

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, November 14, 2012
Wayzata City Hall

1. CALL TO ORDER

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

2. ROLL CALL

Members present: Dan Baasen, Wayzata; Andrew McDermott, Orono; Kelsey Page, Greenwood; Gary Hughes, Spring Park; Steve Johnson, Mound; Keith Kask, Deephaven; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; Sue Shuff, Minnetonka; and Mark Sylvester, 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; Anne Hunt, Minnetrista; and Bill Olson, Victoria.

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Vice Chair Baasen

Baasen made three Chair announcements. First, Chair Babcock is not in attendance at this meeting and he will address comments for agenda item 9A at a future meeting. Second, the City of Deephaven has re-appointed Keith Kask as a Board member to the LMCD. He welcomed Kask on behalf of the Board and asked LeFevere to administer the oath of office, in which he did. Kask was seated as a representative for the City of Deephaven. Third, he reminded the Board that the annual meeting between the LMCD and Hennepin County Sheriff's Office will be held on 11/29/12 at 7:30 a.m. at the Water Patrol Headquarters. He encouraged all Board members to attend.

Nybeck stated that Sheriff Stanek will be in attendance and concurred with Vice Chair Baasen's comment on the importance of Board of Director attendance.

5. APPROVAL OF MINUTES – 10/24/12 LMCD Regular Board Meeting

MOTION: Shuff moved, McDermott seconded to approve the minutes from the 10/24/12 Regular Board Meeting as submitted.

VOTE: Ayes (8), Abstained (3; Johnson, Kask, and Sylvester); motion carried.

6. APPROVAL OF CONSENT AGENDA

Page requested that agenda item 6B be removed from the consent agenda. Baasen proposed moving

agenda item 6B to agenda item 9D.

McDermott moved, Kask seconded to approve the consent agenda as amended, removing agenda item 6B. Motion carried unanimously. Item so approved included: **6A**, Audit of vouchers (11/1/12 – 11/15/12).

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

There were no public comments.

8. PUBLIC HEARINGS

There were no public hearings.

9. OTHER BUSINESS

A. AIS Task Force, draft Comprehensive Eurasian Watermilfoil and Curly-Leaf Pondweed Plan for Lake Minnetonka.

Baasen asked Nybeck to provide an update on this agenda item.

Nybeck made the following comments:

- A review of the following matters addressed at the October 24th Board Meeting: 1) the Board's first review and discussion of the draft plan, 2) a presentation of the Plan by Aquatic Invasive Species (AIS) Task Force Member John Barten, 3) the consensus of the Board to further refine the document (per discussion at that meeting), and 4) to receive or accept it at the November 14th Board Meeting (tentatively scheduling a public hearing for December 12th).
- He directed the Board to a memo, dated 11/8/12, that outlined the minor changes made to the Plan, as noted above, as well as the highlighting of such within the Plan itself. He emphasized two of the changes, outlined below, for the purpose of receiving further Board feedback:
 - Page 9, "Roles and Responsibilities," relative to the Board's interest in firming up the LMCD's role for project management (specifically, that section's first sentence). At the October 24th meeting, Barten presented to the Board that a consensus for ownership in project management of whole bay or large scale herbicide treatments was not reached. He provided an overview of how the first sentence read, as well as the proposed change. He questioned if the Board would like to refine that section further or wait until testimony on such has been taken at the tentatively scheduled public hearing.
 - The use of the word(s) "management area" vs. "bay" as recommended for change throughout the draft Plan by Chair Babcock. He stated this proposed change was a little confusing as the use of the words "management area" is also used elsewhere to identify where the management activities would occur. Babcock specifically referenced Appendix D, changing the title to "Index of Lake Minnetonka Areas." He offered this comment for Board consideration.
- He believed that the next step for the Board was to: 1) receive or accept the draft Plan (as amended or with additional changes) at this meeting and 2) to direct staff to prepare for a public hearing on December 12th to receive public testimony on the draft Plan. Staff has worked with

AIS Task Force Chairman on a letter to the member cities, a press release, and a public hearing notice (all three draft documents were included in the Board member handout folders).

- He entertained questions and comments from the Board.

Page stated that he had reviewed the proposed revisions to the draft Plan and believed that they were consistent with the Board's direction on October 24th. He directed the Board to a letter from the Lake Minnetonka Association Bay Captains, dated 11/2/12. He recommended that comments on this letter be tabled until the public hearing of December 12th. He also recommended tabling the decision as to who would be named the project manager within the draft Plan; providing for receipt of public testimony on that matter, as well. For the benefit of the public (per Baasen's request), he provided a brief overview of how the draft Plan evolved. Additionally, he listed members of both the AIS Task Force and its Sub-Committee. He recommended the Board accept the draft Plan for the purpose of scheduling a public hearing to receive testimony. He entertained questions and comments from the Board.

McDermott questioned why the draft Plan only addressed EWM and CLP and not other invasive species, such as Flowering Rush (FR).

Page stated that the Task Force had discussed which invasive species should be included in the draft Plan. The Task Force concluded that: 1) the management of FR was currently being addressed by the Minnehaha Creek Watershed District, and 2) EWM and CLP were the most pressing concerns that the LMCD should be addressing. If the Task Force addressed all management needs, the Plan would not yet be developed (providing for a more efficient process).

Sylvester asked what stake the bay captains had in this process to date.

Page stated that the bay captains are represented by the LMA, in which Dick Osgood serves on both the AIS Task Force and its Sub-Committee. Osgood attended all the meetings and provided input throughout the process of developing the draft Plan. Additionally, he stated that the bay captains were also present at some of the public meetings (not public hearings). As Chairman, Page stated that he allowed the bay captains to have a say, on at least two occasions, when they were in attendance.

Sylvester stated that he understood the bay captains have fundraised over \$500,000 for herbicide treatment projects. Therefore, he hoped that they would have a say in the meetings. He believed the comments raised in the bay captain's 11/2/12 letter were substantial concerns and he questioned if they should not have been able to more directly participate in the meetings.

Page assured Sylvester that when they were in attendance at the meetings, the bay captains were allowed to address the members (confirming they had their say). Additionally, he stated that most of the concerns raised within the letter by the bay captains were also raised by Osgood throughout discussions at the meetings. He stated that he had read the letter, was aware of most of their concerns, and looked to address the concerns at the tentatively scheduled public hearing. As an example, he directed Sylvester to position #3 within their letter, in which the bay captains questioned why the draft Plan documents harvesting as the primary tool in the management of EWM and CLP. He stated that the Board previously provided a clear consensus that harvesting would be the primary management tool and staff was directed

to proceed in the ordering of a new harvester. Board member Hunt also forwarded additional research that substantiated such.

Sylvester asked if the Board had prepared an official report on the harvesting program prior to deciding if it should be the primary management tool utilized. He believed that was a large decision to make.

Page stated that, when reviewing the draft Plan, one can see that the Sub-Committee concluded that in limited situations, herbicide treatments are a viable method of treatment (in specific situations covering a small portion of the Lake). Where herbicide treatments do not have efficacy, EWM continues to exist. He stated that the Board owes it to their constituents to have control of EWM throughout the Lake, in which the Board has concluded that harvesting is the primary means to do so.

Baasen stated that the draft Plan does not document a final chapter in the management of AIS. He stated it outlined multiple tools for such and, that he believed, the LMA (and all represented on the Task Force and Sub-Committee) believed that both management tools (harvesting and herbicide treatments) are 1) important, 2) will have an impact, and 3) that it is important to have cooperation of all agencies. However, he believed, that the LMA questions what the LMCD knows about herbicides and what will happen to harvesting. To this end, he believed it was important to note that the Plan is a draft and subject to be amended when deemed necessary. He believed that all agencies need to agree, or agree to disagree, but move forward in taking public testimony of such.

Morris stated that the LMA had a very active role at the Task Force level, in which he was in attendance at the meetings. Additionally, the LMA has maintained a vocal part, via both the bay captains and Osgood, in which they provided input and were heard (maintaining an active stake in shaping and crafting the draft Plan).

Sylvester stated that he had spoken with the bay captains, in whom they believe their thoughts and opinions have been falling on deaf ears and were not going anywhere. He questioned what would happen if their fundraising efforts went away (acknowledging the Board does not have the levying opportunity to meet the funding needs).

Klohs expressed concern about the timing in notifying the member cities of the draft Plan and conducting a proposed public hearing on December 12th. He believed that a more productive public hearing would be held if it was delayed in order to provide the Board time to address their city council.

Baasen pointed out that waiting will also provide changes amongst this Board.

Page stated he was amazed when he hears that the LMA has not been considered or heard. Prior to the draft Plan, there were no dollars budgeted for herbicide treatments (providing for the LMA to have to apply for those funds (up to \$30,000 through the Save the Lake Fund). The draft Plan provides for substantial funding (\$75,000) so that the LMA does not have to apply for such, as well as the opportunity for the LMCD to be the project manager (in which Osgood previously called upon the LMCD to do so). He believed this was a substantial change for the LMCD and questioned why the LMA and its bay captains state they have now not been heard. This matter is going to be a big hurdle to sell to the

member cities and he was unsure on whether it will be positively received. Either way, it is important to move forward for their budget considerations.

MOTION: Page moved, Morris seconded to: 1) accept the draft Plan as submitted for purpose of conducting a public hearing, and 2) direct staff to coordinate a public hearing for Wednesday, December 12, 2012.

McDermott questioned if there was any other public hearing date to consider as he cannot attend a public hearing on December 12th. The City of Orono would pay the lion's share of the draft Plan's proposed funding.

Klohs proposed a friendly amendment to vote on the public hearing date separately, in which both Page and Morris declined.

Hughes believed an alternative approach would be to accept an amendment to the original motion.

LeFevere stated that if a motion were made to amend the original motion, it should be to divide the question.

MOTION TO AMEND: Klohs moved, McDermott second to amend the original motion to divide the question.

VOTE ON MOTION TO AMEND: Ayes (6), Nays (5; Baasen, Johnson, Morris, Page, and Shuff), motion to amend original motion approved.

VOTE ON ORIGINAL MOTION (AS AMENDED): Ayes (10), Nays (1, Sylvester); motion to accept draft Plan approved.

VOTE ON ORIGINAL MOTION (AS AMENDED): Ayes (7), Nays (4; Hughes, Klohs, McDermott, and Sylvester); motion to schedule a hearing for December 12, 2012 approved.

Baasen asked Nybeck to review the documents in preparation for the public hearing.

Nybeck directed the Board to the following three draft documents, in which he provided a brief overview of: 1) a memo, dated 11/15/12, to the member cities that would accompany the accepted draft Plan, 2) a press release announcing the draft plan and the scheduled public hearing (directing the Lake stakeholders to the website for their overview of the draft Plan), and 3) the public hearing notice itself. He stated that staff worked closely with Page on the drafting of the documents, which will be released by weekend.

MOTION: McDermott moved, Shuff seconded to approve the release of the above noted documents.

VOTE: Motion carried unanimously.

B. MCWD, review and comments on draft 2013 AIS Prevention Programs Plan.

Baasen asked Nybeck for an overview of this agenda item.

Nybeck stated that both Chair Babcock and Morris have been sitting on a MCWD AIS Task Force for the purpose of drafting a long-term watershed-wide AIS Prevention Programs Plan (Plan). Additionally, Nybeck stated that he had been serving on a MCWD Technical Advisory Committee (TAC). In the interim while this Plan is being prepared, the MCWD has drafted 2013 "stop-gap" measurements for the purpose of controlling the spread of AIS. As these measurements would need to be considered during their budget planning process, the MCWD has invited the LMCD to share their thoughts on this (providing for comments to be forwarded by November 26th). Babcock has expressed an interest in the MCWD providing 2013 funding for management efforts on Lake Minnetonka, not just prevention efforts. Nybeck stated that he has reiterated Babcock's comment to the TAC. Additionally, he reiterated that the MCWD should focus as much funds as possible on Lake Minnetonka for outgoing watercraft inspections to prevent the spread of zebra mussels within the watershed (due to Lake Minnetonka having 11 of the 27 accesses within the MCWD). He solicited the Board's interest in either reiterating the comments noted above (in writing) or to provide further comments on behalf of the Board. He entertained questions and comments from the Board.

Meyer stated that he personally would feel just the opposite about increasing watercraft inspections on Lake Minnetonka and direct funding for such to other bodies of water.

Nybeck explained that it is better to prevent the spread of zebra mussels at the source of the AIS (providing for the localized opportunity to removed attached vegetation, the supervised pulling of the drain plug, and the removal of adult mussels or a determination on whether a boat should be washed). This is the practice used through the State of Minnesota by the Minnesota Department of Natural Resources (MN DNR).

Page stated that the request for comments from the MCWD was also sent to the LMCD member cities. The City of Greenwood had recently considered this matter in detail at their special meeting last evening, in which they were in support of every category outlined within. The City has questioned where the funding for this "stop gap" was going to come from. He reviewed prior discussion with the MCWD, in which they were originally not going to fund anything relative to the prevention of AIS until a long-term Plan was developed. However, due to the lobbying that has transpired over the last year, the current "stop gap" plan was initiated. He believed the LMCD should encourage the MCWD to proceed in funding existing programs, including the LMCD's watercraft inspection program. To this end, the City of Greenwood was going to write a letter to that affect.

Baasen concurred that the information presented is good news; providing for meeting the goal of agencies working together in the prevention of AIS.

- C. Chair update on 10/25/12 Save the Lake Committee Meeting
- Ideas for public safety education curriculum
 - Availability of Save the Lake funds for 2013

Ideas for public safety education curriculum

Baasen stated that the Save the Lake Committee met on October 25th to discuss funding efforts for the proposed public safety curriculum, as well as continue funding programs as they have in the past (via grant requests). Discussion on the public safety program is evolving and listed a number of agencies that support such. Additionally, the committee discussed what public safety concerns need to be addressed (increasing the protection of safe boating and the protection of Lake Minnetonka).

Nybeck stated other non-committee representatives in attendance at this meeting included: 1) Kim Elverum, Boat and Water Safety with the MN DNR; 2) Board member Keith Kask who represented the Lake Minnetonka Power Squadron; and 3) Lt. Saunders and Deputy Hermke from the Hennepin County Sheriff's Office Water Patrol. This preliminary discussion included incentives offered for other water safety education programs, (i.e., reduced insurance rates and a water safety permit for the youth); acknowledging the possibility of piggy backing on to other already established programs.

Availability of Save the Lake Funds for 2013

Nybeck stated that the LMCD has annually announced the availability of Save the Lake funds since 2009 (based on a reserve policy of up to 25% of the reserve level from the prior calendar year). This reserve has greatly been reduced since 2009 and taking into consideration the current public safety education curriculum efforts, the committee has recommended postponing the announcement of available funds for 2013. However, the committee has recommended continuing to fund ongoing LMCD projects, such as the solar light program. To this end, he solicited the Board's concurrence (per Olson's request) in not announcing the availability of funds for 2013, in which no objections were expressed.

- D. **Villas of St. Albans Bay Association**, staff recommends Board approval of 2013 new multiple dock license (with minor change) application as outlined in 11/8/12 staff memo.

Baasen asked Page for background on why he removed this agenda item from the consent agenda.

Page asked staff to clarify the proposed change.

Nybeck stated that the applicant's site was previously a commercial marina (Cochrane's Boatyard). This site was converted to an outlot association for the current townhomes. This site abuts a second commercial marina (Bean's Greenwood Marina) and the dock use area for these sites overlap. In 1972, the LMCD approved a variance from the Code that created navigation corridors for both sites. Typically, the Executive Director would process this type of an application; however, he believed it should be approved by the Board because of the 1972 variance. Staff has evaluated the proposed change and has determined that it would not encroach in the navigation corridors established by the 1972 variance. Thus,

he recommended Board approval, with the conditions outlined in the 11/8/12 staff memo.

Harper stated the applicant has proposed to relocate Boat Storage Unit (BSU) #12 from the south side of the bridge to the north side of the bridge. The current location is very tight due to the make-ready dock and private launching ramp in the vicinity. He restated that the proposed new location for BSU #12 would not encroach in the navigation corridors established by the 1972 variance.

MOTION: Hughes moved, Johnson seconded to approve 2013 Villas of St. Albans Bay Association reconfiguration of a non-conforming multiple dock license (minor change) application, subject to staff recommendations in the 11/8/12 memo.

VOTE: Motion carried unanimously.

10. Update From Standing LMCD Committees

Baasen asked for an update from the Chair, or designated representative, of each committee (Save the Lake, AIS Task Force, Finance, Personnel, Public Safety, and Ordinance Review).

Johnson stated the Board's direction relative to the draft bow-fishing ordinance is currently under consideration and is not ready for their consideration.

No other committee reports were offered.

11. EXECUTIVE DIRECTOR REPORT

Nybeck stated that the 2012 fall/winter newsletter was mailed on November 5th. He believed the newsletter went very well (providing for the Board's direction to note that the 2012 "Low Water" variance terminated on November 15th, as well as an update on the draft AIS Plan). He pointed out a printing error within the "2012 Lake Minnetonka Shoreline Boat Storage Count" article (page 6), in which the years were cut off at the bottom (he acknowledged that the years are provided within the pdf of the newsletter offered on the front page of the LMCD's website). Additionally, the fall Save the Lake solicitation letter was also mailed on November 5th.

Baasen stated that by the time the spring Save the Lake solicitation letter is ready to be produced, more framework will be provided relative to the educational safety program. Additionally, he asked if there were any Board members that had matters to bring forward relative to their represented city, in which there were none.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:03 p.m.

Dan Baasen, Vice Chair

Andrew McDermott, Secretary