

MOTION: Shuff moved, Zorn seconded to approve the 2/24/16 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

Zorn moved, Shuff seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A)** Audit of vouchers (3/1/16– 3/15/16) and **6B) LMCIT Liability Coverage Waiver Form**, approving the selection, "The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.06, and **6C) Lindbo Landing**, approval of draft mandatory Environmental Assessment Worksheet (directing staff to proceed with MN Environmental Quality Board processing requirements).

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

There were no public comments.

9. PUBLIC HEARING

- **Wayzata Yacht Club (Site 1)**, 2016 new multiple dock license application to reconfigure and reconstruct a portion of the permanent dock on Wayzata Bay utilizing LMCD Ordinance 223 for Qualified Sailing Schools and Qualified Yacht Clubs.

Nybeck reviewed his staff memo, dated 3/3/16, which summarized a request to reconfigure and reconstruct portions of the permanent dock on Wayzata Bay utilizing LMCD Ordinance #223 for Qualified Sailing Schools and Yacht Clubs. This legal, non-conforming site is currently approved for 127 boat storage units (BSU) with 540 feet of 929.4 shoreline (1:4 foot density). The applicant proposes to reconfigure and reconstruct docks A, B, and C during 2018, 2016, and 2017, respectively. Nybeck provided a detailed overview of: 1) each year's proposed changes, 2) how this applicant qualified for the use of Ordinance #223, and 3) staff comments. He recommended the Board approve Wayzata Yacht Club (Site 1) 2016 multiple dock license subject to:

- The dock construction and location of moored watercraft be in strict conformance with the approved site plan;
- All watercraft stored at BSUs 93-95 be fully contained within the dock structure to meet the minimum 28 foot side setback; and
- All watercraft be stored within authorized BSUs (including a limit of 19 watercraft on the approved slide locations). He entertained questions and comments from the Board, in which none were offered.

Green invited the applicant to address the Board.

Mr. Jonathan McDonagh, Rear Commodore for the Wayzata Yacht Club (WYC), stated this application provided for the reconfiguration of the dock structure over a three year phase.

Thomas requested clarification as to whether the Board was considering approval of all three phases at this

time.

Nybeck confirmed: 1) the recommendation before the Board is to approve all three phases at this time. He acknowledged this application was unique (the first of his tenure). However, he believed the Board could approve such with the applicant's ability to submit a renewal without change application for the next two years even though the docks would not be fully reconstructed until the last phase and 2) there was not a code provision that would prevent the approval of this application relative to a phased construction schedule (multi-year).

Baasen asked McDonagh to confirm, for the record, that the WYC received the City of Wayzata's approval for the proposed construction.

McDonagh confirmed they received a letter of approval this date.

Green opened the public hearing at 7:20 p.m. There being no comments, he closed the public hearing at 7:21 p.m.

MOTION: Jabbour moved, Thomas seconded to approve Wayzata Yacht Club (Site 1) 2016 New Multiple Dock License, subject to staff recommendations.

VOTE: Motion carried unanimously.

10. OTHER BUSINESS

A) Preliminary discussion of LMCD Code Section 3.01, Subd. 18 (Commercial Sales on the Lake)

Green directed the Board to his memo, dated 4/4/16, within the Board packet that outlined: 1) background information on Code Section 3.01, Subd. 18, "Commercial Sales on the Lake," 2) three requests recently received by the LMCD for various commercial activities for the 2016 boating season, and 3) a question as to whether the Board should schedule a future agenda item to further discuss this code, as well as provide guidance to staff in responding to those that inquired. He entertained questions and comments from the Board.

Hoelscher believed it was time to talk with the member cities and hold a public hearing to obtain a better feeling on this matter; acknowledging times are changing.

Jabbour recommended the Board: 1) first consider the ordinances and the prosecuting attorney's request to provide more definition to the ordinance, 2) educate the member cities on this topic prior to considering a public hearing, and 3) look at other agencies that have authority over commercial use on the Lake, such as the Hennepin County Health Department.

Klohs asked if the Board had determined what their position would be on any internet sales such as through the Iphone. He offered that two attorneys have concluded that there is nothing in the LMCD Code that would stop someone from selling a service over the internet and having it delivered on the water. He believed that position needed to be clarified prior to any communication with the cities.

Baasen summarized that what the Board is looking for is what consummates a sale on the Lake, including confirming that the delivery of the item is considered part of the sale.

Nybeck requested Board concurrence that the feedback staff will provide to those that inquire is that: 1) it is prohibited by the Code and 2) the Board may look further into the definition offered but there is no expectation that it will change.

Klohs stated that he believed the LMCD could not speak to internet sales.

Nybeck recommended the policy makers inform staff of their position.

MOTION: Jabbour moved, Klohs seconded to direct Gilchrist to look at the LMCD ordinances to assure that only the permitted portion of the ordinance for commercial use, which would be the intent of the Board, would be allowed and to advise of any measures needed to secure that others that are not permitted are prohibited on the Lake (including the use of internet sales) so that the LMCD is not in a position to defend themselves on this matter.

VOTE: Motion carried unanimously.

B) Ordinance Amendment, consideration of an ordinance amending LMCD Code regarding approval of additional ports of call public hearing requirements.

Nybeck directed the Board to a draft ordinance amendment within their packet. This amendment would remove the requirement to hold a public hearing for licensed watercraft for hire that sell on-sale intoxicating liquor, non-intoxicating malt liquor, or wine licenses that add additional ports of call to their renewal applications.

MOTION: Thomas moved, Shuff seconded to approve an ordinance amending LMCD Code Section 5.44, Subd. 4 regarding the approval of additional ports of call public hearing requirements as submitted.

VOTE: Motion carried unanimously.

C) Chair update of Annual LMCD and Hennepin County Sheriff's Office Meeting

Green stated that the LMCD held their annual meeting with the Hennepin County Sheriff's Office this date. He provided a brief summary of the discussions (coverage, training, overview of statistics, special events, and preventative measures).

Baasen expounded on the coverage and how the numbers of both licensed and special deputies have

increased over the years.

On behalf of the Board, Green extended his appreciation to the Hennepin County Sheriff's Office and Water Patrol Unit for all their efforts (pointing out how safe Lake Minnetonka is based on the traffic levels).

D) Status of LMCD Executive Director Position:

- Summary of February 24, 2016 closed LMCD Board session
- Chair update on 3/1/16 to 4/29/16 transition plan
- Update from Board members Dan Baasen, Gary Hughes, and Deborah Zorn on proposed recruitment strategies
- Chair update on working group direction on 2017 LMCD budget

Summary of February 24, 2016 closed LMCD Board session: Green directed the Board to a typed summary of this session within their packet. He read it into the record.

Chair update on 3/1/16 to 4/29/16 transition plan: Green directed the Board to a transition list within their handout folders. He stated he is working closely with Nybeck on all items listed and that amendments are offered on a regular basis. A brief discussion was held as to the key projects that are in the works and that Green will not hesitate to call for help when needed.

Update from Board members Baasen, Hughes, and Zorn on proposed recruitment strategies: Baasen, Hughes, and Zorn provided an update and solicited Board direction relative to: 1) the use of a search firm for the permanent executive director (PED) position and 2) the hiring of an interim executive director (IED). It was further confirmed that Green and the working group did meet with a potential IED that could also provide for the search of the PED; former city manager Jim Brimeyer.

The Board had a lengthy discussion on this matter, in which Jabbour stressed the importance of establishing a process to obtain an IED that would include posting the position, holding interviews, and providing a recommendation to the Board.

MOTION: Baasen moved, Zorn seconded for the Board to grant the working group approval to pursue an interim director in lieu of the process of securing a permanent director.

Klohs proposed a friendly amendment to post the interim director position.

Baasen and Zorn agreed to this request.

The following discussion pursued: 1) the date in which interviews for an IED could be held (taking into consideration the posting requirement) and 2) confirmation that the working group is not a formalized committee but merely volunteers via a show of hands.

VOTE: Motion carried unanimously.

Discussion was held as to where the postings would be made, whether a specific application would be required, and the IED position description. It was confirmed that all matters would be considered by the working group.

Chair update on working group direction on 2017 LMCD budget: Green stated he: 1) met independently with Hughes and Jewett relative to the 2017 budget, as well as reviewing the draft 2015 audit, 2) the working group is scheduled to meet with the auditor via conference call on Monday, and 3) draft 2017 budget options will be presented at the Board's March 23rd meeting.

11. UPDATE FROM STANDING LMCD COMMITTEES

Baasen stated that the Save the Lake Committee met this date. He reported the following: 1) a Boater Safety Education session was scheduled for Monday, June 13th at the Mound Westonke High School, 2) research is proceeding on the replacement of solar light batteries, 3) the committee is reducing the use of staff time and that they have been directed to document their hours, 4) committee interest in increasing communication with stakeholders in an effort to make the Lake a better experience for all (possibly incorporating a pledge), and 5) a discussion agenda item relative to alternatives for a future Save the Lake banquet/event is planned for their May meeting.

Green stated that the Aquatic Invasive Species (AIS) Task force met on February 12th. He reported the following:

Eurasian Watermilfoil (EWM) Harvesting Program: There is an expectation to cut the EWM Harvesting Program back. He is currently looking at invoices and working with past EWM site supervisor Tom Elmer and Nybeck on program and staffing needs.

Watercraft Inspection Program: The AIS Task Force expressed an interest in "beefing up" this program (working with lake associations, etc.). He is currently working with the Three Rivers Park District on various scenarios (similar to last year's program). Additionally, he has reached out to Hennepin County for additional funding.

In regards to his attendance at the State AIS Committee, he reported the following:

- An AIS informational survey was completed for three northern Minnesota counties. From that, it was documented that 70% of those surveyed were receiving their AIS education from inspectors. He believed that statistic documented the importance of the inspection program and that the use of such would assist in selling the program within the Lake Minnetonka community. It was further documented that a secondary avenue for AIS education was through signage and the media. Additionally, 70% of those surveyed claimed they had a strong understanding of AIS and 21% felt they were informed (91% surveyed offered an understanding of AIS and its impact).
- A 30 pound Bighead carp was caught by a commercial fisherman within the Minnesota River near New Ulm.
- The Minnesota Department of Natural Resources is looking to add two additional canines to detect zebra mussels (currently has two).

Jabbour stated that the Minnehaha Creek Watershed District has been conducting a zebra mussel study on the Lake. He stated that preliminary findings show that the mussels are colonizing differently within the individual bays (peaking in some and receding in others). Additionally, that there is puzzling documentation that the veligers are reported to be extremely low. Lastly, he outlined a three year veliger study that he is personally working on with the University of Minnesota and various leading manufactures that he named. This and other efforts are being coordinated on a personal basis. He invited all that would like to be a part of this effort to call and he would put them on a notification list but, for the record, all gatherings would not be an LMCD function.

12. EXECUTIVE DIRECTOR REPORT

Nybeck reported on two matters. First, the vast majority of his work through April 29th would pertain to the transition list, which is updated weekly. Second, he noted that as of this date, no appeal to the Supreme Court relative to EOF Investments, LLC's writ of certiorari has been issued. Such appeal must be filed within 30 days of the Order (next week).

13. OLD BUSINESS

Hoelscher suggested a uniform/factual notification be sent to the member cities in regards to Nybeck's departure (based on confirmation that the separation agreement has been signed by all parties). Additionally, she requested confirmation as to whether the newly drafted vision and mission statement through the recent strategic planning process was adopted.

Green confirmed it was not adopted as that the process was placed on hold until the LMCD finalizes the need to obtain an interim and/or permanent executive director.

Hoelscher questioned if the adoption of the new vision and mission statement might be of benefit while searching for the interim and permanent executive director.

Klohs and Baasen concurred with Hoelscher on a uniformed message to the member cities regarding Nybeck's departure; offering further notification that the LMCD is looking for an interim as they may be the LMCD's best source.

Thomas stated he, Green, and Baasen were in receipt of an email relative to a "Celebrate Wekota Park" event being held in Tonka Bay on Saturday, April 16th. A question was raised as to whether the LMCD and/or Save the Lake would like to have a table at the event (2:30 p.m. to 4:30 p.m.) to promote Lake Minnetonka environmental and safety factors. He solicited the Board's consensus to proceed in expending little to no staff time and minimal costs. Materials to be handed out would include AIS brochures, Electric Shock Drowning materials, registration materials for the boater safety education course, and winter/summer rules pamphlets.

Shuff believed the LMCD's participation would be a positive move and offered to assist.

Zorn recommended a sign-up sheet be offered for those that would like to leave their contact information for

LMCD notifications.

Baasen and Thomas stated that Save the Lake Committee member Dan Gustafson has a printing background and has offered to obtain the skirt at a very reasonable price. Furthermore, Gustafson can provide the table.

14. NEW BUSINESS

There was no new business.

15. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 p.m.

James Jay Green, Chair

Gregory J. Thomas, Secretary