

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, February 9, 2011  
Wayzata City Hall

**1. CALL TO ORDER**

Babcock called the meeting to order at 7:01 p.m.

**2. ROLL CALL**

**Members present:** Doug Babcock, Tonka Bay; Dan Baasen, Wayzata; Andrew McDermott, Orono; Kelsey Page, Greenwood; Chris Jewett, Minnetonka; Peter Hartwich, Excelsior; Anne Hunt, Minnetrista; Steve Johnson, Mound; Keith Kask, Deephaven; Dennis Klohs, Minnetonka Beach; Bill Olson, Victoria; Tom Scanlon, Spring Park; Debbie Siakel, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

**Members absent:** Herb Suerth, Woodland

**3. APPROVAL OF AGENDA**

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

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Babcock**

Babcock stated that the City of Minnetrista has appointed Anne Hunt as their representative to the LMCD Board. He welcomed Hunt and asked LeFevere to administer the oath of office. LeFevere administered the oath of office and Hunt was seated as a representative for the City of Minnetrista.

Klohs arrived at 7:02 p.m.

**5. APPROVAL OF MINUTES – 1/12/11 LMCD Regular Board Meeting**

**MOTION:** McDermott moved, Page seconded to approved the minutes from the 1/12/11 LMCD Regular Board Meeting as submitted.

**VOTE:** Motion carried unanimously.

**MOTION:** McDermott moved, Baasen seconded to approved the minutes from the 1/26/11 LMCD Regular Board Meeting as submitted.

**VOTE:** Motion carried unanimously.

## 6. APPROVAL OF CONSENT AGENDA

Nybeck requested that agenda item 6C be removed from the consent agenda.

Olson moved, Johnson seconded to approve the consent agenda as amended, removing item 6C. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (2/1/11 – 2/15/11) and **6B**, **Rockvram Boat Yards (Site 1)**, draft Findings of Fact and Order approving 2011 reconfiguration of multiple dock license and side setback variance applications for expansion of gas dock.

## 7. ITEMS REMOVED FROM THE CONSENT AGENDA

- **6C, LMCD Resolution 124**, a resolution authorizing issuance of special event permits by the Hennepin County Sheriff's Water Patrol.

Nybeck stated that LMCD Resolution 124 had been forwarded over to the Hennepin County Attorney for review, in which a response is pending. Therefore, he outlined the following two options for the Board's consideration: 1) adopt the Resolution as submitted, recognizing the possible need to reconsider the Resolution should Hennepin County recommend changes, or 2) table consideration of the Resolution to the February 23<sup>rd</sup> Board Meeting, in hopes that Hennepin County will have provided comments by that time.

Kask requested clarification on paragraph 1 e), which allows the Executive Director to require an LMCD special event permit, if deemed necessary.

Nybeck stated that he had originally requested that the Board consider repealing the current special event permitting ordinance at the January 26<sup>th</sup> meeting. At that time, Board member Babcock raised the following two concerns that provided for further consideration at this meeting: First, Babcock requested that the Board have a copy of the full ordinance before them prior to consideration. Second, he recommended that the Board maintain the ability to permit those infrequent but unique special events on Lake Minnetonka.

Babcock stated that the Water Patrol keeps in close contact with the LMCD when considering special event permits. However, at times, an event will be considered that the LMCD is not comfortable with (i.e., parasailing events), in which the Board would have an opportunity to formally weigh in on the matter.

Jewett arrived at 7:07 p.m.

Page requested clarification as to why the LMCD is considering delegating its special event permitting to the Water Patrol.

Babcock stated that, by jurisdiction, the Water Patrol also issues special permits for Lake Minnetonka.

Nybeck stated one of the reasons he previously recommended repealing the ordinance was to streamline the process in general. Currently, special events require a permit from the LMCD, the Water Patrol, the local municipality, and the Minnesota Department of Revenue (MN DNR). The LMCD's main concern for special events has been to assure proper coverage for the prevention and management of aquatic invasive species (AIS), with the Water Patrol handling the public safety aspects. He believed that AIS prevention and

management can be best covered via coordinated projects outside of the special event process. Recently, staff met with a number of the fishing event coordinators, in which they have agreed to assist the LMCD in those coordinated projects on a voluntary basis (without a special event permit from the LMCD). If these efforts are unsuccessful, the Board could always reassume its special event permitting authority.

Babcock concurred there is redundancy within the program and acknowledged that, if ever warranted, the LMCD can always take the permitting process back.

Jewett stated that he, Nybeck, and former Chair Lisa Whalen attended a series of meetings with the fishing event coordinators, at which time, the fishing event coordinators informed the LMCD that the current AIS prevention and management procedures were not working. For this reason, the Board and staff are working with these stakeholders to better the process.

Page asked how the LMCD will know when an event will be held.

Nybeck stated that the Water Patrol requires a 30-day window on the submittal of special event applications. The Water Patrol will copy the applications to the LMCD office, which staff will have an opportunity to provide review and comments, including the opportunity for Board review when warranted.

Baasen recommended that the Board be apprised of the Lake's activity via a monthly report.

**MOTION:** Jewett moved, Johnson seconded to approve Resolution 124 as submitted, authorizing issuance of special event permits by the Hennepin County Sheriff's Water Patrol.

**VOTE:** Ayes, (12), Nays (1, 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**

**A. WYC, WCSC (Site 2),** 2010 new multiple dock license and special density license applications for 68 Boat Storage Units (BSUs) on 686' of continuous shoreline.

**B. WYC (Site 3),** 2010 new multiple dock license, special density license, and variance applications for 33 BSUs on 364' of continuous shoreline. The variance application has been submitted for variance from LMCD Code for dock dimensions.

Babcock asked Nybeck for an update on these agenda items.

Nybeck reviewed his staff memo, dated 2/4/11, in which he highlighted the following information:

- An overview of the applications submitted to date.
- A review of all related activities that have taken place to date. Those activities included: 1) public hearings that were scheduled for March 24<sup>th</sup> and tabled at the request of the applicants and the City of Wayzata, 2) a charette that was coordinated by the applicants on June 18<sup>th</sup> and 19<sup>th</sup>, 3)

proposed amendments to the applications this past September, 4) an overview of the mandatory Environmental Assessment Worksheet process as a result of these amended applications, and 5) a September update by the applicants on resolving the City of Wayzata permitting and licensing requirements.

- A review of what is currently approved and what changes are currently being proposed. He clarified that the last year permits were issued for these sites were 2009.
- He evaluated the amended applications in relationship to a number of concepts established by LMCD Code; providing detailed comments for each. These included: 1) authorized dock use area (DUA) requirements, 2) number of restricted watercraft allowed, 3) special density license requirements, 4) storage of unrestricted watercraft on land, 5) dock dimension allowances, 6) variance process from LMCD Code, 7) compliance with municipal and other governmental ordinances, and 8) LMCD subjective criteria.
- He confirmed that Findings of Fact and Order will need to be prepared and approved by the Board, whether or not the Board approves the applications. He highlighted the following three options for the Board's consideration: 1) approve as submitted (including the proposed hardship of improved handicap access for dock width variance and proposed public amenities at Sites 2 and 3), 2) approve with modifications as deemed appropriate (i.e., the Board could consider placing restrictions on the number of motorized watercraft at both sites since the WYC & WCSC have proposed these facilities for sailing purposes), or 3) deny the applications based on applicable subjective criteria.
- He entertained questions and comments from the Board.

Page asked Nybeck to clarify his comments made within his presentation that documented the installation of BSUs at the WCSC site that were in non-compliance in 2010.

Nybeck confirmed that BSUs at the WCSC site were installed at a 29' length vs. the currently approved 20' length. The applicant was notified prior to the 2010 boating season that these BSUs needed to be installed consistent with the approved length of 20' until the Board approves the request to increase their length.

Baasen asked staff to confirm whether there were any other violations of the currently approved licenses.

Nybeck stated there were additional violations, citing that a second dock at the WYC (Site 3) was installed from the parking lot to the island, which increased the width of the combined docks to 10.6'.

Hunt asked why the LMCD is considering the applications prior to the City's consideration.

Babcock stated that the LMCD is required to respond to the applications submitted based on the 60-day rule.

Babcock asked the applicant to address the Board.

Mr. Bert Foster stated that he was in attendance representing both the WYC and WCSC. He believed that Nybeck provided a thorough review of the application processes to date. In follow-up to Page's question, he stated that an as-built survey was provided and that the installation of the 29' BSUs was a

mistake made by the applicants (either by the drawing or during the construction process). He commented that the extra dock structure was needed for the fetch, as well as a buffer for wave action. Additionally, he directed the Board to a letter within their packet, dated 2/6/11, in which the applicants requested that the LMCD not take action on the proposed applications this date because they are very close in presenting a master plan of their proposed project to the City.

Babcock asked Foster to explain the unauthorized installation of an extra dock at Site 3.

Foster stated there is a floating dock that is used for the children to bring in their small sail boats. Additionally, a wider dock was previously approved to accommodate handicap accessibility (providing for motorized wheelchair use). For this reason, a variance is requested to place both docks together.

Babcock stated that he believed the Board originally discussed whether to widen the main dock to accommodate the need for handicap accessibility.

Foster confirmed that proper terrain was not provided for the wheelchairs. Therefore, the WYC chose to go with the second dock noted above.

Jewett asked why the non-authorized installation was done vs. coming back to the Board for prior approval.

Foster stated that he believed the docks were a "gray area" and that closure of the six-inch separation of the two docks was needed; which resulted in the need for a variance from LMCD Code.

Babcock asked Foster whether there was a need for an eight-foot dock width that was previously approved for level access.

Foster confirmed that the current five foot wide dock was acceptable.

Baasen reiterated Jewett's question and asked Foster why he put the second dock in without authorization.

Foster stated that dock had been there for many years and they just pushed it over a few inches.

Baasen asked Harper to confirm if there were previously two docks, in which Harper confirmed there was not.

Babcock opened the public hearing at 7:49 p.m.

Wayzata Mayor Ken Wilcox thanked the Board for their participation and service with the LMCD (recognizing their difficult and critical role for the lake's future). The Yacht Club is a very valuable members of the community, which provide recreational opportunities. Therefore, the following comments should be taken in that context. Although growth in the Yacht Club is positive in nature, historically it has presented some difficulties with increased vehicle density; providing for parking, congestion, and safety issues (the City's main concerns). The applicants have grown over time without coming back to the City

for additional approvals. He expressed concern about the LMCD making decisions based solely on lakeshore frontage without paying attention to the concerns created on the land. He provided historical background on the applicants' initial and current conditional use permit (CUP), which allowed for 69 parking spaces in 1976. Currently, on a given night, there are 200 to 300 cars in the area (noting the currently proposed applications would provide for 321 parking spaces). With that said, there are other community development projects which will impinge on parking availability in this area (the redevelopment of the Wayzata Bay Center and the Hennepin County Bushaway Road project). In addition, the applicants were to provide a master plan to the City, which has not been presented to date. For the reasons noted above, he respectfully recommended that the LMCD table or deny the applications and implored the LMCD to pay attention to what is going on at the land area.

A lengthy discussion was held pertaining to the parking locations currently provided with respect to the proposed density at WYC and WCSC. Those locations discussed included the following: 1) the main clubhouse area (west parking), 2) an acquired site (formerly known as the Rosencranz property), and 3) the east lot, which is north of Eastman Lane near the railroad tracks and County Road 101. A summary of the comments were as follows:

- The 69 parking spaces from the current CUP included just the east lot.
- The City cannot provide an estimated amount of parking that would be adequate for the applicants due to the community projects that are not finalized (noted above).
- Mr. Bryan Gadow, City Planner, addressed the Board and confirmed that discussions have previously been held with the applicants for a potential 199 parking spaces in the east lot. Additionally, he confirmed that parking is currently not approved for the west parking area; however, he believed there was a potential for 100 additional parking spaces in that lot. With that said, discussions have been held for a total of 321 parking spaces between the east and west lots. However, that discussion cannot be considered until the master plan by the applicants is submitted, as well as final information on the other community projects. Currently, he believed that the City would be comfortable with 169 parking spaces (69 in the east lot and 100 in the west lot).
- The complaints received by the City are on an adhoc basis (noting that the applicants have done a better job providing for valet parking and getting as many cars off the street as possible).
- Parking is currently not approved for the WCSC (although limited parking at that site could be considered as part of the master plan).

Klohs stated that he believed the Board should deny the applications due to the inability of the City of Wayzata to approve a master plan prior to the 2011 boating season.

Babcock stated that the LMCD could consider an extension to the 60-day rule if an extension of time was agreed to by the applicants. Additionally, unless special action is taken by the Board, the applications would be deemed expired (and denied for all purposes) in early March. This action is provided under LMCD Code Section 1.06, Subd. 13, which requires applications to be processed within the one-year anniversary date of their submittal.

Scanlon asked the City where individuals parked when utilizing the public boat launch.

Wilcox confirmed that the public parks on the public streets.

Babcock asked the City if they had a position on the use of motor boats at the facilities.

Wilcox stated that the City did not. The City continues to be concerned about safety; however, does not have the tools to deal with that area of expertise (which best falls under the LMCD's jurisdiction). He summarized the characteristic changes of a yacht club when taking on motor boats, which provides for more of a marina feel.

Page requested clarification on the use of the public streets for parking as it relates to use by the public launch and the applicants.

Wilcox confirmed that concern falls on evenings when there are WYC races, in which crew members for one sail boat provides for the parking of multiple cars, unless the members carpool.

Mr. Tom Tanner, Wayzata City Council Member, stated that he served on the Planning Commission in 2006 when the WYC sought a CUP to change the Rosencranz property to the WCSC. As part of that process, a request was made to include parking off of Arlington Circle. At the public hearing, the neighboring property owners were in attendance and opposed the use of the road (creating more congestion). Through this process, the City Council informed the WYC that Arlington Circle would have to be repaved with proper drainage, which was estimated at \$500,000. Since the school did not need parking in the summer months, the applicant had mentioned they could utilize the west parking lot. Therefore, the City Council approved a pedestrian dock (walkway) across the water inlet for safety purposes so that the children did not have to walk along Eastman Lane. During the charette, parking was heavily discussed and included the Arlington Circle area. For this reason, it was agreed at the charette that all stationary items would be cleaned up and placed out of site (per City ordinance), which has not been 100% cleaned up. Additionally, in 2006, the applicants confirmed that the WYC and WCSC were two separate entities. Therefore, he believed that combining Sites 2 and 4, as currently proposed, would change the original intent and the applicants would then be required to address the City for tax purposes.

The Board briefly discussed parking concerns with Tanner, as it relates to other pending community projects and the applicants' lack of follow-up after the charette process. A couple of Board members believed there was a need to consider the relationship of the applicants and the City when considering the applications before the Board.

Ms. Merrily Babcock, 337 Reno Street, stated that she served on the Planning Commission when the WCSC requested approval of their CUP. At that time, the business was a "good, clean, quiet" sport with little traffic, boats, etc. However, currently there are now power boats. She requested the Board's clarification if their license allowed this.

Babcock confirmed that the WCSC multiple dock license did not have a restriction on power boats.

Merrily Babcock documented lack of follow through by the applicants during both the CUP and charette processes (including their continued apologies for their non-compliant actions). She expressed concern

that due to the timing of this public hearing, a number of people are out of town; therefore, unable to express their similar concerns to the Board.

Mr. Wayne Larson, 956 Shady Lane, expressed concern about the WYC and WCSC turning into a marina. He has experienced members that have utilized his dock (without permission) and he considers any rental as a transient user. Additionally, he did not know how an emergency vehicle would get through the neighborhood (confirming that the biggest problem is the Thursday night regattas where cars are parked everywhere, including the Bay Center).

Mr. Peter Pflaum, 18070 Breezy Point Road, stated his concern pertained to parking. He has personally been working with a group to restrict the Hennepin County's Bushaway Road project. One cannot assume the outcome of that project and how it will affect the road. Currently, Hennepin County is investigating the idea of lowering the bridge clearance at Bushaway Road for the railroad tracks and he asked what will happen to parking during an estimated two-year construction project.

Mr. Gordon Straka, 130 South Huntington Avenue, stated that he concurred with the above noted comments. He cited the following concerns: 1) that parking is a tremendous problem, 2) Arlington Circle is a firelane that provides additional pumping capacity for the Wayzata Fire Department, 3) he re-addressed the community projects that are pending final plans, 4) he expressed concern about the way the applicants have historically operated in a non-compliant manner (noting their ability to talk their way out of their actions), 5) he spoke against the dredging of the channel at the subject site (providing for the ability to only increase watercraft size and anticipating future concerns that would affect the public launch), and 6) lack of concern for the neighboring property owners. He recommended the applicants be required to take the non-compliant docks out.

Ms. Ellen Dehaven, 960 East Shady Lane, stated that she could not think of a reason why the applications should not be denied. Her reasoning for such were documented as follows: 1) it is not the City, residents, nor the LMCD's responsibility to secure the financial status of the applicants, 2) originally she enjoyed the presence of a yacht club; however, the applicants' facilities have morphed in size and now provided for the use of motorboats, which was not the intent of the CUP (acknowledging that the LMCD does not restrict BSU usage), 3) that the property is zoned single family residential, 4) that the CUP was provided on the basis that parking was to remain in the designated lot only and not on the streets or other locations, 5) that Eastman Lane is a dangerous location; therefore, it is beyond her comprehension that more dockage should be considered, and 6) acknowledgement that all official rulings regarding the sites are ignored by the applicants.

Mr. Martin Bassett, 998 East Shady Lane, stated that he was the first property on the west side of Arlington Circle and that he has lived at this residence for two years. He acknowledged the purchase of his home was due to the presence of the WCSC and not a marina. He concurred that violations existed as described (parking, winter boat storage, and use of a shuttle service on Arlington Circle). He credited the charette; however, he believed the allocation of the shoreline is inappropriate as compared to the use of the land. He cannot support the proposal as it exists and respectfully requested the Board deny their request.



Mr. Duane Markus, 405 Bushaway Road, stated he was opposed to the proposed applications due to congestion. He acknowledged the facilities' growth and the use of a shuttle (as noted above). He reminded the Board that many of the neighbors are not in attendance (due to timing of the public hearing) and believed that more would have spoken against the applications. He stated he had previously served on the LMCD, in which the applicants, at that time, installed an unauthorized driveway and then asked for forgiveness. He confirmed the applicants are always out of compliance and wondered why the City does not do anything about it.

Mr. Paul Breckner, 928 Shady Lane, stated that the residents came together with the applicants when the Rosencrantz property was up for review for the CUP. At that time, the residents made it clear that they did not want "creep". He acknowledged that parking was a problem before the WCSC existed and the residents supported the school in general. He stated that a round-a-bout is currently being considered at Bushaway Road, as well as a proposed bike trail, that would cut into the west parking lot area for the widening of a shoulder. He acknowledged the long history of concerns with the applicants and questioned why some of the residents on his street did not receive notification of this public hearing. He supported the WCSC; however, did not support the additional proposed BSUs.

Mr. Jack Amdal, 1430 Lasalle Street, stated that he serves on the City Council and co-chairs the Bushaway Task Force. He has lived in the area 30 years and previously served on the Wayzata Planning Commission. He believed that the presence of the City Council members at this meeting speak to the importance of all the concerns expressed at this hearing. He acknowledged the WYC and WCSC are located in a residential neighborhood which is zoned residential (noting the Board's comment that the subject applicants are a commercial entity). He was encouraged with the charette process; however, nothing has come up since then. He respectfully requested the Board postpone any action on the applications currently being considered and to allow them to work with the City on this matter.

There being no further comments, Babcock closed the public hearing at 9:02 p.m.

Jewett requested clarification as to whether the applicants would be required to come into compliance with the currently approved license should the Board table the agenda item.

Babcock confirmed that they would need to be in compliance with the approved site plans.

Hartwich stated that he believed that the LMCD is outgrowing the current ordinances in place (citing density, dock dimensions, and shoreline allocation ordinances as examples). He expressed an interest in the Ordinance Review Committee discussing this matter.

Scanlon thanked all in attendance at this meeting. He acknowledged that the City, in the past, had communicated their concerns via letter and had not participated in the public hearing process.

Babcock concurred with Scanlon. In response to the LMCD considering the applicants as commercial, he had noted that the LMCD considered it a commercial expansion strictly due to the use of BSU rentals. He requested Foster address the Board.

Foster confirmed that in follow-up to the charette, a consultant had been hired and is currently drafting the master plan that is moving forward. The consultant has been reviewing his draft plan with City staff and there has been ongoing communication in that area. Additionally, he stated that the LMCD would receive a copy of the plan when it is moved forward with the City. For these reasons, he reiterated his request for the Board to table action on these applications.

The Board asked Foster a few questions. Those questions, and his comments, are noted as follows:

- Confirmation that the applicants will come into compliance with the approved site plans for these facilities. Nybeck reminded the Board that the approved site plan does not include what was illegally installed in 2010.
- When asked when was the last time the applicants had been in contact with the City, Foster could not answer this question. However, Foster confirmed that the consultant relayed to him that there is an on-going dialog with the City regarding the master plan.
- When asked when he anticipated the master plan going forward to the City, Foster stated that he would like to see it move forward within 30 to 60 days (preferably 30 days).

The Board asked Gadow to address a few questions, in which those questions and his responses are as follows:

- When asked to document when the applicants had last communicated with the City, Gadow confirmed that the City staff had reviewed the draft master plan late summer, early fall. Additionally, a meeting was held between the consultant, City, LMCD staff, and residents to review the next step in this process. He stated he had phone communication with the consultant off and on; however, there has not been any documents submitted for review within the last couple months.
- When asked how long the City will need to process the master plan after an application has been submitted, Gadow confirmed two to four months (possibly six months if modified).
- When asked if the applicants were currently out of compliance with the existing CUP, Gadow stated that he did not have any documentation at this meeting to confirm non-compliance. Additionally, he confirmed the City had not been enforcing the applicants' non-compliant concerns since the charette due the expectance of the master plan request.

Page questioned the seriousness of this matter since the City is not enforcing their own ordinances.

Tanner stated that the City has expressed an interest in working the matter out with the applicants (acknowledging more pressing matters the City is dealing with). However, due to the lack of action from the charette, he believed that the City will be enforcing compliance of the CUP. He acknowledged that the WCSC provides a positive service to the City and does not have a say as to what happens to their property. He confirmed that the City is not asking the LMCD to do their job (just for support).

Babcock acknowledged that the process is similar with the LMCD (noting the applicants received leniency for their non-compliant installation due to the receipt of their applications). He believed the Board has also dealt with enough issues. Therefore, should action provide for the tabling of the applications, the applicants would have to come into compliance with their approved site plan this boating season.

Nybeck stated that he would like to take LMCD enforcement a step further and prosecute the applicants should they not come into compliance this boating season for flagrant violations (noting that staff does not want to get involved with writing numerous letters to bring these sites into compliance voluntarily).

Baasen commended the applicants for hosting the charette. He believed it was the right thing to do in achieving consensus from all the stakeholders involved.

**MOTION:** Baasen moved, Klohs seconded to direct LeFevere to prepare Findings of Fact and Order to deny the WYC/WCSC (Site 2) and WYC (Site 3) 2010 new multiple dock license, special density license, and variance applications, incorporating the condition that the applicants must come into compliance with their currently approved 2009 multiple dock license prior to the 2011 boating season. Documentation for the basis of the denial include the following: 1) unresolved issues with respect to the City of Wayzata, 2) the applicants' master plan that is pending submittal with the City, 3) Eastman Lane safety concerns that arise on the applicants' race days, 4) the need to resolve current parking shortages, 5) non-compliance of the August 2009 currently approved multiple dock license (noted condition above), 6) the need to resolve the potential issues that may arise from the possible relocation of Eastman Lane and Bushaway Road (County Road 101), and 7) the loss of the number of parking spaces that is anticipated to be reduced with the re-development of the Bay Center project. Additionally,

**VOTE:** Ayes (12), Nays (1, Babcock); motion carried.

The meeting was recessed at 9:40 p.m. and reconvened at 9:46 p.m.

## 10. OTHER BUSINESS

- A. **Ordinance Amendment**, first reading of an ordinance relating to signs on Lake Minnetonka; amending LMCD Code Section 2.12, Subd. 6.

Babcock stated that a version of this draft ordinance amendment was discussed at the January 26<sup>th</sup> Board Meeting. At that time, action was tabled to allow staff to re-draft the amendment taking into consideration the ability to display non-commercial flags (i.e., the American flag) as well as signage that is produced with respect to an approved special event.

The Board briefly discussed this matter; questioning enforcement of such, in which LeFevere stated that enforcement of signs are always tricky as the First Amendment is involved. Therefore, short of the display of obscenities, you cannot discriminate on the basis of content. Therefore, enforcement of one means enforcement of all.

**MOTION:** Baasen moved, Olson seconded to approve the first reading as submitted, to waive second and third readings, and to adopt it.

**VOTE:** Ayes (12), Nays (1, Page); motion carried.

- B. Staff update on 2010-2011 Lake Minnetonka De-icing Inspections.

Babcock asked Harper to provide background on this agenda item.

Harper directed the Board to his staff memo, dated 2/4/11, in which he highlighted the following:

- 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.
- 27 of the 33 sites passed first inspection. Three of the remaining six have been re-inspected and the issues have been resolved (the other three sites did not de-icing). 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: 1) he confirmed that Sailors World, which has had a history of de-icing concerns, operated well within compliance (including regular updates to staff and the installation of lights at all four corners of the fencing), and 2) confirmation that he anticipated the three sites that did not de-ice, to do so after March 15<sup>th</sup>.

#### **11. Update from standing LMCD Committees:**

- Aquatic Invasive Species (AIS) Task Force
- Save the Lake Committee
- Ordinance Review Committee
- Public Safety Committee

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

##### AIS Task Force

Nybeck stated the next Task Force meeting is scheduled for February 18<sup>th</sup> at 8:30 a.m. in the LMCD office. Additionally, he stated the primary topic for discussion will be the review of the proposals received for the 2011 Coordinated Herbicide Treatment Project.

##### Save the Lake Committee

Olson stated that contributions continue to come in, that the Save the Lake notation within the logo has been successfully registered with the State of Minnesota, and that the committee will be discussing fundraising options in the near future for 2011.

##### Ordinance Review Committee

There was no Committee update.

##### Public Safety Committee

There was no Committee update.

**12. EXECUTIVE DIRECTOR REPORT**

There was no Executive Director Report.

**13. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:00 p.m.

Douglas E. Babcock, Chair

Andrew McDermott, Secretary