

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 PM, Wednesday, March 26, 2008  
Wayzata City Hall

**1. CALL TO ORDER**

Whalen called the meeting to order at 7:05 p.m.

**2. ROLL CALL**

**Members present:** Lisa Whalen, Minnetrista; Tom Tanner, Wayzata; Andrew McDermott, Orono; Tom Scanlon, Spring Park; Doug Babcock, Tonka Bay; Steve Johnson, Mound; Dennis Klohs, Minnetonka Beach; Jeff Morris, Excelsior. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

**Members absent:** David Gross, Deephaven; Chris Jewett, Minnetonka; Bill Olson, Victoria; Kelsey Page, Greenwood; Richard Siakel, Shorewood; Herb Suerth, Woodland.

**3. APPROVAL OF AGENDA**

**MOTION:** McDermott moved, Johnson seconded to approve the agenda as submitted.

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Whalen**

There were no Chair announcements.

**5. PUBLIC COMMENTS-** Persons in attendance, subjects not on the agenda (limited to 5 minutes)

There were no comments from the public on subjects not on the agenda.

**6. APPROVAL OF MINUTES-** 03/12/08 LMCD Regular Board Meeting

Whalen recommended two changes. First, she believed that the words "whether it be through additional dock structure or" should be deleted from the motion made by Babcock on page three. Second, she recommended deleting the last two sentences in the fifth paragraph on page five and inserting the following in their place "If the Board did not object, she stated that she believed staff had their marching orders and knew how to proceed."

Babcock concurred with the first change recommended by Whalen.

**MOTION:** Babcock moved, McDermott seconded to approve the minutes from the 03/12/08 LMCD Regular Board Meeting as amended, making the two changes recommended by Whalen.

**VOTE:** Motion carried unanimously.

## 7. APPROVAL OF CONSENT AGENDA

Whalen asked if any Board member would like to remove any of the items from the consent agenda.

Tanner stated that he would like agenda item 7E removed from the consent agenda.

Scanlon moved, Johnson seconded to approve the consent agenda as amended, removing agenda item 7E. Motion carried unanimously. Items so approved included: **7A, Cardinal Cove Beach Association**, staff recommends Board approval of 2008 renewal (without change) multiple dock license application that has been paid in full; **7B**, Audit of vouchers (3/16/08 – 3/31/08); **7C**, February financial summary and balance sheet; **7D, City of Mound**, draft Findings of Fact and Order approving a dock length variance application and a 2008 new multiple dock license application for their Commons Docking Program; and **7F, 2008 LVMP Project**, Agreement between LMCD and Lake Minnetonka Association (LMA).

## 8. ITEMS REMOVED FROM THE CONSENT AGENDA

Whalen asked Tanner for clarification on why he had agenda item 7E removed from the consent agenda.

Tanner had three questions that he asked for clarification on. First, he questioned why it would take the contractor 48 hours to correct cameras that were not functioning properly. Second, he questioned what the daily reduction in compensation would be to the contractor if performance standards were not met. Third, he asked why the contractor was not required to provide documentation of all video sequences captured.

Nybeck made the following comments:

- The 48 hour requirement in the draft Agreement was consistent with the 2007 Agreement for this project. If the cameras are not up and operating, a disincentive to the contractor would be a possible reduction in compensation if the performance standards in the draft Agreement are not met.
- Each public access is allowed up to 10 days during the five month Agreement to not comply with performance standards. Any additional day over the 10 days per public access will result in a reduction of approximately \$120 per day at the Grays Bay public access and approximately \$113 per day at the Maxwell Bay public access.
- The intent of the I-LIDS is to compliment the contracted MN DNR watercraft inspectors in 2008. When these inspectors are working, there is no need to provide documentation of video sequences captured by the cameras.

**MOTION:** Morris moved, McDermott seconded to approved the 2008 I-LIDS Agreement with Environmental Sentry Protection, LLC as submitted.

**VOTE:** Motion carried unanimously.

## 9. PUBLIC HEARINGS

- **T. Michael Miller**, new multiple dock license application to reconfigure a conforming facility at

19640 Cottagewood Road on Carsons Bay.

Whalen asked Harper to provide an update on this agenda item.

Harper reviewed the staff memo, dated 3/21/08, which summarized the new multiple dock license application. This site conforms to LMCD Code with six Boat Storage Units (BSUs), on 485' of continuous 929.4' shoreline, on the back side of Carsons Bay. This further breaks down to four BSUs at the Miller site and two BSUs at the Beherendt site, 19680 Cottagewood Road. The proposed change, at the Miller dock, is to add one three-sided slip and relocate three of the existing BSUs within it. He highlighted four LMCD Code Sections to evaluate the application. These included: 1) Code Section 2.03, subd. 1- outlines multiple dock license requirements, 2) Code Section 1.02, subd. 28- defines a multiple dock license, 3) Code Section 2.01, subd. 1- outlines authorized dock use area requirements, and 4) Code Section 2.01, subd. 3- outlines subjective criteria that the Board might take into consideration when reviewing a multiple dock license application. He recommended Board approval of the 2008 new multiple dock license application, subject to: 1) the docks being constructed in strict compliance with the proposed site plan, and 2) all watercraft must be stored within 100' from the 929.4' shoreline. He entertained questions and comments from the Board.

Whalen asked the applicant to provide further comments on this application.

Mr. T. Michael Miller, 19640 Cottagewood Road, stated that the purpose for the additional structure was to allow for a canopy to cover these three watercraft, which are currently not covered.

Whalen opened the public hearing at 7:22 p.m. There being no comments, she closed the public hearing at 7:23 p.m. She asked for Board comments and questions on the application.

**MOTION:** Babcock moved, McDermott seconded to approve the T. Michael Miller new multiple dock license application for the 2008 boating season, subject to: 1) the docks being constructed in strict compliance with the approved site plan, and 2) all watercraft must be stored within 100' from the 929.4' shoreline.

Tanner stated that the proposed change to the Miller dock was quite a bit larger than the abutting Beherendt dock. He questioned whether it made more sense to have these dock sizes compatible.

Harper stated that those two docks were part of the same multiple dock license site. Because this site conforms to LMCD Code, there are not slip size limitations provided it is within the authorized dock use area. The applicant could have proposed this slip size when the site was originally approved by the Board in 2006.

Babcock stated that boat sizes in these slips would be limited because of the bridge clearance under Minnetonka Blvd.

**VOTE:** Motion carried unanimously.

## 9. OTHER BUSINESS

**A. Minnehaha Creek Watershed District (MCWD)**, presentation of 2007 Water Quality Sampling Program by Dr. Udai Singh.

Whalen stated that Dr Singh from the MCWD was in attendance to review the Water Quality Monitoring Program conducted in 2007. She welcomed Dr. Singh on behalf of the Board.

Dr. Singh made the following comments:

- He acknowledged the assistance of two MCWD staff members on this project, Yvette Christianson and Jason Carlson.
- He provided the Board with a summary of 2007 hydrological data within the MCWD. This included:
  - Stream flow monitoring and water quality sampling at 11 locations on Minnehaha Creek and 31 locations in the Upper Watershed.
  - The use of a Flow Tracker device to measure stream flows.
  - The measuring of water temperature (Temp), dissolved oxygen (DO), and conductivity were measured using a YSI multi probe meter.
  - Water quality samples were collected for total phosphorous (TP) and soluble reduced phosphorous (SRP) on a weekly basis, total suspended solids (TSS) on a bi-weekly basis, and total nitrogen (TN) on a monthly basis.
  - Bi-weekly water quality samples were also collected for E. coli analysis in June, July, and October (weekly in August and September).
- Lake water quality was measured for 36 lakes within the MCWD, including 26 sites on Lake Minnetonka. He summarized the following 2007 hydrological data for Lake Minnetonka:
  - All 26 sites were monitored bi-weekly.
  - YSI probe measurements for DO, Temp, pH, and conductivity were taken at each meter depth.
  - Water quality samples from one meter below water surface, as well as one meter from the bottom of the lake, were analyzed for TP, SRP, total dissolved phosphorous, TN, total dissolved nitrogen, NO<sub>3</sub>/NO<sub>2</sub>, and NH<sub>3</sub>.
  - Chlorophyll-a concentrations were also analyzed at one meter below the water surface.
  - Secchi disc measurements were taken at each monitoring site.
- He summarized 2007 hydrological data for 11 upper watershed lakes, limited access lakes, and the eight Minneapolis chain of lakes.
- He reviewed water quality for bays sampled from 1998 through 2007. In general, the water quality has remained the same over these 10 years.
- He provided an overview of two other accomplishments coordinated by the MCWD. These included:
  - A Telemetry-Remote Data Access Project, which allows for lake level readings to be taken from the MCWD office.
  - A Lake Minnetonka Bathymetry Project, which is being coordinated by Shane Missaghi.
- He entertained questions and comments from the Board.

Whalen stated that the water quality grade for Jennings Bay in 2008 was an "F", down from a grade of "D" in 2006. She asked what might have contributed to this.

Singh stated that water quality grades are determined by factoring in TP, Chlorophyll-a, and secchi disc readings, all of which are averaged for that year for each bay. He believed that the 2007 drought might have contributed to this downgrade in water quality in Jennings Bay.

McDermott asked if residents on poor water quality bays should be concerned, in particular for swimming or other recreational uses.

Singh stated that the poor water quality bays are okay for recreational use. Additionally, the MCWD does not currently sample for E. coli on Lake Minnetonka.

Whalen asked if bays that had a water quality grade of "D" or "F" were on the impaired waters list.

Singh stated that would depend, based on a number of factors from the MPCA.

Nybeck stated that he received a telephone call from the Hennepin County Health Department in 2007 relating to some people getting ill at Cruiser's Cove. He questioned whether it made sense, if possible, to expand water quality sampling in 2008 to include this area.

Singh stated that E. coli sampling would need to take place and that it could be taken into consideration.

McDermott questioned whether water quality sampling took place in the vicinity of stormwater discharge pipes.

Singh stated that this type of water quality sampling did not currently take place.

Whalen thanked Dr. Singh for his overview of this project.

**B. Abdo, Eick, & Meyers, review of draft 2007 LMCD Audit.**

Whalen welcomed Steve McDonald of Abdo, Eick, and Meyers on behalf of the Board.

McDonald stated that a number of new audit standards were implemented in 2007. Thus, some of the language on pages two through four has changed. He reviewed two findings from the 2007 LMCD Audit. These included: 1) limited segregation of duties- cash receipts, and 2) preparation of financial statements. There was one incident where \$6,003 of deposits was uncollateralized, which he believed was a setup situation with the 4M Fund and has been resolved. He discussed LMCD reserve fund balances and commented on trends. The General Reserve Fund balance, \$81,749, is at a 20% percent reserve level. The LMCD has a policy of a 50% percent reserve level for this fund and he believed that the Board should either establish a new policy or address this in future LMCD budgets.

Whalen questioned whether a 50% reserve level for the General Fund was high.

McDonald stated that 50% reserve level might be a little bit high. He hoped to have a cash flow analysis prepared for Board discussion at this meeting; however, he was not comfortable with the information provided to him. He believed that there would be some cash flow issues when the

reserve level falls below a certain level, such as 16%.

Scanlon concurred with McDonald's comments on the need to evaluate an absolute minimum General Fund reserve level for cash flow purposes. This is of particular importance since there is a greater demand for funding of projects from the LMCD.

Babcock stated that the 50% reserve level for the General Fund was established through extended negotiations with the 14 LMCD member cities. Compared to the 14 member cities, one could argue that a 50% reserve level is high. However, the LMCD does not have the ability to raise funds that a municipality can, such as floating bonds.

McDonald stated that unanticipated legal expenses incurred in 2007 contributed greatly to reduction in the General Fund reserve level. The Board should take this into consideration in future discussion of the General Fund reserve level. He reviewed the Eurasian Milfoil Reserve Fund balance, \$104,225, which was at 75%. This has been relatively consistent over the past five years.

Whalen asked for further clarification of the Eurasian Milfoil Fund.

Nybeck stated that this fund was established for operational purposes. In the adopted 2008 LMCD Budget, a \$19,000 transfer from the Eurasian Milfoil Fund is included as a revenue source.

McDonald stated that a \$20,000 decrease in the Eurasian Milfoil Fund was planned in 2007. This actually decreased by \$24,793 in 2007. For the Save the Lake Fund, the reserve level was \$267,548, which was \$8,691 down from 2006. He summarized the Equipment Replacement Fund, which had a reserve level of \$75,541. This fund is used to replace depreciated EWM Harvesting equipment and he believed that it also needed further attention in the near future. He believed that the overall audit process with the LMCD was efficient, partly because of the cooperation of LMCD staff. He entertained questions and comments from the Board.

Whalen asked McDonald to comment on compensated absences and the inability with the current software to address maximums based on the current LMCD Personnel Policy.

McDonald stated that he would be able to resolve this by working with Nybeck.

Babcock asked what the balance liability of compensated absences was.

McDonald stated that this balance was approximately \$17,000.

Nybeck stated that he had prepared a summary of reserve levels for the LMCD fund accounts at the request of Scanlon. These included: 1) the General Fund, 2) the Eurasian Milfoil Fund, 3) the Equipment Replacement Fund, 4) the New Equipment Acquisition Fund, which does exist any longer, and 5) the Save the Lake Fund.

Scanlon stated that he had Nybeck prepare an overview of these LMCD fund accounts because he believed that there would be more pressure from the public on them. He believed that the reserve level of some of these fund accounts need to be addressed by the Board in the near future.

Whalen concurred with the comments made by Scanlon. The Board accepted the draft 2007 LMCD Audit as submitted and thanked McDonald for his presentation.

- C. Ordinance Amendment**, second reading of an ordinance relating to watercraft storage density, amending LMCD Code Section 2.02.

Whalen stated first reading of this draft ordinance amendment was approved at the March 12<sup>th</sup> Board meeting. She believed that this ordinance amendment would address some verbiage changes and she entertained questions or comments from the Board.

**MOTION:** Babcock moved, Klohs seconded to approve second reading of the draft ordinance amendment as submitted, to waive third reading, and adopt it.

**VOTE:** Motion carried unanimously.

Babcock stated that a majority of the entire Board, eight votes, was necessary to adopt an ordinance amendment. This was achieved with the unanimous vote.

- D. 2008 Liquor Licenses**, 2008 renewal, without change, applications.

Whalen asked for background on this agenda item from Harper.

Harper stated that there were a number of intoxicating liquor, wine, and non-intoxicating malt liquor license applications submitted for the 2008 boating season, which were outlined in the 3/20/08 staff memo. This memo would normally be on the consent agenda; however, there were investigation and ports of call certifications pending receipt when the packet was prepared. All documents have been received, with the exception of ports of call approvals from the City of Orono. He recommended approval of these renewal applications for the 2008 season, subject to receipt of necessary ports of call information from the City of Orono.

**MOTION:** Babcock moved, McDermott second to approve the 2008 renewal liquor license applications as outlined in the 3/20/08 staff memo, subject to receipt of necessary ports of call information from the City of Orono.

**VOTE:** Motion carried unanimously.

## 10. EXECUTIVE DIRECTOR REPORT

Nybeck stated that there was a letter in the packet from Minnetonka City Manager John Gunyou requesting consideration of additional funding from the LMCD for the 2008 LVMP project on Grays Bay. He believed that a letter from the LMCD was appropriate to respond to Gunyou's request. Unless the Board objected, he stated that he would work with Chair Whalen on such a letter. There were no objections.

McDermott asked Nybeck if he was aware of the fundraising efforts of the Lake Minnetonka Association for the herbicide treatment project in 2008.

Mr. Richard Glidewell, representing the LMA, made the following comments:

- All three bays have exceeded the release form requirements of the MN DNR.
- Funding for Carmans Bay was approximately at 90% of what was targeted.
- Funding for Grays Bay was approximately at 65% of what was targeted.
- Funding for Phelps Bay was approximately at 60% of what was targeted.

## **11. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:21 p.m.

Lisa Whalen, Chair

Andrew McDermott, III, Secretary