

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, April 23, 2014
Wayzata City Hall

1. CALL TO ORDER

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

2. ROLL CALL

Members present: Dan Baasen, Wayzata; Jay Green, Mound; Andrew McDermott, Orono; Gary Hughes, Spring Park; David Gross, Deephaven; Ann Hoelscher, Victoria; Anne Hunt, Minnetrista; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; Sue Shuff, Minnetonka; and Deborah Zorn, Shorewood. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; and Emily Herman, Administrative Assistant.

Members absent: Doug Babcock, Tonka Bay and Rob Roy, Greenwood

3. APPROVAL OF AGENDA

MOTION: McDermott moved, Gross seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Baasen

Baasen made the following three announcements: First, the Executive Committee met on April 22nd for a preliminary review of the draft 2015 LMCD Budget. Comments and suggestions were made, in which they will be reflected in the draft budget that will be initially presented at the Board's May 14th meeting. Second, the first of three 2014 Boater Safety Education sessions will be held this Saturday, April 26th. He was pleased to announce that class was full and interest has been expressed for the June session. Third, the City of Woodland had recently re-appointed Fred Meyer to the LMCD Board. He welcomed Meyer on behalf of the Board and asked LeFevere to administer the oath of office, in which he did. Meyer was seated as a representative for the City of Woodland.

**5. APPROVAL OF MINUTES – 4/9/14 LMCD Regular Board Meeting
4/9/14 LMCD Board Workshop**

MOTION: Green moved, McDermott seconded to approve the minutes of the 4/9/14 Regular Board Meeting as submitted.

VOTE: Motion carried unanimously.

Gross recommended a specific comment be added relative to the lineal measurement of shoreline for the 1:10' density rule to the 4/9/14 LMCD Board Workshop minutes.

MOTION: McDermott moved, Hunt seconded to approve the minutes of the 4/9/14 Board Workshop as amended, making the change noted by Gross above.

[Staff further discussed this amendment with Gross directly, in which he confirmed the amendment should be retracted as it pertained to the draft ordinance under agenda item 9 of this meeting and not the workshop minutes. No amendments were documented and the minutes were filed as originally presented.]

VOTE: Motion carried unanimously.

6. APPROVAL OF CONSENT AGENDA

Green moved, Hunt seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (4/16/14 – 4/30/14); **6B**, March financial summary and balance sheet; and **6C**, **City of Mound and Bernard Wessendorf**, draft Findings of Fact and Order for approval of adjusted dock use area, dock length, and side setback variances at 4644 Carlow Road.

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

There were no public comments.

8. PUBLIC HEARINGS

- **Bayview Apts.**, 2014 reconfiguration of non-conforming, multiple dock license application at 2400 Interlachen Road on Spring Park Bay.

Baasen asked Harper for an overview of this agenda item.

Harper reviewed the staff memo, dated 4/17/14, which summarized a request to reconfigure their non-conforming, multiple dock license. The site is currently approved for 26 boat storage units (BSU) on approximately 451' of continuous shoreline (1:17' density). The applicant has proposed to reconfigure the dock to make the majority of the slips Lake opening (expanding the size of some of the BSUs by reducing the size and number of existing BSUs). A proposal has been made to reduce the number of BSUs from 26 to 24 and utilize the square footage of the two removed BSUs to increase the size of other BSUs. He provided a detailed overview of two relevant LMCD Code sections that pertain to this application (2.015, Subdivisions 3 and 9, relative to the requirements and conditions of legal, non-conforming dock licenses). He recommended the Board approve the 2014 license, subject to the following conditions: 1) watercraft stored within all BSUs must comply with the 4' length overall, overhang restriction (with a further restriction for BSUs 1-12 and 19; that must be stored entirely within the slip structure) and 2) the dock structures and watercraft storage must be constructed and maintained in strict conformance with the approved site plan. He entertained questions and comments from the Board, in which there were none.

Baasen invited the applicant to address the Board.

Mr. Tim Latterner, owner of Dock and Lift, Inc., was in attendance representing the applicant. He believed

that the proposed reconfiguration would provide for more efficient boat traffic (including less turning of the Lake bottom). Furthermore, he thought this would be a good time to consider a reconfiguration based on the need to replace the dock structure itself. He entertained questions and comments from the Board, in which there were none.

Baasen opened the public hearing at 7:11 p.m.

Ms. Mary Thurk, 2484 Interlachen Road in Spring Park, stated that she was a neighboring property owner to the south along the bridge into Black Lake. She expressed concern that the southwest extension of the applicant's dock would cause watercraft to traverse too close to her home (with a second concern for wake effects/soil erosion).

Harper confirmed that Thurk lived to the south of the applicant (with a small lot owned by Hennepin County [county] just to the north of her at 2478 Interlachen Road). He could not confirm the measurements of her dock use area (DUA); however, he unofficially reviewed the extended lot lines as they appeared on a county plat map. He offered the following comments: 1) the applicant's proposed slips would be located approximately 200' to 300' away from Ms. Thurk's extended side site line, 2) the applicant is restricted to a 100' long DUA, and 3) in regards to the county's DUA, he stated it was unlikely a dock would be erected from that lot.

Thurk stated that she spoke with the City of Spring Park (city), in which they provided her the applicant's shoreline measurement of 351.13', which contradicted staff's presentation of the applicant's shoreline of 451'.

LeFevere stated that the measurement that the city provided was most likely measured above the 929.4' high water mark (where the surveyed pins are located) vs. the measurement of the 929.4' shoreline documented on the applicant's certified survey.

Baasen thanked Thurk for her comments. There being no further comments, he closed the public hearing at 7:16 p.m. He invited further discussion or a motion from the Board.

The Board had a few questions, in which Harper responded as follows:

- He reiterated that the proposed dock construction would be at their maximum dock length and could not extend further to the southwest.
- He confirmed that DUA's are defined by extending the side site lines into the water at the angle in which it intersects the 929.4' shoreline. Furthermore, he stated that when two abutting sites provide for overlapping DUAs, the process for variance from the LMCD Code is often utilized to resolve such concerns. The application before the Board does not offer such a situation (reiterating the county property that exists between the applicant and Thurk's property).

Zorn asked the applicant to clarify adequate water depth to access BSUs 20, 21, and 22 from the southern end of the dock structure.

Latterner confirmed that the southern entrance to the above noted BSUs is approximately 25' wide with three feet of water depth. He confirmed that those BSUs will be storing personal watercraft (providing for no prop

disturbance to the Lake bottom). Furthermore, he provided an overview as to how the proposed dock was measured on an aerial photograph (acknowledging that other dock angling options were discussed and ruled out by LMCD staff as the measurement from the applicant's shoreline would provide for a dock length beyond 100').

MOTION: Zorn moved, Shuff seconded to approve the 2014 Bayview Apartments Reconfiguration of Non-Conforming Multiple Dock License, subject to staff's recommended conditions.

VOTE: Motion carried unanimously.

9. OTHER BUSINESS

- **Ordinance Amendment**, draft ordinance amending LMCD regulations relative to qualified commercial marinas.
 1. Public testimony
 2. Board discussion and consideration

Baasen stated this agenda item is in follow-up to the commercial marinas' submittal of a lengthy proposal outlining various code amendments relative to their business operation(s). He stated that the Board's review of the current ordinances and consideration of proposed amendments (through multiple meetings) was the first phase in making the regulatory use of the Lake more compatible with business use. He asked LeFevere to provide an overview of the draft ordinance amendment; after which, he would solicit public and Board comments, in that order.

LeFevere directed the Board to an updated draft ordinance, within their handout folder, that had colored editing from the original draft version provided in the Board's packet (with staff providing a copy to all within the audience). He made the following comments:

- In short, the commercial marinas' proposal outlined code amendments that would provide more flexibility in the operation of their business, such as: 1) extending their dock structure(s) out to 200', 2) 1:10' density (without providing documented amenities), 3) allowing the Executive Director more authority to approve minor change applications at the administrative level.
- As simple as that sounds, the amendments affected many sections of the code; providing for the lengthy draft ordinance before them. In reviewing the draft ordinance, he offered the following four overview sections: 1) definition of a qualified commercial marina, 2) code amendments relating to dock extensions to 200' (including the procedures and limitations in doing such), 3) code amendments allowing for the 1:10' density allowance without a special density license (as currently provided), and 4) the proposed increased authority provided to the Executive Director to approve minor changes at the administrative level.
- That the draft amendments are permissive (they do not add any new requirements or make anything unlawful that is currently lawful).
- That the first task in consideration of their proposal was to define the facilities that could make use of the additional privileges. Because of the multitude of code references relative to commercial operations (commercial dock, commercial marina facilities, commercial marinas, etc.) the newly,

defined term of "qualified commercial marina" (QCM) was created. In summary, only facilities that meet this defined term would qualify for the additional privileges listed above.

- The Board has chosen, at this time, not to consider additional privileges for other facilities, i.e., municipalities, boat clubs, homeowner associations, etc., as proposals from those facilities were not before them to consider.
- Originally, the Board considered defining marinas in which all their boat storage units (BSU) were rented to the general public. However, this option was not possible based on some of the marina's providing slips to law enforcement, transient, contractor use, towed watercraft, etc., that were not rented out. To this end, the draft ordinance provided for the definition of a QCM, with which he believed the commercial marinas concurred.
- He provided the following overview of the draft ordinance:

Proposed Code Amendments Relating to Definition of Qualified Commercial Marinas (QCM)

Section 1, LMCD Code Section 1.02 (adding Subd. 40a – QCM Definition)

- He read the definition of a QCM in full, "...a privately owned, revenue-producing business that rents storage space at one facility for thirteen or more watercraft on the Lake (requiring all "...rented BSUs on the Lake be freely available to members of the public without requiring membership in any organization and without providing any priority or preference to members of any organization").
- Two additional exceptions to this definition, listed as Subd. a) and b), were explained.
- A facility does not qualify as a QCM if it does not meet the definition or outlined exceptions noted above or any part of the facility meets the definition of any of the following classifications of use as defined in Section 2.11, Subd. 2 (Club, Municipal, Outlot Association, Multiple Dwelling, or Private Multiple Facilities).

Proposed Code Amendments Relating to Dock Extensions to 200' for QCM

Section 2, LMCD Code Section 2.01, Subd. 2 (amending paragraph "a" – QCM Dock Length)

- That Section 2.01, Subd. 2 provide for the description of an authorized dock use area (DUA).
- Subd. a) outlines the length of such DUA. That paragraph is amended to describe the authorized DUA for a QCM as extending 200' into the Lake.

Section 4 and 5 LMCD Code Section 2.015 (adding Subd. 3a and amending Subd. 3 – QCM Reconfiguration of Non-Conforming Structures)

- Non-Conforming sites are those that are grandfathered in over the 1:50' or 1:10' current density rule. Additionally, those facilities cannot go out further beyond 100' in dock length than they already are (which is left in place for other facilities, i.e., Section 5 of the draft ordinance).
- Section 4 creates a new set of rules for a QCM that does not limit the extension of a dock out to 200'. Both a conforming and now a non-conforming QCM can extend their dock out to 200'

Section 13 LMCD Code Section 2.03 (adding new Subd. 3a – QCM License Review Criteria to extend dock length)

- This section adds new limitations on the ability of a QCM to be issued a multiple dock license for the extension of their dock length beyond 100', subject to the following four conditions: 1) sites with existing variances must obtain a newly approved variance, 2) the non-existence of overlapping DUAs, 3) no removal of emergent vegetation (those above the water, i.e., cattails), and 4) lack of interference with the general public navigation or lack of impaired access to or use of the DUA of another site.

Baasen asked LeFevere to clarify that a QCM would have to address the Board in an effort to extend their dock length beyond 100'.

LeFevere confirmed that the initial licensee request would have to continue to come to the Board for approval to extend their dock beyond 100'. Furthermore, he clarified that the two big changes to this draft ordinance would be to maintain their 1:10' density without a special density license and to extend their dock to 200'. Once the Board approves such a license, the Executive Director would have the authority to administratively approve minor changes thereafter.

Proposed Code Amendments for 1:10' density allowance without a Special Density License for QCM

Section 11, LMCD Code Section 2.02 (adding Subd. 10 – QCM Special Rule for 1:10' Density)

- This section simply creates a new 1:10' density rule specifically for QCM.

Section 15, LMCD Code Section 2.05, Subd. 2 (amending paragraph – QCM Density Greater than 1:50' w/o Special Density License)

- This section simply excludes a QCM from having to obtain a special density license to maintain watercraft storage density greater than 1:50'.

Section 13, LMCD Code Section 2.03 (adding Subd. 3a - adding new Subd. 3a – QCM License Review Criteria to increase density)

- He reiterated that this section (reviewed above) not only covered the review criteria to extend a dock beyond 100' but also the increase in BSUs.

Proposed Code Amendments to Increase the Executive Director's Authority in the Administrative Approval of Minor Change Applications

Section 6, LMCD Code Section 2.015, Subd. 4 (amending paragraph "b" – QCM Reconfiguration of Non-Conforming Multiple Dock License Applications Approved by Executive Director)

- The current ordinance allows the Executive Director to approve changes to the reconfiguration of non-conforming facilities, subject to six limitations outlined within this section of both the current ordinance and draft ordinance.

- The draft ordinance removes four of the six limitations that prevent the Executive Director from approving such an application for a QCM, they are: 1) length limitations (under the proposed amendment, the 4' overhang rule are taken away), 2) the use of dock or type of watercraft stored at the dock, and 3) - 4) the increase in the number of BSUs or square footage of slips outside of 100' from the shoreline at elevation 929.4', respectively.

Section 12, LMCD Code Section 2.03, Subd. 2 (amending paragraph – Right to Waive As-Built Survey Requirement for all Types of Multiple Dock Licenses, i.e., New, Non-Conforming, etc.)

- This section pertains to all types of multiple dock licenses.
- The current ordinance provides for the Executive Director to waive the submittal of an as-built survey for seasonal docks.
- The proposed draft ordinance adds this ability for the Board, as well. Additionally, the requirement that the dock structure be seasonal was removed; however, both parties must now document the waiving of the as-built survey in writing.

Section 14, LMCD Code Section 2.03, Subd. 7 (removing section "d" and adding new section "f" – QCM License Requirements)

- This section pertains to all types of multiple dock licenses.
- The current ordinance does not allow for the Executive Director to approve a minor change application if there is a substantial change in the slip size, length, width, height, use or location of the dock or launching ramp; the amount of lakeshore obstructed or occupied by such; or type of watercraft stored.
- The above condition is removed; however, the option to forward the application to the Board for any concerns remains in place.
- In making the change described above, he believed the revisions may have gone too far based on the fact that the applicants that request to extend their dock beyond 100' must first go to the Board for approval.
- To this end, he directed all to pencil in the following additional revision to the last sentence of Section 13, Subd. 3a (on page 6 of the draft ordinance): add the words "require Board action and" just past the words "beyond 100 feet" at the end of the second sentence in Subd. 3a. The sentence would read, "In addition to the review criteria specified in Subdivision 3 of this section,..... further into the Lake beyond 100 feet require Board action and are subject to the following conditions:"

He entertained questions and comments from the Board.

Baasen briefly summarized the following goals that the draft ordinance amendment addresses: 1) the established definition of a QCM and their ability to maintain a 1:10' watercraft density without obtaining a special density license (based on the belief of the commercial marinas that their businesses offer amenities to the public on a standalone basis vs. specifically documenting such in a required license), 2) the ability to extend QCM dock structures out to 200' (providing for original Board approval with minor changes approved at the Executive Director's level), and 3) increasing the Executive Director's authority in approving minor change applications (acknowledging the Director and applicant have the ability to

request Board review, as well). He stated that Board discussion and comments will be solicited after the public meeting. He opened the public meeting at 7:53 p.m.

Mr. Gabriel Jabbour, 985 Tonkawa Road in Orono, made the following comments:

- He expressed his gratitude in the Board's time and effort in considering this lengthy process; confirming (based on the information presented) he believed full consensus was reached on this matter. The process offered in considering this agenda item was a true example of democracy at work.
- He recognized this subject was breached five years ago; however, seasonal business schedules presented challenges.
- He confirmed the following two primary efforts were resolved: 1) a more efficient use of the 1:10' density rule (acknowledging most QCMs have already met or exceed the 1:10' density level) and 2) extending the dock length out to 200'. He believed the State of Minnesota currently allows a non-conforming structure to extend out to 200' (acknowledging too that most of the QCMs' docks are already at such length). This option provides for fewer challenges in making needed structural changes.
- He believed that confusion existed as to why some of the proposed amendments were listed in sections of the code that did not pertain to commercial operations. He concluded that those amendments were for legal documenting purposes.
- He again thanked the Board for their time and effort (specifically recognizing the Executive Committee). He hoped the Board felt the proposed amendments were good for Lake Minnetonka. Additionally, he shared this information with two prior LMCD chair representatives, who expressed enthusiasm towards the proposed amendments.
- He offered to address further Board questions.

Mr. Greg Miller, 335 College Avenue in Excelsior, made the following comments:

- He appreciated the opportunity to address the Board.
- He stated that he serves on the Excelsior City Council, which had not yet acted on this matter but believed there was both city and public general support for such (acknowledging the importance of having more reasonable access to the Lake).
- He believed that the proposed QCM definition was a good first step. He addressed the need for the Board to consider other active parties that maintain BSUs for the public (i.e., municipalities). He recognized the municipalities are not considered a marina nor do they compete or provide amenities as such. However, they do provide access to the population that do not utilize marinas, as well as important public accesses to attractions such as Big Island or the use of municipal transient slips.
- He stated that would like to expand that access (including expansion of dock lengths in non-intrusive areas) and believed that commercial ports and better access to the Lake would provide such.
- In summary, he was supportive and appreciative of the Board's hard work in this area and respectfully requested the Board address other special circumstances (as noted above), as well.

Baasen thanked Miller for his comments. He stated the Board's original intent was to address all parties

providing public access to the Lake; however, that became overwhelming. Therefore, the Board segregated the process for efficiency purposes and acknowledged it was the Board's intent to move forward to the next group.

Miller stated that the City of Excelsior provides use for both residential and commercial boat storage. He asked if the restrictions offered within the draft ordinance would prevent further expansion to facilities that offer both types of use.

Baasen believed the challenge before the Board is to put ordinances in place that allow the various types of facilities to approach the Board with requested options. He believed that once the Board gets through this first phase, he would encourage the communities to put together the same type of proposal that offered interaction amongst the two parties. There being no further comments, he closed the public meeting at 8:05 p.m. and solicited Board comments.

Gross made the following comments:

- Section 1 a): He recommended the word "three" be removed from that section; specifically within the fourth line relative to the three day storage of disabled watercraft.
- Section 2 a), top of page 2: He believed the sentence, "The authorized dock use area for Qualified Commercial Marina extends into the Lake 200 feet" appears almost contradictory based on commercial docks (noted in the paragraph above) is not capitalized or defined. He believed this provided some confusion and recommended incorporating them into one sentence by stating, "...nevertheless, Commercial Dock Marina may extend [vs. shall extend]."
- Section 4, Subd. 3a: He stated that paragraph, as well as paragraph a), provides for a triple negative; therefore, confusing, i.e., it references, "No new dock.."; "shall... not comply;" and ".may not result." He recommended the first paragraph be changed to read, "~~No~~ A new dock license for reconfiguration of non-conforming Qualified Commercial Marina docks under this section shall not be issued ~~that do not~~ unless it complies with the following requirements."
- Section 11, Subd. 10: He believed the word "straight line measured" be utilized vs. "continuous shoreline" within the third line of that paragraph.

LeFevere sequentially responded to Gross' comments as follows:

- That paragraph "a)" provides for the exception to the rule that slips have to be rented. However, the slips do not have to be rented (as long as it is not more than 20%) if the watercraft was disabled or being repaired. Therefore, a QCM should be able to take in that watercraft without being disqualified.
- That the draft ordinance is not referencing commercial docks but the authorized DUA, which exists independently from (confirming that the draft ordinance establishes a new DUA specifically for a QCM which allows for 200' out vs. 100'. He further explained that if a dock is only 100' in length, the DUA continues to remain 200' out.
- He stated it was important that the draft ordinance be clear to all and if that change would be of assistance, he would make those recommended changes (confirming that Section 5, Subd. 3 would also need to be changed as the two sentences mirror themselves.
- He stated "straight line" is not referenced as it applies to all new dock licenses; confirming that

meandering shoreline was counted until the Board adopted the straight line measurement.

Green referred back to Gross' first bullet point and concurred that more flexibility should be provided (based on a disabled watercraft coming in over the weekend).

Shuff recommended adding the word "business"; providing for "three business days."

McDermott requested clarification on the significance of the use of the word "qualified" within the definition of QCM.

LeFevere stated the words commercial docks, commercial marinas, and commercial marina facilities are referenced throughout the code (providing for more extensive amendments within). Therefore, he utilized a term that capitalized the requirements of that segregated group.

Shuff reiterated her question that was raised during the workshop sessions (not as to what is present within the draft ordinance but what is not). She stated the original proposal submitted by the commercial marinas referenced a whole section on public amenities. She asked what happened to that section.

LeFevere understood the proposal as documenting the use of public amenities for all but the commercial marinas. He confirmed that the amenities are still within the code; however, they just do not apply to a QCM.

Shuff did not read the proposal as such. She raised this question once again as Miller (in a roundabout way) also referenced the subject this evening. She stated a QCM receives special privileges (200' DUA and a density of 1:10', with conditions). To this end, one could see that other referenced groups would like to be treated equitably. Furthermore, if she understood this matter correctly, the draft ordinance should pass the time test of future owners of the current businesses (acknowledging that, other than the conditions listed within the draft ordinance, the only real requirement is the provision of a parking lot).

Baasen stated that the discussion Shuff was mentioning was mostly handled at the Executive Directors meeting (a review of the amenities and segregating what is and is not real or appropriate). This included looking at services a commercial marina currently provides vs. the amenities listed within the Special Density license section of the code. They confirmed that the marina owners offer these services on their own, i.e., additional public access (including handicap access), watercraft repair, pump out stations, etc. He recognized a QCM may not offer those services.

Shuff referenced Baasen's last comment, in which those that do not qualify are not referenced within. She understood the proposal to mention, "no additional requirements," which would attest to the lack of amenities. To her point, that is not referenced in the draft ordinance (having a new owner not providing all the services but possibly a cheaper rate in rental space). To this end, specific amenities should be required to qualify as a QCM.

Green believed that a new business model would continue to provide service to the Lake (whether that be emergency services watercraft storage, etc.). He believed that if specific services, such as pump out

stations are lessening for public use, the Board could address such and amend the ordinance as needed.

Shuff reiterated that the draft ordinance needed to “stand the test of time” and that retrofitting the needs would be difficult. She believed that setting minimal standards to meet the definition of a QCM (passing out AIS literature, etc.) would be a good public relations amenity that gives a QCM those special privileges.

Baasen believed this approach was based on the flexibility to amend the ordinance as situations arise.

LeFevere stated that the Board could legally amend the ordinance (recognizing political concerns in doing such). He stated there was language in the initial discussion as to how a commercial marina was defined (i.e., they may provide such services as “abc.”). However, throughout those discussions, it became clear that those comments were intended to be nothing more descriptive vs. prescriptive (confirming the original proposal documented that there not be any public amenities tied to their license).

Klohs understood that the whole point of the proposal was for the LMCD to not micromanage their business. By definition, their business provides a service to the Lake and to address the small details was unhealthy for both parties.

Shuff concurred that they do not want to micromanage their business (recognizing it is the LMCD’s business to micromanage, within reason, the Lake). She believed the draft ordinance provides a balance which should have a documented reason for such; recognizing there is a cost to the public to provide access to the Lake.

Hoelscher concurred with the comment made this evening (acknowledging that she does not agree with the use of the public amenities list). She reiterated her comment made in previous meetings, in that the definition of a QCM should provide a general reference that to qualify for such, some service to the Lake must be provided. To this end, if a QCM was not providing any public services, they would not meet the definition of such.

LeFevere was unsure that all commercial marinas provided services that were mentioned this evening (other than providing public access to the Lake).

Hunt believed access to the Lake was a public service.

LeFevere stated that the idea of simply providing rental space to the public was advanced as a service.

Morris received confirmation that if the draft ordinance is approved, Board approval would be required when a QCM initially applies for reconfiguration. He believed that if the Board felt that a service was lacking with such a business, they could have a dialog with that owner during the approval process (possibly requesting that needed service be addressed). He stressed the importance of the Board not mandating services to a QCM but would welcome the dialog in providing such (referencing the installation of a pump out station should one be lacking).

Hoelscher clarified that she was not referencing mandating any services but simply documenting that a QCM does provide a service to the Lake which, in essence, provides for their special privileges.

LeFevere recommended the definition be amended by acknowledging the provided public service of renting space. Furthermore, if the Board would like to open the draft ordinance up to a QCM providing other general services, then the Board would need to list and define such (bringing us back to the Special Density License requirements).

Morris did not want the Board to get sidetracked in re-writing the draft ordinance at this meeting. He reiterated that a QCM provided a public service to the Lake as it stands now.

Klohs concurred with Morris' comments.

Mr. Jerry Rockvam, owner of Rockvam Boat Yards, requested the ability to address the Board. Baasen welcomed Rockvam's comments (recognizing the public meeting portion of this agenda item was closed).

Rockvam asked the Board to consider the value of the Special Density License public amenities, i.e., an auto lookout whereby one could drive in and watch the sunset. Furthermore, he asked the Board to recognize the amenities that are not listed (i.e., an employee coming to work after hours to provide gas to a stranded watercraft that was towed in). To this end, a QCM provides amenities that are never even considered.

Jabbour stated it is important that the viewing audience understand that the adoption of the draft ordinance does not give something to a QCM. This process is just simplifying the matter. He believed the communities receive great access to the Lake by having the commercial marinas spread about such, i.e., towing in of stranded watercraft, etc. Furthermore, the rental of BSUs barely pays his property taxes (acknowledging 65% of their business is service). Requiring a QCM to adhere to the public amenities is an embarrassment to him as he has to explain receiving the 1:10' density because he has a public phone (listed amenity). That amenity does not depict the service they provide, which is to providing an essential service to the Lake Minnetonka community.

LeFevere stated that if the Board believed that providing rental space is a public service (recognizing that they provide more service than just that), then the definition offered within the draft ordinances is sufficient all by itself.

- MOTION:** Green moved, Hunt seconded to approve the first reading, waive the second and third reading and adopt the ordinance amending LMCD regulations relative to qualified commercial marinas, subject to the following changes:
- Section 1, subd. 40a a), add the word "business" to fourth line of "three business days."
 - Section 4, Subd. 3a and Section 5, Subd 3, change the wording of the mirrored sentence to read, "~~No~~ A new dock license for reconfiguration of non-conforming Qualified Commercial Marina docks under this section shall not be issued ~~that do~~

~~not~~ unless it complies with the following requirements.”

- Section 13, Subd. 3a, add “require Board action and” within the last line of that paragraph. The sentence would read, “In addition to the review criteria.... Extend docks further into the Lake beyond 100 feet require Board action and are subject to the following conditions:”

VOTE: Ayes 11, Abstained (1, Shuff); motion carried.

Baasen, on behalf of the Board, expressed his appreciation to the commercial marinas for the services they do provide. He stated the Executive Committee will consider the other groups that provide public services and establish a list of priorities for the Board’s consideration (acknowledging he expects the individual groups to independently come forward with their respective proposals).

Gross clarified that the concern in providing equitable privileges and the consideration of public amenity use for each group that provides public access could be addressed at the time the Board considers their proposal.

Klohs recommended municipalities be at the top of that list (based on prior communication and their expectation of such).

Nybeck stated he will add that agenda item for the May 20th LMCD Executive Committee meeting, in which all Board members will be notified of such.

10. UPDATE FROM STANDING LMCD COMMITTEES

Baasen 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 the AIS Task Force met on April 11th. In discussing various options in complying with aquatic invasive species (AIS) transportation laws, it was discovered that the South Lake Police Department does not have the ability to issue citations for such due to lack of proper training. Therefore, the Task Force expressed an interest in pursuing grant options to accommodate for that training (acknowledging initial communication with the police departments in receiving their level of interest).

Green stated that Three Rivers Park District is having their peace officers trained.

Nybeck stated that the Minnehaha Creek Watershed District (MCWD) did go through this exercise a number of years back (offering training sessions to law enforcement agencies). He stated the timing of the sessions was good; however, the attendance was light. At that time, a number of police chiefs recommended the training be provided on site to accommodate staff coverage (estimating six or seven local law enforcement agencies).

Zorn questioned what percentage of work would interface with AIS (providing for the need to assess work

load and budget estimates).

Green stated that a vehicle with zebra mussels attached could be at the public access. The inspector could stop the watercraft from entering the water but they could not write a citation. They would need to call law enforcement for such. The State of Minnesota documented 20% roadside stops that resulted in violations (with public access violations closer to 6%, of which a handful provided for zebra mussels or suspected AIS). He recognized public safety enforcement would prevail over AIS.

Discussion was held amongst the Board as to who and how much of the fine revenue would be distributed, in which Nybeck stated he did not have that information available at this time. Nybeck stated there were changes to the fine distribution but he was unsure of what that was. He believed the Board could receive feedback from their represented city council as to the level of interest and respective priority workload. In training the local enforcement officers, it would provide for a more efficient response time vs. calling the state conservation officer.

Zorn and Baasen believed this process to be a positive one (with Baasen believing law enforcement looked at this option as positive, as well) once all the needed questions are resolved.

Morris confirmed that the main goal of this process is to provide a more efficient process for the watercraft inspectors in calling law enforcement agencies (other than the conservation officers) and not for the purpose of tracking down violators.

Green stated that the Task Force also discussed inappropriate disposal of yard waste (relative to AIS). He stated member Dick Woodruff contacted disposal companies in which four responded. He discovered that although the companies were very knowledgeable in the proper disposal of Emerald Ash tree branches, they had not received formal training for the handling of other AIS (providing for a hole in the system). Additionally, it was reported that the MCWD would be partnering with the University of Minnesota AIS Research Center in the completion of a carp assessment program in Six Mile Creek sub-watershed this summer. Lastly, he provided an update on Jabbour's work with pontoon boat manufacturers relative to their design and the prevention of zebra mussels. This matter has received national attention, in which movement in the change of their design to accommodate such will be seen within the year.

Hughes stated Certificate of Deposits (CD) continue to mature, in which the Finance Committee addresses with a two signature withdrawal and re-deposit policy. All deposits are considered on a staggered basis.

Baasen reiterated that a Boater Safety Education session is scheduled for this Saturday, April 26th at the City of Minnetonka Community Center (starting at 7:45 a.m.). Currently 20 youth and six guardians are scheduled to attend. He solicited the Board's interest in becoming an advocate for this program by attending and assisting the youth through this process (offering the more youth that graduate, the safer the Lake). Additionally, the Save the Lake Committee will be meeting on May 5th at 7:30 a.m. at the LMCD office. He solicited the Board's interest in becoming a member of this committee, as there is a need to increase its membership.

Hughes stated he was present for the 2013 pilot program, which he stated was enlightening. He also

encouraged all to attend.

There was no report for the Ordinance Review, Personnel, and Public Safety Committees.

11. EXECUTIVE DIRECTOR REPORT

Nybeck directed the Board to LMCD Harvesting Program Maintenance Proposal submitted by Curfman Trucking and Repair, Inc. (within his report). He recommended approval of this proposal, in which both the vendor and the contractor remained unchanged from prior years.

MOTION: Green moved, McDermott seconded to approve the Curfman Trucking Repair Maintenance Proposal for the 2014 harvesting season.

VOTE: Motion carried unanimously.

Nybeck stated that there was discussion at the April 22nd LMCD Executive Committee meeting relative to staff's interest, for some time now, in maintaining a central storage location for the LMCD's runabout that is utilized for the Proactive Code Enforcement Program. To this end, he solicited and received confirmation from Lt. Saunders that the LMCD can install docking and a boat lift to accommodate for the storage of this watercraft at the Water Patrol office (providing for a very efficient location in traversing all areas of the Lake). He stated that there is some upfront, capital investment required in accommodating this option. In working with LeFevere, he received a proposal for such from FineLine Docks, which is the company the Water Patrol utilizes for their docking and storage needs. The proposal was provided via the following segments:

- The purchase of a new shore station, with slip cover;
- The purchase of a limited number of dock sections;
- Seasonal removal and installation;
- Initial installation and delivery (no charge); and
- Total proposed quoted costs, including 2014 fall removal (\$8,893.10).

He recommended the Board's approval of this purchase (acknowledging the cost saving of \$30,000 in rent for the 2014 budget year). Additionally, he offered comparables should the LMCD find themselves in a position to annually rent a slip (\$2,070 from the City of Mound and \$4,100 to \$5,500 from other commercial marinas on Lake Minnetonka). Currently various multiple dock licensees have been storing the watercraft at no charge. He entertained questions and comments from the Board.

Green believed the LMCD needed to become more self sufficient (expressing concern for when the in-kind services go away).

Zorn questioned if there were storage terms offered from the Water Patrol.

Nybeck stated that once the capital investment is purchased, the LMCD is subject to a seasonal estimate cost of \$295 for each installation and removal. To date, no terms are offered on the length of the storage option.

Baasen recommended approval based on his believe that the timing was right for the LMCD to become independent of those that we license. Additionally, we have a good relationship with the Water Patrol and their generosity indicates their support to the LMCD, as well.

Klohs concurred with the recommendation.

Morris believed the LMCD should account for such a line item within the budget; however, continue to accept the in-kind services as long as possible.

Hunt and McDermott believed the in-kind services fell into a gray area (utilizing licensed facilities), with McDermott acknowledging their gracious offer. He believed the annual investment is minimal after the capital investment is made, as well as providing more efficient use of staff time.

MOTION: Green moved, Klohs seconded to purchase the Shore Station and docking structure as proposed by FineLine Docks.

VOTE: Ayes 11, Naves (1, Morris); motion carried.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:12 p.m.

Dan Baasen, Chair

Andrew McDermott, Secretary