

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, January 27, 2010
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; Tom Scanlon, Spring Park; Doug Babcock, Tonka Bay; Peter Hartwich, Excelsior; Chris Jewett, Minnetonka; Steve Johnson, Mound; Keith Kask, Deephaven; Dennis Klohs, Minnetonka Beach; Bill Olson, Victoria; Kelsey Page, Greenwood; Herb Suerth, Woodland. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Andrew McDermott, Orono; Dick Woodruff, Shorewood.

3. APPROVAL OF AGENDA

MOTION: Tanner moved, Page seconded to approve the agenda as presented.

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Whalen

Whalen made the following three announcements: First, she reminded all that the Save the Lake Recognition Banquet is scheduled for Thursday, February 11th, at the BayView Event Center. Second, she stated that the Technical Advisory Committee (TAC) will be holding a public forum in an effort to receive input on the TAC recommendations. The forum will be held on Wednesday, February 17th, from 7:00 p.m. to 9:30 p.m. at Shorewood City Hall, with announcements to be mailed in the near future. Third, she thanked Johnson and Klohs for volunteering to serve on the Public Safety and Save the Lake Committee, respectively. The Environmental TAC and Ordinance Review committees are in need of members and she asked the remaining Board to consider serving on a committee and communicate their interest to Nybeck.

5. APPROVAL OF MINUTES – 01/13/10 LMCD Regular Board Meeting

Whalen recommended deleting the words “as amended, making the changes noted by Whalen above” on page two under “APPROVAL OF THE CONSENT AGENDA”.

MOTION: Olson moved, Johnson seconded to approve the minutes as amended; making the change as recommended by Whalen.

VOTE: Ayes (11), Abstained (1, Babcock); motion carried.

Whalen introduced the City of Wayzata's new member to the LMCD Board, Dan Baasen. On behalf of the Board, she welcomed him; noting his appointment at the February 24th Board Meeting.

6. APPROVAL OF CONSENT AGENDA

Babcock requested that item 6C be removed from the consent agenda for vote purposes only.

Babcock moved, Tanner seconded to approve the consent agenda as amended, making the changes noted by Babcock above. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (01/16/09 – 01/31/10); **6B**, December financial summary and balance sheet; and **6D, BayView Event Center**, approval of amended 2010 "Winter Events on Ice" special event permit as requested in e-mail, dated 1/20/10.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

6C, Charles & Shanda Shannon, draft Findings of Fact and Order amending previously approved side setback and adjusted dock used area variance at 3800 Sunset Drive

VOTE: Ayes (10), Nays (2, Babcock and Page); motion carried.

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

There were no public comments.

9. PUBLIC HEARING

City of Minnetonka Beach, 2010 reconfiguration of non-conforming, multiple dock license application.

Whalen asked Harper to provide background on this agenda item.

Harper reviewed his staff memo, dated 1/21/10, which summarized a request from the City of Minnetonka Beach for a reconfiguration of a non-conforming multiple dock license application. The applicant proposes to make the following changes: 1) to replace site plans for dock sites 2, 10, and 11; making no changes except for the addition of documented slip sizes on the site plans itself, and 2) various changes to the remainder of the dock sites as highlighted on the 2010 Slip Size Report provided in the Board packet. He reviewed the following three LMCD Code Sections relevant to the application: 1) Code Section 2.02, subd. 1- outlines boat storage density regulations, 2) Code Section 2.015- reconfiguration of non-conforming multiple dock facilities process, and 3) 2.01, subd. 1- defining an authorized dock use area (DUA). He reviewed a past Boat Storage Unit (BSU) square footage calculation of 21,460 and historical inadvertent changes made by Minnetonka Beach to that square footage; which resulted in a decreased established square footage of 21,456. He stated that the LMCD received an e-mailed comment from a neighboring property owner, Mr. Tom McCarthy, which was provided within the Board's packet. However, the adjacent site to Mr. McCarthy complies with LMCD Code; resulting in a matter between the property owner and Minnetonka Beach. He recommended that the Board approve the 2010 reconfiguration of non-conforming multiple dock license

application from the City of Minnetonka Beach, subject to conditions outlined within the staff memo. He entertained questions and comments from the Board.

Tanner asked Harper to clarify what year the Board established the BSU square footage of 21,460, including what the square footage was when the last reconfiguration occurred.

Harper stated that the BSU square footage of 21,460 was a result of an initial clean up of the Minnetonka Beach multiple dock license in 1997, with numerous reconfigurations thereafter. He confirmed that the square footage of the last reconfiguration, which was completed in 2008, was 21,456.

Whalen opened the public hearing at 7:20 p.m.

Ms. Susanne Griffin, Minnetonka Beach City Administrator, spoke on behalf of the applicant. She stated that City Council member Linn Ferguson and Dock Committee Co-Chair Ward Meyers were also in attendance. She believed that Harper provided a thorough review of the proposed changes. Additionally, she stated the Minnetonka Beach Dock Committee was established in 2007 for the purpose of reviewing the city ordinances, site plans, and procedures; resulting in the 2008 reconfiguration of their license and a renewal without change in 2009. She stated last summer, the committee began reviewing the sites' dock configurations for the purpose of meeting the city's objectives and the needs of their citizens. The primary criteria for the review were based off of the city's comprehensive plan, in which she outlined. As a result, the current application is before the Board for consideration; providing for the most efficient and safe use of the most desirable dock locations. She stated that the requested changes are a re-allocation of square footage vs. adding more BSUs. She entertained questions and comments from the Board.

The Board asked a few questions of Griffin, in which she responded to. Her responses were as follows:

- Clarification on the reconfiguration of the dock structures adjacent to Mr. McCarthy's site.
- Confirmation that Minnetonka Beach understood the four-foot overhang restriction (length overall), that they were communicating all license requirements to the property owners utilizing the licensed BSUs, and that BSUs that were decreasing in size were not currently being occupied with a watercraft.
- Upon request to place "no parking" signage at Site 4, she confirmed that the dock structure in question was not installed and that Minnetonka Beach would agree to have that dock structure removed from the proposed site plan.
- Confirmation that Minnetonka Beach would add side setbacks to the north side of the dock structure at Sites 5-7A on the proposed site plan.

There being no further comments, Whalen closed the public hearing at 7:32 p.m.

MOTION: Babcock moved, Klohs seconded to approve the 2010 City of Minnetonka Beach reconfiguration of non-conforming multiple dock license, subject to: 1) the conditions outlined in the 1/22/10 staff memo, 2) the removal of the dock structure currently drawn on proposed plan for Site 4 (but not installed), 3) the addition of setback dimensions on the north side of the docking structure on proposed plan for Sites 5-7A, and 4) an

acknowledgement by the Board that the approved cumulative square footage for the 86 BSUs is 21,458.

VOTE: Motion carried unanimously.

10. OTHER BUSINESS

A. Minnetonka Boat Rentals, 2009 reconfiguration of non-conforming, multiple dock license and variance applications.

Whalen asked Harper for background on this agenda item.

Harper reviewed his staff memo, dated 1/22/10, for pending 2009 applications submitted by Mr. Paul Bergquist to reconfigure the non-conforming multiple dock license facility and to amend a previously approved side setback variance. His comments were highlighted as follows:

- He provided a brief overview of the applicant's proposed changes that were considered by the Board during a public hearing that was conducted on December 9th. Three concerns were raised by the Board at that time, all of which are outlined in the staff memo. No formal action by the Board was taken on December 9th; however, the applicant was directed to work with LMCD staff to address the concerns raised by the Board.
- LMCD staff met with the applicant on December 15th with two City of Mound staff members. Based on this meeting, the applicant has submitted a revised proposed site plan, which Harper summarized the proposed changes outlined in the 1/22/10 staff memo.
- He reviewed the following three LMCD Code Sections relevant to the applications: 1) Code Section 2.015- reconfiguration of non-conforming multiple dock facilities process, 2) Code Section 2.01, subd. 1- defining an authorized dock use area (DUA), and 3) Code Section 1.07- outlines the variance process from LMCD Code.
- He believed that there were four fundamental issues for the Board to consider, which were outlined in the 1/22/10 staff memo. He offered three options for the Board's consider. First, if the Board was comfortable with the revised proposed site plan, the Board could direct the LeFevere to prepare Findings of Fact and Order for approval of the applications for the 2009 season, subject to conditions outlined in the staff memo. Second, if the Board was not comfortable with the revised proposed site plan, the Board could communicate their concerns to the applicant for further revisions. Third, the Board could direct LeFevere to prepare Findings of Fact and Order for denial of the applications.
- He entertained questions and comments from the Board.

Whalen asked the applicant whether he had additional background or comments that he would like to provide the Board.

Mr. Paul Bergquist, representing Minnetonka Boat Rental, addressed the Board. He stated that he had the ability to speak with the neighbors to the south of his property, Mathew and Connie Isaak, who were in attendance at this meeting. A great deal of time had been put into the Board's concerns and he respectfully requested the Board's consideration of the revised proposed site plan.

The Board asked questions of Bergquist, in which he responded to. His responses were as follows:

- Confirmation that he continues to propose relocating the launch ramp to the south end of the property even though there was previous Board opposition with this location. He stated the proposed location is preferred due to the logistical placement of the gas tank, the loss of the only shade tree, and impact involved in the level of soil erosion required to complete the project.
- The road adjacent to the launching ramp, Edgewater Drive, was recently raised one-foot due to the City of Mound's stormwater management plan. This provides for logistical concerns in transporting the boats to and from the ramp.
- Confirmation that he generally does not have plans to launch watercraft greater than 17' in length. However, he allows his neighbors to use the ramp, as well as occasional use by the general public.

Whalen asked the Isaak's if they had additional comments they would like to provide the Board.

Mathew and Connie Isaak, 4828 Edgewater Drive, introduced themselves as the abutting neighbors to the south of Minnetonka Boat Rentals. Both acknowledged that they spoke with Bergquist and were in agreement to relocate the launch to the south end of the property for two reasons. First, there is little use of the ramp as described to them, which is primarily used to repair a boat or to launch and retrieve boats in the spring and fall. Second, the use of the south ramp being under the control of experienced employees; due to the rented fishing boats being launched from the north ramp. They stated this would address their concerns about inexperienced boat rental customers causing damage to their dock when maneuvering the boats away from the facility.

Tanner asked LeFevere if the Board had the ability to impose a length restriction on boats that are being launched at the site.

LeFevere stated that the Board has the ability to impose reasonable restrictions within the Findings of Fact and Order through the variance process.

The Board asked questions of Bergquist, in which he responded to. His responses were as follows:

- Confirmation that the four fishing boats would be launched from the existing ramp in the middle of the property.
- Clarification on the location of the buildings noted in the revised, proposed site plan in conjunction with the ramp location.
- Confirmation that parking at the dock adjacent to the launch would not be long-term and would serve essentially as a make-ready dock.

Babcock questioned how to justify the square footage increase from the approved slide, which he estimated at 160 to 200 square feet, to the proposed slide square feet, which he estimated at 1,652.

The Board spoke at length with regards to Babcock's concerns. Page expressed concern that the applicant did not work harder to meet the concerns expressed by the Board at the December 9th meeting. The consensus of the Board was to direct the applicant to amend the revised proposed site plan so that it is consistent with the direction he received at this meeting. The next review is planned for the February

10th Board meeting. If staff and LeFevere believed that the amendment prepared by Bergquist were consistent with the Board's direction, they were authorized to prepare draft Findings of Fact and Order for approval of the variance application.

- B. Update on: 1) Board member's terms that expire in January and 2) Nominating Committee recommendations for 2010 LMCD Board Officers.

Whalen asked Nybeck for background on Board member terms that expire in January.

Nybeck stated that the City of Victoria recently reappointed Olson to the Board for a three-year term.

Whalen expressed her appreciation for Tanner's service to the LMCD; acknowledging his time and efforts he put forth in serving. She asked Babcock for an update on the nominating committee's recommendations for 2010 LMCD Board Officers.

Babcock stated that the nominating committee recommended the same Board Officers for 2010 as was in place for 2009; with the addition of Page to replace Tanner as Vice Chair.

Whalen asked the Board if there were any other nominations from the floor for the individual 2010 LMCD Board Officer positions. Seeing none, Whalen closed the nominations from the floor and entertained a motion to approve the recommendations of the nominating committee.

MOTION: Babcock moved, Jewett seconded to approve the following slate of 2010 LMCD Board Officers as recommended by the nominating committee (Chair- Lisa Whalen; Vice Chair- Kelsey Page; Treasurer- Tom Scanlon; and Secretary- Andrew McDermott.

VOTE: Motion carried unanimously.

- C. **Ordinance Amendment**, first reading of an ordinance relating to reconfiguration of non-conforming structures, amending LMCD Code Section 2.015, Subd. 4b).

Whalen requested feedback from Babcock on what his concerns were with the draft ordinance amendment, which has resulted in the tabling of it at recent Board meetings.

Babcock requested the leniency of the Board in tabling this draft ordinance amendment one more time as personal matters arose that prevented him from working with LeFevere as originally requested. He briefly outlined his reasons for wanting to change to specific verbiage.

The consensus of the Board was to consider first reading and to allow Babcock to work with LeFevere on possible revisions.

MOTION: Page moved, Johnson seconded to approve the first reading of an ordinance amendment as submitted.

VOTE: Motion carried unanimously.

Whalen stated that second reading of the draft ordinance amendment was planned for February 10th.

11. EXECUTIVE DIRECTOR REPORT

There was no Executive Director Report

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:50 p.m.

Lisa Whalen, Chair

Tom Scanlon, Treasurer