

Rock Koshkonong Lake District
2103 Annual Meeting
Meeting Minutes

Date: August 10, 2013

Location: Fort Atkinson High School, Fort Atkinson, Wisconsin

Present: Brian Christianson, Ray Lunder, Jim Bowers, Steve Proud, Joan Huedepohl, Andy Walton

Absent: Mary Mawhinney

Guest: Bill O'Connor – Wheeler Van Sickle & Anderson – Legal Counsel
Art Harrington – Godfrey & Kahn
Rob Montgomery – Montgomery Associates
Todd Sitter, Eric Scherdell – Summit Accounting
Al Sweeney – Rock County Supervisor
Captain Henry Sautin – Rock River Safety Patrol

1. The meeting was called to order by Chairman Christianson at 9:05 A.M. The Chair confirmed that notice of the meeting had been legally posted in local newspapers and the 5 townships within the Lake District. The Chair reviewed the rules for the Annual Meeting and asked participants to use the green ballot cards to indicate that they are an elector of the Lake District whenever they speak.
2. Approve 2013 Agenda – A motion was made by Frank Micale and seconded by Tom Kelly to approve the 2013 agenda for the Annual Meeting. Motion carried by voice vote. A motion was then made by Barb McGann and seconded by Tim Keller to accept the 2012 Annual Meeting minutes. This motion also was carried by a voice vote.
3. Chairman's Report - The Chairman started by introducing the RKL D Board of Commissioner's. The biggest news this past year was the Lake District prevailing in the litigation against the DNR at the State Supreme Court. The slow-no-wake order was finally amended on the Rock River in Rock County. The trigger was raised to 778. The other big project was working in a collaborative relationship with the DNR and the USACOE for an experimental dredge project at the north end of the lake. Chairman Christianson explained the benefits of the dredge project which also included fortifying the shore line with the spoils from the dredge separating Mud Lake from Lake Koshkonong. Because of working together with the DNR the Lake District **won a \$100,000 grant from the DNR.** Another issue that had come up in the past year was rather or not the Lake District has provided proper auditing or bookkeeping of the public tax dollars. The Lake District has always been in compliance with State Statues, nonetheless, a petition has been circulated to see more of the financials of the Lake District. The gentleman from Summit Accounting were present to address this issue and present costs for a possible audit of the books. The Chair noted that the proposed budget contained \$40,000 for the purpose of an audit and explained in great detail that the electors of the District can vote on the budget.

4. Treasurer's Report – Treasurer Lunder cited that as in the past Summit Accounting helped with the compilation of the 2014 budget. Todd Scherdell from Summit went on to explain the process that Summit takes to insure that the Lake District expenses match the checks created and all the formulas work on the spreadsheet and that everything is in the proper spot. They then issue a report saying they have performed this function. The Treasurer reviewed the 2012 audit actuals which had been updated to reflect the most recent bank statements. There were a few questions from the audience regarding the USGS Stations and the numbers presented because they were different from what electors had received in the mail in the annual newsletter. The Treasurer then moved on to the State Statute Audit Compliance. Legal Counsel Bill O'Connor reviewed the requirements regarding state law for auditing Lake Districts. The statute requires that the Board annually provide for an audit of the fiscal transactions for the fiscal year. The law does not specify that this be performed by a Certified Public Accountant. O'Connor stated that many Lake Districts have the Board appoint a group of property owners/electors to sit down with the Treasurer and review the transactions. The RKLD arranges for a Certified Public Accounting firm to perform such an annual audit. What the Lake District has done over the years is consistent with the statutory requirements for an audit. **This is well beyond the minimum that is required by state law.** Barb McGann of the audience made comments regarding the detail that the Lake District should provide by saying that more is better. Brian Daley questioned the use of the word "audit". Attorney O'Connor answered by saying that in this context, audit refers to reviewing the financial transactions. The Chair also noted the District has a separate line item for any expenditure over \$10,000 which is not required in the state statutes. At this time Summit detailed the costs of the various types of audits. Summit again detailed what they do for the District on an annual basis and then talked about a Financial Statement Review which includes more analytical review and discussion with the Board members. The last level would be an audit of the Financial Statement which would include audit confirmations being sent. Summit then detailed the costs for the respective audits. A compilation audit is \$850 annually. A Financial Statement review would run \$4,500-\$5,500 and an audit of the Financial Statement would be \$9,000-\$10,000. Commissioner Walton asked if the dollar amounts cited are annual costs. Eric answered that these are indeed annual figures and if an audit were to go back over several years there would be minimal economies of scale. The Chair thanked Eric and Todd for being at the meeting.
5. Water Level Proceedings Report – At this point the Chair turned the microphone over to Bill O'Connor, Legal Counsel for the District and Art Harrington who represents the two associations in this case, the RRKA & LKRA. On July 16th, the Supreme Court handed down a decision in favor of the Lake District. Attorney O'Connor recanted how the proceedings started many years ago under the auspices of the original Chairman of the Lake District, Jim Folk. O'Connor went on to describe how his firm worked in conjunction with Art Harrington's firm over the years in developing the testimony and evidence used to present the Lake District's case. In reading one of the Supreme Court Justices comments which read, "This case presents fundamental questions about the authority of the Wisconsin DNR and the criteria it uses in regulating the level of water in navigable waters that are affected by dams." This is now the landmark case on this topic. Specifically the court rejected the idea that privately owned wetlands that are beyond the accepted boundaries of lakes and streams, which is called the Ordinary High Water Mark (OHWM), are not to be treated as if they were part of the lake itself. The Wetlands that are privately owned are not subject to the special consideration that is given to the lake itself. Secondly, the court ruled that the DNR must consider the impact to property owners including the effect of water levels on business activity, property values, the tax base of the local

jurisdictions that rely on property values to maintain roads and schools. Most importantly, the court concluded that DNR is not entitled to make water level decisions just because they said so. Bill then introduced Art Harrington who commended the effort put forth by Mr. O'Connor firm in the proceedings. Art went on to say that he wanted to talk about privilege, property and protection. Art stated it was a privilege to work with Frank Micale and his Association as well as the Lake District. Art went on to say that whether you were a business or property owner you bought that land because of the value of the lake. Art stated that the value of your business or property is tied to the level of the lake. Art then stated the DNR must consider the relationship between water levels and the value of your property. Tim Keller from Blackhawk Island asked for clarification that even though we won, the water level order has not changed. Attorney O'Connor answered that the action to get a new water level order has yet to be resolved. Bill went on to say that there is a 30 day period after a Supreme Court decision where the parties can ask the Supreme Court to reconsider. It is not anticipated that anybody is going to do that but the cases or boxes of files stay in the Supreme Court for 31 days after the decision. At that point the records and jurisdiction over the water level go back to Rock County and Circuit Court where further proceedings take place. No discussions have taken place with the state lawyers or other parties lawyers regarding the decision.

6. Operational/Water Resource Report – Topics included Hydrology Report, Project at North shore/Mud Lake, Indianford Dam, Other Initiatives - Rob Montgomery started his presentation by reviewing water levels over the past year. As we all know the drought continued into the early part of 2013 when water levels started to increase at about the same time the dredge project started. The flood of 2013 was the biggest flood since 2008. Rob also made mention of the revised slow, no wake order for Rock County. Regarding the dredge project, the dredging at North Shore is complete, the shoreline protection and wetland restoration at Mud Lake working with the Twin Island Gun Club, has had the fill completed with the planting underway. The carp gate support reconstruction is completed and the remaining equipment is on hand waiting to be installed. Rob went over various slides related to the dredge site. Included in this were slides of the berm created and the area that Tallgrass Restoration is restoring and will soon be planted to wetland. The next steps are to complete the wetland seeding which should be done by the end of August, a final topographic survey, possible berm work, installation of the carp gates, potential stocking of Mud Lake and the monitoring of the project for the next 3 years. Rob then spoke of the work to be done at the IndianFord Dam. Every ten years state law mandates that dams need to be inspected. Montgomery Associates is going to conduct the structural safety inspection of the dam. Additional work to be done is to expose and clean the Powerhouse trash racks. Potentially a cofferdam or portadam will be erected so that we can dewater upstream of the trash racks. This will allow for the racks to be cleaned and a new debris control system to be installed. If conditions are good, it is possible this work can be completed by November of this year. Rob then went on to talk the initial PAS project goals which included improving navigation on the lake, protecting and improving aquatic habitat and shoreline wetlands, preserve and increase property values and lake related economic activity and most importantly make Lake Koshkonong a top Wisconsin recreational destination. Rob finished his presentation by reviewing some of the projects that the Board is considering at this time. One of the most talked about of these is removing navigation hazards at the Rock River entrance to the lake, perhaps installing a breakwater to protect and restore the wetlands and possible dredging to the south. Among the many other projects that the Board has discussed is developing shore protection designs by working with the DNR, USACOE and the respective counties. Rob concluded his presentation by discussing a possible project with DNR fish managers on hatchery

stocking and carp removal. During the question period an elector asked that the District web site include a map of the area the Lake District encompasses. Chairman Christianson said he would try and get such a map on the web site. Other electors would concerns about what can be done to improve water quality on the lake.

7. Presentation of the 2014 Annual Budget and vote on the Budget – The Board has recommended a \$45 special charge that would be applied to the December 2013 tax bill. The special charge helps fund projects throughout the 2014 calendar/fiscal year. Included in the budget was a \$40,000 charge to cover the potential audit. The Chair explained that any amendments to the budget may impact the special charge. When the Chair opened up the floor for comment the first to speak was Brain Daley who felt that the \$40,000 should be spent on water quality issues. Attorney O’Connor then recommended that the Board accept a motion to adopt the budget as proposed and then consider proposed amendments to the budget. Frank Micale made the motion and Barb McGann seconded a motion to adopt the budget. A motion was made by Brian Daley to remove the \$40,000 from the budget. The motion did not receive a second and therefore died. A motion was made by Charles Mason to reduce the budget amount of \$40,000 to \$5,500 for an audit expenditure which would in effect reduce the special charge \$37 per parcel. This motion was seconded by Barb McGann. During discussion on the motion electors spoke for and against the motion. The question was called and according to Roberts Rules of Order a 2/3 majority vote is need to stop discussion on this motion. This call did not carry. Discussion continued and electors gave their thoughts on an audit. Frank Micale then got up and stated that he felt the Board had done its job and we would be wasting our money on an audit that is not necessary. Frank went on to say an audit is not going to improve Lake Koshkonong and there is nothing out of line therefore he cannot support this motion. The motion made by Mr. Mason was put to a vote and did not carry. At this point, Frank Micale made a motion to keep the \$40,000 in the budget, however, use these funds for the water level proceedings. The motion was seconded by Carol Harrington. The motion carried and the amendment was adopted. A motion was then made to approve the amended budget by Frank Micale and seconded by Warren Harrington. The amended budget was approved. A copy of the budget is included in the minutes.
8. Election of 2 (two) Commissioners to serve with a term expiring in 2016 – Our two nominees were incumbents Joan Huedepohl and Ray Lunder. Both nominees made remarks on their behalf. The Chair asked if there were any nominations from the floor and without having any the electors were asked to cast their ballots. 69 ballots were cast with Ray Lunder receiving 66 votes, Joan Huedepohl receiving 65 votes and write in candidates Don Geise and Frank Micale each receiving one vote. Ms. Huedepohl and Mr. Lunder were elected to serve 3 year terms expiring in 2016.
9. A motion was made by Barb McGann and seconded by Don Nolde to adjourn the meeting. The motion carried and the meeting was adjourned at 11:40 A.M.

The Board met immediately afterward to elect a Chairman, Treasurer and Secretary. Brain Christianson was elected Chairman, Ray Lunder, Treasurer and Steve Proud, Secretary.