



Board of County Commissioners  
Board Work Session  
Wednesday, June 7th, 2023  
9:00am to 10:00am  
3000 Pacific Avenue SE, Room 110

*For public virtual attendance, you may follow along on the [Thurston County YouTube Channel](#).*

## **AGENDA**

### **I. Lake Management District (LMD) Administrative Rules Briefing – *Decision Requested***

Disability Accommodations: Room 110 is equipped with an assistive listening system and is wheelchair accessible. To request disability accommodations, call the Reasonable Accommodation Coordinator at least 3 days prior to the meeting at 360-786-5440. Persons with speech or hearing disabilities may call via Washington Relay at 711 or 800-833-6388.

# Thurston County Board Briefing Request

<b><u>Department:</u></b>	Public Works
<b><u>Briefing Date:</u></b>	Requesting for the first available date.
<b><u>Topic:</u></b>	Lake Management District (LMD) Administrative Rules
<b><u>Responsible Staff &amp; extension:</u></b>	Tim Wilson, Water Resources Manager
<b><u>Purpose:</u></b> (check all that apply)	<input type="checkbox"/> Information only <input checked="" type="checkbox"/> Decision needed <input type="checkbox"/> Follow up from previous briefing
<b><u>Synopsis/Request/Recommendation:</u></b> <i>(One or two sentences identifying your primary objective for this session)</i>	
The Board requested a discussion regarding Lake Management District (LMD) Administrative Rules.	
<b><u>Background:</u></b>	
<p>On November 22, 2022 the Board was presented for consideration a revised version of the LMD Administrative Rules, which incorporated feedback received from established and newly forming LMD communities.</p> <p>At the Board meeting, individual commissioners requested the following:</p> <ol style="list-style-type: none"><li>1. The LMD communities be met with to discuss the revisions.</li><li>2. The communities be informed that any further feedback should be “grounded in the presented version” and not consist of a re-write of the document.</li></ol> <p>On December 12, 2022, staff hosted a 3-hour hybrid workshop with the communities. Representatives from all established and newly forming LMDs were in attendance. Prior to the meeting, joint comments on the LMD Administrative Rules were received in writing from the communities. Any comments received from the communities were discussed in detail at the workshop.</p> <p>Participants were advised staff would attempt to incorporate feedback which provided:</p> <ul style="list-style-type: none"><li>• A spirit of collaboration</li><li>• Clarity in roles and responsibilities</li><li>• Alignment with Board adopted Policies, Resolutions and Ordinances</li><li>• Alignment with all past legal determinations regarding LMDs</li><li>• Risk mitigation</li></ul> <p>A recommended final draft of the LMD Administrative Rules, which incorporates relevant feedback, has been submitted to the Board for consideration.</p>	
<b><u>Financial Impact:</u></b>	
None at this time.	

**Affected Parties:**

Ratepayers of the lake management districts, including Thurston County Parks and Trails and the Washington State Department of Fish and Wildlife.

Thurston County staff who oversee and help develop, implement, and evaluate lake management programs.

**Recommendation(s):**

Consider adopting LMD Administrative Rules to provide clarity in roles and responsibilities in alignment with Board adopted Resolutions of Intention for individual lake management districts.



## **Water Resources Healthy Lakes Program**

### **Lake Management District**

#### **Administrative Rules**

These administrative rules provide the framework for how Thurston County and communities who are ratepayers of an approved Lake Management District (LMD) will work together to achieve lake management goals.

In forming an LMD, rather than a lake association or special district, the County and community have elected to form a County-managed program under the provisions of RCW 36.61. In furtherance of the LMD program, the County will maintain staff to serve as technical experts regarding lake management activities. County staff receive professional training and development and are responsible for adhering to County policies and procedures, state and federal regulations and standards, and for managing all lake programs to achieve alignment with industry best practices and greater County initiatives and guiding principles.

Thurston County encourages the participation of LMD ratepayers in a County-managed steering committee. The purpose of the committee is to collaborate with County staff and provide valuable information and input for the development of short and long-term management strategies. Responsibility for daily operational activities and administrative functions of the LMD resides with County staff.

#### **Steering Committee Representation**

Should the community wish to have ongoing representation, the steering committee would be established by the community using the following principles:

- The steering committee may consist of identified ratepayers selected by the community from within the LMD boundaries, as well as representatives for public property as outlined below.
- Selection of steering committee members will be at the discretion of the ratepayers and should allow for equitable representation of LMD rate classes.
- Publicly owned properties (if applicable) shall have the option to appoint a single representative per agency to serve on the steering committee
- Steering committees do not have decision making and are advisory in nature.

#### **Steering Committee Meetings**



County staff and the steering committee shall meet at a frequency determined collaboratively by Thurston County and the community. The purpose of the meetings is to collaborate with staff on the development of short and long-term management strategies, and discuss the performance and results of projects. At a minimum, staff and the steering committee shall meet on a quarterly basis. Agendas will be developed jointly by County staff and the committee and distributed by staff. Meeting notes will be taken and distributed by staff. Notes will be distributed prior to finalization for comments and/or corrections.

If mutually agreed by staff and the committee, agenda development and note taking/distribution may be delegated to committee members.

### **Thurston County Roles and Responsibilities**

- Administer the LMD under the provisions of RCW 36.61 and Board adopted Resolutions and Ordinances .
- Serve as technical experts regarding all lake management activities, ensuring best management practices, fiscal responsibility and sound lake management decision making.
- Ensure the adherence to all state and federal regulations, and all County approved policies and procedures. Staff will ensure lake management activities are in alignment with greater County initiatives and guiding principles.
- Collaborate with the steering committee to develop and implement short and long-term lake management work plans and strategies.
- Administer procurement and management of all contractors and professional services needed to carry out the workplan of the LMD.
- Report annually to the Storm and Surface Water Utility (SSWU) to ensure work plans and messaging align with and support the goals of the utility. Ensure reports are submitted to support SSWU fee reductions as available.
- Act as the point of contact for communicating with contractors and field experts, including state and federal agencies.
- Manage financial activities and responsibilities in alignment with generally accepted accounting principles and County financial policies and procedures, applied consistently throughout the Public Works department.
- Provide monthly financial reports to the steering committee.
- Collaborate on meeting schedules and contribute to agendas as needed to support annual work plans and solicit constructive feedback on short and long-term goals and objectives.

### **Steering Committee Roles and Responsibilities**



- Actively engage with County staff during steering committee meetings to provide input and information to assist the staff with shaping short and long-term programs and management strategies that are consistent with the lake management goals outlined by the community.
- Act as a liaison between County staff and LMD community members.
- Support County staff in achieving alignment between LMD goals and workplans with all Board approved policies and plans, including the County's Integrated Pest Management

Policy, Shoreline Management Program, and the Thurston County Stormwater Management Program.

- Communicate with County designated staff, not directly with County managed consultants, contractors or regulatory agency personnel unless pre-arranged by County staff.
- Represent and communicate as a member of the LMD steering committee, not as an agent of Thurston County.

Engagement in prohibited activities may result in suspension of workplan elements and/or removal from the steering committee.

### **Annual and Long-Range Workplan Development**

Upon formation of a steering committee, the committee will collaborate with and assist County staff in developing a proposed 1-year and 5-year workplan. The workplans will take into consideration the goals of the community, as well as the alignment of those goals with other County-managed water quality programs.

Once a draft workplan is established, County staff will evaluate the staffing needs required to adequately meet the obligations of the draft workplan. The steering committee may recommend the reduction of workplan components to align with available staffing resources or reduce staffing costs, when appropriate.

Workplans will be evaluated, discussed, and revised as needed on an annual basis and input from the steering committee will be submitted to County staff by July of the preceding year. The County, in its sole discretion, may deny or delay additions to annual workplans if staffing resources are not available to carry out designated activities. In addition, the County will evaluate steering committee recommendations for workplan reductions but may implement workplan elements to preserve water quality or meet state or federal standards or regulations.



LMD budgets will be developed per best financial management practices and in alignment with County processes. The steering committee will be engaged to provide feedback during the budget process, at times that align with the County's approved budget development schedule.

### **Integrated Aquatic Vegetation Management Plans (IAVMP)**

Initial or updated IAVMPs are required, at the expense of the newly formed LMD, prior to the commencement of vegetation management activities that involve herbicides. Workplans may include staff support of applying for grant support of IAVMPs, or for contributing to the writing of the plan when appropriate. All IAVMPs must adhere to the County's Integrated Pest Management (IPM) policy.

### **Stormwater Fee Reduction**

Per current Thurston County Code, Chapter 15.06.040 (D), ratepayers of LMDs are eligible to receive a storm and surface water base fee reduction of fifty percent or the amount of the charge from the district, whichever is less, provided the LMD is actively engaged in projects and programs which have water quality improvement as a primary goal and align with County water quality goals and messaging. To qualify for the fee reduction, annual workplans must be submitted to the SSWU and discussed prior to July of the year preceding the workplan implementation. Based upon the water quality improvement goals and messaging proposed in draft workplans, the County will either accept the workplan as meeting the requirements of the fee reduction criteria or will recommend an enhanced program to meet the intent of the code language.

Additionally, LMDs must submit an annual report by February 28<sup>th</sup> to the Storm and Surface Water Utility, summarizing workplan efforts that were conducted during the previous calendar year to meet the obligations outlined.

## **Water Resources Healthy Lakes Program Lake Management District**

### **Administrative Rules:**

These administrative rules provide the framework for how Thurston County and communities who are ratepayers of an approved Lake Management District (LMD) will work together to achieve lake management goals.

In forming an LMD, rather than a lake association or special district, the County and community have elected to form a County-managed program under the provisions of RCW 36.61. In furtherance of the LMD program, the County will maintain staff to serve as technical experts regarding lake management activities. County staff receive professional training and development and are responsible for adhering to County policies and procedures, state and federal regulations and standards, and for managing all lake programs to achieve alignment with industry best practices and greater County initiatives and guiding principles.

Thurston County encourages the participation of LMD ratepayers in **forming** a ~~County-managed~~ steering committee. The purpose of the committee is to **collaborate with** ~~provide valuable information and input to~~ County staff **in** ~~for~~ the development of short and long-term **plans and advocate for the community.** ~~management strategies.~~ Responsibility for daily operational activities and administrative functions of the LMD resides with County staff.

### **Steering Committee Representation:**

Should the community wish to have ongoing representation, the steering committee would be established by the community using the following principles:

- The steering committee may consist of identified ratepayers selected by the community from within the LMD boundaries, as well as representatives for public property as outlined below.
- Selection of steering committee members will be at the discretion of the ratepayers and should allow for equitable representation of LMD rate classes.
- Publicly owned properties (if applicable) shall have **the option to appoint** a single representative per agency **to** serve on the steering committee, who will be appointed by the public agency. **Their position has the same attendance and participation requirements as any other member of the steering committee.** **(Note: This has been offered by the LLLMD before and the agency either refused to participate or participated for a time and then stopped coming. Their non participation creates a quorum problem for the committee)**
- ~~Steering committees do not have decision making authority under RCW 36.61.~~ **(Remove, RCW is mute on this subject. (Note: There is nothing in the RCW that states this, either way, however numerous studies/documents/best practices from all other LMDs across the state of Washington show that LMDs do have decision making authority).**



## Steering Committee Meetings:

The steering committee shall meet at a frequency determined collaboratively by the steering committee and Thurston County. with input from the community, with The purpose of the meeting is to collaborate with staff on the development of long- and short-term plans/goals, and monitor the performance and results of current and future projects. providing information and input to the County for short and long-term management strategy development. At a minimum, the steering committee shall meet on a quarterly basis. Agendas will be developed jointly by the steering committee and County staff and distributed by staff the committee. Meeting notes will be taken and distributed by staff the committee unless the Steering Committee decides to provide funding for staff to perform this function. (Note: Staff preparing agendas and meeting notes is how it use to be done in the LLLMD, but it did not work. Agendas and notes/minutes were always last minute without any collaboration. That is why the committee took over this responsibility). Notes will be distributed to staff and committee officers/members prior to finalization for comments and/or corrections.

## Thurston County Roles and Responsibilities:

- Administer the LMD under the provisions of RCW 36.61.
- Serve as technical experts regarding all lake management activities, ensuring best management practices, fiscal responsibility and sound lake management decision making.
- Ensure the adherence to all state and federal regulations, and all County approved policies and procedures. Staff will ensure lake management activities are in alignment with greater County initiatives and guiding principles.
- Collaborate with the steering committee to develop and implement short and long-term lake management work plans and strategies.
- Administer procurement and management of all contractors and professional services needed to carry out the workplan of the LMD.
- Report annually to the Storm and Surface Water Utility (SSWU) to ensure work plans and messaging align with and support the goals of the utility. Ensure reports are submitted to support SSWU fee reductions as available.
- Act as the point of contact for communicating with contractors. and field experts, including state and federal agencies. (Note: Steering committee members as well as members of the community should be able to talk with any field expert and state or federal agency without restriction other than not being allowed to represent themselves as having authority over the LMD)
- Manage financial activities and responsibilities in alignment with generally accepted accounting principles and County financial policies and procedures, applied consistently throughout the Public Works department. LMDs will not be charged for any Healthy Lake program or for any work that is provided to any other lake in the county without charge.
- Provide agreed to monthly financial reports to the steering committee.
- Provide copies of invoices for all charges reviewed/signed off on by County LMD Manager. (Note: Since the LMD Manager or ARS is reviewing these invoices prior to submission to

budget this is the easiest and least expensive way to ensure transparency and avoid budget questions that take more staff time.)

- ~~Define meeting schedules and~~ Contribute to agendas as needed to support annual work plans. ~~and solicit constructive feedback on short and long term goals and objectives.~~
- ~~Serve as co-facilitator at all steering committee meetings.~~ (Note: No other advisory boards/steering committee in the state of Washington including Thurston County allows/requires this. Meetings are always facilitated by the board/committee chair or vice chair in the absence of the chair.)
- Staff will provide a procedure for the steering committee to escalate questionable budget expense allocations to senior management for review.

### **Steering Committee Roles and Responsibilities:**

- Facilitate all Steering Committee meetings unless the Steering Committee desires staff to perform this function.
- .
- Actively engage with County staff during steering committee meetings to provide input and information to assist the staff with shaping short and long-term programs and management strategies that are consistent with the lake management goals outlined by the community.
- Act as a liaison between County staff and LMD and as an advocate for the community members.
- If desired prepare a printed and/or electronic newsletter to be distributed at least once per year. The newsletter will inform and educate the community on LMD short and long-term plans and the results achieved. It will include steering committee opinions in addition to educational articles on water safety, water quality and community impact and will serve as some of the justification for the stormwater fee reduction program. Staff will assist, if requested with the education materials. Staff will print and distribute newsletters if requested. While this will be a steering committee newsletter, the cost of this newsletter will be paid with LMD funds held by the County.
- If desired the steering committee may develop, populate, and manage a separate web site from the County for the benefit of informing members on steering committee activities and recommendations, research, upcoming meetings and other information as determined by the steering committee. While this will be a steering committee web site, the cost of this web site will be paid from LMD funds held by the County.
- Support County staff in achieving alignment between LMD goals and workplans with all Board approved policies and plans, including the County's Integrated Pest Management Shoreline Management Program, and the Thurston County Stormwater Management Program.
- Communicate with County designated staff, not directly with County managed consultants or contractors or regulatory agency personnel unless pre-arranged by County staff. (See note under Thurston County Roles and Responsibilities above.)
- Represent and communicate as a member of the LMD steering committee, not as an agent of Thurston County.

~~Engagement in prohibited activities may result in suspension of workplan elements and/or removal from the steering committee.~~ (Note: Remove this sentence. This has never been needed in the past and we do not anticipate it being a problem in the future. This is perceived as a threat as well as being punitive)

## **Annual and Long-Range Workplan Development:**

Upon formation of a ~~County-managed~~ steering committee, the committee will ~~collaborate with~~ assist County staff in developing a proposed 1-year and 5-year workplan. The workplans will take into consideration the goals of the community, as well as the alignment of those goals with other County-managed water quality programs.

Once a draft workplan is established, County staff will evaluate the staffing needs required to adequately meet the obligations of the draft workplan. The steering committee may recommend the reduction of workplan components to align with available staffing resources or reduce staffing costs, when appropriate. ~~County staff will keep track of actual ARS hours expended on each LMD and report those hours to the steering committee on a quarterly basis.~~ (Note: Monitoring and reporting actual hours is an important management tool. Assigning an estimated FTE at the budgeting phase without a check and balance is not effective management)

Workplans will be evaluated, discussed, and revised as needed on an annual basis and input from the steering committee will be submitted to County staff by July of the preceding year. The County, in its sole discretion, may deny or delay additions to annual workplans if staffing resources are not available to carry out designated activities. In addition, the County will evaluate steering committee recommendations for workplan reductions but may implement workplan elements to preserve water quality or meet state or federal standards or regulations. ~~These programs required by County, State or Federal standards or regulations will be paid for by the County, State or Federal agency if provided to non LMD lakes without charge.~~ (Note: If new work plan element is a county or state mandate, LMD funds should not be used to pay for the project.)

LMD budgets will be developed per best financial management practices and in alignment with County processes. ~~A copy of these practices and processes will be provided to the LMDs.~~ The steering committee will be engaged to provide feedback during the budget process, at times that align with the County's approved budget development schedule.

## **Integrated Aquatic Vegetation Management Plans (IAVMP):**

IAVMPs are required, at the expense of the ~~newly formed~~ LMD and prior to the ~~commencement implementation of any~~ vegetation management activities that involve herbicides. Workplans may include staff support of applying for grant support of IAVMPs, or for contributing to the writing of the plan when appropriate. All IAVMPs must adhere to the County's Integrated Pest Management (IPM) policy.

**Stormwater Fee Reduction:**

Per current Thurston County Code, Chapter 15.06.040 (D), ratepayers of LMDs are eligible to receive a storm and surface water fee reduction of fifty percent or the amount of the charge from the district, whichever is less, provided the LMD is actively engaged in projects and programs which have water quality improvement as a primary goal and align with County water quality goals and messaging. To qualify for the fee reduction, annual workplans must be submitted to the SSWU and discussed prior to July of the year preceding the workplan implementation. Based upon the water quality improvement goals and messaging proposed in draft workplans, the County will either accept the workplan as meeting the requirements of the fee reduction criteria or will recommend an enhanced program to meet the intent of the code language. [\(Note: We do not receive a 50 percent reduction in the stormwater fee. We receive a 50% reduction of a portion of what makes up the stormwater fee on our taxes. If it was a true 50% the reduction would be closer to \\$50 vs \\$35. The above statement is misleading.\)](#)

Additionally, LMDs must submit an annual report by February 28th to the Storm and Surface Water Utility, summarizing workplan efforts that were conducted during the previous calendar year to meet the obligations outlined.

# Thurston County Healthy Lakes Program

January 20, 2023 | LMD Administrative Rules – Background Information

## Lake Management District- Administrative Rules

Administrative rules for Lake Management Districts have been developed to provide clarity for petitioning and current LMDs, and to minimize risk to the County as identified through lessons learned and determinations from the Prosecuting Attorney's Office. This information has been shared with the petitioning communities at a virtual open house held on May 18, 2022. Topics covered in the Lake Management District rules include:

- Advisory committee elections and management
- Meeting frequency
- Roles and Responsibilities of Thurston County
- Roles and Responsibilities of advisory committees
- Annual and Long-Range Workplan Development
- Integrated Aquatic Vegetation Management Plans
- Conditions of Stormwater Fee Reduction

In part, the admin rules document issues which have been discussed piecemeal with advisory committees for years but continue to be an area of risk and difficulty for management of the committees. Identified areas where the County has struggled include:

- Consultant/Contractor Interference
- Untrained Committee Members Making Technical Decisions
- Lack of Alignment with County Initiatives (Integrated Pest Management Policy, Stormwater Messaging, etc.)
- Misinformation
- Lack of Communication
- OPMA Issues
- Intimidation of Staff
- Lack of Clear Roles and Responsibilities

New (Proposed) LMDs (Pattison and Offut) will be subject to the Admin Rules upon inception. The rules have been communicated and discussed with the petitioners, and the rules have been incorporated into the Board adopted Resolutions to provide clear expectations.

For existing LMDs (Long and Lawrence) the portions of the rules involving risk **already apply, but to date have not been documented**. For new provisions, such as management of elections, the **existing LMDs would not be subject to the rules until they renew** their LMDs in 2026 and 2027, respectively.

Both existing and proposed LMDs have and will continue to be given the opportunity to provide constructive feedback on the administrative rules for consideration. All feedback has been

carefully considered and included in revisions of the LMD Administrative Rules in instances where the recommendations aligned with the legal constraints of lake management districts.

### **Board Adopted Language for Lake Management Districts**

The process for consideration of an individual LMD involves an extensive public process including a minimum of two public hearings, as well as a vote of the affected property owners. The topics for consideration of the community during the public process and vote are specifically the Resolution of Intention. In short, these are the documents which the community is considering as they mark their ballot to support or not support the proposed LMD. The following is the language in those documents specific to the role of the advisory steering committees:

Long LMD #21 (Formed in 2015)

Resolution of Intention #15117 – Section 2a. – *Maintain a Steering Committee of neighborhood representatives to Thurston County, who are responsible for providing advice on work plans and budgets for the LMD.*

Lawrence LMD #22 (Formed in 2016)

Resolution of Intention #15295 – Section 2g. – *Maintain an advisory committee of neighborhood representatives to work with the County to develop work plans and budgets for LLMD #22.*

Pattison and Offut LMDs (Identical Language)

Resolutions of Intention # 16168 and # 16200

1. *A Thurston County Lake Management District is a County-managed program, directed by Public Works and supported by a County-managed advisory committee consisting of representatives from the lake community who provide input and information to Public Works on short and long-term lake management strategies.*
2. *Public Works maintains staff that serve as technical experts regarding lake management activities. These staff receive professional training and development and are responsible for adhering to County policies and procedures and manage all lake programs to achieve alignment with best practices and greater County initiatives and guiding principles.*
3. *Thurston County Lake Management Districts are subject to all County adopted policies and procedures and are required to align work plans to compliment and support all Board adopted programs.*
4. *Section 7. The proposed district, if formed, would operate under the direction of Public Works, utilizing the Thurston County Lake Management District Administrative Rules attached as Exhibit No. 1 to this Resolution. The Lake Management Administrative Rules shall be updated from time to time and are written and administered by Public Works.*

Staff is recommending that any deviance from the Board adopted language be vetted through the Prosecuting Attorney's Office, as RCW 36.61 would appear to require a public process including a vote of each community, if modifications to the Resolution of Intentions are to be considered.

The Prosecuting Attorney's Office has been clear that the advisory steering committees are authorized only to provide recommendations and input as outlined above and have also been clear in their interpretation of the major differences between Lake Management Districts and Special Districts as organizational structures. Differences are as follows:

**Lake Management Districts** are a county administered program, bound by county policies, procedures, and rules. County staff serve as program administrators and subject matter experts. All permits, contracts and activities are managed by county staff, and the **county assumes liability of all activities**, including herbicide application to waterbodies.

**Special Districts** are self-governed and rely on residents or consultants as subject matter experts. Special Districts specifically allow for the type of engagement and oversight which some of the current LMD committee members are strongly advocating for. With a Special District, the district itself assumes the risk. This is important as there is a long-standing issue (addressed in LMD Admin Rules) with activities of committee members putting the County at legal risk.

### **Response to Recent Correspondence**

Recent correspondence (email from Doug Karman dated January 19, 2023) provides perspective which is not consistent with RCW 36.61 nor the Resolutions forming the LMDs and would result in legal issues related to OPMA, personnel rules, collective bargaining agreements, risk liability, procurement rules, etc.

Many changes to the rules as proposed by select advisory committee members are the framework for a Special District, not a Lake Management District.

### **Recommendation for Consideration**

The recent email from Mr. Karman and others takes issue with an important provision in the LMD Administrative Rules which states:

"Steering committees are advisory in nature and do not have decision making authority"

While staff believe it is imperative that a clear definition related to authority be outlined in the Administrative Rules, the following revision, which aligns with the Board adopted documents above, would be workable:

"The purpose of steering committees is defined in Board adopted Resolutions of Intention and steering committees are relied upon for collaborating with staff on short and long-term lake management strategies."