

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 PM, Wednesday, February 24, 2010  
Wayzata City Hall

**1. CALL TO ORDER**

Whalen called the meeting to order at 7:00 p.m.

**2. ROLL CALL**

**Members present:** Lisa Whalen, Minnetrista; Andrew McDermott, Orono; Dan Baasen, Wayzata; Peter Hartwich, Excelsior; Steve Johnson, Mound; Keith Kask, Deephaven; Dennis Klohs, Minnetonka Beach; Bill Olson, Victoria; Dick Woodruff, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

**Members absent:** Doug Babcock, Tonka Bay; Kelsey Page, Greenwood; Chris Jewett, Minnetonka; Tom Scanlon, Spring Park; Herb Suerth, Woodland.

Whalen stated that the City of Wayzata has appointed Dan Baasen to the LMCD Board. She welcomed Baasen and asked LeFevere to administer the oath of office.

LeFevere administered the oath of office and Baasen was seated as a representative for the City of Wayzata.

**3. APPROVAL OF AGENDA**

**MOTION:** McDermott moved, Woodruff seconded to approve the agenda as presented.

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Whalen**

Whalen made the following two announcements: First, she stated that the Technical Advisory Committee (TAC) held a well attended public forum on Wednesday, February 17<sup>th</sup>. She thanked the public for their participation and wonderful comments. Additionally, she publically thanked TAC Chair David Gross for all of his time and efforts. Second, she solicited the Board's input on a recommendation made by MN DNR representatives who serve on the "EWM/Exotics Task Force" to rename the committee the "Aquatic Invasive Species Task Force". Furthermore, she stated that Chair Suerth, who was not in attendance at this meeting, concurred with the recommendation.

**MOTION:** McDermott moved, Woodruff seconded to approve renaming the "EWM/Exotics Task Force" to the "Aquatic Invasive Species (AIS) Task Force".

**VOTE:** Motion carried unanimously.

Nybeck announced that former LMCD member David Cochran, who served on the Board in the late 1980's and early 1990's, had recently passed away. He stated that he attended the memorial service, pointing out that it was well attended by the Lake Minnetonka community.

**5. APPROVAL OF MINUTES – 01/27/10 LMCD Board Planning/Workshop Session  
2/10/10 LMCD Regular Board Meeting**

**MOTION:** Kask moved, Olson seconded to approve the minutes from the 1/27/10 LMCD Board Planning/Workshop Session and the 2/10/10 LMCD Regular Board Meeting as submitted.

**VOTE:** Ayes (7), Abstained (2, McDermott and Woodruff); motion carried.

**6. APPROVAL OF CONSENT AGENDA**

McDermott moved, Woodruff seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (02/16/10 – 02/28/10); **6B**, January financial summary and balance sheet; **6C**, Minutes from the 12/4/09, 12/18/09, and 1/8/10 EWM/Exotics Task Force Meetings, and **6D**, **The Museum of Lake Minnetonka**, approval of 2010 Save the Lake Grant Agreement.

**7. ITEMS REMOVED FROM THE CONSENT AGENDA**

There were no items removed from the consent agenda.

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

Mr. Mark Washa, 205 Queensland Lane N. in Minneapolis, commented on Lake Minnetonka Association (LMA) Executive Director Dick Osgood's Guest Column in the February 15<sup>th</sup> edition of the Lakeshore Weekly News. He believed that Osgood provided a disservice to both environmentalists and taxpayers because the milfoil harvesting program recycles a large amount of excess nutrients removed from the lake for use at the Landscape Arboretum. He compared the harvesting program's sound, ecological practice of recycling the nutrients to the herbicide treatment program's addition of pollutants (noting the placement of seven tons of chemicals each in Grays and Phelps Bay alone). Additionally, he compared the cost of harvesting the entire lake to the treatment of the two bays; \$100,000 and \$107,000, respectively. He questioned why the LMCD was allowing Osgood to participate in programs that affect Lake Minnetonka and recommended the adoption of leadership similar to the Christmas Lake residents, in which Osgood was purposely separated from. He reiterated his comments made at the December 9<sup>th</sup> Board meeting in which he expressed his interest in the use of a weevils program for the control of invasive species vs. herbicide treatments as used by the State of Michigan (noting the need to recover from negative effects of fluridone). In summary, he asked the Board to learn from other state's mistakes instead of making their own.

Whalen thanked Washa for his comments and concurred that there are positive merits in the LMCD EWM Harvesting Program.

**9. PUBLIC HEARING**

**A. Lafayette Club**, 2010 new multiple dock license application to reconfigure the conforming multiple dock

facility.

Whalen asked Harper to provide background on this agenda item.

Harper reviewed his staff memo, dated 2/16/10, which summarized a request from Lafayette Club for a new multiple dock license to reconfiguration the conforming site. The applicant proposes to reconfigure the length of the docks to reach deeper water and some of the Boat Storage Unit (BSU) sizes; leaving the location, number, and type of use unchanged. He reviewed the following two LMCD Code Sections relevant to the application: 1) Code Section 2.03, subd. 7- outlines the multiple dock license process and 2) Code Section 2.01, subd. 1- defining an authorized dock use area (DUA). He recommended that the Board approve the new multiple dock license application for the 2010 season, subject to conditions outlined within the staff memo. He entertained questions and comments from the Board.

Whalen asked Harper to clarify how many boats can be stored at the overnight BSUs.

Harper stated that one boat could be stored at each overnight BSU.

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

Mr. Scott Bremer, General Manager for the Lafayette Club, stated that Harper provided a thorough review of the application and respectfully requested approval. He entertained questions and comments from the Board.

The Board asked a few questions, in which Bremer responded to. The following are his responses:

- Confirmation that the dock structure for transient BSUs 11 and 12 is 28' from the shore to the cross structure and 48' out from there, providing for total length of 76'.
- Confirmation that they are increasing the length of the BSUs to reach deeper water because boats were hitting bottom within 100' of the shoreline.
- Confirmation on the ownership of the boats docked at overnight BSUs 1 and 2.

Whalen opened the public hearing at 7:18 p.m. There being no comments, she closed the public hearing at 7:19 p.m.

**MOTION:** Kask moved, McDermott seconded to approve the Lafayette Club new multiple dock license application for the 2010 season, subject to the conditions outlined in the staff memo.

**VOTE:** Motion carried unanimously.

## 10. OTHER BUSINESS

- A. Hennepin County Environmental Services,** Tony Brough presentation on proposed LCCMR Grant Application.

Whalen asked Brough to provide an overview on the proposed Legislative-Citizen Commission on

Minnesota Resources (LCCMR) Grant Application. She welcomed him on behalf of the Board.

Brough stated that he was employed with the Hennepin County Environmental Services Department, which is in charge of the lake improvements projects (including the management of the Spring Park and North Arm Bay public accesses). He proposed partnering in a LCCMR Grant Application project, which would provide for an innovative public boat access design for the purpose of preventing and slowing down the spread of aquatic invasive species (AIS). He provided a review of the proposed project via a PowerPoint presentation, in which he highlighted the following information:

- To create a new aesthetically pleasing infrastructure template at the Spring Park public access; creating a new process for the education and inspection of AIS prior to the launching of a watercraft. He utilized the visual description of a multi-stage fast food drive through window process whereby the boat owner would progress through stages prior to launching their watercraft.
- The LCCMR Grant would provide for the development and design of the proposed infrastructure. Design ideas included aesthetically pleasing and ergonomically designed features; including multi-stage, bright colored speed bump square areas that maintained educational signage, power sprayers, sand filtering, and possibly cameras.
- The proposed project would provide for a 24 hour, seven day a week educational process with the hopes of cutting down on non-compliant AIS launches.
- He solicited the Board's interest in partnering with not only Hennepin County, but possibly with other local agencies as well (MN DNR, local municipalities, Sheriff's Water Patrol, LMA, etc). He acknowledged that the Board may need time to think on their level of interest and welcomed initial interest, such as a letter of support, with more concrete participation in the near future as the application deadline is April 9<sup>th</sup>.
- He entertained questions and comments from the Board.

Whalen stated that the purpose of the LCCMR Grant is to provide funding for new and innovative projects, which she believed this project had merit. She acknowledged that the project start date is either 2011 or 2012; noting that budget considerations could be considered at that time. She thanked Hennepin County for thinking outside of the box and coming up with this idea.

The consensus of the Board was very positive. Some of the comments made included the following:

- The project fits within the established criteria for the use of Save the Lake funds.
- It is consistent with the watercraft washdown discussions by the AIS Task Force in its 2010 AIS Prevention Plan.
- The need to consider the launching of larger watercraft within the infrastructure design as the Spring Park public access provides for deep water launches.

**MOTION:** Johnson moved, Woodruff seconded to support Hennepin County Environmental Services as: 1) a participating agency in the submittal of a LCCMR Grant Application for the project described above, 2) to consider funding of this project at a later date, and 3) to prepare a letter of support to be included in the LCCMR Grant Application submitted.

McDermott offered to serve as the LMCD liaison for this project.

**VOTE:** Motion carried unanimously.

**B. Minnetonka Boat Rentals**, draft Findings of Fact and Order amending an approved side setback variance.

Whalen asked LeFevere for background on this agenda item.

LeFevere stated that a revised draft Findings of Fact and Order was in the Board handout folders, with two changes recommended by Harper. First, in the fifth paragraph on page one, the total square footage calculations should be changed from 8,893 to 7,241 and 8,811 to 7,233. Second, in the third condition on page 3, the setback variance for the ramp was "11" rather than "12". Additionally, he directed the Board to conditions 4b, 4e, and 4f on page four. He stated these conditions were included based on prior Board discussion but not specifically within the Board's motion. He acknowledged that the Findings are of the Board and offered to amend those paragraphs should the Board not concur with them. He entertained questions and comments of the Board.

Whalen stated that she supported leaving conditions 4b, 4e, and 4f within the Order.

McDermott questioned the LMCD's ability to enforce condition 4f. In particular, the use of the words "general vicinity" in the launching of boats and the lack of a mile radius for that use.

The Board briefly discussed McDermott's question, in which the following comments were offered:

- A large increase in launches would most likely provoke a complaint, in which the LMCD would respond to.
- This condition was designed for seasonal launching and not daily.
- The Board can always revisit the matter.
- It provides a greater degree of control than the license holder was previously subject to.

**MOTION:** Kask moved, McDermott seconded to approve the revised Findings of Fact and Order, amending the previously approved side setback variance and 2010 new multiple dock license application for Minnetonka Boat Rentals.

**VOTE:** Motion carried unanimously.

**C. Discussion on Black Lake Quiet Water Area.**

Whalen asked Nybeck to provide background on this agenda item.

Nybeck provided an overview on this agenda item via a PowerPoint presentation. His comments were highlighted as follows:

- This agenda item is in follow-up to discussions conducted at the February 10<sup>th</sup> Board meeting, which included an update from the Public Safety Committee meeting conducted in January. At that time, two committee recommendations were reviewed. First, the expansion of the solar-light program. Second, possibly scheduling a public hearing for the consideration of making Black Lake entirely a Quiet Water Area (QWA).

- The Board directed staff to provide a map delineating the current Black Lake QWA for discussion at this meeting prior to making a decision on whether to schedule a public hearing. He directed the Board to such a map, along with an aerial photograph showing placement of the current QWA buoys.
- He provided a thorough review of historical Board actions and specific findings as it relates to the Black Lake QWA during the years of 1971, 1972, 1973, 1976, 1978, and 1980.
- He concurred with the Public Safety Committee recommendation that the current Black Lake QWA is confusing. He provided various options for the Board's consideration; however, recommended staff be allowed to observe the area during the 2010 boating season to confirm the boating activity taking place in the area, with a report back to the Board in July or August. At that time, the Board could decide if a public hearing would be warranted.
- He entertained questions and comments from the Board.

A summary of the Board and staff discussion on this matter is as follows:

- The Board should lead the charge in establishing a QWA when it is a public safety concern. However, some Board members questioned whether the LMCD should lead the charge when the situation is not a public safety concern and that the current policy should be amended to consider establishment of QWAs through petitions.
- It is worth staff's time to access the area to see if there is a public safety issue because of the confined space and weekend traffic congestion. The surface use estimate for Black Lake was 60 acres.
- Confirmation that minimum wake is required within 150' of an anchored watercraft, dock structures, and the shoreline. This provided for a number of potential Code violations as it relates to water-skiers and tubers.
- Expressed interest in receiving input from the lakeshore owners.
- Acknowledgement that the bay offers a variety of recreational activity (i.e., skiing, anchoring, tubing, and fishing).
- Confirmation from Nybeck that he would like to observe the type of recreational activity that is currently going on. This also included a recommendation that other Board members document their observations as well when in Black Lake.

The consensus of the Board was for the Public Safety Committee to coordinate the submittal of a questionnaire to the Black Lake lakeshore residents, with findings to be reported back to the Board.

**C. Staff update on 2009-2010 Lake Minnetonka De-icing Inspections.**

Whalen asked Harper to provide background on this agenda item.

Harper provided an overview of the 2009-2010 project, with a summary of his comments as follows:

- 33 de-icing licenses have been issued.
- He reviewed the inspection process; noting that the following four areas are documented for compliance with LMCD Code: 1) Authorized De-icing Area (ADA) requirements, 2) fencing, 3) signage, and 4) lighting.
- 24 of the 33 sites passed first inspection. The remaining nine sites have been re-inspected and the issues have been resolved. He reviewed respective communication that was sent out to the

license holders in follow-up to the inspections.

- In summary, he stated that the weather was favorable for de-icing and that the licensees have maintained their sites well. He will continue to monitor the sites until March 15<sup>th</sup>, at which time de-icing licenses are not required as long as signage is present along the affected shoreline.
- He entertained questions and comments from the Board.

The Board asked a few questions of Harper, in which the following responses were offered:

- He encourages license holders to continue to maintain compliance with Code requirements at their site after March 15<sup>th</sup> as they had prior to that date.
- De-icing typically starts when the ice begins to form; however, some prefer after for easier fence installation.

Nybeck stated that this agenda item was scheduled because it was a planned project in the 2010 Work Plan.

Whalen concurred with Nybeck and added that the information is good for the Board to know; providing for the importance of staff detecting early compliance so that any safety issues can be efficiently addressed.

**D. Discussion on draft LMCD Strategic Plan (including Work Plan).**

Whalen solicited the Board's input in approving the draft LMCD Strategic and Work Plans. She acknowledged the Board's work in producing the documents over the last year. She believed that there was a need to approve the overall concept, although the contents are fluid and subject to amendment after a semi-annual or annual review by the Board. She provided a thorough review of the Vision and Mission statement, along with documenting individual objectives and their respective goals. She entertained questions and comments from the Board.

Woodruff provided an example of the fluidness of the Strategic Plan. The second goal for Objective 1 calls for the LMCD to "Manage the three bay herbicide treatment pilot project on Carmans, Grays, and Phelps Bays (2010-2012)". This has already been amended because the LMA is managing the project in 2010. With that said, he stated that the LMCD continues support of the project.

**MOTION:** Woodruff moved, Klohs seconded to approve the draft LMCD Strategic Plan for 2009-2014 and its respective Work Plan.

Kask stated that he concurs approving the Plans in the spirit of its working template. However, he does not agree with all of the objectives and their respective goals.

Whalen stated that the Plans do provide the Board with efficient guidelines in the establishment of the budget; providing for the allocation of both time and financial resources. She thanked the Board for their extended time in the planning and narrating of the document.

**VOTE:** Motion carried unanimously.

Woodruff asked that staff distribute the document to the member cities.

Whalen concurred with Woodruff and stated that the document will also be placed in a PowerPoint for both staff and representative presentations.

#### **11. EXECUTIVE DIRECTOR REPORT**

There was not an Executive Director Report

#### **12. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:15 p.m.

Lisa Whalen, Chair

Andrew McDermott, III, Secretary