

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, October 9, 2013
Wayzata City Hall

1. CALL TO ORDER

Babcock called the meeting to order at 7:03 p.m.

2. ROLL CALL

Members present: Doug Babcock, Tonka Bay; Dan Baasen, Wayzata; Andrew McDermott, Orono; Gary Hughes, Spring Park; Jay Green, Mound; David Gross, Deephaven; Anne Hunt, Minnetrista; Ann Hoelscher, Victoria; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; and Sue Shuff, Minnetonka. Also present: Charlie LeFevre, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Rob Roy, Greenwood and Mark Sylvester, Shorewood

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Babcock

There were no Chair announcements.

5. APPROVAL OF MINUTES – 9/11/13 LMCD Regular Board Meeting

MOTION: McDermott moved, Shuff seconded to approve the minutes from the 9/11/13 Regular Board Meeting as submitted.

VOTE: Ayes (10); Abstained (2, Hunt and Meyer); motion carried.

6. APPROVAL OF CONSENT AGENDA

Babcock directed the Board to an amended Audit of vouchers (10/1/13 -10/15/13) for agenda item 6B [providing for the addition of check #19784 in the amount of \$50 to the Hennepin County Sheriff Foundation to accommodate Nybeck's attendance to their special deputy banquet]. Additionally, he requested that agenda item 6C be removed for further discussion at the end of this meeting.

Shuff moved, McDermott seconded to approve the consent agenda as amended, accepting the two changes noted by Babcock above. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (9/16/13 – 9/30/13) and (10/1/13 – 10/15/13) and **6B**, August financial summary and balance sheet.

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. Save the Lake, announcement of Funds available for 2014

Babcock asked Nybeck to provide background on this agenda item.

Nybeck directed the Board to a draft press release and informational document (patterned after the 2012 submittal) outlining the availability of 2014 Save the Lake Funds; recognizing that Save the Lake funds were not made available in 2013. In an effort to streamline this process, he recommended the Board consider approval of the documents offered, subject to the Save the Lake Committee's review (scheduled for consideration the next day). He entertained questions and comments from the Board.

A few questions were provided, in which the following responses were offered:

- Baasen confirmed that the committee would forward all recommended grant proposals to the Board for final consideration and approval.
- Nybeck reiterated that the availability of Save the Lake funds for 2013 was withheld at the committee's recommendation (previously chaired by former Board member Bill Olson) and Board approval based on: 1) expenses exceeding revenue (providing for the reserve level to drop) and 2) the consideration in developing a boater safety education program.
- Nybeck confirmed that no changes are being proposed to the Save the Lake funding policy and review criteria.
- Baasen stated that the 2013 revenue received has been steady; providing for a slight increase from what was received in 2012.

Based on the discussion outlined above, the Board did not have any objections moving forward as proposed.

B. Staff update on 2013 LMCD Proactive Code Enforcement Program

Babcock asked Herman for background on this agenda item.

Herman directed the Board to her staff memo, dated 10/3/13, in which she highlighted the following information:

- The Program was initiated in 2006 for the purpose of enforcing watercraft storage ordinances at residential sites on Lake Minnetonka.
- The primary enforcement efforts included: 1) identifying and/or re-inspecting sites storing five or more restricted watercraft that do not have a multiple dock license and 2) sites storing three or

four larger restricted watercraft that do not comply with the 1:50' General Rule.

- She provided an overview of the following processes: 1) documentation of a site, 2) communication, and 3) prosecution.
- A review of the 2013 enforcement priorities and respective findings.
- A general overview of the LMCD's prosecuting attorney (Steve Tallen) and typical settlements that have been offered to date. Additionally, she provided an update on the 2012 and 2013 filed prosecuting complaints (10 and 11, respectively).
- In conclusion, she documented the following:
 - Priorities for both the 2014 Proactive Code Enforcement and Shoreline Boat Storage Count programs will be offered in the spring.
 - The review of the following two ordinance amendments (approved in 2013) relative to watercraft storage density: 1) Ordinance #213 (further defining the word "Site) and 2) Ordinance #215 (providing for a special rule for sites with non-continuous shoreline in a single parcel identification number (PID). Proposed ordinance amendments are reviewed by the Ordinance Review Committee, Tallen, and LeFevere prior to Board consideration.
 - A detailed overview (including examples) of the enforcement processes offered for both a formal complaint and those documented under the Proactive Code Enforcement Program were offered.
 - Staff's urging of the Board to forward all received concerns of watercraft storage to the LMCD office (offering an example of a recent communication process).
 - An update on the communication that has been finalized and those pending (initial letters and customized communication).
 - The solicitation of the Board's interest to distribute the report beyond the current website download and findings highlighted in the LMCD's Annual Report.
- She entertained questions and comments from the Board.

A summary of the questions and comments made by the Board and staff includes:

- Herman will submit this report, as well as a link to discussion held at this meeting, to the commercial marinas.
- In follow-up to discussion held at a 6:00 p.m. Board Workshop conducted this date, Babcock provided an overview of why some of the LMCD ordinances are more complex (concern expressed at the Board Workshop) based on interaction offered within Court and/or communication amongst property owners that highlighted the need for such technical changes.
- Herman provided a detailed overview of what is considered a restricted and non-restricted watercraft; citing the definition offered for non-restricted watercraft as a starting point.
- Herman confirmed that the submittal of a second letter is non-sequential to the boating seasons (based on when staff documents non-compliance for a second inspection). She acknowledged that once the second letter is submitted, re-inspection and, if warranted, the filing of a complaint is completed within the same boating season.
- Herman could not provide how many of the 41 sites that maintained four or less restricted watercraft were documented based on the storage of personal watercraft (PWC). However, she offered to follow-up with that respective Board member. Additionally, she referenced a report that was presented last year; providing for specific PWC counts during the 2012 Shore Inventory

Program.

- Babcock provided an overview of Code Section 2.02, Subd. 3, "Additional Watercraft Allowance in Certain Cases." Herman confirmed that the Board's priority to initially document only those storing three or four larger restricted watercraft would not cover sites with two PWC and two other larger boats that were not all owned and registered to individuals living within the one single family dwelling of the site.
- Herman confirmed that the communication process is restarted when a new homeowner is documented.

C. Staff update on relocation of office

Babcock asked Nybeck for an update on this agenda item.

Nybeck stated the relocation of the LMCD office has gone very well and he encouraged the Board members that have not had a tour of the office to stop by. He provided an overview of the relocation's sequence of events, in which he referred to the \$25,000 cap set (at the Board's August 28th meeting) on leasehold improvements and moving expenses. He reported the expenditure of \$25,260.05; acknowledging his professional decision to expend the additional \$260.05 based on logistics offered. He recommended the Board consider an additional \$2,000 to finalize the remaining relocation expenses (hanging of shelves, garage storage, open house, etc.)

MOTION: Hughes moved, McDermott seconded to allocate an additional \$2,000 from the General Fund for relocation expenses described above.

VOTE: Motion carried unanimously.

Klohs and Hughes expressed their pleasure in the new office setting; acknowledging the savings offered and the receipt of additional benefits (i.e., heated garage, telecommunication upgrades, etc.).

10. Update from standing LMCD Committees

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

Morris stated the AIS Task Force will be meeting at the new office location on October 11th at 8:30 a.m. They will also continue their discussion on the consolidation of local AIS committees. He invited all that there were interested to attend this meeting.

Babcock stated the Executive Committee met this date (encompassing both Finance and Personnel Committees), in which they approved a \$75,000 Certificate of Deposit with Beacon Bank, as well as the review of the 2014 employee benefits package. An outline of those benefits that are being recommended for Board approval will be provided at the next meeting. Lastly, he stated that the LMCD was anticipating receiving a list of proposed ordinance changes from the commercial marina owners (based on the September 25th Workshop Session).

Hughes stated the Public Safety Committee met on September 23rd. The committee's main focus of discussion pertained to the request to expand the Quiet Water Area (QWA) by the Arcola Bridge (Lower Lake North) from Marcel and Jodi Schwendimann. He asked Nybeck to provide an overview of that discussion.

Nybeck stated that he reported his observations (four times during the course of the 2013 boating season) to the committee as per the approved QWA policy; with the Water Patrol providing additional information on the enforcement efforts in that area. He provided the Board with an overview of the requested QWA expansion via an aerial map of the current buoy placement. Based on those findings, he recommended to the committee that the LMCD make no changes to the currently approved QWA. The committee concurred with that recommendation; acknowledging that expansion of the QWA should also involve changes to the current speed channel that exists in that area (as well as the area to the north of the reef). After the September 23rd committee meeting, the LMCD received documentation from the Schwendimann's withdrawing their request. He did not believe this matter required the action of the Board; offering the minutes of this meeting as record of documentation. He entertained questions and comments from the Board.

The Board discussed this matter by offering the following comments:

- Klohs expressed his interest in reinstating an originally placed point buoy that has been removed in recent years (keeping watercraft operators away from shore). Nybeck reviewed the historical findings offered from Tony Brough (Hennepin County Environmental Services) on the originally placed point buoy location; confirming that the buoy was removed based on being directly inside a currently placed minimum wake buoy.
- Babcock expressed concern in the use of a point buoys for navigational purposes.
- Green stated that the use of a point buoy is dictated by the depth of the water (8 feet) and that the originally placed buoy was historically removed (per Brough) as it was directly on top of a channel buoy.
- Babcock reiterated that the Public Safety Committee is not recommending any changes and that the Schwendimann's have withdrawn their request.
- Hughes stated that the committee discussed further evaluation of the area sometime in the near future (with Klohs confirming the Schwendimann's may resubmit a future request).
- Nybeck re-stated the QWA policy's requirement of staff observing the area three times during peak days and times. If an amended request is resubmitted within a year or two for this area, he did not feel staff observation was warranted (acknowledging little change within that time period and staff's investment of time in accomplishing that policy requirement).
- Hughes stated that a committee meeting will be scheduled in the near future to review winter safety.

Baasen stated that the Save the Lake Committee is scheduled to meet in the new office tomorrow on October 10th to clarify the Boater Safety Education Pilot Program. He solicited participants of the pilot program (12 to 17 years of age), which will be held on Saturday, November 16th at the Hennepin County Sheriff's Water Patrol office. The pilot program will address logistical needs prior to kicking the full program off in 2014. Lastly, he stated the committee will review the Availability of Save the Lake Funds for 2014 (as noted under agenda item 9A above).

A few comments and questions were offered, in which Baasen confirmed that: 1) an educational synopsis of

the program will be offered to the member cities after the logistics are worked out within the pilot program (i.e., flyer, PowerPoint, etc.), 2) there is not a charge to the participants that attend the pilot program, and 3) those participants will receive (based on passing a test) their MN DNR youth operators permit.

There was no Ordinance Review Committee report.

6C, Draft letter to be forwarded to LMCD Member Cities regarding Board appointments for 2014.

Babcock solicited the Board's approval to work with Nybeck on the redrafting of the letter to the member cities. The goal of redrafting this is to further address the state statute requiring the member cities appoint a Board member on a three year term (with the LMCD staggering such). He recommended that task be completed by next Monday for submittal of the final document.

The Board did not object to Babcock's request.

11. EXECUTIVE DIRECTOR REPORT

Nybeck stated that the recent focus of staff's activities have been the relocation of the office and getting back to day-to-day matters.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:54 p.m.

Doug Babcock, Chair

Andrew McDermott, Secretary