links to applicable state laws can be found on the LMCD website.

## UNIQUE LAKE MINNETONKA REGULATIONS

**BIG ISLAND PUBLIC SAFETY LANES:** Public safety lanes are installed at the north end of Big Island to provide better access by the Hennepin County Sheriff's Office for emergency purposes. Buoys delineate these lanes and extend 600 feet from shore. Watercraft may not be anchored in these lanes but may use them for traveling.

**BOWFISHING:** Bowfishing is prohibited 30 minutes after sunset to sunrise and from November 15 through May 1. Bow fishing is also prohibited in designated areas and during specific dates and times.

**SPECIAL "HIGH-WATER" AND "LOW-WATER" DECLARATIONS:** When the LMCD declares "High Water," minimum wake restrictions are implemented for user safety and shoreline protection. During "High Water," watercraft must maintain minimum wake within 600 feet from shore for some bays and entirely for other bays, or otherwise directed.

When the LMCD declares "Low Water," dock extensions may be allowed under certain conditions. Watch for updates at [LMCD.org](https://LMCD.org).

## MARINE TOILETS & WASTEWATER DISCHARGE

To prevent illnesses from the accidental or intentional discharge of sewage into the lake, any watercraft operating on Lake Minnetonka must have:

- Macerator/grinder pumps removed; and,
- Discharge valves ("Y-valves") locked. If the watercraft has been re-piped to satisfy regulations on other waters, this may comply.

## TOP SUMMER VIOLATIONS

Here are the most common boating violations to avoid.

### 1 LIFE JACKETS & THROWABLES

One coast guard-approved life jacket must be readily available for each person on board the watercraft. Watercraft measuring 16 feet or longer must also have a throwable flotation device. Children under the age of 10 must wear a life jacket while on a watercraft that is underway. All PWC operators and passengers must wear life jackets.

### 2 BOATING UNDER THE INFLUENCE

Boating while under the influence of alcohol, or any other controlled or illegal substance, is illegal. The Minnesota alcohol concentration level for impaired operation is 0.08. Designate a captain for safety. Underage drinking is also strictly enforced. Watercraft owners or operators may be held liable for violations.

### 3 FIRE EXTINGUISHERS

Fire extinguishers, horns, marine-grade carbon monoxide detectors (for specified watercraft) and lighting must be in compliance with state law.

### 4 REGISTRATION

All motorized watercraft and unmotorized watercraft over 10 feet in length must be registered by the Department of Natural Resources.

### 5 RIDING ON GUNWALES OR DECKING

It is illegal to ride or sit on, or operate a motorboat while someone is riding or sitting on the gunwale, bow, transom, decking over the bow, side or stern while underway (unless it is equipped with an adequate railing).

### 6 OPERATING PERSONAL WATERCRAFT AFTER HOURS

Personal watercraft may only be operated from 9:30 a.m. until one hour before sunset and no longer than 30 consecutive minutes in a single area.

### 7 QUIET WATERS/MINIMUM WAKE ZONES

Motor-operated watercraft (including waterborne aircraft) cannot be operated in excess of 5 mph or at a speed that results in more than a minimum wake in designated quiet water areas. See page four for a map of locations.

### 8 TOWING OBSERVER

In addition to the watercraft operator, an observer (not a rear-facing mirror) is required to continuously observe the person(s) being towed. The observer must be at least 12 years old and able to communicate with the driver.

### 9 NAVIGATIONAL LIGHTS

Proper navigational lights, including a red light to port, a green light to starboard, and a white light to stern, must be displayed when boating after sunset and before sunrise.



**10 SPEED LIMITS**

The daytime speed limit is 40 mph; the nighttime speed limit is 20 mph; the speed limit for quiet water areas or within 300 feet of shoreline, docks, swimmers, etc., is 5 mph.

**11 LITTERING**

Littering on Lake Minnetonka is illegal. Carry out what you carry in. Please be kind and remove any litter you notice. Help prevent hazards to people and animals.

**12 PUBLIC NUISANCES**

No person may commit or engage in any activity that constitutes a public nuisance—including excess noise, inappropriate behavior, indecent exposure, etc.

**13 EXCESSIVE NOISE**

All watercraft motors must have a muffler, underwater exhaust or other device that suppresses the sound of the motor to levels consistent with state law.

**14 NOT RESPECTING QUIET HOURS**

Please keep the sound down, whether from music, yelling or other actions. It may also protect your hearing. Sound travels easily across the lake. Noise must not unreasonably disturb the peace, quiet or comfort of anyone nearby. Between 10 p.m. and 7 a.m., sound from any device plainly audible at a distance of 150 feet is a violation of LMCD code.

**15 SANITATION**

If bathroom facilities are not available on the watercraft, find a location with public facilities. Find a list of Lake Minnetonka amenities at [LMCD.org](http://LMCD.org).

**16 TRESPASSING**

Lake Minnetonka has several public accesses, commercial marinas and transient docks for use by the general public. However, some multiple-dock facilities are intended for the exclusive use of their tenants. Further, other docks and shoreland are private property with restricted access. Please respect nonpublic docks and do not trespass.

**17 WAKES**

It is a violation to operate a watercraft in a manner that its wash and wake will endanger, harass or unnecessarily interfere with any person or property. Learn about wake safety and the importance of watching your wake regardless the type of watercraft, e.g., large cruisers, wake boats, etc., at [dnr.state.mn.us](http://dnr.state.mn.us).

**18 CHANNELS & NAVIGATION**

No person may interfere or block navigation of watercraft, moor, or otherwise create safety hazards in channels or public passageways. Swimming, jumping from bridges or overtaking boats in channels is also prohibited.

**The LMCD Code and links to applicable state laws can be found on the LMCD website.**

## PERSONAL WATERCRAFTS

All regulations for motorboats apply to personal watercrafts (PWCs) (or “jetskis”), in addition to the following specific PWC requirements.

### AUTOMATIC CUTOFF DEVICES

If the machine is equipped by the manufacturer with a lanyard-type engine cutoff switch, it must be attached to the person, life jacket or clothing of the operator when underway. It may not be altered, disabled or removed.

### CARELESS OPERATION

A PWC may not be operated in a manner that unreasonably or unnecessarily endangers life, limb or property. This includes weaving through congested boat traffic or swerving at the last moment to avoid a collision if you weren't paying attention.

### WAKE JUMPING

PWC operators may not jump wakes within 150 feet of another watercraft or PWC.

### PROLONGED OPERATION

PWC may not be operated more than 30 consecutive minutes in a single area (defined as a small area where noise emanating from the PWC may be a nuisance or cause substantial annoyance to one or more shoreline properties).

### RENTAL REQUIREMENTS

PWC may not be operated more than 30 consecutive minutes in a single area (defined as a small area where noise emanating from the PWC may be a nuisance or cause substantial annoyance to one or more shoreline properties).

### Businesses are required to:

1. Distribute summary of laws free of charge (including instructions to laws and safety factors)
2. Provide required safety equipment
3. Ensure those less than 18 years of age show their watercraft operator's permit

A PWC may not be rented to anyone less than 16 years of age. Further, a watercraft operator's permit is required for all persons under 18 years of age.



## TOWING (SKIING, WAKEBOARDING, WAKESURFING)

### NUMBER TOWED

No more than three persons may be towed at one time.

### OBSERVER

In addition to the watercraft or PWC operator, an observer (not a rear-facing mirror) is required to continuously observe the person(s) being towed. The observer must be at least 12 years old and able to communicate with driver.



**HOURS**

Towing is prohibited from 30 minutes after sunset until sunrise.

**PWC** - 9:30 a.m. to one hour before sunset.

**LIFE JACKETS**

A person being towed must wear a life vest, belt or other buoyant device. If the buoyant device is not U.S. Coast Guard-approved, a U.S. Coast Guard-approved life jacket must also be on board and readily available to the person being towed.

**PWC** - Anyone operating or riding on a PWC must wear a compatible U.S. Coast Guard-approved life jacket.

**LENGTH OF TOW**

Maximum length of 85 feet (except with written permission from the Sheriff).

**DISTANCE**

Towing may not occur within 150 feet of a swim area, skin or scuba diver's flag, swimmer, watercraft, or dock or pier (except dock/pier where initially operating from).

**EMPTY TOW**

An unoccupied tow line may not be dragged behind a watercraft for an unreasonable length of time.

**TOWING IN CHANNELS**

No person shall tow or be towed into or through any marked channel connecting two bodies of water. It is unsafe.

**SHARE THE LAKE**

**SURF IN THE  
MIDDLE OF THE BAY**

**AVOID REPETITIVE  
PASSES**

**KEEP THE  
SOUND DOWN**

**SAFETY TIPS FOR NONMOTORIZED WATERCRAFT**

If you are kayaking, canoeing or paddleboarding, you can make yourself more visible to other lake users to prevent accidents by:

- Wearing vibrant clothing
- Flying a flag
- Installing a light
- Paying attention to lake conditions such as wakes, boat traffic and weather



## YOUTH REGULATIONS

In addition to the minimum age requirements for Minnesota youth operators, state regulations for operator's permits are followed and vigorously enforced on Lake Minnetonka. What's more, lake-wide curfew regulations also apply.

Youth operators—know the rules and keep your boating experience fun and safe!

### CURFEW

Youth under the age of 15 may not be on a watercraft between the hours of 10 p.m. and 6 a.m.—unless accompanied by a parent or guardian. Those between the ages of 15 and 17 must be supervised by a parent or guardian while on watercraft between the hours of 12 a.m. (midnight) and 6 a.m.

### OPERATOR'S PERMIT

See Minnesota Age Restrictions section on page 11 for information about required watercraft operator's permits. Permits may be obtained by successfully completing an approved boating safety course—including the boater safety education course offered through the LMCD or one offered online by the MN DNR.

## OPERATOR'S PERMIT & BOATING SAFETY COURSES

### LMCD BOATER SAFETY EDUCATION PROGRAM

Funded through its Save the Lake Fund, the LMCD partners with the Hennepin County Sheriff's Office Water Patrol and Mound Fire Department to offer the Boater Safety Education Program. Adults and youth (ages 12 to 17) work directly with presenters to obtain their MN DNR watercraft operator's permit in a single full-day session. Parents and guardians are encouraged to attend to enhance the training. Additional educational materials are being created for the website. Visit [LMCD.org](http://LMCD.org) or call the LMCD Office at 952-745-0789.

### BOAT MINNESOTA: MN DNR'S ONLINE BOATING SAFETY COURSE

The Minnesota Department of Natural Resources offers an online Minnesota watercraft operator's permit program for youth ages 12 to 17. Adults who want to learn more about boating safety or to enhance their current knowledge can also take the course. Some insurance companies offer premium discounts for such certification; check with your insurance company for participation and possible discounts. For more information visit the MN DNR site at [mndnr.gov/boatingcourse](http://mndnr.gov/boatingcourse).





## STATE OF MINNESOTA AGE REGULATIONS

### WATERCRAFT AGE MINIMUMS

Operators less than 12 years of age:

- 25 horsepower (hp) or less—no restrictions
- 25 hp to 75 hp—must have someone at least 21 years of age on board and within reach of the controls
- Over 75 hp—cannot operate watercraft even with an adult on board

Operators 12 to 17 years of age:

- 25 hp or less—no restrictions
- Over 25 hp—must have either a valid watercraft operator's permit or someone at least 21 years of age on board and within reach of the controls



### PWC-SPECIFIC AGE MINIMUMS












- Operators less than 13 years of age: Cannot operate (even with an adult on board)
- Operators 13 years of age: Must have someone at least 21 years of age on board or have a valid watercraft operator's permit and be in visual supervision by someone at least 21 years of age
- Operators 14 to 17 years of age: Must have a valid watercraft operator's permit or someone on board who is 21 years of age




## KNOW YOUR MARKERS/BUOYS BEFORE YOU SET SAIL!

Comprehensive boating safety information, regulations and tips—including details on all inland waterway markers—can be found on the Minnesota Department of Natural Resources’ website at [mndnr.gov/boatingsafety](http://mndnr.gov/boatingsafety). Inland markers are used to help boaters safely navigate channels, direct traffic, control speeds, protect resources and identify dangerous waterways/areas.

### Minnesota Waterway Markers

			
Channel lies between green and red markers		Do not pass between buoy and shore	Mid-Channel pass close on either side
			
Diver below stay 150' away	Mooring Buoy	Milfoil Area Boats Keep Out	
			
Controlled Area	Danger	Boats Keep Out	Information



Minnesota  
DEPARTMENT OF  
NATURAL RESOURCES

**Life jackets save lives! Wear it!**  
[mndnr.gov/boatingsafety](http://mndnr.gov/boatingsafety)

2/14

## IT'S THE LAW!

Aquatic invasive species (AIS) are non-native plants, animals and other organisms that live primarily in water. They can drive out and eat native plants and wildlife, and spread disease.

Lake Minnetonka currently has identified five AIS in its waters—the zebra mussel, Eurasian watermilfoil, curly-leaf pondweed, flowering rush and purple loosestrife. Help keep other AIS out of Lake Minnetonka by taking the following steps.



### CLEAN

Clean visible aquatic plants, zebra mussels and/or other prohibited invasive species off all watercraft, trailers and water-related equipment before leaving a water access or shoreland property. It is illegal to transport aquatic plants, zebra mussels or other prohibited species—dead or alive.

**Spray:** Use a high-pressure washer to spray down your watercraft and equipment.

**Rinse:** Rinse with very hot water whenever possible—using water at 120° F for at least two minutes (or 140° F for at least 10 seconds) kills zebra mussels and some other AIS.



### DRAIN

Drain water-related equipment (boat, trailer, ballast tanks, portable bait containers, motor) and drain bilge, livewell and baitwell by removing drain plugs before leaving a water access or shoreline property. Keep drain plugs out and water-draining devices open while transporting watercraft. It is illegal to transport a watercraft or water-related equipment without draining water.

**Dry:** Allow your watercraft or equipment to dry for at least five days whenever possible.

**Run the motor:** Discharge all water by running your motor (or personal watercraft) for a few seconds before leaving a water access.



### DISPOSE

Be prepared! Transport your catch in a cooler. Dispose of unwanted bait—including minnows, leeches, worms and fish parts—in the trash. If you want to keep live bait, drain bait containers and refill with bottled or purified tap water. It is illegal to release bait into the water or release worms onto the ground.



## Lake Minnetonka Conservation District (LMCD)

5341 Maywood Road, Suite 200  
Mound, MN 55364

**Office:** 952-745-0789

**Connect with us at:**

**Email:** [lmcd@lmcd.org](mailto:lmcd@lmcd.org)

**Website:** [lmcd.org](http://lmcd.org)

 [LakeMinnetonkaConservationDistrict](https://twitter.com/LakeMtnkaCD)

 [@LakeMtnkaCD](https://www.facebook.com/LakeMtnkaCD)

- Licensing and surface regulations
- Docks, structures and watercraft storage
- Public navigation harvesting program
- Boater safety course
- Solar lights program
- Some services funded by SAVE the LAKE Fund contributions



## Hennepin County Sheriff's Office (HCSO)

Water Patrol Unit  
4141 Shoreline Drive  
Spring Park, MN 55384

### Emergency: Call 911

Non-Emergency 24/7 Dispatch: 952-258-5321; Office: 612-596-9880

Website: [HennepinSheriff.org/water-patrol](http://HennepinSheriff.org/water-patrol)

- Patrol and enforcement of State and LMCD laws on Lake Minnetonka
- Emergency and rescue operations
- Special events



## Minnesota Department of Natural Resources (MNDNR)

Conservation Officers  
500 Lafayette Road  
St. Paul, MN 55155

DNR Information Center: 651-296-6157 or 888-MINNDNR (646-6367)

Officer Locator: [mndnr.gov/officerpatrolareas](http://mndnr.gov/officerpatrolareas)

Website: [mndnr.gov](http://mndnr.gov)

- Boating and fishing regulations and enforcement
- AIS prevention and management

Lake Minnetonka Conservation District  
**General Income & Expense 2023 Budget Comparison**  
 January 2023

12:13 PM

02/16/2023

Accrual Basis

	<u>Jan 23</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
<b>Grants &amp; Other Income</b>				
3080M10 · Interest - Gen	515.88	2,600.00	-2,084.12	19.84%
3260M10 · Court Fines - Admin.	10,000.00	60,000.00	-50,000.00	16.67%
3300M10 · Other Income - Admin.	0.00	6,190.00	-6,190.00	0.0%
<b>Total Grants &amp; Other Income</b>	<u>10,515.88</u>	<u>68,790.00</u>	<u>-58,274.12</u>	<u>15.29%</u>
<b>Licenses/Permits</b>				
3110M10 · Multiple/Perm. Dock Lic -Admin.	64,715.25	85,200.00	-20,484.75	75.96%
3120M10 · DMA license - Admin.	3,450.00	3,000.00	450.00	115.0%
3130M10 · Deicing License - Admin.	0.00	6,000.00	-6,000.00	0.0%
3170M10 · Variances - Admin.	0.00	10,600.00	-10,600.00	0.0%
3240M10 · Charter Boats - Admin.	0.00	3,200.00	-3,200.00	0.0%
3280M10 · Liquor/Beer/Wine License-Admin.	0.00	19,000.00	-19,000.00	0.0%
<b>Total Licenses/Permits</b>	<u>68,165.25</u>	<u>127,000.00</u>	<u>-58,834.75</u>	<u>53.67%</u>
3020M10 · Municipal Dues - Admin.	63,750.50	255,000.00	-191,249.50	25.0%
3400M10 · Transfers In - Admin.	0.00	125,000.00	-125,000.00	0.0%
<b>Total Income</b>	<u>142,431.63</u>	<u>575,790.00</u>	<u>-433,358.37</u>	<u>24.74%</u>
<b>Gross Profit</b>	<u>142,431.63</u>	<u>575,790.00</u>	<u>-433,358.37</u>	<u>24.74%</u>
<b>Expense</b>				
<b>AIS Administration</b>				
4181M30 · Prof. Services	0.00	78,000.00	-78,000.00	0.0%
4221M30 · Office Supplies -AIS Prevention	0.00	2,000.00	-2,000.00	0.0%
<b>Total AIS Administration</b>	<u>0.00</u>	<u>80,000.00</u>	<u>-80,000.00</u>	<u>0.0%</u>
<b>General &amp; Admin Expenses</b>				
4060 · Telephone/Internet	306.68	3,500.00	-3,193.32	8.76%
4070M10 · Webpage & Digital	3,500.00	590.00	2,910.00	593.22%
4090M30 · DMV	0.00	50.00	-50.00	0.0%
4340M10 · Insurance - Admin.	0.00	4,500.00	-4,500.00	0.0%
4340M30 · Insurance W/C	0.00	1,400.00	-1,400.00	0.0%
4350M30 · Ins./Equip.	0.00	400.00	-400.00	0.0%
4360M10 · Subs/Memberships - Admin.	0.00	2,400.00	-2,400.00	0.0%
<b>Total General &amp; Admin Expenses</b>	<u>3,806.68</u>	<u>12,840.00</u>	<u>-9,033.32</u>	<u>29.65%</u>
<b>Legal</b>				
4110M10 · Public Info Legal Fees- Admin.	0.00	1,750.00	-1,750.00	0.0%
4620M10 · Civil Legal Fees - Admin.	0.00	31,325.00	-31,325.00	0.0%
4640M10 · Prosecution Legal Fees - Admin.	0.00	30,000.00	-30,000.00	0.0%
<b>Total Legal</b>	<u>0.00</u>	<u>63,075.00</u>	<u>-63,075.00</u>	<u>0.0%</u>
<b>Office, Supplies, Equip</b>				
4080 · Postage	31.30	3,000.00	-2,968.70	1.04%
4100M10 · Printing - Admin.	0.00	1,260.00	-1,260.00	0.0%
4140M10 · Office Equipment R&M - Admin.	907.46	6,000.00	-5,092.54	15.12%
4160M10 · Watercraft/Vehicle Maint	0.00	1,500.00	-1,500.00	0.0%

	<b>Jan 23</b>	<b>Budget</b>	<b>\$ Over Budget</b>	<b>% of Budget</b>
4220M10 · Office Supplies -Admin.	4.39	1,700.00	-1,695.61	0.26%
4230M10 · Meeting Exp. - Admin.	52.80	12,000.00	-11,947.20	0.44%
4320M10 · Office Rent - Admin.	3,466.96	22,000.00	-18,533.04	15.76%
4400M10 · Mileage/Exp's - Admin.	0.00	400.00	-400.00	0.0%
4410M10 · Training/Prof. Devel.	0.00	500.00	-500.00	0.0%
4520M10 · Furniture & Equip - Admin.	0.00	750.00	-750.00	0.0%
4530M10 · Comp. Sftwr & Hdwr - Admin.	1,000.25	3,515.00	-2,514.75	28.46%
4531M30 · Software & Hardware/Training	0.00	500.00	-500.00	0.0%
<b>Total Office, Supplies, Equip</b>	<b>5,463.16</b>	<b>53,125.00</b>	<b>-47,661.84</b>	<b>10.28%</b>
<b>Personnel Expenses</b>				
4020M10 · Salaries-002 - Admin	20,337.74	246,050.00	-225,712.26	8.27%
4021M10 · ER Share of Admin FICA/Medicare	1,552.63	17,700.00	-16,147.37	8.77%
4022M10 · ER PERA - Admin	1,522.14	17,500.00	-15,977.86	8.7%
4380M10 · Employee Benefits - Admin.	2,934.72	33,750.00	-30,815.28	8.7%
<b>Total Personnel Expenses</b>	<b>26,347.23</b>	<b>315,000.00</b>	<b>-288,652.77</b>	<b>8.36%</b>
<b>Professional Services- ADM</b>				
4040M10 · Auditing - Admin.	3,500.00	11,500.00	-8,000.00	30.44%
4180M10 · Professional Services - Admin.	1,037.86	6,000.00	-4,962.14	17.3%
4181M10 · Professional Comp. Serv.-Admin.	0.00	2,500.00	-2,500.00	0.0%
4182M10 · Media (Cable/Internet) - Admin.	1,150.00	3,500.00	-2,350.00	32.86%
4183M10 · Prof/ Serv. - Communications	4,353.75	20,000.00	-15,646.25	21.77%
<b>Total Professional Services- ADM</b>	<b>10,041.61</b>	<b>43,500.00</b>	<b>-33,458.39</b>	<b>23.08%</b>
<b>Public Education &amp; Safety</b>				
4111M20 · Public Service Education	0.00	3,000.00	-3,000.00	0.0%
4160M20 · Public Health/Safety- SL	0.00	4,500.00	-4,500.00	0.0%
<b>Total Public Education &amp; Safety</b>	<b>0.00</b>	<b>7,500.00</b>	<b>-7,500.00</b>	<b>0.0%</b>
<b>Total Expense</b>	<b>45,658.68</b>	<b>575,040.00</b>	<b>-529,381.32</b>	<b>7.94%</b>
<b>Net Ordinary Income</b>	<b>96,772.95</b>	<b>750.00</b>	<b>96,022.95</b>	<b>12,903.06%</b>
<b>Net Income</b>	<b>96,772.95</b>	<b>750.00</b>	<b>96,022.95</b>	<b>12,903.06%</b>

# ITEM 15A

## Lake Minnetonka Conservation District STL Income & Expense 2023 Budget Comparison January 2023

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02/16/2023

Accrual Basis

	Jan 23	Budget	\$ Over Budget	% of Budget
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
<b>Contributions</b>				
3001M20 · Donations (General) - S/L	2,046.07	43,050.00	-41,003.93	4.75%
<b>Total Contributions</b>	2,046.07	43,050.00	-41,003.93	4.75%
<b>Grants &amp; Other Income</b>				
3300M20 · Other Income - S/L	0.00	750.00	-750.00	0.0%
<b>Total Grants &amp; Other Income</b>	0.00	750.00	-750.00	0.0%
3400M20 · Transfers In - S/L	0.00	42,000.00	-42,000.00	0.0%
<b>Total Income</b>	2,046.07	85,800.00	-83,753.93	2.39%
<b>Gross Profit</b>	2,046.07	85,800.00	-83,753.93	2.39%
<b>Expense</b>				
<b>Office, Supplies, Equip STL</b>				
4080M20 · Postage - S/L	0.00	800.00	-800.00	0.0%
4100M20 · Printing - S/L	0.00	1,000.00	-1,000.00	0.0%
<b>Total Office, Supplies, Equip STL</b>	0.00	1,800.00	-1,800.00	0.0%
<b>Public Education &amp; Safety</b>				
4535M10 · Public Safety HCSO	0.00	84,000.00	-84,000.00	0.0%
<b>Total Public Education &amp; Safety</b>	0.00	84,000.00	-84,000.00	0.0%
<b>Total Expense</b>	0.00	85,800.00	-85,800.00	0.0%
<b>Net Ordinary Income</b>	2,046.07	0.00	2,046.07	100.0%
<b>Net Income</b>	<b>2,046.07</b>	<b>0.00</b>	<b>2,046.07</b>	<b>100.0%</b>