

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 PM, Wednesday, June 23, 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; Kelsey Page, Greenwood; Andrew McDermott, Orono; Tom Scanlon, Spring Park; Dan Baasen, Wayzata; Doug Babcock, Tonka Bay; David Gross, Deephaven; Peter Hartwich, Excelsior; Dennis Klohs, Minnetonka Beach; Bill Olson, Victoria; Herb Suerth, Woodland; Dick Woodruff, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician.

**Members absent:** Chris Jewett, Minnetonka; Steve Johnson, Mound.

**3. APPROVAL OF AGENDA**

Whalen proposed two changes to the agenda. First, Nybeck has communicated that the draft 2009 LMCD Report (agenda item 11C) has not been finalized and that he needed additional time. She proposed moving this to the August 11<sup>th</sup> Board Meeting, with staff sending the draft Report to the Board for its review and comments in advance of this meeting. Second, the Minnehaha Creek Watershed District (MCWD) has proposed some minor amendments to the previously approved Agreement for their funding of \$7,500 for 2010 watercraft inspections. These amendments have been reviewed and agreed to by LeFevere and she recommended adding this to the consent agenda (agenda item 6E).

**MOTION:** McDermott moved, Babcock seconded to approve the agenda as amended, making the changes noted by Whalen above.

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Whalen**

Whalen stated that she, Board member Chris Jewett, Gabriel Jabbour, and Nybeck met in the office with a number of fishing tournament coordinators earlier today. Some concerns were raised by these stakeholders, which she believed merited further discussion, in the near future, of possible policy and ordinance amendments. If amendments are to be considered by the LMCD, she believed that these stakeholders needed to be involved early on in the process. One unofficial comment received at this meeting is the decrease in bass population on Grays Bay since the coordinated herbicide treatments have been initiated. She believed that this needed to be monitored and taken into consideration when discussing future treatments.

**5. APPROVAL OF MINUTES – 06/09/10 LMCD Regular Board Meeting  
06/09/10 LMCD Workshop/Planning Session Meeting**

**MOTION:** Woodruff moved, Page seconded to approve the minutes from the 06/09/10 LMCD Regular Board Meeting and 06/09/10 LMCD Workshop/Planning Meeting as submitted.

**VOTE:** Ayes (8), Abstained (4; Babcock, Gross, Klohs, and Olson); motion carried.

**6. APPROVAL OF CONSENT AGENDA**

Babcock moved, Woodruff seconded to approve the consent agenda as amended. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (06/15/10 – 06/30/10); **6B**, May financial summary and balance sheet; **6C**, 3/12/10 and 4/9/10 AIS Task Force Meeting Minutes; **6D**, Board approval of partial refund of \$250 deposit for an approved variance from LMCD Code, as outlined in 6/17/10 staff memo; and **6E, MCWD-** approval of amended Agreement for partial funding of watercraft inspectors for 2010 Watercraft Inspection Program.

**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. Mike Kirkwood, 5435 Cedar Point Road, asked what the process was to begin discussion on the placement of minimum-wake buoys at the channel off of Cedar Point West. He believed that this channel was becoming more dangerous and he would like to make formal presentation to the Board on this.

Nybeck stated that the placement of buoys in this channel would require Mr. Kirkwood to petition the Board for the placement of a Quiet Water Area, with follow-up actions by the Board and staff to be done in accordance with an approved policy.

The Board directed Mr. Kirkwood to contact Nybeck on this.

**9. UPDATE FROM STANDING LMCD COMMITTEES-**

- AIS Task Force
- Save the Lake
- Environmental Committee
- Ordinance Review Committee
- Public Safety Committee

Whalen asked for an update from the Chair, or designated representative, of each committee.

AIS Task Force (AIS)

There was no update.

Save the Lake

Olson stated that he was working with Nybeck and Pat Weas from The Thorburn Group on revisions of the artwork, as well as the creation of a Usage Guide. This will need to be discussed at a Save the Lake Committee meeting in the near future.

Environmental Committee

There was no update.

Ordinance Review Committee

Babcock stated that the next committee meeting was scheduled for July 13<sup>th</sup> at 8 a.m. in the LMCD office.

Public Safety Committee

There was no update.

**10. PUBLIC HEARINGS**

There were no public hearings.

**11. OTHER BUSINESS**

**A. Minnehaha Creek Watershed District (MCWD), presentation of draft 2011-2013 Capital Improvement Projects.**

Whalen stated that James Wisker from the MCWD was in attendance to provide an overview of capital improvement projects, in particular for the Lake Minnetonka area. These projects address phosphorous loading and water quality and she believed that this dialogue was beneficial. She welcomed him on behalf of the Board.

Wisker made the following comments:

- He provided some general background on the MCWD. This included: 1) a Capital Improvement Plan (CIP), 2) the 2007 Water Resources Management Plan (including goals and strategies), and 3) the various departments.
- He reviewed six existing MCWD programs, which included:
  - Agriculture Best Management Practices (BMP);
  - Research grants;
  - Cynthia Krieg grants;
  - Low Impact Development incentives;
  - Shoreline/Streambank incentives; and
  - Watershed Association initiatives.
- He reviewed three new MCWD Programs, which included:
  - Sub-surface Sewage Treatment Systems (SSTS) incentives;
  - Stormwater BMP incentives; and
  - Street Sweeping incentives for municipalities.
- He reviewed 2009-2012 MCWD Projects, which included the following projects for Lake Minnetonka:

- Improvements to Big Island;
- Improvements to Lake Minnetonka shoreline;
- Improvements to Lost Lake and Cooks Bay; and
- Improvements along the 101 causeway.
- A feasibility study is being considered to determine whether to partner with the U.S. Army Corps of Engineers to better determine where projects can be conducted along Painter's Creek.
- He entertained questions and comments from the Board.

Woodruff stated that there was a recent article on the water quality issues at Lake Independence. He asked whether the MCWD had jurisdiction on Lake Independence?

Whalen stated that Lake Independence was within the Pioneer Sarah Creek Watershed District.

Babcock asked if the impaired designation on Lake Peppin had any impact on the MCWD?

Wisker stated that the MCWD has an overall TMDL goal. Thus, if the MCWD accomplishes this TMDL goal, this should not have an impact on the impaired water designation on Lake Peppin. However, there are impaired waters within the MCWD.

Olson acknowledged the MCWD's support in the 2010 watercraft inspection project.

Wisker stated that he would pass this on to the MCWD Board of Managers.

Scanlon stated that there are a number of projects planned for Painter's Creek. He asked what kind of impact this could have on water quality on Lake Minnetonka.

Wisker stated that the primary purpose for the projects is to reduce the nutrient loading (external loading). However, an unknown is how Lake Minnetonka will respond to this. Most of the projects on Painter's Creek involve holding water back to allow for hydrologic restoration. At some point, projects will need to be implemented to deal with the internal loading concerns.

Hartwich asked what incentives are being offered by the MCWD to the farmers for their tiling modifications?

Wisker stated that the MCWD generally pays for tiling installations. Other management practices can qualify for funding and generally piggyback Natural Resource Conservation Services efforts.

McDermott asked if the MCWD looked for projects or whether they responded to grant requests?

Wisker stated that the CIP spells out specific projects. However, the public is allowed to propose additional projects, which the MCWD will respond to. He commented on the outreach programs coordinated by the MCWD, in which funding is available and will be announced to the public.

McDermott asked how run-off from parking lots or roads is treated?

Wisker stated that stormwater is captured. He provided background on how this percolated into the soil.

Whalen thanked Wisker for his presentation on behalf of the Board.

**B. Carribbean and Tonka Bay Marinas**, consideration of request for the placement of minimum-wake buoys near their gas docks on Echo Bay.

Whalen asked Nybeck for background on this agenda item.

Nybeck made the following comments:

- The owners of both facilities have expressed concern about traffic flow in the area and the problems that it causes at the gas docks. A meeting was coordinated on June 9<sup>th</sup> to listen to their concerns. These concerns included: 1) the volume of traffic (in particular during peak boating times), 2) a high percentage of the traffic that violate LMCD Code (traversing too close and too fast near their gas docks), and 3) that the traffic has made it difficult to safely fuel watercraft.
- Three options have been provided to the owners to address these concerns. First, they could petition the LMCD to establish a Quiet Waters Area (QWA). This would be evaluated consistent with a QWA policy, would require a Code Amendment, and would not occur before the 2011 boating season. Second, they could request that the LMCD install public buoys, at the LMCD's expense since Hennepin County would not purchase these buoys. Third, they could apply for the installation of private buoys out beyond 200' from shore. This would require Board approval for the temporary structures and a special event permit, in which applications have not been submitted. Possible conditions for private buoys include:
  - Consistent with other Lake Minnetonka buoys;
  - Privately purchased by the marinas; and
  - Installed privately (under the supervision of the Water Patrol or the LMCD).
- He summarized Code Section 3.02, which establishes maximum speed limits on Lake Minnetonka. This includes 5 M.P.H. within 150' of a dock or pier. It also allows the Executive Director to erect signs to inform operators of speed limits established by Code.
- Historically, the Board has not approved private "minimum wake" buoys and he recommended not diverting from past practice. However, he believed that gas docks provide the public great benefit and suggested that providing them signage (or buoys) might be appropriate to remind the public of existing watercraft speed limits. He believed that most gas dock areas are already in QWAs or do not have wake issues. Furthermore, any concerns that arise could be dealt with on a case by case basis.
- The Board needs to determine whether it wishes to consider installation of public buoys as requested. If not, the owners could apply for temporary structures and special event permits.
- He entertained questions and comments from the Board.

Page asked how these buoys would extend out beyond the gas docks.

Nybeck stated that the buoys would be located 150' out beyond the gas docks.

Page questioned whether these buoys would have an impact on the QWA already established on the west end of Echo Bay.

Babcock stated that he was familiar with the area because he lived between the two marinas. He believed that the public routinely violates existing Code that requires minimum-wake speeds within 150' from the end of dock structures. He believed that the gas docks provide a public service and he recommended protecting these gas docks through existing Code, not by creating additional QWAs. Two problems creating issues for these gas docks included wakes from large boats, as well as gas docks that are side-tied rather than front-in or back-in. He supported approval of the buoy requests for the 2010 boating season, and possibly for 2011, to see if the placement of these buoys helped. If so, the Board could consider this request on a permanent basis.

The Board discussed whether the additional minimum-wake buoys would give the appearance to the public that Echo Bay is entirely QWA.

Mr. Gabriel Jabbour, owner of Tonka Bay Marina, stated that this request was being driven by the owner of the Carribean, Mr. Gordon Koch. Minimum-wake buoys were put out by the Carribean, although there is no LMCD record to substantiate this. Mr. Koch has suggested that this was verbally approved by past LMCD Executive Director Frank Mixa. He did not support additional QWAs because it takes the pressure from one location and moves it elsewhere. He believed that the three primary responsibilities of the LMCD were public safety, environmental, and aesthetics. He testified to the safety problems at Tonka Bay Marina's gas dock. If the Board believes that safety problems exist, he encouraged the Board to support the purchase of these buoys.

Whalen stated that she believed gas docks are public safety and environmental issues. She supported reasonable measures to protect the general public, as well as those individuals dispensing the fuel.

The Board discussed the proposal at length, with a summary of the comments as follows:

- Delineating an area with existing minimum-wake speeds is much easier than establishing a new QWA.
- Wakes created by boats shutting down from planing speed near gas docks was discussed.
- The need to explore other alternatives for the purpose of minimizing wakes near gas docks was discussed.
- Signage informing the public of minimum-wake speeds from the gas docks was suggested.
- A discussion took place on the exact number of buoys being requested by each marina. It was clarified that each facility was requesting three buoys, within the extended property lines, 150' beyond the end of the dock structure and gas dock.
- A discussion took place with regards to public buoys vs. private buoys, including how the purchase and installation of these buoys would be funded. A donation to the Save the Lake Fund by the marina owners was offered.
- A discussion took place on what was the correct number of buoys per site.
- A discussion took place on whether the situation described was a public safety and environmental issue.

**MOTION:** Babcock moved, Scanlon second to: 1) provide for the purchase and placement of two minimum-wake buoys by the LMCD (one each for The Carribean and Tonka Bay Marina), 2) to direct staff to explore funding options for this purchase, and 3) to recommend that each facility place a "minimum-wake" speed sign on the gas dock in conjunction with this buoy.

McDermott question whether a friendly amendment would be agreed to allow for two buoys for each site.

Babcock stated that he was attempting to keep unbudgeted expenses to a minimum.

**VOTE:** Ayes (10), Nays (1, Page), Abstained (1, Hartwich); motion carried.

## 12. EXECUTIVE DIRECTOR REPORT

Nybeck stated that he and Board member Baasen had invested a significant amount of time to participate in the Wayzata Yacht Club (WYC) and Wayzata Community Sailing Center (WCSC) charette on June 18<sup>th</sup> and 19<sup>th</sup>. WYC and WCSC have pending 2010 applications that have not been processed due to awaiting the outcome of this charette. Public hearings for these applications will be scheduled for the August 11<sup>th</sup> Board Meeting.

Baasen stated that the goals and outcomes of the charette will be provided when the pending WYC and WCSC applications are considered by the Board.

## 13. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:45 p.m.

Lisa Whalen, Chair

Andrew McDermott, Secretary