

History of the Half Moon Lake Preservation and Rehabilitation District, a guide to management by the Board of Commissioners and reflections on the current state of the budget.

Prepared by David J. Butler, October 27, 2009, at the request of Pat McMahon, Chair of the Board of Commissioners and Sheila Waldoch, a member of the board.

Sources of information used by the writer in preparing this summary include:

- Wisconsin Statutes, Chapter 33, Public Inland Waters(2009)
- A Guide to Wisconsin's Lake Management Law, Tenth Edition - 1996,
- A Guide for Wisconsin Lake Organizations, Lake Associations and Lake Districts, 11<sup>th</sup> Edition - 2006
- People of the Lakes: A Guide for Wisconsin Lake Organizations
- Publications of the Wisconsin Association of Lakes
- By-Laws of Half Moon Lake Protection and Rehabilitation District, Adopted August 28, 1994
- Memories of Half Moon Lake" by Martha C. McMahon
- Minutes of the Half Moon Lake Preservation and Rehabilitation District annual meetings and board meetings.
- Web sites: [www.uwsp.edu/cnr/uwexlakes](http://www.uwsp.edu/cnr/uwexlakes), University of Wisconsin-Extension Lakes Program, College of Natural Resources, University of Wisconsin-Stevens Point
- [www: wisconsinlakes.org](http://www.wisconsinlakes.org), Wisconsin Association of Lakes

### **History of the Half Moon Lake Preservation and Rehabilitation District**

The following is a quote from the Tenth Edition- 1996, of "A Guide to Wisconsin's Lake Management Law":

"In response to a growing awareness of the harmful effects of pollution and the decline of the quality of Wisconsin lakes, a major six year demonstration project was conducted by the University of Wisconsin Extension(UWEX) and the Department of Natural Resources(DNR). In reply to the project's recommendations the Legislature enacted a 1974 law aimed at solving lake problems. Chapter 33 of the Wisconsin Statutes was created to provide for the formation of a new kind of lake management organization-the public inland lake protection and rehabilitation district. Over the last twenty years, some 200 lake districts have been organized around the state. A state

organization representing lake districts, the Wisconsin Association of Lake Districts was formed in 1981.

The 1974 law also established a state educational assistance and cost sharing program for lake management organizations. Over the years, program details and funding levels have changed, but this state/local partnership has continued to mature. In the 1990's, voluntary lake associations meeting certain standards, (qualified lake associations) were added to the list of eligible lake grant participants. In 1992, the Wisconsin Association of Lakes (WAL), was created through the merger of the Wisconsin Federation of Lakes and the Wisconsin Association of Lake Districts. The Wisconsin Association of Lakes has grown into a strong advocate for lake organizations throughout the Badger State.”

In response to this growing awareness of the importance of looking after our lake, a group of interested citizens on Half Moon Lake, petitioned the Polk County Board of Supervisors on October 6, 1975 to establish the Half Moon Lake Preservation and Rehabilitation District (Lake District) pursuant to Wisconsin Statutes, Chapter 33, Public Inland Waters. A hearing was held on November 7, 1975 before a committee of the Polk County Board of Supervisors and upon a showing that at least 51 percent of the land owners around the lake had signed the petition, the Board entered an order establishing the Lake District and set out the boundaries of the properties to be included for tax purposes. A legal description of the land included in the Lake District is on file in the office of the Polk County Treasurer.

Prior to the establishment of the Lake District, the property owners around the lake had been acting together as the Half Moon Lake Association (Lake Association), with no power to raise money through taxation, but with voluntary payment of dues. They met and carried on various activities such as safety patrols, water ski events, building fish cribs, carrying for the dam, testing in the lake for water quality, etc.

Martha C. McMahon in her “Memories of Half Moon Lake” cites articles from the Ledger Newspapers that tell about activities at the lake in November, 1972 and June 1973 that were carried on as part of the Lake Association. She quotes from 1958 minutes of the Half Moon Lake Association which contain a letter from Mrs. A.A. Johnson about the dam. Mrs. Johnson was the secretary of the Lake Association. She notes that in the 1961 minutes of the Lake Association that a water safety patrol was authorized and the Association dues were raised from two to three dollars. Two of the surviving persons who were directors on the board of the Lake Association in

1973 are Jim Smith and Bill Igoe. They can relate stories of other activities carried on by the Lake Association.

With the establishment of the Lake District in 1975, the Lake Association ceased to operate as a separate organization. The Lake District, while taking on its role as a governmental body with authority to levy taxes, also took over the projects that had been handled by the Lake Association. This is in contrast to Balsam Lake where independent of the Balsam Lake Preservation and Rehabilitation District, the Balsam Lake Association continues to exist and continues to handle the social activities on the lake with revenues from dues, contributions and fund raisers. The Balsam Lake Preservation and Rehabilitation District, financed with tax dollars, has directed its focus on the care of the lake through such projects as acquiring wetlands bordering the lake, weed cutting, caring for the dam, etc. There is no problem with the Lake District performing the functions of a lake association as long as tax dollars are not used to finance purely non lake district functions. There needs to be a means of raising funds outside of tax dollars for those functions.

### **Guide for Operation of the Lake District**

Wisconsin Statutes Chapter 33 sets out the basic law governing lake districts in Wisconsin. The authority for lake districts to levy taxes and fund projects is derived from this law and the activities of the Lake District are controlled and limited by this law. The Lake District has adopted bylaws as an assist to the board of commissioners and to the electors in understanding the operations of the Lake District. The bylaws must be consistent with the statutory law so where there are conflicts in the bylaws and the statutes, the statute controls. An illustration of this comes up in reviewing Article V, Section 7 of the Lake District bylaws which provides that all expenditures in excess of \$5000 must be approved by the electors. Since the adoption of that bylaw in 1994, the statute has been amended to require an approval of the electors only if the expenditures exceeds \$10,000, so the statute would prevail over the bylaw. There have been other changes in the statutory law so the bylaws are due for an update.

**Goals:** The primary goal of the activity of the Lake District under Chapter 33 shall be to improve or protect the quality of the lake in addition to compiling basic scientific data on the lake and assessment of experimental and innovative techniques of lake rehabilitation and protection. The Lake District may undertake protection and rehabilitation projects to achieve the purpose in cooperation with the department(DNR), the University of Wisconsin System, and other government

agencies and public and private organizations. Projects shall be divided into study, planning and implementation phases.

**District activities:** Lake districts can operate in a wide variety of lake management activities such as:

- evaluate lake management issues,
- carry out solution to lake management issues,
- develop long range lake management plans,
- undertake projects to enhance recreation,
- monitor water quality,
- cooperate with non-profit organizations on projects,
- operate water safety patrols,
- control erosion,
- survey lake users, local citizens and property owners,
- aerate the lake,
- harvest or treat aquatic plants,
- divert nutrients/dredge, or
- construct and operate dams.

**District powers:** Lake districts have broad powers to carry out these lake management functions. These include the power to:

- sue and be sued,
- make contracts,
- accept gifts,
- create, operate and maintain water safety patrols,
- accept grants and state aid,
- purchase, lease, devise or otherwise acquire, hold, maintain or dispose of property,
- disperse money,
- take out loans,
- appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the district or beneficial to the district,
- do any other acts necessary to carry out a program of lake protection and rehabilitation, and
- undertake projects to enhance the recreational uses of a lake within its jurisdiction, including recreational boating facilities.
- levy taxes, special assessments and special charges.

**Board of Commissioners meetings:** The law directs the board of commissioners to meet at least quarterly. The chairperson or any three commissioners may call meetings at other times. Three commissioners constitute a quorum to conduct business on behalf of the board of commissioners. The annual meeting itself doesn't count as one of the four meetings required of the board of commissioners.

The statute provides that members of the board of commissioners are entitled to be reimbursed for their actual expenses and may be paid such additional compensation as is approved by the annual meeting. The bylaws, however, provide that the commissioners shall serve without compensation. If the board of commissioners decide they want to be paid some compensation, approval must first be granted by the electors at an annual or special meeting and the bylaws amended.

**Open meeting laws:** Lake Districts must comply with Wisconsin open meetings law which has two basic requirements:

1. advance 24 hour public notice of each board meeting by publication and posting in three public places.
2. business must be conducted in open session (unless an exemption applies) which means a place which is reasonably accessible to all members of the public. Meetings must be open to all citizens at all times unless an exception applies. The law does not require that citizens be allowed to participate in the meeting. All records of the district must be available for public inspection.

**Annual and Special Meetings of Electors:** Every lake district must hold an annual meeting of electors and property owners. The annual meeting must be held between May 22 and September 8, unless the preceding annual meeting sets a different date. The statutes do not specify the location of the meeting: however, meetings should be held in an accessible public place.

**Notice of Annual Meeting:** Written notice of the annual meeting must be mailed at least 14 days in advance of the meeting to all electors within the district whose address is known or can be ascertained with reasonable diligence. In lieu of notice by mail to electors in the district, notice may be given by Class 2 Notice under Chapter 985 of the Wisconsin Statutes, which means notice by publication. Notice must also be given to all owners of property within the district by mail at the owner's address as listed in the tax roll, and to the department(DNR). Notice of the meeting shall include the following:

- a. The proposed annual budget.
- b. A list of each item proposed by the board of commissioners for consideration at the annual meeting in addition to the proposed annual budget.
- c. A list of any items proposed for consideration at the annual meeting by persons eligible to vote at the annual meeting if all of the following conditions are met:
  1. The item relates to an issue that is within the district's authority.
  2. Each item is submitted by a petition to the board at least 30 days before the annual meeting.
  3. The petition is signed by persons who are eligible to vote at the annual meeting.
  4. The number of persons signing the petition equals or exceeds 20 percent of the number of parcels located in the district that are subject to the property tax.

**Budget Summary:** The statutes require that the budget summary identify the following items for both the proposed budget and the budget in effect, including the percentage change between the current year's budget and the proposed budget:

- (1) For the general fund, all expenditures in the following categories:
  - a. general government
  - b. public safety
  - c. public works
  - d. health and human services
  - e. culture, recreation and education
  - f. conservation and development
  - g. capital outlay
  - h. debt service
  - i. other financing uses
- (2) For the general fund, all revenues from the following sources:
  - a. taxes
  - b. special assessments
  - c. intergovernmental revenues
  - d. licenses and permits
  - e. fines, forfeitures and penalties
  - f. public charges for services

- g. intergovernmental charges
- h. miscellaneous revenue
- i. other financing sources

- (3) All beginning and year-end fund balances.
- (4) The contribution of the property tax to each governmental fund and to each proprietary fund that receives property tax revenue and the totals for all funds.
- (5) Revenue and expenditures totals, by fund, for each governmental fund, and for each proprietary fund and the revenue and expenditure totals for all funds combined.
- (6) An itemization of proposed increases and decreases to the current year budget due to new or discontinued activities and functions.

The law does not require that expenditures be set forth in detail. But each source of income and expenditure must be put into one of the general categories listed above. For most lake districts only a few of these income and expenses categories will be applicable. Any item with a cost to the district in excess of \$10,000 must be specified in the budget. Capital costs must be separately identified from operating costs. It is only the operating costs that are limited to the 2.5 mill property tax levy limit.

**General property tax for operating costs:** The tax to raise funds for operating costs may not exceed the rate of 2.5 mills (\$2.50 per \$1000) of equalized valuation and must be uniformly applied across the entire district. The Wisconsin Department of Revenue is required to provide each district with a “certificate of equalized value” by October 1 of each year. The certificate provided to the Lake District on October 15, 2009 reflects that the equalized value of all taxable property in the Lake District is \$64,032,052. Applying the mill rate of \$2.50 per \$1000 results in a limitation on Lake District assessment for operating costs of \$16,008. It is the responsibility of the lake district treasurer to deliver to the clerk of the town of Milltown a statement of the amount that was approved at the annual meeting to be raised by taxation in the coming year. The amount of \$9000 was certified by the treasurer of the Lake District to the town clerk in September, 2009.

**Duties of the annual meeting:** At the annual meeting, electors and property owners who attend the meeting shall do all of the following:

- a. Elect by secret ballot one or more commissioners to fill vacancies

occurring in the elected membership of the district board.

b. Approve a budget for the coming year. The electors and property owners may consider and vote on amendments to the budget before approving that budget. The budget shall separately identify the capital costs and the costs of operation of the district and shall specify any item that has a cost to the district in excess of \$10,000.

Typically, the proposed budget is recommended by the board for adoption by the annual meeting. Persons entitled to vote at the annual meeting can propose amendments to the annual budget and the electors can make amendments.

**Additional rights of electors:** At the annual meeting, electors and property owners may do any of the following:

a. Vote by majority a tax upon all taxable property within the district. That portion of the tax that is for the costs of operation for the coming year may not exceed a rate of 2.5 mills of equalized valuation as determined by the department of revenue and reported to the district board.

b. Take up and consider such other business as comes before it.

c. Establish compensation to be paid the district board commissioners.

d. Create a nonlapsible fund to finance specifically identified capital costs and for maintenance of capital equipment.

**Special meetings of district:** The board of commissioners of a district may schedule a special meeting of the district at any time. The board of commissioners shall schedule a special meeting upon receipt of a petition signed by at least 10% of the electors and property owners in the district. Written notice of a special meeting shall be given to the same persons and in the same manner required for an annual meeting. At the special meeting, electors and property owners may take any action that is required or allowed to be taken at an annual meeting, except that they may not approve an annual budget but they may consider and vote on amendments to the annual budget.

**Power to Finance:** The district may borrow money. The district shall levy an annual irrevocable tax to pay the principal and interest of the indebtedness when due. The district shall levy the tax without limitation as to rate or amount on all taxable property within the district and the amount levied shall not be included in the 2.5 mil operations tax limit. Special assessments may be levied for the purpose of carrying out district protection and rehabilitation projects, or for other lake management services undertaken by the district. These assessments shall not be



All contracts in excess of \$2,500 for the performance of any work or the purchase of any materials shall be let by the commissioners to the lowest responsible bidder in the manner the board prescribes.

**Powers and Duties of the Board of Commissioners:** The board of commissioners is broadly responsible for the development and conduct of a lake protection and rehabilitation program. Examples of board of commissioner duties include:

- Clarifying goals and identifying lake issues.
- Initiating and coordinating research and surveys for the purpose of gathering data on the lake, related shorelands and the drainage basin:
- provide the DNR with names and addresses of the current commissioners.
- carrying out the programs adopted in the annual budget by the annual meeting.
- Cooperating and building working relationships with local units of government for the purpose of preserving and protecting the lake.
- Maintaining liaison with officials of state government.
- Schedule the annual meeting
- Prepare the proposed annual budget for presentation to the annual meeting.

Except for powers reserved to the annual meeting, all of the powers of the lake district are exercised by the board of commissioners.

**Audit:** The board is required to have an audit of the financial transactions of the district prepared at the close of each fiscal year which must be presented and submitted to the annual meeting. The law does not specify further requirements for this audit which may be performed by an accounting firm or by an internal committee.

**Officers:** Immediately following each annual meeting, the board of commissioners is required to meet and elect three officers: a chairperson, secretary and treasurer. The chairperson is the presiding officer of the board and presides at all meetings of the board of commissioners and at the annual and special meetings. The secretary keeps minutes of all meetings of the district and sends notices required for the annual meeting and meetings of the board. The treasurer is responsible for the receipt of monies due to the district and the payment of district liabilities upon order of the board of commissioners.

limited by the 2.5 mil operations tax limit.

**Reflections on the current state of the budget:**

I have heard these issues raised that I will try to address:

1. Is the Lake District authorized to spend money on fireworks and should it proceed with spending money for fireworks in 2010 pursuant to the proposal approved at the annual meeting on July 18, 2009 calling for a tax levy of \$20 per household for the purchase of fireworks?
2. Was proper notice given to the electors prior to the annual meeting and if not what affect, if any, should that have on the issue of the board's spending money for fireworks and the other items included in the budget?
3. Can the Lake District use a portion of its reserve fund of \$78,360.93 to pay for operating expenses.

**Fireworks:** I have reviewed the minutes of the board meetings and annual meetings beginning with June 17, 2006 and going through October 17, 2009: At the annual meeting held on July 21, 2007 there was discussion of taking a survey to determine the level of interest in having the Lake District finance fireworks. The matter of a fireworks display came up at the May 24, 2008 meeting of the board under old business and the matter was tabled. At the annual meeting on July 20, 2008, a motion was proposed to have John Misner investigate and provide some analysis of having the Lake District put together a Fourth of July Holiday fireworks show. The minutes say, "most were in favor, few opposed, motion passes". At the board meeting after the annual meeting on July 20, 2008 someone suggested the board consider allowing a concession stand to be operated at the beach with the possibility of the proceeds going to the 4<sup>th</sup> of July Fireworks fund. No action was taken. The minutes of the October 3, 2008 meeting of the board show the matter of the Lake District providing a 4<sup>th</sup> of July fireworks show came up for discussion and someone said the cost would be \$3000. A motion to fund such a show was turned down by the board. The statement was made that the \$9000 of expected revenue from taxes was already allocated for funding fish stocking and the annual meeting picnic costs, etc., hence funds for fireworks were not available.

The minutes of the May 23, 2009 meeting of the board states:

"A short discussion on the prospect of a fireworks display as there are a handful of individuals on the lake wanting to raise funds for such a project to partner with Lake Association funding. A vote at the last Board

meeting resulted in the Board deemed this not advisable.”

At the annual meeting on July 18, 2009 the board proposed a budget calling for expenditures of \$24,065 and revenues of \$9000. The treasurer announced that the Lake District had on hand a cash balance of \$78,360.93. The budget was approved.

The agenda called for a report on fireworks by John Misner. John proposed the following motion:

“In order to fund an annual Independence Day event to be held on or about July 4 of every year (as set by the District Board) an additional annual tax levy of \$20 per household will be implemented beginning in 2010 and continue thereafter unless rescinded by popular vote at the Annual Meeting. The Board or a committee operating under the Board’s direction shall determine the expense allocations of the “July 4<sup>th</sup> fund” to include, but not be limited to food, beverages and fireworks presented at the Public Beach. Fireworks are to be provided by federally licensed fireworks exhibitor, and will operate subject to the terms of a fireworks permit produced by the Town of Milltown or the Polk county Sheriff’s Office.”

The motion was passed. Pat McMahon suggested that this project be handled by a separate committee and not the Board.

The minutes of the board meeting held September 5, 2009 state:

“Discussion of the fireworks and it’s happening as passed at the July 18<sup>th</sup> annual meeting pursued. Because notification of the potential to raise the tax levy of \$20 per household was not made, the process cannot be implemented. A discussion of the rules of the district and whether “fireworks” falls under the guidelines also pursued. It was agreed that while Lake Quality is the primary focus of the district, Fireworks brings people together for the purpose of understanding and unity of the lake procedures and can be part of a lake district offering. Many lake districts in Wisconsin do this for this purpose. Suggestions were made to provide fireworks for the Half Moon Lake Dwellers. Decision was tabled to next meeting.”

The next meeting was scheduled for October 17. Direction was given to contact John Misner for Fireworks input at that meeting.

The minutes of the October 17 meeting state that the board voted to not fund the fireworks in 2010. John Misner was not able to attend the meeting.