

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, April 9, 2014  
Wayzata City Hall

**1. CALL TO ORDER**

Baasen called the meeting to order at 7:06 p.m.

**2. ROLL CALL**

**Members present:** Dan Baasen, Wayzata; Jay Green, Mound; Andrew McDermott, Orono; Gary Hughes, Spring Park; James Doak, Woodland; David Gross, Deephaven; Ann Hoelscher, Victoria; Anne Hunt, Minnetrista; 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:** Doug Babcock, Tonka Bay; Dennis Klohs, Minnetonka Beach; and Deborah Zorn, Shorewood.

**3. APPROVAL OF AGENDA**

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

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Baasen**

Baasen made two announcements. First, he thanked the Board for their time in attending the various workshops for the consideration of the commercial marinas' proposal. Second, he stated the media has printed the LMCD's press release relative to the April 26<sup>th</sup> Boater Safety Education Program session. He urged all to consider signing up youths (12 to 17 years of age) for either this session or two additional sessions that will be offered yet this June and in the fall. He urged the guardians to attend, as well.

**5. APPROVAL OF MINUTES – 3/26/14 LMCD Regular Board Meeting**

Green recommended the following changes to the last two paragraphs starting on page 9:

Second to Last Paragraph:

- Remove "Lake Minnetonka Association" within the second discussion topic and add "Minnesota Department of Natural Resources." The sentence would read, "2) a Lake Vegetation Management Plan (LVMP) presented by the Minnesota Department of Natural Resources for North Arm Bay,"
- Remove the words "offered by" and add "such as doing circles around fishing boats" to the third discussion topic. The sentence would read, "3) bad operational habits that affect Lake Minnetonka (i.e., various violations such as doing circles around fishing boats, personal watercraft, riding on the gunwales, etc.)."

Last Paragraph (continued to page 10):

- Changing the spelling of Larry "Medic's" last name to "Meddock" and adding "Watersports Industry Association" to his name within the list of attendees to the March 18<sup>th</sup> AIS roundtable discussion at the Lafayette Club (third sentence), as well as correcting his name within the fifth sentence.
- Rewording the fifth sentence to note Senators Klobuchar and Franken were present for the AIS Symposium via video conferencing, with Klobuchar recognizing Larry Meddock. The sentence would read, "All listed were again.....the following day, at which time Senators Klobuchar and Franken were present via video conferencing (with Klobuchar recognizing Larry Meddock for his filtering system)."
- Remove the words "in five minutes" from the sixth sentence and add the words "without reducing fill time." The sentence would read, "He stated that system can fill up and drain a wake board boat's ballast without reducing fill time."
- Change \$10,000 to \$10,000,000 in the last sentence.

**MOTION:** McDermott moved, Shuff seconded to approve the minutes of the 3/26/14 Regular Board Meeting as amended, making the changes noted by Green above.

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

Baasen welcomed David Gross back to the Board as a representative for the City of Deephaven. Gross was sworn in prior to the 5:30 p.m. workshop that was held this date.

## 6. APPROVAL OF CONSENT AGENDA

Nybeck directed the Board to a document within their handout folder relative to the draft D.R. Horton Findings of Fact and Order, as well as a revised site plan for both this applicant and Ridgewood Cove POA (agenda items 6B and 6C). Specifically, he directed them to paragraph 6 of the draft D.R. Horton Findings, which provided for the measurement of 11.8 feet from the adjusted, extended south site line for the closest point of boat overhang (at Boat Storage Unit [BSU] No. 1). This measurement was offered after receipt of a revised site plan (also provided within the handout folder). Furthermore, the new site plan corrects the numbering of BSUs for Ridgewood Cove POA (as the prior site plan's BSU numbering was not consistent with those mentioned in the draft Findings). To this end, he stated that if the Board was inclined to approve agenda items 6B and 6C via the consent agenda, to do so based on the amended Findings of Fact and Order.

Baasen solicited the Board's interest in pulling those two agenda items off of the consent agenda.

McDermott requested clarification of whether the Findings and Order were equally weighted relative to legality (taking into consideration Ridgewood Cove's use of D.R. Horton's dock use area [DUA] was mentioned in the Findings but not the Order).

LeFevere stated that the Findings are the basis for the Order. The Order provides for the decisions being made (including approval of a variance) based on the history outlined within the Findings. An example of that would be outlining the reasons for documented hardships (Findings) and approving a variance based on those documented hardships (Order). The Order would not address taking away or use of another applicant's DUA (nor the approval of anything outside of) but defining and approving where that DUA exists.

Baasen requested that agenda item 6F be pulled for further clarification under item 9, "Other Business."

Green moved, Shuff seconded to approve the consent agenda as amended, taking into consideration all comments made above. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (4/1/14 – 4/15/14); **6B**, **D.R. Horton**, draft Findings of Fact and Order for approval of non-continuous shoreline, adjusted dock use area, dock length, and side setback variances; **6C**, **Ridgewood Cove POA**, draft Findings of Fact and Order for approval of adjusted dock use area, dock length, and side setback variances; **6D**, **LMCIT Liability Coverage Waiver Form**, staff recommends the Board approve a motion that the LMCD does not waive monetary limits on municipal tort liability established by Minnesota Statutes 466.04; and **6E**, Draft Watercraft Inspection Program Assistant position description.

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

There were no public comments.

8. **PUBLIC HEARINGS**

- **City of Mound and Bernard Wessendorf**, adjusted dock use area, dock length, and side setback variance application at 4644 Carlow Road

Baasen asked Harper for background of this agenda item.

Harper reviewed the staff memo, dated 4/3/14, which summarized a request from both the City of Mound (city), represented by Catherine Pausche, Director of Finance and Administration, and Bernhard Wessendorf (site resident). He provided the following overview:

- A dock is currently installed at this site, which was identified as being out of compliance with the LMCD Code (in particular dock length). Wessendorf has recently acquired the property and is proposing to legitimize and repair the existing dock in approximately the same location. The city is involved as the dock originates from their shoreline.
- The applicants have submitted a variance application for dock length, side setbacks, and an adjusted dock use area (DUA). This is a combined site located at 4644 Carlow Road (south side of the channel between Seton and Black Lake) with a combined total of 192' of 929.4' shoreline (135'/city and 57'/Wessendorf).
- Converging lot lines and an overlapping DUA exists; however, the unimproved Kings Lane and Kildare Road right of ways (ROW) with the site's shoreline will allow for a reasonable DUA. Additionally, that the city has worked with abutting property owners to allow private docks originating from city controlled shoreline.
- He directed the Board to the proposed site plan within their packet. He provided a detailed overview of the proposed dock length (336' from the beginning of the walkway), as well as how the length is assessed with the combined shoreline and the existing ROWs.
- He provided a detailed overview of the footage and degrees in which the applicants have proposed to adjust their lot line. Furthermore, the applicants have proposed one boat to be stored within a 12.5' x 32' three sided slip (with canopy), a 186' dock measured from the east shoreline of Kings Lane, and specific setbacks (24.4' to the west, 36' to the east, and an 8.5' setback for the walkway).
- He provided an overview of two relevant LMCD Code sections that pertain to this application (authorized DUA requirements and the process for a variance from the LMCD Code).
- He believed that: 1) the applicants had documented justifiable hardships of emergent vegetation,

converging lot lines, and overlapping DUAs to support the variances, 2) the Board has historically recognized these hardships (extending docks over vegetation to reach open water), 3) dock length variances have been granted along this shoreline and have allowed for 32' slips, and 4) the request is reasonable and will fit the character of the area.

- He recommended the Board direct LeFevere to prepare Findings of Fact and Order for approval of the side setback, dock length and adjusted DUA variances, subject to: 1) only one watercraft being stored at the subject dock and fully contained within the 32' slip structure and 2) that the dock structures be constructed and maintained in strict conformance with the approved site plan.
- He entertained questions and comments from the Board.

The Board had a few questions, in which Harper confirmed:

- The storage of one watercraft was consistent with variances previously approved in the surrounding area (in which he provided an overview of).
- The proposed variance was for the placement of the boat and slip structure (providing a detailed overview of site plan and the placement of such). He confirmed that the dock structure is 86' longer than what the current LMCD Code allows for.
- The dock will affect the neighboring properties use of their DUA (on a limited basis). The approval of this variance would allow for the neighbor to have a dock (with length variance and new extended lot lines).

Baasen invited the applicants to address the Board, in which they declined. He opened the public hearing at 7:27 p.m. There being no comments, he closed the public hearing at 7:28 p.m.

**MOTION:** Green moved, McDermott seconded to direct LeFevere to prepare Findings of Fact and Order approving the city and Wessendorf's variance, subject to staff's recommendations.

**VOTE:** Motion carried unanimously.

Nybeck took this time to introduce Pausche to the Board. He stated that Pausche will be overseeing the city's commons docking program, which was previously supervised by Jim Fackler.

## 9. OTHER BUSINESS

- **LMCD Resolution 138**, a resolution approving Workers' Compensation for LMCD Board of Directors

Baasen asked Nybeck for background on this agenda item.

Nybeck stated that staff meets annually with the representative of the LMCD's insurance trust. A recent meeting was held at which time the question was raised as to whether the LMCD would like to provide Workers' Compensation for the Board of Directors (acknowledging the Board's presence outside of the meeting room for various tours and on-site project reviews). Based on a recent quote of \$59 annually to implement this option for all Board members, staff recommended Board approval of such (via LMCD Resolution 138).

**MOTION:** McDermott moved, Hunt seconded to approve LMCD Resolution 138 as submitted.

**VOTE:** Motion carried unanimously.

- Staff update on 2014 LMCD Code Enforcement and Shoreline Inventory Programs.

Baasen asked Herman for background on this agenda item.

Herman made the following comments:

- She provided a brief overview of the above noted programs that will be completed during the 2014 boating season. This overview provided for the programs' background, objective, proposed goals, and methodology.
- In regards to the Proactive Code Enforcement Program, she provided a brief overview of the watercraft density rules and the timing of which communication is submitted.
- In regards to the Shoreline Boat Storage Count Program, she brought forward historical Board discussion (from September of 2012) relative to their possible interest in reviewing and/or revising the definitions of runabout and cruiser classifications (outlined in Appendix A within their handout folder). No further questions or comments were offered from the Board on that subject.
- She recommended Board approval of the hiring of Mr. Miles Wilson as the part-time, seasonal employee (at the rate of \$12.50 per hour without benefits). She stated that Wilson worked with her in 2013, at which time he offered valuable watercraft navigational skills during all types of weather.

Gross requested clarification on the number of hours Wilson would be hired for.

Nybeck confirmed those hours vary each week. He assured the Board that this was an approved position and that the hours would remain within the budget for these programs.

- She entertained further questions and comments from the Board.

**MOTION:** McDermott moved, Hughes seconded to approve the hiring of Mr. Miles Wilson as a part-time, seasonal employee at \$12.50 per hour, without benefits.

**VOTE:** Motion carried unanimously.

## 10. UPDATE FROM STANDING LMCD COMMITTEES

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

Hughes stated that a Public Safety Committee meeting will be scheduled once Lt. Saunders completes his flyover to identify the remaining winter debris, etc.

Nybeck stated the flyover took place yesterday and a meeting will be scheduled in the near future. He confirmed the intent of the flyover was not specifically for the review the winter's debris but also to identify the open areas of water and any pressure ridges that may exist.

Morris stated the AIS Task Force is scheduled to meet on Friday, April 11<sup>th</sup> (8:30 a.m. in the LMCD office). He confirmed that they will be reviewing discussions held at the Minnehaha Creek Watershed District's recently held AIS Symposium, as well as to receive an update on the State of Minnesota AIS Committee.

Baasen stated the Save the Lake Committee met last week, in which they discussed:

- Plans for the April 26<sup>th</sup> Lake Minnetonka Boater Safety Education Program. He stated that he had received a nice letter from Sheriff Stanek relative to this program and their interest in continuing to partnership. He will keep that communication open, including urging the Sheriff to invest in the increased network capacity of their training room. The April 26<sup>th</sup> session was moved from the Water Patrol to the Minnetonka Community Center to address this need (with the city providing a very valuable offer to accommodate this request).
- The upcoming spring solicitation letter, which will highlight a number of funded programs.
- The committee is scheduled to meet on May 5<sup>th</sup>. He invited additional Board members to join the committee as their participation would be welcomed.

There was no Finance, Personnel, or Ordinance Review Committee reports.

## 11. EXECUTIVE DIRECTOR REPORT

Nybeck made the following three comments:

- He confirmed, as of this date, 15 youths that have registered for the Boater Safety Education Program (recognizing the media's assistance). Furthermore, he entertained any Board members that would like to attend as a mentor to assist the youths throughout the training session. He is working closely with Save the Lake Committee member Jay Soule and will provide additional information as plans progress.
- The first formal budget review session is scheduled for the April 23<sup>rd</sup> Board meeting. As previously communicated, staff typically holds a Board workshop to review the draft budget prior to that meeting. He recommended scheduling such early next week at 5:30 p.m. (preferably Wednesday, April 16<sup>th</sup>).

Baasen solicited the Board's availability for the April 16<sup>th</sup> workshop (acknowledging he would not be able to attend). Based on no response of other conflicts, he directed staff to schedule the workshop for Wednesday, April 16<sup>th</sup> (5:30 p.m. in the LMCD office) and encouraged all Board members to attend.

- The Board approved the hiring of a Eurasian Watermilfoil (EWM) Harvesting Program site supervisor at their March 26<sup>th</sup> meeting. In regards to the other program seasonal employees, he stated three employees have expressed an interest in returning from last year (providing for the need to hire two new seasonal employees). Therefore, he recommended staff receive Board approval to re-hire the three returning part-time, seasonal employees and two additional new employees at the rate of \$12.50 and \$12 per hour (without benefits), respectively.

**MOTION:** Morris moved, McDermott seconded to hire the EWM Harvesting Program employees as outlined above for the rates offered.

**VOTE:** Motion carried unanimously.

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**12. ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:56 p.m.

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Dan Baasen, Chair

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Andrew McDermott, Secretary