

ALGLB Meeting- May 3, 2012 -- DRAFT COPY

Call to Order: 3:04 PM

Members in Attendance: Ed Sackley, Pat Crowley, John Zull, Brian Johnson and Elizabeth Campbell
1 guest in attendance

Approval of Minutes- 5 – 0

Michigan Tax Tribunal Appeal- Copy of the appeal by Todd and Melody Lyons was received. The hearing will be in Calhoun County on 7-31-12 at 8:30 AM.

Administrative and Pre Operational Activities:

- A. Financing is being pursued with the County.
- B. Legal Status- We are a governmental entity. Memo Attached.
- C. Vendor Contracts- Lakeshore Environmental and Lake Savers. Motion authorizing Ed Sackley to sign Lakeshore Environmental contract Approved- 5 – 0. Lake savers contract needs to have the attorney review then signed by Ed Sackley. Approved 5 – 0.
- D. Compression Station License: City of Portage approved by Council. Move to Authorize Ed to execute personal license agreement on city owned property. Approved 5 – 0
- E. Private Owners Compression stations. David Lewis will prepare license agreements for individual property owners. Authorize Ed Sackley to have attorney draw up letter. Approved 5 – 0.
- F/G; Directors and Officers Insurance- move to secure bids to receive insurance for tort liability. Also need to follow up with Liability Insurance with Maurice Evans, City Manager. Approved 5 – 0.
- H. MDEQ Permit- applied for- waiting for approval.
- I. Consumers Energy- John Tucci will look into this. Ed Sackley will establish the account with consumers in the name of Austin Lake GLB.

Reminder that the Austin Lake Riparian Association Annual Meeting is being held on May 15, 2012 at 7:00 pm at the Portage Public Library in the Austin Lake Room.

Public Comment: Jim Pearson gave a reminder that we need to be out by 9:00 pm for the Annual Meeting.

Second Item from Jim Pearson, Getting some type of clarification on the info that was provided that the GLB can decide lake levels.

Third Item, Measurement- Jim is thinking we should have a measurement set up in the south bay to show muck reduction as opposed to just moving of the muck.

No Board Member comments.

Adjourned at 4:14 PM

AUSTIN LAKE GOVERNMENTAL LAKE BOARD

Thursday, May 3, 2012 – 3:00 p.m.
Portage City Hall – Conference Room #1
7900 S. Westnedge Avenue, Portage, MI 49002

AGENDA

- ✓ 1. Call to Order
- ✓ 2. Roll Call
- ✓ 3. Approval of Minutes – Meeting of February 22, 2012
- ✓ 4. Michigan Tax Tribunal Appeal Status – Todd Lyons
- ✓ 5. Update on Administrative and Pre-Operational Activities
 - ✓ a. Financing – City of Portage vs. County of Kalamazoo vs. Commercial lender
 - ✓ b. Legal Status – We are a governmental entity (Lewis Memo)
 - ✓ c. Vendor Contracts – Lakeshore Environmental and Lake Savers
 - ✓ d. Compressor Station License – City of Portage
 - ✓ e. Compressor Stations – private landowners
 - ✓ f. Directors and Officers Insurance
 - ✓ g. Liability insurance
 - ✓ h. MDEQ Permit
 - ✓ i. Consumers Energy
6. Action Items
 - ✓ a. Attorney Authorization – MTT Appeal
 - ✓ b. Vendor Contracts – Authorization to execute
 - ✓ c. Compressor Station License Approval – City of Portage
 - ✓ d. Compressor Station License Authorization and Approval – private landowners
 - ✓ f. Directors and Officers Insurance – Bids and purchase (MMRMA?)
 - ✓ g. Consumers Energy Accounts and Electrical Contractor – Authorization, bids and installation
- ✓ 7. Austin Lake Riparian Association Annual Meeting
- ✓ 8. Public Comment
9. Board Member Comments
10. Adjourn

ALGUB mtg

5-3-12

- 1 - 3:00 pm Call to Order
- 2 - attending: Ed Sackley, Pat Crowley, John Zull, Elizabeth Johnson, Brian Johnson
1 in attendance
- 3 - Approval of minutes = 5-φ
- 4 - Michigan Tax Tribunal Appeal - Copy of appeal by Todd & Melody Lyons - 7-31-12 Kearney, @ Calhoun County @ 8:30 am
- 5 - Administrative & Pre-Operational Activities
 - a - Financing - will pursue with County. motion by Zull/Johnson - 5-φ
 - b - Legal Status - we are a governmental entity ^{memo attached}
 - c - Vendor Contracts - Lakeshore Environmental & Lake Savers - motion authorizing Ed to sign ~~Lakeshore~~ Lakeshore Environmental Contract Johnson/Crowley - 5-φ
 - Lake Savers contract - have attorney review any changes be made then signed by Ed - moved Zull/Johnson 2nd 5-φ

d - Compression Station License - City of Pf -
Approved by Council - move to authorize
Ed to ~~write~~ execute formal license agreement
on city owned property - More - Johnson - Zell

e - Private owners - Compression Stations.
D. Lewis will prepare license Agreement for
individual property owners. ~~that~~ Authorize
Ed to have attorney draw up letter -
Zell - Johnson - 5-φ

f/g Directors & Officers Ins - move to secure
~~bids to receive ins. for tort liability~~

(*) follow up with liability Ins for Maurice

Zell/Crowly - 5-φ

H - MDEQ Permit - applied for -
waiting for approval - ?

I. Consumers Energy - J. Tucci will
look @ this - Ed Sackley will establish
our acct w/ them.

7 - Austin Lake Riparian
Association Annual Mtg *
May 15, 2012 @ 7:00 Port. Public
Library - Austin Lake Room

8 - Public Comment - ^{out by} 9:00
- Jim Pearson, need to be ~~the~~
for Annual mtg - on 5/15

↳ 2nd ^{item} Attorney Lewis saying we could
authorize lake level ~
- measurement - thinking we should
have a measurement set up in S/bay to
show much reduction as opposed to
much just moving

9 - Board member comments:

Adjourn: 4:14 pm

**Professional Aquatic Consulting Services Contract
For Austin Lake, Kalamazoo County, Michigan
2012 (Annually Renewable)**

The Austin Lake Governmental Lake Board, hereinafter called the Board, and Lakeshore Environmental, Inc., hereinafter called LEI or the "Consultant" agree to this contract made on this ____ day of April, 2012.

The following items will be included in the professional aquatic consulting services:

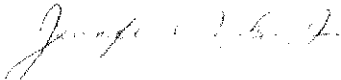
1. Attendance at up to three (3) Austin Lake Governmental Lake Board meetings that are conducted for purposes of improvements to Austin Lake or upon request to present critical information to the Board.
2. Preparation of Laminar Flow Aeration (LFA) contractor bid documents, analysis of bid documents, and recommendations to the Board. The LFA will be a demonstration project for the south basin of Austin Lake and be approximately 200 acres in size.
3. Preparation of a professional aquatic management newsletter to be distributed to riparians around Austin Lake during the summer of 2012. This is to allow for an initial presentation of 2012 program info to Austin Lake riparians.
4. LEI will collect measurements on the depth from the lake water surface to the top of the lake sediment layer under calm conditions. Then, such measurements will be paired with accurate time-lapse water level data collected by the USGS multiple times per week. This will allow for the determination of accurate sediment loss and water depth gained since the sediments are over 50 feet thick in many areas and could not be feasibly measured with a sediment probe. The water depth measurements will be recorded at each sampling location (proposed to be at 27 diffuser sites and also at 15 randomly selected "control" sites in between diffusers) with GPS so that LEI scientists can return to the exact location (accuracy within 2.0 feet) to make repetitive measurements. Selected areas onshore will also be staked and used for future shoreline sediment reduction measurements. Note: There cannot be control sites outside of the South Basin due to the unique composition of the sediments that exist there and nowhere else in the lake.
5. In addition to the loss of sediment, LEI will measure water quality parameters at the diffuser and control sites. These parameters include water temperature, dissolved oxygen, pH, conductivity, transparency, total dissolved solids turbidity, and algal species and submersed aquatic plant species composition. All of the parameters measured at the diffuser and control sites will be collected immediately after installation and again in late fall prior to the cessation of the aeration system for the winter months.
6. An annual report of the collected data and conclusions from that data will be compiled and represented to the ALGLB during winter of 2012.

Part II – Payments to Consultant

1. The total cost of 2012 consulting services for Austin Lake will be a lump sum of \$10,500 for this contract period. All payments are due on a quarterly basis for a total of \$2,625 per quarter. The Consultant agrees that quarterly billings will be billed to the Board on a quarterly basis at the beginning of each quarter.
2. For additional evaluation items requested by the Board, the Consultant will be paid at a billing rate of \$95 per hour.

IN WITNESS WHEREOF, the Austin Lake Governmental Lake Board and Lakeshore Environmental, Inc. execute this agreement.

Consultant



By _____
Jennifer L. Jermalowicz-Jones, Water Resources Director
Lakeshore Environmental, Inc.

By _____
Austin Lake Governmental Lake Board

**Lakeshore
Environmental, Inc.**



Consulting Hydrogeologists & Engineers | www.lakeshoreenvironmental.com

803 Verhoeks | Grand Haven, MI 49417 | 616-844-5050 | 800-844-5050 | 844-5053 fax

Ed Sackley

From: David Lewis [DLewis@lewisreedallen.com]
Sent: Wednesday, May 02, 2012 10:11 AM
To: Ed Sackley
Subject: RE: Austin Lake Governmental lake Board Documents

Ed:

In response to your email inquiry below, it is our opinion that the ALGLB is, by operation of Public Act 451 of 1994 (MCL 324.30901, *et seq*, the "Lake Improvement Act"), an existing governmental entity and need not take any further steps to formally organize or incorporate. The ALGLB was established pursuant to Section 30902 of the Act upon motion by the City of Portage and pursuant to a resolution adopted by the City Council for the City of Portage on September 22, 2009. The City of Portage, under Section 30906 of the Act, directed the ALGLB to institute lake improvement proceedings and empowered the ALGLB to prepare, assemble, and compute statistical data for use by the ALGLB with regard to the improvements and granted the ALGLB superintending, construction, and maintenance authority over the Austin Lake improvement project pursuant to Section 30908 of the Act. The Act vests the ALGLB with, among other powers, the authority to determine whether to proceed with the project (Section 30912), create a special assessment district and levy assessments to finance the project (Sections 30908 and 30912), condemn property if necessary (Section 30923), and borrow money and issue lake level orders or bonds to defray the costs of the project (Section 30922). In light of the above, we believe that the ALGLB is authorized presently to operate as a governmental entity. I would suggest that the signature block on documents signed by the ALGLB relating to the project be set up as follows:

Austin Lake Governmental Lake Board ("ALGLB")*

By: _____
[insert name of ALGLB member signing document here]

Its: [insert title of ALGLB member signing document here]

*Created by resolution of the City Council for the City of Portage on September 22, 2009, pursuant to Public Act 451 of 1994

You mentioned that the ALGLB plans to obtain directors and officers liability insurance through the City of Portage's insurance policy(ies) with the Michigan Municipal Risk Management Association. I agree that the ALGLB should do so. As we discussed, the Attorney General for the State of Michigan, in Opinion No. 6579, confirmed that a member of a lake board is immune from tort liability for injuries to persons or damages to property caused by the member while acting in behalf of the lake board if the member was acting within the scope of his or her authority, the lake board is engaged in the exercise or discharge of a governmental function, and the conduct of the member does not amount to gross negligence that is the proximate cause of the injury or damage as provided in the Governmental Immunity Act.

I plan on getting drafts of the license/easement agreements for the property owners that will host the compressors to you shortly.

As always, please contact me any time if you have any questions.

Thanks Ed.

David A. Lewis
Lewis Reed & Allen, P.C.
136 East Michigan Ave. Suite 800
Kalamazoo, Michigan 49007
(269) 388-7600 (voice)

