

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, May 14, 2014
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; Jay Green, Mound; Andrew McDermott, Orono; Gary Hughes, Spring Park; Jeff Clapp, Tonka Bay; David Gross, Deephaven; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; Rob Roy, Greenwood; Sue Shuff, Minnetonka; and Deborah Zorn, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Ann Hoelscher, Victoria and Anne Hunt, Minnetrista

3. APPROVAL OF AGENDA

Nybeck requested the removal of Item 9C, "Draft 2013-2014 LMCD Annual Report," which will be rescheduled for consideration at the next meeting.

MOTION: McDermott moved, Shuff seconded to approve the agenda as amended, making the change noted by Nybeck above.

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Baasen

Baasen made the following announcements:

- Tonka Bay representative Doug Babcock resigned from the Board after 25 years of service (eight as Chair). He wanted to publically thank him for his dedicated service, in which he recently had a good conversation with him. At that time, Babcock confirmed the importance of spending more time with his family. He urged Babcock to stay involved by continuing to serve on one of the committees, in which he was receptive to that offer and would be in touch.
- Babcock previously served as Chair of the Ordinance Review Committee. Therefore, he recommended the Board members consider this position, which will need to be filled in the near future.
- The City of Tonka Bay (city) appointed Jeff Clapp as their new representative to the LMCD Board. He asked LeFevere to administer the Oath of Office, in which he did. Clapp was seated as a representative for the city. Baasen asked Clapp to provide a few words about himself.

Clapp stated he serves on the Tonka Bay City Council (second year) and was honored to serve in this capacity. He grew up on the old Dayton Farm (Boulder Bridge) and acknowledged the

importance of actively serving his community. He is a civil engineer and runs a large construction company.

- He reminded all that the Lake Minnetonka Power Squadron will be holding their "Safe Boating Week" event, in which they pass out safety tip flyers and assist in educating watercraft operators on AIS inspection efforts at the Lake Minnetonka public accesses on May 17th and 18th. He recognized their positive program and service to the Lake community.
- The spring/summer LMCD newsletter has been mailed and the Save the Lake solicitation letter is scheduled to be mailed the first of June.
- He asked Nybeck to provide an update on the Lake level readings.

Nybeck directed the Board to his Executive Director report, dated 5/13/14, within their handout folder. He provided an overview of the 2014 Lake level readings (offering 930.21 feet for this date's reading). When the Lake level reaches 930.25 feet, the Executive Director is required by ordinance to declare High Water (which was done on May 13th). He directed the Board to an attached press release of that declaration, as well as the respective minimum wake map that accompanied it. Since the declaration, he provided a couple of television interviews, in which he believed further clarification was warranted on one of them. When asked who might potentially be some of the violators of the minimum wake restrictions, he responded with a variety of sources (those that use the public access, marina and municipal dock customers, and property owners). Prior to releasing the interview for television, all sources were edited out but the property owners. He further added that one of the advantages all sources but the property owners receive is notification of the declaration via signage and educational pamphlets offered at most public accesses. Therefore, the property owners could well provide for a greater number of minimum wake violators.

Meyer questioned if the 300 cubic feet per second (cfs) discharge rate that the Minnehaha Creek Watershed District has the dam set at is as wide open as possible.

Nybeck confirmed that 300 cfs is wide open. He prefaced that Lake levels are actually being addressed in a combination of ways (discharge through the dam as well as the water that runs over the spillway). He hoped that the predicted warmer weather and wind will assist in the evaporation of the Lake level. He stated that the LMCD received many calls of concern for shoreline erosion; however, he acknowledged that most shoreline damage, to date, was being caused by waves created from wind vs. a watercraft.

Gross requested clarification on the termination of the declaration, in which Nybeck confirmed three consecutive days of Lake level readings below 930.00 feet. Furthermore, he stated that he had spoken with Hughes (Public Safety Committee Chair), in which they will be discussing this ordinance at their next meeting.

5. **APPROVAL OF MINUTES – 4/23/14 LMCD Regular Board Meeting**

MOTION: McDermott moved, Gross seconded to approve the minutes of the 4/23/14 Regular Board Meeting as submitted.

VOTE: Ayes (11), Abstained (1, Roy); motion carried.

6. **APPROVAL OF CONSENT AGENDA**

Gross moved, Roy seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (5/1/14 – 5/15/14); **6B**, **2014 EWM Harvesting Program**, staff recommends awarding Truck Hauling Bid as outlined in 5/8/14 staff memo.

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

There were no public comments.

8. **PUBLIC HEARINGS**

- **West Point HOA**, 2014 new multiple dock license application for 14 Boat Storage Units on 830' of continuous shoreline off of Lafayette Bay.

Baasen asked Harper for an overview of this agenda item.

Harper reviewed the staff memo, dated 5/8/14, which summarized a request from West Point Place Homeowners Association (HOA) for a new multiple dock license. The site is currently approved for eight boat storage units (BSU) on 830' of continuous shoreline (conforming 1:103' density). Currently the site maintains three separate docks in the lagoon area (four BSUs each on the east and west side of the site with a 40' transient guest dock). The applicant has proposed to add a three sided slip to the west dock and an additional 40' straight dock to the west side of the western dock (resulting in 14 BSUs; two BSUs per unit and two transient guest BSUs). This request is three BSUs short of their maximum density allowance of 17. The approved site plan documents a bridge extending to an island that the association partially owns. This site has not reconfigured their dock structure since 1994; therefore, the bridge has been authorized with the approval of the multiple dock license. At this time, LMCD staff requested a bridge permit application be submitted (via the adoption of a 2005 ordinance establishing a bridge permitting process). This permit can be approved by the Executive Director and no changes to the bridge are being requested (constructed with typical seasonal dock material). The applicant has requested a refund of the \$250 bridge application fee. He provided a detailed overview of the following two relevant LMCD Code sections that pertain to this application (Section 2.03, Subd. 7, which outlines new multiple dock license criteria and Section 2.01, Subd. 1, which outlines dock use area usage). He recommended the Board approve the 2014 license and the reimbursement of the \$250 bridge permit application fee. He entertained questions and comments from the Board.

The Board had a few questions, in which Harper confirmed: 1) the site's location, 2) that the purpose of the bridge is to access the adjacent island (confirming the bridge is within the applicant's property identification boundaries), and 3) that the refund of the bridge permit application fee of \$250 would not take away from the

approval steps in issuing both licenses (acknowledging the intension of the application fee was to pay for administrative time in processing the application for those that do not currently have a multiple dock license). Since this site currently has a license, the approved bridge permit would simply be filed with such.

Baasen invited the applicant to address the Board.

Mr. Rusty Irvine, President of West Point Place HOA, stated he was comfortable with enforcing whatever measures are needed to maintain compliance with their multiple dock license.

Baasen opened the public hearing at 7:20 p.m. There being no comments, he closed the public hearing at 7:21 p.m. He invited further discussion or a motion from the Board.

MOTION: McDermott moved, Green seconded to approve the 2014 West Point Place HOA new multiple dock license application and the reimbursement of the \$250 Bridge Permit application fee.

VOTE: Motion carried unanimously.

9. OTHER BUSINESS

A. Browns Bay Marina (Site 2), staff update on 2014 multiple dock license.

Baasen asked Nybeck for background on this agenda item.

Nybeck directed the Board to his staff memo, dated 5/8/14, in which he made the following comments:

- EOF Investments, LLC (EOF) owns Browns Bay Marina, which operates a multiple dock license facility on Tanager Lake. The facility is approved for 40 Boat Storage Units (BSU) on 240 feet of shoreline (1:6' density). This facility also has an approved 1985 dock length and zero foot side setback variance.
- Prior to the 2013 boating season, it was brought to staff's attention that the southern dock installation (BSUs 23-40) was not installed consistent to the approved site plan (confirmed by staff during the 2013 multiple dock license inspection). Specifically, the majority of BSUs 23-40 cross over the southerly extended side site line. He provided an overview of the above referenced areas via an aerial photograph of the site.
- He provided a detailed overview of communication held with one of the owners, Mr. Luke Kujawa, and other associated partners (who purchased the site last fall). This communication provided for acknowledgment of the variance, including non-compliance, as well as expectations of violations to be addressed prior to approval of any application(s).
- He confirmed that the dock had been installed out of compliance with the approved variance for a number of years (including a number of prior owners). Confirmation as to the date could not be provided.
- He provided a detailed overview of communication held with representatives from the City of Orono (city), in an effort to bring closure.
- The owner has recently submitted a rezoning request to the city for the two abutting residential properties to the north. He stated the shoreline for the two residentially zoned properties is factored in to the 240' of continuous shoreline (providing for the water surface of the residentially zoned lots

cannot currently be used for docking and boat storage per LMCD Code). The city staff had requested this matter be acted on by them prior to the LMCD's consideration (confirming the Planning Commission had scheduled the respective public hearing for May 19th). He will be in attendance for that meeting for the sole purpose of providing clarification of LMCD ordinances and application processing procedures if need be.

- If their zoning request is approved, all LMCD ordinance requirements (including setbacks) should be addressed prior to Board consideration of any application(s). He confirmed other issues are also being addressed by the city (i.e., parking).
- This agenda item is presented on an informational basis only and no Board action was being requested at this time. He will provide guidance to the respective owners once the city makes their determination on the various matters. He anticipated the consideration of application(s) within the next sixty days, at which time a public hearing will be scheduled.
- He entertained questions and comments from the Board.

Klohs questioned who brought this matter to the LMCD's attention.

Nybeck stated the LMCD received a formal complaint, in which, by State of Minnesota (state) law, he could not provide the complainant's name.

Gross asked if EOF was aware that no matter what is decided by the city, they will be required to bring their dock into compliance with the currently approved variance order (confirming that waiting for the city's review is more of a courtesy on the LMCD's behalf prior to addressing compliance issues).

Nybeck confirmed that, at a minimum, EOF will have to straighten the non-compliant dock out so that it is within the side site line extension. He believed that achieving compliance with an applicant that is willing to work with the LMCD voluntarily is a balancing act to address (confirming his belief that forward progress within the next 60 days was considered a workable situation). He directed the Board back to the aerial photograph of the site and pointed out the side opening slips that are required to meet a zero foot side setback to the north and south. He confirmed that all watercraft must be fully contained within those slips, in which he recently addressed some that were not. The applicant resolved this matter and was fully aware of his expectations in maintaining that compliance while the LMCD is pending receipt of the city's findings. He reiterated the city was holding a planning commission public hearing on May 19th, at which time he will know more. He stated that he planned on attending the public hearing for the purpose of: 1) confirming the proposed dock plan conforms to the LMCD rules (acknowledging the first dock plan did not conform to the rules; however, he believed they had modified such), 2) being available should there be a need for further clarification of the LMCD ordinances, and 3) keeping the process moving forward after the fact.

Green asked if the 60 day time period, mentioned above, was reasonable.

Nybeck stated that the city's planning commission meets on a monthly basis. It was his hope that the city will have closure sometime in June or July; providing for closure by the LMCD shortly after.

Baasen questioned if the abutting neighbor's dock to the south was conforming and whether EOF's southern dock structure was impairing such.

Nybeck believed that, under the current dock configuration, EOF's southern most dock was not impairing the abutting neighbor's dock (confirming that neighbor was in attendance to speak to that question). However, further changes to that dock structure could provide for such. He confirmed the non-compliant dock has been in existence a long time and that impairing of watercraft has not been a raised issue.

Zorn requested clarification on the amount of time needed to process a situation such as this.

Nybeck stated he was hopeful that this matter would have been resolved last winter. However, other matters arose that did not allow for that conclusion (i.e., a major de-icing problem that required the owner's placement of a de-icing curtain at the facility on Browns Bay and the processing of an application for the approval of a fuel dispenser for the boat club at the multiple dock facility on Browns Bay). He stated EOF recently submitted a minor change application for the 2014 boating season for the facility on Tanager Lake. Although he confirmed that this was not the appropriate application relative to this matter, he was holding on to it for its future withdrawal and submittal of the correct application once the LMCD can confirm the direction in which the owners can apply (adjusting the respective application fees at that time). He reiterated the applicant's interest in working with the LMCD to keep this matter moving forward.

Meyer requested clarification on historical Board approval of the zero foot side site line variance.

Nybeck directed the Board to the approved site plan that outlines the zero foot side setback variance for both the north and south dock (providing for the construction of such all the way up to the extended side site lines). He believed that the inability to maneuver watercraft for the inner most slips contributed to the dock being angled over the southerly extended side site line.

McDermott questioned why the dock structures could not have been angled, or crossed over, to the owner's residentially zoned property line to the north and how much footage is on the commercially zoned side of the property.

LeFevere stated that there is a provision in the LMCD Code that does not allow for the crossing of zoned property lines.

Nybeck estimated that of the 240' of shoreline, more than 50% of the shoreline footage was calculated from the commercially zoned sites with about 100', plus or minus, from the two residentially zone properties to the north.

LeFevere believed that the shoreline footage calculation (for both of EOF's commercially and residentially zoned properties) was combined for density purposes; providing for the site to be grandfathered in. This option allows for the shoreline to be counted for density purposes only and not for the placement of the dock structure or use of the surface water area adjacent to the residentially zoned sites. He further believed that the variance to the north was rationalized based on owning both sites.

Zorn asked what would happen to the density allocation should one of the residentially zoned properties be sold.

LeFevere stated that if the site changes, the owner would lose their grandfathered status (providing for the

need to comply with the 1:50' Rule).

Baasen stated he was not condoning the use of strong enforcement; however, inquired if the LMCD would lose the ability to enforce if a known non-compliant situation was allowed to operate as such.

LeFevere stated that the courts would expect the LMCD, and other agencies, to work towards compliance. This would not diminish the LMCD's regulatory authority (recognizing that too lengthy of a process may diminish the credibility but not the authority). He stated that staff cannot visually see the property lines when inspecting a licensed site. To this end, the lack of documenting a non-compliant site does not provide the owner grandfathered rights. On the other side, once a non-compliant site is documented, the LMCD then initiates the steps to remedy the situation. He stated that EOF has not owned the site for very long and confirmed that staff has been actively working with them (as they do with all types of enforcement issues at a variety of sites). Lastly, he pointed out that initiating prosecution would not only be expensive but would most likely take the entire boating season to resolve.

Baasen concurred with LeFevere and was not recommending prosecution. He requested clarification on what would be a reasonable time and outcome to resolve this matter (whether or not the city rezones the site).

LeFevere stated the matter needs to be addressed. The only other option, other than coming into compliance with the approved variance order, is to consider an amended order (which could include an adjusted dock use area [DUA] by adjusting the southerly side site line to the south). With that said, this site is not an irregular shaped lot and questioned what additional hardships could be offered (acknowledging the site is already approved for zero side setbacks). However, this does not prevent EOF from applying for the Board's consideration of such.

Baasen stated that although this matter was not a public hearing he invited those in the audience to address the Board.

Mr. Rich Anderson stated that he owned the abutting property to the south. At one time, he was looking to purchase the property at the time it was sold. At that time, he asked Administrative Assistant Emily Herman to send him the approved plan for this site. He originally purchased the property after Jim Rivers sold it (confirming one can clearly see the dock is on the side property line) and that he knew something was approved to allow for such (assuming the installation of the non-compliant dock was in compliance with the approved site plan). He then sold the property to M.G. Kaminski prior to EOF purchasing the site (reiterating his assumption that the dock was in compliance). He directed the Board to his site (North Shore Marina, Browns Bay) across County Road 15, in which he visually referenced a dock section that maintained six BSUs. He stated that when the Board recently considered their multiple dock license, that referenced dock encroached five feet into the side setback. They were required to bring that dock into compliance, which they did this past winter (confirming a staff letter documenting such). At the time he was considering the purchase of the EOF property, LMCD staff informed him they were not going to issue a multiple dock license for that property. For this reason, he backed off considering the purchase of this property (providing for the existence of an ethical and legal matter). He stated non-compliance of the EOF site was brought forward last fall, in which he stated he was copied a letter to EOF from Nybeck documenting such. He believed that EOF has had ample time to bring their site into compliance. The abutting residential property owner to the north of this site (who was in attendance) was informed by the city that the subject site would never be zoned commercial.

In summary, he reiterated the following: 1) that EOF had the ability to come into compliance within the approved 240' of shoreline, 2) that he was informed a multiple dock license would never be issued for the existing configuration in 2014, 3) that their decision to not purchase the site was based off of the inability to make the docks pay for themselves, 4) that, in looking back at the "chicken scratch" (approved) site plan, he is now well aware of the zero side setback variance, and 5) that the existing pontoon stored within the site, is the same boat that was there all last year that sat over 10' within his property line. He stated that he would have purchased the property had he known the docks were going to be left.

Mr. Michael Jellish, one of the owners of Browns Bay Marina, stated that he understood the dock is out of compliance. He believed that this non-compliant dock has remained in the exact position since the 1980's until when Mr. Anderson sold the property to Mr. Kaminski. He stated that the Board is dealing with new owners that want to bring the site into conformance, recognizing it is not a clean situation (i.e., inconsistent zoning, etc.). He and his partners were unaware of the non-compliant status when he purchased the property last September but assured the Board he has been working to rectify the situation since that date. He believed Mr. Anderson had "unclean hands" in this matter based on the dock being in the exact non-compliant position when he sold the property and that he recognized his fortunate situation of having a neighbor that is vested in bringing the site into compliance. In summary, he: 1) invited the Board to attend any and all meetings relative to this site, 2) that he is trying to move through this process as quickly as possible, and 3) that he has been working with the city to present a plan to rezone the residential properties to commercial (providing for a significant property tax hike). He confirmed this task will not save him any money but recognized it was the right thing to do.

Mr. Travis Anderson, a North Shore Marina representative, asked staff if there was a multiple dock license issued for the subject site. If not, he questioned whether one can rent the BSUs associated with the dock.

Nybeck stated that a 2014 multiple dock license has not been issued for this site.

LeFevere confirmed that a site without an approved multiple dock license could not rent BSUs out. With that said, it has already been confirmed the site is not in compliance. The question is whether the LMCD should take immediate enforcement action or give a reasonable period of time for the site to come into compliance. He further stated that it has been the history of the Board (in the case of many homes and marina owners) to first work towards compliance within a reasonable period of time (acknowledging the difference of opinions as to what a reasonable period of time was). He confirmed that pursuing immediate prosecution would require a large legal budget that, in the end, may not serve the public well. In this case, he confirmed that if the LMCD took immediate legal action, the lengthy process would provide for the same dock and its respective use throughout the summer months (providing for the ultimate decision by the Board).

Mr. Matt Johnson stated that he is the abutting residential property owner to the north. He recently reached out to Mr. Nybeck on this matter as he was previously unaware of the situation at hand. When he purchased this home in 2012, he specifically made sure a residential buffer would remain. He referenced a comment made this evening that the rezoning of the residential property to commercial was good for the city. He did not share in that opinion and felt it was not a position for the Board to have based on it affecting his normal use and enjoyment of his property (confirming the negative effects of his property value). To this end, he did not see this matter as a "slam dunk" or a short process to play out.

Gross stated that he was not advocating legal action at this time but would like the assurance that staff has informed the marina that they are currently out of compliance and must rectify the matter.

Nybeck confirmed that staff had informed the owners (in writing) that the site is out of compliance with the approved variance order (which is part of the approved site plan) and that he expected compliance during the 2014 boating season. He stated that the written documentation will be provided to the Board at the time their application is being considered.

Green stated that, although he considered himself a newer Board member and did not have the history behind the historical action and approved site plan, he believed EOF should be actively working on plans to bring the subject dock into compliance (apart from the city's consideration of their rezoning application).

McDermott concurred and recommended something as simple as a sketch plan.

Nybeck stated that he and Harper met with one of the property owners last week. At that time, a site plan was discussed that did not conform to the LMCD Code, in which changes have been made. He concurred that EOF needs to consider a Plan B should the rezoning not go forward. He stated that if the Board wanted to take a firm approach on this matter, which he was not recommending, they would have the ability to consider additional conditions to the south dock while all matters are being addressed.

Roy confirmed the non-compliant dock has been in existence for many years. He agreed that a sketch plan would be nice but did not agree with a heavy hand. He believed the owners will receive reasonable use of their property until the city finalizes their process in July or August.

Green reiterated that he is just looking for a plan.

Baasen believed that EOF knows what they want to do should the city approve their rezoning request. He stated that it would be of assistance to the Board to have a Plan B, which would provide the Board assurance for their patience and support in working through this process. He did not believe it was fair to the Board to find out that after sixty days (or a reasonable period of time), that a specific path or option had not been considered at that juncture. He believed the lack of planning would take advantage of the Board's leniency.

Gross expressed concern about Nybeck attending the Orono Planning Commission meeting (as this Board should not have an opinion on how the city zones their land).

Nybeck stated that he was not going to the meeting to provide an opinion. He believed that his attendance was important when a municipality is considering an application that pertains to both land and water so that he can offer confirmation on: 1) the LMCD code should a question arise and 2) the LMCD's application process once it reaches that process. He offered this process, as well, when he attended a recent Minnetrista Planning Commission meeting for their consideration of the Orchard Cove application.

Baasen stated that, at this point, staff has advised the Board that non-compliance exists and that they are working with the owners to bring the matter into compliance. Furthermore, the Board expects that the city will provide some form of resolution relative to EOF's request to rezone two residentially zoned sites to commercial and that he had requested that EOF help the Board to better understand what Plans A and B will

be at a subsequent meeting.

B. Draft 2015 LMCD Budget

Baasen asked Nybeck to provide background on this agenda item.

Nybeck directed the Board to his staff memo, dated 5/8/14, in which he made the following comments:

- The LMCD Executive Committee met on April 22nd to discuss the first draft of the 2015 LMCD Budget (with all Board members invited). At that time, staff was directed to prepare an amended 2015 LMCD Budget (within packet) for the Board's review and consideration at this meeting.
- He provided an overview of the LMCD budget review process (acknowledging the importance of getting a preliminary approved budget to the member cities as soon as possible to accommodate those that only have one meeting a month, as well as the ability to schedule staff and/or Board representative to present at the municipalities' request).
- He provided a detailed overview of the budget highlights as follows:
 - A 0.6% increase is proposed for the overall levy (\$342,492 in 2015 compared to \$340,616 in 2014).
 - A 2.0% increase in "Personnel Services" is proposed (\$254,216 in 2015 compared to \$249,143 in 2014). Compensation adjustments have been included at approximately 3% in the "Contingency" line item. Adjustments are recommended by the LMCD Personnel Committee, in which the performance of each employee will be taken into consideration. He further directed them to the attached compensation and salary survey (most current) for the 14 member cities and Minnehaha Creek Watershed District.
 - A \$30,229 reduction is proposed for the "Office Lease and Storage" line-item. This is due to the relocation of the LMCD office from the City of Shorewood to Mound last fall.
 - \$3,300 is proposed for the "Media (Cable & Internet)" line-item. He stated this is new and provided for the LMCD to contract with the Lake Minnetonka Communications Commission for a producer and on-line viewing of LMCD Board Meetings. At this point, he believed there was an interest to continue as is (with some Board members researching other options at the same time). He did want to point out that communication with the LMCC will be warranted to confirm budget needs for not so much the second half of 2014, but for all of 2015.
 - \$4,090 is proposed for the "Code Enforcement Program" line-item, which is consistent with 2014. 2014 projected expenses had exceeded what was budgeted based on the Board's recent approval of additional capital equipment (Shorestation and dock sections) to store the LMCD's runabout at the Water Patrol dock on Spring Park Bay. He assured the Board that this expenditure will be paid from 2014 rent savings.
 - \$35,000 is proposed for the "Equipment Replacement Fund" line-item, which is up \$10,000 from 2014. The LMCD Executive Committee has directed staff to prepare a Capital Improvement Plan (CIP) for Lake Minnetonka, in coordination with Treasurer Hughes. This CIP Plan is currently being worked on and he hoped to have a first draft of it for Board review on May 28th.
- He provided an overview of the maximum LMCD levy, offering the following comments: 1) per state statute, the LMCD can levy .00242% of the total taxable market value and that no member city can pay greater than 20% of the total levy, 2) the LMCD did not approach this for years (based on improved economy), and 3) the current trend offers a decline in maximum LMCD levy

(declining taxable market values).

- He offered a summary chart of total taxable market values and the maximum levy/approved levy from 2008 forward (with the 2015 approved levy marked as pending). He stated the feedback received by the Executive Committee was to keep the levy the same or increased just slightly.
- He recommended the Board provide preliminary approval of the presented or an amended draft budget at this meeting; directing staff to work with Treasurer Hughes on a cover letter that will accompany the preliminarily approved budget to the members cities (which would be mailed by this Friday). Additionally, the letter will reference a scheduled member city budget review session at the LMCD office on June 5th at 11:00 a.m. and the offer to present such to their respective council.
- He entertained questions and comments from the Board.

Green recommended that the proposed \$35,000 Equipment Replacement line-item on page one under "Revenues" be tied back to Footnote #14 under "Expenses" on the third page for the Equipment Replacement Fund.

Baasen encourage staff to create a budget review outline (key points) for the Board's use in presenting to their member cities. He asked all to be comfortable with the budget prior to presenting.

Nybeck stated that the LMCD Annual Report is typically presented to the member cities at the same time as the budget. That report will not be considered until the next meeting and may not make this year's combined presentation schedule.

Baasen asked Nybeck to provide a timeline of budget accomplishments and approvals.

Nybeck stated that, by state statute, the 2015 LMCD Budget will need to be certified to the state by July 1st. He referenced the two June meetings (11th and 25th) that offered opportunities to amend the preliminarily approved budget (recognizing the need for the Board to be more open in considering presentation schedules and member cities' feedback).

Meyer questioned the City of Victoria's levy increase of 6.1% from the 2014 budget.

Nybeck confirmed that Victoria's levy increase was most likely due to their net tax capacity maintaining better than the other 13 member cities.

MOTION: Roy moved, Shuff seconded to provide preliminary approval of the 2015 Budget and to direct Nybeck to forward it to the member cities (with cover letter).

VOTE: Motion carried unanimously.

D. Staff update on 2014 Lake Minnetonka Watercraft Inspection Program

Baasen asked Nybeck for an update on this agenda item.

Nybeck directed the Board to his staff memo, dated 5/7/14, in which he made the following comments:

- 12 Volt Workforce Solutions (Volt) employees have been trained and certified as Level 1 Inspectors to date.
- The LMCD is partnering with the Minnehaha Creek Watershed District (MCWD), Minnesota Department of Natural Resources (MN DNR), and Three River Park District (TRPD) on the 2014 program (with the MN DNR and TRPD already commencing their program and the LMCD starting on May 23rd).
- He provided an overview of the financial contributions as follows: 1) MCWD approved a cost share grant of \$23,797.30 or 50% of the project costs (pending submittal of agreement for execution) and 2) MN DNR has approved a grant for \$4,000 (agreement executed). The LMCD previously requested \$5,000 but was approved for \$4,000 (supply and demand). He confirmed that the LMCD budget can accommodate the remaining \$1,000 that was not funded. The TRPD provides an in-kind contribution of watercraft inspections at the Lake Minnetonka Regional Park.
- \$2,500 has been budgeted for the hiring of a Watercraft Inspection Program Assistant to assist the Executive Director in managing the program. He interviewed a number of applicants and recommended the Board approve the hiring of Mr. Chad Miller at the rate of \$14 per hour (without benefits).
- \$4,000 had been budgeted for the purchase of tablets and accessories for the Volt watercraft inspectors to compile required MN DNR survey information. In working with the MN DNR, the office has purchased 10 tablets. He is currently working with Volt to logistically maintain those tablets with Lake Minnetonka watercraft inspections (recognizing they are cross-trained for other bodies of water).
- He entertained questions and comments from the Board.

Green clarified that the LMCD received \$7,750 in MN DNR grant funds for the 2013 boating season; solidifying the pressures of supply and demand as all (including the TRPD) received \$4,000 of the \$5,000 maximum in grant funds for the 2014 boating season.

MOTION: Green moved, McDermott seconded to approve the hiring of Chad Miller as the 2014 Watercraft Inspection Program Assistant at \$14 per hour with no benefits (not to exceed \$2,500).

VOTE: Motion carried unanimously.

E. Ordinance Amendment, first reading of an ordinance amending the definition of unrestricted watercraft, amending LMCD Code Section 1.02, Subd. 55c.

Baasen asked LeFevere to provide an overview of this agenda item.

LeFevere stated the draft ordinance amendment was presented as a result of a past Proactive Code Enforcement Court case that the LMCD lost. The LMCD Code defines what a restricted and unrestricted watercraft is, in which he provided an overview of. The significance in having those definitions is to provide what watercraft is counted for density purposes (restricted). He confirmed unrestricted watercraft do not count against their density. Therefore, when staff document the number of watercraft docked or moored at a site, they do not count the unrestricted watercraft. For the case that went to Court, staff concluded there were too many restricted watercraft and the owner convinced the judge that their motor

was not operational (therefore, it should be counted as an unrestricted watercraft). To address this matter, he offered a draft ordinance amendment that further defines an unrestricted watercraft as being:

- 16 feet or less in length and "has no motor" vs. "unmotorized";
- 16 feet or less in length and has a motor of 10 horsepower or less. With this option, the words "as rated by the manufacturer at the time of manufacture, whether or not the motor is operational" was added; and
- Watercraft 20 feet or less in length and "has no motor" vs. "unmotorized" that is propelled solely by human power.

LeFevere recommended approval of this draft ordinance to make sure the Proactive Code Enforcement Program can move forward without this complication.

MOTION: Gross moved, Green seconded to approve first reading, to waive second and third readings, and adopt the ordinance as submitted.

VOTE: Motion carried unanimously.

Gross suggested the Board consider the categorization of a "rowing shell" at a future meeting.

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 May 9th, in which they discussed peace offer training for AIS enforcement. He stated it is the Task Force's opinion that this subject be pursued based on the need to have the ability to enforce ordinances when warranted. He requested the Board consider directing staff to solicit interest with the various local law enforcement agencies with hopes of pursuing further training.

McDermott asked if further clarification could be offered on how the distribution of fine revenue was processed.

Green stated that the citation (estimated at \$100 to \$500) would be a civil fine, in which the revenue would go to the enforcement agency who wrote the ticket. With that said, he was also told (by the head of the MN DNR Enforcement Division) that the respective agency that wrote the ticket also bears the cost of prosecution, which, at this time, is estimated at \$1,400 per case. He compared the discrepancy in revenue vs. prosecution costs to receiving a speeding ticket on the Lake.

Morris stated that the Task Force believed the enforcement officers should have an option in this regard and reiterated his request for the Board's blessing to direct staff to follow-up on this matter.

Baasen requested clarification that the Task Force is asking for the Board's support in securing certification of AIS trained law enforcement officers.

McDermott recommended the letter be address to the member city council.

Baasen solicited the Board's interest.

Green believed the Task Force would also like the Board to consider making a statement that they encourage the cities and police departments to consider this needed training (setting expectation).

Nybeck believed the letter should be submitted to both the city administrators and mayors, with the recommendation that the Board present this idea to their member cities.

Meyer found it interesting that an enforcement officer cannot write an AIS citation unless they receive specific training. He concurred with the Task Force's recommendation to pursue this matter based on having unenforceable ordinances on the books.

Zorn recommended combining the budget presentation to the member cities with this topic.

Nybeck confirmed that Task Force member Dick Woodruff has offered to assist in writing the letter to the member cities.

Baasen requested confirmation on who provides the training, in which Green confirmed the MN DNR.

Nybeck reiterated that the Minnehaha Creek Watershed District provided off site training in the past, in which attendance was light due to scheduling logistics. He stated the MN DNR has confirmed they can provide on-site training to accommodate their schedule.

Baasen recommended the draft letter be presented at the May 20th Executive Committee meeting for the Board's consideration at their May 28th meeting.

Green stated that he believed that a legislative tax bill was passed providing \$10,000,000 from the General Fund for AIS county wide activities, in which he would stay on top of this for possible LMCD AIS funding. During the 2013 boating season, the City of Mound had requested, as a part of their Right of Entry procedure for the use of their public access in performing watercraft inspections, that he produce some statistics on the inspection process (as well as producing educational literature that could be passed out to the watercraft operators). This was discussed at the last AIS Task Force meeting, which recommended the distribution of a MN DNR pamphlet entitled, "Help Protect Minnesota Waters," as well as the re-production of a 16 page booklet originally produced by the Becker County Coalition of Lake Associations (Coalition). This booklet provides detailed information regarding AIS prevention for wakeboard boats, canoes, sail boats, docks, etc. He is working with the Coalition on this re-production (including the incorporation of the LMCD's logo) for distribution not only at the public access but also through various stakeholders (i.e., municipalities, bait shops, summer rule pamphlet distribution list, etc.). He stated that he was going to approach the Lake Minnetonka Association to see if they will financially contribute to this effort (offering the incorporation of their logo, as well as any other partners that would like to contribute). He stated that he will provide copies to Nybeck for the Board's distribution.

Zorn recommended inclusion of that material within a future newsletter.

Hughes stated another Certificate of Deposit (CD) had matured, in which the Finance Committee will consider re-depositing funds at their next meeting. Additionally, Nybeck is working with the Water Patrol to schedule a Public Safety Committee meeting.

Baasen offered the following comments relative to the Save the Lake and Executive Committees:

- The Save the Lake Committee met on May 5th (confirming they have regularly scheduled meetings the first Monday of each month).
- The committee reviewed the Boater Safety Education session that was held on April 26th, in which there were 19 in attendance. He stated, in general, the class provides a good message and the demand is increasing (with interest currently pending to fill the next session). The committee is working on logistical matters, such as broadband use and the regular use of the Water Patrol's training room.
- The solicitation letter will be submitted in the near future, which will request contributions to fund multiple programs (outlined within the letter).
- The Executive Committee has been meeting monthly, in which their next meeting will be held on May 20th at 7:30 a.m. He invited all to attend.

There was no report for the Ordinance Review and Personnel Committees.

11. EXECUTIVE DIRECTOR REPORT

There was no Executive Director Report.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:38 p.m.

Dan Baasen, Chair

Andrew McDermott, Secretary