

## MEMORANDUM

TO: Lake Convention Planning Team Members

FROM: Jeffrey A. Thornton PhD PH

DATE: April 8, 2009

**SUBJECT: SUMMARY OF QUESTIONS SUBMITTED DURING THE 2009 LAKE DISTRICT COMMISSIONER TRAINING COURSE—MARCH 2009**

**AUDITS:** Are they simply arithmetic or does the auditor check timesheets, work done, etc? Does the auditor look over bids?

§33.29(2), Stats., requires the board of commissioners to annually undertaken an audit of the financial transactions of the district, and submit the audit report to the annual meeting. This audit should conform to standard accounting procedures; however, Ch. 33, Stats., is silent on the procedure to be used.

**BANK STATEMENTS:** Suggestion—Have the bank statements reconciled by someone other than the treasurer as an internal control measure.

**FISCAL YEAR:** If the fiscal year chosen by the district is January 1, why can't you have a June 15<sup>th</sup> meeting to adopt a new budget, as long as you have the previous year's budget plus the year-to-date?

This would be the earliest date at which an annual meeting could be held. It would require that the lake district accounts be finalized and up-to-date, copies of agenda and budget ready, and mailing done on June 1<sup>st</sup> in order to meet the requirement under §33.30(2)(a), Stats., that "written notice [be] mailed at least 14 days in advance of the meeting...."

**FISCAL YEAR:** How do you decide on a fiscal year? We are charging out annual need. What do you use for year expense? How often does a district need to be posted?

**BOARD MEETINGS:** Other than the "public comment" line item on the agenda, are people in attendance, other than actual board members, allowed to interject or give opinion on items being discussed?

Meetings of the Board of Commissioners are exactly that, meeting at which the elected and appointed members of the Board conduct the business of the Lake District. There is no **requirement** that electors and property owners or other persons be allowed to participate. Any participation by persons other than the Board is at the discretion of the Chairperson (§33.29(3)(a), Stats.).

**BOARD MEETINGS:** Can the board chairperson issue "talking points" to the board in e-mail?

The key issue in using electronic mail is avoiding "discussion" of issues under consideration by the Board. One District typically adds a caveat to any electronic mail transmissions stating that the transmission is a one-way communication and requesting that the recipient does not reply. One-way communications, as may be inferred from the term "talking points," would be acceptable, provided

that any information distributed also be available to any members of the public requesting copies of such information; the same information should be formally entered into the record at the meeting.

**CLOSED MEETINGS:** What are the limits? What are the requirements?

All meetings should be open meetings. However, §19.85, Stats., provides for governmental bodies to move into a closed session for specific purposes. These purposes are limited to: (a) Deliberations concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body; (b) Consideration of dismissal, demotion, licensing or discipline of any public employee ...[unless] the employee or person licensed requests that an open session be held; (c) Consideration of employment, promotion, compensation or performance evaluation data of any public employee...; (d) Consideration of specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention; (e) Deliberation or negotiation of the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session; (ee) Deliberation by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded; (eg) Deliberation by the council on worker's compensation in a meeting at which all employer members of the council or all employee members of the council are excluded; (em) Deliberation of the location of a burial site if discussion of the location in public would be likely to result in disturbance of the burial site; (f) Consideration of financial, medical, social or personal histories or disciplinary data of specific persons...which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to; (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved; (h) Consideration of requests for confidential written advice...; or (i) Consideration of any and all matters related to acts by businesses... which, if discussed in public, could adversely affect the business, its employees or former employees. Notice of the meeting should contain specific reference to the paragraph under which the closed session is proposed, and a motion to move into closed session should include a roll call vote of the Commissioners present and voting. A meeting may reconvene into open session, if so noticed, or adjourn out of closed session. Records of decisions taken in closed session must be maintained, and any decision ultimately reported to an open meeting of the Board. At least 24 hours notice of the meeting and proposed closed session is required to be posted (see Ch 985, Stats.).

**ANNUAL MEETING/VOTING:** If you have multiple owners recorded on a property deed, how many votes are allowed? For example, John and Jayne Doe jointly own a property—they have two votes [one vote each]. If John, Jim, Jayne and Jackie Doe jointly own a property, how many votes do they have?

In the example given, all four persons would be considered property owners for the purpose of voting at an annual or special meeting of the District (§33.01(9)(ar)2., Stats.).

**SPECIAL MEETINGS:** If a special meeting “cannot reconsider a matter...”, when and how do you reconsider these matters?

Such matters could be reconsidered or considered further at the annual meeting of the District (§33.4)(b), Stats.).

**SPECIAL CHARGES/TAX LEVY:** At the annual meeting you can change the manner of collection; i.e., levy versus special charges without stating that on the agenda.

**TRUSTS:** Where multiple parcels held in trust(s) have one [the same] person as the trustee for each trust, can that trustee vote each trust?

**TRUSTS:** John and Mary P have established a trust for their property. Can John vote as the trust representative AND Mary vote as a registered voter resident in the district?

If both persons are resident within the District (i.e., if their primary residence or voting address is within the District), then both individuals could vote as “electors” (§6.02, Stats.). Alternatively, if the trustee appoints John as the representative of the trust, then John could vote in that capacity (§33.01(9)(ar)3., Stats.). In any case, each person would have no more than one vote.

**VOTING:** We give numbered paddles to each person who can vote. That way the secretary can know who said or made a motion on particular issues—good or bad idea?

For votes that can be taken by voice vote, this approach has merit, in that only persons in attendance at the annual or special meeting of the District would have the paddles. It should be noted, however, that the election of commissioners must be “by secret ballot” (§33.30(3)(a), Stats.).

**DAMS:** Why are dams considered to be difficult to budget or manage?

Permits are required to own or operate a dam, under §31.04, Stats. Owners or operators of dams must show proof of their ability to maintain the dams pursuant to §31.14, Stats. Municipal entities such as lake districts are presumed to have this ability.

**MEETING MANAGEMENT:** I believe the first point of the agenda is to decide how much time [is to be allocated to each topic on the agenda]. If time is up, permission must be given to extend the time or reschedule [the topic] for another time. Yes or no? (I hate long meetings!)

This would seem to be good practice, provided that this decision is not intended to cut short legitimate discussion of an item on the agenda or delay a decision on an agendaized action. Such a time limit would be at the discretion of the chairperson (§33.29(3)(a), Stats.).

**MEETING MANAGEMENT:** What if you aren’t going to be at a district meeting, can you answer a question on e-mail?

As previously noted, the key issue in using electronic mail is avoiding “discussion” of issues under consideration by the Board. One-way communications would be acceptable, provided that any information distributed also be available to any members of the public requesting copies of such information; the same information should be formally entered into the record at the meeting.

**COMMUNICATION:** What’s best, letters, radio?

Meeting notices must be written (e.g., for the annual meeting pursuant to §33.30(2)(a), for special meetings pursuant to §33.305(2), or for commission meetings pursuant to §985.02, Stats.). Other communications, such as newsletters and informational items for general broadcast, can be distributed

in any manner deemed appropriate by the board of commissioners. If you want to reach all of the property owners, a mailing might be the best approach. If you want to generally inform the community, then radio or television (or a website or even a billboard) might be the best approach.

E-MAIL: I think you may have “scared” district commissioners about emails: for example, many district chairpersons may want to send out an email to all commissioners with a “proposed” agenda and ask for additional items, or I can send an email to the treasurer and ask for an update on a budget item and expect him/her to respond! i.e., informational questions can be emailed and responded.

The key issue in using electronic mail is avoiding “discussion” of issues under consideration by the Board. Any information distributed by electronic means also should be made available to any members of the public requesting copies of such information, and the same information should be formally entered into the record at the meeting. It is easy to slip into a “discussion” via electronic mail. Hence, our recommendation would be to avoid the use of this medium as a communication mechanism. However, we do recognize that it is a common communications medium in today’s society—polling commissioners for agenda items ideally should be done at the previous meeting of the district. In any event, posting of the agenda for a commission meeting is required pursuant to §985.02, Stats., and control of fiscal matters is a responsibility of the Board pursuant to §33.29(2), Stats.

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#144036 V1 - QUESTIONS FROM THE 2009 LAKE DISTRICT COMMISSIONER TRAINING

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