

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., September 14, 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; Dan Baasen, Wayzata; Ann Hoelscher, Victoria; Gary Hughes, Spring Park; Gabriel Jabbour, Orono; Dennis Klohs, Minnetonka Beach; Bret Niccum, Minnetrista; Gregg Prest, Excelsior; Rob Roy, Greenwood; and Sue Shuff, Minnetonka. Also present: Jim Brimeyer, Interim Executive Director; Vickie Schluening, Executive Director; Emily Herman, Administrative Assistant; and Kyle Hartnett, Legal Counsel.

Members absent: Chris Jewett, Deephaven; Fred Meyer, Woodland; and, Gregg Thomas, Tonka Bay.

4. APPROVAL OF AGENDA

Green requested Agenda Item 10C be moved to 10A, with the other agenda items moving down accordingly.

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

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Green welcomed new Executive Director Vickie Schluening to the Board.

6. APPROVAL OF MINUTES- 8/10/16 LMCD Regular Board Meeting
 8/24/16 LMCD Special Board Meeting
 8/31/31 LMCD Special Board Meeting (Continued from 8/24/16)

MOTION: Roy moved, Shuff seconded to approve the 8/10/16 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

MOTION: Roy moved, Niccum seconded to approve the 8/24/16 LMCD Special Board Meeting minutes as submitted.

VOTE: Ayes (10), Abstained (1, Zorn); motion carried.

MOTION: Jabbour moved, Hughes seconded to approve the 8/31/16 LMCD Special Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Jabbour moved, Zorn seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (8/16/16 – 8/31/16) and (9/1/16 – 9/15/16); **7B)** July Financial Summary and Balance Sheet; and **7C)** Approval of Employment Agreement for Executive Director

VOTE: Motion carried unanimously.

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

There were no public comments.

9. PUBLIC HEARING

A) Howard's Point Marina, new multiple dock license on South Upper Lake to reconfigure storage (utilizing Qualified Commercial Marina Ordinance)

Herman directed the Board to the staff memo, dated 9/9/16, and provided the following overview of this agenda item via a PowerPoint presentation:

- An overview of the currently approved license and the recent completion of an Environmental Assessment Worksheet (EAW) that resulted in a negative declaration.
- A detailed overview of the proposed changes outlined within the staff memo.
- Relevant LMCD Code Sections included Qualified Commercial Marina (Section 1.02, 40a), Dock Use Area Requirements (Section 2.01), Shoreline Requirements (Section 2.02, Subd. 10), and Fuel Sales Facilities (Section 2.03, Subd. 10).
- No changes are proposed for the 38 off Lake boat storage units (BSU).
- Staff recommends the Board approve the 2017 Howard's Point Marina Multiple Dock License, subject to conditions outlined within the staff memo.

Green inquired if there was language with other sites that states where customers should board watercraft. Herman stated she would have to research the topic, but it is not uncommon as it offers another level of safety and there is currently not a proposed designated boat storage unit for such use.

Zorn inquired what the square footage of the approved plan is. Herman stated she did not have that information, but would provide it to the Board.

Niccum referred to the extension of the north dock and the area only being 23' wide. He asked if people will have assistance backing up their boats from the launching ramp. Herman stated until this date, she

was under the impression the employees would be launching all watercraft. However, it has come to her attention that the ramp is available for the general public for a fee. She would have to defer to the applicant relative to that question.

Mr. Richard Baker, owner of Howard's Point Marina, commented the docks are in need of replacement. In reference to the boat launch area, it is only four feet narrower than it is right now.

Zorn asked the applicant if he knew the square footage of the plan. Mr. Baker stated he did not know it.

Green opened the public hearing at 7:24 p.m.

Mr. Scott Colesworthy, 5480 Howards Point Road, commented he opposes the length of the dock as it negatively impacts his property.

Herman stated the proposed dock length is 200' with an extra 25' for the fueling facility.

Jabbour stated the owner is complying with the ordinance in their proposed request.

No additional comments were offered and the public hearing was closed at 7:29 p.m.

MOTION: Jabbour moved, Niccum seconded to approve 2017 Howard's Point Marina Multiple Dock License subject to staff recommendations.

VOTE: Ayes (10); Nays (1, Baasen); motion carried.

10. OTHER BUSINESS

A) **The Caribbean Marina**, request for additional minimum wake buoy (110 Sunrise Avenue, Tonka Bay, MN)

Niccum recommended approval of the request without further discussion. The Chair believed an overview of the request was relevant.

Brimeyer directed the Board to the staff memo, dated 9/8/16, and Caribbean Marina's request for an additional minimum wake buoy. He provided an overview of the request and staff's recommendations as outlined within his memo.

MOTION: Niccum moved, Zorn seconded to approve up to three minimum wake buoys for Caribbean Marina.

Jabbour provided a historical overview of the concerns as owner of Tonka Bay Marina (originally with incoming traffic to the marinas vs. concerns now arising for outgoing traffic). He acknowledged that three buoys originally existed over 30 years ago prior to the LMCD regulating this matter. He recommended any granting of the buoys be placed within the extension of the property line.

A gentleman in the audience requested clarification if this agenda item would have to be reposted due to the expansion of the request to three buoys from one.

Brimeyer recommended this matter be further clarified via a follow-up meeting to allow the Caribbean to bring in a drawing depicting the exact location of the buoys .

Jabbour believed an approval could be offered specifying where the buoys are to be placed; within the extension of the property line. He further noted that the watercraft speed within the area would not be changing but that the signage would simply be reiterating such speed (minimum wake).

Shuff requested further clarification as to why the original three buoys were reduced.

Jabbour stated that matter existed prior to the LMCD regulating the matter; reiterating over 30 years ago.

A representative from the Caribbean offered historical background from the audience which was not audible.

Klohs believed this could be approved this evening with the addition that he could not place the buoys any further out and within their extended lot lines.

Niccum withdrew his motion and opened it up for another. He asked that the Board consider the fact that the site had three buoys many years ago, that the watercraft operators do not understand the need to adhere to speed limits within specific locations, and it would provide for additional safety to the marina operators.

MOTION: Hoelscher moved, Klohs seconded to approve the request for one minimum wake buoy placed within the current setbacks for the Caribbean Marina.

VOTE: Motion carried unanimously.

B) Resolution 150, approving and ratifying a nominating process for Board Officers

Brimeyer directed the Board to his staff memo, dated 9/14/16. He recommended the Board memorialize the Nominating Committee process via the draft resolution offered within the packet.

Green expressed concern that this document relies heavily on committees; requiring compliance with the Open Meeting Law.

MOTION: Roy moved, Jabbour seconded to approve Resolution No. 150, "Approving and Ratifying a Nominating Process for Board Officers."

Green reminded the Board that the motion refers to a committee.

Herman stated that she spoke to Gilchrist as to the consideration of a Working Group for this process vs.

formalized committee. Gilchrist stated this topic was important enough to be formalized and did not recommend a Working Group for such. Jabbour concurred.

Hartnett stated whatever it is called does not change how it comes under the Open Meeting Law.

Shuff asked for clarification of No. 6 of the Recommended Nomination Process, regarding what to do in the instance of a tie between two finalists. Hartnett stated a majority vote would be required to pass.

Klohs stated in discussions about this topic, they wanted to be able to communicate more in the workshops without always being controlled by the quorum rules and publications. Green clarified discussions in workshops are more free open discussions, not for formal action. However, with a Nominating Committee, it needs to be more formalized.

VOTE: Ayes (10); Abstained (1, Shuff); motion carried.

C) Re-codification, consideration of process and recommendation to proceed

Brimeyer provided a status update on the recodification process, as provided in the meeting packet. The options include:

- Use American Legal Publishing, at a lower “supposed” rate, and expect that the Board, staff, and legal counsel do a majority of the work, which will substantially increase the “actual” costs of doing the work. This process could take six to 24 months.
- Use Kennedy and Graven with the advantage of having legal counsel becoming more familiar with the code while managing the outlines, updates, discussion, and the final product. This process could take nine to 12 months. Staff recommends this option.

Brimeyer provided an overview of the 2016 and 2017 budget to consider this process, as well as any further amendments to the 2017 budget.

Green commented in the 2017 budget; acknowledging money could be allocated from Contract Services.

Jabbour stated the LCMD has an attorney on staff and should be part of this process. He also stated that Save the Lake should pay for the majority of the re-codification and the Board should ask for a grant.

Baasen stated Save the Lake has begun looking at grants they have given out in the past and will be accepting applications. He recommends the Board discuss this and develop a process for applying for the funds.

MOTION: Hoelscher moved, Niccum seconded to direct staff to pursue Kennedy and Graven and proceed with recodification.

VOTE: Motion carried unanimously.

Green suggested a working group be assigned to this project. Volunteers for this group include Jabbour,

Niccum, Hughes, Hoelscher, and Klohs. Green requested they find out what is available for funding.

Zorn suggested Gilchrist make a recommendation as to how to proceed with possible funding from Save the Lake.

Hoelscher inquired if there are other grants available. Brimeyer commented he checked with other cities and did not find any grants that had been used. He will look at LMCD reserves and Save the Lake reserves and see what is available.

Baasen clarified he never said Save the Lake funds should not be used; he only said there should be a process.

11. UPDATE FROM STANDING LMCD COMMITTEES

Baasen offered that the Save the Lake Committee met and discussed the Boater Safety Education Course that will take place on October 20th at Westonka Public Schools Education Service Center. The first session had 22 youth and five adults that participated. The Committee reviewed their fundraising efforts and contributions are on track at \$17,000. Lastly, the Save the Lake Committee held a booth at James J. Hill Days in Wayzata.

Zorn asked what the Boater Safety Education Course costs. Baasen replied Jay Soule volunteers to teach the class and the first class cost \$1,143. The budget for 2016 is \$6,000 and it will be well under that amount. This year scholarships were granted if the youth requested it, not automatically as had been done in the past. Everything was done by volunteers and there is very little staff time needed.

Niccum stated another resource needs to be used for the buoy lights because they do not work. A lower profile, durable, LED, solar powered light is needed.

Green reported on the following: 1) he has scheduled a meeting with the AIS Task Force for October 14th, 2) the harvesters were removed from the water on August 16th, 3) he has observed a lot of flowering rush on the Lake, 4) he visited Lake Koronis to see how they manage the invasive species Starry Stonewort. It is now found in several lakes and they are trying different techniques in an effort to treat it, 5) zebra mussels have been found in Lake Minnewashta and the public access has been shut down in an effort to get it under control, and 6) the AIS Summit in St. Cloud will be on October 5th and 6th and the new Executive Director will be in attendance.

Jabbour offered the MN DNR is becoming more proactive in getting pre-approval on the label of chemicals. They have been out with University program collecting samples of the water in an effort to research the viability of survival of invasive species inside engines and other areas. His staff assisted the MN DNR to remove water out of engines and live zebra mussels were found inside of them. Chemicals have not been used to kill them, but they are researching to see if antifreeze will.

12. INTERIM EXECUTIVE DIRECTOR UPDATE

- Introduction of Executive Director
- Interim Executive Director future schedule

Brimeyer announced Vickie Schluening as the newly hired LMCD Executive Director. Schluening thanked the Board for this opportunity. She further stated she is excited to be part of the LMCD team, to meet the stakeholders, and continue the great work on behalf of Lake Minnetonka.

13. OLD BUSINESS

There was no old business.

14. NEW BUSINESS

Jabbour announced he, Jay Soule, and Bret Niccum would like to invite the LMCD Board and staff to join them on Sunday, September 25 from 4:00 to 6:00 p.m. for a chartered cruise set up as an appreciation event for the Sheriff's Office and Water Patrol staff that worked the July 4th holiday weekend.

15. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:34 p.m.

James Jay Green, Chair

Gregory J. Thomas, Secretary