

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, January 22, 2014
Wayzata City Hall

1. CALL TO ORDER

Baasen stated that Chair Babcock will be delayed in arriving. Therefore, he will chair the meeting during his absence. He 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; Gary Hughes, Spring Park; Jay Green, Mound; Ann Hoelscher, Victoria; Anne Hunt, Minnetrista; Dennis Klohs, Minnetonka Beach; Jeff Morris, Excelsior; Rob Roy, Greenwood; and Sue Shuff, Minnetonka. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Kent Carlson, Deephaven; Fred Meyer, Woodland; and Mark Sylvester, Shorewood.

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Vice Chair Baasen

Baasen provided an overview of events planned for the 47th Anniversary Save the Lake Recognition Banquet that will be held on February 5th at the Lafayette Club (6:00 p.m. social hour). He welcomed all to attend.

5. APPROVAL OF MINUTES – 1/8/14 LMCD Regular Board Meeting

Green requested that the word “process” be added to the only sentence of the fifth paragraph on page 4. The sentence would read, “Green recommended utilizing the special event permit process recently issued for the Minnesota Wake Surf Championship as a draft model.”

MOTION: McDermott moved, Shuff seconded to approve the minutes of the 1/8/14 Regular Board Meeting as amended, making the change noted by Green above.

VOTE: Motion carried unanimously.

6. APPROVAL OF CONSENT AGENDA

McDermott requested that agenda items 6A, 6B, 6D, and 6F be removed from the consent agenda for discussion.

Roy requested that agenda item 6E be removed for discussion. He specifically referenced project #2 from the Lake Minnetonka Association (LMA) for 2014 Eurasian Watermilfoil (EWM) and Curlyleaf Pondweed (CLP) Bay Project.

McDermott moved, Hunt seconded to approve the consent agenda as amended. Motion carried unanimously. Item so approved included: **6C, LMCD Resolution 135**, a resolution designating appointments for 2014.

Nybeck recommended that the Board consider discussing the removed consent agenda items later in the meeting to accommodate those in attendance for agenda item 9A. McDermott confirmed that his questions would take little time. To this end, the discussion, with respective action, on each item is outlined below:

6A, Audit of vouchers (1/16/14 – 1/31/14)

McDermott requested confirmation as to what service was provided by Francotyp-Postalia, Inc.

Nybeck stated that Francotyp-Postalia, Inc., provides for the LMCD's postage meter, in which the charge for \$96.39 was a quarterly maintenance fee. He further stated that the Audit of vouchers was presented in amended form to accommodate an additional year-end processing fee that was invoiced for Automatic Data Processing (ADP).

MOTION: McDermott moved, Roy seconded to approve the Audit of vouchers (1/16/14 – 1/31/14) as amended.

VOTE: Motion carried unanimously.

6B, December financial summary and balance sheet

McDermott requested confirmation on the Administrative budget deficit of that was documented on the Profit and Loss Budget vs. Actual Report.

Nybeck stated that deficit will be reflected within the audit process; acknowledging the 2013 moving expenses, as well as additional income and a forthcoming budgeted fund transfer. Updated figures will be addressed at an upcoming Board meeting when the draft 2013 LMCD Audit is presented.

MOTION: McDermott moved, Hunt seconded to approve the December financial summary and balance sheet.

VOTE: Motion carried unanimously.

6D, 2013 LMCD Pay Equity Report

McDermott questioned the documentation of the Pay Equity Report. He specifically referenced page 2, which offer the same minimum and maximum salaries.

Nybeck stated the Pay Equity Report is a State filing requirement that is submitted every three years.

LeFevere stated that the salary range documents that there is only one employee per position and is not presented to reflect the employee's salary range.

MOTION: McDermott moved, Shuff seconded to approve the 2013 LMCD Pay Equity Report.

VOTE: Motion carried unanimously.

6E, Save the Lake, approval of 2014 Save the Lake Funding Proposals, as outlined in 1/16/14 memo

Roy, speaking as a Lake Minnetonka bay captain, acknowledged that the LMA's Save the Lake funding application for the 2014 EWM and CLP Bay Project did not meet the application review criteria. He requested an overview of the criteria that the project did not meet. As a representative of the Board, he asked that this agenda item be removed from the consent agenda to provide for this discussion.

Baasen stated that the LMCD, through the Save the Lake Committee (committee), solicited grant funding requests to the community with a deadline of December 6th. Three proposals were submitted, in which he provided an overview of (as outlined on his staff memo of 1/16/14). The committee has expressed interest in meeting with the LMA's new leadership in an effort to better understand how the fund might assist the LMA's proposed projects based on the criteria offered (expressing an interest in improving the partnership between the two organizations). He reviewed Save the Lake's seven funding criteria; acknowledging that a project does not have to meet all criteria but when it does not, it changes the priority of consideration. Some non-profit organizations will only consider capital improvement projects vs. those that are considered more annually administered projects. He stated that administers to such projects often start to depend on the funding for annual budgetary purposes. He believed that Save the Lake historically funded only one-time projects; with the exception of the five year herbicide treatment project (providing for a specific demonstration pilot project with a beginning and an end date). In summary, the committee unanimously believed that if the Save the Lake contributors wanted to fund herbicide treatments, they should contribute directly to the LMA; providing for their contribution to Save the Lake doubling their efforts in that regard. He invited Green to add to his additional comments since he attended the January committee meeting.

Green concurred with Baasen's comments; specifically that contributors can donate directly to the LMA and his reference to doubling those efforts.

Roy, on behalf of all the bay captains, thanked the Board, as well as all contributing organizations, for contributions to the LMA, which initially provided for the start of the whole bay treatments. Furthermore, he stated that he believed the program funding criteria benefits all Lake users. In regards to the committee's interest in not providing for a permanent funding mechanism, an effort is underway to establish a lake improvement district (initially for St. Albans Bay); a taxable district for the users that have access to the lakeshore. The LMA is looking for all avenues of funding and he confirmed that all contributions to either the LMA or Save the Lake would continue to be documented for tax purposes. The LMA could offer a "project specific" funding request because he believed that the herbicide treatments provide a benefit to the Lake as a whole (comparing this to the LMCD's solar light or harvesting programs, which both are offered for navigational purposes). He did not see the LMA's request as a long-term budgeted item.

Baasen stated that the committee expressed an interest in further clarifying the application itself, in which he invited all interested parties to assist in this project. Lastly, he recognized the distribution of the funds is a very passionate subject of the Board, in which the committee considered bringing forward the consideration of levied funds for requests such as the LMA's.

Roy believed the LMA's project is in its infancy (providing for getting their feet on the ground during the third year of the three bay, five year demonstration project). He believed there was an estimated four more years in this program's growth. In closing the LMA welcomes all open communication in this regard.

Baasen thanked Roy for his involvement on this Board and recognized his passion for this project; welcoming that open communication and partnership.

Roy respectfully requested the Board award the LMA the remaining \$11,000 of availability of Save the Lake funds for their requested 2014 application.

Baasen stated the funds could remain available based on further communication amongst the two organizations.

MOTION: McDermott moved, Morris seconded to approve the 2014 Save the Lake Funding Proposals, as outlined in 1/16/14 memo.

VOTE: Motion carried unanimously.

6F, Personnel Committee, 2014 compensation adjustments for LMCD employees as outlined in 1/16/14 memo

McDermott stated he pulled this agenda item because the Personnel Committee requested that it not be included on the consent agenda. He asked the Board if they had any questions or comments.

Baasen asked Nybeck for an overview of the 1/16/14 memo.

Nybeck stated that he conducted and communicated performance reviews for the three permanent employees in December. At the January 8th Board Meeting, a review of his performance was conducted by the Board in an Executive Session. The Personnel Committee met on January 15th and is recommending two percent increases for all four permanent employees (retroactive to January 1, 2014).

MOTION: Roy moved, McDermott seconded to approve the 2014 compensation adjustments for LMCD employees as outlined in 1/16/14 memo (retroactive to January 1, 2014).

VOTE: Ayes (9), Nays (1, Morris); motion carried.

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. EOF Investments, LLC (Site 1), 2014 new multiple dock license (with minor change) application

Baasen asked Harper for background on this agenda item.

Harper reviewed his staff memo, dated 1/16/14, which summarized a request for a new multiple dock license (with minor change) application to document a change in ownership of the site, as well as widen the dock between boat storage units (BSUs) 34 and 35 by two feet to install a fuel pump. The location, number, and size of BSUs are not proposed to change. He provided an overview of LMCD Code Section 2.03, Subd. 7, which outlines the issuing of a new multiple dock license without a public hearing or payment of fee by the Executive Director. The proposed changes seem to meet the requirements outlined in the above code section; however, the Executive Director wanted the Board to review the application based on the proposed fuel pump being used strictly for its business use, as well as allowing time for the City of Orono (Orono) to provide comments on the proposed changes. He stated that the applicant did submit proposed changes relative to underground fuel storage that required the Orono Planning Commission (commission) to review and make recommendations to the city council. That review took place last night, in which the commission moved for approval to the city council with eight conditions (provided within the Board's handout folders). Staff recommends Board approval of the 2014 EOF Investments application (taking into consideration Orono's comments). He entertained questions and comments from the Board.

Nybeck reiterated that, by Code, this application could have been considered at staff level. However, based on the fuel pump not being provided for general public use (club use only), he believed it was beneficial (although a straight forward application) for the Board to consider such.

McDermott asked: 1) if staff knew where the fuel tank was going to be buried, 2) what jurisdiction(s) would oversee the use of such, and 3) what will be the size of the tank.

Harper identified his understanding on the location of where the tank will be buried. With regards to oversight, he believed that the City of Orono and State of Minnesota Fire Marshal will maintain jurisdiction of the fuel tank.

Nybeck stated the documentation outlining the size of the tank is not readily available. He stated staff understands that, at some point, the dock will be redesigned to accommodate the general public's use of the fuel.

McDermott asked if the LMCD had any jurisdiction over the applicant's choice to sell to the public, in which 1) Harper confirmed the LMCD Code provides jurisdiction over the structure only, 2) Nybeck confirmed modifications to the dock structure would take place at that time (involving the LMCD), and

3) Hunt pointed out that the conditions of the commission require city approval of such.

MOVED: Hunt moved, Green seconded to approve EOF Investments, LLC 2014 new multiple dock license (with minor change) application.

VOTE: Motion carried unanimously.

B. MN DNR, 2014 Watercraft Inspections Grant Application Administered by Local Government Units

Baasen asked Nybeck for background on this agenda item.

Nybeck directed the Board to the Minnesota Department of Natural Resources (MN DNR) 2014 Watercraft Inspections Administered by Local Government Units Description of Grant Offer (with LMCD completed application attached). He recognized that further discussion is pending on the logistics of a 2014 LMCD Watercraft Inspection Program (which needs further defining of that discussion). However, due to the MN DNR's grant application deadline of February 3rd, he recommended approval to submit the grant application. The maximum grant available in 2014 is \$5,000 (down from \$7,750 in 2013). The AIS Task Force recently discussed this matter, in which they recognized more agencies are requesting these funds. He reiterated the need to further consider the logistics of the program (offering suggestions that are currently being defined) and that this pending matter should not prevent the Board from approving the submittal of this application. He entertained questions and comments from the Board.

McDermott asked if there were any other differences in the application process (other than the change in the maximum awarded dollar amount), in which Nybeck confirmed there were no other changes.

Baasen asked what the status was in communicating to other agencies that will be awarding grant funds for this project.

Nybeck stated he spoke with AIS Director Craig Dawson of the Minnehaha Creek Watershed District (MCWD), in which he confirmed the district did not have a formal process in place for such. However, he confirmed the LMCD would be able to submit a formal proposal request for up to a 50% match in grant funds.

MOVED: Hunt moved, Hughes seconded to approve the submittal of the MN DNR's 2014 Watercraft Inspections Grant Application Administered by Local Government Units

VOTE: Motion carried unanimously.

Baasen offered to turn the chair over to Babcock upon his arrival at 7:32 p.m., in which Babcock recommended that Baasen continue to chair this meeting.

C. Staff update on Board member terms that expire in January.

Baasen asked Nybeck for an update on this agenda item.

Nybeck directed the Board to his staff memo, dated 1/16/14, in which he provided an overview of the member's terms that will expire on January 31st and respective city appointments made. Since this staff memo was prepared, the Cities of Minnetrista and Spring Park have re-appointed Hunt and Hughes for a one and three year term, respectively.

Hunt stated they chose to appoint for one year based on her term as city council member.

Babcock reviewed the LMCD's enabling legislation that calls for Board members to be appointed for a three-year term (providing for one third of the Board members to be appointed each calendar year). He stated that this requirement has not been fully met over the years.

Baasen stated that each city has the right to rescind and appoint as needed; recognizing that the City of Minnetrista was not alone in appointment their representative for only one year.

Nybeck stated that the City of Woodland has rescinded Fred Meyer and appointed Mayor Doak through April until Meyer returns from out-of-town. Sylvester has communicated his inability to continue to serve based on scheduling constraints; however, he has offered to serve until the City of Shorewood is able to find a replacement.

D. Nominating committee recommendations for 2014 LMCD Board Officers.

Baasen asked Green for an update on the Nominating Committee's (committee) recommendations, in which Green asked committee member Shuff to provide an overview of.

Shuff stated the committee (also including Green and Roy) recommended the following 2014 LMCD Board Officers: Chair- Dan Baasen; Vice Chair- Jay Green; Secretary- Andrew McDermott; and Treasurer- Gary Hughes.

Baasen opened the floor for other individual nominations to serve in a 2014 LMCD Board Officer position. Seeing none, he closed the floor and entertained a motion to approve the recommendations of the committee.

MOTION: Babcock moved, Hunt seconded to approve the recommendations from the nominating committee for 2014 LMCD Board Officers.

VOTE: Motion carried unanimously.

Baasen (acknowledging the approval of Resolution #135 under agenda item 6C) reiterated the importance of all Board members serving on at least one, if not two, of the LMCD standing committees.

E. Chair update of 1/8/14 Executive Session to discuss the performance of Executive Director Greg Nybeck

Baasen asked Babcock for an overview on this agenda item.

Babcock stated that the Board met on January 8th in an Executive Session to discuss Nybeck's performance for 2013. He provided a summary of the Session's discussion, which included positive feedback and a few offered suggestions. He stated he (with the recommendation for Baasen to be present) will meet with Nybeck in a more formal setting to provide for his annual performance review. He confirmed no action was taken at that meeting and thanked Nybeck for the good year.

F. Staff update on 2013-2014 de-icing inspections

Baasen asked Harper for background on this agenda item.

Harper stated that 33 de-icing licenses were issued for the 2013-2014 season. Inspections were conducted to verify compliance with LMCD Code Section 2.09 on January 9th and 10th; providing an overview of what is documented and the process involved in staying in compliance. Of the 33 initially inspected sites; 27 past first inspections, three failed, and three were not de-icing. Inspection reports were sent to respective licensees (explaining results and corrective action, if needed). Re-inspections were conducted for the three that failed, in which all promptly corrected deficiencies. He provided an overview (with pictures) of various sites; offering respective comments to their de-icing inspections. He entertained questions and comments from the Board.

The Board asked a few questions, in which Harper provided the following responses: 1) He confirmed that the number of licensed sites decreased by one (a Forest Lake site did not renew its license) and 2) The LMCD Code allows for de-icing without a permit after March 15th (providing for the use of "Thin Ice" signs along the affected shoreline).

Baasen publically thanked Babcock for his leadership in chairing the Board these past three years.

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).

Morris stated the AIS Task Force met on January 17th, at which time they initiated discussion on the proposed logistic options of the 2014 AIS Watercraft Inspection Program. This is planned for further discussion at the next Task Force meeting prior to the Board's consideration and approval. Additionally, the West Metro AIS Committee, which was briefly discussed, will be meeting (informally outside of the AIS Task Force) on January 30th (1:00 p.m. at the MCWD office).

Baasen stated the Save the Lake Committee met on January 14th, at which time they reviewed the Save the Lake availability of fund requests that the Board considered this evening.

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

11. EXECUTIVE DIRECTOR REPORT

Nybeck stated there are two Board meetings scheduled in February (12th and 26th). He believed there were two topics (further defining the logistics of the 2014 Watercraft Inspection Program and follow-up from a September 25th meeting with the commercial marina owners) that warranted one of the two meetings to be scheduled as a Board Workshop. In regards to the commercial marina discussion, he spoke with Gabriel Jabbour who confirmed they could have representation available on February 12th. He recommended the Board hold a Workshop on February 12th to accommodate for those two topics; providing for February 26th to be a Regular Board meeting as scheduled. The Board did not express concern in scheduling such.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:52 p.m.

/s/ Dan Baasen, Vice Chair

/s/ Andrew McDermott, Secretary