

Lake District Q&A

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Volume 34 No. 1 Winter 2009

Q: What should lake districts do about board of commissioner representation when their established boundaries cross a number of municipalities and the governing body with the largest assessed value of property in the district changes from one year to the next?

A: One member of the governing body of the town, village, or city having the largest assessed value of property in the district (appointed by that governing body) needs to have representation on the board of commissioners. Sometimes the largest valuation changes from one town to another given new assessments. When this happens, lake districts should see that the representation shifts accordingly. Again, the municipality with the largest assessed valuation gets an appointee to the board. If the valuation shifts, then the appointment power shifts. Further, when several municipalities are within a lake district's boundaries, it can be a good idea for them to allow each municipality to appoint ex officio members to the board to present their points of view and participate in discussions. Still, only the member of the municipality with the largest assessed valuation would be allowed to vote.

Volume 33 No. 4 Fall 2008

Q: Do lake districts need to abide by open meetings and public records policy?

A: You betcha! Wisconsin's open meetings and public records laws recognize the importance of having a public informed about government affairs; this includes government entities like lake districts. Effective citizen oversight of the workings of government and government employees is essential to democratic representation and confidence in government. Citizen access to both meetings of government and their public records are vital aspects to this principle. Government bodies need to fully comply with these open meetings and public records laws to foster a policy of open government for all Wisconsin citizens. Compliance documents are available from the Wisconsin Department of Justice to help lake district boards, members, and others navigate the policies in place to help promote transparency in government. Check out the Wisconsin Department of Justice web site for more information: <http://www.doj.state.wi.us/site/ompr.asp>.

Volume 33 No. 3 Summer 2008

Q: Where is the best place to store lake district records?

A: There are typically three different ways a lake district goes about storing their records.

One way is for the records to be stored by the Secretary, the district officer tasked with keeping minutes of all meetings. Sometimes this method can lead to the loss of the records as communication can break down when officers/commissioners change over time. A second method is to arrange with your municipal clerk to maintain a filing cabinet in a municipal building. Perhaps the town clerk would make space available for storage in the town hall or the county clerk at the county courthouse. Last, your district's Secretary can work with the local library to create an archive where copies of the minutes and other district records can be stored. They might also make records available to the public through their site.

This piece was inspired by Jeff Thornton, Southeastern Wisconsin Regional Planning Commission.

Volume 33 No. 2 Spring 2008

Q: Which records of a lake district must be available to the public?

A: All of them.

To help foster public accountability, lake districts, sanitary districts, and intergovernmental commissions are subject to state laws protecting public access to records, meetings and decision-making. All districts and commissions must give advance notice of their meetings and hold them in public places. Districts and commissions must make their records available for inspection by any member of the public. This is appropriate, because these organizations raise and expend public funds. Voluntary organizations are not subject to open meetings or public records laws.

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Further, the records of the district's board of commissioners are public records, subject to the Wisconsin Public Records Law. That law generally requires that the district promptly provide a requester with any record in the commissioners' possession relating to the district's activities, subject to narrow exceptions.

The secretary is obliged to keep minutes for each meeting including a record of motions and votes. All records of the district must be available for public inspection.

Volume 32 No. 4 Fall 2007

Q: Is there a limit on how much a lake district can tax?

A: Yes - general property taxes levied by a lake district are capped at a rate of 2.5 mills or \$2.50 per \$1,000 of equalized valuation (\$250 for a property valued at \$100,000). General property taxes are applied as a tax rate on each taxable parcel within the district and are typically used for operating expenses such as administrative costs, lake studies, monitoring and other general government activities.

Lake districts are also authorized to use special charges for services identified in the annual budget. These are typically used for services that benefit individual properties, such as sewer or water service, aquatic plant harvesting, algae control and garbage pickup. Similarly, special charges are capped at \$2.50 per \$1,000 of assessed valuation.

Special assessments can also be used, but are typically reserved for larger capital projects and involve fairly complex notices, hearings and procedures.

Volume 32 No. 3 Summer 2007

Q: Does a lake district need to get bids?

A: If a lake district enters into a contract for the performance of any work or the purchase of materials over \$2,500, bids must be obtained. *Wis. Stat. § 33.22(1)*

The statutes do not specify the procedure for soliciting bids, but most lake districts prepare a written request for proposals, specifying the work or material required and a deadline for bids. Typically lake districts contact vendors or contractors directly to request proposals. The *Lake List* is a great online directory to find businesses that provide lake-related equipment and services (www.uwsp.edu/cnr/uwexplakes/lakelist).

For large-scale projects it is a good idea to follow more formal bidding procedures, including detailed plans and specifications, and specially prepared bidding documents.

The board of commissioners is required to award the work to the lowest responsible bidder. This is interpreted to mean that if the commissioners feel a contractor will not be able to perform the work adequately, they are not obligated to award the work to that bidder.

Volume 32 No. 2 Spring 2007

Q: Who can vote at a lake district annual meeting?

A: A person can vote if they are a U.S. citizen over 18 years of age and either:

An elector (a resident in the lake district who is able to vote in other local/state elections). Electors do not have to own property in the district.

A property owner within the lake district:

A person whose name appears as an owner of real property on the tax roll¹

A person who owns title to real property even though the person's name does not appear on the tax roll (i.e. a spouse)

A person who is the official representative, officer or employee authorized to vote on behalf of a trust, foundation, corporation, association or other organization owning real property in the lake district.

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¹The official tax roll for determining annual meeting voting eligibility is the one that was delivered before the third Monday in December of the previous year.

Volume 32 No. 1 Winter 2007

Q: What are the requirements for annual meeting notices?

A: The written notice for an annual meeting must be mailed out at least 14 days in advance to all lake district property owners whose names are listed in the tax roll. Written notice must also be mailed out to all electors (resident voters) whose addresses are known (or can be reasonably determined) or the lake district may publish notice of the meeting in two successive issues of the local newspaper.* The lake district is also required to mail notice of the annual meeting to the Wisconsin Department of Natural Resources (Lakes Management Section, 101 S. Webster Street, PO Box 7921, Madison, WI 53707-7921). *Wis. Stat. 33.30(2)(a)*

To comply with Wisconsin's open meetings law requirements, a lake district should also:

- post the meeting notice at least 24 hours in advance in three locations likely to be seen by the general public. As an alternative, a lake district may give notice by paid publication in the local newspaper (this covers #2).
- provide the local newspaper with a meeting notice.
- give a meeting notice to any additional media source that has requested to be notified.

For more information on Wisconsin open meetings law requirements, see the Attorney General's Open Meetings Law Compliance Guide found at www.doj.state.wi.us.

*Tax rolls are available to help lake districts generate accurate mailing lists for property owners. Mailing lists for electors (resident voters) are not always readily available, therefore, lake districts have the option of publishing the notice to get the word out to electors.

Volume 31 No. 4 Fall 2006

Q: Are lake districts tax-exempt?

A: Yes. Lake districts are governmental units, therefore they are automatically exempt from having to pay state sales tax. Lake districts can apply to the Wisconsin Department of Revenue in order to receive a Certificate of Exempt Status (CES) number to use when making purchases.

A lake district may apply for a CES number using Form S-103 – Application for Wisconsin Sales and Use Tax Certificate of Exempt Status. For more information and a copy of the form, contact the Wisconsin Department of Revenue or see www.dor.state.wi.us.

Lake associations and other voluntary organizations that are recognized as federally tax-exempt under Section 501c3 of the Internal Revenue Code are also eligible to apply for state sales tax-exempt status. They can apply using the same form from the Department of Revenue, but will need to demonstrate their qualifications as a nonprofit organization.

Volume 31 No. 3 Summer 2006

Q: What is a Special Meeting and how is it different from the Annual Meeting?

A: Like the Annual Meeting, a Special Meeting is a meeting of the electors (resident voters) and property owners of a Lake District. Special Meetings are usually called when there is additional business to conduct that could not be accomplished at the Annual Meeting.

A Special Meeting may be called at any time by a majority of the board of commissioners, or by request from 10% of the eligible voting members of the district.

Special Meetings are similar to Annual Meetings, with the following notable exceptions:

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- the annual budget may not be approved at a Special Meeting (but the budget can be amended, as long as it does not impact the tax levy approved at the Annual Meeting).
- dissolution of a lake district may not be considered.
- the meeting can not consider any matter resolved during another Special Meeting that has been held since the previous Annual Meeting.

Notice and voting requirements are the same for Annual and Special Meetings.

Volume 30 No. 4 Fall 2005

Q: Can a lake district use absentee or proxy voting?

A: No.

In 2004, the WI legislature passed Act 274, making some legislative changes to Chapter 33 of the Statutes, the chapter that specifically pertains to lake districts. Chapter 33 was updated to say that no absentee ballots or proxies are permitted at an annual meeting or a special meeting of the district. Wis. Stat. 33.30(2)(b) and 33.305(4).

Some people claim that absentee or proxy voting gives members who may not be able to attend the annual or special meeting an important voice in district matters. Others maintain that absentee and proxy voting doesn't provide the non-present member the benefit of hearing discussion during the meeting on an issue.

If an issue to be voted upon at a lake district meeting changes during the course of the meeting or if new information is brought forward, an absentee vote could be rendered useless. In the case of proxy voting, some people contend that the designated proxy may not know how to cast the vote for the non-present member if changes occur at the meeting.

Although other governmental bodies allow absentee voting (but not proxies) for election purposes (i.e. local, state, federal elections), lake districts are unique in that elections do not happen in a polling booth. Voting takes place at an annual meeting, where nominations can be taken from the floor of the meeting. Absentee voting in these cases does not provide the non-present member the benefit of considering those new nominations.

For these and other legal reasons, absentee or proxy voting are not permitted for lake districts.

Volume 30 No. 3 Summer 2005

Q: Are lake districts a unit of government?

A: Yes

Unlike a lake association, a lake district is actually a governmental body, similar to a town or county (but often without paid staff). As such, there are certain rights and responsibilities that come along with being a unit of government.

First and foremost, lake districts MUST follow Chapter 33 of the Wisconsin Statutes, the chapter that sets forth the legal powers and operations of lake districts. A copy of Chapter 33 can be found on the Wisconsin legislature's website: <http://www.legis.state.wi.us/statutes/Stat0033.pdf>

A lake district has statutory responsibilities to the waterbody, local citizens and taxpayers. Some of those responsibilities include things like public notices, open meetings and open records laws. More detailed information can be found online at: <http://www.uwsp.edu/cnr/uwexplakes/districts>