

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, June 11, 2014
Wayzata City Hall

1. CALL TO ORDER

Baasen called the meeting to order at 7:01 p.m.

2. ROLL CALL

Members present: Dan Baasen, Wayzata; Jay Green, Mound; Andrew McDermott, Orono; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; Rob Roy, Greenwood; 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: Jeff Clapp, Tonka Bay; David Gross, Deephaven; Ann Hoelscher, Victoria; and Anne Hunt, Minnetrista

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Baasen

Baasen made two chair announcements. First, since last week, Lake Minnetonka has been under an Emergency High Water Declaration (providing for the entire Lake to be under minimum wake restrictions). He believed that this has overall gone well, recognizing the self-policing by the boating public. Second, he reminded all that the next Lake Minnetonka Boater Safety Education session is scheduled for Monday, June 23rd at the Mound Westonka ESC building. He recommended that all Board members that are available to attend do so; for the purpose of understanding the class and being of assistance to the youth. He acknowledged the prior sessions utilized those important volunteers.

5. APPROVAL OF MINUTES – 5/28/14 LMCD Regular Board Meeting

Green requested that verbiage be added on page five that documents the addition of State Statute 84D, Sec. 13, Subd. 4 to the draft AIS Peace Officers letter under agenda item 9C.

MOTION: McDermott moved, Hughes seconded to approve the minutes of the 5/28/14 Regular Board Meeting as amended, making the change noted by Green above.

VOTE: Ayes (9), Abstained (1, Baasen) motion carried.

6. APPROVAL OF CONSENT AGENDA

McDermott moved, Shuff seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**, Audit of vouchers (6/1/14 – 6/15/14) and **6B, MCWD**, approval of Cost-Share Agreement for 2014 Lake Minnetonka Watercraft Inspection Program

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

There were no public comments.

8. PUBLIC HEARINGS

A. Pirates Cove Dock Owners, new multiple dock license application for six Boat Storage Units (BSU) on approximately 352 feet of continuous shoreline at 850 and 860 Windjammer Lane on North Arm Bay.

Baasen asked Harper to provide background on this agenda item.

Harper directed the Board to his staff memo, dated 6/5/14. He stated that the applicant has submitted a new multiple dock license for two riparian residential properties with 352 feet of shoreline. A total of three docks have been proposed (the two outside docks for the riparian properties and the inside dock for four properties that have their riparian rights defined by two easements along the common property line for the two riparian residential properties). Six Boat Storage Units (BSU) have been proposed, with a conforming BSU density of 1:58 feet. The City of Orono (city) has recently approved a joint use permit for this application. He recommended approval of the 2014 new multiple dock license application, subject to: 1) all watercraft being stored within authorized BSUs, 2) all docks must be installed in strict conformance with the approved site plan, and 3) the multiple dock license be contingent upon continuing agreement between the two riparian and four off-lake property owners. He entertained questions and comments from the Board.

McDermott questioned whether the city has the same stipulation with regards to third condition recommended by Harper.

Harper questioned whether the city's joint use permit had the exact same verbiage; however, he stated this on-going agreement amongst all property owners would be needed for the proposed dock plan to work. He clarified that the joint use permit issued by the city was for only the common dock located down the middle of the two riparian properties.

Klohs asked how many of the homes had been constructed.

Harper stated that all six homes had been constructed. He believed that the two easements for these two properties go back to the 1960's or 1970's.

Baasen asked if a representative for the applicant would like to provide additional background and comments.

Mr. John Biglow, Attorney at Law, stated that he was in attendance representing Carolyn Broghammer

(the applicant for Pirates Cove Dock Owners). He thanked the Board for taking this application under advisement. Both the off shore and lakeshore land owners have been working diligently to overcome some issues, in which have all provided full consensus. It is the intention of all property owners to continue that consent annually as need for the multiple dock license. The initial easement was created in 1969 and this application has been submitted to conform to LMCD Code. He entertained questions from the Board.

Baasen questioned whether there were six watercraft stored at these two lots prior to this application (although the configuration has changed and the dock was not properly licensed by the LMCD).

Biglow responded yes to Baasen's question.

Baasen opened the public hearing at 7:13 p.m.

Mr. Faiz Kahn, 850 Windjammer Lane, stated he owned one of the two riparian properties for this application. He clarified that the two riparian properties owners are not a part of the Pirates Cove Association, which was created for the four off-lake property owners. With that said, he confirmed the riparian property owners have provided consent for the proposed application.

There being no further comments, Baasen closed the public hearing at 7:14 p.m.

McDermott questioned whether a consent letter from the riparian property owners would need to be submitted annually or would the consent remain in effect until the LMCD is notified otherwise.

LeFevere stated that it would remain in effect unless the LMCD was notified otherwise. The letter would not necessarily indicate annual consent because consent can be removed at any time.

MOTION: McDermott moved, Klohs seconded to approve the 2014 Pirates Cove Dock Owners multiple dock license application, as submitted.

VOTE: Motion carried unanimously.

Baasen thanked all parties for their efforts in coming into compliance with the LMCD Code.

- B. Wayzata Yacht Club (Site 2),** new multiple dock, special density license and variance applications to combine approved Sites 2 and 4 (with no increase in BSUs) on Wayzata Bay. The variance application has been submitted from LMCD Code for dock width restrictions.

Baasen asked Harper to provide background on this agenda item.

Harper directed the Board to his staff memo, dated 6/6/14. He stated a new multiple dock license, special density license, and variance applications have been submitted to combine the current Wayzata Yacht Club (WYC) Site 2 with the current Wayzata Community Sailing Center (WCSC) Site 4. Other proposed changes include: 1) correcting surveyed dock installation discrepancies at the WYC (Site 2) seawall, 2) adding a 10 foot dock at the WCSC (Site 4) between two approved BSUs, and 3) a request for a dock

width variance for two docks side by side (10.5 feet in total width). He provided background on the number of approved BSUs and unrestricted watercraft at WYC (Sites 2, and 3) and WCSC (Site 4). One of the reasons communicated by the applicant to combine the two sites was to have greater flexibility on the storage of unrestricted watercraft on land.

Baasen asked for clarification on the 247 feet of lakeshore frontage at WCSC (Site 4).

Harper stated that the 247 feet of lakeshore frontage takes into consideration shoreline from the west side site line to the approved bridge in the lagoon area that is used for access to the parking lot. The shoreline north of the bridge is not factored into the shoreline calculations (per an approved 2008 side setback variance for the bridge). The applicant has proposed to continue this shoreline calculation as part of the proposed applications. He provided further background on the two side by side docks, in which one dock is used for access from the parking lot to the island and the second dock is used at Lake level for the sailing school students. He recommended the Board direct LeFevere to prepare draft Findings of Fact and Order for approval of the applications for the 2014 boating season.

Baasen invited the applicant to provide further background and comments.

Mr. Jonathan McDonagh, representing WYC, provided further background on the floating dock used in conjunction with the sailing school. By combining the two sites, this proposal would allow for the majority of unrestricted watercraft to be stored on the current WCSC (Site 4), which was always the intent. This in turn provides additional parking spaces where unrestricted watercraft are currently being stored. He provided further background on the request for one additional 10 foot dock section between two approved BSUs at WCSC (Site 4). He entertained questions and comments from the Board.

Baasen open the public hearing at 7:26 p.m. There being no comments, he closed the public hearing at 7:27 p.m. He stated that a letter had been received from the City of Wayzata supporting the proposed applications.

MOTION: McDermott moved, Roy seconded to direct LeFevere to prepare draft Findings of Fact and Order for approval of the 2014 new multiple dock license, special density license, and variance applications.

VOTE: Ayes (9); Abstained (1, Meyer); motion carried.

McDonagh asked if the unrestricted watercraft stored on land could be moved over to the WCSC site prior to approval of the Draft Findings of Fact and Order at the June 25th Board meeting.

LeFevere stated that nothing is legally approved until the draft Findings are approved by the Board.

9. OTHER BUSINESS

A. Staff update on current Lake Minnetonka water levels

Baasen asked Nybeck for an update on this agenda item.

Nybeck directed the Board to a chart outlining the 2014 Lake Minnetonka Water Level Readings (4/28/14 to 6/11/14), within their handout folders. He stated the Lake level reading on the day the Emergency High Water Declaration (declaration) went into effect was 930.65 feet; providing for the water to recede about one and one-half inch as of this date (930.53 feet). He acknowledged the notification of this declaration was more efficient (submitting the press release via a variety of social media avenues). He believed the Lake users were voluntarily complying with the minimum wake restrictions and he directed the Board to a series of copied emails providing their respective comments to the declaration. In closing, he stated a follow-up press release will be distributed by this weekend reminding all that the declaration will remain in place through the upcoming weekend (with the emphasis that the Lake is still open for their recreational enjoyment). He entertained questions and comments from the Board.

Baasen commended the Executive Director and staff for their efforts in keeping the public informed on this matter. Additionally, he stated that staff was directed to create an informational postcard on the declaration that was mailed to all riparian residents.

Nybeck commended the Hennepin County Water Patrol for their efforts in this matter, as well (acknowledging their efforts in educating the public via on site communication, radio interviews, and use of their electronic signage). Furthermore, he recognized that the LMCD's signage could be improved (including placement locations which were offered). Additionally, he commended Harper's efforts in coordinating the signage, in which the marina owners were very receptive to displaying such. More efficient signage will be considered after the Public Safety Committee (committee) reviews the High Water Declaration ordinance (Code Section 3.021).

Baasen clarified that the Emergency High Water Declaration was an addition to the existing High Water Declaration ordinance (noted above) that the committee will be reviewing.

Hughes stated that the LMCC has created a Public Service Announcement (PSA) relative to the High Water Declaration. As of this Friday, the PSA will further highlight the Emergency High Water Declaration's minimum wake restrictions for the entire Lake.

Green recommended staff revise the title of the Emergency High Water Declaration Hot Topic so that the words "entire Lake" show within the title of the minimum wake restrictions.

McDermott questioned how much it would cost to rent an electronic sign for use on Highway 15 (acknowledging an added benefit of notifying the Lake users before they reach the Lake). Both he and Meyer acknowledged the Sheriff's expressed concern for liability damage at that location; however, McDermott felt the LMCD could also assist in renting barrels, etc.

Baasen directed staff to review that option prior to the next meeting. Additionally, he confirmed the electronic signage is offered at Grays and Spring Park public accesses (with Nybeck adding the locations of Tonka Bay City Hall and Maxwell Bay public access).

Klohs asked what the estimated flow over the top of the Grays Bay dam was (acknowledging the dam's current discharge of 300 cubic feet per second (cfs), in which Green believed it was 250 to 275 cfs).

B. Approval of draft 2015 LMCD Budget

Baasen asked Nybeck for an update on this agenda item.

Nybeck directed the Board to his staff memo, dated 5/16/14, which also provided for a copy of the 2015 draft budget. He provided an overview of the following (via a PowerPoint presentation):

- The budget review process schedule (acknowledging the Board is currently at bullet point four, "Review and Approval by LMCD Board (June 11th)."
- The member city budget presentations with respective Board members (offering the cities of Wayzata, Victoria, Shorewood, Mound, and Orono). He directed the Board to an email, dated 6/11/14, within their handout folders from Mound City Administrator Kandis Hanson (documenting the city council's unanimous consensus for the LMCD to approve the 2015 draft budget with the current levy remaining flat).
- A review of budget highlights (0.6% overall levy increase; 1.1% decrease in expenditures; 2.0% increase in personnel services; 63.8% decrease in office lease and storage; \$95,000 budget (no increase from 2014) for the Eurasian Watermilfoil budget; \$35,000 AIS Reserve transfer to the Equipment Replacement Fund (ERF), \$10,000 increase; \$30,000 for the AIS Prevention and Management Fund (no increase from 2014); and \$3,300 for Media, Cable and Internet (new line item to ensure the Board meetings will continued to be viewed on cable, as well as on line).
- The LMCD member city levies from 2008 - 2014. He acknowledged the LMCD has kept the levies relatively flat (3% overall increase between 2009 and 2014).
- The LMCD's state enabling legislation (103B.601-103B.645), including the maximum assessable levy (.00242% of total taxable market value; \$437,179 for 2015) and the assessment of levy by the percentage of net tax capacity (with no city paying greater than 20% of the total levy).
- He recommended the Board provide for some form of conditional approval (taking into consideration any lack of quorum on June 25th and the certification of the budget by July 1st). Additionally, the approval would be subject to the budget being reviewed at their June 25th meeting to allow for any last discussion items and/or respective changes should a quorum be available (acknowledging his presentation to the City of Orono was scheduled for June 23rd).
- He entertained questions and comments from the Board.

Green asked Nybeck if he would like to entertain the City of Mound's (city) request.

Nybeck stated that discussion would be a decision of the Board (acknowledging an increase of \$1,876 to accommodate such).

The Board briefly discussed this matter, offering the following comments:

- Klohs asked if the city articulated the reason for their request, in which Nybeck confirmed that the city commented that the levy is a small percentage of the increases overall; therefore, it would be easier to just remain flat.
- McDermott stated the city is coming out ahead based on other member city levy assessments.
- Klohs believed rational existed in keeping the levy flat based on the \$30,000 cost savings in rent.
- McDermott stated the rent savings was needed to increase the ERF.
- Baasen confirmed that the Executive Committee had discussed whether to keep the levy flat or

not (in which staff did recommended it remain such). However, the committee believed the levy should be true to the budget as keeping the levy flat would require removing the funds earmarked for the ERF. He could not recall, at any time, all fourteen member cities unanimously requesting the LMCD keep the levy assessment flat.

- Roy stated the City of Greenwood approved the budget as presented. He asked if the LMCD saved any money on the current high water situation (i.e., harvesting program), in which Nybeck confirmed the program is not scheduled to start for a couple weeks. However, he could not predict growth needs and staff time for the remainder of the summer.
- McDermott stated the City of Orono did not flinch on their levy increase.
- Hughes confirmed the City of Spring Park did not have an opposition to their \$23 levy increase.

LeFevere recommended that any contingency approval be subject to directing staff not to send the approved budget to the member cities until after their June 25th review (after which the LMCD would need to certify the budget by July 1st).

MOTION: McDermott moved, Morris seconded to approve the draft 2015 LMCD budget as presented; subject to staff not submitting the budget to the member cities until June 26th (the day after the Board's final review).

VOTE: Ayes, 9; Nays (1, Green); motion carried.

Nybeck confirmed he will schedule the final review of the 2015 LMCD Budget at their June 25th meeting. Additionally, he welcomed his time presenting such to the remaining member cities.

Baasen asked if anyone attended the member city budget review on June 5th.

Nybeck stated Green was in attendance (acknowledging verbal communication by City of Minnetonka Administrator GERALYN BARONE, who confirmed she was unable to attend but that the city council was fine with the draft budget as proposed).

C. Draft 2013-2014 LMCD Annual Report

Baasen asked Nybeck for an update on this agenda item.

Nybeck stated that the 2013-2014 LMCD Annual Report was offered to the Board at their May 28th meeting, at which time staff was directed to table consideration of such to this date to provide additional time for further review. He stated this project was originally completed based on the LMCD's approved strategic plan. Reference to that plan was removed from this report based on its need to be updated. He provided a brief overview of the report, which included the addition of the Board's pictures. Past member city comments believed the general background offered good information. He entertained questions and comments from the Board, in which the consensus of the Board believed the report was fine as is (with one request to add a table of contents prior to distributing such).

10. UPDATE FROM STANDING LMCD COMMITTEES

Baasen asked if the committee chairs had anything to report.

Morris stated the Aquatic Invasive Species (AIS) Task Force is scheduled to meet this Friday, June 13th.

Hughes stated the Public Safety Committee is scheduled to meet tomorrow, June 12th.

Baasen made the following three comments: 1) the Save the Lake spring solicitation letter has been mailed and he welcomed all Board contributions, 2) a Lake Minnetonka Boater Safety Education course will be held Monday, June 23rd, and 3) the Save the Lake Committee (specifically he and members Whalen and Soule) will be researching the idea of moving the annual banquet from February to May (providing for a more exciting and fruitful event).

McDermott recommended communication with the lake service providers prior to changing the banquet date as that is their busiest season.

11. EXECUTIVE DIRECTOR REPORT

Nybeck made the following three comments: First, attendance at city council meetings (specifically budget presentations) have been heavy but acknowledged the benefit of personally presenting to the member cities. Second, office work relative to the Emergency High Water Declaration was a top priority for staff this last week (with follow-up work on the initiation of the Shoreline Inventory and Harvesting Programs planned). Third, he acknowledged that the Watercraft Inspection Assistant (Chad Miller) has been working out well. He recognized that Miller not only assists with the program but is also certified as a Level 1 inspector and fills in when needed.

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:58 p.m.

Dan Baasen Chair

Andrew McDermott, Secretary