



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA
LAKE MINNETONKA CONSERVATION DISTRICT
Wednesday, February 28, 2024
Wayzata City Hall
600 Rice Street, Wayzata, MN 55391

PUBLIC PARTICIPATION

Those attending the meeting, please complete the attendance sheet. Those desiring to participate in the meeting should complete the *Public Comment Form* at the meeting if the online [Public Comment Form](#) was not submitted. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. Please see *Public Comments* Section for more information.

WORK SESSION AGENDA

6:00 p.m.

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

No Work Session

FORMAL MEETING AGENDA

7:00 p.m.

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

- 1) CALL TO ORDER**
- 2) PLEDGE OF ALLEGIANCE**
- 3) NEW BOARD MEMBER OATH OF OFFICE**
 - A) Matthew Thompson, Wayzata
- 4) ROLL CALL**
- 5) APPROVAL OF AGENDA**

6) CHAIR ANNOUNCEMENTS

A) Introduced Legislation for Boater Safety and License Plates

7) APPROVAL OF MINUTES (01/24/2024 LMCD Regular Board Meeting)

8) APPROVAL OF CONSENT AGENDA

A) Audit of Vouchers (02/01/2024 – 02/15/2024) & (02/16/2024 – 02/29/2024)

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. 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

A) New Board Member Informational Session by Attorney Joe Langel

11) PUBLIC HEARING

A) Variance – 2721 Tyrone Lane, Owen Sweeney

12) OTHER BUSINESS

13) OLD BUSINESS

A) WFH Workgroup Update Regarding Rentals

14) NEW BUSINESS

A) Grant Request for 2024 AIS Pre-treatment Survey on Stubbs Bay

15) TREASURER REPORT

A) January Balance Sheet

B) January General & STL Income Expense Reports

16) EXECUTIVE DIRECTOR UPDATE

17) ADJOURNMENT

ITEM 7

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

7:00 P.M., January 24, 2024
Wayzata City Hall

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. OATH OF OFFICE

Langel administered the Oath of Office to Brian Malo of Greenwood.

Malo introduced himself to the Board.

4. ROLL CALL

Members present: Ann Hoelscher, Victoria; Jake Walesch, Deephaven; Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Brian Malo, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Ryan Nellis, Tonka Bay; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Deborah Zorn, Shorewood. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Maisyn Reardan, Office, and Finance Manager; Raina Gabler, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

Members absent: Dan Baasen, Wayzata.

Persons in Audience: David Aul, Steve Tallen, Lt. Richard Rehman, Sgt. Richard Waldon, Sgt. Troy Kostohryz, Major Shane Magnuson, Representative Patty Acomb.

5. APPROVAL OF AGENDA

MOTION: Hoelscher moved, Walesch seconded to amend the agenda to remove Item 13B at the request of the applicant.

VOTE: Motion carried unanimously.

6. CHAIR ANNOUNCEMENTS

Chair Hoelscher congratulated Arnston who was married over the weekend.

A) Rep Patty Acomb

Kirkwood introduced Representative Patty Acomb.

Patty Acomb introduced herself noting that she represents House District 45B. She stated that she is in her fifth year in the House and previously served on the Minnetonka City Council. She stated that her background

and education are in natural resources and therefore the lake is of particular interest to her. She also reviewed related entities and agencies on which she has served, noting her current committee assignments. She stated that the legislature will go back into session on February 12th and highlighted some of the items that will be discussed. She believed that this session would be quieter and not quite as ambitious as the previous session. She recognized that safety is a concern for the lake and welcomed any other input the Board may have.

Hoelscher appreciated the desire to keep lines of communication open should issues arise on either end.

Jabbour thanked Acomb for her work during the last session, recognizing that there was a phenomenal amount of work accomplished. He commented on the work they did relating to an operator permit and expressed appreciation to those on the legislature that were involved. He thanked Acomb for the amount of funding that LCCMR has provided to the hydro dam and AIS center. He stated that there is a bill that will be considered related to shrink-wrap which is important and urged Acomb to support that bill. He also expressed concern with how the County is spending the AIS funding that is intended to be allocated to different entities, including the LMCD.

Anderson commented that the LMCD is composed of 14 communities, ten of which are the richest cities in Minnesota. He stated that those cities contribute heavily to the Hennepin County tax base, but they struggle to keep Water Patrol Deputies on the lake and even contribute funding from the LMCD and donations from residents.

Acomb thanked Anderson for his input and stated that she would be happy to speak further on that topic. She stated that unfortunately the Hennepin County Commissioner representing District 6 has resigned and therefore that may be an opportunity to ask questions of those running in the special election.

B) February Meetings

Hoelscher stated that the first meeting in February has been canceled.

C) Prosecuting Attorney Update

Steve Tallen introduced himself to those that may not know him, reviewing his career experience and his role for the LMCD.

Jabbour stated that he is grateful for the services that Tallen provides in general. He stated that when a case is referred to Tallen, staff has already spent an exhaustive amount of time trying to resolve the issue. He referenced a case that has been going on for over five years with a lot of staff time, noting that an individual passed away and therefore the case was ended. He asked if the ordinance language making issues criminal offenses is the best way to go about those things, in his legal opinion. He stated that if a person does not stop the offending behavior and drags that on, they can make money off that if it is a commercial operation. He stated that in his opinion once things are passed to Tallen, there should be no more negotiations. He stated

that people that abide by the law complain that they need to follow the rules, while others do not. He asked if a variance could be issued to break the ordinance.

Tallen replied that a variance cannot be issued that breaks ordinance. He stated that the criminal process is cheap to start with, as he would simply generate a complaint. He noted that the majority of people will call him to ask how it could be resolved. He acknowledged the ultimate desire is for compliance. He stated that is a quick response. He stated that the civil process is expensive up front, providing details on that process. He stated that the good thing about the civil process is that a judge could issue an order to mandate that something must be addressed within 30 days, or the person would face jail time, which is not the same in a criminal case. He explained more of the criminal process, noting that the courts are still backed up from COVID and often people request a number of continuances for different reasons. He stated that perhaps he and Langel should have further discussion whether there should be pursuit of civil resolution when it is clear that the criminal case will be delayed significantly. He stated that while there may be a higher cost to the civil process, there may also be a more likely resolution.

Anderson referenced the proposed line-item budget of \$30,000 for prosecution legal fees, noting that sometimes the fees exceed that amount. He asked how fees recovered through the legal process are allocated, whether those come back to the LMCD or go to Hennepin County.

Tallen explained that anything that violates the LMCD ordinance on the lake should be written as an LMCD ordinance violation rather than a State law violation. He provided historical and current practice for how fine revenue is allocated.

Anderson asked how the fine revenue was allocated in this report.

Tallen noted that at least half of that revenue was a result of BWI offenses.

Kroll stated that he appreciated the civil option as Brimeyer recently suggested an administrative fine process and asked if that would be an option or whether the civil suggestion would involve the court.

Tallen stated that he would suggest the issuance of a civil complaint and court process and following the legal process in that manner.

Kroll stated that perhaps they should have a workgroup to take a further dive into that potential.

Kirkwood asked how people are made aware of the resolution of these cases.

Tallen commented that his office provides a monthly report to the Sheriff's Office and to staff.

Kirkwood asked if there would be benefit in making that public.

Tallen commented that he would discourage that as it would be seen as public shaming, even though the records are public.

Newell commented that the Board ultimately decided not to move forward with administrative fines and asked if Tallen had a legal opinion on that potential process.

Hoelscher stated that the Board discussed that at length and did not believe this was the appropriate time to rehash that. She noted that Newell could speak separately to Tallen to gain his opinion. She thanked Tallen for his continued work and appreciated the concept of Tallen working more closely with Langel.

7. APPROVAL OF MINUTES- 12/13/2023 LMCD Regular Board Meeting

MOTION: Kroll moved; Kirkwood seconded to approve the 12/13/2023 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (12), Abstained (1), (Malo) Motion carried.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Kroll moved; Zorn seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (01/01/2024 – 01/15/2024) & (01/16/2024 – 01/31/2024); **7B)** Resolution #260 Accepting Save the Lake Contributions (01/08/2024 – 01/17/2024); **7C)** Braun Intertec Findings of Fact; and **7D)** Watercraft for Hire Changes to Code.

VOTE: Motion carried unanimously.

Hoelscher asked and received confirmation that the Code changes would be published in summary format.

Jabbour noted that the court system will also need to receive updated information on the Code.

Hoelscher stated that a notice should also be published on the website and should be provided to Goff in order to develop any public education items.

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

There were no public comments.

10. PUBLIC HEARING

There were no public hearings.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

A) Report from Nominating Committee

Zorn provided an overview of the nominating process which was implemented in 2016. She stated that a recommendation was provided for Officers within the packet, although a nomination would be needed from the floor for the Vice Chair position. She thanked Walesch for serving with her on the Committee and acknowledged that he would soon be leaving the Board. She recognized that Anderson had been a great contribution in his role as Treasurer and has positioned Stone well to take over that position.

Hoelscher recognized that a nomination is needed for Vice Chair and welcomed any other nominations the Board may have.

Anderson stated that self-nominations had to be submitted by January 12th. He stated that he submitted a letter on January 11th to be considered as Treasurer. He stated that on January 16th he pulled the request for Treasurer. He noted that Stone self-nominated for the position of Vice Chair and therefore he believes that Treasurer should be the open nomination.

Hoelscher stated that it is her understanding that Stone stated that she would be open to any position.

Zorn confirmed that. She stated that one of the interview questions was whether the candidate is willing to serve in any Officer position.

Hoelscher again welcomed any nominations for any of the positions.

Kroll nominated Brandt for Vice Chair.

Hoelscher asked if there were any other nominations for any position.

Walesch nominated Zorn for Vice Chair.

Anderson nominated Jabbour for Vice Chair and Newell for Treasurer.

Hoelscher stated that they would first vote on the positions of Chair and Secretary as recommended by the Nominating Committee with herself to continue as Chair and Kirkwood to continue as Secretary.

All voted in favor and Hoelscher was appointed as Chair and Kirkwood was appointed as Secretary.

Hoelscher noted three nominations for Vice Chair.

Jabbour rejected the nomination for Vice Chair.

Brandt rejected the nomination for Vice Chair.

Zorn accepted the nomination for Vice Chair.

All voted in favor and Zorn was appointed as Vice Chair.

Hoelscher noted two nominations for Treasurer.

Newell accepted the nomination for Treasurer.

Stone accepted the nomination for Treasurer.

Newell and Stone both provided comments on why they would like to serve as Treasurer.

With a vote of 2 (For Newell) – 11 (For Stone), Stone was appointed as Treasurer.

Hoelscher thanked those that previously served, that will continue to serve and that will begin to serve as Officers.

B) Rental Boats (Memo from WFH Chair provided before the meeting)

Walesch stated that the watercraft for hire updates were adopted tonight, and the group will now focus on rental boats, providing an anticipated timeline for that review. He confirmed that the same committee members will continue to work on this.

Hoelscher noted that if additional members were interested in joining the discussion, they could reach out to Walesch.

13. NEW BUSINESS

A) Consulting Agreement with HueLife

Brimeyer stated that the Board completed a survey the previous February which was part of the process to delay the Executive Director search. He stated that it has now been one year and there had been discussion about completing an evaluation, along with a suggested staff team building. He stated that if approved tonight, the survey would be provided to the Board in the next week or two which would need to be completed by February 23rd. He stated that depending on the results they will determine whether a follow-up session would be needed. He stated that it would be proposed to hold a session on March 27th prior to the Board meeting for a Board retreat. He reviewed the proposed cost.

Hoelscher noted the previous discussion and desire for continued evaluation of both the Board and staff to ensure desired performance levels are being met and noted that this would accomplish that goal. She stated

that this would also assist in creating a process to be followed each year.

Kirkwood asked if it would be recommended that the same profile should be completed for the Board as was done with staff.

Brimeyer replied that the Board is too big to receive value on that type of assessment.

Hoelscher stated that the intent for the evaluation would be to review the work that has been done in the past year to determine whether or not the Board is continuing to work towards what had been agreed upon in the previous strategic planning sessions.

MOTION: Anderson moved, Jabbour seconded to adopt the consulting agreement with HueLife and recommended timetable, with the exception of the Board review/retreat, which would deduct \$3,000 from the cost.

Further discussion: Jabbour commented that he believes that in the past there was less evaluation and more direction. He stated that some of the Board members were legitimized through that process. He commented that the Board is doing well, and he would like to continue on that path rather than potentially derailing.

Walesch asked and received confirmation that the Board survey and report of those results would still be provided, simply removing the retreat.

Nellis commented that he does not feel that he knows enough about the Board retreat and would prefer not to make that decision tonight.

Hoelscher stated that the action tonight could authorize the survey and results and then the Board could have additional discussion as to whether a retreat is necessary.

Brimeyer confirmed that could be an option as the results of the study could determine whether or not a retreat would be desired.

VOTE: Motion carried unanimously.

~~B) Minnesota Powerboat Championships Presentation~~

Item removed.

14. TREASURER REPORT

- A) December Balance Sheet
- B) December General & STL Income Expense Reports

Anderson had no report.

15. EXECUTIVE DIRECTOR UPDATE

A) LMCD Annual Calendar 2024

Brimeyer stated that he collaborated with staff to update the annual calendar. He stated that he recently received notification from Mound for a polar plunge event and asked if Hoelscher and the Mound representative would be able to attend this Saturday.

Hoelscher commented that she would be unable to attend.

Brandt volunteered to attend and participate in the event.

16. CLOSED SESSION

Langel reported that the Board is going to enter into closed session for the purpose of evaluating the performance of Interim Executive Director pursuant to Minn. Stat. Sec. 13.D.05 Subd. 3(a).

The Board adjourned the regular meeting to closed session at 8:15 p.m.

The Board responded to two questions concerning Interim Executive Director Brimeyer: (1) What does the LMCD Executive Director do well? (2) What could the Executive Director do better?

Members of the Board noted that Mr. Brimeyer is an efficient and productive Executive Director who mentors staff and encourages their professional development in a manner that benefits the organization. Mr. Brimeyer has improved office organization as well as LMCD's relationship with outside entities. The Board looks to Mr. Brimeyer to continue consulting the Code for direction and then using Board members and staff as resources to fulfill his responsibilities in an effective manner. Overall, the Board is very pleased with Mr. Brimeyer's performance and his efforts to improve LMCD.

The Board returned to open session at 8:50 p.m.

16. ADJOURNMENT

MOTION: Walesch moved; Second seconded to adjourn the meeting at 8:50 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary

Lake Minnetonka Conservation District
Check Detail
 February 1 - 15, 2024

ITEM 8A

Date	Num	Name	Memo	Account	Paid Amount	Class
02/15/2024	EFT-24-16	ADP		Bridgewater Checking		
			Salaries - Admin	4020M10 - Salaries-002 - Admin	-8,307.66	Admin.
			P.E.R.A - Admin	2020 - Payroll Liabilities -	1,161.96	Admin.
			ER PERA - Admin	4022M10 - ER PERA - Admin	-622.48	Admin.
			ER/FICA/Medica - Admin	4021M10 - ER Share of Admin FICA/Medicare	-634.96	Admin.
			Long Term Disability	2020-LT - Payroll Liabilities - UNUM	7.66	Admin.
			Brimeyer 1/28/24 - 2/10/24	4024 - Contract Labor	-1,760.00	Admin.
TOTAL					-10,155.48	
02/15/2024	EFT-24-17	ADP Service Fee		Bridgewater Checking		
			Payroll 2/1/24 - 2/15/24	4180M10 - Professional Services - Admin.	-94.10	Admin.
TOTAL					-94.10	
02/01/2024	EFT-24-18	Unum Life Insurance	0510159	Bridgewater Checking		
			Long Term Disability February 2024	2020-LT - Payroll Liabilities - UNUM	-15.33	Admin.
TOTAL					-15.33	
02/01/2024	EFT-24-21	Medica		Bridgewater Checking		
			Health Insurance February 2024 (Schleuning)	4380M10 - Employee Benefits - Admin.	-781.82	Admin.
			Health Insurance February 2024 (Reardan)	4380M10 - Employee Benefits - Admin.	-781.82	Admin.
			Health Insurance February 2024 (Tully)	4380M10 - Employee Benefits - Admin.	-781.82	Admin.
TOTAL					-2,345.46	
02/15/2024	EFT-24-22	P.E.R.A	9236-00	Bridgewater Checking		
			Payroll 2/1/24 - 2/15/24	2020 - Payroll Liabilities -	-1,161.96	Admin.
TOTAL					-1,161.96	
02/01/2024	EFT-24-23	WEX Health, Inc.		Bridgewater Checking		
			HSA Employer Contribution February 2024 (Arntson)	4380M10 - Employee Benefits - Admin.	-125.00	Admin.
			HSA Employer Contribution February 2024 (Reardan)	4380M10 - Employee Benefits - Admin.	-125.00	Admin.
			HSA Employer Contribution February 2024 (Tully)	4380M10 - Employee Benefits - Admin.	-125.00	Admin.
TOTAL					-375.00	
02/15/2024	23096	AIS Advanced Imaging Solutions		Bridgewater Checking		
02/15/2024	521223891		Copier Contract 1/20/24 - 2/20/24	4140M10 - Office Equipment R&M - Admin.	-463.15	Admin.
TOTAL					-463.15	
02/15/2024	23097	Cable Cloud		Bridgewater Checking		
02/15/2024	25234		Phone System Access, Recording, and Voicemail	4180M10 - Professional Services - Admin.	-245.00	Admin.
TOTAL					-245.00	
02/15/2024	23098	Fred T. Miller Photography & Video		Bridgewater Checking		
02/15/2024	0240390		1/24/24 Board Meeting Video	4182M10 - Media (Cable/Internet) - Admin.	-300.00	Admin.
TOTAL					-300.00	
02/15/2024	23099	Goff Public		Bridgewater Checking		
02/15/2024	19252		Client Calls, Internal Meetings, STL Solicitation Printing Coordination	4183M10 - Prof/ Serv. - Communications	-495.00	Admin.
TOTAL					-495.00	

Lake Minnetonka Conservation District
Check Detail
 February 1 - 15, 2024

Date	Num	Name	Memo	Account	Paid Amount	Class
02/15/2024	23100	Gregerson, Rosnow, Johnson & Nilan, LTD		Bridgewater Checking		
02/15/2024	49601		Prosecutions Costs January 2024	4640M10 - Prosecution Legal Fees - Admin.	-2,992.52	Admin.
TOTAL					-2,992.52	
02/15/2024	23101	Innovative Office Solutions LLC		Bridgewater Checking		
02/15/2024	4436462		Copy Paper	4220M10 - Office Supplies -Admin.	-12.42	Admin.
TOTAL					-12.42	
02/15/2024	23102	LMCC		Bridgewater Checking		
02/15/2024	1580		1/24/24 Board Meeting VOD Services	4182M10 - Media (Cable/Internet) - Admin.	-200.00	Admin.
TOTAL					-200.00	
02/15/2024	23103	Lynette M. Rohde Bookkeeping		Bridgewater Checking		
02/15/2024	2024-010		Financial Statements, 2023 Reconciliations, 1099 Review and Submittal, and Quickbooks Training	4180M10 - Professional Services - Admin.	-297.60	Admin.
TOTAL					-297.60	
02/15/2024	23104	TimeSaver Off Site Secretarial, Inc.		Bridgewater Checking		
02/15/2024	28888		1/24/24 Board Meeting Minutes	4230M10 - Meeting Exp. - Admin.	-206.50	Admin.
TOTAL					-206.50	
02/15/2024	23105	Your Computer Hero		Bridgewater Checking		
02/15/2024	8336 & 8345		New Laptop and Setup January 2024 Maintenance	4181M10 - Professional Comp. Serv.-Admin. 4180M10 - Professional Services - Admin.	-1,403.00 -766.20	Admin. Admin.
TOTAL					-2,169.20	

Lake Minnetonka Conservation District
Check Detail
 February 16 - 29, 2024

ITEM 8A

Date	Num	Name	Memo	Account	Class	Paid Amount
02/29/2024	EFT-24-26	ADP		Bridgewater Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,307.66
			P.E.R.A - Admin	2020 · Payroll Liabilities -	Admin.	1,161.96
			ER PERA - Admin	4022M10 · ER PERA - Admin	Admin.	-622.48
			ER/FICE/Medica - Admin	4021M10 · ER Share of Admin FICA/Medicare	Admin.	-634.96
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	7.66
			Brimeyer 2/11/24 - 2/24/24	4024 · Contract Labor	Admin.	-620.00
TOTAL						-9,015.48
02/29/2024	EFT-24-27	ADP Service Fee		Bridgewater Checking		
			Payroll 2/16/24 - 2/29/24	4380M10 · Employee Benefits - Admin.	Admin.	-94.10
TOTAL						-94.10
02/29/2024	EFT-24-28	P.E.R.A		Bridgewater Checking		
			9236-00			
			Payroll 2/16/24 - 2/29/24	2020 · Payroll Liabilities -	Admin.	-1,161.96
TOTAL						-1,161.96
02/29/2024	EFT-24-29	WEX Health, Inc. Service Fee		Bridgewater Checking		
			HSA Service Fee March 2024 (Tully)	4380M10 · Employee Benefits - Admin.	Admin.	-2.75
			HSA Service Fee March 2024 (Reardan)	4380M10 · Employee Benefits - Admin.	Admin.	-2.75
			HSA Service Fee March 2024 (Arntson)	4380M10 · Employee Benefits - Admin.	Admin.	-2.75
TOTAL						-8.25
02/29/2024	23106	City of Mound		Bridgewater Checking		
02/29/2024	2545		Rent, March 2024	4320M10 · Office Rent - Admin.	Admin.	-1,820.16
TOTAL						-1,820.16
02/29/2024	23107	ECM Publishers, Inc.		Bridgewater Checking		
02/29/2024			Sweeney Variance Public Hearing Notice	4110M10 · Public Info Legal Fees- Admin.	Admin.	-64.00
			Sweeney Variance Public Hearing Notice	4110M10 · Public Info Legal Fees- Admin.	Admin.	-41.25
			WFH Ordinance Amendment	4110M10 · Public Info Legal Fees- Admin.	Admin.	-49.50
			WFH Ordinance Amendment	4110M10 · Public Info Legal Fees- Admin.	Admin.	-76.80
TOTAL						-231.55
02/29/2024	23108	FRANCOTYP-POSTALIA, INC.		Bridgewater Checking		
02/29/2024	106111242		Postage Meter Quarterly Rental Fee	4080 · Postage	Admin.	-86.85
TOTAL						-86.85
02/29/2024	23109	Innovative Office Solutions LLC		Bridgewater Checking		
02/29/2024	4451413		Banker Boxes	4220M10 · Office Supplies -Admin.	Admin.	-52.61
TOTAL						-52.61

Lake Minnetonka Conservation District
Check Detail
February 16 - 29, 2024

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Class</u>	<u>Paid Amount</u>
02/29/2024	23110	NCPERS Group Life Insurance		Bridgewater Checking		
02/29/2024	92360032024		Life Insurance March 2024 (Tully)	4380M10 · Employee Benefits - Admin.	Admin.	-16.00
			Life Insurance March 2024 (Reardan)	4380M10 · Employee Benefits - Admin.	Admin.	-16.00
TOTAL						-32.00

ITEM 10A

MEMORANDUM

TO: LMCD Board

FROM: Joseph J. Langel, LMCD Counsel

DATE: February 28, 2024

RE: Information for New Board Members

Pursuant to the Board's request, the following is a summary of various topics impacting board members. This is not intended to be a comprehensive discourse on these subjects, but rather an outline of the most important points. It also bears mentioning that the nuances of these legal concepts are not necessarily well defined, and differences in the underlying facts of a situation can result in different conclusions as to how the law applies. If anyone has any questions on these issues, please feel free to contact me.

OPEN MEETING LAW

- I. Purposes of the OML
 - a. Prohibit actions being taken at secret meetings.
 - b. Assuring the public's right to be informed.
 - c. Affording the public an opportunity to be heard.
- II. Application
 - a. Applies to all meetings of the governing body.
 - b. Applies to standing committees.
 - c. Arguably does not apply to ad hoc committees (temporary committees with no authority to bind the governing body). The distinction between which committees the OML applies to is not always clear.
- III. What is a Meeting?
 - a. A meeting is when a quorum or more of the members gather to discuss, decide or receive information on issues relating to official business.

- b. If there is less than a quorum, there is no meeting.
- c. Chance meetings or social gatherings do not count.
- d. Meetings cannot be outside the geographic boundaries of the public entity.

IV. Types of Meetings

- a. Regular – held pursuant to an approved calendar (e.g., every second and fourth Wednesday of the month). The approved schedule is the notice to the public.
- b. Emergency – called because of circumstances that require immediate consideration. These should be called rarely and only for circumstances where public safety is jeopardized.
 - i. Notice requires a good faith effort to reach news media that filed a request for notices. Posting or published notice is not required.
 - ii. Notice must include the subject of the meeting.
 - iii. Discussions should be limited to the subject of the meeting.
- c. Special – if a meeting is not a regular meeting or an emergency meeting, it is necessarily a “special” meeting.
 - i. Notice of the date, time, place and purpose must be posted on the principal bulletin board, or on the door if there is no bulletin board, three days before the meeting.
 - ii. Notice must be mailed to anyone who requested such notices. Must be mailed or delivered at least three days before the meeting. Can publish notice in lieu of delivered notice.
 - iii. The meeting must be limited to the topic stated in the notice.
- d. Serial – A series of conversations, whether in person or by phone, e-mail, text or social media, during which discussions of official business or decision-making occurs. Collectively, these conversations may constitute a serial meeting, which is illegal because the public has no access to it.
 - i. “Daisy Chain” Emails

1. A series or chain of individual e-mails that lead to a collective concurrence would constitute a serial meeting and thus violate the open meeting law.
2. Members should be cautious when forwarding emails or using “reply all” to avoid serial communication.

V. Closed Meetings

- a. Some meetings must be closed.
 - i. When discussing data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
 - ii. When discussing active investigation data.
 - iii. When discussing educational data, health data, medial data, welfare data, or mental health data that are nonpublic.
 - iv. When discussing an individual’s medical records.
 - v. When giving preliminary consideration of allegations or charges against an individual subject the public body’s authority unless that person requests that it be open. Notice of the meeting must be provided to that person so that she or he can decide whether to open the meeting.
- b. Some meetings may be closed, but do not have to be.
 - i. When evaluating the performance of an employee.
 - ii. When meeting pursuant to the attorney-client privilege.
 - iii. When meeting to determine the asking price for real or personal property to be sold.
 - iv. When meeting to review confidential appraisal data.
 - v. When developing or considering offers or counteroffers for the purchase or sale of real or personal property.
 - vi. When receiving security briefings or meeting to discuss security systems.

- c. All closed meetings must be recorded, except those closed under the attorney-client privilege.

VI. Meeting Electronically

- a. A meeting may be conducted by interactive technology if...
 - i. All members can hear and see one another and can hear and see all discussion and testimony from any location.
 - ii. Members of the public at the regular location can hear and see all discussion, testimony and votes.
 - iii. At least one member of the body is at the regular location.
 - iv. All votes are by roll call.
 - v. A member of the public must be allowed to monitor the meeting remotely.
 - vi. Notice of the meeting must be provided in the same manner as a special meeting, giving the location of the regular meeting as well as where every member appearing remotely is located.
 - vii. Minutes of the meeting must reflect the names of the members appearing remotely and why they are doing so.
 - viii. Every location at which a member is present must be open to the public. The exception is if:
 - 1. The member participated from a closed location three times or fewer in a calendar year; and
 - 2. The member is serving in the military or
 - 3. The member was advised by a health care professional against being in a public place for personal or family medical reasons.

VII. Violations

- a. Anyone who intentionally violates the OML is subject to a civil penalty up to \$300.

- b. If a person intentionally violates the OML three or more times, the person forfeits the right to serve on the public body for a period of time equal to the term of office.
- c. The person may also be subject to liability for costs, disbursements and reasonable attorneys' fees.

CODE OF CONDUCT

I. Section 2.3 of the Bylaws includes the Code of Conduct:

- a. "The Board expects of itself and its members ethical and respectful conduct. This commitment includes proper use of authority and appropriate decorum when acting as Board members during meetings and while interacting with the public."

EXPECTATIONS FOR BOARD MEMBERS

I. General Expectations

- a. Support the LMCD's mission and vision.
- b. Serve actively on committees and workgroups of the Board.
- c. Attend activities and events sponsored by the LMCD whenever possible.
- d. Provide feedback for the Executive Directors performance appraisal and the Board's self-appraisal.
- e. Act as an ambassador for the LMCD and the Lake area community.
- f. Communicate effectively in all directions: with the LMCD staff, the Board, member cities, the public, other agencies, and the media when authorized.
- g. Help strengthen relationships with all Lake area constituents, stakeholders, and legislators.

- h. Actively and regularly communicate with the city you represent to keep them informed and solicit their ideas.

II. Meetings

- a. Prepare for and participate in the Board meetings and scheduled committee and workgroup meetings.
- b. Ask timely and substantive questions at Board, committee, and workgroup meetings consistent with personal conscience, convictions, and ethics.
- c. Meetings shall generally be conducted in a manner consistent with “Robert’s Rules of Order,” though noncontroversial matters of parliamentary procedure may be resolved by consensus of the Board without strict adherence to “Robert’s Rules of Order.”
- d. Board members shall conduct themselves in a professional and civil manner as a representative of their Municipality. For the good order of the Board, members will wait to be recognized by the Chair before speaking, will not attempt to discuss matters that are not presently before the Board, will not be disruptive or overly argumentative, and shall treat other members and the public with respect in their capacity as a Board member.
- e. Maintain confidentiality of the Board’s closed sessions and speak for the LMCD and Board only when authorized to do so.

III. Fiduciary Responsibility

- a. Exercise prudence and sound fiscal practices with the Board in the control of and transfer of LMCD funds.
- b. Read and understand the LMCD’s financial statements and audit reports and otherwise help the Board fulfill its fiduciary responsibility.

SOCIAL MEDIA POLICY

- I. The LMCD Board Members understand that their use of social media can influence how others view the LMCD and so agree to comply with the following guidelines when using LMCD social media sites. LMCD Board Members:
- i. Will not use official LMCD social media sites for campaigning purposes;
 - ii. Will not post comments or links to any content that endorses or opposes political candidates or ballot propositions, including links to a campaign site;
 - iii. Should be mindful of the risks of electronic communication in relation to the Minnesota Data Practices Act and the Open Meeting Law, though recognizing that there is an exemption from the Open Meeting Law under Minnesota Statutes, section 13D.065 for certain social media use;
 - iv. Should not use social media as a mechanism for conducting official LMCD business other than to informally communicate with the public;
 - v. Should reveal that they are appointed officials for the LMCD if/when making a post related to LMCD business and be honest, straightforward, and respectful;
 - vi. Should be sure that efforts to be honest do not result in sharing non-public information related to employees, personnel data, medical information, claims, lawsuits, or other nonpublic or confidential information;

- vii. Should add value to any social media discussion by staying focused on the issue; and Should correct any mistakes as soon as the Board Member is made aware of the error. Corrections should be upfront and as timely as possible. If you modify an earlier post, make it clear the posting has been corrected. Consider designating corrections with “Fixed link” or “Fact correction” prior to the correction.

II. Social Media under the Open Meeting Law

a. **13D.065 USE OF SOCIAL MEDIA.**

The use of social media by members of a public body does not violate this chapter so long as the social media use is limited to exchanges with all members of the general public. For purposes of this section, email is not considered a type of social media.

PUBLIC GIFT LAW

I. Public Gift Law

- a. Under the gift law, an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city is prohibited from accepting a gift from an interested person. (Minn.Stat. § 471.895, subd. 1 and 2).

II. Applicability to LMCD Board Members

- a. This prohibition applies to the members of the LMCD Board because they are appointed by a city. Much like a planning commission member would be prohibited from receiving a gift as they are appointed by the city council, a member of the LMCD is also appointed by a city council and therefore is an appointed official.

- b. In addition, the members are subject to recall by the cities. The ability to remove sitting members creates a stronger link between the LMCD and the cities, suggesting the members are appointed city officials.
- c. As an appointed official under the gift law, LMCD members are prohibited from receiving gifts from an “interested person.”
 - i. An interested person is defined as:
 - 1. “person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.”
 - ii. For the LMCD this would include any person or organization that could have business before the LMCD.
 - iii. For the gift law to apply, an interested person does not need to have a matter pending before the LMCD. Rather, if the interested person could at any time have a direct financial interest in a decision or recommendation of the LMCD, that individual would be considered an interested person under the gift law.

III. Exceptions to the Gift Law

- a. The following types of gifts are permitted under Minn. Stat. § 471.895, subd. 3:
 - i. Political contributions.
 - ii. Services to assist an official in the performance of official duties.
 - iii. Services of insignificant monetary value.

- iv. A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause.
 - v. A trinket or memento costing \$5 or less.
 - vi. Informational material of unexceptional value.
 - vii. Food or a beverage given at a reception, meal or meeting away from the recipient's place of work by an organization before whom the recipient makes a speech or answers questions as part of a program. (This exception permits only the principal speakers at meetings to receive gifts of food or beverage.)
 - viii. Gifts given because of the recipient's membership in a group, a majority of whose members are not local officials, if an equivalent gift is offered to or given to the other members of the group.
 - ix. Gifts between family members, unless the gift is given on behalf of someone who is not a member of that family.
 - x. Food or beverages given by a national or multi-state organization of governmental organizations or officials at a reception or meal to attendees at a conference sponsored by that organization if most of the dues to the organization are paid from public funds and an equivalent gift is given or offered to all other attendees.
- b. There are further limitations on gifts from lobbyists for appointed or elected officials from cities with a population of greater than 50,000 and are located within the seven-county metropolitan area. Minn. Stat. §§ 10A.071, 10A.01, subd. 22 and 24. For those metropolitan governmental units, the same gift restrictions apply to lobbyists as apply to interested persons under the gift law.

CONFLICTS OF INTEREST

I. Types of Conflicts

- a. Contractual conflicts – governed by statute
- b. Non-contractual – governed by common law

II. Contractual Conflicts

- a. The rule: “A public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.” *Minn. Stat. § 471.87.*
- b. LMCD Board members are public officers.
- c. Whether a public officer has “a personal financial interest” in the contract is often a fact-dependent analysis. A mere employee of a company with whom the organization contracts may or may not have a personal financial interest. Ultimately, it is up to the Board to decide, based on the facts and existing state law.
- d. There are 21 exceptions to the general rule. *Minn. Stat. § 471.88.* The most used exception is the one for contracts “for which competitive bids are not required by law.” These would be contracts with a value of up to \$175,000, or contracts for which bidding is simply not required (e.g., professional services agreements). *Minn. Stat. § 471.345, subd. 3.* The exception can only be used if the statutory procedure is followed (adopt resolution and file affidavit). *Minn. Stat. § 471.89.* If the procedure is not followed, the contract is void.
- e. Even if an exception applies, the interested officer must abstain from voting or deliberating on the contract.
- f. If a conflict exists and an exception does not apply, the Board cannot enter into the contract.

III. Non-Contractual Conflicts

- a. Based on common law – judicial precedent, not legislative enactments.
- b. A public officer who has a personal financial interest in the action or decision cannot participate in the action, regardless of whether there is a direct contract between the officer and the public entity.
- c. A public officer who has a personal interest in a quasi-judicial decision cannot take part in that decision. When the Board receives evidence, makes factual findings and issues an order, it acts in a quasi-judicial capacity.
- d. A public officer cannot vote on their own appointment.
- e. A public officer cannot affirmatively act in a biased manner on matters that come before the public body. *Continental Property Group, Inc. v. City of Minneapolis (council member actively advocated in opposition to project, both in public and to other council members, before it came before the council, resulting in the council relying in part on information not properly before it).*
- f. An action taken where the public officer failed to abstain may still be valid if the result would have been the same without that officer’s vote.
- g. An officer with a disqualifying interest needs to abstain from the discussion and vote. That officer is not counted towards the number needed for a quorum.
- h. The important point about common-law conflicts is that the doctrine is much broader than statutory conflicts, and more nebulous.

IV. LMCD Bylaws – Section 2.6 Conflicts of Interest

Section 2.6. Conflicts of Interest. The Board has a right to protect the integrity and validity of its decisions by prohibiting Board members who have a conflict of interest regarding a particular matter from voting on that matter. Therefore, Board members shall not participate in the discussion as a Board member or vote on any matter before the Board in which the member has:

- a) A direct or indirect financial interest in a contract with the LMCD; or

b) A direct interest, pecuniary or otherwise, in the matter based on consideration of the following factors:

- 1) The nature of the decision being made;
- 2) The nature of the pecuniary interest;
- 3) The number of officials making the decision who are interested;
- 4) The need, if any, to have interested persons make the decision; and
- 5) The other means available, if any, such as the opportunity for review, that serve to ensure that the members will not act arbitrarily to further their selfish interests.

A Board member shall be considered to have a conflict of interest if the outcome of a matter could substantially affect a member's financial interests or those of an associated business. No contract with the LMCD in which a member has a direct or indirect financial interest shall be valid unless it is approved by a unanimous vote of the Board, with the interested member abstaining, in accordance with Minnesota Statutes, section 471.88.

Members are strongly encouraged to seek advice from the LMCD Attorney regarding any potential conflicts of interest in advance of the matter coming before the Board and to follow the legal advice provided. If any member determines he or she has a conflict of interest, when the matter is reached on the agenda the member must announce he or she will not participate in the discussion and will abstain from voting on the matter due to a conflict of interest. The member then must leave the dais and either join the audience or leave the room. The member will be given the same opportunity as the public to speak on the matter, but only as a member of the public, and shall not vote on the matter.

If any Board member believes another Board member has a conflict of interest, he or she may make a motion to prohibit the member from participating in the discussion and vote on the particular matter. The member making the motion must state the reasons why they believe a conflict of interest exists. The opinion of the LMCD Attorney regarding the claimed conflict of interest shall be obtained prior to voting on the motion. If the motion is seconded and adopted by a majority of the members present and voting at the meeting, the member shall be prohibited from participating in the Board's discussion and vote on the matter. The member alleged to have a conflict may vote on the motion to exclude them from participation. Upon the adoption of such a motion, the member shall leave the dais and either join the audience or leave the room. The member will be given the same opportunity as the public to speak on the matter, but only as a member of the public, and shall not vote on the matter.



ITEM 11A

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: February 28, 2023 (Prepared February 22, 2024)

TO: LMCD Board of Directors

FROM: Thomas Tully, Manager of Code Enforcement

CC: Jim Brimeyer, Interim Executive Director

SUBJECT: Variance for Adjusted Dock Use Area and Length, 2721 Tyrone Lane Mound, MN 55364, Emerald Lake

ACTION

Board consideration of a variance for an adjusted dock use area and side setbacks for 2721 Tyrone Lane Mound on Emerald Lake in the City of Mound (PID 19-117-23-23-0123) and receive public input during the public hearing.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Owen Sweeny for the property located at 2721 Tyrone Lane in Mound for final approval at the March 13, 2024, LMCD Board meeting <subject to the following conditions>...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Owen Sweeny for the property located at 2721 Tyrone Lane in Mound for final Denial at the March 13, 2024, LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Owen Sweeny ("Applicant") has submitted a variance application to adjust the dock use area and allowed length for the dock structure located at 2721 Tyrone Lane in the City of Mound ("Site"). The Applicant's parcel has approximately 210 feet of 929.4 OHW shoreline. The Applicant is proposing to adjust the residential sites dock use area and allowed dock length at the location due to abnormal site conditions. The variance application was submitted in an effort to resolve the issues of water depth, emergent vegetation and conflicting dock use areas.

Site Background

The Applicant has submitted a variance application to adjust the dock use area and allowed length for the dock structure located at 2721 Tyrone Lane located in the City of Mound. The applicant is proposing to increase the length of the dock structure due to water depth issues, emergent vegetation, and conflicting dock use areas. The applicant proposes to install a dock structure that would extend out into the lake approximately 415 feet. There is currently no existing dock structure at the site.

The Applicant's parcel has approximately 210 feet of 929.4 OHW shoreline. The applicant proposes to install a dock structure which would extend over the emergent vegetation located along the Sites to reach navigable water. The proposed Dock structure would have dock sections which would measure 3.5 feet in width. The Applicant is proposing 3 Boat Storage Units, ("BSU") each measuring 12 feet in width by 30 feet in length at the end of the dock structure for private use.

Through an onsite review by LMCD Staff, as well as a wetland delineation done by the applicant, LMCD staff have determined that there are multiple hardships which support the Applicants request.

Conflicting Dock Use Areas - The properties to the south of this parcel along the channel are licensed by the LMCD as an Association Multiple Dock which have an allowance to have 5 watercrafts. Implementation of another watercraft in this channel could potentially impede navigation to this multiple dock which has been given the right to use this area which includes Dock Use Area Associated with 2721 Tyrone Ln.

Emergent Vegetation- Majority of the 210 feet of 929.4 OHWL associated with this property is covered by emergent vegetation, as a part of this public hearing process LMCD Staff reached out to the MCWD regarding the proposal. MCWD staff have commented that this dock proposal would be a minimal Impact solution due to no dredging being implemented but instead a dock structure that acts as a boardwalk over the wetland to reach navigable water.

Water depth - Due to the shoreline being unusable for navigation. The Applicant is proposing to extend the dock structure at the Site out to the larger open area which the water depths at that location range from 2.5 feet to 4 feet which is acceptable by LMCD Code

There is currently no dock structure for the site. LMCD Code allows properties with shorelines greater than 60 feet to extend their dock structure out a distance into the lake equal to the length of their shoreline, but not more than 100 feet. The Applicant has chosen to ask for a variance to reach a more navigable depth. Additionally, there is a 10-foot setback for dock structure extending into the lake 0 to 50 feet, a 15 foot setback for dock structure extending 50-100 feet and a 20-foot setback for dock structure extending 100-200 feet. Originally, LMCD Staff were concerned that the dock structure encroached upon or into a City of Mound Dock Use Area to the North. Upon review LMCD Staff found the proposed Dock Structure would be meeting

standard setbacks regarding property lines. However, due to side opening slips at the end of the dock structure, the Applicant may need a setback Variance for encroachment upon the channel.

Water depths were taken by LMCD Staff for review. At 365.5 feet the average water depth for the property would be roughly 2.5 feet which ranges along that vegetation. The end of the proposed BSUs would be approximately 4.25 feet to 4.5 feet.

There is a minimum setback requirement for BSUs which open towards an extended side site line into the lake with a requirement for the setback to be equal to the length of the slip and be no less than 20 feet. Meaning that the proposed BSUs may or may not need a minor setback reduction to the channel. It should be noted that the LMCD typically does not enforce double setbacks for side opening slips on channels for residential properties.

Lastly there is set precedent for granting length variances in areas in which the applicant is proposing.

CONSIDERATIONS OF VARIANCE

The following items should be considered when reviewing a variance request:

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

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, the City of Mound, and the general public were provided information regarding the application on January 09, 2024. City and agency comments were due by January 20, 2024. Comments received as of February 22, 2024, are summarized below. Any comments received after February 22, 2024, will be provided at the Board meeting for review.

- Both the MCWD and City of Mound commented, which can be found as Attachments 5a and 5b respectively. The MCWD had no objection, and the City of Mound expressed

concern.

- No other agencies commented.

As of February 22, comments received by LMCD staff from the general public are summarized below:

- The LMCD Office has received 2 comments from the general public regarding concern for the location of the dock structure and the potential impact it may have.

PUBLIC HEARING

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

The public hearing notice was published in both the January 11, 2024, and February 15, 2024 edition of the Sun Sailor (official newspaper) and the January 13, 2024, and February 17, 2024 edition of the Laker Pioneer. On January 9, 2024, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

Based on information available at the time of this report, LMCD Staff recommend Board Approval .

If the board chooses to approve the variance, based on review of the Considerations of Variance factors, the minimum recommendations are provided for consideration. The Board may wish to consider other items.

1. For the southern side setbacks, maintain a minimum 20 foot-setback from the dock structure to the channel as it extends into the lake as indicated on the site plan.
2. For the Northern side setbacks, maintain a minimum 10 foot setback from the City of Mound Dock Use Area until 150 feet is reached
3. The length of the dock structure and storage should be no longer than the proposed 415 feet from the 929.4 feet OHWL
4. Allow up to (3) BSUs for the Site.
5. Ensure all watercrafts (3) are contained within the BSUs located at the site.
6. Ensure proper reflective material is present along the entirety of the dock structure
7. Be in strict compliance with the Site Plan as approved by the board
8. Provide an updated site plan with final configuration and measurements as approved by the Board, this includes all watercraft for the site and their respective BSUs.
9. Apply standard variance conditions reflecting environment, nuisances, maintenance, etc.

BUDGET

N/A

STRATEGIC PRIORITIES

<input checked="" type="checkbox"/>	Docks, Applications, Licenses, Surface Water Management	<input type="checkbox"/>	Lake Use, Safety	<input type="checkbox"/>	Lake Protection	<input type="checkbox"/>	Operational Effectiveness	<input type="checkbox"/>	Other
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ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Imagery of Site
3. Proposed Site Plan
- ~~4. Site Overlay~~
4. Variance Application & Submitted Documents
5. MCWD & City of Mound Comment
6. Public Hearing Notice (Sun Sailor and Laker Pioneer)
7. Public Hearing Notice Mailing
8. 60 day extension



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.
- (b) Commercial Structures – August 30, 1978. The authorized dock use area for sites with commercial uses that have a commercial structure that was in existence on August 30, 1978 shall extend into the Lake a distance of 200 feet. The lakeward extension of the authorized dock use area more than 100 feet from the shoreline shall be limited to the distance from shore of the docks in existence on said date and that portion of said docks more than 100 feet from the shoreline may not be altered or expanded.
- (c) Qualified Commercial Uses. The authorized dock use area for qualified commercial marinas, qualified sailing school, and qualified yacht clubs extends into the Lake a distance of 200 feet.
- (d) Existing Site – February 5, 1970. The authorized dock use area for a site in existence on February 5, 1970 shall be determined as follows:
 - (1) Over 40 feet of Frontage. If the site has a Lake frontage of 40 feet or more, but less than 60 feet, the authorized dock use area extends into the Lake a distance of 60 feet.
 - (2) Under 40 feet of Frontage. If the site has a Lake frontage of less than 40 feet, the authorized dock use area extends into the Lake to the point necessary to reach a water depth of four feet, measured from 929.4 NGVD, except that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed unless the Board issues a setback variance under Section 6-5.01.

Application for Variance at, 2721 Tyrone Lane,
Mound, MN, 55364, Emerald Lake
February 28, 2024

- (e) Public Safety Docks. The authorized dock use area for dock facilities owned and operated by state agencies, Hennepin County, the LMCD, or municipalities bordering on the Lake and used exclusively for law enforcement, public safety, or LMCD purposes extends into the Lake a distance of 125 feet.

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

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

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

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

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.
 - (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.
- (c) Sites with 50 feet of Width or Less – February 2, 1970. For a site in existence on February 2, 1970 with a width of 50 feet or less, the authorized dock use area may be expanded to a side setback limitation of five feet, provided that such setback in no way impair access to neighboring docks.
- (d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

Section 2-4.05. General Density Rule.

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

for any period of time, on three or more calendar days in any 14-day period.

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

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

Section 2-4.09. Special Density Rules.

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

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

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

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

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

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

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

Section 6-5.01. Variances.

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

variances granted by the LMCD shall be governed by the provisions of this Section.

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

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

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

Variance Application for Adjusted Dock Length and Side Setback

Property: 2721 Tyrone Lane, Mound 55364 (Applicant: Owen Sweeney)

For illustrative purposes only. Source: Hennepin County Interactive Property Map, 01/03/2024



Variance Application for Adjusted Dock Length and Side Setback

Property: 2721 Tyrone Lane, Mound 55364 (Applicant: Owen Sweeney)

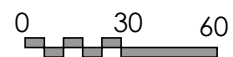
For illustrative purposes only. Source: Hennepin County Interactive Property Map, 01/03/2024



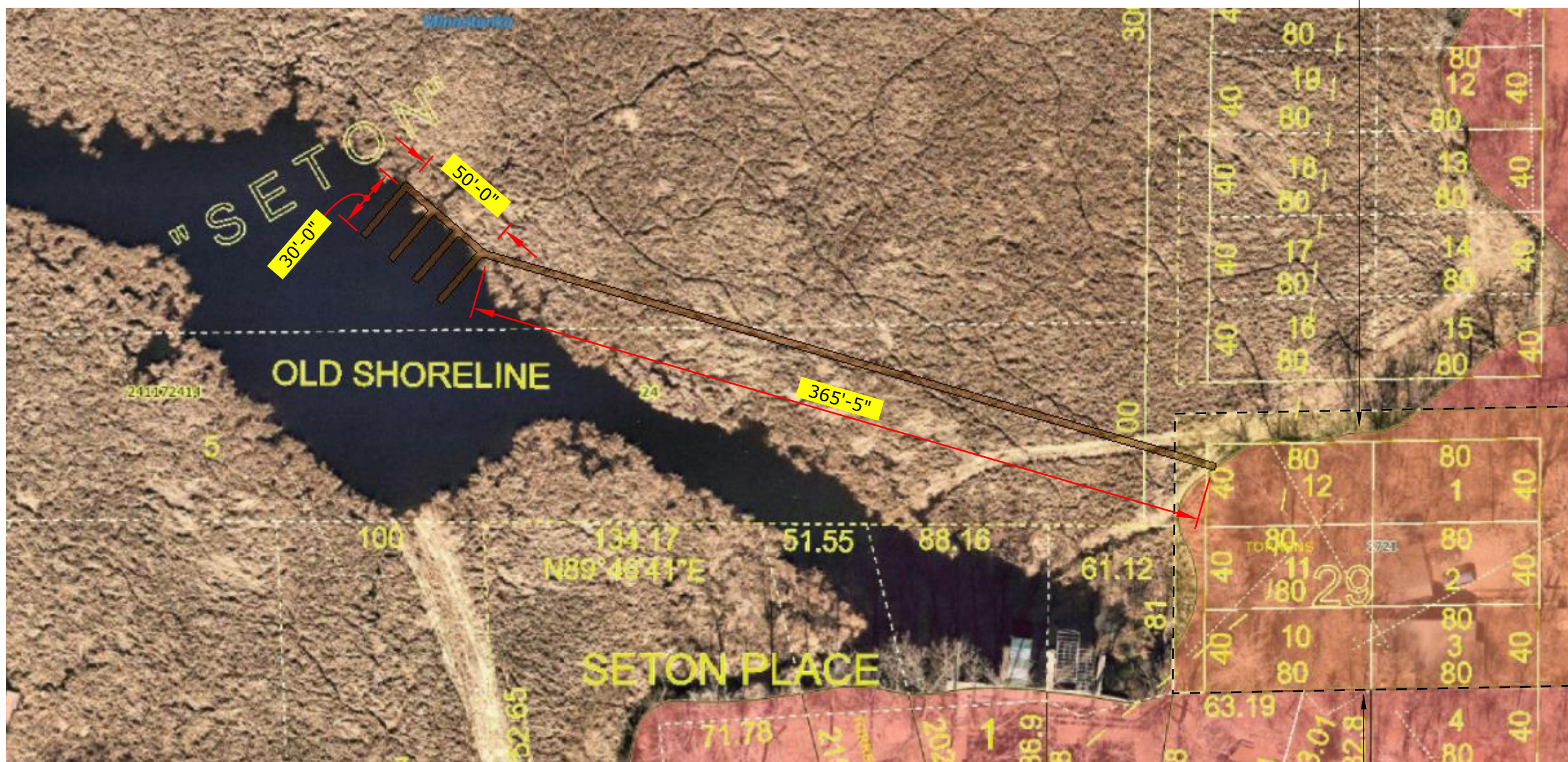
Designed for the
SWEENEY RESIDENCE

2721 Tyrone Lane, Mound MN 55364

Scale 1" = 60'



Aprox 210' of 929.4



2721 Tyrone Lane (My Property)



VARIANCE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

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

1. CONTACT INFORMATION

Applicant: Owen Sweeney Title (Owner, Authorized Agent, etc.): Owner
Address: 2721 Tyrove Lane,
City, State, Zip: Mound MN, 55365
Phone: 952-446-6612 Email: Owensweeney @ Momsdesignbuild.com
Property Owner (if different from applicant):
Relationship to Property Owner:
Address:
City, State, Zip:
Phone: Email:

2. PROPERTY INFORMATION

Site Address: 2721 Tyrove Lane, Mound MN 55364
Abutting Lakeshore Property Owners (Name and Mailing Address)
North or West:
South or East:
Other affected parties:

3. PROPOSED VARIANCE

Type of Variance: Dock length
State practical difficulties causing the variance to be required: All closer site locations
would impede channel traffic.

4. ATTACHMENTS

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

- Locator Map
- County Plat Map
- Certified Land Survey, Legal Description
- Proposed facility site plan
- Existing facility site plan
- Scaled drawing of docks on abutting properties and other affected dockage
- Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.)

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


Absence of requested data may result in a processing delay or the application may be deemed incomplete.

5. FEES

Application Fee (Non-refundable)	\$750.00
Deposit (Remaining funds refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required.)	<u>\$1500.00</u>
TOTAL FEE ENCLOSED (This fee is for processing of the application and does not entitle the applicant to a variance.)	<u>\$2250.00</u>

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

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

Applicant's Signature: 

Owen Sweeney Owren 11/13/23

Name Title Date

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

85 19-117-23 23 0045
 TYLER J & DARCY OBERDECK
 85 ADDRESS UNASSIGNED
 MOUND MN 00000
 TYLER & DARCY OBERDECK
 2717 CLAIRE LA
 MOUND MN 55364

85 19-117-23 23 0107
 AGA REALTY LLC
 2739 CLARE LA
 MOUND MN 55364
 OLGA ALAN
 7581 PRAIRIE MOUND WAY
 SAN DIEGO CA 92139

85 19-117-23 23 0143
 JODIE LEKO
 2718 CLARE LA
 MOUND MN 55364
 JODIE LEKO
 2718 CLARE LA
 MOUND MN 55364

85 19-117-23 23 0046
 JAMES E NELSON
 2636 TYRONE LA
 MOUND MN 55364
 JAMES E NELSON
 2636 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0108
 VERONICA JACQUELINE AISAWA
 4750 WILSHIRE BLVD
 MOUND MN 55364
 VERONICA JACQUELINE AISAWA
 4750 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0144
 KELSEY A KRANTZ & ADAM CHASE
 2710 CLARE LA
 MOUND MN 55364
 KELSEY A KRANTZ & ADAM CHASE
 2710 CLARE LA
 MOUND MN 55364

85 19-117-23 23 0082
 C D & B L BYINGTON
 2717 SHANNON LA
 MOUND MN 55364
 CRAIG D & BARBARA L BYINGTON
 2717 SHANNON LA
 MOUND MN 55364

85 19-117-23 23 0116
 S & K NIELSEN REVO LIVG TRST
 4730 WILSHIRE BLVD
 MOUND MN 55364
 SCOTT & KATHLEEN NIELSEN
 5018 SHERWOOD DRIVE
 NEW PORT RICHEY FL 34652

85 19-117-23 23 0159
 TIM LAUSE
 4784 WILSHIRE BLVD
 MOUND MN 55364
 TIM LAUSE
 16085 RHYOLITE CIR
 RENO NV 89521

85 19-117-23 23 0083
 JEROME S & JULIA ST SAUVER
 4730 CAVAN RD
 MOUND MN 55364
 JEROME S ST SAUVER
 4730 CAVAN RD
 MOUND MN 55364

85 19-117-23 23 0120
 SCOTT J BECKMAN
 2628 TYRONE LA
 MOUND MN 55364
 SCOTT J BECKMAN
 2628 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0160
 ELLEN J HANSEN/ERIC J LARSON
 2737 TYRONE LA
 MOUND MN 55364
 ELLEN HANSEN & ERIC LARSON
 413 HIAWATHA AVE
 HOPKINS MNN 55343

85 19-117-23 23 0089
 TYLER J & DARCY OBERDECK
 2717 CLARE LA
 MOUND MN 55364
 TYLER & DARCY OBERDECK
 2717 CLAIRE LA
 MOUND MN 55364

85 19-117-23 23 0122
 L KASS & S ANDERSON
 4759 GALWAY RD
 MOUND MN 55364
 LOGAN KASS
 SAMANTHA ANDERSON
 4759 GALWAY RD
 MOUND MN 55364

85 19-117-23 23 0167
 ANDREW BACON
 4740 WILSHIRE BLVD
 MOUND MN 55364
 ANDREW BACON
 4740 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0090
 L MCCARTER & T HINDI
 2721 CLARE LA
 MOUND MN 55364
 LUCAS MCCARTER
 TALIA HINDI
 4691 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0123
 JAMES P SWEENEY REV TR ET AL
 2721 TYRONE LA
 MOUND MN 55364
 HEATHER A SWEENEY
 JAMES P SWEENEY
 7475 FLYING CLOUD DRIVE #104
 EDEN PRAIRIE MN 55344

85 19-117-23 32 0164
 CHARLEY GIBBS & D GIBBS
 4757 WILSHIRE BLVD
 MOUND MN 55364
 CHARLEY GIBBS
 DEBORAH GIBBS
 4757 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0091
 HANNAH BALUT
 2724 TYRONE LA
 MOUND MN 55364
 HANNAH BALUT
 2724 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0124
 E J LARSON & E L HANSEN
 2725 TYRONE LA
 MOUND MN 55364
 ERIC LARSON & ELLEN HANSEN
 413 HIAWATHA AVE
 HOPKINS MN 55343

85 19-117-23 32 0165
 ALICE EVANS
 4765 WILSHIRE BLVD
 MOUND MN 55364
 ALICE EVANS
 4765 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0092
 DAVID W BONGARD
 2718 TYRONE LA
 MOUND MN 55364
 DAVID W BONGARD
 2718 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0125
 RAKSA MARK
 2733 TYRONE LA
 MOUND MN 55364
 RAKSA MARK
 2733 TYRONE LA
 MOUND MN 55364

85 19-117-23 32 0166
 KATHERINE M ZIEMKE
 4773 WILSHIRE BLVD
 MOUND MN 55364
 KATHERINE M ZIEMKE
 4773 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0093
 KEVIN T SHEELEY
 2712 TYRONE LA
 MOUND MN 55364
 KEVIN T SHEELEY
 2712 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0132
 CHAD J PATTERSON
 2651 SHANNON LA
 MOUND MN 55364
 CHAD J PATTERSON
 2651 SHANNON LA
 MOUND MN 55364

85 19-117-23 32 0167
 DOUGLAS R UMBHOCKER ET AL
 4785 WILSHIRE BLVD
 MOUND MN 55364
 DOUG R UMBHOCKER
 4785 WILSHIRE BLVD
 MOUND MN 55364

85 19-117-23 23 0094
 B R FOSTER & T C FOSTER
 2700 TYRONE LA
 MOUND MN 55364
 BENJAMIN R FOSTER
 2700 TYRONE LA
 MOUND MN 55364

85 19-117-23 23 0133
 SCOTT T HAYES
 2701 SHANNON LA
 MOUND MN 55364
 SCOTT T HAYES
 5681 144TH ST W
 APPLE VALLEY MN 55124

85 24-117-24 14 0059
 KATHLEEN L OLSEN
 4854 WILSHIRE BLVD
 MOUND MN 55364
 KATHLEEN L OLSEN
 4854 WILSHIRE BLVD
 MOUND MN 55364

85 24-117-24 14 0060
LYNETTE REINERS
4850 WILSHIRE BLVD
MOUND MN 55364
LYNETTE REINERS
4840 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 14 0061
J R & K K SMYTH
4846 WILSHIRE BLVD
MOUND MN 55364
JOHN R & KRISTIN K SMYTH
4846 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 14 0062
ROBERT EINAR SANDOM
4842 WILSHIRE BLVD
MOUND MN 55364
ROBERT EINAR SANDOM
4842 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 14 0065
CITY OF MOUND
85 ADDRESS UNASSIGNED
MOUND MN 00000
CITY OF MOUND
2415 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 14 0066
CURTISS E & LOUISE R CAIN
4808 WILSHIRE BLVD
MOUND MN 55364
CURTISS E & LOUISE R CAIN
4808 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 14 0069
DAVID B AUL & JOYCE A AUL
4838 WILSHIRE BLVD
MOUND MN 55364
DAVID & JOYCE AUL
14646 125TH ST
GLENCOE MN 55336

85 24-117-24 41 0001
CITY OF MOUND
85 ADDRESS UNASSIGNED
MOUND MN 00000
CITY OF MOUND
2415 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 41 0064
DANIEL GEORGE PAGEL
4843 WILSHIRE BLVD
MOUND MN 55364
DANIEL GEORGE PAGEL
4843 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 41 0066
JAMES & BARBARA BREMER
4855 WILSHIRE BLVD
MOUND MN 55364
JAMES & BARBARA BREMER
4855 WILSHIRE BLVD
MOUND MN 55364

85 24-117-24 41 0198
CYNTHIA A FIERRO
4849 WILSHIRE BLVD
MOUND MN 55364
CYNTHIA A FIERRO
4849 WILSHIRE BLVD
MOUND MN 55364

From: [Permitting](#)
To: [Raina Arntson](#)
Cc: [Thomas Tully](#)
Subject: RE: New Length Variance Application 2721 Tyrone Lane
Date: Friday, January 19, 2024 2:19:52 PM
Attachments: [image001.png](#)
[image002.png](#)

External (permitting@minnehahacreek.org)

[Report This Email](#) [FAQ](#) [GoDaddy Advanced Email Security](#). Powered by INKY

Hi Raina,

Thank you for sending this for the Minnehaha Creek Watershed District's (MCWD or District) review.

MCWD has no objections to the variance application; this appears to be a minimal-impact solution. The proposed New Length Variance application, as currently proposed, will not trigger any MCWD rules. Future or additional activity in dock areas, boat slip, shoreline areas, or wetland may require additional review and/or MCWD permits. Please recommend the applicant contact MCWD staff if future or additional activity is proposed in this area so staff can better understand the project and determine if MCWD rules and permits apply.

New or additional dock installations require review by the Lake Minnetonka Conservation District (LMCD) and should follow LMCD rules, regulations, and requirements.

Work or activity within the public waterbody and wetland requires review by the Minnesota Department of Natural Resources (DNR) and should follow DNR rules, regulations, and requirements.

The City of Mound is the Local Government Unit (LGU) for the Wetland Conservation Act (WCA). Work or activity within the wetland requires review by the LGU and may require additional permits.

Thanks again and please let MCWD staff know if you have any questions.

Maria Friedges | **Permitting Technician** | | www.minnehahacreek.org

15320 Minnetonka Blvd, Minnetonka, MN 55345 | | 952.641.4587



"Please note- MCWD is in the process of revising its rules and expects updated rules to be implemented in early 2024. The majority of rule revisions are focused in the Erosion Control and Stormwater Management rules, which are required to be updated so that they align with MPCA NPDES standards. If you have questions about how this may impact future permitting needs, please reach out to rulerevisions@minnehahacreek.org."

From: Raina Arntson <rarntson@lmcd.org>

Sent: Tuesday, January 9, 2024 3:32 PM

Cc: Thomas Tully <ttully@lmcd.org>

Subject: New Length Variance Application 2721 Tyrone Lane

You don't often get email from rarntson@lmcd.org. [Learn why this is important](#)

Hello,

The LMCD is requesting review and comment from our partner agencies regarding a New Length Variance. The Applicant is **Owen Sweeney**. The property is located at (19-117-23-23-0123) in the City of Mound.

The following documents are attached for your review:

1. Request for Review in both Word and PDF format
2. Location Map
3. Proposed Site Plan

Please provide comments by January 19, 2024. Please let me know if you have any questions.

Thank you and have a great day,

Raina Arntson

Executive Assistant for Code Enforcement and Operations | Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200 | Mound, MN 55364

Ph 952-745-0789 | rarntson@lmcd.org

www.lmcd.org



To preserve and enhance the Lake Minnetonka experience



2415 WILSHIRE BOULEVARD • MOUND, MN 55364-1668 • PH: 952-472-0600 • FAX: 952-472-0620 • WWW.CITYOFMOUND.COM

January 22, 2024

Thomas Tully
5341 Maywood Road, Suite 200
Mound, MN 55364

Dear Mr. Tully,

This letter serves as the City of Mound's response to the Public Hearing Notice regarding the Variance application for the property located at 2721 Tyrone Lane, Mound, Minnesota.

After careful review, the City of Mound's stance on the matter is that it does not support the proposed variance that would adjust the dock use area for the site.

Specifically, the City of Mound does not support the use of City of Mound assigned dock use areas for use by a private property owner. The variance is asking to use and encroach onto the side setback of public shoreline which is currently assigned to the City of Mound. The City of Mound shoreline abutting the 2721 Tyrone property is assigned as public land for public use only. The variance, if granted, will negatively impact and alter this public use and the essential character of the area. Under the circumstances, the proposed use is not reasonable.

Please feel free to reach out if you have any questions.

Sincerely,

Jesse Dickson
City Manager
City of Mound
(952) 472-0609
jessedickson@cityofmound.com

2

2

**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, FEBRUARY 28, 2024**

**OWEN SWEENEY
DOCK VARIANCE
2721 TYRONE LANE,
MOUND, MN 55364
EMERALD LAKE,
LAKE MINNETONKA**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application to adjust the dock length and side setbacks from Owen Sweeney of 2721 Tyrone Lane, Mound. The applicant is proposing to adjust the dock use area and length of dock structure at the property due to abnormal site conditions. All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

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

Published in the
Sun Sailor
February 15, 2024
1373353



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: January 9, 2024
TO: Property Owner
FROM: Thomas Tully, Manager of Code Enforcement
SUBJECT: Public Hearing Notice - Variance 2721 Tyrone Lane, Mound, Emerald Lake

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for a variance for an adjusted dock use area including side setback adjustments. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. The site is located at 2721 Tyrone Lane in Mound and has shoreline on Emerald Lake. The Applicant is Owen Sweeney of 2721 Tyrone Lane, Mound, MN 55364.

The applicant proposes to adjust the dock use area for the site including length and setbacks. All interested persons will be given an opportunity to comment. An aerial image and proposed site plan are enclosed for your reference.

Public Hearing Information

A public hearing will be held at 7:00 PM, January 24, 2024. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by emailing staff at lmcd@lmcd.org.

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

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



LAKE MINNETONKA CONSERVATION DISTRICT

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

January 10, 2023

Owen Sweeny,

Emailed: owensweeney@momsdesignbuild.com

27721 Tyrone Lane,
Tonka Bay, MN 55364

Re: Variance Application Enclosed for 27721 Tyrone Lane. Dock Placement

Dear Mr. Sweeny:

On November 15, 2023, our office received your application & check requesting a license for a New Variance Application for your property located in the City of Mound, MN 55364. Staff determined the application complete and processed it in accordance with the LMCD Code.

On January 11, 2023, a public hearing notice for the new Variance was posted in the official Sun Sailor News Paper.

LMCD staff notified the applicant that the public hearing scheduled for January 10, 2024, would be cancelled. Due to the original timeframe set to expire on January 13, 2024, which would be before the first public hearing is to be held. The Lake Minnetonka Conservation District is exercising its option under Minnesota Statutes, section 15.99 to extend the period the LMCD has to take final action on your application by an additional 60 days. With the 60-day extension provided for in this notice, the Board will now need to take final action on your application by March 13, 2024. Unless an indefinite extension is provided by the applicant, the LMCD will be required to hold a public hearing before that date.

Please contact Thomas Tully, Environmental Administrative Technician, at 952-745-0789 or by email at ttully@lmcd.org if you have questions or need clarification regarding this letter or the application process. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Tully', is written over a light gray grid background.

Thomas Tully,
Environmental Administrative Technician



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: February 28, 2024 (Prepared February 22, 2024)

TO: LMCD Board of Directors

FROM: Jim Brimeyer, Interim Executive Director

SUBJECT: Watercraft for Hire Workgroup – Rental Boat Update

ACTION NONE

BACKGROUND

The Watercraft for Hire Working Group is continuing work to amend and incorporate changes to the code. The group met on February 21st to have an in-depth discussion about what code amendments should be made regarding rental watercraft on Lake Minnetonka. New language has been suggested along with the clarification of statutes already in place.

BUDGET

STRATEGIC PRIORITIES

Table with 5 columns: Docks, Applications, Licenses, Surface Water Management; Lake Use, Safety; Lake Protection; Operational Effectiveness; Other. Each column has a checkbox, with the first three checked.

ATTACHMENTS



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: February 28, 2024 (Prepared February 12, 2024)

TO: LMCD Board of Directors

FROM: Jim Brimeyer, Interim Executive Director

SUBJECT: 2024 AIS Pre-Treatment Survey on Stubbs Bay

ACTION

Board adoption of the 2024 application for support funding of an initial AIS treatment survey on Stubbs Bay. The following motions are offered depending on whether the Board wishes to approve or deny the request:

Approval

I make a motion to approve the LMCD AIS Project Funding Application for 2024 on Stubbs Bay and order staff to pay the request survey costs of \$2,170.

Denial

I make a motion to deny the LMCD AIS Project Funding Application for 2024 on Stubbs Bay based on the following reasons...

BACKGROUND

On December 10th 2023, Eric Evenson. on behalf of the Stubbs Bay Homeowners, has submitted an application requesting funding for initial bay-wide surveys on Stubbs Bay in order to obtain a license/permit from the Minnesota Department of Natural Resources to treat Aquatic Invasive Species.

BUDGET

The amount requested in total is \$2,170 (35% of survey costs).

STRATEGIC PRIORITIES

Form with checkboxes for Docks, Applications, Licenses, Surface Water Management; Lake Use, Safety; Lake Protection (checked); Operational Effectiveness; and Other.

ATTACHMENTS

- LMCD AIS Project Funding Application
Stubbs Bay AIS Project Narrative



LMCD Aquative Invasive Species (AIS) Project Funding Application

For LMCD Use: Date Received _____

1. Applications can be any of the following:

- Initial Baywide Chemical Application for AIS Treatment
- Initial Baywide Surveys required to obtain DNR liscence or permits
- Others to be determined as program is further developed by LMCD

The purpose of this application is to provide the LMCD's AIS Committee relevant information about the AIS initiative being requested for funding. The application will be reviewed by the AIS Committee for approval. Full LMCD Board of Directors approval is required for successful funding.

2. Project Title:

3. Contact Information of Applicant

Name:		Title or Position:	
Address:			
Phone:			
Email:			

4. Project Location: description and attach a map of the lake area

5. Project Narrative: proposed project description, desired project timeline, other project partners (contractors, agencies, associations, stakeholders, professional service recommendations, etc.). Add additional information as appropriate.

6. Cost Estimate for project

I certify that the information provided herein and any attachments hereto are true and correct statements to the best of my knowledge. I agree to the conditions of the funding, if granted; and I consent to permitting officers and agents of the District to investigate at all reasonable times and to determine compliance with conditions of the funding.

Submitted by:	
Date:	

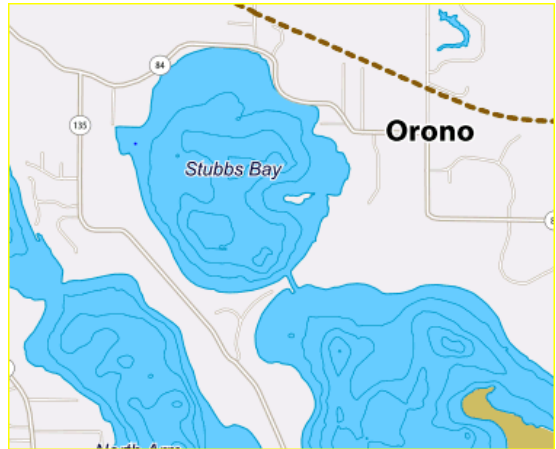
The purpose of this program is to encourage others to invest in AIS research, identification and removal activities directly associated with Lake Minnetonka. This program is intended to help initiate, promote and support AIS prevention and removal in Lake Minnetonka. This project support is intended to help incubate new projects around the Lake. Additional pages may be necessary.

Project Title:

Invasive Plant Surveys and Point Intercept Survey for Stubbs Bay

4. Project Location: description and attach a map of the lake area

Stubbs Bay is an approximately 200 acre, shallow bay located north of Maxwell Bay on the north side of Lake Minnetonka (map attached).



5. Project Narrative: proposed project description, desired project timeline, other project partners (contractors, agencies, associations, stakeholders, professional service recommendations, etc.). Add additional information as appropriate.

Historically, Stubbs Bay has had poor water quality which hindered the growth of vegetation; however, water quality has improved enough over the past few years that homeowners are reporting invasive plants have become a nuisance. Since no plant surveys exist, very little is known about native or invasive vegetation in the bay

The Stubbs Bay Treatment Program consist of two Phases. Phase I includes: surveys for curlyleaf pondweed (CLP) and Eurasian water milfoil (EWM), a point intercept survey (PI), the preparation of a LVMP, and a small amount of treatment (no more than 15% of the littoral area). The surveys will be used to: determine the locations of invasive plants, provide information required for a lake vegetation management plan (LVMP), and provide the basis for future whole bay treatments. Phase II, will begin in 2025 and is anticipated to be a whole bay treatment for EWM and/or CLP.

The 2024 LMCD funding request is only for the EWM and CLP surveys and the PI survey that are included in Phase I. The Stubbs Bay homeowners will raise the funds needed to prepare a LVMP and for the 2024 treatments.

Freshwater Scientific Services will do all plant surveys. The LMA will be the project manager and fiscal agent. Delineation surveys will be completed by September 30, 2024. Copies of surveys and treatment reports will be sent to the MnDNR, LMCD, and the Minnesota AIS Research Center.

6. Cost Estimate for project

Eurasian water milfoil survey:	\$1,500
Curlyleaf pondweed survey:	\$1,500
Point-intercept survey:	<u>\$3,200</u>
Sub-total:	\$6,200

Total grant requested (35%) **\$2,170 (not to exceed)**

Balance Sheet

As of January 31, 2024

	Jan 31, 24
ASSETS	
Current Assets	
Checking/Savings	
Bridgewater Checking	99,487.42
Bridgewater Savings	562,344.09
1010M10 · Petty Cash	38.60
1090M10 · Alerus Bank - Savings	-10.00
Total Checking/Savings	661,860.11
Accounts Receivable	
1150M10 · Accounts Rec. - Gen	15,943.75
Total Accounts Receivable	15,943.75
Total Current Assets	677,803.86
Fixed Assets	
1640M90 · Fixed Assets	155,233.00
1645M90 · Accumulated Depreciation	-95,427.00
Total Fixed Assets	59,806.00
Other Assets	
1650M90 · Leased Asset	172,361.00
1655M90 · Accumulated Amortization-Lease	-22,969.00
Total Other Assets	149,392.00
TOTAL ASSETS	887,001.86
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Credit Cards	
1087M10 · US Bank (Credit Card)	844.09
Total Credit Cards	844.09
Other Current Liabilities	
2050M10 · Accrued Payroll - Gen	5,068.00
2150M90 · Accrued compensated absences	14,439.00
2151M90 · Current portion of comp absens	3,337.93
2916M90 · Lease Liability - Short Term	25,290.00
Total Other Current Liabilities	48,134.93
Total Current Liabilities	48,979.02
Long Term Liabilities	
2915M90 · Lease Liability - Long Term	126,242.00
Total Long Term Liabilities	126,242.00
Total Liabilities	175,221.02
Equity	
Retained Earnings	793,294.38
2910M10 · Fund Balance - Admin.	48,727.51
2910M20 · Fund Balance - S/L	226,468.17
2910M30 · Fund Balance - EWM	40,088.85
2910M50 · Fund Balance - Equip Repl	79,004.07
2910M90 · Fixed Assets - Conversion Fund	-585,738.00
Net Income	109,935.86
Total Equity	711,780.84
TOTAL LIABILITIES & EQUITY	887,001.86

Lake Minnetonka Conservation District
2024 General Income & Expense Budget Comparison
January 2024

02/15/24

Accrual Basis

	Jan 24	Budget	\$ Over Budget
Ordinary Income/Expense			
Income			
Grants & Other Income			
3080M10 · Interest - Gen	2,202.19	3,000.00	-797.81
3260M10 · Court Fines - Admin.	4,600.00	50,000.00	-45,400.00
3300M10 · Other Income - Admin.	7,000.00	3,000.00	4,000.00
Total Grants & Other Income	13,802.19	56,000.00	-42,197.81
Licenses/Permits			
3110M10 · Multiple/Perm. Dock Lic -Admin.	67,590.53	85,000.00	-17,409.47
3120M10 · DMA license - Admin.	3,300.00	3,000.00	300.00
3130M10 · Deicing License - Admin.	0.00	6,000.00	-6,000.00
3170M10 · Variances - Admin.	0.00	15,000.00	-15,000.00
3240M10 · Charter Boats - Admin.	0.00	3,000.00	-3,000.00
3280M10 · Liquor/Beer/Wine License-Admin.	0.00	19,000.00	-19,000.00
Total Licenses/Permits	70,890.53	131,000.00	-60,109.47
3020M10 · Municipal Dues - Admin.	63,761.75	255,000.00	-191,238.25
3400M10 · Transfers In - Admin.	0.00	125,000.00	-125,000.00
Total Income	148,454.47	567,000.00	-418,545.53
Gross Profit	148,454.47	567,000.00	-418,545.53
Expense			
AIS Administration			
4111M30 · Legal	0.00	50,000.00	-50,000.00
Total AIS Administration	0.00	50,000.00	-50,000.00
General & Admin Expenses			
4060 · Telephone/Internet	31.99	3,700.00	-3,668.01
4070M10 · Webpage & Digital	3,780.00	500.00	3,280.00
4090M30 · DMV	0.00	40.00	-40.00
4340M10 · Insurance - Admin.	0.00	6,000.00	-6,000.00
4340M30 · Insurance W/C	0.00	0.00	0.00
4350M30 · Ins./Equip.	0.00	0.00	0.00
4360M10 · Subs/Memberships - Admin.	0.00	2,600.00	-2,600.00
Total General & Admin Expenses	3,811.99	12,840.00	-9,028.01
Legal			
4110M10 · Public Info Legal Fees- Admin.	210.50	2,000.00	-1,789.50
4620M10 · Civil Legal Fees - Admin.	702.00	27,000.00	-26,298.00
4640M10 · Prosecution Legal Fees - Admin.	3,365.37	30,000.00	-26,634.63
4641M10 · Other Legal Fees - Admin	0.00	4,000.00	-4,000.00
Total Legal	4,277.87	63,000.00	-58,722.13
Office, Supplies, Equip			
4080 · Postage	100.00	3,000.00	-2,900.00
4100M10 · Printing - Admin.	0.00	2,000.00	-2,000.00
4140M10 · Office Equipment R&M - Admin.	0.00	8,000.00	-8,000.00
4220M10 · Office Supplies -Admin.	222.73	2,500.00	-2,277.27
4230M10 · Meeting Exp. - Admin.	272.25	8,700.00	-8,427.75
4320M10 · Office Rent - Admin.	1,820.16	22,000.00	-20,179.84
4400M10 · Mileage/Exp's - Admin.	0.00	400.00	-400.00
4410M10 · Training/Prof. Devel.	0.00	1,000.00	-1,000.00
4520M10 · Furniture & Equip - Admin.	0.00	1,000.00	-1,000.00
4530M10 · Comp. Sftwr & Hdwr - Admin.	586.04	7,000.00	-6,413.96
4531M30 · Software & Hardware/Training	0.00	500.00	-500.00
Total Office, Supplies, Equip	3,001.18	56,100.00	-53,098.82

Lake Minnetonka Conservation District
2024 General Income & Expense Budget Comparison
January 2024

	Jan 24	Budget	\$ Over Budget
Personnel Expenses			
4020M10 · Salaries-002 - Admin	16,615.32	240,000.00	-223,384.68
4021M10 · ER Share of Admin FICA/Medicare	1,269.92	19,000.00	-17,730.08
4022M10 · ER PERA - Admin	1,244.96	18,000.00	-16,755.04
4380M10 · Employee Benefits - Admin.	4,397.96	40,000.00	-35,602.04
Total Personnel Expenses	27,588.16	317,000.00	-289,411.84
Professional Services- ADM			
4040M10 · Auditing - Admin.	0.00	10,000.00	-10,000.00
4180M10 · Professional Services - Admin.	303.10	3,000.00	-2,696.90
4181M10 · Professional Comp. Serv.-Admin.	0.00	4,000.00	-4,000.00
4182M10 · Media (Cable/Internet) - Admin.	600.00	3,500.00	-2,900.00
4183M10 · Prof/ Serv. - Communications	3,245.24	40,000.00	-36,754.76
Total Professional Services- ADM	4,148.34	60,500.00	-56,351.66
Public Education & Safety			
4160M10 · Watercraft/Vehicle Maint	0.00	1,000.00	-1,000.00
4535M10 · Public Safety - SolarLights	0.00	3,560.00	-3,560.00
Total Public Education & Safety	0.00	4,560.00	-4,560.00
Total Expense	42,827.54	564,000.00	-521,172.46
Net Ordinary Income	105,626.93	3,000.00	102,626.93
Net Income	105,626.93	3,000.00	102,626.93

Lake Minnetonka Conservation District
2024 STL Income & Expense Budget Comparison
January 2024

ITEM 15B

	<u>Jan 24</u>	<u>Budget</u>	<u>\$ Over Budget</u>
Ordinary Income/Expense			
Income			
Contributions			
3001M20 · Donations (General) - S/L	5,153.03	46,050.00	-40,896.97
Total Contributions	5,153.03	46,050.00	-40,896.97
Grants & Other Income			
3300M20 · Other Income - S/L	0.00	750.00	-750.00
Total Grants & Other Income	0.00	750.00	-750.00
3400M20 · Transfers In - S/L	0.00	42,000.00	-42,000.00
Total Income	5,153.03	88,800.00	-83,646.97
Gross Profit	5,153.03	88,800.00	-83,646.97
Expense			
Office, Supplies, Equip STL			
4080M20 · Postage - S/L	0.00	800.00	-800.00
4100M20 · Printing - S/L	0.00	1,000.00	-1,000.00
Total Office, Supplies, Equip STL	0.00	1,800.00	-1,800.00
Public Education & Safety			
4535M10 · Public Safety - SolarLights	0.00	87,000.00	-87,000.00
Total Public Education & Safety	0.00	87,000.00	-87,000.00
Total Expense	0.00	88,800.00	-88,800.00
Net Ordinary Income	5,153.03	0.00	5,153.03
Net Income	5,153.03	0.00	5,153.03