



Lake Bluff Park District Letter to Residents

September 29, 2022

Dear Lake Bluff Park District Resident:

The Lake Bluff Park District and its Board of Commissioners are committed to serving the needs of our community. Our commitment includes a transparent and inclusive process in the assessment of the Lake County Stormwater Management Commission's (SMC) request to use Lake Bluff Park District Golf Course property for flood mitigation. I want to share this update with you on the nearly year-long process.

SMC Project: SMC presented the Park Board of Commissioners with the following request: Convert the Park District golf course land to stormwater storage to help address flooding along Highway 41 and in North Chicago. In return, SMC proposed using federal grant funds to pay for the costs of removing trees, moving land, planting, and changing from a public golf course to wetlands for stormwater storage. SMC proposed that the Park District then could sell the developed wetlands for mitigation credits. This could take up to 10 years or more for sales, but SMC stated that this land-use change for their project could provide the Park District with millions of dollars in revenue.

Citizen's Land Use Task Force: The Park District agreed to consider SMC's request. To have an impartial and thorough report on the facts of wetland creation and the long-term impact, we convened a Citizen's Land Use Task Force. These volunteer members conducted research, spoke with numerous experts, and produced a detailed report outlining eight possible land use options for the Board to consider based on SMC's proposal for funding. The Task Force also indicated even after their intensive six months of research, there were still outstanding questions on this complex matter.

After the report was presented, community members were encouraged to ask questions of the Task Force, share feedback through the Land Use Study website, and speak at one of three special public meetings.

The final Land Use Study report can be found on the Lake Bluff Park District website at www.lakebluffparks.org/LandUseStudy

Legal Pathways for Wetland Sales: SMC's project proposal was unique in that traditionally, wetlands are developed by a mitigation banker who assumes all the financial risk, and provides only a percentage of the profits from the credit sales to the landowner. SMC's assurance was that with their use of government funds to create the wetlands, the Park District could net millions in profit after hiring a specialist for wetland management, and a mitigation banker for credit sales.

In the final report, the Task Force confirmed that federal funds could not be used to develop wetlands for credit sales for profit. This was in direct contradiction to SMC's assurances.



The Park District engaged its legal counsel from Ancel Glink, P.C. to further research this matter, and provide an advisory opinion on legal pathways for SMC's proposal. Requests for clarification were sent to SMC asking for the rule, statute, regulation or grant language that would permit the sale of wetland credits for land developed with federal and/or state funding. SMC was also asked to provide verification it had sold government-sourced wetland credits through its own mitigation bank. As of this date, SMC has asserted that it cannot provide legal opinions on these issues even though it has advanced this plan for almost a year. SMC also responded that the wetland credits that were sold at the two (2) SMC approved mitigation banks were private and that SMC has no information about the sale prices of the credits since these are private transactions.

In absence of a response from SMC, and in consideration of the Task Force options with SMC funding, the Park District's counsel conducted its own research.

As discussed at the September 12, 2022 Park District meeting, Ancel Glink opined that there is no proven legal pathway by which SMC can use government funds to create wetlands on the Park District property which could then be sold as wetland credits for Park District profit. Federal and state grants contain provisions that government-provided funds cannot be used to create a profit for the entity which received the grant money. If a grant recipient is found to have misused grant funds, the funds must be paid back to the federal or state agency. Any suggested "loopholes" to current regulatory practices are untested and unvetted. It would be imprudent for the Park District to embark on this project by attempting to exploit an ambiguity when permanent land use changes are at issue and the prospect that any grant money that was received might have to be paid back.

Moving Forward: After delving into the Task Force's final report, questioning SMC, and consulting our legal counsel, it is clear that this specific SMC project request is not legally viable.

The Park District did not arrive at this conclusion lightly. The Board dedicated a substantial amount of time analyzing and considering this request – holding 35 meetings with discussion and public engagement on the project, a significant commitment of time and research from the Task Force, and hundreds of hours spent in research, consultation with SMC, and legal consultation over the course of more than a year. The Park District committed substantial funds to this proposal, including an independent engineering report on SMC's prospective but incomplete initial stormwater storage proposal for wetland development and acreage.

In May 2022, before the Task Force had published its final report, SMC received \$30 million in State funds for 14 stormwater management projects in other parts of Lake County. This North Chicago project was not included in this State grant. SMC is presently in the process of refining a Federal Emergency Management Agency (FEMA) grant proposal which addresses the Highway 41 and North Chicago stormwater project. The Park District is not privy to SMC's evolving application, but understands, as the Task force found, that SMC's use of FEMA funds for wetland development and credit sales cannot result in profits for the Park District.

The Park District remains open to talking with SMC and other partner agencies about projects which benefit our community and fulfill the District's mission to be responsible stewards of community



resources and enhance our community through recreational experiences in a fun, safe and healthy environment.

Your Engagement as a Community: We remain committed to working on Park District strategic and land use planning, budgeting and capital funding needs, as well as addressing the recreational needs of our community. This includes the on-going operation and capital needs of Blair Pool and Sunrise Beach.

We are saddened that at times public discussion on this topic created tension in our otherwise close-knit community. Throughout the process, the Park District and its Commissioners prioritized community engagement and provided numerous forums for residents to share their ideas and comments in a respectful manner. We worked through this politically-charged project proposal in a rational and well-researched manner. In true Lake Bluff nature, residents shared resources, offered new ideas and offered of their own time to addressing some of our biggest concerns.

We want to thank the Lake Bluff Park District community and staff, all those who volunteered their expertise and provided countless hours on the Citizen Land Use Task Force. They did an amazing job, and we are grateful for their service. We also appreciate the engaged residents who shared their opinions by attending public forums or by submitting comments and questions through the dedicated webpage. We are fortunate to have a community of diverse individuals who want to work with the Park District to enhance our community through recreational experiences in a fun, safe and healthy environment.

Please continue to reach out should you have questions or concerns.

Sincerely, 

Jennifer Beeler, President
Lake Bluff Park District Board of Commissioners