



DATE: August 11, 2020

MEMO TO: Honorable Board of Commissioners
Lake County Forest Preserve District

FROM: Alex Ty Kovach
Executive Director

RECOMMENDATION: Approve an Ordinance ratifying (i) resolutions and ordinances approved by the Board of Commissioners at its April 7, 2020, May 12, 2020 and June 9, 2020 regular and special meetings, and (ii) matters approved by the District's designated officers pursuant to Ordinances Nos. 5638 and 5654 delegating to them authority to conduct certain day-to-day operations.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: There is no financial impact.

BACKGROUND: Because of the COVID-19 Pandemic, the Board of Commissioners conducted its April, May and June, 2020 regular and special meetings electronically using a Zoom Video/Audio platform. The Board did so pursuant to the Governor's Executive Orders, including Executive Order Nos. 2020-7, 2020-18, 2020-33, and 2020-39 (collectively, the "Executive Orders"), which suspended the Open Meetings Act requirement that "members of a public body must be physically present" at a meeting. On May 23, 2020, the General Assembly passed Senate Bill 2135, adding Section 7(e) to the Open Meetings Act to allow public bodies, in the event of a disaster, to hold meetings by audio or video conference, without the physical presence of a quorum of the members. On June 12, 2020, the Governor signed Senate Bill 2135, making it effective as of that date.

Prior to the enactment of Senate Bill 2135, various lawsuits were filed in Illinois Circuit Courts, and appeals were made to the Illinois Attorney General's Public Access Counselor, contending that the Governor's Executive Orders were illegal. Some of these challenges contend that the Governor did not have authority to suspend the Open Meetings Act. These challenges have not yet been finally determined.

The attached Ordinance would ratify all of the legislative actions taken by the Board at its April, May, and June 2020 meetings. This ratification would be made at a Board meeting held remotely, but pursuant to the express statutory authority granted by Section 7(e) of the Open Meetings Act allowing audio/video meetings. The Ordinance is intended to moot the negative effect that a successful challenge to the Governor's Executive Orders might have on the approvals made at those meetings.

Also, at its April 7, May 12 and June 9 special meetings, the Board of Commissioners approved ordinances delegating authority to District officers (the President, Treasurer, an At-Large Commissioner, and the Executive Director; the "Designated Officers") to approve certain day-to-day approvals, in light of the COVID-19 disaster. The attached Ordinance would also ratify the two approvals made by the Designated Officers. Staff and Corporate Counsel are comfortable that the Board's delegation to the Designated Officers was lawful, but approval of the Ordinance is intended to moot the negative effect that a successful challenge to the Governor's Executive Orders might have on the Designated Officers' approvals.

REVIEW BY OTHERS: Chief Operations Officer and Corporate Counsel.

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**AN ORDINANCE RATIFYING PRIOR ORDINANCES, RESOLUTIONS,
AND APPROVALS APPROVED AND MADE
DURING THE DECLARED COVID-19 DISASTER**

WHEREAS, on March 9, April 1, April 30, May 29, June 26, and July 24, 2020, the Governor of the State of Illinois declared all counties in the State of Illinois as a disaster area (collectively, the “Gubernatorial Disaster Proclamations”) in response to the outbreak of Coronavirus Disease 2019 (“COVID-19”); and

WHEREAS, on March 16, 2020, the Governor of the State of Illinois issued Executive Order No. 2020-7 (“Executive Order No. 2020-7”), which provides: “During the duration of the Gubernatorial Disaster Proclamation, the provisions of the Open Meetings Act, 5 ILCS 120, requiring or relating to in-person attendance by members of a public body are suspended” (Executive Order No. 2020-7, §6); and

WHEREAS, on April 1, 2020, the Governor of the State of Illinois issued Executive Order No. 2020-18 (“Executive Order No. 2020-18”), which continued and extended certain provisions of Executive Order No. 2020-7 through April 30, 2020, and specifically provides: “During the duration of the Gubernatorial Disaster Proclamations, the provisions of the Open Meetings Act, 5 ILCS 120, requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that ‘members of a public body must be physically present’ is suspended; and (2) the conditions in 5 ILCS 120/7 limiting when remote participation is permitted are suspended.” (Executive Order No. 2020-18, Part 1); and

WHEREAS, on April 30, 2020, the Governor of the State of Illinois issued Executive Order No. 2020-33 (“Executive Order No. 2020-33”), which re-issued Executive Order No. 2020-7 through May 29, 2020, and specifically provides: “During the duration of the Gubernatorial Disaster Proclamation and through May 29, 2020, the provisions of the Open Meetings Act, 5 ILCS 120, requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that ‘members of a public body must be physically present’ is suspended; and (2) the conditions in 5 ILCS 120/7 limiting when remote participation is permitted are suspended. . . . Public bodies . . . are encouraged to postpone consideration of public business where possible.” (Executive Order No. 2020-33, Part 1); and

WHEREAS, on May 23, 2020, the General Assembly passed Senate Bill 2135 (“Senate Bill 2135”), to amend the Open Meetings Act by adding a new Section 7(e) to such Act, providing that “an open or closed meeting subject to this Act may be conducted by audio or video conference, without the physical presence of a quorum of the members,” subject to the conditions stated in Senate Bill 2135; and

WHEREAS, on May 29, 2020, the Governor of the State of Illinois issued Executive Order No. 2020-39 (“Executive Order No. 2020-39”), which re-issued and extended Section 6 of Executive Order 2020-07 (relating to the Open Meetings Act’s physical quorum requirements), as amended

by Executive Order 2020-33, through June 27, 2020 or until Senate Bill 2135 is enacted and takes effect, whichever occurs first; and

WHEREAS, on June 12, 2020, the Governor of the State of Illinois signed Senate Bill 2135, making effective the new Section 7(e) of the Open Meetings Act; and

WHEREAS, because of the health and safety risks arising from the COVID-19 pandemic and in-person attendance of Commissioners, staff, and the public at meetings, the Lake County Forest Preserve District (the “District”) Board of Commissioners (the “Board”) conducted its April 7, 2020, May 12, 2020, and June 9, 2020, regular and special meetings (the “Board Meetings”) without Commissioners, staff, or the public being physically present at a meeting location, pursuant to the authority of the Governor’s Executive Orders, including without limitation Executive Order No. 2020-7, Executive Order No. 2020-18, Executive Order No. 2020-33, and Executive Order No. 2020-39 (collectively, the “Executive Orders”); and

WHEREAS, at the Board Meetings, the Board approved the resolutions, ordinances, and other matters identified on Exhibit A attached to and, by this reference, incorporated within this Ordinance (the “Board Legislative Approvals”); and

WHEREAS, on April 7, 2020, the Board approved “An Ordinance Delegating Authority to Designated Officers to Conduct Day-to-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds” (the “First Delegation Ordinance”); and

WHEREAS, on May 12, 2020, the Board approved “A Second Ordinance Delegating Authority to Designated Officers to Conduct Day-to-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds” (the “Second Delegation Ordinance”); and

WHEREAS, on June 9, 2020, the Board approved “A Third Ordinance Delegating Authority to Designated Officers to Conduct Day-to-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds” (the “Third Delegation Ordinance”; collectively, with the First Delegation Ordinance and the Second Delegation Ordinance, the “Delegation Ordinances”); and

WHEREAS, the Delegation Ordinances delegated to (i) the District President, (ii) the District Treasurer, (iii) an at-large District Commissioner appointed by the President, with the advice and consent of the Board, and (iv) the Executive Director (collectively, the “Designated Officers”) the authority to exercise certain “Designated District Actions” defined in the Delegation Ordinances; and

WHEREAS, pursuant to the Delegation Ordinances, the Designated Officers approved the actions identified on Exhibit B attached to and, by this reference, incorporated within this Ordinance (the “Designated Officer Actions”); and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as part of this Ordinance by this reference.

Section 2. Ratification and Approval of Board Legislative Approvals and Designated Officer Actions. The Board hereby ratifies and approves the Board Legislative Approvals and the Designated Officer Actions. With respect to each Board Legislative Approval and each Designated Officer Action, such ratification and approval shall be retroactive to the date such Board Legislative Approval was first approved by the Board or such Designated Officer Action was first approved by the Designated Officers, as the case may be.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of _____, 2020

AYES:

NAYS:

APPROVED this _____ day of _____, 2020

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

EXHIBIT A

April 7, 2020 - Rescheduled Regular April Board Meeting

- Board Minutes of March 10, 2020 Ayes: 21, Nays: 0
- Motion to (i) release Board closed session minutes, (ii) retain as confidential all other Board closed session minutes not previously released, and (iii) erase Verbatim Recordings, in accordance with The Open Meetings Act and the District's Policy on Closed Meeting Minutes and Verbatim Records, as provided in Exhibit 1. Ayes: 21, Nays: 0 Exh. 5622
- Resolution Awarding a Contract to Purchase two 2020 Ford Police Hybrid Sedans to Roesch Ford Commercial Truck Center, Bensenville, Illinois, in an amount not to exceed \$54,586.00 through the Suburban Purchasing Cooperative joint purchasing program. Ayes: 21, Nays: 0 Exh. 5623
- Resolution Awarding a Contract to Purchase a Greenmaster TriFlex Mower with Assemblies to Reinders, Inc., Sussex, Wisconsin, in an amount not to exceed \$34,754.95 through a National Intergovernmental Purchase Alliance contract. Ayes: 21, Nays: 0 Exh. 5624
- Resolution Awarding a Contract for the 2020 Lake Plain Invasive Plant Strike Team Project at Spring Bluff Forest Preserve to Native Restoration Services, Inc., Lake Bluff, Illinois, in the Contract Price of \$78,448.50. Ayes: 21, Nays: 0 Exh. 5625
- Resolution Awarding a Contract to Purchase three 2020 Ford F-350 Trucks with Dump Bodies and Salt Spreaders to Currie Motors Fleet, Frankfort, Illinois, in the Contract Price of \$201,930.00 through a Sourcewell Contract. Ayes: 21, Nays: 0 Exh. 5626
- Resolution Awarding a Contract to Purchase two John Deere Compact Utility Tractors to Deere & Company, Cary, North Carolina in the Contract Price of \$84,008.18 through a Sourcewell Contract. Ayes: 21, Nays: 0 Exh. 5627
- Resolution awarding a Contract for Construction of the Millennium Trail-McDonald Woods Project to Schroeder Asphalt Services, Inc., Marengo, Illinois in the Contract Price of \$126,540.00. Ayes: 21, Nays: 0 Exh. 5628
- Ordinance Amending the Fiscal Year 2020 Budget to reflect Carryovers for Projects Budgeted but not Completed in Fiscal Year 2018/19. Ayes: 21, Nays: 0 Exh. 5629
- Ordinance Amending the Fiscal Year 2020 Appropriations Ordinance, the Fiscal Year 2020 Budget, and the Ten-Year Capital Improvement Plan to Designate and Authorize Expenditure of Surplus Debt Service Funds for Capital Improvements and Land Acquisition. Ayes: 21, Nays: 0 Exh. 5630
- Resolution Approving Change Order No. 1 to the Contract with Integrity Environmental Services, Inc. for Asbestos Abatement at Lakewood Forest Preserve, increasing Contract Amount by \$3,380.00. Ayes: 21, Nays: 0 Exh. 5631
- Resolution Awarding a Contract to Sentry Security, LLC, Wheeling, Illinois to provide District-wide Fire and Security alarm monitoring, testing, maintenance and repair services. Ayes: 21, Nays: 0 Exh. 5632
- Resolution Awarding a Contract for Blanding's Turtle Reintroduction Services to Northern Illinois University, Institute for the Study of Environment, Sustainability and Energy, DeKalb, Illinois in the Contract Price of \$141,044.00. Ayes: 21, Nays: 0 Exh. 5633
- Resolution Approving an Intergovernmental Agreement with the Lake County Health Department for Shared Use of an Electrofishing Boat. Ayes: 21, Nays: 0 Exh. 5634

- Resolution Approving a Tax Sale Agreement with Openlands resulting from the 2019 Annual Lake County Tax Sale in an amount not to exceed \$2,091.12. Ayes: 21, Nays: 0 Exh. 5635
- Resolution to Purchase Property in Grayslake of Approximately 2.7 Acres, known as the Epstein Trust Property, for \$248,998.35 as an addition to Rollins Savanna Forest Preserve. Ayes: 21, Nays: 0 Exh. 5636
- Ordinance Approving the Purchase of Approximately 32.8 acres of property in two parcels owned by the Village of Libertyville for \$13,900.00 as additions to Wilmot Woods Forest Preserve. Ayes: 21, Nays: 0 Exh. 5637

April 7, 2020 - Special Board Meeting

- Approval of appointment of Commissioner Mike Rummel as the At-large Commissioner for the Ordinance Delegating Authority to Designated Officers. Ayes: 21, Nays: 0
- Ordinance Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds. Ayes: 21, Nays: 0 Exh. 5638
- Ordinance amending the Electronic Attendance at Meetings Policy. Ayes: 21, Nays: 0 Exh. 5639

May 12, 2020 - Regular May Board Meeting

- Board Minutes of April 7, 2020 – Rescheduled Regular April Meeting and Special Meeting
- Resolution authorizing Change Order No. 1 to Contract with Metropolitan Industries, Inc., for Lift Station Grinder Pump Repair at Ft Sheridan FP, increasing Contract by \$2,800.00. Ayes: 18, Nays: 0. Exh. 5640
- Resolution approving Sale of Surplus Golf Equipment, Furnishings and Other Items through Public Auction. Ayes: 18, Nays: 0. Exh. 5641
- Resolution approving Property Access Agreement for Ecological Management of North Shore Water Reclamation District Property within Waukegan Dunes Illinois Natural Area Inventory Site. Ayes: 18, Nays: 0. Exh. 5642
- Resolution awarding Contract for Phase III Engineering for Millennium Trail-U.S. Route 45 Underpass Construction to Civiltech Engineering, Inc., Itasca, IL for \$562,522.00. Ayes: 18, Nays: 0. Exh. 5643
- Resolution approving Local Agency Agreement with Illinois Dept of Transportation for Transportation Alternative Program Funding for Millennium Trail-U.S. Route 45 Underpass Construction. Ayes: 18, Nays: 0. Exh. 5644
- Resolution repealing previous Resolution and Approving Tax Sale Agreement with Openlands re: 2019 Annual Lake County Tax Sale, to purchase one Tax Sale Certificate from Openlands for \$2,149.47. Ayes: 18, Nays: 0. Exh. 5645

May 12, 2020 - Special Board Meeting

- Approval of appointment of Commissioner Mike Rummel as the At-large Commissioner for the Ordinance Delegating Authority to Designated Officers. Ayes: 16, Nays: 0
- Second Ordinance Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared Covid-19 Disaster with Appropriated Funds. Ayes: 16 Nays: 0. Exh. 5646

June 9, 2020 - Regular June Board Meeting

- Board Minutes of May 12, 2020 – regular and special sessions
- Resolution Awarding Contract for Bulk Road Salt purchases to Morton Salt, Inc., in an amount not to exceed \$30,981.00. Ayes: 20, Nays: 0. Exh. 5647
- Resolution Awarding Contract to Purchase Native Seed for Fall 2020 Habitat Restoration at Multiple Preserves to Prairie Moon Nursery, Winona, Minnesota, in the Contract Price of \$25,538.15. Ayes: 20, Nays: 0. Exh. 5648
- Resolution Awarding Contract for Design/Engineering Study for Long Lake Shoreline Stabilization at Grant Woods Forest Preserve to Christopher B. Burke Engineering, Ltd., Rosemont, IL, Contract Price of \$46,900.00. Ayes: 20, Nays: 0. Exh. 5649
- Resolution Adopting Annual Budget Policies and Annual Strategic Action Plan for Fiscal Year 2021 Ayes: 19, Nays: 0. Exh. 5650
- Resolution Approving the Fiscal Year 2021 Ten-Year Capital Improvement Plan. Ayes: 19, Nays: 0. Exh. 5651
- Resolution Approving an Agreement for the Protection and Management of the Barrington Greenway Initiative. Ayes: 19, Nays: 0. Exh. 5652
- Resolution Approving Amended and Restated Intergovernmental Agreement with Village of Lake Barrington regarding the use of Grassy Lake Forest Preserve. Ayes: 19, Nays: 0. Exh. 5653

June 9, 2020 - Special Board Meeting

- Approval of appointment of Commissioner Mike Rummel as the At-large Commissioner for the Ordinance Delegating Authority to Designated Officers. Ayes: 18, Nays: 0
- Third Ordinance Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared Covid-19 Disaster with Appropriated Funds. Ayes: 19, Nays: 0. Exh. 5654

EXHIBIT B

Matters Approved Pursuant to Ordinance No. 5638 Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds.

- Approval of (i) agreement with Possibility Place Nursery to provide a virtual Native Plant Sale in 2020 and (ii) an amendment to the existing five-year agreement with Possibility Place Nursery to suspend the in-person sale for 2020.
Date Approved: 4/28/2020 #C19-02

Matters Approved Pursuant to Ordinance No. 5646 Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds.

NONE

Matters Approved Pursuant to Ordinance No. 5654 Delegating Authority to Designated Officers to Conduct Day-To-Day Operations within Budgetary Authority and to Take Action to Abate the Declared COVID-19 Disaster with Appropriated Funds.

- Approval of a Settlement Agreement with Food For Thought at Thunderhawk, Ltd.
Date Approved: 7/14/2020 #C19-03