

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, December 9, 2009
Wayzata City Hall

1. CALL TO ORDER

Whalen called the meeting to order at 7:03 p.m.

2. ROLL CALL

Members present: Lisa Whalen, Minnetrista; Tom Tanner, Wayzata; Tom Scanlon, Spring Park; Doug Babcock, Tonka Bay; Peter Hartwich, Excelsior; Steve Johnson, Mound; Keith Kask, Deephaven; Bill Olson, Victoria; Kelsey Page, Greenwood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Chris Jewett, Minnetonka; Dennis Klohs, Minnetonka Beach; Andrew McDermott, Orono; Herb Suerth, Woodland; Dick Woodruff, Shorewood.

3. APPROVAL OF AGENDA

Whalen stated that agenda items 12C and 12D were tabled at the November 18th Board meeting due to time constraints. For this reason, she recommended that these agenda item be considered as 10A and 10B because there is not an LMA Report scheduled for this meeting, as well as possible continued concerns for timing.

MOTION: Tanner moved, Johnson seconded to approve the agenda as amended, making the changes recommended by Whalen.

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Whalen

Whalen announced that the 2009 Fall/Winter LMCD Newsletter has been submitted to the printer and is expected to be mailed by the end of next week.

5. APPROVAL OF MINUTES - None

There were no minutes to approve.

6. APPROVAL OF CONSENT AGENDA

Babcock moved, Johnson seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (11/16/09 – 11/30/09) and (12/1/09 – 12/15/09); **6B**, October financial summary and balance sheet; **6C**, 11/3/09 EWM/Exotics Task Force Meeting Minutes; and **6D, Tallen and Baertschi**, staff recommends Board approval to appoint Steve Tallen as LMCD Prosecuting Attorney for 2010.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

There were no items removed from the consent agenda.

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

Mr. Gabriel Jabbour, 985 Tonkawa Road in Long Lake, stated that he was in attendance to ask the Board to reconsider how applications for placement of dock structures are reviewed. His comments were based on the following two factors: 1) the LMCD Technical Advisory Committee's (TAC) recent recommendation that the placement of dock structures in the littoral zone is environmentally not recommended, and 2) concerns that were expressed by the City of Greenwood in the recent reconfiguration of a St. Alban's Bay commercial marina multiple dock, specifically for channel congestion. He provided a brief history of how the LMCD established the dock use area (DUA) regulations and how that affected the marinas that were in existence at that time. He stated the LMCD would be receiving two multiple dock license applications in the near future for the reconfiguration of their dock structures. In an effort to be pro-active, he urged the Board to consider placement of those structures further out than what the LMCD Code currently allows based on the statements made above and other positive logistical reasons. He further recommended that a dialog between the LMCD and both applicants be initiated prior to the submittal of the applications.

Whalen stated that the TAC had also recommended the LMCD hold a public forum to receive input on the committee's recommendations, which will be held upon the return of the committee's chair in January. She thanked Jabbour for his input.

Mr. Mark Washa, 205 Queensland Lane N. in Minneapolis, provided the Board handouts from ES Enviro Science and Michigan State University Extension on the biological control of Eurasian Watermilfoil. He requested discussion of the handouts at the next LMCD Board meeting.

9. UPDATE FROM STANDING LMCD COMMITTEES:

- EWM/Exotics Task Force
- Save the Lake Committee (STL)
- Technical Advisory Committee (TAC)
- Ordinance Review Committee

Whalen asked for an update from the Chair of each committee, with Nybeck providing the EWM/Exotics Task Force update in Suerth's absence.

EWM/Exotics Task Force

Nybeck updated the Board on two items that are scheduled for discussion at the December 18th Task Force meeting. First, continued discussion of the draft 2010 Aquatic Invasive Species (AIS) Comprehensive Plan. Second, John Skogerboe from the U.S. Army Corps of Engineers will be presenting the draft 2009 Herbicide Treatment Project Report. He believed that initial discussion on the 2010 project, in particular herbicide protocol, will be scheduled for the January meeting.

STL

Olson stated that the committee's rebranding efforts are continuing, with possible marketing efforts scheduled for discussion at the December 15th meeting. Furthermore, he stated that the Fall/Winter 2009 solicitation letter was mailed on September 4th.

Nybeck stated that the 2010 STL grant proposals are due in the LMCD office on Friday, December 11th.

TAC

Whalen stated that there was not a formal report for the TAC; however, reiterated the plan to hold a public forum in January.

Nybeck stated that former LMCD representative for the City of Deephaven, David Gross, will be chairing the meeting that is anticipated during the second half of January, with location and date of the meeting pending.

Ordinance Review Committee

Tanner stated the proposed ordinance amendments scheduled for consideration this evening are presented at the recommendation of the Ordinance Review Committee.

10. LMA REPORT- There was no LMA Report

- A. Ordinance Amendment,** first reading of an ordinance relating to renewal of multiple dock licenses; amending LMCD Code Sections 1.06 and 2.03.

Whalen asked LeFevere for background on this agenda item.

LeFevere stated that the Ordinance Review Committee has brought forward two draft ordinance amendments for the Board's consideration this evening. The purpose is to provide the Executive Director the ability to approve, under specified circumstances, applications that have non-consequential or insignificant changes or renewals that do not require a public hearing. He provided an overview of the proposed amendment that would make some changes to Code Section 1.06 and 2.03, including some housekeeping changes. He stated that Whalen has recommended that the word "shall" documented in Code Section 2.03, subd. 7f) and within the last sentence of Code Section 2.03, subd. 14, be changed to "must." He entertained any further changes to the draft amendment or to answer questions for the Board.

Whalen stated she would like the words "impact wetlands or adversely affect the environment" added to Code Section 2.03, subd. 7e). She further questioned if the word "substantial" in Code Section 2.03, subd. 7d) needed to be defined.

LeFevere understood Whalen's desire to add the word "wetlands"; however, he expressed concern that the word needed to be further defined for the benefit of the Executive Director. With regards to defining the word "substantial," he stated that was not at the recommendation of the Ordinance Review Committee. He reviewed pros and cons to establishing specific language as to what is considered a substantial change and did not object to that consideration.

Babcock recommended that the words "with emergent vegetation" be added after the addition of the word

wetlands. He further recommended that the word "substantial" not be specifically defined and to leave that decision up to staff, expressing concern that all the proposals would expand to the newly defined standards.

Whalen stated that although this was not a public hearing, she expressed an interest in obtaining input and invited the public to comment on the proposed draft ordinance amendment.

Jabbour thanked the Ordinance Review Committee for inviting some marina owners to the meetings when this matter was being discussed. He concurred with this ordinance amendment and provided examples of how the amendment would provide a beneficial impact; sighting higher safety standards in the expediting of docking construction needs.

MOTION: Babcock moved, Tanner seconded to approve first reading of the draft ordinance amendment, to waive second and third readings, and to adopt it, subject to the following changes: 1) adding the words "wetlands with emergent vegetation" to Code Section 2.03, subd. 7e) and 2) changing the word "shall" to "must" in Code Sections 2.03 subd. 7f) and and subd. 14.

VOTE: Motion carried unanimously.

Whalen stated that the Board initially discussed the consideration of the ordinance amendments at the October 28th meeting. At this meeting, there was discussion as to notifying the affected member city and the abutting property owners based on a pending application that can be processed at the staff level. She stated she was glad to see that the notification requirement was not included in the draft ordinance amendments.

LeFevere stated that notification to the member cities and other interested parties was not added to the draft ordinance amendments because it was not included in the current LMCD Code. He believed that this type of Board direction to staff was more appropriately conveyed as a policy or procedure.

Babcock stated that being a conforming applicant means they have to meet the objective and subjective criteria of LMCD Code. The Executive Director always reserves the discretion to bring those applications back to the Board for consideration.

- B. Ordinance Amendment,** first reading of an ordinance relating to reconfiguration of non-conforming structures, amending LMCD Code Section 2.015, Subd. 4b).

Whalen asked LeFevere for an update on this agenda item.

LeFevere stated that this ordinance amendment provides for the Executive Director's approval of reconfiguration of non-conforming multiple dock license applications, provided a number of conditions are met. It allows the Executive Director the ability to refer any application to the Board for consideration; however, it states that the Executive Director must refer any application that staff proposes to deny.

Babcock stated that since the structures being considered under this ordinance amendment are non-conforming by state law, they are not able to expand. Therefore, he requested the following words be added to conditions #4 and #7 as follows: 1) add the words "increase or other" between the words "no" and "substantial" in condition #4, and 2) adding the words "watercraft storage, or an increase in the area" between the words "slips" and "outside" in condition #7.

LeFevere stated that condition #1 in the draft ordinance amendment requires an applicant of a proposed reconfiguration application to meet all requirements of subd. 3. He provided a brief overview of these requirements.

Babcock recommended that the Board take no action on this draft ordinance amendment for the purpose of allowing him the ability to work with LeFevere and staff on language changes to the amendment. He believed that this amendment could be brought back for Board consideration at the January 13th meeting. The Board concurred with Babcock's recommendation.

11. PUBLIC HEARING

- A. **Kurt Wehrmann**, adjust dock use area and side setback variance application from LMCD Code at 444 Lafayette Avenue on Gideon Bay.

Whalen asked Harper for background on this agenda item.

Harper reviewed his staff memo, dated 12/3/09, which summarized a side setback and adjusted dock use area (DUA) variance request from Mr. Kurt Wehrmann. The applicant has proposed a specific dock and boat storage configuration, outlined within the staff memo, that would adjust the east extended side line extension adjacent to the City of Excelsior's firelane. The hardship proposed by the applicant is converging lot lines. He highlighted three LMCD Code Sections to evaluate the application. These included: 1) Code Section 2.01, subd. 1- defining an authorized DUA, 2) Code Section 1.07- outlines the variance process from LMCD Code, and 3) Code Section 2.02- outlines boat storage density regulations. He believed that the applicant has documented an adequate hardship for the Board to direct LeFevere to prepare draft Findings of Fact and Order for approval, subject to four conditions. These included: 1) that the dock installation and boat mooring be in strict conformance with the proposed site plan, 2) that no canopies are allowed at the dock, 3) that the City of Excelsior is allowed to reconfigure the Lafayette Avenue site with a 16' x 24' slide (with an updated site plan to be submitted documenting compliance with LMCD Code), and 4) that the two Excelsior boat storage units (BSUs) from the previously approved 16' docks be retained for future relocation to a different city site, which will require a new application from the City of Excelsior. He entertained questions and comments from the Board.

Babcock questioned whether the fourth condition recommended by Harper was needed. LMCD Code currently allows Excelsior to combine non-contiguous shoreline for the purpose of counting the BSUs. He believed that maintaining the two BSUs to be relocated from the abutting firelane is already provided for by LMCD Code.

The Board discussed this condition at length, providing for the following comments: 1) confirmation that the condition provided a record of occurrence and the security to amend its future use, 2) that Excelsior City Manager Kristi Luger was in attendance to further address the matter, 3) that the City of Excelsior

wanted to maintain the slides at the firelane abutting the applicant's site, and 4) expressed interest in not placing the condition in an Order, but the submittal of a letter from the LMCD to the City of Excelsior explaining why the condition does not need to be documented.

Nybeck stated he expressed concern at staff level about the number of boats that could be stored in this area. In order to store the number of boats proposed by the applicant, he has previously communicated to Harper that this might involve the City of Excelsior relocating boats at the dock from the abutting firelane to another site. He understood Babcock's concern; however, did not see harm in documenting the condition in an Order.

Whalen asked Ms. Luger to address the Board.

Ms. Kristi Luger, Excelsior City Manager, stated that many of the city council members were not aware that the two BSUs were approved at the abutting firelane until the application was before them for review. After their review, the city council concluded that they did not have a concern with Mr. Wehrmann's request, as long as written documentation was provided that the City of Excelsior would retain future use of the BSU's. She confirmed that Excelsior does not have a future interest in placing these BSUs in the firelane's DUA.

Whalen asked the applicant whether he had additional background or comments that he would like to provide the Board.

Mr. Kurt Wehrmann, 444 Lafayette Avenue, stated that he did not have additional background or comments.

Whalen open the public hearing at 8:08 p.m. There being no comments, she closed the public hearing at 8:09 p.m.

A brief discussion was held as to whether the applicant's site should qualify for a low-water variance. The consensus of the Board was that this was not advisable.

MOTION: Babcock moved, Johnson seconded to direct LeFevere to prepare draft Findings of Fact and Order approving the Kurt Wehrmann variance application, subject to the first three conditions outlined in the staff memo, with the addition of the following two conditions: 1) the ability to store up to two restricted watercraft and one unrestricted watercraft, and 2) that no low water variance extensions be permitted. Furthermore, LeFevere was directed to prepare a separate letter from the Order to the City of Excelsior addressing their concerns in maintaining the two BSUs noted above; removing the need for the fourth condition in the staff memo.

Page commended Mr. Wehrmann's actions for being proactive in addressing this matter. However, he expressed concern with the amount of watercraft storage being requested due to the size of the DUA at this site.

Babcock stated that in making the motion, he took into consideration that under the current LMCD Code,

a resident with a 50' wide lot has the ability to dock or moor up to four restricted watercraft. In considering his motion, he asked LeFevere if the LMCD should consider two separate Orders (one for the applicant and one for the City of Excelsior).

LeFevere stated the current motion calls for one Order. The LMCD could prepare two separate Orders; however, historically that has not been the practice for two interrelated sites. He stated that future amendments for either site could not be considered without considering the other.

Babcock reviewed his motion and proposed a friendly amendment that the applicant's Order state that there is nothing specific around the two BSUs being relocated by the City of Excelsior now or in the future. He left the logistics of how that should be authored up to LeFevere, provided these two BSUs are not documented within the applicant's Order. Johnson agreed to Babcock's friendly amendment.

LeFevere stated that if this matter is not documented on the applicant's Variance Order, then the LMCD needs a separate Variance Order for the City of Excelsior documenting the reduction to the DUA from the abutting firelane.

Babcock stated that if the only thing on the combined Order is the reduction of dock use area and slide configuration, he was okay with utilizing one Order. However, there is a continued need for LeFevere to draft a separate letter to the City of Excelsior as mentioned in the original motion.

VOTE: Ayes (8), Nays (1, Page); motion carried

Whalen requested clarification of whether the Variance Order would be registered on the title of this property.

LeFevere stated the LMCD has recently been requiring this condition and if the Board so desires, he will write that into the Order. The consensus of the Board was for LeFevere to proceed in doing so.

The meeting was recessed at 8:25 p.m. and reconvened at 8:30 p.m.

B. Minnetonka Boat Rentals, reconfiguration of non-conforming multiple dock license and variance applications on Harrisons Bay.

Whalen asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 12/4/09, which summarized a request from Mr. Paul Bergquist to reconfigure his non-conforming multiple dock license and to amend a previously approved side setback variance. The applicant has proposed to reconfigure the site to better document the current dock installation, make some changes, and to further define the slide boat storage units (BSUs). He stated that through the application process, discrepancies between the installed docks and the approved site plan were noted; providing for resolution through this process. The applicant has proposed a specific dock and boat storage configuration, which is outlined within the staff memo; along with documenting the hardship of converging lot lines. He highlighted three LMCD Code Sections to evaluate the variance application. These included: 1) Code Section 2.015- reconfiguration of non-conforming multiple dock

facilities process, 2) Code Section 2.01, subd. 1- defining an authorized dock use area (DUA), and 3) Code Section 1.07- outlines the variance process from LMCD Code. He recommended that the Board address and provide the applicant feedback on three fundamental issues that were outlined within the staff memo. This will allow the Board to direct the applicant to work with staff in resolving pending issues or directing LeFevere to prepare draft Findings of Fact and Order for approval of the variance request, with conditions recommended by staff or other conditions deemed appropriate by the Board. He entertained questions and comments from the Board.

The Board asked questions and made comments, which Harper responded to. Those questions and comments are outlined below:

- Clarification that the applicant's site abuts non-multiple dock sites.
- Confirmation that the applicant is not subject to city approval prior to consideration of the LMCD's application, noting that the LMCD and member cities do not enforce each others ordinances.
- In considering the use of the south transient dock and its current and proposed length of 58' Harper stated it is installed in non-conformance of the approved length of 27'. The abutting property owner affected by this dock received notice of this public hearing; however, staff has not received input from them. He believed the applicant and this neighbor have spoken.
- Clarification that the four rental watercraft required in the approved 1984 Variance Order remain, in which Harper documented their existence at specific BSUs.
- In providing the rational for switching the location of the south ramp, Harper requested that there be more definition in the storage of the personal watercraft (PWC), providing for specific BSUs for that purpose. Furthermore, the applicant has expressed an interest in running the rental portion of the business from the middle of the site to accommodate the departure of the PWC at that location. Harper believed the ramp was used infrequently.

Whalen asked the applicant whether he had additional background or comments that he would like to provide the Board.

Mr. Paul Bergquist and Ms. Rebecca Kirk, representing Minnetonka Boat Rental, addressed the Board. Bergquist stated that they purchased the marina and docking structures without realizing the existing configuration of the dock structures was in non-conformance with the approved site plan. As a result, he has worked with staff for consideration of this 2009 approval and beyond. He has communicated with the abutting neighbor to the south who confirmed the current length of transient dock has been in existence for a long time. The neighbor preferred the longer dock to alleviate the boats from hitting her dock as they did when it was shorter. He documented other positive uses of the transient dock (specifically handicap and restroom accessibility as the other docks are accommodating revolving boat use). He believed that the placement of the PWC BSUs was a good start to defining their needs and resolving non-compliance issues. Their intention is to only operate the marina as it was and not more than what it used to be. He believed that the placement of the launching ramp logistically made sense to accommodate pulling out boats for repair and to make room for the fishing boats to have more sturdy storage units. He entertained questions and comments from the Board.

Babcock expressed concern that the additional square footage to accommodate the 18 BSUs in the water was not consistent with the intent of the approved 1984 Variance Order. He suggested revisiting

the need to accommodate the off-lake storage without adding to the square footage of the DUA that is subject to the envelope concept ordinance, Code Section 2.015.

Bergquist stated that it has been very difficult defining the reconfiguration of the structures within the allotted square footage as they were not installed when the site was purchased. For this reason, he chose the structures that would best fit the use of the current boats that came with the marina. Furthermore, the historical configuration for the placement of the structures has not been consistent, which accommodated different uses for different owners. He understood Babcock's concerns; however, he believed that the use of the boats have evolved over the years.

Harper stated that he directed the applicant to consider the submittal of the proposed reconfiguration of slides at 6' x 14' since that is the smallest BSU size allowed within Code Section 2.015.

Whalen opened the public hearing at 9:04 p.m. There being no comments, she closed the public hearing at 9:05 p.m.

The Board spoke at length with regards to the reconfiguration of the site's use, soliciting input from the applicant and staff when needed. Discussions held included considering the use and location of the PWC slides, the consideration and use of maintaining an off-lake storage area, the transient dock length and its storage use, the placement of the ramp and respective setbacks, identification of historical square footage allowance and current credit allowance, and the need to protect the neighboring property owner's rights (providing for minimal activity on the south side of this site).

LeFevere stated that he believed the Board was entering new territory when considering the approval of this application with specific operating conditions. He provided a comparison of the approved license and what is currently being proposed by the applicant, making reference to the fishing boat slides, the transient dock, and the addition of gas and restroom accommodations. He stated that as the business evolved over the years, so have the type and use of boats, causing for staff to believe that the business was no longer operating under the intent of the approved Variance Order and multiple dock license. The Board has the right to impose conditions in considering the amendment of the variance. However, advised that the Board revisit the justification of the original variance; with the hardship of converging lot lines. In the approval of the original variance, both the justification and proposed use were not significant. In considering the current application, he recommended that the Board consider the nature and extent of the hardship and its appropriate accommodation for such. He further recommended calculating that use by boat size and/or type, provided by the applicant, as compared to establishing square footage. He expressed concern about the Board setting a precedent by introducing the land-base square footage concept that is currently established for water use only, providing for a license holder having the ability to change around the use of their operation within the established square footage. Additionally, he felt that it was a dangerous to convert slides to off-lake storage units as he did not know what lakewide effect that would have.

At the recommendation of Nybeck, the Board directed staff to work with the applicant in modifying the proposed site plan taking into consideration the comments and feedback from the Board at this meeting.

12. OTHER BUSINESS

A. BayView Event Center, consideration of 2010 Winter Special Event Application.

Whalen asked Nybeck for background on this agenda item.

Nybeck reviewed his staff memo, dated 12/2/09, which summarized a request from Mr. Bob Ziton of Bayview Event Center for a special event permit for three events to be held on the ice January 28th, 30th, and February 2nd. He stated that the activities would take place within, or in the immediate vicinity, of a tent that would be placed on Excelsior Bay throughout the duration. The Board previously discussed the proposed activity in consideration of last year's events, at which time the consensus of the Board was to terminate discussion of licensing for the sales and service of liquor on the ice for Lake Minnetonka and evaluate winter special events that warrant public safety through the special event process. He directed the Board to a number of subjective criteria outlined in LMCD Code Section 3.09 for their consideration. He did not have a recommendation for the Board; however, he provided a draft special event permit if the Board was inclined to approve the application. He entertained questions and comments from the Board.

The Board discussed this matter at length, soliciting input when needed. Some of the comments made are as follows:

- Expressed interest to have specific events listed out as compared to the use of the word "various" under 3a) of the application.
- That structures are placed and removed by date specific, taking into consideration public safety concerns raised by Nybeck. This should take into consideration that the tent will be installed in the near vicinity of a licensed de-icing site, as well as any accessory structure(s) in and around the tent as well.
- Clarification on the ability to carry open liquor outside of the tent from where it is served or sold. LeFevere confirmed that the Board has the ability, under the special event permitting process, to place reasonable operating conditions within the permit itself on actions that are permissible under state law. He confirmed that the sale of liquor under a caterers permit can only be an incidental part to the sale of meals. Various suggestions were made. Some of which were: 1) to approve the permit; re-evaluating any safety concerns prior to next year's consideration, and 2) to utilize the word "premise" in describing the events activity area (the tent and an area adjacent to). 75' beyond the perimeter of the tent was suggested.
- That staff have the ability to amend the permit as additional events are scheduled.
- Confirmation that both the BayView Event Center and the North America Pond Hockey Championship worked together to ensure for proper placement of structures.

Whalen asked the applicant whether he had any additional background or comments that he would like to provide the Board.

Mr. Bob Ziton, representing BayView Event Center, confirmed that he has worked together with the North America Pond Hockey Championship coordinator, Denny Loving, on the placement of the structures. He estimated that the tent is 100' away from the adjacent de-icing site, compared to 75' in 2009. He believed that 25' would be sufficient in setting the event's perimeter as noted above. By definition, he believed that the sale of liquor in the tent was incidental to an event going on inside of Bayview Event

Center or Bayside Grille, adding that very few clients just rent the tent. Incidental was defined by last year's sale of liquor being at an estimated \$900.

MOTION: Kask moved, Johnson seconded to approve the BayView Event Center special event permit application with the draft permit prepared by Nybeck, subject to the following revisions or additions: 1) that condition #1 be amended by allowing staff to have the ability to approve up to three additional event dates, 2) that condition #4 provide for the sound system to remain inside the tent at all times, 3) that the words "well illuminated" in condition #6 be changed to "well marked", 4) that the tent be no larger than 30' x 40' and that the activity around the tent remain within a 25' perimeter, and 5) that the tent, and associated structures, be removed at the same time all other structure on the lake are to be removed.

VOTE: Motion carried unanimously.

B. Pond Hockey North America Championship, consideration of 2009 Winter Special Event Application.

Whalen asked Nybeck to provide background on this agenda item.

Nybeck reviewed his staff memo, dated 12/9/09, which summarized a request for a special event permit from Mr. Denny Loving of Attack Zone Promotions for the 2010 Pond Hockey North America Championship event planned for January 22nd- 24th, adjacent to Maynards and the BayView Event Center on Excelsior Bay. As part of the event, the applicant is requesting approval for the placement of four food vendors on the ice. He reviewed LMCD Code Section 3.01, subd. 18, which prohibits any person to sell food, beverages, supplies, or other merchandise from any watercraft on the Lake (exception for charter boats). Nybeck acknowledged that the commercial sales would not take place from a watercraft. However, due to the uniqueness of this request, he solicited the Board's consideration of this application, including whether food vendors should be allowed on the ice for not only this event but all events in general. He provided a logistical overview on the placement of structures for this event and in conjunction with the event approved this evening for the BayView Event Center. He directed the Board to a number of subjective criteria outlined in LMCD Code Section 3.09 for their consideration. He recommended approval of this application and directed the Board to a draft special event permit provided in their packet for consideration. That permit provides for a number of conditions, one of which prohibits the sale of liquor on the ice in conjunction with the food vendors. He entertained questions and comments from the Board.

Whalen asked the applicant whether he had any additional background or comments that he would like to provide the Board.

Mr. Denny Loving, representing Attack Zone Promotions, stated that Smucker's is sponsoring this family, friendly event in which they will be giving away a product called "Un crustable" peanut butter and jelly sandwiches. He provided an overview of the event by making the following comments: 1) that future events have not received any negative comments, 2) that the proposed vendors include Jake O'Connor's and Smucker's, Duncan Donuts, and Captain Ken's Chili (in conjunction with a promotional marketing firm); all of which are versed in food-handling requirements, 3) participation will include 22, four man adult

teams; 100 adult supervised teens between the ages of five and ten; and 32 teams of women providing for a cash donation from the Susan G. Komen Foundation, and 4) that placement of the structures (including warming houses) are logistically placed to separate each participating group; providing for the children to not be in the path of the adults and the ability to have their own supervised warming house.

MOTION: Page moved, Johnson seconded to approve the 2010 Pond Hockey North America Championship special event application, utilizing the permit prepared by Nybeck.

VOTE: Motion carried unanimously.

As noted above, agenda items 12C and 12D were considered under agenda item 10.

E. Chair update of LMCD's 43rd anniversary "Save the Lake" Recognition Banquet Dinner.

Whalen stated that two matters need to be resolved by the Board at this meeting. First, the date of the banquet needs to be scheduled, offering February 11th and 18th as possible dates. Second, a decision on the special deputy to be recognized needs to be made, adding that Lt. Steve Hartig from the Sheriff's Water Patrol has recommended Special Deputy John Feyder.

The consensus of the Board was to hold the Banquet Dinner at BayView Event Center on February 11th.

MOTION: Kask moved, Johnson seconded to recognize John Feyder as the LMCD's special deputy honoree to be recognized at the 43rd Anniversary "Save the Lake" Recognition Banquet Dinner.

VOTE Motion carried unanimously.

13. EXECUTIVE DIRECTOR REPORT

There was no Executive Director Report.

14. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:20 p.m.

Lisa Whalen, Chair

Tom Scanlon, Treasurer