

**Call to Order:**

President Hartwig called the meeting to order at 7:00 pm

Commissioners Present: Thomas Aquilina, Caroline Bachour-Chemaly, Debbie Gallagher, Larry Wheeler, Cathy Cage, Michele Hartwig

Commissioners Absent: Shawn Zimmerman

**Legal Counsel:**

Dereke Price, Ancel, Glink, Diamond, Bush, DiCianni and Krafthefer, P.C.

**Staff:**

Jason Herbster, Executive Director, Erik Jakubowski, Superintendent of Park Services, Ann Viger, Director of Planning and Development, Katrina Hanna, Superintendent of Business Services, Kurt Reckamp, Superintendent of Recreation Programs and Facility Services, Anne Sandor, Recording Secretary

**Citizens:**

Crystal Lake Residents: Marty Moister, Fred Tiesenga, Jim Rocheford, Jason Heisler, Joe LaMonica, Dennis Cotter  
Crystal Lake LaCrosse: Carl Metz, Andy Altman

**Pledge of Allegiance:**

The Pledge of Allegiance was recited.

Approval of Agenda: Executive Director Herbster noted Commissioner Wheeler requested New Business item A. be removed and sent to Committee for review.

Commissioner Bachour-Chemaly moved to approve the agenda, as amended. Seconded by Commissioner Aquilina. All were in favor.

Approval of Minutes: Commissioner Wheeler moved to approve the December 13, 2018 Regular Meeting Minutes, as presented. Seconded by Commissioner Aquilina. All were in favor.

**Approval of Voucher Expenses**

Commissioner Bachour-Chemaly moved to approve the Vouchers for the month ending December 31, 2018, in the amount of \$1,975,517.09. Seconded by Commissioner Gallagher.

Roll Call: Ayes: 6 (Aquilina, Bachour-Chemaly, Gallagher, Wheeler, Cagle, Hartwig) Nays: 0

**Approval of Interim Voucher Expenses**

Commissioner Wheeler moved to approve the Interim Vouchers for the month ending January 31, 2019, in the amount of \$ 96,928.46. Seconded by Commissioner Gallagher.

Roll Call: Ayes: 6 (Bachour-Chemaly, Gallagher, Wheeler, Cagle, Aquilina, Hartwig) Nays: 0

**Treasurer's Report**

Commissioner Wheeler moved to approve the Treasurer's Report for the month ending December 31, 2018, in the amount of \$11,416,472.26. Seconded by Commissioner Gallagher.

Roll Call: Ayes: 6 (Gallagher, Wheeler, Bachour-Chemaly, Aquilina, Cagle, Hartwig) Nays: 0

**Matters from the Public:**

Fred Tiesenga, Crystal Lake Resident, addressed the board with his concerns regarding the proposed pier and mooring ordinance.

- He was opposed to the proposed pier and mooring ordinance. He added, this issue had been litigated in the past and he thought it would not be a good idea to reopen this at this time as it is probably not a good use of everyone's time.
- He felt there are no safety issues about piers on the lake at this time, as the piers are in the no wake area.
- The people that come in through the park district gates have no opinion on piers as they are not going to the piers.

- He referred to an ordinance in the settlement of the Faatz lawsuit he shared with Director Herbster, regarding a paragraph stating the Park District is actually to put up signs at all of their gates and in their literature, that say be sure to respect the shoreline and their piers and their private property, and is not being done.
- He asked that the Park District to be a good partner as a fellow riparian owner of the shoreline of the lake.
- He felt the proper place for this discussion would be during the Lake Safety Agreement, which is between the City of Crystal Lake and the Village of Lakewood.
- He felt the Park District had no standing in talking about this issue.

Jim Rocheford, Crystal Lake Resident

- Mr. Rocheford asked about the Lake Advisory Committee. Commissioner Hartwig stated there had been talk about more communication on lake issues. The Board discussed putting together a Lake Committee to help with communication regarding the lake.
- Mr. Rocheford asked if the committee would be members of the Board and Community members. Commissioner Hartwig answered yes.

Committee Reports: None.

Unfinished Business: Discussion: Proposed Pier and Mooring Ordinance

Pier Discussion

Commissioner Hartwig reported Commissioner Gallagher modified a draft of the Lakewood Ordinance to include input from our public comments regarding the Park District's proposed pier and mooring ordinance. The Park District will meet with the Village of Lakewood to discuss the proposed changes.

Commissioner Gallagher reported representatives from the Village of Lakewood mentioned they liked the District's ordinance during a meeting held with the City, Park District and Village of Lake. The Village President agreed that the Park District can work within their ordinance.

Commissioner Hartwig asked the Commissioners to share their thoughts.

Commissioner Bachour-Chemaly:

- The revisions are improvements to what Lakewood already has. I am all for the ordinance. We do not wait for things to go bad for us to react to them, we want to take a proactive approach.
- I know there is no disasters out there now. Just like the government puts speed limits on the highway, for the safety of everyone.
- We need to do this, needed to be done a long time ago.
- The fact that we do have the right to do that, based on what our legal counsel has told us.

Attorney Price:

- There are a number of ideologies. There is the surface waters and the use of the surface waters and the use of the lake bed we own, which is not the entire lake bed. So, with the respect to the surface waters, because of the nature of the lake this is where the riparian rights discussion is involved.
- Everybody who's land that touches the water in Illinois under the civil rule has the rights to the entire surface of the lake. So, as a property owner ourselves and under our powers of park code, we don't have a lot to say about the surface of the lake.
- We only have a little more power with respect to the waters off of our own beaches, and that part of the shoreline we own. But, otherwise, when it comes to regulating activity of the surface of water, we don't have power.
- The Village and City has a Safety Ordinance in place and that has power we have to abide by. That's one part of the puzzle.
- The next part of the puzzle is the District's ownership of the lake bed. And again, the District does not own the entire bed, but has the right to control whatever is anchored to it. The District can forbid for example anyone from anchoring anything in your lake bed; riparian rights do not go to the bed. That is what the point of 1992 lawsuit was about. That much is clear.
- No one has the right to anchor anything to park property. When it comes to the lake bed, the District controls how many people get to anchor or how far out it gets anchored, or what gets anchored to the bed.

- People can float a dock and anchor a dock to their own shore. We don't have anything to say about that. When it comes to anchoring in our lake bed that is where independent of the City and Lakewood has some power.
- In talking to Commissioner Gallagher, this ordinance was written in anticipation that we would have some cooperation with the City and Village. If the City or Village come back and say we're not interested in doing any further regulations with anybody or anything about the surface of the water than what exists now, we would need to tweak this a little bit and focus on what we think is reasonable for the use of the lake bed we own.
- But, otherwise, that's sort of the spectrum of your power. Do we have standing to tell people how to engage on surface? Only like any other person touching the water, we all have to be reasonable with each other in terms of our shared use. Do we have power to tell people what they can or cannot anchor to the lakebed? Absolutely, that we do have standing power.

Commissioner Gallagher:

- There is no intention of changing of what's going on now. It is more a concern of safety for the future and over the amount of boats or growing amount of moorings. Last year, moorings were added near the weir at Main Beach. It's more of a matter of us saying that we need to get a handle on this, so the lake is a valuable resource to everyone and the people's properties are protected from anybody dropping a mooring in to the water without having any kind rule against.
- The ordinance wouldn't apply to the people that do own out to the lake bed, as long as it is not on Park Property.
- She asked if it would be worthy to put some rules on what can be used to anchor to the lake bed, so that everybody's treated alike and fairly. For whatever abuses there are we would have a mechanism.

Attorney Price:

- The signage called for by the Faatz lawsuit is a good idea, even if it's not legal or barring. That preceded the last lawsuit. The last lawsuit, we stipulated that we did not own the entire lake bed. Then we quiet title on lake bed we did own.
- The Faatz and 1992 lawsuits adopted the civil rule. The other common law rule is if you own the water above the bed you can restrict the use of it. Illinois rejected for public bodies of water and they also made it clear it applies but there are exceptions for quarries.

Gretchen Levin, Crystal Lake Park District Resident

- Mrs. Leven questioned the comments about the lakefront homeowners owning the lake bottom. She asked if this matter is comparable to when the City's ordinances on fences we can build, and what kinds of other things we can't do on our property, due to the City's building ordinances. Why that is different for the Park District, if they own the lake bottom? Why can't it be managed or governed. Are the City of Crystal Lake and the Park District not equal?
- Attorney Price answered the Park District is more limited than the City. The Park District cannot tell people how to use the surface. The Park District cannot tell you how to use your land, but the City can.

Unidentified person:

- When are we going to IDNR about ownership of the lake? Executive Director Herbster stated at a prior meeting a question was asked regarding the IDNR interest in ownership of the lake bottom. Director Herbster stated he made a phone call and hasn't heard back.

Fred Tiesenga, Crystal Lake Resident

- You guys mentioned something interesting, controlling number of boats and moorings on the lake. There doesn't seem to be much interest in limiting the amount of boats they let in through their gates. Last time I checked, the lake is not getting any bigger in the last 10,000 years.
- You guys keep annexing more homes and subdivisions in to the Park District, 2000 at a time.
- As you are thinking about these things, interesting things to think about, got to look at yourself sometimes, like does the PD want everyone who has a boat come on Saturday, is there going to be a limit?
- Ecology of the lake, I think there are good arguments with the problems on the west end and with the drainage from old sod farm.
- Let's talk about what's reasonable to what is reasonable access through the gates. As a reasonable riparian owner, is it reasonable to have unlimited access through your gates to an ever growing population and talking about CCPOA and 20 additional moorings over 20 years and the 100,000 population that has access to the lake.

- Commissioner Gallagher talked about controlling the additional boat access points throughout the lake. Executive Director Herbster stated the only way access points could be controlled would be by the sale of lake usage stickers. This is a lake safety issue.
- Mrs. Levin asked if there were 100,000 Park District residents. Executive Director Herbster answered there are approximately 58,000.

Marty Moister, Village of Lakewood Resident

- Mr. Moister, stated he has been involved with the Village Board for 25 years, and noted the CCPOA has not added one slip or mooring. The Board has been trying to move people with mooring to slips. To be clear, CCPOA has 480 homes. 98 years as incorporated as an association. There is a ramp and the number of boats are registered are to active members only.
- We do everything to be a good neighbor, when we change things we talk to the neighbor. I will update the Board on Monday.
- If the ordinance passes, the association and attorney are okay with it.
- He states he just wanted to comment on the association, to make sure everyone is aware they haven't added any boats.

Consent Agenda:

Commissioner Wheeler moved to establish the consent agenda items A. Abatement Ordinance 18.19.08 2008B, B. Abatement Ordinance 18.19.09- 2010A, C. Abatement Ordinance 18.19.10- 2012B, D. Abatement Ordinance 18.19.11 - 2014B, E. Abatement Ordinance 18.19.12 - 2016B, F. Abatement Ordinance 18.19.13 2018A, H. Crystal Lake Fishing Derby Raffle Request, I. Kids Obstacle Challenge Event Request and J. Greater Chicago Juniors Rowing Championship Regatta Event Request, as presented.

Seconded by Commissioner Aquilina.

Roll Call: Ayes: 6 (Cagle, Aquilina, Bachour-Chemaly, Gallagher, Wheeler, Hartwig) Nays: 0

Commissioner Cagle moved to approve the Consent Agenda, as established. Seconded by Commissioner Gallagher. All were in favor.

New Business:

A. Approval: Memorandum of Understanding - Major Investigation Assistance Team

This item was removed from the agenda.

B. Approval: La Crosse Storage Shed Usage Agreement

Commissioner Cagle moved to approve the Lacrosse Storage Shed Usage Agreement, as presented.

Seconded by Commissioner Aquilina.

The Directors of the LaCrosse Affiliate explained a 12 x 16 storage shed and concrete pad with picnic tables and seats are two changes added to the preliminary drawings. In addition, they submitted a request asking the Park District to pay \$1400 towards an impervious surface map for the creation of a detention area.

Commissioner Gallagher amended the motion subject to the final wording approved by the Executive Director and Legal Counsel. Seconded by Commissioner Aquilina. Roll Call: Ayes: 7 (Bachour-Chemaly, Gallagher, Wheeler, Cagle, Aquilina, Hartwig) Nays: 0

C. Discussion: Formation of a Lake Advisory Committee

- The Board discussed the formation of a Lake Advisory Committee. It was suggested there be an outline of the roll of a committee member, and an application process.
- Commissioner Wheeler stated this Committee would be the place for community input on lake issues. Commissioner Gallagher suggested contacting Mike Kane, former Lake Advisory Committee member, for guidance.
- Attorney Price suggested the Committee members would be the communication between agencies and can present any concerns to each agency. If the Park District is included in the Safety Agreement, that certainly would give the Park District a voice.
- Commissioner Cagle stated she would support a Lake Advisory Committee only if all agencies and lake users were involved.

D. Discussion: 2017-2022 Strategic Plan – Six Month Update

Executive Director Herbster reported the Strategic Plan has been submitted to the Park Board for their review. Staff has been achieving the initiatives and staying on task even with the transition of staff.

E. Approval: Resolution 18.19.04

Commissioner Bachour-Chemaly moved to approve Resolution 18.19.04, a resolution approving an agreement with aQity Research & Insights, Inc., as presented. Seconded by Commissioner Gallagher.

Roll Call: Ayes: 6 (Wheeler, Cagle, Aquilina, Bachour-Chemaly, Gallagher, Hartwig) Nays: 0

Reports to the Board:

Legal Counsel:

- The sale of Park Place is complete.

Executive Director:

- A gender neutral restroom on the upper level and one male and one female restroom in the lower level will be included in the renovation plans for Shamrock Hills.
- The State of the Community Luncheon will be held on Friday, February 1, 2019.
- The Board Retreat will be from 8:30 am to Noon on Saturday, February 2, 2019.
- Jason Herbster, Larry Wheeler and Michele Hartwig will attend the IAPD/IPRA Annual Conference.

Superintendent of Business Services:

- The Park Board of Commissioners will receive an email from McHenry County regarding the filing of the Statement of Economic Interest. This will be done electronically. Please contact Katrina Hannah if you have any issues filing.

Matters from the Board:

Commissioner Bachour-Chemaly reported she has seen people in the park at 5:00am.

Committee Meeting Dates:

The Personnel and Policy Committee will meet at 6:30pm on February 13, 2019.

Executive Session:

There was no Executive Session.

Adjourn:

Commissioner Gallagher moved to adjourn the meeting at 8:25pm. Seconded by Commissioner Aquilina. All were in favor.

Approve: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary