

OLMSTED COUNTY BOARD OF COMMISSIONERS
WABASHA COUNTY BOARD OF COMMISSIONERS

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ESTABLISHING
THE LAKE ZUMBRO IMPROVEMENT DISTRICT**

WHEREAS, the Olmsted County Board and the Wabasha County Board initiated the establishment of a Lake Improvement District on Lake Zumbro which is located in both Olmsted County and Wabasha County via a Resolution of Intent to Establish the Lake Zumbro Improvement District on August 13, and August 20, 2013 pursuant to Minn. Stat. Section 103B.515 and Minn. Stat Section 103B.525; and

WHEREAS, the Olmsted and Wabasha County Attorney's Offices submitted a certified copy of the Resolution of Intent to Establish the Lake Zumbro Improvement District to the Commissioner of the Minnesota Department of Natural Resources and to the Minnesota Pollution Control Agency as required by Minnesota Rule 6115.0970, Subp. 2A; and

WHEREAS, the Olmsted County portion of Lake Zumbro lies within Oronoco Township and Olmsted County sent the Town Board of Oronoco Township a copy of the Resolution of Intent more than 30 days in advance of the public hearing on this matter seeking their review and comment as required by Minnesota Statutes Section 103B.515, Subd. 2; and

WHEREAS, the Wabasha County portion of Lake Zumbro lies within Zumbro Township and Wabasha County sent the Town Board of Mazeppa Township a copy of the Resolution of Intent more than 30 days in advance of the public hearing on this matter seeking their review and comment as required by Minnesota Statutes Section 103B.515, Subd. 2; and

WHEREAS, Olmsted County and Wabasha County have, at least 21 days prior, provided notice of a public hearing on the proposal to establish a Lake Improvement District to the DNR and the MPCA, all owners and residents within the proposed District, local and regional units of government, special purpose districts, development commissions, and corporations and utilities owning property within the proposed District and published notice of the public hearing in two successive issues of the Rochester Post-Bulletin for Olmsted County and the Plainview News for Wabasha County which is widely circulated in the proposed District and posted notice of the public hearing in public buildings and leading commercial establishments in or near the proposed District as required by Minnesota Rule 6115.0970, Subp. 3; and

WHEREAS, the Olmsted County Board made the Resolution of Intent available for public viewing by concerned citizens at the Property Records and Licensing

OLMSTED COUNTY BOARD OF COMMISSIONERS
WABASHA COUNTY BOARD OF COMMISSIONERS

Resolution No. 2013-237

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WHEREAS, the Olmsted and Wabasha County Attorney's Offices submitted a certified copy of the Resolution of Intent to Establish the Lake Zumbro Improvement District to the Commissioner of the Minnesota Department of Natural Resources and to the Minnesota Pollution Control Agency as required by Minnesota Rule 6115.0970, Subp. 2A; and

WHEREAS, the Olmsted County portion of Lake Zumbro lies within Oronoco Township and Olmsted County sent the Town Board of Oronoco Township a copy of the Resolution of Intent more than 30 days in advance of the public hearing on this matter seeking their review and comment as required by Minnesota Statutes Section 103B.515, Subd. 2; and

WHEREAS, the Wabasha County portion of Lake Zumbro lies within Zumbro Township and Wabasha County sent the Town Board of Mazeppa Township a copy of the Resolution of Intent more than 30 days in advance of the public hearing on this matter seeking their review and comment as required by Minnesota Statutes Section 103B.515, Subd. 2; and

WHEREAS, Olmsted County and Wabasha County have, at least 21 days prior, provided notice of a public hearing on the proposal to establish a Lake Improvement District to the DNR and the MPCA, all owners and residents within the proposed District, local and regional units of government, special purpose districts, development commissions, and corporations and utilities owning property within the proposed District and published notice of the public hearing in two successive issues of the Rochester Post-Bulletin for Olmsted County and the Plainview News for Wabasha County which is widely circulated in the proposed District and posted notice of the public hearing in public buildings and leading commercial establishments in or near the proposed District as required by Minnesota Rule 6115.0970, Subp. 3; and

window of the Olmsted County Government Center and also available online at <http://www.co.olmsted.mn.us/sheriff/divisions/lec/Pages/lakezumbro.aspx> and the Wabasha County Board made the petition available for public viewing by concerned citizens at the Wabasha County Courthouse as required by Minnesota Rule 6115.0970, Subp. 4; and

WHEREAS, the Olmsted County Board and the Wabasha County Board convened the public hearing on the Resolution of Intent on November 19, 2013 at 7:00 p.m. at the Ponderosa Bar and Grill, 40240 County Road 90, Mazeppa, Minnesota as required by Minnesota Statutes Section 103B.515, Subd. 3 and the report from the Commissioner of the Minnesota Department of Natural Resources was read into the record as required by Minnesota Rule 6115.0970, Subp. 7, and comments from persons for and against the creation of the District were received and considered and the Olmsted County Board voted 7-0 and the Wabasha County Board voted 3-2 in favor of a motion to create the Lake Zumbro Improvement District,

WHEREAS, on December 3, the Wabasha County Board convened and on December 5, 2013, the Olmsted County Board convened to approve the proposed Findings of Fact, Conclusions of Law and Order authorizing the establishment of the Lake Zumbro Improvement District which was more than 10 days, but within 30 days following the public hearing on the petition, as required by Minnesota Rule 6115.0970, Subp. 9 ; and

WHEREAS, the two County Boards are also aware that since the first attempt to create a Lake Zumbro Improvement District back in 2009-2010, on September 23-24, 2010, heavy rains and flooding occurred on Lake Zumbro and in surrounding areas which caused the dam upstream on the Middle Fork of the Zumbro River to breach, draining Lake Shady and sending large amounts of silt downstream where it was deposited into Lake Zumbro. This event reinforced the need for added depth to the lake to add water storage capacity in peak flow periods to curtail flooding risks including damage to or possible failure of the Lake Zumbro Dam; and

NOW, THEREFORE BE IT RESOLVED THAT THE OLMSTED COUNTY BOARD AND WABASHA COUNTY BOARD ISSUE THE FOLLOWING FINDINGS OF FACT IN SUPPORT OF THEIR ORDER CREATING THE LAKE ZUMBRO IMPROVEMENT DISTRICT:

1. Lake Zumbro has become filled with a large amount of silt since its creation in 1919.
2. This infiltration of silt has impaired the water quality of the lake, adversely affected the plant and animal species that live in and around the lake, made the depth of the lake much shallower in many places which has adversely affected its utility for many recreational uses, and has impaired the efficiency of use of the

water flowing through the dam for hydroelectric power generation by Rochester Public Utilities.

3. It is necessary to dredge the lake in order to restore the lake close to the condition it was in at the time of its creation. Dredging the lake will improve the water quality in the lake and will not cause or contribute to long range environmental pollution once the spoil has been removed and the new lake bed has been reestablished in the dredged areas, will promote the health of plant and animal species that live in and around the lake, will open up areas of the lake to recreational use that have become unusable due to sediment buildup over the years which will benefit the properties adjoining the lake to be included in the District, and will increase the depth of the lake near the dam which will improve the efficiency of hydroelectric power generation,

4. The State of Minnesota is requiring that property owners who live on the Lake provide a share of the funding which will be needed to dredge the lake. Creation of this Lake Improvement District is needed to provide a mechanism to collect funds through assessments on the adjoining property owners which can be contributed toward the cost of the dredging project.

THE OLMSTED COUNTY BOARD AND THE WABASHA COUNTY BOARD
ISSUE THE FOLLOWING CONCLUSIONS OF LAW IN SUPPORT OF THEIR
ORDER CREATING THE LAKE ZUMBRO IMPROVEMENT DISTRICT:

1. Olmsted County and Wabasha County find it is necessary to create this District to promote public health and public welfare as set forth in Minnesota Statutes Section 103B.515, Subd. 4(a)(1) as the dredging of the Lake will benefit the owners of the properties in the District, the users of the lake, the plants and animals within the Lake and the customers of Rochester Public Utilities who receive hydroelectric power from the Lake. The property to be included in the District will be benefitted by establishing the District as required by Minn. Stat. Section 103B.515, Subd. 4(a)(2). The formation of the District will not cause or contribute to long-range environmental pollution as required by Minn. Stat. Section 103B.515, Subd. 4(a)(3).

2. Olmsted County and Wabasha County find that the District should be established in both counties because the lake spans both counties and a joint powers authority with Wabasha County is necessary in order to facilitate management of the District once it is created pursuant to Minnesota Statutes Section 103B.515. This joint powers authority will be exercised through the Olmsted-Wabasha Lake Zumbro Joint Powers Board which was originally created in 2008 in order to coordinate payment arrangements and contracting for the dredging of the lake.

THE OLMSTED COUNTY BOARD AND WABASHA COUNTY BOARD ISSUE THE FOLLOWING ORDER PURSUANT TO MINNESOTA STATUTES SECTION 103B.535:

1. The name of the District shall be "The Lake Zumbro Improvement District".
2. The boundaries of the District shall be as set forth on the map of the District which is attached hereto as Exhibit A and the district boundary follows natural hydrologic boundaries to the extent practical. This includes amendments which were made to the map since it was first proposed to the County Boards back in August 2013 to reflect additional information about a limited number of affected parcels.
3. The water and land resources management programs and services to be undertaken by the District include dredging of the lake bottom, disposal of the dredged materials and any programs which may be ancillary to these primary purposes.
4. The general powers of the District shall include those authorized in Minnesota Statutes Section 103B.551, Subd. 3. The financing powers of the District shall include those authorized in Minnesota Statutes Section 103B.555 which may be pursued only after unsuccessfully seeking other sources of funding. The District shall be eligible to receive funding from any federal, state or local government sources to accomplish these programs.

However, the District may not enter into contracts exceeding \$50,000 in expenditures without prior approval of the Olmsted County and Wabasha County Boards. The District may not enter into contracts unless full funding has already been secured by the District. No contract by the District shall obligate Olmsted or Wabasha County to pay any vendor in the event District funding is determined to be insufficient to cover project costs, unless approved by the Olmsted and Wabasha County Boards. The District may not enter into any transactions that incur any indebtedness beyond those of a short term accounts payable nature without the authorization of the Olmsted and Wabasha County Boards. Finally, the District shall not be authorized to assess costs of projects upon benefitted properties within the District without prior approval of the Olmsted County Board as to the District properties located within Olmsted County and by the Wabasha County Board as to the District properties located in Wabasha County. However, the two counties shall use the same method of assessment for the local share of the costs for the lake dredging project.

The District is to: a) provide its own business and finance functions, b) hire a public accounting firm to provide for its bookkeeping needs and that will provide, at a minimum, quarterly reports to the Olmsted and Wabasha County Boards, c) open when needed a checking account at a financial institution capable of legally handling public funds with said checking account requiring checks with co-

signatures of the chairman and treasurer of the District, d) arrange for an audit of its operation on an annual basis by the Office of the State Auditor or if allowed by the State Auditor a certified public accounting firm, other than the firm providing the bookkeeping, qualified to audit municipal records, e) arrange with the Minnesota Counties Insurance Trust for necessary insurance policies, f) hire a law firm to represent the District, g) transact all business of the District with adherence to the Public Purpose Doctrine of Minnesota Law, h) not hire any employees for the District without the consent of the Olmsted and Wabasha County Boards. All work of the District is to be done by the originally appointed officials or the subsequently elected officials of the District or independent contractors arranged for by the District, i) stipends may be paid to the officials of the District for their labor for the District but the stipends must be pre-approved in amount by the Olmsted and Wabasha County Boards, j) additional restrictions on the powers of the District may be placed by the joint action of the Olmsted and Wabasha County Boards as necessary to maintain the public trust in the District.

5. The initial number, qualifications, terms of office and method of election, removal and filling of vacancies of the board of directors including a method for property owners not present at the annual meeting to participate in the election of the district board were first recommended at a special meeting of the Olmsted-Wabasha Lake Zumbro Joint Powers Board acting as the joint county authority under Minnesota Statutes Section 103B.525 which was held April 15, 2010. An amended version of these rules was subsequently recommended at a special meeting of the Joint Powers Board on July 10, 2013. A copy of these rules is attached hereto as Exhibit B. These rules are hereby adopted to govern these operations of the LID Board effective February 1, 2014.

6. The Olmsted County Clerk/Administrator is hereby authorized to execute such agreements as are necessary to implement the work of the District. The staff of Olmsted County is authorized to furnish any assistance requested by the District in the execution of its duties including any joint assistance with staff from Wabasha County. However, the County shall be reimbursed for any staff support to be provided to the District upon terms to be determined by the County delivering the support services. The provision of any staff support for the District shall also be subject to the County's determination that it has sufficient staff resources available to support the District.

7. This order shall be published once in the Rochester Post-Bulletin and in the Plainview News, and a copy of the order shall be filed with the Minnesota Secretary of State, the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources as required by Minnesota Statutes Section 103B.541. The Lake Zumbro Improvement District shall be formally established as of February 1, 2014. However, in the event a verified referendum election petition meeting the required 26% threshold is submitted to both counties by January 31, 2014 at 4:00 p.m., the Olmsted and Wabasha County Boards shall issue an order staying establishment of the LID pending the outcome of the

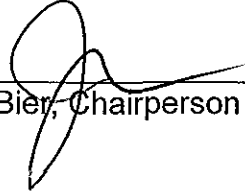
referendum election of all qualified voters and property owners within the proposed lake improvement district to be held in July or August 2014. In the event a referendum petition is received prior to the effective date, the Olmsted County Property Records and Licensing Department and the Wabasha County Auditor shall determine whether or not a conforming referendum petition has been submitted and notify the County Boards. If a conforming referendum petition has been submitted, the Olmsted and Wabasha County Boards shall issue a subsequent resolution setting forth the details for conducting this election after consultation with the Director of Olmsted County Property Records and Licensing and the Wabasha County Auditor.

I CERTIFY THAT the above resolution and order was adopted by the Olmsted County Board of Commissioners on December __, 2013.


Dated: December 5, 2013

OLMSTED COUNTY BOARD
OF COMMISSIONERS

By: _____


Jim Bier, Chairperson

ATTEST:


Richard G. Devlin, Clerk-Administrator

Dated: December 5, 2013

WABASHA COUNTY BOARD
OF COMMISSIONERS

By: _____

Rich Hall, Chairperson

ATTEST:

Larry Timmerman, Administrator

issue an order staying establishment of the LID pending the outcome of the referendum election of all qualified voters and property owners within the proposed lake improvement district to be held in July or August 2014. In the event a referendum petition is received prior to the effective date, the Olmsted County Property Records and Licensing Department and the Wabasha County Auditor shall determine whether or not a conforming referendum petition has been submitted and notify the County Boards. If a conforming referendum petition has been submitted, the Olmsted and Wabasha County Boards shall issue a subsequent resolution setting forth the details for conducting this election after consultation with the Director of Olmsted County Property Records and Licensing and the Wabasha County Auditor.

I CERTIFY THAT the above resolution and order was adopted by the Wabasha County Board of Commissioners on December __, 2013.

Dated: December __, 2013

OLMSTED COUNTY BOARD
OF COMMISSIONERS

By: _____
Jim Bier, Chairperson

ATTEST:

Richard G. Devlin, Clerk-Administrator

Dated: December 3rd, 2013

WABASHA COUNTY BOARD
OF COMMISSIONERS

By: 
Rich Hall, Chairperson

ATTEST:



Denise Anderson, Board Clerk

EXHIBIT A -

LAKE IMPROVEMENT DISTRICT MAPS – ENTIRE LID AREA, OLMSTED
COUNTY PORTION OF LID AND WABASHA COUNTY PORTION OF LID

EXHIBIT B –

LID BOARD OPERATIONS RULES