

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS  
7:00 P.M., August 10, 2016  
Wayzata City Hall**

## **1. CALL TO ORDER**

Chair Green called the meeting to order at 7:00 p.m.

## **2. PLEDGE OF ALLEGIANCE**

### **3. ROLL CALL**

**Members present:** Jay Green, Mound; Deborah Zorn, Shorewood; Chris Jewett, Deephaven; Dan Baasen, Wayzata; Ann Hoelscher, Victoria; Gary Hughes, Spring Park; Gabriel Jabbour, Orono; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Bret Niccum, Minnetrista; Rob Roy, Greenwood; Sue Shuff, Minnetonka. Also present: Jim Brimeyer, Interim Executive Director; and Troy Gilchrist, LMCD Legal Counsel.

**Members absent:** Gregg Prest, Excelsior; Gregg Thomas, Tonka Bay.

#### **4. APPROVAL OF AGENDA**

Green referred to a Resolution approving Summary Publication of the Ordinance amending the Lake Minnetonka Conservation District Code of Ordinances regarding Nuisances and Liquor Restrictions that was passed out to the Board and requested to make it part of Agenda Item 10A.

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

**VOTE:** Motion carried unanimously.

## 5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

## **6. APPROVAL OF MINUTES-**

7/13/16 LMCD Regular Board Meeting  
7/27/16 LMCD Regular Board Meeting

**MOTION:** Shuff moved, Meyer seconded to approve the 7/13/16 LMCD Regular Board Meeting minutes as submitted.

**VOTE:** Ayes (9), Abstained (2, Hoelscher and Jewett); motion carried.

**MOTION:** Jabbour moved, Hughes seconded to approve the 7/27/16 LMCD Regular Board Meeting minutes as submitted

**VOTE:** Ayes (9). Abstained (2. Roy and Baesen): motion carried

## 7. APPROVAL OF CONSENT AGENDA

**MOTION:** Jewett moved, Shuff seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (8/1/16 - 8/15/16); and **7B)** Howards Point Marina, approval of draft Record Decision and LMCD Resolution 148 ordering a negative declaration on the need for an Environmental Impact Statement (EIS) for the Mandatory Environmental Assessment Worksheet (EAWS) document.

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

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

There were no public comments.

## 9. PUBLIC HEARING

There were no public hearings.

## 10. OTHER BUSINESS

### A) **Ordinance Amendments**, consideration of approving draft amendments regarding Nuisances and Alcoholic Beverage Restrictions.

Gilchrist reported on the ordinance draft amendments. These include an expanded definition of loud noise and updated liquor restrictions.

#### Article II, Quiet Hours Established

Green inquired if quiet hours on the water also applied to quiet hours on the shore. Gilchrist stated there was some talk about how to qualify the language "150 feet from shore." There could be some situations where they would want to have more explicit guidelines that covered the end of the dock without including the actual shoreline. The LMCD covers the water and the cities manage the land.

Zorn arrived at 7:10 p.m.

#### Article III, Liquor Restrictions

Green referred to Subd. 5, and stated the language "parent or guardian" is irrelevant to the Board and questioned why it needs to be in there. Gilchrist commented it is in there to match the same subject within the State law. The parent/guardian's boat would not likely be considered under household.

Meyer expressed concerned that it prohibits the right of parents to have their child drink a glass of wine at a picnic on the boat. Gilchrist commented the language comes from the State statute and if the LMCD code said it was okay, it would be contrary to State law.

Hoelscher referred to Subd. 4 and asked if the language could be left as is without the revisions to keep the intent more vague. Gilchrist stated it is in there to match the State statute and to leave it out would cause more controversy than adding it.

Jabbour asked if an interpretation of the LMCD code could be included saying a houseboat is not a household. Gilchrist stated household may be defined within the State statute.

Jabbour suggested the Board pass this Ordinance amendment as proposed and forego the second and third reading.

**MOTION:** Jabbour moved, Shuff seconded to adopt an Ordinance amending the Lake Minnetonka Conservation District Code of Ordinances regarding Nuisances and Liquor Restrictions.

**VOTE:** Motion carried unanimously.

**MOTION:** Jabbour moved, Jewett seconded to adopt a Resolution approving Summary Publication of the Ordinance amending the Lake Minnetonka Conservation District Code of Ordinances regarding Nuisances and Liquor Restrictions.

**VOTE:** Motion carried unanimously.

- B)** **Jerry Martin**, draft Findings of Fact and Order to approve an adjusted dock use area and setback variance at 10 Crabapple Lane in the City of Tonka Bay (Gideon Bay).

Brimeyer commented that the email from the Minnehaha Creek Watershed District (MCWD) expressing concerns with a possible dredge at this site was inadvertently not sent until after the public hearing on this matter was held. There are additional matters to be addressed with the MCWD, MN DNR, and City of Tonka Bay prior to the applicant being able to move forward with construction of the proposed site plan.

Jabbour commented it is a bad precedent for the Board to hold approval because there is a land issue disagreement with the involved city.

**MOTION:** Jewett moved, Zorn seconded to approve Jerry Martin Findings of Fact and Order for an adjusted dock use area and setback variance at 10 Crabapple Lane in Tonka Bay.

**VOTE:** Motion carried unanimously.

- C)** **5th Street Ventures, LLC**, review and consideration of draft mandatory Environmental Assessment Worksheet (EAWS) document.

Brimeyer stated that an Environmental Assessment Worksheet (EAWS) is required based on a proposed application expanding over 20,000 square feet. Upon approval by the Board, staff will initiate the EAWS process

via a defined distribution process that includes a 30-day comment period (ending September 21<sup>st</sup>). He directed the Board to the outlined timetable offered within the packet.

Klohs inquired why this location has so many extra boat slips. Brimeyer stated it was occupied by a bog and with the high water in 2014, the bog moved and opened up this space. Jabbour stated the bog was eventually removed to a different location in the lake so that it would not block the channel.

Discussion was held in holding this and future applicants accountable for completing the square footage calculations needed to process the EAW. Brimeyer stated that staff is working on a calculation check off list to assist them in this process.

**D) Update from Executive Director Search Workgroup – Interview schedule; Selection of Finalists**

Zorn provided a detailed overview of the Executive Director search timeline. Since the last meeting, conference calls were scheduled with seven semifinalists. From that list, five are recommended to proceed with an interview on August 31<sup>st</sup>.

Baasen commented of the five candidates and believed the work group is confident there is a successor.

Zorn stated the candidates are scheduled to meet with Brimeyer, staff, Water Patrol, and the appointed LMCD attorneys just prior to their interview.

Jabbour commented the interviews should be on August 24<sup>th</sup> and the LMCD should meet prior to. He does not want to risk losing applicants by stretching the timeline. Niccum agreed. Jewett commented it also allows the chosen candidate to spend as much time with Brimeyer as possible before he leaves.

After discussion, the Board decided to hold the interviews on August 24<sup>th</sup>. When the background checks and profiles are available, they will be emailed to Board members before the interviews, along with the interview questions and evaluation forms. After the interviews, the Board will discuss the candidates and go over background checks and profiles.

Baasen inquired if he will still be allowed to vote on the candidates if he is not able to be part of the interviews on August 24<sup>th</sup>. Jabbour stated he will still be able to vote.

**MOTION:**      Jewett moved, Jabbour seconded to approve candidates A through E for interviews and to amend the interview timetable to August 24<sup>th</sup>.

**VOTE:**      Motion carried unanimously.

**11. UPDATE FROM STANDING LMCD COMMITTEES**

Baasen reported the Board received a solicitation letter for Save the Lake and encouraged them to share it with potential donors. He also announced a Boater Safety Class will be held on October 13<sup>th</sup>. He thanked Bret Niccum

and Jay Green for the replacement of vandalized and non-working solar lights.

Green reported he is trying to schedule a meeting with the AIS Task Force and that the harvesters will be coming out of the lake on Tuesday, August 16<sup>th</sup>.

Jabbour stated the State AIS Advisory Committee has a Legislative Subcommittee. They have met with the Minnesota Department of Natural Resources and are going forward with obtaining a mandatory operator permit. He also stated they had been asked to expand research to see if certain antifreeze will kill zebra mussels, and it will be funded by Mastercraft.

## **12. INTERIM EXECUTIVE DIRECTOR UPDATE**

Brimeyer directed the Board to the memo in the packet regarding codifying ordinances. He received a proposal from American Legal Publishing Corporation and Kennedy and Graven and suggested the Board look at what they are offering. He is not recommending hiring another company, but is looking to develop a process.

Zorn inquired why they could consider asking for additional proposals when they have already renewed the contract with their own legal counsel. Klohs commented ordinances are so complicated, that it would not be wise to use a firm other than Kennedy and Graven. Jewett advised Brimeyer to continue with this process of gathering information, but not to spend a lot of time on it. Jabbour stated the LMCD legal counsel would look at it and approve changes, so it does not make sense to hire someone else.

Gilchrist commented the opportunity to work on the code allows him to get to know it and using someone else out of state is not money well spent.

Brimeyer stated he will call a meeting in October with the member cities and other agencies and the new Executive Director to talk about issues for the LMCD moving forward.

Brimeyer stated he attended MCWD's Workshop on the Water. The model they talked about is they are still a regulatory agency, but have developed strong partnerships with cities inside the Watershed District. He is going to ask how they did it and hopes to discuss it more at the meeting in September.

## **13. OLD BUSINESS**

There was no old business.

## **14. NEW BUSINESS**

There was no new business.

**15. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:17 p.m.

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James Jay Green, Chair

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Gregory J. Thomas, Secretary