

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., Wednesday, June 24, 2015
Wayzata City Hall

1. CALL TO ORDER

Baasen called the meeting to order at 7:04 p.m.

2. ROLL CALL

Members present: Dan Baasen, Wayzata; Jay Green, Mound; Gary Hughes, Spring Park; Gregg Thomas, Tonka Bay; David Gross, Deephaven; Ann Hoelscher, Victoria; Gabriel Jabbour, Orono; Dennis Klohs, Minnetonka Beach; Fred Meyer, Woodland; Jeff Morris, Excelsior; Bret Niccum, Minnetrista; Rob Roy, Greenwood; and Sue Shuff, Minnetonka. Also present: Charlie LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; and Judd Harper, Administrative Technician.

Members absent: Deborah Zorn, Shorewood

3. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

4. CHAIR ANNOUNCEMENTS, Chair Baasen

Baasen made the following announcements:

- The City of Minnetrista has recently appointed Bret Niccum to the Board. Baasen welcomed Niccum and LeFevere administered the Oath of Office.
- A Special LMCD Board Meeting has been scheduled for Wednesday, July 8th (5:30 p.m. at Wayzata City Hall). This meeting will be the second session for review and updates to the approved LMCD Strategic Plan. Nybeck stated that he would forward a copy of the Strengths, Weaknesses, Opportunities, and Threats questionnaire to Niccum that was previously completed by the Board. Baasen encouraged the Board to follow instructions prior to this meeting provided by Craig Rapp.
- The 2015 Eurasian Watermilfoil (EWM) Harvesting Program has recently commenced. He asked Harper to provide details of the program to date and for all to forward EWM harvesting questions to Harper.

5. APPROVAL OF MINUTES- 6/10/15 LMCD Regular Board Meeting
6/10/15 LMCD Special Board Meeting

MOTION: Shuff moved, Hughes seconded to approve the 6/10/15 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (12), Abstained (1, Thomas); motion carried.

Baasen asked for a motion or recommended changes to the May 13th Special Board Meeting minutes. Green recommended that the word "reserved" in the seventh paragraph under Vision on page three be changed to "preserved."

MOTION: Green moved, Shuff seconded to approve the 5/13/15 LMCD Special Board Meeting minutes as amended, making the changed noted above.

VOTE: Ayes (12); Abstained (1, Thomas); motion carried.

6. APPROVAL OF CONSENT AGENDA

Green moved, Meyer seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved included: **6A**) Audit of vouchers (6/16/15 – 6/30/15); **6B**) May financial summary and balance sheet; and **6C**) **Non-Conforming, Non-Multiple Dock Permit Application Deposit**, staff recommends Board approval of partial reimbursement of application deposit as outlined in 6/18/15 staff memo.

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

There were no public comments.

8. PUBLIC HEARINGS

There were no public hearings.

9. OTHER BUSINESS

A. Hennepin County Sheriff's Office (HCSO), update from Lt. Kent Vnuk on 2015 Lake Minnetonka Activities

Baasen welcomed Vnuk and asked for an overview of 2015 Lake Minnetonka activities to date.

Vnuk provided feedback on a number of activities, which were summarized as follows:

- Although no statistical data will be available until after this month, he provided anecdotal benefits for the additional LMCD deputy funded specifically for Lake Minnetonka in 2015. The past two Sundays, the activity on Lake Minnetonka has been high (primarily due the weather). Two staffed watercraft would typically be assigned to these days; however, this was increased to three due to the additional deputy.
- Recruitment efforts to increase the number of special deputies are on-going. He hoped to increase the number of special deputies to over 35 in the next few years, although he recognized this was a process that would take time.
- No major incidents (drowning or accidents) have occurred on Lake Minnetonka during the 2015 boating season. Seventeen Boating While Intoxicated (BWI) arrests have occurred to date, which is a pretty good number based on some of the cooler weather in 2015.
- Concern has been recently raised by a resident about cigarette boat racing in the West Arm Bay area.

Similar concerns about problems associated with this type of watercraft are cyclical (last in the early 2000's). This appears to have become more of an issue within the past year. Steps have been initiated to address these concerns; in particular four watercraft operators were issued warning citations for violation of noise ordinances this past Sunday. In order to operate on Lake Minnetonka, the watercraft will need to be tested by the Water Patrol within 10 days to ensure compliance with the current noise ordinance.

- This weekend is Operation Drywater. Additional deputies and special deputies are planned for this weekend (as well as one additional weekend in July and two additional weekends in August).
- He entertained questions and comments from the Board.

A summary of topics discussed by the Board, including Vnuk's input, were as follows:

- Enforcement of large wakes- Vnuk commented that larger wakes are being generated; however, they are in compliance with the law for most situations.
- Enforcement of speed limits- Vnuk commented that speeds appear to be down, with the exception of the cigarette boats. He stated that one contributing factor may be carryover from 2014 where minimum wake speeds were required for a good part of the boating season.
- Whether one of the cigarette boats involved in the racing incident was owned by a Water Patrol deputy- Vnuk confirmed that none of the Water Patrol deputies owned a cigarette boat.
- Staffing levels planned for the July 4th holiday- Vnuk stated that six watercraft staffed with two personnel per boat are planned for Lake Minnetonka. Two additional squad cars are planned for the Lake Minnetonka area for support purposes.
- Feedback on the bottleneck area leading into Wayzata Bay (primarily from a public safety standpoint)- Vnuk stated that can be a high density area and problematic at times; however, Lake Minnetonka is a high density lake. He questioned whether much had changed in this area during his tenure with the Water Patrol (as well as Sgt. Rick Walden's tenure). A question was raised as to whether there was a 25 to 30 percent reduction in watercraft density during peak traffic from the 2004 Lake Minnetonka Boat Density Survey.
- Enforcement of watercraft noise (in particular stereos and speakers)- Jabbour commented that he believed this would be a future issue for the Board to address. Vnuk confirmed that this was an issue that could be enforced (both LMCD ordinance and state law). Hughes suggested that Vnuk contact the Spring Park city administrator to discuss noise levels allowed at Lord Fletchers (noting that feedback has been received that some watercraft passing this area have exceed the decibels allowed at this facility).
- Enforcement of excessive spot lighting - Vnuk confirmed that this can be enforced by the Water Patrol.
- Enforcement of public nuisances- Thomas summarized what constitutes a public nuisance based on the current LMCD Code.

Baasen thanked Vnuk for the partnership between the LMCD and Water Patrol.

B. Ordinance Amendment, draft ordinance amending LMCD regulations relating to qualified yacht clubs and qualified sailing schools

Baasen asked LeFevere to provide background on this.

LeFevere provided a detailed overview of the draft ordinance amendment. He recommended making two additional changes. First, adding the words "that is the sole occupant of the licensed Site or occupies the" at the end of the definition for a Qualified Sailing School on page one. Second, adding the words "that is the sole occupant of the licensed site or occupies the Site with a Qualified Sailing School" at the end of the definition for a Qualified Yacht Club on page one. He entertained questions and comments from the Board.

Baasen stated that some of the communities for these yacht clubs have special approvals that further regulate them (in particular density). He asked if there was a provision in the Code amendment that these special approvals would take precedent.

LeFevere stated that if multiple governmental agencies have jurisdiction over these types of activities, the facilities would need to comply with the most restrictive requirements.

Gross recommended rewording paragraph c) under Section 12 on page six so that it reads "sailboats stored at the Qualified Sailing School Site and used exclusively for students at the sailing school that are registered with the LMCD shall be declared student boats and there is no more than one such watercraft for each six registered student sailboats." Additionally, he asked for clarification on whether sailboats between the length of 16 feet and 20 feet would be regulated.

LeFevere stated that these watercraft would still meet the definition of restricted watercraft; however, would not be counted for density at these types of facilities. He discussed situations where facilities may, or may not, want to be considered a Qualified Sailing School or Qualified Yacht Club. One of the unanswered questions for staff, which applies also to marinas, is to identify whether a facility wants to be considered a Qualified Sailing School or Qualified Yacht Club.

Baasen asked for comments from a representative of the yacht clubs or sailing schools.

Mr. Jonathan McDonagh, Rear Commodore for the Wayzata Yacht Club, asked whether an application would need to be submitted to be considered a Qualified Sailing School or Qualified Yacht Club.

LeFevere stated that would depend. He further explained that if a yacht club or sailing school was going forward with status quo (no changes), this most likely would not require an application. However, if changes were being proposed, this would require the submittal of an application.

McDonagh asked how this would work for a yacht club or sailing school that has multiple sites combined. This may apply to both Wayzata and Minnetonka Yacht Clubs (i.e., Wayzata Yacht Club, Site 2).

LeFevere stated that was a good question and there may need to take a further look into this.

McDonagh asked how Section 3 would differ from the current rules. Additionally, would public amenities continue to need to be provided at grandfathered sites.

LeFevere clarified that public amenities currently only need to be provided at conforming sites with a special density license. He provided further clarification for Sections 3 and 4 in the proposed ordinance amendment for Qualified Sailing Schools or Qualified Yacht Clubs.

McDonagh thanked the Board for their hard work on this ordinance amendment.

Baasen asked the public whether they would like to provide testimony to the Board on the proposed ordinance amendment.

Mr. Gordy Straka, 130 South Huntington Avenue in Wayzata, questioned why a dock length of 200 feet should be allowed at these facilities.

LeFevere stated that was a request made by the yacht clubs and is a legislative policy question for the Board to decide on.

Baasen stated that the Board has previously concluded that a 200 foot long dock is reasonable for other facilities, provided it meets a number of requirements (i.e., it does not impede public navigation or impair access to neighboring docks). These requests would need to be reviewed and approved by the LMCD Board.

Straka asked for clarification of what is conforming and non-conforming for yacht clubs and sailing schools.

LeFevere stated that a conforming density would be one watercraft for each 50 feet of continuous shoreline or one watercraft for each 10 feet of continuous shoreline (with a special density license). A non-conforming facility was legally in existence when an ordinance was adopted and the Board decided not to discontinue this.

Straka expressed concern about past activities that have gone on at Wayzata Yacht Club.

Nybeck provided a historical overview of Wayzata Yacht Club's approved licensing. Site 1 is considered a legal, non-conforming facility with a density that exceeds one watercraft for each 10 feet of continuous shoreline. Sites 2 and 3 are considered conforming facilities with approved special density licenses (with public amenities provided).

Baasen stated that Wayzata Yacht Club has a planned unit development (PUD) approved by the City of Wayzata, which regulates parking and density. This PUD may supersede the proposed ordinance amendment in some respects because it may be more restrictive.

Straka questioned whether the sailing school building (when constructed) could be leased out for public events such as a wedding.

McDonagh stated that it could not.

Straka questioned the appropriateness of a 200 foot long dock abutting the public access located between the Wayzata Yacht Club sites.

Baasen concurred that the public access was difficult to locate at times. However, Wayzata Yacht Club has nothing to do with the public access (other than maintaining the necessary side setback requirements).

Straka believed that adoption of the proposed ordinance amendment would be a big mistake and he asked the Board to reconsider this.

Baasen thanked Straka for his comments. He believed that a great deal of time has been invested by the LMCD, the City of Wayzata, and the Wayzata Yacht Club relative to this facility. He recognized that parking continues to be a problem at times; however, this is outside of the LMCD's jurisdiction.

Jabbour commented on why he believed the proposed ordinance amendment should be adopted by the Board. In particular, he believed that this ordinance would bring the standards up to 2015 and beyond for yacht clubs and sailing schools, which he expounded further on. He hoped that Mr. Straka would be more comfortable that the proposed ordinance amendment was a result of many hours of discussions and deliberation.

Gross proposed one additional change to the proposed ordinance amendment. He proposed re-wording Subd. 12 on page six as follows: "Special Rule for Qualified Sailing Schools. Motorized watercraft stored at a Qualified Sailing School Site or the adjacent site of a Qualified Yacht Club are not counted for density purposes under this Section provided."

MOTION: Gross moved, Green seconded to approve first reading of the draft ordinance amendment as amended, subject to the two changes he proposed and the change in definitions proposed by LeFevere for Qualified Sailing Schools and Qualified Yacht Clubs.

Jabbour proposed a friendly amendment to the motion to waive second and third readings. Gross and Green agreed to the friendly amendment.

LeFevere clarified whether the motion, if approved, would waive some of the readings but would need final review prior to adoption of it.

Baasen stated that the final review and adoption of the proposed ordinance amendment would take place at the July 22nd Regular LMCD Board Meeting.

VOTE: Motion carried unanimously.

C. Ordinance Amendment, second reading of a draft ordinance relating to the storage of government watercraft on Lake Minnetonka; amending LMCD Code Section 2.02, Subd. 6.

Baasen stated that the purpose for this draft ordinance amendment was to allow for the storage of governmental watercraft at multiple dock facilities, primarily marinas, with incentives to not be charged for this and to not have the watercraft count against their approved density. He asked LeFevere to provide further background.

LeFevere stated that the words "upon receipt of such information as the Executive Director may require for such approval" have been added to Subd. 6a) since the Board approved first reading of the draft ordinance on June 10th. The intent of this added language would allow for approval by the Executive Director in an expedited manner (based on the location of the proposed boat storage unit and the quality of the approved site plan). This ordinance amendment would not require a full blown application process for most situations.

Jabbour stated that he had allowed the storage of governmental watercraft for years and that he had done it incorrectly at times. He believed that this ordinance amendment would resolve the issues and he encouraged adoption of it because he was grateful to have the governmental watercraft conducting work on Lake Minnetonka.

MOTION: Roy moved, Gross seconded to approve first reading of the draft ordinance amendment as submitted, to waive second and third readings, and to adopt it.

VOTE: Motion carried unanimously.

D. Adopted 2016 LMCD Budget

Baasen asked Nybeck to provide background on this agenda item.

Nybeck stated that the Board adopted the 2016 LMCD Budget at its June 10th meeting, subject to staff preparing a cover letter and holding off on sending it out until June 25th. This condition allowed the Board additional time to present to their respective city council on this topic. This agenda item is more informational and he communicated that staff was prepared to send it to the member cities tomorrow (unless the Board wanted to further amend it).

Gross communicated that the Deephaven City Council recently approved a motion supporting the adopted 2016 LMCD Budget.

Baasen encouraged Board members that had not presented the 2016 LMCD Budget to their respective city council's to consider such. He was scheduled to visit the Wayzata City Council in the near future and he found this is a good opportunity to communicate current LMCD activities.

10. UPDATE FROM STANDING LMCD COMMITTEES

Green stated that the Aquatic Invasive Species (AIS) Task Force did not meet in June. However, he updated the Board on the \$700,000 grant awarded to the Minnehaha Creek Watershed District (MCWD) by Lessard Sams through the Initiative Foundation. The proposal was for a pilot project relating to remote inspections and parking ordinances for public accesses within their jurisdiction. The MCWD has run into some resistance on some of the parking ordinances from various jurisdictions and the Initiative Foundation advisory committee has been meeting with the MCWD to provide them guidance on how to consider revising their proposal. Additionally, he commented on a meeting planned for June 25th with Dr. Sorensen and Dr. McCartney from the University of Minnesota on an AIS risk assessment project being considered, which he expounded on.

Hughes stated that the Public Safety Committee had not recently met.

Klohs stated that the Ordinance Review Committee met just prior to this meeting. The consensus of the committee was to direct LeFevere to prepare a draft ordinance amendment that would allow for municipal docks to extend out to 200 feet from shore (provided a number of conditions are being met). This draft ordinance amendment is planned for further review by the committee in July (with the possibility of bringing it back to the Board in July based on how the committee's review proceeds). He expounded further on the proposed concept of clustering of docks and allowing for longer docks (while preserving some of the shoreline so that it is more aesthetically pleasing and safe).

Baasen stated that he anticipated the Executive Committee meeting sometime in early July. The Save the Lake Committee has not recently met; however, Boater Safety Education courses were coordinated on June 20th and 22nd. He estimated that there were 41 youths and 15 guardians in attendance at these courses, which he expounded on further. Secretary Thomas was in attendance, as were Nybeck and Harper. No further courses are planned for 2015 and he believed that this overall went well.

11. EXECUTIVE DIRECTOR REPORT

Nybeck made the following comments:

- For the three Boater Safety Education courses in 2015, over 60 youths secured their Minnesota Department of Natural Resources Youth Operators Permit. Jay Soule presented at all three courses and his commitment to this was a key to the success of the program.
- Watercraft inspections with the Three Rivers Park District seem to be going well. Inspections commenced on Memorial Day weekend and are planned through Labor Day. He commented on changes made to the inspection program for the 2015 boating season when the LMCD was unable to secure a Right of Entry form for the Cooks Bay public access.
- Oral arguments for the pending Browns Bay Marina (Site 2) litigation took place on June 18th at the Minnesota Court of Appeals. An e-mail from George Hoff was circulated to the LMCD Board summarizing the proceedings. He anticipated a decision on this within 90 days.
- Other recent LMCD projects and events included:
 1. A special AIS Task Force meeting on June 5th (John Barten luncheon with the committee).
 2. John Barten and LeFevere's Retirement parties on June 17th and 18th.

3. The Summer LMCD Newsletter is currently at the printer and should be mailed next week.
4. Fieldwork for the 2015 Proactive Code Enforcement is planned to commence next week.
5. A letter was received from Sareena Katz on June 16th relating to littering on Lake Minnetonka. He asked for feedback from the Board on whether staff should respond back to Ms. Katz based on the current ordinance or whether an agenda item should be scheduled for the July 22nd Regular Board Meeting. The consensus was to schedule an agenda item for the July 22nd Regular Board Meeting.
6. A pamphlet was received in the office from Ed Lethert relating to "ELECTRONIC SHOCK DROWNING." Mr. Lethert has offered to make a presentation to the LMCD and he asked the Board whether it would like to schedule such a presentation. Hughes provided further background on this topic, including training offered by Mr. Lethert and partnerships established with the Water Patrol and the Minnetonka Power Squadron. The consensus was to schedule an agenda item for the July 22nd Regular Board Meeting.

12. OLD BUSINESS

Jabbour commented on four topics. First, the Hennepin County Sheriff's Office had recently agreed to a three-year lease to store a Water Patrol watercraft at Shorewood Yacht Club. Second, a Three River Park District (TRPD) enforcement watercraft was being stored at one of his facilities and he thanked LMCD Administrative Assistant Emily Herman for preparing a letter thanking the TRPD for this. Third, decontamination training by the Minnesota Department of Natural Resources is planned at Tonka Bay Marina on June 25th. Fourth, four dates have tentatively been planned with the Lake Minnetonka Association for litter pick-up at Big Island in 2015.

Baasen asked Jabbour to forward the four dates to him so that the LMCD could assist in the litter pick-up efforts.

13. NEW BUSINESS

Green stated that the success of the Boater Safety Education courses relies heavily on Jay Soule's efforts and he encouraged the Board recognize his efforts. Additionally, he asked that staff better identify through the "Subject" line future Board meeting packets when they are e-mailed out.

14. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:54 p.m.

Dan Baasen Chair

Gregg Thomas, Secretary