



**Park District Board of Commissioners
Regular Meeting Minutes
July 18, 2019**

MISSION STATEMENT: To enhance the lives of our residents by providing programs, services, facilities and open spaces that safely promote health, recreation and community in an environmentally and fiscally responsible manner.

Call to Order:

President Gallagher called the meeting to order at 6:30 PM.

Commissioners Present: Thomas Aquilina, Caroline Bachour-Chemaly, Michele Hartwig, Jason Heisler, Cathy Cagle, Debbie Gallagher

Commissioners Absent: Shawn Zimmerman

Late Arrival: Shawn Zimmerman arrived at 6:32pm

Legal Counsel:

Scott Puma, 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, Kim Buscemi, Manager of Recreation Programs, Chris Hartzog, Summer Intern, Anne Sandor, Recording Secretary

Citizens: See attached sign in sheets.

Pledge of Allegiance:

The Pledge of Allegiance was recited.

Approval of Agenda: Commissioner Hartwig moved to approve the agenda, as presented.

Seconded by Commissioner Thomas. All were in favor.

Approval of Minutes:

Commissioner Cagle moved to approve the June 20, 2019, Regular Meeting minutes, as presented.

Seconded by Commissioner Bachour-Chemaly. All were in favor.

Approval of Voucher Expenses

Commissioner Zimmerman moved to approve the Voucher Expenses for the month ending June 30, 2019, in the amount of \$746,774.60. Seconded by Commissioner Bachour-Chemaly.

Roll Call: Ayes: 7 (Aquilina, Bachour-Chemaly, Hartwig, Heisler, Zimmerman, Cagle, Gallagher) Nays: 0

Approval of Interim Voucher Expenses

Commissioner Zimmerman moved to approve the Interim Voucher Expenses for the month ending July 31, 2019, in the amount of \$117,993.32. Seconded by Commissioner Bachour-Chemaly.

Roll Call: 7 (Bachour-Chemaly, Hartwig, Heisler, Zimmerman, Cagle, Aquilina, Gallagher) Nays: 0

Treasurer's Report

Commissioner Zimmerman moved to approve the Treasurer's Report for the month ending June 30, 2019, in the amount of \$12,040,251.47. Seconded by Commissioner Cagle.

Roll Call: Ayes: 7 (Hartwig, Heisler, Zimmerman, Cagle, Aquilina, Bachour-Chemaly, Gallagher) Nays: 0

Matters from the Public:

Ron Orist, Resident, requested the Park District review the fish stocking as the muskies and aggressive fish are becoming over populated.

Comments/Concerns regarding Ordinance 11.41.1 The Parks and Property Owned or Controlled by the Crystal Lake Park District follows.

Dick Vogelmann, Resident, referred to a letter sent to the Park District from the Village of Lakewood regarding the proposed ordinance and commented that the amended ordinance doesn't include any objections the Village of Lakewood had addressed in their letter. 1. Section regarding the location of piers, moorings and swim rafts is unclear. 2. Lakewood has its own ordinance. 3. Village Board felt the proposed ordinance is unnecessary.

Dennis Cotter, SPOA Board member read the following prepared statements.

- Crystal Lake is a private lake, as SPOA has been asserting all along. IDNR (Mr. Maurer definitively confirmed that Crystal Lake is not a public lake.
- Park District has no authority to control or regulate the use of the water. CLPD has acknowledged and admitted that, although the first draft of this ordinance contained provisions that tried to exert some control over the use of the water/lake.
- Park District ordinance does not pertain to the lakebed to which it does not have title. So it cannot be enforced on the entire lake.
- The shoreline property owners that own property up to the shoreline, even where the park district property owns the lakebed, still have riparian rights. Your ordinance, while stating that it respects riparian rights of those people, is in direct contradiction to that statement by seeking to direct how the shoreline owners can use their water adjacent to their property. The park district is not the governmental body to determine whether those property owners' use of the lake access to the lake is "reasonable."
- There is considerable, vocal and consistent local objection to this ordinance. Lakewood firmly opposes it. SPOA opposes it. City of Crystal Lake hasn't expressed its support for this ordinance.
- IDNR not sure you have this authority, questions whether you really understand what you are trying to accomplish and more importantly it is outside their jurisdiction to decide that issue.
- Questionable enforcement powers.
- Likely lead to litigation. Suggested the District keep all emails and correspondence.
- Suggested the Board vote this ordinance down.

Fred Tiesenga, Resident, commented he was opposed to the proposed ordinance and read an email from Paul Mauer, Jr., P.E., Senior Water Resources Engineer, State Dam Safety Engineer Office of Water Resources, Illinois Department of Natural Resources:

"As the senior member of the staff of the Department of Natural Resources' Office of Water Resources I am often called on to provide input on issues related to the State's Public Bodies of Water. The Department is the Trustee of the Public Bodies of Water and must protect the interests of the citizens of the State in the use and enjoyment of the waters. This responsibility includes maintaining an understanding of the legal issues involved in the regulation of the water resources of the state.

The news article indicates that as the owner of about 10% of the lake, the park district proposes to regulate the activity of private property owners in the use of their property. I would be interested in the legal theory that gives the District this regulatory authority. The Meandered Lakes in Illinois report of 1962 concluded that Crystal is not a Public Body of Water. The statement that the District owns a fraction of the lake bed is consistent with that determination. The alternate would be a declaration of Public Body of Water Status, with the bed being owned by the State of Illinois. While the Park

District Act gives park districts the right to make changes to and exercise some control over the public bodies of water, it does not appear to provide any authority related to privately owned waters or lands. Your proposed ordinance seems to be a taking of a portion of the rights of private property owners by a government entity. Government taking of private property rights without compensation is generally considered to be unconstitutional.

Please provide me with the basis for this proposed regulation. I am hoping you will help me by adding to my understanding of the possibilities in the use of our water resources."

Tisenga contacted Mr. Mauer to clarify the District owned 94%. Mauer stated it didn't matter what the percent was, the District doesn't own all of it. There was another conversation between Mauer and the District regarding clarity that the District owned 94%. After speaking with the District, Tisenga said Mr. Mauer stated he was not 100% sure that the District really gets it.

Tisenga urged the District to take a step back from this and think about what has been happening, there has been a lot of energy going into opposing this ordinance for a lot of thought reasons.

Jim Rocheford, Resident commented he was opposed to the proposed ordinance and commented the shoreline homeowners have riparian rights and read the following article.

[10–12] The riparian right of access to a body of water depends on whether the property touches the water thereby enabling access to the water to be gained without going over property of others. Such right of access does not depend upon ownership of or title to the submerged land. Consequently such right is not affected by description of the property unrelated to the body of water. It is only necessary that the description of the property include or encompass the shore line. In this respect the riparian right of access differs from the riparian right of accretion, the latter right not extending beyond the boundaries of the property where ownership of the property beyond such boundaries is claimed by another. Bristol et al. v. Carroll County, 95 Ill. 84.

Steve Barnett, Resident, expressed concern that this ordinance is allowing the Park District to take away lake rights. A resident would have to seek approval from the district for pier regulations, and how this could affect property values.

Jim Layer, Resident, commented on past lake issues. The Intergovernmental Agreement of 1996 seems to be working. He stated it didn't make sense to him for the District to try to enforce an ordinance that only impacts 1/3 of the property owners. He stated the Park District is a good District and doesn't want to see any litigation and suggested having a representative group of interest other than the Park District to handle issues on the lake.

Jim Heisler, Resident asked the Park Board to set this issue aside and not to vote on the proposed ordinance.

Heather Buelow, Resident, stated the Park District has great programs and is concerned with the amount of money spent on the lake issues for a small group of park district residents. She expressed her disappointment with the City of Crystal Lake not stepping up to do their part.

Bob Buelow, Resident, stated he was against passing the proposed ordinance and asked why the Park District wanted to get involved. He referred to the draft ordinance and stated that his pier/lift and the others do not interfere with what the District does with the lake and asked why the District has these restrictions for piers and mooring.

Wyatt Washburn stated there are no safety concerns and referred to the anchoring clause of the ordinance only allowing one anchor. He stated he always uses three anchors.

Carl Steiner, Resident stated the Park District's interests are undefined and he expressed concern with the amount of money spent on this issue. The majority of the people at this meeting stated they are against the ordinance. Issues should be addressed on a one-on-one basis. He urged the Park Board to vote it down, and said as there is no need for a legal battle with the taxpayers footing the bill.

Introduction:

Kim Buscemi, Manager of Recreation Programs introduced Chris Hartzog, Intern. He began his internship mid-May and will continue through August.

Committee Reports:

None.

Unfinished Business

Approval: Amendment to Ordinance 11.41.1 the Parks and Property Owned or Controlled by the Crystal Lake Park District

Discussion:

Commissioner Gallagher noted the Park Board and staff have been working on the amendments to Ordinance 11.41.1 since last June. There have been several meetings with public input. She explained the current ordinance does not allow personal property on Park District property. The amendment was made to allow piers and moorings on the Crystal Lake Park District's Lake Bed property. Pier length was set so there is no interference with the wake area. Letters were sent to 5940 households requesting comments or concerns to be emailed regarding the proposed ordinance. The public in attendance and the lake associations had expressed their opposition. The District received four emails opposing and one thanking the district for being transparent.

Commissioner Gallagher explained the Park Board adopts policies for staff to implement. Gallagher asked Executive Director Herbster how the District would implement this ordinance if the Board approve the amendment. Director Herbster stated concerns would be enforced on an as needed basis. If a concern is brought to our attention, we would respond accordingly. The proposed ordinance will provide backup if needed. Enforcement would not take more staff time than what is currently spent on lake issues.

Commissioner Zimmerman commented he was in favor of forming a Lake Advisory Committee, as committee members could make suggestions to amend an ordinance and solutions on other lake issues.

Commissioner Hartwig agreed with Commissioner Zimmerman. She stated she felt this is a reasonable ordinance. Hartwig commented she had been contact by people that attended the meetings. They were in favor of the District moving forward with the proposed ordinance but were too intimidated by the public's behavior at the meetings. Hartwig commented she hoped the public doesn't want to waste their money on litigation for the passing of an ordinance. Hartwig stated what Fred Tiienga read from the IDNR was not the same information that she and Executive Director Herbster received.

Executive Director Herbster shared the following information he received from Paul Mauer, IDNR. Once he explained that the information regarding 9% ownership of the lake bed in the newspaper was incorrect and the correct number is 94%, Herbster asked Mauer if this made a difference and made the following statements.

- The ordinance cannot be applied to shoreline lakebed owners. If a shoreline owner owns into the lake bed, this ordinance does not apply. This is stated in the ordinance.
- The ordinance cannot be a question of riparian rights. This is stated in the ordinance. It doesn't impact riparian rights to use of the lake.
- The Park District cannot regulate activity on the lake. The ordinance stated this. This was also a statement made by the District's legal counsel.
- Public vs Private Lake:
Private lake (CL) – owned by those that have property extending into the lake bed. Those on the North Shore and the Park District.
Public lake – state holds the title to the lake and use of the water is open to anyone who could gain access.
- This ordinance is constitutional, as long as the restrictions are not applied to the owners of the lakebed.

Commissioner Hartwig addressed the public and requested them to continue communication with the Park Board.

Commissioner Bachour-Chemaly stated she agreed with Commissioners Zimmerman and Hartwig, and was in favor of passing the ordinance.

Commissioner Heisler stated he didn't understand the driving force behind the ordinance and it did not make sense. He asked if the reason behind this ordinance was due to a homeowner's dispute on the west end regarding pier obstruction and asked if the issue had been resolved. Commissioner Gallagher answered it has not been. Heisler asked how issues will get resolved with the passing of this ordinance if they are grandfathered in. Gallagher stated issues will be resolved in the future of passing this ordinance.

Heisler stated in the beginning the ordinance was being revised due to safety and then Herbster said it was not. Director Herbster stated safety is part of what the park district does and will be included as part of the discussions. It's more along the lines to provide an answer to those asking for help managing issues.

Heisler also stated he heard from Board members the ordinance is for guidance and direction for new homeowners on the lake. Heisler felt the shoreline associations would be better resources to provide new homeowners direction on issues with on piers, buoys, etc. Heisler added that he was voted on to the Park Board as a voice of the public. He stated that the majority of the public are against this ordinance and stated he is against passing the amended ordinance.

Commissioner Gallagher asked the Board if the exemption of the Village of Lakewood needed to be worded in the ordinance. Commissioners Zimmerman, Cagle and Bachour-Chemaly, Aquilina and Hartwig stated no. Commissioner Heisler stated yes.

Commissioner Gallagher noted the Village of Lakewood has colored and took the Districts suggestion to number the buoys. She thanked the Village as this is a great tool for the first responders.

Attorney Puma suggested changing the effective date on the ordinance. Commissioner Gallagher stated the date will be established on the date of the baseline inventory, which will be done through drone photos.

Commissioner Bachour-Chemaly noted that Commissioners Gallagher and Cagle were also backed by voters.

Commissioner Zimmerman moved to approve Ordinance 11.41.1 The Parks and Property Owned or Controlled by the Crystal Lake Park District, as presented. Seconded by Commissioner Cagle. Roll Call: Ayes: 6 (Zimmerman, Cagle, Aquilina, Bachour-Chemaly, Hartwig, Gallagher) Nays; 1 (Heisler)

Consent Agenda

- A. Misericordia heart of Mercy Center Fundraising Request
- B. On Angel's Wings Bingo Fundraising Request
- C. Raue Center Fundraising Request

Commissioner Bachour-Chemaly moved to approve Consent Agenda items A. Misericordia heart of Mercy Center Fundraising Request, B. On Angel's Wings Bingo Fundraising Request and C. Raue Center Fundraising Request, as presented. Seconded by Commissioner Hartwig. All were in favor.

New Business

- A. Approval: Bid for Oakwood Lodge Parking Lot Project

Commissioner Cagle moved to accept the lowest responsible, responsive bid, submitted by Chadwick Contracting in the amount of \$54,738.80 for the Oakwoods Lodge Park lot project. Seconded by Commissioner Bachour-Chemaly.

Roll Call: Ayes: 7 (Zimmerman, Cagle, Aquilina, Bachour-Chemaly, Hartwig, Heisler, Gallagher) Nays; 0

- B. Approval: Bid for Spoerl Flooring Project

Commissioner Hartwig moved to approve the bid the bid submitted by Floors Inc., in the amount of \$27,310 for flooring upgrades at the Spoerl Park Program Room. Seconded by Commissioner Cagle.

Roll Call: Ayes: 7 (Cagle, Aquilina, Bachour-Chemaly, Hartwig, Heisler, Zimmerman, Gallagher) Nays: 0

- C. Discussion: Strategic Plan Update

Executive Director Herbster reported all is on track with the Strategic Plan. Items related to the Intranet have been moved to implement in 2020.

Herbster will be reviewing the results of the Attitude and Interest Survey Results. There will be presented at the Board meeting in August.

Reports to the Board:

Jason Herbster, Executive Director

- NRPA Conference will be held September 24-26, 2019.
- The MCYSA Tournament begins today, with opening ceremonies tomorrow at the Boncosky Complex, and the JA Freight Armed Forces event will be held at Lippold on Sunday.
- Update on the weed issue on the west end of the lake.
 Jeremy Husnick at Hey and Associates suggested having the harvester remove the large mass of weeds to be able to treat the weeds underneath. This is part of the propagation process for eel grass growth. The clarity tests shows at 18 feet. This provides additional sunlight for the vegetation to grow. Commissioner Cagle asked if the scope of work be changed to address the weed control. Herbster stated the weed control is within the scope of work for this year.
 Commissioner Gallagher stated that \$80,000 was budgeted for Lake Management. The scope of work for this year can be changed for weed control, if needed. A resident noted that the fertilizing at Lippold going into the lake causes weeds in the lake. Commissioner reported there is a workshop meeting scheduled at the Administrative Office at 6:30pm on July 25 to discuss the watershed and flooding issues.

Matters from the Board:

Commissioner Zimmerman asked for more preschool information to be included in the Reports to the Board. Parks Services is doing a great job managing staff hours. Racket Club sign rendition was nice. The Summer Day Camp attendance has increased amazingly. Zimmerman thanked the Board for the work done on Ordinance 11.41.1. Every park district has an ordinance that does not allow people to place personal property on park property. There has to be some control when a district does allow personal property on park property.

Commissioner Heisler reported he received 5 emails and 2 phone calls regarding weed harvesting. He asked if the cost can be added to the lake management budget. Herbster stated that Hey and Associates will be harvesting the weed masses in two weeks.

Commissioner Heisler commended a Park Police Officer assisted a City Public Works employee with directing traffic during the parade.

Herbster commended Park Police and Beach staff for work done at a Tuesday night concert during the storm.

Commissioner Hartwig was glad to hear the District is working with the Village of Lakewood on a location for a park. Fetzner Park and the Sterne's Fen are looking great. Commissioner Gallagher stated pictures of these parks need to be added to the next newsletter. Hartwig commended staff on work done with promoting the Park District social media. Hartwig commended John Fiorina for his work with volunteers. Hartwig commended the Board for the work done on the ordinance.

Commissioner Gallagher thanked staff for their work done on the ordinance. Gallagher added Cabela's donated 100 fishing poles to the Nature Center's fishing program. Gallagher commended staff for the stellar job done during the Independence Day weekend. Commissioner Gallagher asked the Board to email any questions to Director Herbster regarding Lippold and the watershed and flooding issues for the Workshop meeting on July 25th. Director

Herbster noted Leslie Layer, Resident, Hey and Associates, Gewalt Hamilton will give presentations. Commissioner Gallagher added the City of Crystal lake will be also be in attendance.

Committee Meeting Dates:
None.

Executive Session:

Commissioner Cagle moved to enter Executive Session at 7:55 pm to discuss item C. Sale or Lease 2 (c) 6. Seconded by Commissioner Aquilina.

Roll Call: Ayes: 7 (Aquilina, Bachour-Chemaly, Hartwig, Heisler, Zimmerman, Cagle, Gallagher) Nays: 0

Reconvene:

Commissioner Cagle moved to reconvene at 8:08 pm. Seconded by Commissioner Bachour-Chemaly. All were in favor.

Matters from Executive Session:

Adjourn:

Commissioner Bachour-Chemaly moved to adjourn the meeting at 8:09 PM. Seconded by Commissioner Aquilina. All were in favor.

Approve: _____ Attest: _____
President Secretary

Thursday July 18, 2019

PLEASE PRINT FIRST & LAST NAME	Home Address	Email Address	Phone	Wish to Speak Yes or No
JANET LEE	1764 S. Shore Dr. ^{LAKE- WOODS}	JANET LEE@AMERITECH.NET		
KATHY MULLER				
Jim Heister	131 Baldwin C.G.			✓
Heather Brelow	179 Edgewater			✓
Bob Brelow	179 Edgewater			-
Michele Kamborke	143 Edgewater			
Karl Steiner	7312 Interway Dr	KESTEINER@GMAIL.COM		
Monica Fredder	615 Leonard Park			
Ryan Washburn	961 North Shore Dr	RYAN@CAROL-ITSE@ gmail.com	915-477- 4032	Yes
PLEASE PRINT FIRST & LAST NAME	Home Address	Email Address	Phone	Wish to Speak Yes or No
Lesli Leyer	877 NSH Dr			No
Jim Leyer	877 NSH Dr			Yes

Thursday July 18, 2019

PLEASE PRINT FIRST & LAST NAME	Home Address	Email Address	Phone	Wish to Speak Yes or No
✓ RON OWST	927 N-Shore Dr		815 444 9221	NO
GERI + Jon Hyslop	8715 Oakwood			NO
✓ Dick Vogelman	594 S. Shore Dr. Lakewood			YES
✓ DENNIS CARTER	651 WOODLAND			YES
✓ FRED TRISIA	1134 W. SHORE			YES
✓ Jim Rochester	570 S. Shore dr			YES
✓ JIM FRANZENS	207 Edgewater Dr		815 575 4103	
Michael Kane	707 Woodlark Dr.	milkane47@msn.com		
LUCAS PUCINJK	847 NORTHSHORE DR.			YES
Robin Reed	840 N. Shore Rd			maybe
✓ STEVE BARNETT	1180 S. SHORE DR	skentbarnett@yahoo.com	815 575 4103	YES
JOE LAMONICA	1155 N. Shore			NO
	N. Shore			
Karl Steiner	Lakewood			yes