

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, February 25, 2015  
Wayzata City Hall

**1. CALL TO ORDER**

Baasen called the meeting to order at 7:01 p.m.

**2. ROLL CALL**

**Members present:** Dan Baasen, Wayzata; Jay Green, Mound; Gary Hughes, Spring Park; Gregg Thomas, Tonka Bay; Jennifer Caron, Excelsior; Ann Hoelscher, Victoria; Gabriel Jabbour, Orono; Dennis Klohs, Minnetonka Beach; Dave Lang, Minnetrista; 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:** James Doak, Woodland; Chris Jewett, Deephaven; and Rob Roy, Greenwood.

**3. APPROVAL OF AGENDA**

Nybeck stated that LMCD Prosecuting Attorney Steve Tallen had recently informed him of a recent Hennepin County District ruling (James Nils Anderson vs. LMCD) and that there was a need to update the Board on this matter. He requested that the agenda be amended to allow Tallen an opportunity to provide that update under agenda item 14.

**MOTION:** Green moved, Zorn seconded to approve the agenda as amended, making the change noted by Nybeck above.

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Baasen**

Baasen proposed a workshop be conducted at 5:30 p.m. on March 11<sup>th</sup> (just prior to the Regular Board meeting) to review the progress in updating the Strategic Plan.

LeFevere stated that he believed an Ordinance Review Committee (ORC) was scheduled to meet at that time.

Klohs, the ORC Chair, offered to reschedule the committee meeting, in which Baasen thanked him and recommended that the ORC meeting continue after the Regular Board meeting (as the agenda is very light that evening).

Jabbour recommended that the ORC be scheduled from 5:30 p.m. to 6:00 p.m. (providing for the workshop to be scheduled from 6:00 p.m. to 6:30 p.m.). This suggestion was based off of: 1) not all Board members serve on the ORC and 2) others may find it easier to arrive at 6:00 p.m.

Baasen thanked Jabbour for his recommendation; however, he expressed an interest in the workshop remaining at 5:30 p.m. (to accommodate whatever time will be needed to review the Strategic Plan).

**MOTION:** Zorn moved, Hughes seconded to schedule a LMCD special meeting (Board workshop) for 5:30 p.m. on March 11<sup>th</sup> to provide for an update on the strategic planning process.

**VOTE:** Motion carried unanimously.

Baasen stated that he and a few Board representatives met with a representative of the University of Minnesota (U of M) Carlson School of Business today. He notified the Board that their session goes from March 21<sup>st</sup> on into May and that there was discussion of conducting a survey in conjunction with the work being done on the Strategic Plan. There is a local sponsor to cover the costs of this project and there is no request for LMCD funding at this time. He stated that he would keep the Board informed on this matter.

#### 5. **APPROVAL OF MINUTES- 2/25/15 LMCD Regular Board Meeting**

Green stated that the word “convenience” should be changed to “convinced” within the second bullet point on page 8.

**MOTION:** Baasen moved, Shuff seconded to approve the minutes as amended, making the change noted by Green above.

**VOTE:** Ayes (8), Abstained (3; Baasen, Hoelscher, and Zorn); motion carried.

#### 6. **APPROVAL OF CONSENT AGENDA**

Thomas moved, Caron seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included the Audit of vouchers (2/16/15 – 2/28/15).

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

There were no public comments.

#### 8. **PUBLIC HEARING**

- **Belle Properties, LLC**, non-conforming, non-multiple dock permit application for four Boat Storage Units on approximately 107 feet of shoreline on Jennings Bay

Baasen asked Harper for background on this agenda item.

Harper directed the Board to his staff memo, dated 2/20/15, in which he made the following comments (via a PowerPoint presentation):

- Belle Properties LLC, has submitted a non-conforming, non-multiple dock license application for Board consideration. The application has been submitted to moor or dock four restricted watercraft on approximately 107 feet of shoreline, which would be owned by tenants of the subject site (5040 Enchanted Road) or owners of such (Rafik Moore and Fonda Broekhuis).

- The new owner of this property (Fonda Broekhuis) contacted the LMCD office in August, 2014 to inquire on how to get a dock variance to have space for four boats instead of the current two (email dated 8/18/14 within packet). He explained that this site legally qualifies for two restricted watercraft, using the 1:50' General Rule, or they could demonstrate to the Board's satisfaction the number of restricted watercraft that were stored at this site on 5/3/78.
- In 2013, staff observed three restricted watercraft stored at this site (part of the LMCD Proactive Code Enforcement Program). A letter was sent to the previous owner of this property (Jay Rusthoven) summarizing that the number of restricted watercraft that could be stored at this site. Mr. Rusthoven could not provide evidence that three or four restricted watercraft were stored at this site and it was brought into compliance with the LMCD Code in 2014.
- For non-conforming, non-multiple docks, a permit must be secured from the LMCD. Such licenses will be issued only after a public hearing and upon presentation of evidence deemed sufficient by the Board to prove that the dock or mooring area was in existence on 5/3/78 (and that the number of restricted watercraft applied for were moored or docked at such facility as of such date).
- A letter had been submitted by Mr. Rusthoven stating that he owned the property from 1970 through 2014 and that the four-unit building was rented out to the four units with a dock space per unit (noting that the tenants usually had boats).
- LMCD Code is based off of what is legally in existed on 1978 (noting that the majority of multifamily homes and homeowner associations on Lake Minnetonka have fewer Boat Storage Units than the number of homes or units).
- The City of Mound was provided a copy of this request, in which their comments were offered within the packet, dated 2/17/15.
- Staff does not believe the applicant has provided evidence to prove that four restricted watercraft were moored or docked at the subject site on 5/3/78. He further stated that if the Board agreed with this, the Board should direct LeFevere to prepare draft Findings of Fact and Order to deny the application.
- He entertained questions and comments from the Board.

Green, as a representative from Mound, expressed interest in being notified of applications within his respective city sooner. He asked if all internal and external research efforts, including LMCD's historical documents, had been explored and exhausted.

Harper stated that it has been repeatedly emphasized to the applicant to provide as much evidence of what existed prior to the grandfather date. He believed that the proof of what existed was the applicant's responsibility and not necessarily staff's.

Green stated he was not arguing Harper's last statement; however, he expressed concern that the LMCD had many, many years of photographs within the office and he wanted to make sure those efforts have been exhausted (noting that the applicant may not be aware of that option).

Hoelscher stated that an affidavit and a picture from the 1970's have been provided. She asked what proof would need to be submitted that is adequate since staff has recommended denial of the proof already submitted.

Harper stated that the level of proof is at the discretion of the Board. However, the proof needs document what was in existence on 5/3/78.

Thomas stated that he assumed there must have been a newspaper article in 1978 published that identified there was a new rule established and notified the public what they needed to do to keep their boat density. It is 37 years later and he questioned whether approval of the application would set a precedent. He asked for clarification on this.

LeFevere provided the following background on grandfathering:

- In 1978, the first boat density rules were adopted by the LMCD. This rule applied to new facilities (existing facilities were allowed to continue). He stated notification was not provided for people to come in and establish their rights.
- He stated that a non-conforming use permit is typically required when a municipality changes an ordinance, in which they do not offer a registration period. He stated that it is difficult to determine what existed at a particular time for seasonal docks as they are installed and removed annually. The process for multiple and commercial docks is much easier because they are permitted annually (most likely this question was addressed in submitting their 1979 application for renewal). This facility is not a multiple dock and there is no annual licensing requirement.
- Within the last 10 to 15 years, the Board established a mechanism to considering grandfathering for these types of facilities.
- The letter submitted by the applicant from the prior property owner is not an affidavit. He explained why the letter is not an affidavit and explained that this could possibly be cleaned up.
- The critical aspect of grandfathering is not the right but that they actually did it. In particular, what was in the water on that grandfathered date. It is up to the Board to decide this and whether there is sufficient evidence. Harper has summarized what staff has presented to date but the public hearing may produce more. There are a lot of situation on the lake where there are more units than slips.
- If the Board decided that the dock was in existence and the applicant had proved to your satisfaction on the number of watercraft, it would need to be pointed out the classification of use could not be converted.
- The Board does not have any discretion to add additional requirements over and above what is required by the LMCD Code. He referenced the City of Mound's request to establish a 20' setback from their established fire lane, in which the Board does not have the authority to grant that (acknowledging normal setbacks).
- He entertained further questions from the Board.

Thomas asked Harper if there were other similar non-conforming, non-multiple docks that were grandfathered in.

Harper believed there are three sites on Lake Minnetonka that went through a similar process and were grandfathered in.

Jabbour asked whether the City of Minnetonka Beach docks were non-conforming.

Harper stated that the City of Minnetonka Beach has a multiple dock license.

Jabbour asked where the application was with regards to the 60-day rule.

Harper stated that the 60<sup>th</sup> day is March 13<sup>th</sup> and that the LMCD could extend the timeline an additional 60 days.

Jabbour suggested checking on Mark Hurd's aerial photographs (formerly Mark Hurd Aerial Survey) that were taken prior to 1978, which may provide more than sufficient evidence necessary to consider grandfathering at this site.

LeFevere stated that the question for the Board is what was in existence on 5/3/78. If there is an aerial photograph before 5/3/78, you might decide that is sufficient evidence. However, the Board has to decide as there may be four boats or five in the water in 1970 but what was in the water on the grandfathered date.

Jabbour questioned whether this site could legally store four restricted watercraft if they were all owned and registered to tenants of the property.

LeFevere stated that they do not qualify for this because the four restricted watercraft allowance only applies to sites with one single family residential structure.

Klohs stated that these four units were constructed in 1965 and he believed it was reasonable to assume they could store four watercraft at the site. Some information has been provided to document that the storage of more than two watercraft took place at some time and supported the idea of cleaning the documentation up at this site for consideration of allowing them to store more than two watercraft.

Harper clarified that the letter submitted by the prior property owner did not document the storage of four watercraft on the grandfather date. Instead it comments that four slips were made available over the years.

Klohs questioned whether all four slips would be used every year because the units are rental properties.

Green stated that May 3<sup>rd</sup> is at the beginning of the season and a question remains as to what is reasonable for pictorial proof.

Nybeck stated that providing some pictorial evidence from the 1977 boating season that showed they had four restricted watercraft at the site would seem to be reasonable evidence. The Board could consider going back to further boating seasons but that is a judgment call for the Board.

Green asked what was provided for reasonable evidence by the prior non-conforming, non-multiple dock permits that were granted.

Harper stated that prior evidence included a number of affidavits, city council minutes, photographic evidence, etc.

Baasen questioned whether this facility could secure a multiple dock license.

LeFevere stated that they could not because a multiple dock license is subject to the 1:50' General Rule.

Klohs suggested that the Board grant the applicant some time to investigate whether there is sufficient evidence to support their request. He stated that he would be happy to work with them on this.

Lang arrived at 7:44 p.m.

Zorn asked Harper whether there was any documentation of the conversations with the previous owner.

Harper stated that there was communication between Herman, who supervises the Proactive Code Enforcement Program, and the prior property owner. LMCD Code allowances and the non-conforming, non-multiple dock permit option was discussed with them, in which the owner stated he could not provide such evidence. The photo submitted with the application appears to be after 1978.

Baasen asked the applicant to provide further background on the request.

Ms. Fonda B Broekhuis stated that she owned Belle Properties with Rafik Moore and they purchased the property in July, 2014 (acknowledging the letter that was sent to the previous property owners). The Rusthoven's have been renting the property out with their boat slips since 1970. There was a sign in the property that said "free boat slip." The request is to be grandfathered in for the 45 years. If the Board needs Mr. Rusthoven to sign a sworn affidavit or to address the Board, this could be done. They have cleaned up the property a lot and when we purchased it there were two rented units with two boats. She was 15 years old back in 1978 and she questioned whether there were many aerial photographs at that time. She confirmed that the prior owner would testify for her if need be.

Jabbour stated that historical aerial photographs are available from Mark Hurd (noted above). He questioned the applicant as to whether she was willing to grant the LMCD extension on the 60 day rule.

Harper stated that the LMCD can unilaterally extend the 60 day rule to 120 days based upon written notification to the applicant.

LeFevere stated that in the email submitted by the applicant, it states that "It would greatly improve our chances of attracting high quality tenants to our property, which will be great for the neighborhood and also help us to pay our taxes to the city." For this application, this is not relevant for the Board to consider. Additionally, if documentation is offered to support the storage of four watercraft at this site, they are entitled to keep them even if it would be bad for the neighborhood. The Board needs to decide whether the facts are adequate to consider grandfathering.

Baasen opened the public hearing at 7:43 p.m. There being no comments, he closed the public hearing at 7:44 p.m. He questioned if Klohs would consider a motion to direct the applicant to work with staff to document preexisting conditions.

Klohs stated that he would support tabling the application, as necessary, to do the research one way or another. He believed that he and Green can help them work through this process.

Green questioned whether the dock layout from 1977, or the grandfather date, was relevant.

LeFevere stated that the question for the Board was the number of watercraft in existence on the grandfather date (not the dock layout).

Hoelscher stated that she believed the Board does not need to make this more complicated than it needs to be. The applicant has stated that she could secure an affidavit from the prior property owner and she believed it would be of benefit to communicate what level of proof was necessary.

Broekhuis questioned whether a sworn affidavit from the prior property owners documenting that they had rented out four units from 1974 through 2014 when they purchased the property would be sufficient.

LeFevere stated that the Board needs to decide what is adequate evidence from which it is clearly proven for the Board to conclude that most likely four boats were in existence on the grandfathered date. He cautioned the Board that there are a lot of grandfathered situations around the Lake in which residents have rights to a common dock. However, all that is granted is what was in existence on the grandfathered date. He stated that just the fact that the developers intended to moor a specific number of boats, that a number of people may have been interested, or that the dock layout offers such is not the question. The question for the Board is what was in the water on the grandfather date.

Broekhuis stated that she was not sure that the picture submitted was from the 1970's.

Nybeck stated that the applicant may want to work with Jabbour on locating pictures from Mark Hurd. The LMCD has some pictures that the office could assist the applicant with. However, he did not want staff to spend a great deal of time on this to provide documentation for the applicant.

Klohs questioned what it would cost for the LMCD to have access to the Mark Hurd aerial photos (as necessary).

Shuff stated that it appears photographs from 1977 would be relevant for what existed on 5/3/78. With regards to grandfathering, she believed that the Board would take into consideration what was in the water (not what could have been in the water).

LeFevere cited an excerpt of LMCD Code Section 2.02, Subd. 4, in which he specifically read, "... Such licenses and permits will be issued only after a public hearing and upon presentation of evidence deemed sufficient to the Board to prove that the dock or mooring was in existence on May 3, 1978 and that the number of restricted watercraft applied for were moored or docked at such facility as of such date."

Shuff stated that communication from the prior property owners in 2013 and their decision to legally store restricted watercraft in 2014 is very telling of what the decision should be going forward. She questioned why now if they did not have proof at that time.

Zorn concurred with Shuff's comment.

Broekhuis stated that she believed this place was not rented out and run down at that time. She stated there

were only two renters in the four units (one of which was the prior property owners).

Baasen stated that he did not believe there was adequate evidence to support the request from the applicant at this time. Rather than vote on the application at this meeting, he believed that the applicant needed to demonstrate with more tangible evidence that this existed.

LeFevere stated that it was not clear to him what evidence is out there. With regards to the Mark Hurd photos, these were typically done in the fall when there were not leaves on trees (docks may not have been installed). Other possible sources of evidence could include the local historical society, previous property owners or tenants, etc. It is going to be up to the Board to decide if sufficient evidence presented existed on 5/3/78 (although a picture may not be available on such date).

Baasen recommended tabling this application to allow the applicant to secure further evidence.

Hoelscher suggested contacting neighbors that have been around a long time.

Nybeck stated that staff could assist the applicant some limitations on time spent.

**MOTION:** Green moved, Klohs seconded to continue the public hearing to the March 25, 2015 LMCD Board Meeting to allow the applicant to further research evidence available to support the proposed application.

**VOTE:** Motion carried unanimously.

## 9. OTHER BUSINESS

- A. Chair update of February 23<sup>rd</sup> Executive and Personnel Committees Meeting
- C. **Personnel Committee**, 2015 compensation adjustments for LMCD employees as outlined in 2/4/15 memo

Baasen made the following comments:

- The primary agenda item for the Executive Committee was to discuss changes proposed by the three yacht clubs and sailing schools to the LMCD Code. He expounded on some of the changes proposed that the committee believed needed further work by the yacht clubs and sailing schools, which is currently taking place.
- Within the same meeting, the Personnel Committee discussed Nybeck's 2014 performance review process. He stated Nybeck completed his self-appraisal and he is currently completing a second subjective self-appraisal requested by the Board. Baasen encouraged Board members to forward their 2014 performance review comments to him. He anticipated the scheduling of an Executive Session at an upcoming Board meeting to finalize the performance review (targeting to complete this process in March).
- At the February 11<sup>th</sup> Board meeting, there was an agenda item to consider compensation adjustments for three of the four employees (with a recommendation to approve such by the Personnel Committee). No action was taken by the Board at this meeting and he stated that he had subsequent conversations with a personnel specialist on this topic. This individual



commented that the proposed adjustment of 2.5% for the three permanent employees that have had their 2014 performance reviews completed was static. One of the concerns raised at the last meeting was the percentage of expenses incurred on personnel costs. He believed the highest percentage for this in recent years was approximately 56 percent and, more traditionally, around 40 percent. The personnel specialist communicated to him that there is no rule of thumb of what the proper percentage is for an organization like the LMCD (administrative and regulatory). Additionally, he identified the companies that this personnel specialist has provided professional representation to.

**MOTION:** Baasen moved, Hoelscher seconded to approve a 2.5 % hourly adjustment for staff members that have had their 2014 performance reviews completed, retroactive to January 1<sup>st</sup>, and that subsequent action for the Executive Director be taken by separate motion after his 2014 performance review is completed.

Jabbour stated that he was the one that made the motion to table this at the last meeting. He took strong exception when the Board is pinned against staff. He stated that the level of money is not the issue (2%, 7%, etc.). We are a country of law and process and he communicated that he believed the process was inappropriate, which the city he represents concurred with, as well. He recommended that the compensation adjustments get tabled until the Board established a process that they are comfortable with. He stated that salaries are comprised of taxpayer funds and he wanted the Board to be transparent. The concern he expressed was that thresholds were not in place by the Board or Executive Director to evaluate an employee's performance in 2014.

Baasen commented on adjustments made by LMCD member cities in 2015 (ranging from a flat rate for all employees at Mound to 3.5% at Minnetonka Beach). There were times during the last five years where some of these cities held adjustments to zero (including the LMCD). As a motion maker, he took exception that the Board had not always looked at comparable agencies. With regards to standards that employees are reviewed against, these position descriptions were updated by the Board in 2013. He stated that he had reviewed the performance reviews conducted by Nybeck for the three permanent employees and he believed the recommendation was fair and reflective of these position descriptions.

Hoelscher stated that it seemed to her that the wage increases being considered should be based on past performance (2014). These wage increases should not be based on what the Board might be looking to do in the future (i.e., changes to the approved LMCD Strategic Plan). She believed that the staff performed well in 2014 and deserved a 2.5% adjustment. If duties change going forward, changes could be made at that time.

Jabbour questioned why everything he was communicating was getting turned around. He understood that only one performance review had been conducted for Nybeck in 2006. He believed that the Board had done a bad job of updating position descriptions and evaluating employees against these standards. He suggested that there was a need to take a step back and further research this.

Thomas stated that the three employees in question had approved position descriptions, expectations were communicated to them by the Board and Nybeck, and they were evaluated based on this. He believed that it seemed unfair to him to evaluate an employee after the fact when these targets have

changed (expectations).

Zorn reflected on some of her professional experience. She believed that there was a need for the Board to put more rigors around the performance review. She believed the Board should consider, going forward, the process of completing the performance reviews of the other employees be delayed until the Executive Director's performance review is finalized. She understood that the proposed adjustments were in line with the member cities and reflective of work this past year. She reiterated her belief that the Executive Director's review should come first and then move down the line.

Green voiced concern that Chair Baasen had reviewed the 2014 performance reviews of the three employees in question and the balance of the Board had not had that opportunity.

Baasen stated that the Board annually reviews Nybeck's performance and Nybeck reviews the employees he supervises. He asked LeFevere whether he could call the question on the motion made.

LeFevere stated that could be done if Board was prepared to vote and that there was no further debate.

Lang asked Nybeck for background of the performance review process for each employee (including whether self-appraisal was utilized). He questioned whether it was the responsibility of the Board to prepare the performance reviews for these employees. He understood that all three employees, based on reviews prepared by Nybeck for 2014, met or exceeded expectations established.

Nybeck stated that all three performance reviews were completed and signed for the calendar year 2014 by mid December. Reviews are done based on performance with tasks detailed in approved position descriptions (with categories of meets, exceeds, and below expectations). The self-appraisal process is utilized and individual meetings are scheduled to compare his review of the employee with each employee's review (with adjustments possibly made based on discussions held at that meeting). He reported that all three performance reviews for 2014 were somewhere between meets and exceeds expectations. The recommendation he made to the Personnel Committee was for a 3% adjustment (based off of performance in 2014) and the committee reduced the recommendation back to 2.5% as proposed.

Baasen communicated that the recommendation of the Personnel Committee was not unanimous.

**MOTION:** Jabbour moved, Green seconded to table the motion until additional Board members are in attendance.

Caron stated this topic was the most divided of discussion that she had observed in the short time she has been on the Board. She believed there has been some agreement on the need to look at the process. She concurred with Zorn that it would be beneficial to have Nybeck's performance review done first and then staff's. If the Board was looking at a deadline of the end of March for Nybeck's review, she believed that it made sense to hold off on adjustments for the remaining three employees.

Thomas asked what impact Nybeck's performance review has in making a decision on compensation adjustments for the other three employees.

Caron stated that she believed it would be beneficial to the Board if it had a better understanding of what these performance reviews were. She would like a better understanding of job responsibilities; clarifying the LMCD was not a private company and she was not comfortable with the current process.

Baasen stated that he understood that some Board members have an interest in discussing the process going forward. However, he did not understand changing the process that was in place this past year.

Caron stated that she was not aware of the process that was in place in December and the background of the recommendation made by the Personnel Committee.

Jabbour questioned whether the Board would like to hear the mistakes that were made in 2014. He wanted to have a discussion of this and he hoped the Board would trust him on this.

Shuff stated that the Board has hired an Executive Director to conduct the performance reviews and she did not want micro-manage. As Hoelscher point out, the discussion is 2014 performance. If the Board wants to change expectations moving forward, she believed that this was another discussion.

Zorn stated that she had heard from some Board members on the need to improve communications between staff and the Board (citing the comment made earlier in the meeting by Vice Chair Green relating to the Belle Properties, LLC application as an example). She supported the motion to table.

Caron questioned whether the motion to table was date certain.

Jabbour proposed a friendly amendment to the motion to table to add a date of March 31, 2015. Green agreed to this.

**VOTE** Ayes (5; Caron, Green, Jabbour, Klohs, and Zorn); Nayes (6); motion failed.  
**(MOTION TO TABLE):**

**VOTE** Ayes (7), Nayes (4; Green, Jabbour, Klohs, and Zorn); motion carried.  
**(ORIGINAL MOTION):**

Jabbour clarified for the record that two Board members were not in attendance at this meeting (Jewett and Roy) who voted against a similar motion at the last Board meeting.

- B.** 2015 Lake Minnetonka Watercraft Inspection Program:
- Update on 2/13/15 Three Rivers Park District (TRPD) Letter of Request
  - 2014 MN DNR Summary Report of Watercraft Inspection Results at Lake Minnetonka

Baasen asked Green for overview of this agenda item.

Green provided an update of the LMCD contracting with the Three Rivers Park District (TRPD) for

watercraft inspections in 2015. A formal request has been made to the TRPD (consistent with the Board's direction on February 11<sup>th</sup>). The request is currently being processed and an operational plan is being prepared for a TRPD Board workshop on March 12<sup>th</sup> (with approval of the plan targeted for their March 26<sup>th</sup> Board meeting). He hoped to have this agreement before the LMCD Board for approval at the first meeting in April.

Jabbour stated that he understood the agreement would be straight forward and simple.

Green stated that the TRPD has a similar agreement with the City of Plymouth for Medicine Lake and he believed a similar agreement would be prepared for the LMCD.

Nybeck requested that Green keep staff in the loop on the draft agreement so that LeFevere's feedback can be received sooner rather than later.

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

Green stated that an AIS Task Force meeting was conducted on February 13<sup>th</sup>. Topics discussed at this meeting included: 1) discussion of a proposal from the Lake Minnetonka Association to track movement of watercraft throughout the State of Minnesota using transponders, 2) a west metro AIS summit is being proposed by the TRPD, 3) an update from Roy on the lake improvement district project (with a joint powers agreement recently approved by the Cities of Excelsior and Greenwood). He stated Board formation is planned for the near future, 4) an update was provided by Adam Doll on the 2014 Minnesota Department of Natural Resources (MN DNR) Watercraft Inspection Report, and 5) the MN DNR AIS Advisory Committee recently met, in which he expounded on topics discussed. Lastly, he provided an update on AIS legislation currently being considered. The next AIS Task Force meeting is scheduled for March 13<sup>th</sup>.

Jabbour stated that the University of Minnesota AIS Research Center is changing some direction (less research and more aquatic vegetation control). This is not consistent with how it was established and some concern has been expressed because this was how it receives its funding. There is currently discussion to schedule a hearing with the legislature through the Environmental Committee (noting that Dr. Sorenson has been removed).

Nybeck stated that an Initiative Foundation grant application is currently being circulated amongst West Metro AIS Committee members, with this Friday as a deadline. The Minnehaha Creek Watershed District is floating an idea to submit a proposal representing the west metro area. He stated that he could not endorse this until the Board has reviewed and concurred with the proposal.

Jabbour and Green stated that they believed it would be a bad idea for the LMCD to review and endorse the proposal due to their appointments to the committee that reviews grant requests. They further stated that this would disqualify them from reviewing the proposal.

Klohs stated that the Ordinance Review Committee would meet in the next two weeks. He anticipated that topics for discussion would be changes to the LMCD Code for municipalities and yacht clubs/sailing schools.

Hughes stated that a Public Safety Committee meeting is scheduled for March 18<sup>th</sup> (3:00 p.m. at the Water

Patrol office). The primary topic for discussion was changes proposed by the committee to the Board last summer on the current "High Water" ordinance.

Baasen provided an update on Save the Lake Committee activities:

- The first Boater Safety Education course is planned for March 14<sup>th</sup>. These courses are quite exciting to see and he encouraged interested Board members to attend. Zorn and Shuff provided an update on communication efforts made with Minnetonka Public Schools and the City of Minnetonka to advertise this program in their newsletters.
- The committee will be meeting on March 3<sup>rd</sup> to plan for the March 19<sup>th</sup> Save the Lake Banquet.
- Invitations were recently sent out for the March 19<sup>th</sup> Save the Lake Banquet. He encouraged Board members to forward names to Herman of people that may have an interest in attending. He provided an overview of the program planned for that evening. One of the changes planned for the event is a live auction (fundraising component). Consultation has been made with Fladeboe Auctions, who conducted an auction for the Freshwater Society. He summarized costs for their services (\$2,000) and anticipated funds to be received (between \$5,000 and \$11,000). He reviewed auction items that are being considered and he requested authorization to contract with Fladeboe Auctions for such.

**MOTION:** Baasen moved, Thomas seconded to expend up to \$2,000 to contract with Fladeboe Auction in conjunction with the 2015 Save the Lake Banquet.

A summary of the Board discussion was as follows:

- How much funds were raised by Save the Lake in 2014 (estimated at \$35,000 through two solicitation appeals).
- Whether the right people would be coming to the event to justify the \$2,000 expense for the auctioneer. There was a discussion of the limited risk involved of holding a first-time auction in conjunction with the banquet.
- A question was raised, and discussion held, as to why this topic was not a scheduled agenda item.
- A discussion of whether the Save the Lake Committee would define the cause.

**VOTE:** Motion carried unanimously.

Lang suggested that the LMCD should consider having the banquet on another day of the week, such as Friday or Saturday, to possibly bring a larger draw.

## 11. EXECUTIVE DIRECTOR REPORT

There was no Executive Director Report.

## 12. OLD BUSINESS

Baasen restated that March 11<sup>th</sup> Board workshop planned to review the current LMCD Strategic Plan.

### 13. NEW BUSINESS

Jabbour provided further information on the thought process with the U of M Carlson School of Business referenced earlier in the meeting by Chair Baasen. A year ago, he thought it would be a good idea to engage a survey and assessment on the Lake and the LMCD (how efficient, trademark, value of, what we should do, and what the citizens think). He has done this many times in the past and has assembled gatherings (noting this is not unusual for doing that and the Board will get used to the fact that he is doing something). He stated it is his project, he took it on, and he liked the limited participation of the LMCD. However, he does not want to have the U of M circling around the LMCD (the facts are the facts). He believed that the survey being discussed could help the LMCD on strategic planning. If Board members have questions, he suggested that they contact him. Eventually, a representative from the U of M will be here to present the findings to this body.

Baasen thanked Jabbour for coordinating the meeting. He believed the LMCD wants to partner on this project and there is benefit in surveying Lake residents. At this time, there is not a request of the Board to endorse or provide partial funding for this project.

### 14. PENDING LITIGATION

- Matt Johnson, et. al vs. LMCD
- James Nils Anderson vs. LMCD

**MOTION:** Green moved, Hughes seconded to: 1) go into closed session at 9:05 p.m. to discuss pending litigation as allowed by the Open Meeting Law and 2) adjourn the meeting upon completion of the closed session.

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Dan Baasen Chair

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Gregg Thomas, Secretary