

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, September 11, 2013  
Wayzata City Hall

**1. CALL TO ORDER**

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

**2. ROLL CALL**

**Members present:** Doug Babcock, Tonka Bay; Dan Baasen, Wayzata; Andrew McDermott, Orono; Gary Hughes, Spring Park; Jay Green, Mound; David Gross, Deephaven; Ann Hoelscher, Victoria; Dennis Klohs, Minnetonka Beach; Jeff Morris, Excelsior; Rob Roy, Greenwood; Sue Shuff, Minnetonka; and Mark Sylvester, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; and Judd Harper, Administrative Technician.

**Members absent:** Anne Hunt, Minnetrista and Fred Meyer, Woodland.

**3. APPROVAL OF AGENDA**

**MOTION:** Baasen moved, Shuff seconded to approve the agenda as submitted.

**VOTE:** Motion carried unanimously.

**4. CHAIR ANNOUNCEMENTS, Chair Babcock**

Babcock reminded all that a workshop between the LMCD and the Lake Minnetonka marina owners has been scheduled for September 25th at 6:00 p.m. The workshop will be held at Tonka Bay Marina.

Nybeck stated that he worked with Chair Babcock in finalizing the list of discussion topics for this workshop.

**5. APPROVAL OF MINUTES – 8/28/13 LMCD Regular Board Meeting**

**MOTION:** McDermott moved, Green seconded to approve the minutes from the 8/28/13 Regular Board Meeting as submitted.

**VOTE:** Ayes (10); Abstained (2, Hughes and Sylvester); motion carried.

**6. APPROVAL OF CONSENT AGENDA**

Babcock directed the Board to an amended Audit of vouchers (8/29/13 – 9/15/13) within their handout folders. Nybeck outlined the addition of two checks relative to moving expenses: check #19759 in the amount of \$116.50 to the City of Mound (signage) and check #19760 in the amount of \$964.14 to Sterne Electric Company (electrical and wiring needs).

Shuff moved, Roy seconded to approve the consent agenda as amended, accepting the changes noted by Nybeck above. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (8/29/13 –

9/15/13) and **6B**, July financial summary and balance sheet.

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

There were no public comments.

**8. PUBLIC HEARING**

- **Beans Greenwood Marina**, 2014 reconfiguration of non-conforming multiple dock license and variance application for the commercial marina on St. Albans Bay (public hearing continued from the 8/28/13 Regular LMCD Board Meeting).

Babcock asked Harper to provide an update this agenda item.

Harper provided the following comments:

- Applications submitted by Beans Greenwood Marina were originally scheduled for a public hearing at the LMCD's August 28<sup>th</sup> Board meeting (as outlined within the original staff memo, dated 8/23/13, and respective attachments that were provided within the packet).
- At that August 28<sup>th</sup> meeting, staff summarized six proposed changes, in which the following two concerns (based on non-compliance of Code Section 2.015) were presented to the Board for their consideration: 1) Boat Storage Unit (BSU) 30 located at proposed dock #2 extended beyond the allowed dock length from the 929.4 foot shoreline and 2) the variance request to reconfigure southwest dock #4 (BSUs 41, 42, and 84) extended outside of the existing dock and beyond the 100 foot dock use area (DUA) allowed by Code.
- Based on the Board's feedback offered to correct the above two proposed changes, the Board continued the public hearing (per the applicant's request) to this meeting; offering the applicant's ability to work with staff.
- He directed the Board to an amended site plan, dated 9/5/13, for the Board's consideration. The noted concerns were addressed as follows: 1) proposed dock #2 was reconfigured to extend to 167 feet from the 929.4 foot shoreline (providing for the currently approved dock extending to measure at 168 feet). To accommodate for this change, the applicant reduced the size of BSUs 30 and 31 (making them lake-opening and re-establishing BSU 24 to this dock) and 2) BSUs 41 and 42 were relocated to the north side of dock #4 (within the 100 foot DUA allowed by Code). Additionally, the proposed changes to the south end of the dock were removed, which alleviated the need for a dock length variance.
- He recommended the Board direct LeFevere to prepare Findings of Fact and Order for approval of the applications for the 2014 season, subject to the following conditions:
  - Watercraft stored within all BSUs must comply with the 4 foot length overall overhang restriction, except for BSUs up to or over the 100' DUA contour where they must be fully contained within the dock structure.
  - All watercraft must be stored within authorized BSUs.
  - Construction of dock structures and location of moored watercraft must be in strict conformance with the approved site plan and BSU size sheet.
  - No permanent or overnight storage is allowed within the transient BSUs.
- He entertained questions and comments from the Board.

Babcock invited the applicant to address the Board.

Mr. Aaron Bean, representing Bean's Greenwood Marina, summarized his understanding of the concerns that were outlined to him at the August 28<sup>th</sup> meeting. He believed that he addressed those concerns and solicited the Board's recognition of such, as well as their approval. He entertained questions and comments from the Board.

The Board asked a few questions of Bean, in which the following comments were offered:

- He was comfortable with staff's recommendations.
- He is addressing changes to lighting; providing for the continued overhead lighting needed to enter canopy areas after dark, as well as to deter theft. However, increased lighting will be provided via more pedestal and direct lighting to eliminate extending out into the bay area.
- Licensed BSUs will remain at 110 (with a slight decrease in square footage).

Babcock recommended consideration of approval providing for the removal of the need for the variance application (based on prior concerns being addressed).

Nybeck clarified this recommendation by stating two variances are currently being considered (amendment of a previously approved DUA variance and to obtain a new dock length variance). Based on the above noted concerns being addressed, the applicant has alleviated the need for a dock length variance. However, based on changes made to the size of specific BSUs opening towards the approved DUA variance, staff recommended that the currently approved DUA variance be amended to provide for such changes.

LeFevere stated the approved DUA variance was approved in 1972, in which the LMCD Code has changed since that time. At that time, the approved variance was to establish DUAs vs. adjusting extended side site lines. The amendment is being offered based on the side opening slips that are within, but close, to the setback areas. He did not believe the proposed application is in violation of the current Order. Therefore, if the Board concludes this as well, acknowledgment of such could be via documentation within the minutes or within the Order itself.

Babcock opened the public hearing at 7:19 p.m. There being no comments, he closed the public hearing at 7:20 p.m. and solicited Board discussion.

Nybeck stated that if the Board moves forward with documentation to withdrawal the need for an amended DUA variance, he recommended that the Board consider reimbursing the applicant for such fees because this application was submitted at the request of staff.

Morris concurred with Nybeck's recommendation to reimburse the variance fees and thanked the applicant for his patience in meeting the needs of the Board (which he believed warranted approval).

**MOTION:** Gross moved, McDermott seconded to approve the: 1) 2014 Bean's Greenwood Marina reconfiguration of non-conforming multiple dock license, subject to the conditions outlined in the staff memo, 2) the withdrawal and reimbursement of fees for the dock

length and DUA variance application, and 3) acknowledgement that the proposed site plan is in conformance with the 1972 DUA variance.

LeFevere confirmed that new Findings of Fact and Order were not warranted for this application.

Babcock reiterated Morris' comments and thanked the applicant for addressing the concerns of the Board.

**VOTE:** Motion carried unanimously.

## 9. OTHER BUSINESS

- 2013 Final EWM Harvesting Program Report

Babcock asked Harper to provide background on this agenda item.

Harper provided an overview of the following information: 1) a summary of the harvesting season data and conditions summary (the number of working days, Lake levels, acres harvested, and truck loads), 2) operating highlights (priorities, schedule, cutting styles, and public responses), 3) personnel, 4) equipment operations and maintenance (contracting with Curfman Trucking and Repair, Inc., as well as the hiring of Kirvada Fire, Inc., to perform an extensive hydraulic repair), and 5) the 2013 program budget analysis. He entertained questions and comments from the Board.

The Board asked Harper questions, in which his responses were as follows:

- The use of Curfman Trucking and Repair, Inc. and Kirvada Fire, Inc. for equipment operations and maintenance provided for a fiscally efficient process. He confirmed that the replacement of a paddle wheel motor (mentioned within the report) is estimated at \$900 (not including labor).
- Acknowledgement to staff for their efficient response to a matter on Crystal Bay, as well as other positive correspondence provided throughout the season.
- Confirmation that the 10 hour work day schedule (Monday thru Thursday) continues to be the most efficient process (acknowledging the best way to address the time needed for daily setup and takedown, as well as providing for additional options should Friday hours be warranted).
- He anticipated an estimated 50 percent employee return rate and welcomed interested parties to maintain communication with the LMCD.
- He provided an overview of how down time is calculated within the 2013 EWM Harvesting Season Summary Data (the total of "Maintenance, Waiting for Truck, Weather, and Repair" figures).
- He provided historical background relative to the use of the transport barge (prior to and current processes) to address a perceived concern in witnessing the harvesters having down time on the Lake while waiting for such service. It was recommended this might be a future discussion topic to consider, with Babcock offering an additional historical perspective of the process, as well.

Nybeck stated that the "high speed transporter" is relatively slow; however faster than the transport speed of the harvesters. The transport barge is built to support two harvesters, not three.

Morris publically thanked Gabriel Jabbour for assisting in the removal of the equipment at season end.

A brief discussion was held amongst the Board and staff as to the program's historical logistics (scheduled days worked, truck loads, budgetary expenditures, etc.) as compared to the current season's report. This included current local harvesting trends, as well as consideration of how southern states operate during their extended season.

Nybeck stated that the following changes will be addressed for the 2014 season and beyond: 1) the site supervisor will obtain a Minnesota Department of Natural Resources (MN DNR) Lake Service Provider permit relative to aquatic invasive species and the transportation of the LMCD's equipment (with the other seasonal employees completing the on-line training) and 2) the submittal of a proposal, for the Board's consideration, to purchase a sprayer so that the equipment is properly cleaned prior to transporting on land.

Harper stated that the equipment will need to be sanded and painted to avoid further oxidation and that one of the paddle wheels was bent and will require welding. The Board provided a few brief questions/comments that were or will be taken into consideration.

## **10. Update from standing LMCD Committees**

Babcock asked for an update from the Chair, or designated representative, of each committee (Save the Lake, AIS Task Force, Finance, Personnel, Public Safety, and Ordinance Review).

Morris stated an AIS Task Force meeting is scheduled for September 13<sup>th</sup> at 8:30 a.m. in the LMCD office, in which all were welcome.

Babcock made the following three comments: 1) the Finance Committee will be meeting in the future to consider the re-depositing of a matured certificate of deposit, 2) the Ordinance Review Committee will establish a future meeting based on input from the upcoming LMCD/Lake Minnetonka marina owners workshop scheduled for September 25<sup>th</sup>, and 3) that the Personnel Committee does not have a report.

Hughes stated that a Public Safety Committee meeting is scheduled for September 23<sup>rd</sup> at 3:00 p.m. in the Hennepin County Sheriff's Water Patrol office, at which time Nybeck will provide an update on his site observations relative to the Schwendimann Quiet Water Area petition.

Baasen stated that a Save the Lake Committee meeting is scheduled for September 23<sup>rd</sup> at 8:00 a.m. in the LMCD office, in which the main topic of discussion will be the Boater Safety Education pilot program.

## **11. EXECUTIVE DIRECTOR REPORT**

Nybeck made the following two comments: First, the Lake level reading as of September 9<sup>th</sup> was 929.89, which is a relatively consistent reading for this time of year. Second, the approved leasehold improvements for the new office space are ahead of schedule (in which he provided an overview of) and that the move is scheduled for September 26<sup>th</sup>.

Babcock inquired as to the scheduling of an open house for the new office location.

Nybeck confirmed an open house will be scheduled in the near future. He has been in communication with Green relative to a City of Mound currently planning an open house for the Centennial Office Building on October 7th, in which the LMCD office will be located. A copy of the announcement has been previously forwarded to the Board. An overview of the signage offered for the new office space was provided.

## 12. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:52 p.m.

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Doug Babcock, Chair

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Andrew McDermott, Secretary