

## **SECOND AMENDED ORDER ESTABLISHING LAKE SHAMINEAU**

### **LAKE IMPROVEMENT DISTRICT**

Upon the request of the Board of Directors (Directors) of the Lake Shamineau Lake Improvement District (LSLID), the Board of County Commissioners of Morrison County (Board) initiated proceedings to amend the order establishing the LSLID. After a duly noticed hearing on the proposed amended order, and based upon testimony received at a public hearing held at the Morrison County Government Center in Little Falls, Minnesota, on July 18, 2019, the recommendations of staff, and upon all files, records, and proceedings herein, the Morrison County Board of Commissioners makes the following:

### **FINDINGS**

WHEREAS, the Morrison County Board first established LSLID in July, 2015. The Board amended the original establishment order in August, 2016, upon request of the LSLID Board of Directors. The first amendment sought to balance revenue generating processes and create greater fairness for resorts and other commercial enterprises within the LSLID; and

WHEREAS, the Board's original findings that: (1) the LSLID is necessary and the public welfare will be promoted by its establishment; (2) property within the LSLID will be benefitted by its establishment; and (3) formation of the LSLID will not cause or contribute to long-range environmental pollution, remain true and are re-adopted here as they related to this amended establishment order; and

WHEREAS, the Directors have requested amendments to the establishment order including: revisions to the calculation of charges to commercial, common interest and association properties with riparian access; clarification of the qualifications and terms of Directors, and method of election, removal and filling of Director vacancies; clarification of notice process for the annual meeting and of voting process for Directors, budget, projects, programs and other material matters; and additional delegation of authorities to the LSLID; and

WHEREAS, Lake Shamineau faces threats from Aquatic Invasive Species (AIS) including Eurasian Water Milfoil, Curly Leaf Pondweed, Zebra Mussels, and other invasive and nuisance plants and animals; pollution; shoreline erosion; high water levels; ice jacking; and other threats to the lake and properties within the LSLID; and

WHEREAS, the LSLID is a necessary component in helping to preserve Lake Shamineau as a viable natural resource in the County and allows for local funding toward local efforts to resolve issues facing Lake Shamineau and adjacent lands. Efforts made to date include: boat and trailer inspections, cleaning and decontamination and other methods to control AIS; studies of the impacts of and solutions to high water levels and outlet adequacy; and water quality monitoring. The LSLID will continue to promote the public welfare by improving and protecting the quality of the lake including, but not limited to, where feasible and practicable: preserving the natural character of the lake and its shoreland environment; improving the quality of water;

providing for reasonable assurance of water quantity; and to assuring protection of the lake from the detrimental effects of human activities and certain natural processes; and

WHEREAS, landowners will benefit from the LSLID's aquatic plant management because they will have the opportunity for greater use of the lake and increased property values; and

WHEREAS, the lake management programs will be done under the direction of the Minnesota Department of Natural Resources and will not cause or contribute to long-range environmental pollution; and

WHEREAS, as previously established, the LSLID will include all properties with riparian access to Lake Shamineau; and

WHEREAS, the primary programs to be undertaken will be the following: Manage and protect from AIS, study the impacts of and develop solutions to high water levels and outlet adequacy issues, and monitor water quality; and

WHEREAS, programs of the LSLID will be financed by one or a combination of user charges (as described below), ad valorem taxes or special assessments. Unless otherwise requested by the Directors, after approval by vote at the annual meeting, the primary method of financing programs will be by user charge; and

WHEREAS, the Morrison County Board of Commissioners will be the Agency responsible for supervising the programs of the Lake Improvement District; and

WHEREAS, delegation of the powers stated below to the Directors will assure that representatives of the people most directly affected by the actions of the LSLID will determine its management; and

WHEREAS, because of the County's residual financial responsibility under Minnesota Rule 6115.0980, the Directors will be required to maintain insurance and follow standard government accounting principles.

**Therefore, the Morrison County Board of Commissioners makes the following Order relating to the function and authority of the Lake Shamineau Lake Improvement District:**

1. User charge structure:
  - a) User charge shall be calculated based on the total budget for programs and administration of the LSLID divided by the total number of chargeable properties within the LSLID.
  - b) Residential, riparian properties and non-commercial riparian properties shall be subject to one charge for each PIN calculated at a factor of 1 for each PIN (standard charge).

- c) Commercial riparian properties shall be subject to one standard charge and an additional, density charge calculated at a factor of 20% of a standard charge for each "rental unit" that is located on the riparian parcel or on any adjacent or affiliated properties. Commercial properties will be identified as commercial by either tax code or land use zoning if used for profit, non-profit and/or utilize goods or services for a fee, donation, in kind contribution or anything of monetary value. A "rental unit" is defined as an individual dwelling place and can include a cabin, bunkhouse, condominium, townhouse, apartment, or individual camping site equipped with water and electrical hookups, for recreational vehicles.
  - d) Residential riparian properties and non-commercial properties that are part of a group, association, common interest community, or entity with property contiguous to and having riparian access by easement or commonly owned parcel or lot, shall be subject to a total of one standard charge and an additional, density charge calculated at a factor of 20% of a standard charge for each individually owned lot within the group, association, common interest community, or entity. The total user charge shall be divided by the total number of individually owned lots to arrive at a common charge. The common charge shall be extended to each individually owned lot.
  - e) For riparian lots that are owned by a corporation or other entity which cannot be identified in paragraphs c or d, the corporation or entity shall be subject to one standard charge for each riparian PIN and a density charge calculated at a factor of 20% of a standard charge for each dwelling in excess of the number of riparian PINs occupying or using the riparian parcel for access to Lake Shamineau.
2. The District shall include all properties riparian to Lake Shamineau and those contiguous properties having riparian access by virtue of an easement or common ownership interest in a riparian lot.
  3. Property owner means the owner of real property within the LSLID or the buyer under a contract for deed of real property within the LSLID. For the purpose of voting, each property within the LSLID shall have one vote as a member of the LSLID regardless of its ownership structure. Property means a parcel or parcels held in separate and distinct ownership, regardless of the number of lots or parcels owned, the acreage, or the number of owners; except, when a riparian property is owned in common by an association or common interest community for the purpose of providing the association or community members riparian access to Lake Shamineau. Property owners having an interest in or having an easement or access across a common riparian property shall have all other rights and responsibilities, including being subject to fees, charges, or assessments, as riparian property owners.

4. The LSLID is authorized to undertake the following programs as determined necessary by the LSLID Board of Directors and in cooperation with the Minnesota Department of Natural Resources.
  - a) Manage and protect from AIS.
  - b) Study the impacts of and develop solutions to high water levels and outlet adequacy issues.
  - c) Monitor water quality.
5. Programs and administration of the LSLID will be financed by one or a combination of user charges, ad valorem taxes or special assessments. Unless otherwise requested by the LSLID Board of Directors, after approval by vote at the annual meeting, the primary method of financing programs will be by user charge.
6. Projects of the LSLID, upon approval by vote at the annual meeting and approval of the Morrison County Board of Commissioners, may be financed by any combination of user charges, ad valorem taxes or special assessments.
7. The LSLID Board of Directors shall consist of five (5) members. Directors shall be owners of property within the LSLID. Each Director shall serve a two (2) year term and the terms shall be staggered. Directors may be trustees of a trust, or officers or shareholders of a corporation so long as the trust or corporation is a property owner. Only one co-property owner, co-trustee, co-association member, or officer or shareholder of a corporation may hold a seat on the board at a time. A majority of the Directors must reside in the LSLID.
8. Directors shall be elected at the annual meeting. All ballots for Director elections shall contain a space for one or more write-in candidates depending on the number of Director positions open for election. Each Director must take and sign the oath defined in the Minnesota Constitution, article V, section 6. The signed oath must be filed with the Morrison County Board of Commissioners. Newly elected Directors shall take office 4 weeks after elected.
9. A vacancy on the LSLID Board of Directors may occur under the conditions outlined in statutes section 351.02. Vacancies shall be filled by election at the next annual meeting. Nothing herein shall prevent the LSLID Board of Directors from enlisting the aid of volunteers to assist the LSLID Board of Directors in the performance of administrative tasks.
10. The annual meeting shall be held in August of each year on a date set by the LSLID Board of Directors. At least eight (8) weeks prior to the annual meeting, the LSLID Board of Directors shall notify property owners, by mailed initial notice:

- a) The date, time and location of the annual meeting;
  - b) The Director seats open for election (either by expiring term or vacancy); and
  - c) The method and timeline for nominating candidates for Director election, including the required qualifications of Directors.
11. The LSLID Board of Directors shall allow at least two (2) weeks from the date of the initial notice for the filing of Director candidate nominations.
12. At least three (3) weeks before the annual meeting, the LSLID Board of Directors shall provide a second mailed notice to property owners containing:
- a) The date, time and location of the annual meeting;
  - b) The agenda for the annual meeting, to include each and every item of business to be voted on by landowners at the annual meeting;
  - c) The slate of candidates for the Director election;
  - d) The final proposed budget and any budgeted program or project, or other item of business to be voted on at the annual meeting; and
  - e) A mail-in ballot for both the election of Directors and for items of business to be voted on at the annual meeting. The mail-in ballot must include instructions for completing and returning the ballot. All ballot questions and action items must be clearly stated.
13. In addition to the mailed notices described above, the LSLID Board of Directors shall provide notice of the annual meeting by two weeks' published notice and by written notice mailed at least ten days in advance of the meeting to the Morrison County Board of Commissioners, town boards, the Pollution Control Agency, and Commissioner of Natural Resources. The published and mailed notice must, at a minimum include the date, time and location of the annual meeting.
14. Property owners of the LSLID, whether the owner be a trust, association, or corporation, may vote at the annual meeting. No property or group of properties under the same ownership shall have more than one vote. Property with multiple owners, trustees, or officers for a property, shall have one collective vote.
15. Voting for Directors and other matters presented at the annual meeting will be by secret ballot. All ballots for Director elections shall contain a space for one or more write-in candidates depending on the number of Director positions open for election. The LSLID

Board of Directors may enlist the assistance of an impartial third party to assist with ballot handling and vote tabulation.

16. Directors may receive compensation for their services as determined by the property owners at the annual meeting and may be reimbursed for actual expenses necessarily incurred in the performance of their duties in the manner provided for County employees.
17. Notwithstanding the delegated powers enumerated below, the LSLID Board of Directors are not delegated the authority to establish and finance projects without first securing approval of the voters at the annual meeting and securing the Morrison County Board of Commissioners' authorization for financing such projects pursuant to statutes section 103B.555.
18. The following powers are hereby delegated to the LSLID:
  - a) Undertake research to determine the condition and development of Lake Shamineau and the water entering into it and to transmit the results of the studies to the Pollution Control Agency and other interested authorities;
  - b) Conduct a program of water improvement and conservation;
  - c) Make cooperative agreements with the United States or state government or other counties or cities to effectuate authorized water and related land resource programs;
  - d) Take actions necessary for the administration of the LSLID;
  - e) Construct and operate water control structures that are approved by the commissioner of natural resources under section 103G.245;
  - f) Undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 103G.245;
  - g) Contract with the board of supervisors of a soil and water conservation district within the LSLID for improvements under chapter 103C;
  - h) Develop and implement a comprehensive plan to eliminate water pollution;
  - i) Receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs; and
  - j) Regulate water surface use as provided in statutes section 103G.621.

19. The LSLID shall maintain general liability insurance in the amount of tort limits by Minnesota Statute 466 and shall name Morrison County as an additional insured on such insurance policy. A copy of the insurance policy shall be filed annually with the Morrison County Administrator.
20. The LSLID shall, no later than October 1 each year, prepare and file a report of the proceedings of the annual meeting with the Morrison County Administrator. The report shall include the result of each item of business voted on by the owners as the annual meeting. The report shall also include the approved budget and budget request to the Morrison County Board of Commissioners for the following year.
21. The LSLID shall, within four (4) months after its annual meeting, file an annual report with the Morrison County Board of Commissioners, the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, any township affected by the LSLID and the Morrison County Soil and Water Conservation District. The annual report shall include the financial conditions of the LSLID, the status of all projects in the LSLID, the business transacted by the LSLID, other matters affecting the interests of the LSLID, and a discussion of the LSLID Board of Directors' intentions for the succeeding years.
22. Proceedings to terminate the LSLID may be initiated by petition of a majority of property owners pursuant to statutes section 103B.581.
23. The LSLID shall operate in accordance with Minnesota Statutes 103B.501 to 103B.581 and Minnesota Rules 6115.0900 to 6115.0980 and within the limitations of this order.
24. This order will become effective 30 days after its publication in the Morrison County Record.

This order was approved by the Morrison County Board of Commissioners at its meeting on August 20, 2019.

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Randy Winscher  
Chair, Morrison County Board of Commissioners

Dated this 20<sup>th</sup> day of August, 2019.

Attested to by:

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Title