

LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS
7:00 P.M., January 10, 2018
Wayzata City Hall

WORK SESSION
6:00 p.m. to 7:00 p.m.

Members present: Chris Rich, Woodland; Jay Green, Mound; Gregg Thomas, Tonka Bay; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Mike Molitor, Minnetrista; Gregg Prest, Excelsior; and Sue Shuff, Minnetonka. Also present: Vickie Schleuning, Executive Director; Matthew Cook, Environmental Administrative Technician; and Troy Gilchrist, LMCD Legal Counsel.

Members absent: Deborah Zorn, Shorewood; the City of Deephaven did not have representation present.

Green welcomed Chris Rich, the new LMCD Board Director representing Woodland.

1. Lake Use Vision & Policy Discussion – Public Accessibility & Utilization (Transient, Overnight, Conversions, etc.)

Schleuning stated that the policies and regulations of the LMCD Board help shape the Lake Minnetonka experience. She stated that one key aspect of the Board's involvement with Lake life is the protection of public access to the Lake. Schleuning explained that the designation of some docks for transient use contributes to the Lake's accessibility.

Schleuning stated that she has heard of the benefits and detriments of transient-use docks. She explained that transient docks provide a place for boaters to access on-shore amenities without relying on a dock or boat slip that the boater owns or rents. Schleuning noted that transient dock misuse can be a source of disruption and nuisance for the immediate area; therefore it is a balance to ensure appropriate locations and use.

Schleuning asked the Board to discuss what the Directors think "public use" means. She referred to Code excerpts to help guide discussion.

Kroll inquired as to what made a site nonconforming, referencing LMCD Code Section 2.11.

Schleuning noted that if a site has complicating circumstances, or in existence before the code, in conflict with the letter of the LMCD Code, or other variances, it may be nonconforming.

Green noted the difficulty in enforcing compliance with the type of use allowed at transient docks. He asked if transient docks could be compared to parking lots.

Gilchrist noted that, unlike private parking lots, the LMCD Board could choose to not allow a commercial dock owner to restrict transient use to customers.

Hoelscher noted that Maynard's currently restricts use of its transient docks to restaurant customers.

Molitor noted that other sites also restrict use of their transient docks to customers.

Hoelscher stated that it appeared to her that the current interpretation of “transient” meant that, in addition to not being eligible for overnight boat storage, transient docks would not be eligible for use only by the dock owner’s customers. She noted that the LMCD ought to educate the public as to what “transient” means to improve clarity of understanding on the issue.

Thomas stated that the Board’s interpretation of “transient” ought to be distinguished from the two definitions that were becoming apparent in the discussion. He stated that the first definition was that transient docks were simply docks (or a portion of a dock) that an owner could not rent out. Thomas explained that the second definition was that transient docks (or a portion of a dock) that an owner could not rent out, but could restrict to customer use only.

Baasen noted that Hennepin County’s multiple dock in Spring Park includes transient docks that are open to non-customers of the Mist and nearby businesses.

Schleuning noted that the Mist has inquired as to whether or not the transient docks could be restricted to customer-only use.

Gilchrist stated that LMCD Code Section 2.03 included a subdivision (15) which seemed to address the question at hand. He recited subdivision 15, which appears to define transient docks or dock portions on commercial sites (as authorized by the Board) as being for non-overnight commercial use only.

Molitor underscored that transient docks, not restricted to customers of a particular storefront, help to ensure open access to Lake Minnetonka.

Gilchrist asked Schleuning if the provision of transient slips allows for some commercial sites to achieve a higher boat density than they could otherwise achieve.

Schleuning stated that providing transient docks does not necessarily allow for a higher density of BSUs. She stated that when considering a site for a special density license, the Board considers the site’s “public amenities” such as transient that may offset the request for increased density.

Rich restated that enforcement regarding appropriate use of transient slips would be difficult.

Schleuning stated that the Code language regarding the ability of license holders to restrict the use of transient docks to their customers helps provide property owners with a tool to address repeated misuse. However, some language may have been added as a license conditions to address a situation that may not be as relevant today.

Baasen asked if the Board thought the current framework for transient dock usage was broken. He noted that he would not want to over-regulate the issue.

Green concurred.

Thomas asked how the restriction of transient usage on commercial sites was meant to apply to municipal sites.

Schleuning noted that some of the municipal sites have complex histories with property ownership, use, litigation, etc.

Gilchrist noted that if the misuse of transient docks was not a widespread issue, the Board could continue to address site-specific concerns through the licensing process as new applications are brought forward by adding site-specific conditions to the license terms.

Kroll noted that in the case of the Hennepin County site in Spring Park, the transient usage of transient docks can be interpreted and enforced without a change to the LMCD Code.

The Work Session adjourned at 7:00 p.m.

FORMAL BOARD AGENDA

7:00 p.m. to Adjournment

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Jay Green, Mound; Gregg Thomas, Tonka Bay; Ann Hoelscher, Victoria; Dan Baasen, Wayzata; Bill Cook, Greenwood; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Mike Molitor, Minnetrista; Gregg Prest, Excelsior; Chris Rich, Woodland; Sue Shuff, Minnetonka; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and, Matthew Cook, Environmental Administrative Technician.

Members absent: The City of Deephaven did not have a representative present.

4. APPROVAL OF AGENDA

MOTION: Hughes moved, Prest seconded to approve the agenda.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

- Administer Oath of Office to Chris Rich – New LMCD Board Member (City of Woodland)

Gilchrist administered the Oath of Office to new LMCD Board member Chris Rich.

Rich introduced himself and stated he is from the City of Woodland and has served on the City Council for four years.

6. APPROVAL OF MINUTES- 12/13/17 LMCD Regular Board Meeting

Molitor referred to item 12(A), at the bottom of page 13, and requested the minutes be changed to reflect he will be available for meetings on either February 7 or 14.

MOTION: Shuff moved, Cook seconded to approve the 12/13/17 LMCD Regular Board Meeting minutes as amended.

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

7. APPROVAL OF CONSENT AGENDA

Thomas referred to the audit of vouchers and inquired about refunds for several dock licenses.

Schleuning stated they received a couple of concerns about underpayments and reviewed all of them to make sure they were correct, resulting in these refunds. If certain properties had changes in the last couple of years, they may have had a different amount pulled out of the database.

MOTION: Thomas moved, Zorn seconded to approve the consent agenda as submitted. Items so approved included: **7A)** Audit of Vouchers (12/16/17 – 12/31/17 and 01/01/18 – 01/15/18); **7B)** December Financial Summary and Balance Sheet; and, **7C)** Resolution Accepting Save the Lake Contributions (12/01/17 – 12/31/17); and, **7D)** Acceptance of LMCD 2017 Lake Harvesting Report.

VOTE: Motion carried unanimously.

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

There were no public comments.

9. PUBLIC HEARING

None.

10. OTHER BUSINESS

Hughes noted that Rockvam Boat Yards in Spring Park was honored for their operation in the category of small marina in *Marina Dock Age* magazine and this is the first marina in the State of Minnesota that has been selected for this honor.

11. UPDATE FROM STANDING LMCD COMMITTEES

Aquatic Invasive Species Committee/Taskforce: Green reported he attended the DNR Roundtable and the theme was focused on the importance of public lands and public water. He attended a session with the fishing groups and discussed trying to engage lake associations and other organized groups in how to maintain public access and work towards AIS prevention. He was encouraged that this group was willing to

step up and address this topic head on. They support keeping access to the lake available to the general public and finding ways to manage AIS.

He also reported he was contacted by Dr. McCartney at the Aquatic Invasive Species Research Center, who is working on a proposal with the United States Geological Survey (USGS). He is looking to do a project in 2018 or 2019 to expand upon the EarthTec veligers study on Lake Minnetonka. Green stated he scheduled an AIS meeting for next week and invited other AIS groups, lake associations, and the Sheriff, and will have Dr. McCartney come and talk about the project. The meeting will take place next Friday at 8:30 a.m. at the LMCD office.

Klohs inquired if the fishing groups are willing to compromise lake quality to maintain access.

Green stated they do not want to sacrifice lake quality, which is mostly being affected by the removal of habitat, not from AIS. The vast majority of people are not against inspections, but the issue is where the inspections are being conducted.

Budget Workgroup: Green noted this group has not met recently and the treasurer position is vacant.

Recodification Workgroup: Gilchrist reported he still expects to complete his portion of work this month. After that, they will begin staff review by Schleuning. He is in the process of going line by line of the existing code to make sure everything is in there.

Save the Lake Committee: Baasen noted they met yesterday, and will meet again in March. They reviewed the status and success of Save the Lake fund drive. They expanded the distribution list substantially and exceeded \$31,000 for 2018 taking into account the contributions received after the first of the year. It was successful year and there will be money to pay bills and fund issues. They plan to send a letter in the spring and fall again, and use media, the website, and mailings to make sure they stay in touch with donors. They are still unsure the impact of the new tax bill regarding donations, but feel people will continue to give because they believe in Lake Minnetonka. There will be another boater safety class on March 17 and it will be publicized through a letter, the website, and other media. It will be at the same facility, but in a better room, and they will decide if they need to hold an additional class. They have also discussed using the 50th anniversary of the LMCD as a way to bring more awareness to what they accomplish and lake protection. They would do this through a brochure they could distribute at local festivals. They also need direction from the Board on whether or not to solicit grant requests.

Shuff requested clarification from legal counsel on what Save the Lake members can do regarding solicitations for the LMCD, and if they can directly solicit new businesses in the area.

Gilchrist responded the law is not entirely clear. They can accept and request donations, but they cannot spend significant amounts of funds to raise funds. They must make it clear that it is a general request, it is not expected, and is not tied to any regulatory approval.

Strategic Plan Subcommittee: Zorn thanked Schleuning for pulling together the fourth quarter summary. They will need to discuss updating the strategic plan for 2018 and this would be good to include in a future work session.

Nominating Committee: Baasen reported they will meet tomorrow morning to interview current officers and

other Board members interested in serving. They have more people that want to serve as officers than they have positions, and this represents a sign of health and strength as an organization. They hope to have a slate of officers at the first meeting in February and entertain nominations from the floor.

12. EXECUTIVE DIRECTOR UPDATE

Schleuning reported they have two public hearings scheduled for the meeting on January 24. One is for 500 NNL and the other is for the City of Mound. Green requested that she consider the agenda and make arrangements for which public hearing may involve more public comment.

Schleuning reported they have been processing the licenses and have had good response. They have been updating procedures internally and have appreciated everyone's cooperation. In regards to the IT/IS project, the new computer hardware has not yet been installed, but they are working with a consultant to install the server and get the systems running. They will also look at doing a budget amendment or similar to make this clear on the budget replacement fund since the project has carried over to 2018. They are getting ready for the audit in February and there will be some typical end of year adjusts for revenue and expense. They anticipate being able to review the final 2017 budget numbers in February.

Green noted they will need to begin working on the budget for 2019 and presenting it to member cities, starting earlier than March.

13. OLD BUSINESS

A) Adopt 2018 Public Meeting Calendar

Green inquired when the February meeting will take place.

Schleuning noted both days are available, but they need to make sure there is a quorum.

After taking a poll, the Board agreed to have the LMCD Board meeting on February 7, 2018.

MOTION: Baasen moved, Shuff seconded to change the LMCD Board meeting date from February 14, 2018 to February 7, 2018, with a location change to the Mound City Council Chambers.

Green noted this meeting will not include a work session.

VOTE: Motion carried unanimously

Green inquired if there were any other comments on the 2018 LMCD Board meeting calendar.

MOTION: Shuff moved, Cook seconded to adopt the 2018 LMCD Board meeting calendar.

VOTE: Motion carried unanimously

14. NEW BUSINESS

A) Strategic Plan Dashboard Review 4th Quarter

Schleuning referred the fourth quarter Strategic Plan Dashboard beginning on page 45 of the meeting packet. She reported they have made some progress and inquired if the Board had any questions. She noted there were a couple of areas they will have to move up in their timeline to meet what was scheduled.

Hughes inquired if 50 percent completion on strategic capitalization with Save the Lake was accurate. He felt it should be higher such as 75 percent with all the new activities implemented the past year.

Baasen responded it should be 75 percent.

MOTION: Hughes moved, Shuff seconded to change item f, Strategy to Capitalize on Save the Lake 2017, from 50 percent to 75 percent completion.

VOTE: Motion carried unanimously

B) LMCD Board of Directors Guide

Schleuning reported an initiative of the 2017-2018 Strategic Plan was to complete a Board member handbook. A draft is included in the meeting packet, and Prest has a full version with appendices. She requested the Board let her know if there was anything critical that should be included, anything that would be nice to have included, or if something was already included that does not need to be. She stated things that change more frequently are included in the appendices, they could include some items on the website in the future, and Gilchrist has reviewed the legal items.

Kroll stated it looks fantastic, it is easy to read, and has a nice layout. He referred to page 26 of the document, item No. 2 under Conflict of Interest Law, and suggested it begin with "Do not participate..." instead of "Not participating..."

Baasen thanked the staff for putting this together. He directed the Board to page 8 of the document, and encouraged Board members to carefully read the section under Board Member Role regarding encouraging funding.

Thomas agreed with the positive comments that were made. He referred to the section under Public Gift Law on page 24 of the document, and inquired if they should include whether Board members should accept a meal or drinks, since it is more common.

Gilchrist stated public officials struggle with this a lot. Under the law, the safe approach is to pay for their own meals. It is different if they were asked to speak at a conference and a meal was part of the event or if a family member wanted to buy the meal. The term "interested person" is defined so broadly that it is hard to clearly delineate what is allowed.

Rich shared an example that was used when he was at an orientation for the City Council. They stated if a Council Member goes to a neighbor's house and is offered a cookie, they should not accept it. They should always err on the side of caution.

Gilchrist stated it is difficult to explain and would direct the Board to the League's materials on this topic. He is personally okay with accepting a cookie or cup of coffee at a neighbor's house, but not much more than that.

Zorn referred to page 8 of the document, and suggested the 14-member cities be identified. She also suggested the inclusion of a map of Lake Minnetonka with its bays, City jurisdiction delineations over the water, and public access points, and that a list of current Board members also be included in the handbook.

Hughes and Kroll agreed the map from the County that shows each City's delineation over the water would be very helpful.

Schleuning stated the water patrol likes to use the LMCD code for citing versus the State law because they do not have to know what City a person is in and whose attorney to use.

Klohs referred to the resources on page 31 of the document and suggested they list the electric shock drowning materials as well.

MOTION: Thomas moved, Baasen seconded to adopt the LMCD Board of Directors' Guide with the modifications discussed.

Baasen offered a friendly amendment to include the phrase "subject to amendments by the Board as needed" as part of the motion. It will provide the ability to amend the document to make it better on an ongoing basis.

Green inquired why the Board would need to approve changes, unless they were significant. It is something the Executive Director could do to keep it current.

Baasen agreed that the Board would not need to vote on changes, but should be made aware of any.

Thomas stated his motion was intended to include that it was a living document and will be maintained up to date.

Gilchrist agreed there is a lot of tweaking that happens and recommends giving the Executive Director the authority to make modifications.

Hoelscher stated the document is wonderful, and suggested the oath of office be included in it.

VOTE: Motion carried unanimously.

As a separate item, Green stated he would like to schedule a closed session as part of the next meeting in January to discuss personnel.

Gilchrist explained it would be placed on the agenda, they would close the regular meeting, and enter the closed session.

Hoelscher inquired about a document from Schleuning that can help them review staff.

Zorn stated it was a document a former consultant had left with them to review the Executive Director. She clarified that it had not been finalized by the Board, but is a place to start the discussion.

Hoelscher requested it be sent out to Board members and Zorn agreed to send it out before the meeting packet.

15. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:57 p.m.

James Jay Green, Chair

Ann Hoelscher, Secretary