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MEMORANDUM

TO: MCWD Board of Managers
FROM: Chuck Holtman
RE: Lake Improvement Districts
DATE: September 21, 2014

At the September 11, 2014 meeting of the Board of Managers, counsel was asked to provide a brief background document on lake improvement districts (LIDs) to assist the Board in considering a resolution of intent adopted by the Greenwood city council to form an LID for St. Alban's Bay. The proposed LID would consist of riparian properties within Greenwood and Excelsior, and would be focused on aquatic invasive species (AIS) management with about \$20,000 to be raised each year from properties within the district.

The formation and powers of LIDs are addressed in the Lake Improvement District Law (LIDL). Minn. Stat. §§103B.501-.581. Under this law, an LID may be formed by order of a county board of commissioners, on its own action or pursuant to a petition signed by a majority of property owners within the proposed LID. If the LID would lie in more than one county, the affected counties may form an LID through a joint powers agreement (JPA).

A separate statute grants a city or town the authority of a county to establish a LID. Minn. Stat. §459.20. If the LID will lie in two or more cities, those cities may enter into a JPA to establish the LID. It is the intent of Greenwood and Excelsior to do that in this case.

An LID has a wide range of powers. These include, for example, building, owning and operating water control structures; maintaining public beaches, docks and other public facilities; performing research; preparing and implementing plans to improve and conserve waters and water quality; contracting with and receiving funds from watershed districts, conservation districts, and state and federal agencies for research and projects; constructing water and sewer systems; and otherwise performing water-related duties as delegated by the sponsoring unit(s) of government. LIDs also may regulate surface use of waters, deicing and weed removal.

An LID may be established after a public hearing and opportunity for written public comment. The establishment order must find that the LID will promote the public welfare and benefit the property included in the district. The sponsoring unit(s) of government also appoint the initial board of directors.

The order establishing the LID must define the LID boundaries; describe the programs and services to be undertaken, and how these will be financed; and set the number, qualifications, terms of office and methods of electing and removing board members and filling vacancies. Boundaries are “encouraged to be as consistent as practical with natural hydrologic boundaries.” Minn. Stat. §103B.535.

The Minnesota Department of Natural Resources (MnDNR) oversees the LIDL and has adopted rules to give more detail to the law. Minn. Rules 6115.0900-.1150. MnDNR staff advises that an LID on a bay rather than a lake is acceptable where the bay outlet is restricted and the proposed programs and services are appropriate at a bay scale. Staff advises as well that while the LIDL and rules speak to a preference that an LID encompass a lakeshed, where appropriate to the proposed LID purposes a district comprising only riparian parcels is acceptable. Staff is aware of the St. Albans proposal and believes that both the bay basis and the inclusion of only riparian parcels are reasonable given the AIS-management purpose of the LID.

An LID’s activities are financed by its sponsoring unit(s) of government, in this case by Greenwood and Excelsior through the terms of their JPA. These units may fund LID activities through special assessment, service charges or an *ad valorem* property tax. They also may finance spending by issuing (a) general obligation bonds or (b) bonds backed only by assessment revenues. The sponsoring unit(s) may delegate these funding and financing authorities, except for *ad valorem* taxing, to the LID itself for the purpose of a specific project.

The LID is required to meet annually (preferably in July or August), at which time it must elect officers, approve a budget for the fiscal year and approve or disapprove proposed projects costing in excess of \$5,000. The statute does not provide for projects to be approved at other times of year but it is possible that such a power is implied.

The sponsoring unit(s) of government may terminate a LID on petition from a majority of property owners within the district.

c: Jeff Spartz, Administrator