

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, December 11, 2013
Wayzata City Hall

1. CALL TO ORDER

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

2. ROLL CALL

Members present: Doug Babcock, Tonka Bay; Dan Baasen, Wayzata; Andrew McDermott, Orono; Gary Hughes, Spring Park; Kent Carlson, Deephaven; Jay Green, Mound; Ann Hoelscher, Victoria; Anne Hunt, Minnetrista; Dennis Klohs, Minnetonka Beach; Jeff Morris, Excelsior; 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: Fred Meyer, Woodland; Rob Roy, Greenwood; and Sue Shuff, Minnetonka

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Babcock

Babcock announced that the annual meeting between the Hennepin County Sheriff's Office and the LMCD will be held just prior to the Board's regular meeting of January 8th. He asked Nybeck to provide further background.

Nybeck stated the meeting is scheduled for Wednesday, January 8th from 5:30 p.m. to 6:30 p.m. at Wayzata City Hall. Specifics to the meeting agenda will be submitted in the near future. He stated that Sheriff Stanek will be in attendance, in which he urged all Board members to attend.

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

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

VOTE: Ayes (10); Abstained (1, Hunt); motion carried.

6. APPROVAL OF CONSENT AGENDA

Babcock stated that Nybeck has requested the removal of agenda item 6C, "City of Wayzata, approval of 2014 Agreement for use of the community room for LMCD Board Meetings." Prior to his explanation of this

request, he reviewed the consent agenda items that remained for Board approval. He asked if the Board had any comments or requests relative to such.

Sylvester asked for an overview of agenda item 6E, North Shore Marina (Smiths Bay), staff recommends Board approval to refund \$72.60 of the \$250 deposit for recently approved variance from LMCD Code.”

Nybeck stated that \$250 of the \$500 variance application fee is refundable minus any administrative, inspection, and legal services that are provided (typically the LMCD just deducts legal services). Therefore, of the \$250 deposit, staff deducted \$177.40 in legal expenses; providing for the remaining portion to be refunded back to the applicant.

McDermott moved, Hunt seconded to approve the consent agenda as amended, removing agenda item 6C. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (11/16/13 – 11/30/13) and (12/1/13 – 12/15/13); **6B**, October financial summary and balance sheet; **6D**, Approval of appointments for 2014, as outlined and recommended in 12/4/13 staff memo; and **6E, North Shore Marina (Smiths Bay)**, staff recommends Board approval to refund \$72.60 of the \$250 deposit for recently approved variance from LMCD Code.

Nybeck directed the Board to two emails, dated 12/10/13, from Lake Minnetonka Communications Commission (LMCC) Executive Director Sally Koenecke within their handout folders. He provided an update on this communication, in which he confirmed that some of the member cities were not going to renew their membership with the LMCC (effective 1/1/14). Due to this financial constraint, the LMCC is requesting the LMCD consider paying for some additional services (i.e., the contract producer and web streaming services). He recommended the Board appoint one or two Board members to work with him on the continued discussions relative to this matter (providing for an update to the Board at one of their January meetings). He stated that he had spoken to Wayzata City Manager Heidi Nelson and confirmed (based on the LMCD's long standing partnership), that the LMCD can continue to have their meetings at Wayzata City Hall without the approval of the Agreement until all matters are resolved (providing for the possibility of prorating this expense in the future). Treasurer Hughes has offered to work with him on this matter, and welcomed other Board members, as well. He entertained questions and comments from the Board.

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. Minnesota Wakesurf Championship, consideration of draft 2014 special event permit for wake surfing event on Cooks Bay.

Babcock asked Nybeck for an update on this agenda item.

Nybeck directed the Board to a draft special event permit within their packet. He provided the following update:

- The draft permit took into consideration discussions held at the Board's November 13th meeting (in which he provided an overview of).
- Two meetings have since been held, as follows:
 - On November 19th, the applicant met with the City of Mound (LMCD voluntarily not in attendance to provide both parties an opportunity to work independently), in which they addressed implementation issues (including the use of volunteers from the Minnetonka Power Squadron [Power Squadron] and the identification of an amended course layout).
 - On November 25th, the LMCD (including Green's attendance) hosted a meeting to discuss pending issues (in which he provided an overview of). Those in attendance included Andy Weigman and Chris Bank, applicants; Lt. Saunders and Deputy Piper, Hennepin County Sheriff's Water Patrol (Water Patrol); and Spirit of the Lakes Chair John Beise. The City of Mound was not represented at this meeting.
- He provided a detailed overview of pending matters, in which he reviewed: 1) approval of amended course layout (aerial overview provided), 2) the identification of volunteers/watercraft is pending (acknowledging that Beise may be considering the use of their signature green vests). The draft permit did not reflect this requirement, in which he solicited the Board's ability to add if they so inclined, 3) the accommodation of the charter boat operations during the day's event, 4) the location of watercraft anchoring (providing for more efficient accommodations based on the new layout), 5) their aquatic invasive species action plan, and 6) limiting the number of participants to 60.
- He entertained questions and comments from the Board, in which there were none.

MOTION: Green moved, Hunt seconded to approve the special event permit as written.

VOTE: Motion carried unanimously.

B. City of Wayzata, update on proposed Wayzata Lake Effect Project

Babcock asked Nybeck for background on this agenda item.

Nybeck directed the Board to a memo from City of Wayzata Planner Bryan Gadow, dated 12/2/13, within their Board packet. He stated that Gadow, city council member Andrew Mullin, as well as City Administrator Heidi Nelson were in attendance to provide the Board an update on this project.

Councilmember Mullin introduced himself and thanked the Board for this opportunity. He made the following comments:

- The goal of this agenda item is to provide a project update for the purpose of obtaining valuable dialog from the Board. No formal action is required.
- This was the third time a project such as this had surfaced in the last 100 years (1920, 1980, and 2013). He has personally been involved in this project (working closely with LMCD staff) for the

last three years.

- Over the last several years, a great deal of projects and activities have moved into the city's lakefront, i.e., infrastructure projects, the Dakota Trail, etc. (all of which utilize the city's lakefront property); hence the Wayzata Lake Effect Project. The project's quest is planning for the best use of that specific land.
- He and former LMCD Board member and current city council member, Tom Tanner, kicked off this project's task force in 2011. During which time they established some guiding principles (i.e., safety and access, environmental stewardship, historical aspects, and best use of the land to stimulate economic development).
- They believe the missing link in previously considering a project such as this, was the lack of public input. To stimulate this process, the city contracted with Saint Paul Riverfront Corporation (SPRC). He stated that Gadow was in attendance to provide a more in-depth overview of the project.

Gadow directed the Board to his staff memo that included detailed project attachments. He made the following comments:

- The city is in the midst of a 16 month community engagement effort to develop a 10 year lakefront plan.
- This effort was divided into three phases as outlined below:
 - Phase I, Community Value Proposition – obtaining in-depth feedback, which has established nine community values outlined within the memo.
 - Phase II, Framework – providing for community design workshops to establish programs, policies, and procedures to better enhance the lakefront. Concept plans were derived from this process, in which a more detailed overview of Scenario D will be described below.
 - Phase III, Action Plan – taking framework developed in Phase II to create an actionable, 10 year lakefront plan. This includes presenting to all permitting agencies prior to implementing the plan of action, i.e., resource needs, funding analysis, and partnership building with other jurisdictional agencies.
- He provided a detailed overview of the project committees (Steering, Advisory, and Technical).
- He directed the Board to the nine community values (within the handout) established via the community input from Phase 1. This effort created value statements to reflect the community's aspirations for the future of the lakefront, in which he named.
- He presented a concept drawing of Scenario D; focusing his comments more specific to three of the nine concepts offered (#'s 2, 3, and 4) relative to the LMCD's jurisdiction. He made the following comments:
 - Concept #2 – Boatworks: provides for a newly created mooring area based on the community's request for additional transient dockage for access to downtown shops and more recreational opportunities (utilizing water taxi's to transport to a more central boat landing area).
 - Concept #3 – Central Lakefront: a walkway was depicted as a "big ticket" item providing for a safer east/west community connection to the south side of the railroad tracks. This walkway will be over the land, as well as the water.

- Concept #4- Section Foreman's House: floating islands that serve as a water quality treatment function. Additional transient dockage is planned (unsure how much). The eastern portion of the lakefront is to serve as a community icon (including additional restaurants).
- General comments included the need to provide for an all season lakefront usage. Winter activity would include a fire pit, festival, etc.
- Prior to Nelson offering concluding comments, he entertained questions and comments from the Board.

The Board asked a number of questions and provided comments, which Gadow's responses and additionally named respective comments are highlighted below:

- He did not think the SPRC had produced a conceptual (including multi-dimensional) diagram of the proposed boardwalk to date.
- That the increased pedestrian traffic would be of a limited amount, i.e., from the bike trail, etc; acknowledging the business owners' expressed interest in increasing the traffic from the lake.

Mullin stated that the goal of the project is not so much as drawing new traffic but providing better trafficking for what the city currently has to offer. He stated the Dakota Trail was installed without the consideration of what the city could provide for that new traffic.

- The project timetable provides for a 10 year plan; however, immediate construction would commence on the more simplified and higher priority components (estimating one to two years after approval).
- In consideration of weighing the attraction of both land and water access to the lakefront, both are treated equally; providing for safe passageway above, below, and across the railroad tracts to the waterfront area. He confirmed their goal is to enhance all public access to the lakefront and not just those that own boats.

Mullin stated the city struggled with the policy perspective in considering all access points to the lakefront (outlining such pros and cons). Therefore, they considered the regional benefit to the various accesses, which included working with other public agencies. He acknowledged that the city has the largest piece of public land on the east side of the Lake. Therefore, this will open up opportunities for all Lake users, i.e., a new trail on Bushaway Road that will connect to the bike trails.

Klohs stated that part of the LMCD's goals is to promote public access to the Lake; acknowledging not everyone owns access to such.

- Baasen stated it is important for the LMCD to know the city is not looking at this project as an evolution but more of a framing order that fits the plan; providing for a better position to accomplish the goals in the context of the plan. In doing so, he stated the city is trying to minimize safety aspects (i.e., the dock that is used for the Sunsets restaurant). It is important that all public agencies be on board with the proposed plan.

- The boardwalk (referencing it as an on-land, hybrid project) is proposed to have a more natural aspect to the design, in which the city is receiving input from all public agencies (including the Minnesota Department of Natural Resources [MN DNR]). This walkway is proposed to connect to a pier towards the middle of the lakefront (above water) that will wrap back around to the land based walkway. They are discussing the possibility of having an international design competition in considering the design of the boardwalk itself (upon final approval of that component).

Babcock stated that the city will need to take into account the elements of weather when that design is considered.

Mullin asked the Board what they thought about the concept and design, as it is their input that will be considered in the specifics of the boardwalk and pier construction.

- Babcock did not recommend establishing more mooring buoys (due to space and swing requirements). He encouraged more transient docks that are closer to shore, i.e., east of the depot docks (taking into consideration length needs, as well as no overnight storage). Historically, support has been communicated for a boardwalk concept. He encouraged the ability to provide fishing access and the consideration of structure usage and respective habitat needs that would not promote zebra mussels.
- Hughes spoke positively about the trail connection; acknowledging that is not as much of an LMCD regulated component. He asked how the proposed plan would incorporate the growing number of people that want to take place in the various special events (i.e., the Tour De Tonka, triathlons, etc.).

Mullin acknowledged more and more participants are knocking on the door, including those attending the James J. Hill Days event. He outlined options to handle such challenges, in which the city is taking a step back to consider how they can improve the fabric of these events to better support them.

- Sylvester spoke positively of the proposed concept (including the why and intent of such). He liked the flexibility of the additional transient storage spaces; acknowledging the need to conform to licensing. He asked if the city had any idea of how many more spaces would be considered.

Mr. Patrick Seeb, Executive Director of the SPRC, as well as process manager for this project, thanked the Board for the opportunity to present this evening, as well as entertain the respective questions. In response to Sylvester's question, he stated the concept of additional transient storage would not change the currently licensed multiple dock storage. He acknowledged the ongoing contributions made by Nybeck on this project (very hands on with detailed advice). He has worked with Nybeck on suggestions in how they could add more transient dockage, in which he has utilized that input and will also continue to take in the comments noted by Babcock at this meeting. Additionally, they are considering other concepts such as water taxi usage; providing for a smaller footprint.

Babcock referenced the consideration of an LMCD licensed facility (initiated in the mid 1990s), which provided for a "bracket creep," affect. This site changed hands and amended their license to accommodate for the facility changes. He believed this proposed project had a positive process in place (long-term plan) to avoid such action.

Mullin stated that the city serves many children that utilize the beachfront. They are considering the components of this plan in a holistic approach (for all stakeholder usage); acknowledging that dock placement next to a beach does not offer a safe approach.

- Babcock believed that a long-term plan provides for obtaining a balance in future project needs.

Baasen stated it is important to note the LMCD has a plan itself; to prevent chaos on the Lake. It is important to have organized development of lakefront usage.

McDermott applauded the city for preparing a big picture, long-term plan. He believed that the proposed boardwalk offers an opportunity for usage by children, those with disabilities, etc; acknowledging that the City of Excelsior's transient docks are not that accessible to the senior citizens.

Wayzata City Manager Heidi Nelson thanked the Board for allowing this time in receiving an update and providing input on the proposed Wayzata Lake Effect Project. She believed this was a good opportunity to think about how both agencies' visions align and how that vision can be achieved. She thanked Nybeck for his ongoing participation in the project and to this body for their long-standing partnership. She acknowledged she has only been in this position less than two years; however, she quickly referenced the positive partnership between the two agencies. A follow-up presentation on more specific plans is anticipated in the near future. She welcomed any additional comments from the Board as they may arise and anticipated moving forward with city council approval on the framework of this project during the first quarter of 2014.

Babcock asked if any of the elements of the project will maintain a higher priority than another.

Nelson stated they are a little opportunistic; however, the work being completed on Bushaway Road would provide for landscape opportunities that will assist in how other elements are incorporated into the plan. They will lean on relationships with the private sector and see what opportunities might present them in that regard. Additionally, due to the broad community consensus of providing Lake access from the downtown area, etc., she believed that there will be positive traction in that regard.

Mullin stated he is always asked, as a city council member, how the project will be paid for. He stated the intent of this project is, and always has been, a public/private partnership (a regional and state asset).

C. Save the Lake, chair update on 2013 Lake Minnetonka Boater Safety Education Pilot Program

Babcock asked Baasen for an update on this agenda item.

Baasen directed the Board to the front page of the LMCD's fall/winter 2013 newsletter, which provided a detailed overview of the 2013 Lake Minnetonka Boater Safety Education Pilot Program that was held on Saturday, November 16th. He made the following comments:

- Eight youth and six guardians attended the training session. All youth, plus two guardians, took the on-line test and received their MN DNR Youth Operator or Boating Safety Certificate.
- The participants were engaged the entire time (program held from 8:00 a.m. to 5:00 p.m.)
- There was great interaction between the guardians and children.
- The program coordinators included Save the Lake Committee members Jay Soule (who took the lion's share of the work and was the main presenter) and Tom Skramstad, as well as Gary Hughes.
- Three sessions with an estimated 15 youth and their respective guardians are targeted for 2014 (between March and June).
- He thanked all participants involved, including the Water Patrol who provided the venue for the program, as well as involvement by their deputies.

He stated that the annual Save the Lake Recognition Banquet is tentatively scheduled for Wednesday, February 5th, at the Lafayette Club. Additionally, contributions from the recent Save the Lake solicitation letter are starting to come in and he believed that they will match the same level of contributions offered last year. Lastly, he stated that the proposals for 2014 Save the Lake funds are in. They will be considered by the Save the Lake committee at their January 14th meeting; after which, recommendations will be forwarded to the Board.

Nybeck solicited the Board's availability in confirming the date of the banquet (as proposed for February 5th), as well as accepting the nomination of Special Deputy Sgt. Steen Erickson as the Special Deputy of the Year recipient. He directed the Board to that nomination within their packet.

Baasen stated that Sgt. Erickson provides diversified service on and off the lake

MOVED: Baasen moved, Hughes seconded to nominate St. Erickson as Special Deputy of the Year recipient.

VOTE: Motion carried unanimously.

McDermott asked if the Boater Safety Education Pilot Program participants received a certificate upon passing their on-line test and whether future participants of this program will be charged.

Baasen confirmed the participants that passed the test did receive a document acknowledging such. Additionally, they have the ability to print the certificate off directly from their computer and will be receiving communication from the MN DNR directly via mail. Consideration of whether to charge future participants will be discussed at the next committee meeting.

D. Consideration of draft Government Accounting Standards Board (GASB) Resolutions:

- **LMCD Resolution 135-** a resolution committing revenue sources for specified purposes in special revenue funds (GASB 54)

- **LMCD Resolution 136-** a resolution committing fund balances for specific purposes.

Babcock asked Herman for an overview of this agenda item.

Herman directed the Board to her staff memo, dated 12/5/13, which included three attachments for the Board's review and/or consideration (Resolution 135 and 136, as well as a Fund Balance Policy). She presented this agenda item in consultation with Abdo, Eick & Meyers (LMCD auditing firm), in which she made the following comments:

- The LMCD's financial standards are set by the Government Accounting Standards Board (GASB).
- Based on the use of this standard, the LMCD is subject to complying with the various statements outlined annually within the LMCD's audit. This compliance is not set by law; however, GASB dictates how the LMCD's statements are prepared.
- Statement #54 (GASB 54) is in need of the Board's approval for compliance with one of those accounting standards. This statement formalizes what the LMCD is already doing and does not offer further financial standards that require a change to our various funds.
- Resolution #135 formalizes the commitment of our revenue sources for specified purposes. As the General Fund is not a revenue source for specified purposes, it is not required to be committed as the Aquatic Invasive Species (AIS) and Save the Lake Funds are.
- Resolution #136 formalizes the commitment of the fund balances. This does not prevent the Board from transferring specific funds to another fund balance. The LMCD would simply adopt a resolution for such action as the Board has done in the past (i.e., transferring funds to the Equipment Replacement Fund).
- Staff, in consultation with Steve McDonald of Abdo, Eick & Meyers, recommends the Board not approve the Fund Balance Policy within their packet, until such time the Finance Committee had an opportunity to consider it during the upcoming audit process with Mr. McDonald.
- In consultation with McDonald, staff understood that Resolution 135 and 136 are very straight forward and have been adopted without concern by other governmental agencies. Therefore, McDonald recommended the Board's consideration in adopting both resolutions by year end.
- She entertained questions from the Board; prefacing that staff was not qualified to respond to technical question. She stated that if the Board questioned the approval of the resolutions, it is staff's recommendation that the Board continue consideration of approving the resolutions until such time that Mr. McDonald could attend a future meeting to answer their questions.

Babcock questioned whether the AIS Fund needed to be committed within the resolutions as that funding mechanism is within the budgeted member city levy amount (as a whole). This funding mechanism is outlined within State statute and currently does not exceed the mandated levy limits.

Baasen stated that for the Save the Lake Fund, the funding source has not changed over the years; however, the direction of how those funds are spent has (i.e., designated contributions for specific projects such as the solar light program). Therefore, he could understand the need to commit that fund's revenue for approved Save the Lake funded projects.

Babcock also questioned why the budgeted funds placed in the Equipment Replacement Fund did not need to

be committed. To this end, he would like to continue consideration of approving Resolution 135 and 136 until such time he could meet with McDonald on the alignment of the fund accounts, as well as the existence of reserve funds.

Nybeck stated that, in talking with McDonald, he recommended this agenda item be held off for consideration until such time he could personally address the Board. In listening to Babcock's concerns, he believed this could also be a recommendation of the Board. He solicited the Board's interest in continuing this agenda item until McDonald could present the upcoming audit and personally answer the Board's questions relative to this agenda item (acknowledging the presentation of this agenda item at this meeting did provide the Board consideration of approval should that have been of interest).

Babcock concurred with this recommendation and asked staff to schedule a Finance Committee meeting with McDonald in attendance once the audit preparations are complete; providing for future Board consideration of all three documents. He welcomed all Board members that wanted to attend this meeting to do so. McDermott concurred with that recommendation. Seeing no objections, staff continued this agenda item to a future Board meeting.

10. Update from standing LMCD Committees

Babcock 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).

Morris stated the AIS Task Force will be meeting on Friday, December 13th, to discuss AIS prevention program goals for 2014. He stated that continued discussion of the proposed consolidation of the AIS Advisory Committees will be scheduled in January.

Green stated that more definitive 2013 Watercraft Inspection Program survey results will be a part of Friday's discussion. Additionally, he stated they are working on putting together a Lake Minnetonka public access inventory map, in which he provided an informational overview of.

Babcock recommended the review of a set of comprehensive maps that was utilized for the approval of the 1991 Management Plan for Lake Minnetonka, in which 95% of such would continue to be accurate and contain information that is not on other maps.

Green recommended the purchase of tablets should the LMCD proceed with watercraft inspections in 2014.

Morris acknowledged that the survey data that Green had put together is pretty fascinating. He concurred in the future purchase of the tablets, which will allow access to that data in real time fashion (acknowledging he previously voted to hold off on the purchase of those tablets).

Babcock expressed the need to have policies and procedures in place should the LMCD purchase the tablets.

Nybeck stated that at the last Public Safety Committee meeting, discussion was held on the possibility of making small verbiage alterations on the winter signs acknowledging the ice is never 100% safe. That

alteration will not be completed this year and staff is proceeding in getting the winter signs up.

Hughes stated the Water Patrol has electronic signage placed at various public accesses (directly adjacent to the landing) that document ice is never 100% safe.

There were no reports for the Finance, Ordinance Review, and Personnel Committees.

11. EXECUTIVE DIRECTOR REPORT

Nybeck directed the Board to his Executive Director Report, dated 12/9/13, in which he reported on the following three matters: 1) the 2013 fall/winter Save the Lake solicitation letter was recently mailed, 2) the 2013 fall/winter newsletter is currently at the printer and will be mailed shortly; providing for a pdf of such on the LMCD website, and 3) he directed the Board to a listing of the 2013-2014 LMCD licensed de-icing sites. He asked all Board members to communicate any concerns they become aware of throughout the season. He entertained questions and comments, in which there were none.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:31 p.m.

Doug Babcock, Chair

Andrew McDermott, Secretary