

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, November 12, 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; Ann Hoelscher, Victoria; Chris Jewett, Deephaven; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Rob Roy, Greenwood; Gregg Thomas, Tonka Bay; 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:** Dave Lang, Minnetrista; Jeff Morris, Excelsior; and Sue Shuff, Minnetonka

**3. APPROVAL OF AGENDA**

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

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Baasen**

Baasen made the following three announcements: First, members of the Executive Committee (and some of the remaining Board members) met with a few stakeholders on what has not been working well within the LMCD. He stated that a follow-up meeting would be scheduled. Second, he directed the Board to a copy of the LMCD's adopted strategic plan (plan) placed in their handout folders. He proposed the Board schedule a workshop session to review that plan at 6:00 p.m. on December 10<sup>th</sup> (just prior to the LMCD's regular Board meeting at Wayzata City Hall). Third, he stated that the City of Deephaven had recently appointed Chris Jewett to the Board. He welcomed Jewett and asked LeFevere to administer the Oath of Office, in which he did.

**5. APPROVAL OF MINUTES- 9/24/14 LMCD Regular Board Meeting**

**MOTION:** McDermott moved, Zorn seconded to approve the minutes as submitted.

**VOTE:** Ayes (7), Abstained (4; Baasen, Hoelscher, Jewett, and Thomas); motion carried.

**6. APPROVAL OF CONSENT AGENDA**

McDermott moved, Green seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included: Audit of vouchers (11/1/14 – 11/15/14).

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

There were no public comments.

**8. PUBLIC HEARINGS**

**A. Berta Kvamme,** dock length variance application at 2050 Shoreline Drive on Smiths Bay.

Baasen asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 11/6/14, which summarized a request from Dr. Berta Kvamme for a dock length variance at 2050 Shoreline Drive in Orono (west side of Smiths Bay). This site has approximately 291 feet of continuous shoreline, in which the applicant has documented shallow water as the existing hardship. He directed the Board to a proposed site plan whereby the dock would extend 200 feet from the shoreline (providing for 4.8 feet of water depth). He stated that the request meets conforming side setbacks and that the applicant has proposed to store three restricted watercraft as depicted on the site plan. He provided a detailed overview of the applicable LMCD Code sections. He recommended that the Board direct LeFevere to prepare draft Findings of Fact and Order for the approval of the dock length variance. He entertained questions and comments from the Board.

The Board had a few questions, in which Harper provided an aerial of the subject and neighboring dock structures (both of which secured a temporary low water variance in 2012). He confirmed the temporary variance did not present any documented issues and that the variance currently being considered would be tied to the site itself and not temporary.

Baasen invited the applicant to address the Board.

Mr. Tom Brostrom stated he lives at the subject property. He expounded on the water depth measurements offering the inability to remove a boat off the lift at 100 feet in length when the Lake levels fall (acknowledging his interest in keeping the lift based on the presence of zebra mussels, etc.). He believed the inability to have a watercraft out that length is an additional hardship to be considered, as well as the need to remove the watercraft earlier in the season (four out of the last five years). He entertained questions and comments from the Board.

Baasen question what the water depth measurement was at 100 feet, in which Harper confirmed less than four feet.

Brostrom stated that at times that measurement is offered at three feet, which was not satisfactory for the function of a watercraft on a lift at that length.

Baasen opened the public hearing at 7:13 p.m. There being no comments, he closed the public hearing at 7:14 p.m.

**MOTION:** McDermott moved, Roy seconded to direct LeFevere to prepare draft Findings of Fact and Order approving the Berta Kvamme dock length variance application.

**VOTE:** Motion carried unanimously.

**B. Robert & Gloria Rich, Randy Bickmann, Norina Dove, and Gene & Wendy Shavlik, petition for Quiet Water Area from the north Seton Channel to the east end of Deering Island (covering parts of Harrisons Bay and West Arm)**

Baasen invited all that would like to address the Board to complete a "Public Hearing Card" that was offered in the back of the room (acknowledging that he would individually call on those that completed the card once the public hearing was open). He stated that a comment form was also offered for all those that wish to provide such in writing. He provided the following procedural outline in considering this agenda item: 1) staff to provide an overview, 2) a representative for both the initiating and opposing petitioners would address the Board, respectively, and 3) the public hearing would be open for comments. He asked Nybeck to initiate the process.

Nybeck made the following comments via a PowerPoint presentation:

- An overview of the Quiet Water Area (QWA) petition received on 8/5/14 for the north Seton Channel area (covering parts of Harrisons Bay and West Arm). This petition included a formal request with a series of maps and photographs that documented shoreline erosion and watercraft behaviors in the area.
- Pursuant to the LMCD's adopted QWA policy, staff observed the area on August 10<sup>th</sup>, 17<sup>th</sup>, 24<sup>th</sup>, 26<sup>th</sup>, and 31<sup>st</sup>, as well as on September 1<sup>st</sup>.
- This matter was considered at the September 22<sup>nd</sup> LMCD Public Safety Committee (PSC) meeting and after communicating with Hennepin County Environmental Services, the PSC recommended the Board schedule a public hearing. At the Board's October 8<sup>th</sup> meeting, PSC Chair Hughes provided a committee update which included their recommendation for the public hearing (after which, staff was directed to schedule such).
- The public hearing notice was published in the October 28<sup>th</sup> edition of the Lakeshore Weekly News. Additionally, staff submitted a press release on the same date to a list of Lake Minnetonka stakeholders via a direct mailing to area residents (estimated 415 properties). All information relative to this agenda item had been downloaded on the LMCD website, under "Hot Topics."
- He provided a detailed overview of the QWA Policy (adopted in 1986). In particular, the following review criteria: 1) need (as expressed by the applicant), 2) the boating safety record for the area, 3) natural or specific geographical features of the area which need to be considered, 4) to conduct a public hearing (gather further information), 5) effects in the establishment of the QWA (nearby areas or the Lake as a whole), and 6) whether the QWA was for private or public benefit.
- He acknowledged a number of comments have been received (both in favor and opposition). He provided clarification of the following comments: 1) Ms. Norina Dove (one of the petitioners) mailed a petition to residents within the proposed area (the LMCD received 27 signed boiler plate petitions with one opposing), and 2) Mr. Ed Rockwell communicated via email on October 28<sup>th</sup> acknowledging a website that was created under the name of EnjoyTonka.com offering an opposing petition (the LMCD received over 300 signed boiler plate emails in opposition of the

- proposed petition as of November 4<sup>th</sup>).
- He offered the following proposed Board review schedule:
    - November 12<sup>th</sup>: Focus on public hearing, with consideration of continuing (allowing staff to prepare a public hearing report);
    - December 10<sup>th</sup>: Discussion and consideration of the petition. Approval of such would provide for preparation of a Code amendment and denial of such could be considered fully processed; and
    - January 14<sup>th</sup> or 28<sup>th</sup>: Consider draft amendment to the LMCD Code (depending on Board action in December).
  - He entertained questions and comments from the Board.

Baasen invited a representative of the petitioners to address the Board.

Mr. Randy Bickmann, 4652 West Arm Road in Spring Park, stated that he was in attendance to represent the petitioners, in which he was one of them. He offered the following comments via a PowerPoint presentation:

- He presented a graphic portion of the area by utilizing a Hennepin County map (circling a portion of such that he called the “great circle route,” which he described the borders of). He believed that area offered a tremendous amount of boat traffic.
- He presented a second graphic area of the map that depicted: 1) an estimated 2,560 feet that would be offered as minimum wake should the request be approved (coming out of the north Seton channel and traversing east to where the currently approved QWA existed), 2) an un-scaled drawing of the 150 foot buffer zone of both shoreline and docks (estimated at 60 feet long), 3) an estimated channel width of 310 feet (opening up to an estimated 610 feet) at the narrowest point where one could traverse east out of the north Seton Channel over five miles per hour (mph) or minimum wake (reciting the definition of such LMCD Code section), 4) depicted points numbered one through four that highlighted four separate, two-way traffic entrances to the subject area (acknowledging he had not found any other area of the Lake offering this much congestion), and 5) in reference to depicted area three, he stated a “line of site” issue existed going south from the north portion of West Arm through the speed channel into the southern portion of West Arm. He believed the subject area offered six feet of water depth vs. the ten feet documented on the Hennepin County map.
- He referenced LMCD Code Section 1.01, “Statement of Purpose,” in which he specifically read sections b), d), e), and f) of the District’s documented “... goals and policies.” In respective order, he referenced concerns with prop wash and wake effects that is documented throughout the Code (acknowledging the areas water quality and shoreline erosion), the orderly utilization of watercraft, which he did not believe was present in this area, the conservation of the Lake referenced back to the ecological effects offered in his first concern, and the existence of safety concerns (near misses and the depiction of a 1980 accident that took place at his residence).
- He offered a picture of what he believed was “good utilization of the Lake” (couple boats present and the ability to sit on the dock). He referenced the inability to have his grandchildren swim at the dock due to the Lake’s usage.
- He provided a screen shot of the Minnehaha Creek Watershed District’s water quality report of

Lake Minnetonka (acknowledging the poor grading for Harrisons Bay and West Arm). He believed other areas of the Lake have better water quality based on deeper water depth and less traffic than what is offered in the "great circle route."

- He offered four pictures that depicted shoreline erosion over multiple years (offering reasons more than high water such as wake effect).
- He offered six points of criteria (outlined within his slide) for their request, which was required per page 4 and 5 of the LMCD's adopted QWA Policy. He stated that the primary reason for their request was "boating safety." He stated the Hennepin County Sheriff's Water Patrol (Water Patrol) was not able to provide documentation of the safety records at the time of request (based on their question as to whether the information was public data); however, he believed they were public record and asked the Water Patrol to speak to that this evening if they had the ability to do so. He did not believe the concern for "boating safety" affected the whole Lake and that the subject area was unique to that concern based on the reasons offered in the second bullet point above.
- He referenced the LMCD's Summer Rules pamphlet by making the following comments: 1) not all are aware there are Lake Minnetonka rules that are not covered within the MN DNR regulations; 2) that it offers good safety tips for the navigation of a watercraft; 3) it outlines important definitions such as "Minimum Wake," "Wash and Wake," "Quiet Water Areas," and "Maximum Speed," in which he read "Minimum Wake" and spoke of the ability to traverse from shore under specific conditions outlined within.
- He read and provided detailed reasoning for the following eight abbreviated reasons in submitting this petition (believing all of which were required for the consideration of establishing a QWA):
  - Intensified wave action by power boats;
  - Area is an extended, high traffic channel;
  - Lack of adequate law enforcement due to budget abilities;
  - Area is part of the "great circle route;"
  - Increase in traffic (residential population and non-riparian users);
  - The use of non-powered watercraft, as well as those that swim and fish in the area;
  - The need to improve safety, erosion, rights of riparian enjoyment within their homes, and lake experience; and
  - Wash and wake damage to the shoreline.
- He outlined some of the comments received "Against" and "For" the petition (all provided within packet).
- He estimated the time it would take to traverse through the documented 2,560 feet of QWA at the speed of 40, 20, and 5 mph (.72, 1.45, and 3.36 minutes, respectively).
- He reviewed a series of pictures that he believed depicted boating violations that placed others in harm's way (including paddle boarders). He believed that many of the violators are those that live on the Lake.
- He summarized their reasons for the petition, which included: 1) safety and the boating environment, 2) the geographical features offered within an area that had four combined exists/entrances, 3) shoreline erosion, and 4) water quality.
- He thanked the Board for this opportunity

Baasen invited Mr. Ed Rockwell (who initiated a petition in opposition of the proposal) to address the Board.

Mr. Ed Rockwell, 4888 Edgewater Drive in Mound, made the following comments:

- He has lived on Harrison's Bay for 14 years, in which it took them two years to find their home based on meeting the following criteria: 1) a dead end bay to accommodate water skiing, 2) hard sand bottom, 3) sunset views, and 4) quick access to amenities and other family members (on Jennings Bay). Additionally, they spoke to neighbors and looked into the tax base and school systems.
- Upon purchase of their property, riprap was installed (acknowledging that the 2014 water levels only required the raising of their water pump to avoid damage).
- He expressed concern for the petition based on their belief that it would only affect an estimated list of 110 property owners because approval of such would affect all Lake users (acknowledging his belief that the petition was initiated to slow boat traffic down in front of their home).
- He confirmed his attendance at the September 22<sup>nd</sup> PSC meeting, at which time the petitioners received feedback from the committee members that the shoreline erosion may not be reason enough to consider the proposed QWA request. Therefore, the petitioners changed their focus to safety factors, which he did not believe the reasoning for such was valid.
- He referenced one of the proposed boating violation photographs offered within Bickmann's presentation (providing a counter overview of and acknowledgement that, based on the photographs offered, the petitioners were able to convince the PSC to recommend a public hearing). Additionally, he referenced a second photograph of boaters violating a no wake ordinance on July 26<sup>th</sup> and 27<sup>th</sup>; however, newspaper articles (in which he provided copies of) documented "full speed ahead."
- He initiated a counter petition via creating the website, EnjoyTonka.com. As of this date, he has received 471 signatures against the proposed petition (providing photocopies of such).
- In closing, he:
  - Did not believe there were legitimate reasons to consider the QWA petition;
  - Shared how his family and friends use the lake (including waterskiing, paddle boarding, and fishing in kayaks);
  - Did not want to be forced to traverse at minimum wake (especially during the week, in the mornings, or late afternoon);
  - Stated that a lot of the photographs offered by Bickmann were taken from the shoreline with a zoom lens (compressing the depth of field);
  - Quoted both paragraphs under "Goal" of the LMCD's approved QWA policy;
  - Stated that the Water Patrol could not produce records (based on software changes) but have verbally stated that there has not been any recent safety issues within the petitioned area;
  - Believed that the petitioners should install riprap if erosion is truly the issue;
  - Believed that the area is utilized as a corridor to many parts of the Lake and has appropriate size and area to accommodate the current speeds;
  - Believed that this petition should not be dictated by homeowners that purchase property in the area that have not done their homework on the type of waterway the area properties

- view;
- Stated that Harrison's Bay would be blocked off by a no wake area and if the proposed petition were to pass, the public recreational area would be greatly reduced by many recreational and competitive skiers;
- Believed that this area was safe (reiterating his 14<sup>th</sup> year living there and active use of the Lake);
- Believed that many businesses would be affected by this proposal, in which customers may choose to go elsewhere;
- Could see Lake users potentially tying up in the proposed area (similar to Cruisers Cove on Big Island); and
- Believed that residents had a taste of no wake areas and they liked it; therefore, they are trying to make that change permanent.
- He thanked the Board and staff for their time and stated his comments were in the greater interest of the people (500 signatures).

Baasen opened the public hearing at 8:08 p.m. and initiated the process of individually calling on those that have requested to speak.

Mr. John Samuelson, 4484 West Arm Road in Spring Park, thanked the Board for considering this issue (which he believed was proper use of the Lake). He has lived at this residence for 22 years through which he had witnessed a lot of boating incidents and the degrading of lakeshore. He believed this area has been taken over by the motorized boaters and cannot accommodate non-motorized recreational crafts (i.e., paddle boards, canoes, etc.). His site (which maintains a 70 foot dock on 108 feet of shoreline) is located five lots to the west of Lord Fletchers Apartments, in which residents residing there traverse into their dock as close as 50 feet from shore. He recognized the increase in non-motorized traffic when the emergency ordinance was enacted, as well as their disappearance when it was terminated (acknowledging it is unsafe to utilize those crafts when normal speed regulations are in effect). He thanked Bickmann for his presentation, which he believed was fair (acknowledging this matter addresses the issues of: boating, safety, recreational use, and shoreline degradation). In closing, he stated that: 1) his neighbor has riprap that has served them well; however, the waves are degrading the soil behind such, 2) the July 4<sup>th</sup> holiday brings wall to wall watercraft that send up to three foot waves on his shore (requiring him to re-secure the storage of his 26 foot pontoon away from the dock and reinforced with extra ties to a tree), and 3) excessive boating in that area is detrimental to the lakeshore and recreational use of the Lake. He confirmed he provided his comments in writing to the Board and offered pictures of his lakeshore as record this evening. Furthermore, he stated that he enjoys boating (owns four himself) and has a fondness for cigarette boats; however, there is one that goes by at 90 mph. He stated speeding is an issue in this area, in which the Water Patrol is aware of his concerns.

Baasen stated that, as a matter of record, the Board is attendance to listen to all comments this evening and will not be offering questions to the presenters.

Ms. Linda Paulsen, 4676 West Arm Road in Spring Park, stated that she was in favor of the QWA petition and that she lives just east of the north Seton channel (since 1976). When the emergency ordinance was in effect, she saw a whole new use of the Lake area because they could. She stated it was refreshing to

see sailboats and other non-motorized craft in use, as well as the ability to have kids swim. She believed the traffic congestion during peak times offered six or seven boats wide from her home north to Three Points Boulevard. Although safety was a concern for her, usage of the Lake was her main concern (in which she believed increased during the inaction of the emergency ordinance based on the boaters continuing to be present along with the non-motorized recreational use). She could not speak to the water quality or erosion of the shore (reiterating her concern for increasing the variety of reasons the Lake could be utilized).

Mr. Doug Vanstone, 2036 Arbor Lane in Mound, stated that he lives just east of the north Seton channel. He concurred that the boating traffic does get crazy in this area and that waves do come over the dock (2014 offering the highest he has seen in his 22 years on the Lake). He believed that the QWA petition was initiated based on the experience offered during the additional no wake restrictions last summer. He stated that the no wake period last summer was nice; however, non-motorized watercraft have the ability to traverse into already established QWAs close by (naming a few). He recognized that speed limits are regularly broken in that area; especially use of personal watercraft (PWC). However, he believed that could be addressed by increased law enforcement. He personally had not witnessed an accident or the other issues noted above. In closing he believed the approval of the proposed QWA would hurt the Lake more than anything (referencing the fisherman that utilized that area). Other than last year, his experience living in that area for 22 years has been good.

Mr. Johnny Range, 2039 Arbor Lane in Mound, stated that he is a recreational boater in the area (kayak, canoe, fishing, etc.). He recognized the safety concerns listed above and the laws that are being broken. He lives in Harrison's Bay and did not believe the laws should be broken in front of his dock either. However, he believed in the education of the law vs. the establishment of a new QWA. He referenced the petitioners' concern for water quality based on prop wash and shoreline erosion (wave action). He believed that: 1) the poor water quality was based on all the creeks flowing into the Lake, in which he named and offered an explanation of their runoff quality (farmland rich in nutrients) and 2) the shoreline erosion was caused by not only boat waves but wind and ice. He believed a riparian owner should maintain their shoreline if it is falling apart. In closing, he opposed the proposed QWA.

Mr. Jim Segal, 1749 Bluebird Lane in Mound, asked that all that opposed the QWA petition to please stand up [Baasen respectfully requested Segal address the Board only]. He continued to state that a sage person once said, "The needs of many outweigh the needs of a few" [Spock, The Wrath of Khan]. He lives in Harrison's Bay and did not believe the petitioners proved the need for the proposed QWA (referencing it as legislating stupidity which is difficult to do). He acknowledged that people do misbehave and that enforcement is a good idea. Additionally, he believed approval of the QWA would have a negative impact on property values and that homes were available for people to live in such areas. He concurred that the area is busy but he had not witnessed any accidents. He recognized this was not an area he would want to directly live within but knew of the congestion prior to the purchase of his home. In closing, he strongly opposed the petition.

Ms. Kelli Gillispie, 5361 Baywood Shores Drive in Mound, stated that she was a Mound City Council member and owner of Tonka Auto and Marine. In reference to her business, she stated that they serve many residents that are not in favor of the proposed QWA petition (acknowledging her customers' use of

the Lake drastically dropped during the no wake restrictions in 2014). She is not only a member of the community but a Lake resident, president of a local community organization, and a member of the Harrison Bay Homeowners Association (who has signed the opposing petition); offering her goal to represent the community as a whole. She has lived on the Lake for over eight years (within the proposed area and the last six years on Harrison Bay). She utilizes a paddle board and kayak, in which she has no concerns with her safety (traversing from the north Seton channel to Arbor Lane). She believed there was one main reason this petition is being considered; to protect a few homeowners' shoreline (stated by the petitions five times within their original request). She believed the LMCD needed to acknowledge that "the petition stems from historically high Lake levels and its effect on shoreline erosion" (acknowledging that shoreline erosion is the homeowners' responsibility). She further believed that the petitioners realized they could not receive approval based on shoreline erosion; therefore, they shifted their focus to safety issues. She referenced a report from a PSC meeting that acknowledged no significant safety incidents in this area and welcomed further review by any that are documented (acknowledging the one referenced incident by Bickmann is of mute point based on lack of documentation and her belief of operator error). She asked why the Lake would not be entirely no wake if the LMCD were to approve a petition based on one accident in the last 10 years. She quoted in full the second paragraph of the first section, "Goal," of the QWA policy (offered within the packet), as well as paragraph "a)" within LMCD Code Section 1.01 of the LMCD's goals and policies. In closing, she asked the Board how they were going to make the largest Lake in Hennepin County and the biggest recreational amenity this area has, and make it a precedent setting of privatization of public waters without a profound reason(s). She believed what she heard from the petitioners are boating safety factors for the owners and not for the Lake as a whole. She questioned if the efforts should not go towards enforcement of watercraft operators and reiterated the lack of incident documentation, except for the one noted above, in 10 years.

Mr. Carey Manson, 5104 Edgewater Drive in Mound, stated that he has lived at his home for 31 years (offering that the lot has been in his family since 1917). He is a competitive water skier that practices at least three times a week (from the end of Harrison's Bay to the start of the established QWA in West Arm). He stated that this is a terrific route that offers one straight line without having to turn the boat around. If the petition was approved, he expressed concern for the loss of his ski route and the establishment of a line of QWA buoys that would create a demarcation of congestion (choke point) that may cause more safety concerns than what currently exists. Those safety concerns include the paddle boarders meeting further wave action with PWC and other motorized boats at the point of demarcation. In closing, he opposed the proposed petition based on the above noted reasons.

Mr. Jim Dustrude, 2001 Arbor Lane in Mound, stated that he was in attendance on behalf of himself and three of the neighbors that could not make the meeting. He offered a document (placed on the overhead) that outlined the QWA buoy placement for the Lake as a whole. He titled his presentation, "Can Lake Minnetonka Be Even More Classier than Today – Yes it Can." He believed the question of whether Lake Minnetonka was for all or just power boaters should be considered. The no wake period offered in 2014 exposed alternative ways of experiencing one of Minnesota's premier lakes. In talking with those along his shoreline during the no wake period, not one did not say they enjoyed the QWA and some said they preferred it (referencing the bass boaters and their comment of better fishing despite the increased travel time). He recognized those that operate power boats were hurting but others seemed to enjoy the calmness (including wildlife). Harrison's Bay and West Arm received unprecedented numbers of white

pelicans and cormorants. They arrived each morning to feed and gave all who were lucky enough to witness a site of Gods wild kingdom. The proposal seemed to reestablish some of the qualities seen last summer (improve safety, reduce noise, shoreline erosion, and preservation of Lake quality) which allowed participants in the silent sports a greater area in which to enjoy paddle boating, canoeing, and kayaking that is away from the high traffic flow. He asked how all could share the Lake without further damaging it. He stated that, in a perfect world, safety concerns could be resolved via sufficient education, licensing, and extensive enforcement. Rules of navigation give the right-of-way to lower powered motors and swimmers; however, in congested areas such as this those rules are largely overwhelmed by the sheer numbers of high speed power boats which, he believed, intimidated the silent sport recreationalists. He believed eliminating shoreline erosion was the most visible reason to entertain the petition with the need to armor private shoreline (acknowledging the cost is not the responsibility of those that create the problem but the owners themselves). He further believed that noise was the toughest concern to solve in constrained areas of the Lake. The noise in this area transforms the sacred land that the Native Americans saw in this body of water to something more akin to Elko Speedway. Noise has been exasperated in recent years by the proliferation of 200 horse power (hp) motors and 60 mph jet skis (some of whom perform acrobatic turns in one area for a long period of time). For all of this to be taking place in such close proximity to so many homes is a significant issue (especially when there are larger bays to accommodate such). He stated that approval of the proposal seemed to make sense. Moreover, adopting it would appear to bring the Lake and its authorities into greater compliance with the Minnesota State Environmental Policy Act (Chapter 116d), in which he read. In closing, he believed that change is difficult but usually worthwhile. He did not think that a watercraft operator of a noisy motor did not intend to inflict harm on others (comparing this to smokers prior to the adoption of the Minnesota Clean Indoor Air Act). Referencing the later Act, people are more globally aware of the harm offered. Upon adoption of the petition, he believed that more motorists will comply and enjoy the sacred environment of this special Lake.

Ms. Sarah Reinhardt, 4490 West Arm Road in Spring Park, stated that in the interest of full disclosure, she was present to represent her personal interest and not as the Spring Park Mayor (further acknowledging that she and her husband own a home on West Arm and that her comments are her own as an affected property owner and not construed as comments by the city). She stated that she opposed the proposed petition and urged the LMCD to reject such based on her opinion that there are no public safety issues in the area. She recognized the heavy boat traffic that is offered in the area but that it did not present a safety concern in itself (offering the area provided a straight and simple route). Her home offers an unobstructed view of the proposed area, in which they have lived in for 13 years, and have not witnessed an accident or close call. She further stated that she has teenagers that boat and swim in this area (including the use of PWCs) and that she is comfortable with both types of recreation in this area as she would not allow it otherwise. She recognized the historic flooding and shoreline erosion that occurred on the Lake this last summer (not just this area). She expressed concern for the flooding that presented within their yard, in which she provided an overview of (acknowledging damage was minimal and the yard is recovering). She stated that it would be premature to establish a QWA based on historic high water levels (acknowledging it is the homeowner's responsibility to maintain their shoreline). She listed the following unintended consequences that she did not believe the petitioners thought through: 1) property values would decrease (offering documentation of her research and their choice to pay a higher price tag based on the vibrant lakeshore and recreational opportunities that this part of the Lake offered), and

2) weed growth and stagnate water are heavier in QWAs, which encourages algae growth (acknowledging the rapid growth during the 2014 boating season). In closing, she acknowledged that the Lake is: 1) the largest offered in Hennepin County, 2) a huge recreational opportunity within the State of Minnesota, and 3) that it is not private. She asked the LMCD to make their decision on what is best for all the users of Lake Minnetonka and not a select few lakeshore property owners.

Ms. Renee Laleman, 4886 Edgewater Drive in Mound, stated that she was a riparian homeowner that has lived on the Lake for the past seven years. She and her family enjoy boating, tubing, and all that the Lake has to offer. She was very much opposed to the QWA petition and had commented that she hired a professional to reconfigure her riprap as the prior installation was not correctly installed. She stated the correct installation provided for a fiber mesh base that prevents the dirt behind the rocks from washing away (acknowledging her belief that the erosion concerns raised by Bickmann could be addressed with proper riprap installation). She realized there were boaters that were not adhering to the 150 foot minimum wake rule, in which she recommended an increase in enforcement or further boater education. In closing, she stated that the petition was offered by a few private homeowners and was not presented in the best interest of the Lake. Therefore, she asked the Board to reject the proposal.

Ms. Connie Claire Szarke, 1956 Shorewood Lane in Mound, stated that she was for this change (acknowledging that during the additional no wake restrictions last summer she spoke to many boaters that recognized how nice it was to slow down their lives). Furthermore, she enjoyed seeing the white pelicans that were present every morning for multiple weeks. She has lived in this home since 1971, in which she has seen huge changes. She documented point buoys that were present in front of her home to delineate a sandbar and hidden boulders, in which many boaters (including current riparian owners) do not know what their purpose is for. Therefore, she has large ocean liners, Great Lake vessels, and water skiers traversing directly into the boulders 25 to 50 feet from her shore. Upon striking, some boaters proceed to stand up and wonder what happened while others turn around and go back the same way (tearing off their propellers and leaving some watercraft are too incapacitated to proceed). She documented the inability to swim due to the existence of milfoil and the use of excessive watercraft speed. She stated that she utilizes speed and fishing boats, as well as a kayaks. In kayaking around Deering Island (and further north by the channel entering Jennings Bay) she witnesses extensive erosion (trees and soil) which saddened her. She confirmed her home provides for wonderful riprap and large boulders; however, because of the large watercraft that traverse in front of her area (producing huge, rolling waves) she regularly has to pay to have the boulders adjusted from wave action movement. She acknowledged this petition is not a matter of a few homeowners' interest but that this is big stuff. Furthermore she has witnessed boats purposely plowing into the flocks of geese, ducks, and cormorants (acknowledging she is a great proponent of the natural world). She spoke of safety concerns, in which she offered the following two incidents that happened while on her "red" kayak: 1) while traversing through Deering Island Channel by Three Points Boulevard, she and her Shetland Sheepdog were almost capsized by a large wave of a watercraft operator that did not have any regard for their safety and 2) a watercraft that was barreling down in Harrison's Bay that would have killed them had she not yelled for them to veer off within a few feet from their vessel. She stated that she had known of other close calls, as well. To this end, she had stated how wonderful it was to be out there last summer enjoying the water during the additional no wake restrictions. She believed this petition was essential to preserving the land, wildlife, enjoyment of other people besides the motorized boats in which she enjoys, as well. She confirmed near accidents do exist

but are not documented and that the quality of the Lake is more important than saving five minutes of additional travel time.

Ms. Beatrice Amidon, 1909 Lakeside Lane in Mound, thanked all Board members for taking their time and consideration on this request. She stated that she has lived on the Lake for quite a few years. She is a proponent of no wake during high water levels (acknowledging that it should be implemented prior to doing any damage) and that the currently proposed petitioned area should be extended further up on Harrison's Bay. She had previously used the Lake via skiing, snowmobiling, use of PWC, etc. (all of which were done when the traffic was not as heavy as it is now). She spoke of the following safety concerns: 1) the floating of a large tree that was called into the Water Patrol, and 2) a cigarette boat that did not adhere to the point buoys and hit a sandbar at high speed (providing for the operator to fly out of the boat and be picked up by a neighboring property owner) that was not called into the Water Patrol. She recommended public launch users be charged a fee that would be directed for public safety use. She was in favor of the proposed petition as she had previously tried to get a "slow" buoy in front of her home for many years (offering to buy it directly or pay the fee for installation or removal). She eventually did get the buoy but it only provided for an instrument that the PWC operators used to circle around at high speed (causing wave action to her lawn). She presented pictures of shoreline erosion she had dealt with in 2003 and 2014, as well as a childhood picture that documented trees lining the shoreline that are no longer there. She stated that she does not like riprap (prevents turtles from laying their eggs) and questioned what happened to the frogs. She stated that swamps are getting filled in more and more, which creates additional high water effects.

Mr. Bill Little, 635 Brockton Lane in Plymouth, stated that he does not live on the Lake but utilizes such regularly (bass fisherman). He believed the estimated 2,560 feet documented between Points A and B was wrong (acknowledging the petition is about time and how long it takes to get through a particular area). The math at five mph provides for one mile every twelve minutes. In referencing the petitioners' belief that 2,560 feet is about one-half mile, than one half mile could be traversed in six minutes. He did not believe Points A and B were all that should be considered, in which he offered the right, east edge all the way to the west edge of Harrison's Bay would be .75 miles or about nine minutes (both ways 20 minutes). He believed the petition was ridiculous as it was about the petitioners' Lake and their property (wanting it to be quiet). He did not buy safety as a factor in this petition for a minute; however, asked that if that factor was going to be brought forward to present the facts (math) accurately.

Mr. Vern Wagner, 5221 42<sup>nd</sup> Avenue South in Minneapolis, stated that Lake Minnetonka is located in Minnesota and belongs to the citizens of all. He recognized the LMCD is charged with its protection and upkeep, in which he believed the LMCD was doing a great job. He represented Anglers for Habitat, in which he provided an overview of its coalition of members who wanted to bring the fisherman and anglers' voice to conversations that affect their ability to use the Lake. He stated that (if forced) the members would be leaning against the proposed petition. However, the perspective the members would like to bring forward is to discuss the erosion and water quality, in which they did not believe riprap was an effective way to protect the shoreline (offering the ability to utilize natural habitat in enhancing the spiritual values of this Lake). He further stated that if the petitioners wanted to restore the shoreline, he recommended putting the lily pads and bulrush back in and to get rid of the covered docks and ability to have five boats on a 100 foot lot. If they wanted to do that, then he believed the members would be

supporting such. He referenced the use of barriers and how the pictures offered by Bickmann referenced a golf course that had a Lake in it (attempting to recreate another type of habitat this Lake was not designed to be; letting the trees fall and remain vs. cutting them). This Lake was designed to have weeds, lily pads, and wildlife. He referenced a lot of talk this evening about the love of the habitat, which would continue to be present if one had not removed the habitat over the last 50 years (offering the ability to still have frogs as referenced by Amidon above). In closing, he stated: 1) he had not heard enough to convince him that the boating traffic is affecting the fish and aquatic habitat. He believed the fish habitat was good (acknowledging his use of the Lake for 45 years), 2) the use of natural habitat to restore shoreline (reiterating his comment above), and 3) that all are in a position to watch what happens to the use of public lakes. He believed that this could be a foot in the door (reduce wave action, slow down cruisers) but where does one stop an action that would restrict the anglers' ability to use the Lake but it would satisfy those that just want to look at the Lake and not see the boats or have the noise. He thanked the Board for allowing him to speak.

Ms. Kathryn Kallas, 3048 North Shore Drive in Orono, thanked the Board for holding this public hearing. She stated she grew up on the Lake and currently resides in Maxwell Bay. In relation to the "Criteria for Need", she stated that: 1) she heard from the petitioners that this matter is about safety; however, she did not believe that sufficient facts had been (and need to be) shown to the community, 2) in referencing the Lake as a whole, she asked what would stop this petition from going into other areas that have erosion of their property (in which dealing with such is a part of being a member of the Lake), 3) in referencing the petitioners' comment that "this is an improvement in the overall experience of the Lake" she stated that if one prefers quiet waters. For her family and herself, they enjoy both (naming their interest in use of the Lake). She stated that they also respect the use of the Lake, 4) when there was a temporary no wake restrictions, there were violators of such. Therefore, she questioned why they think a permanent QWA would subsequently provide for those violators to follow that rule - she did not think so. On behalf of her family, she asked that the Board not consider this petition as her family likes the variety of recreation that this Lake has to offer (respecting the rules within).

Mr. Phil Ludemann, 4756 West Arm Road in Spring Park, stated that he was in attendance representing himself and three other members of Seton Village (providing an overview of newly installed riprap that he stated the LMCD was responsible for a portion of). He referenced a repetitive comment heard this evening that riprap is "your responsibility," in which he agreed. However, he asked how many times one wants to install such over a period of time (the more waves the shorter period of time the riprap will be effective). He stated that two of the existing QWA buoys that are placed on the north Seton Channel area are within the 150 foot area, which he believed about 50% of the boats come in at full speed and stop once they are half way through the buoy locations (reiterating that is within 150 feet of the shoreline). He stated that Seton Village is taking a big hit to their boats rocking within their slips along the shoreline. He further stated that boaters are coming out from the Seton Bridge and speeding up until they reach the next no wake buoy (acknowledging the QWA covers the entire area). He too believed that further education and enforcement would be helpful. However, he respectfully requested the LMCD consider a QWA buoy at the halfway point between the bridge and the existing QWA buoys (along the channel).

Mr. Jerry Rockvam, 4068 Sunset Drive in Spring Park, stated that he has lived and boated in the area for over 50 years. Based on his observations, this area is the heaviest patrolled area both day and night.

Furthermore, he believed that any establishment of a QWA for safety factors should be set by the Water Patrol as they are familiar with the area and its needs. With respect to erosion, he stated that is the homeowner's responsibility on any Lake. He recognized the LMCD has a tremendous charge in caring for the largest recreational lake in the metropolitan area (14,000 acres). He understood that riprap was not as environmentally friendly compared to natural habitat (as it required continual maintenance). With respect to water quality in the subject area, he contributed such to the seven creeks coming into the area (from fertile farm land). To this end, he believed that there is enough QWA on the Lake.

Mr. Dave Stepanek, 5445 Cedar Point Road in Minnetrista, stated that he has grown up in this area of the Lake. He personally did not see a need for the proposed QWA. He acknowledged some good points have been made; however, he but asked where it would stop. He believed enforcement was sufficient and concurred (in which he stated himself) that the additional no wake restrictions last summer were peaceful and it was nice having boats traverse at a slow speed but he did not think this is what the Lake is about (recommending those that want that to go up north).

Mr. Carl Rosen, 4540 West Arm Road in Spring Park, stated that he has lived on the Lake since 1981 (33 years). The 23 years provided a lot of problems with erosion and riprap, after which they moved their home 40 feet closer to the Lake and installed granite rocks and utilized riprap (all of which was underwater in 2014). He did not envy the Board in having to make this decision. He stated that when he received his real estate license, the instructor made a big deal about the rights of the homeowner, "the peaceful enjoyment of your property." He believed that the owners do not have peace on certain times and events. He enjoyed the pelicans this year based on not having any boats chase them away. In closing, he stated that he wants to have peaceful enjoyment of his property (it is a bundle of rights) which he quoted from the Wikipedia and offered it as the Board's challenge.

Mr. Jack Lynch, 5205 Edsall Road in Minnetrista, stated that he was 18 years old. He believed this issue is important and he wanted to make sure the facts were straight. He clarified that West Upper Lake was between Cooks Bay and Boy Scout Island (contrary to what was previously presented). He stated that the water quality is so much better because it is not a part of the area of the Lake currently being considered. His main concern was the use of time in traveling the proposed QWA. Minimum wake speeds would start from Cooks Bay through Emerald and Seton Lake through the channel to the north, which he estimated at 0.8 miles or an estimated 15 to 16 minutes. If the proposed petition were approved, it would increase the total distance to 1.5 miles (taking 32 minutes to traverse). He believed it was a personal responsibility for a non-motorized watercraft operator to not be out in the middle of high traffic areas (a personal and not governmental issue that one cannot be seen). To this end, he strongly opposed the petition.

Mr. Craig Rose, 5100 Edgewater Drive in Mound, stated that he has lived there for 15 years. He commented that this is Lake Minnetonka and that he owns a float plane, as well as a fishing and cigarette boat (acknowledging he responsibly utilizes the Lake daily). He stated that the Water Patrol enforces this area regularly as he has been stopped for safety checks. He believed that if there are concerns for erosion and safety, then the LMCD needed to heighten enforcement for those activities. He has witnessed the activity in this area (including speeders) but did not believe the lakeshore owners should be penalized for such. His family owns a resort up north and he acknowledged the wildlife that it offered.

He believed the pelicans were present this year based on the food source and stocking that was offered. He turned back to safety and recognized the enforcement that was offered for BWI's and anchoring on Big Island, etc. However, if the Board wants to look at safety, he recommended they consider looking at Lake access (asking who is causing these problems). He did not believe it was the skiers that were out at 8:30 a.m. or a float plane that left at 9 a.m. He was not a proponent of but again questioned restricting access to some of the launches vs. restricting lakeshore owners such as his family that wants to go fishing on a Tuesday while adding 20 minutes each way just to get to Lafayette Bay. In closing, he asked the Board to keep their perspective on what Lake they are talking about here (not one in northern Minnesota).

Ms. Marilyn Ronnkvist, 4484 West Arm Road in Spring Park, asked why the Lake has any QWAs (acknowledging the division of such within particular areas). She asked who makes those decisions and what the difference is.

There being no further comments, Baasen closed the public hearing at 9:31 p.m. He thanked all in attendance for their comments and time given. He assured them that the Board was actively listening to them and that discussion and consideration is scheduled for the December 10<sup>th</sup> LMCD Board meeting. He recessed the meeting at 9:30 p.m. (reconvening at 9:40 p.m.).

## **9. OTHER BUSINESS**

- Appointment of nominating committee for 2015 LMCD Board Officers

Baasen stated the Executive Committee met to discuss the establishment of a nominating committee for the consideration of 2015 Board officers. The Executive Committee asked McDermott to chair the nominating committee, with additional Board appointments of Hoelscher, Roy, and Zorn to serve on the committee, which all agreed to. He further stated that: 1) those appointments were provided to represent various areas of the Lake and were not staked by any means and 2) that the committee is not exclusive of those members and all are welcomed to serve. He asked those that have interest to contact McDermott to coordinate their inclusion. He solicited the Board for any comments, questions, or concerns, in which none were offered.

## **10. UPDATE FROM STANDING LMCD COMMITTEES**

Baasen asked if the committee chairs had anything to report.

Green stated that the AIS Task Force is scheduled to meet on November 14<sup>th</sup> at 8:30 a.m. (LMCD office).

Hughes stated that he and Nybeck will provide an update to the Board at their December 10<sup>th</sup> meeting on the stakeholder information gathered from tonight's public hearing.

Klohs stated that the Ordinance Review Committee is drafting an invite letter to the member cities relative to initiating discussion on possible future ordinance amendments. That draft letter will be presented to the Board at their next meeting.

Baasen stated the Executive and Save the Lake Committees will be meeting on November 17<sup>th</sup> and 18<sup>th</sup>,

respectively. He publically thanked Save the Lake Committee member Jay Soule for, once again, instructing the final 2014 Boater Safety Education session that was held at the Water Patrol on November 1<sup>st</sup> (acknowledging he is a resource and treasure). He stated the committee will re-evaluate the dates for 2015 (recommending one not be held in November) but the committee left the year with the feeling that the program was very effective.

Zorn asked how many participated on the November 1<sup>st</sup> session, in which it was confirmed six youths and four adults attended (all passing the test). Baasen further explained that the session was scheduled to a greater capacity in September; however, over time cancellations were presented.

## 11. EXECUTIVE DIRECTOR REPORT

Nybeck stated that staff kept busy preparing for tonight's public hearing (referencing the media coverage prior to and some expected after the fact). He entertained questions from the Board.

Klohs believed the public hearing held this evening was one of the most respectful and informative hearings held. He recognized the difficult issue but thought that the public received adequate time to express their thoughts.

Baasen questioned whether the comments continued to lend towards the future possibly of a "No Wake" day or event.

Klohs concurred with Baasen (recognizing that would be a totally different hearing).

Jewett stated that consideration of such should be presented by a formal request (application) and not one the Board should initiate discussion of.

Klohs stated that the request has been verbally provided to the Board on numerous occasions over the course of last summer and through tonight's public hearing. He believed that it could be considered as part of the QWA petition discussion or held separately.

Baasen stated that the additional no wake restrictions offered in the summer of 2014 opened the eyes to something that was not previously thought of. He asked if the Board had the responsibility to find an effective way to manage the Lake.

Thomas asked why the Board would have to wait for someone to make a formal request to consider such. He recognized he was new to the Board; however, he did not believe that was what the LMCD restricted themselves to.

Zorn believed the Public Safety Committee (PSC) is charged with summarizing the comments of the stakeholders and outlining recommendations for the Board to consider.

Roy stated that residents of St. Albans Bay are considering a petition that would establish one day a week being no wake in that bay.

Baasen stated that the 600 foot minimum wake restriction during the 2014 High Water Declaration was difficult to enforce vs. the entire Lake being no wake (self-policing). With that said, he believed going forward with individual bay requests for the establishment of no wake rules would be impossible to enforce.

Jewett stated that he believed minimum wake/no wake restrictions during High Water need to be all or none based on the inability to police such (referencing his past experience in serving on the Board during other declared times). His concern in establishing no wake periods during normal water levels was that the Board would be telling the stakeholders how to use the Lake when this is a public Lake for all to use how they would like.

Thomas understood Jewett's comment and referenced his prior comment as considering such on a jurisdictional basis (should a public hearing be held, etc.). He stated that even during his short period of time serving on the Board, he had heard stakeholders comment on a possible no wake day more than once.

Hughes made the following two comments. First, the PSC (within general discussion) raised the idea of recommending a public hearing on general Lake matters. In doing his research for tonight's public hearing, he viewed the Board's May 5, 2005 public hearing that offered the use of a public facilitator on ten general Lake topics (one of which was on quiet waters). He recognized that consideration of a no wake period would need to be separated from the current discussion at hand. However, based on that information, he believed the precedent in holding such a public hearing had already been set. Second, as a representative for the City of Spring Park, it was important to him that the residents were not cut short in receiving the information needed to effectively communicate their comments relative to tonight's public hearing. To this end, he complemented Nybeck on the establishment of additional procedures and communication in preparations for large public hearings such as this one (which included additional communication to some stakeholders that were considering flying back from Florida to attend this meeting).

Nybeck reminded the Board that there is a pending recommendation from the PSC on changes to the current High Water ordinance. Based on the Board's initial consideration of this, the matter was sent back to either staff or the committee to consider the effects of such at different water levels around the Lake. He confirmed that had not been followed-up on to date; however, when that matter is brought back to the Board, he recommended, at some point, a public hearing be held on those changes, as well as those that would like to provide general comments on last summer's events.

## 12. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:05 p.m.

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Dan Baasen Chair

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Andrew McDermott, Secretary