

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., October 10, 2018
Wayzata City Hall

1. CALL TO ORDER

Chair 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; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Sue Shuff, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and, Matt Cook, Environmental Administrative Technician.

Members absent: Bill Cook, Greenwood; Mike Molitor, Minnetrista; Andrew Punch, Excelsior; and Chris Rich, Woodland.

4. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. APPROVAL OF MINUTES- 09/26/2018 LMCD Regular Board Meeting

Thomas noted on page seven, the second paragraph, it should state, "...the variance would ~~clarify~~ clarify his sight lines." On page eight, the fourth paragraph, it should state, "She asked if there are currently dock sections in this area or whether the ~~posts~~ boats tie to the ~~tie~~ posts."

MOTION: Thomas moved, Hughes seconded to approve the 09/26/2018 LMCD Regular Board Meeting minutes as amended.

VOTE: Motion carried; Shuff abstained.

7. APPROVAL OF CONSENT AGENDA

Thomas referenced the administrative profit and loss, specifically the amount of municipal dues received year to date. He asked if there is a schedule in which the municipalities pay the dues or whether funds are not being paid.

Green explained that the funds are paid on a quarterly schedule.

It was noted that Item 7A was amended and provided to the Board in the packet tonight.

MOTION: Thomas moved, Zorn seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (10/01/2018 – 10/15/2018); **7B)** September Financial Summary and Balance Sheet; and, **7C)** Resolution Accepting Save the Lake Contributions (08/22/2018 – 10/04/2018).

VOTE: Motion carried unanimously.

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

Gabriel Jabbour, 220 Tonka Bay Road, stated that for the past 30 years he has helped the LMCD in their harvesting program by launching machines, fixing machines, and retrieving machines. He addressed the Board noting his concerns regarding the harvesting program including safety issues, and suggested the program be discontinued.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

A) Hennepin County Sheriff's Office Water Patrol Annual Update

Lt. Kent Vnuk, Hennepin County Sheriff's Office, provided a review of the LMCD summer deputy program, which was a tremendous success. The time period was from Memorial Day through July 22nd, when the LMCD funds ran out. He stated that they were able to gain additional funds and operate that deputy through September. He noted that the statistics he would provide tonight were only related to the time through July 22nd when the LMCD funds ran out. He reviewed the number of citations, written and verbal warnings, and arrests that were made during that time. He stated that the numbers this year decreased from the two previous years, likely from the reduced hours due to the funding decrease. He stated that having the dedicated LMCD deputy has been a great help, not only with enforcement, but also in response to medical calls.

Lt. Vnuk stated that there was a significant problem with underage drinking in the previous years and that has plummeted because of the enforcement. He stated that over the summer, they searched for six boaters and all were found. He stated that the LMCD deputy has been very valuable as there has been a decrease in underage drinking, BWI arrests, and Fourth of July incidents. He stated that the presence of that deputy has been tremendous and the assistance with medical incidents was beneficial. He recapped the Fourth of July, noting that 42 Sheriff's Office members were on hand, with additional help from other entities for a total of 67 personnel working. He stated that for the third year in a row, paramedics were placed on patrol boats proactively. Fortunately, the medical incidents were lower this year.

Lt. Vnuk also provided a summary of the incidents and citations. He noted that this year there were zero BWI's compared to 18 the previous year on the Fourth of July. He stated that everyone was utilizing sober drivers. While the number of traffic stops increased this year, less citations were issued. He stated that the extra enforcement and education has had a positive impact in decreasing incidents. He stated that the Sheriff's Office appreciates the funding that the LMCD has provided in the past few years and hopes that the program can continue as it has been successful.

Hughes asked for input on the electronic signs.

Lt. Vnuk replied that the signs were purchased through a partnership with Hennepin County Lake Improvement and Environmental Services. He reviewed some of the messages that are displayed on the signs in order to educate boaters about quality of life, safety and other important items. He stated that messages are updated on a weekly basis and will soon be switched to winter ice safety messages.

Kroll asked for input on the noise ordinance enforcement. He stated that in his area there have been many issues with wakeboarding and when calls are made the department is very polite and responsible, but unfortunately in most instances the offenders are done and gone before a patrol can reach the area. He asked if signs could be used to deter that behavior.

Lt. Vnuk agreed that the electronic message signs could be used to create messages about noise and keeping the music down. He stated that he could look into placing signs on the bridges. Most of the bridges are owned by Hennepin County, noting that he could follow up with the Hennepin County Engineering Department. He stated that noise enforcement is challenging due to the equipment needed to measure the sound and the amount of time needed to enforce it such as one hour.

Kroll stated that because of the efforts of Mr. Jabbour, there is a noise ordinance in place which allows enforcement for music at a level which is a nuisance to those on land.

Green thanked the Sheriff's Office for the work that they do and expressed appreciation. He asked what the LMCD could do aside from funding.

Lt. Vnuk replied that he has been working with LMCD staff on ordinances. He stated that discussion will continue over the winter in attempt to tighten the language on the ordinances to provide better enforcement. He stated that the funds are the biggest contribution that the LMCD can make to fund that dedicated deputy position. He stated that a number of years ago a side scan sonar was purchased, which was a great tool to generally locate a victim. The LMCD since donated an ROV, which better allows the department to locate victims. He stated that the department is in the process of obtaining a second ROV and secondary side scan sonar through the use of grant funds. He stated that the partnership projects which allow the purchase of equipment, like electronic message signs, have been a great help to the department.

Schleuning thanked the HCSO Water Patrol for their assistance in incident response and in the development of educational materials, and prevention activities.

11. OLD BUSINESS

There was no old business.

12. NEW BUSINESS

A) New De-Icing License, City of Excelsior, 399 Lake Street

Matt Cook presented an application for a new de-icing license for the City of Excelsior. He stated that this would be a new license that would accommodate over-winter storage of two currently registered charter boats that have been displaced from their former locations. He advised that the proposed de-icing area is contained within an existing licensed multiple dock facility. He displayed the proposed site plan, identifying the de-icing area, signage and fencing. He reviewed the proposed site conditions which include five de-icing units, four lights, an ice barrier (silt curtain) encompassing boats, ten thin-ice signs (required every 50 feet), a de-icing area of approximately 113 feet by 138 feet, and an on/off switch on land. He reviewed the licensing requirements. He stated that a courtesy notice was sent to the DNR, MCWD and municipality and no negative comments were received. He stated that public notice was also provided in the official newspaper two consecutive weeks. He highlighted relevant code sections for the Board to consider. He stated that pending information received during the public hearing, staff would recommend approval of the de-icing license, subject to the following conditions:

- Ice barrier enclosing watercraft – authorized agent stated will enclose boats
- Ice thickness monitoring – closure/limitation/relocation of public access as needed
- Additional sign may be required

Green stated that there are a lot of events on the ice during the winter that use that access. He asked how close the access is to the de-icing area.

Matt Cook provided additional information about the distance and identified the fence location on the proposed site plan, comparing that to the access location.

Green commented that while he does not believe cars would utilize this access, people may get closer to the fence.

Matt Cook stated that perhaps the applicant can provide a better answer on the type and amount of traffic that uses this access.

Thomas asked if this is the first de-icing request for this location.

Matt Cook confirmed that this is the first request that he is aware of.

Walesch asked and received confirmation that five aerators would be used to keep the ice open. He asked for additional information on the size of the aerator and whether there is a schematic to where those would point.

Matt Cook stated that the applicant can speak to that. He noted that there is a chance that these would be radial rather than directional and fewer aerators may be needed.

Green stated that is a reason for the curtain to keep the open water contained.

Dave Lawrence, owner of charter boats, stated that the aerators would be directed towards the boats themselves. He stated that a curtain would surround the boats. He stated that they have received input from others that have successfully used this method. He stated that there would be about 50 feet between the curtain and access. He stated that the fence placement can be brought in or out as desired, noting that he drew that in on the map. He stated that he put five bubblers in with the hopes of using two at a time and noted that they would be on a timer.

City Manager Kristi Luger, City of Excelsior, stated that the fat tire bicycle event leaves from the beach area. She stated that since this is a public access point, they discourage events from using this access. She stated they took this into account when making this request.

Richie Anderson, owner of North Shore Marina, stated that he has been doing de-icing since 1976 and recently in the last six years they have incorporated a yellow floating curtain. He stated that he has spoken with the applicant to provide input on his process. He stated that there will not be migration with the use of the curtain. He stated that he will be working with the applicant to help set this up. He provided input on the lessons that have been learned throughout his years and noted that he is willing to help the applicant set this up the first year. He stated that he has not run into any issues since he has incorporated the yellow curtain fence.

MOTION: Kroll moved, Zorn seconded to approve the City of Excelsior de-icing license as presented and authorize the Executive Director to grant the license once all the conditions are met.

VOTE: Motion carried unanimously.

Schleuning thanked staff and leadership from the City of Excelsior for pulling together this application so quickly in order to assist the charter boats. She stated the charter boats are an amenity for the Lake and there are a lot of logistics involved in their operations.

B) Enlargement of Licensed De-Icing Facility, Cory Martilla, 21750 Byron Circle

Matt Cook presented an application for a renewal and enlargement request for a licensed de-icing facility submitted by Cory Martilla. He explained that this request would include the enlargement of a licensed de-icing facility (renewal), noting that the de-icing area would be expanded to accommodate an expanded permanent dock that was constructed in 2018. He reviewed the proposed site plan identifying the different elements that would be required. He reviewed the proposed site conditions, which would include up to five de-icing units, three lights, nine thin-ice signs, a de-icing area of approximately 100 feet by 124 feet, and an on/off switch on the dock. He reviewed the license requirements and stated that a courtesy notice was sent to the applicable agencies and no comments were received. He stated that two concern were received from the public relating to open water encroachment, noise levels of equipment, light levels and glare, and the use of the property. He stated that the use of the property was regarding rental of the home on the property and noted that the applicant has advised LMCD staff that they do not plan to continue moving forward with the rental. He highlighted the relevant code sections for the Board to consider. He stated that staff recommends approval of the license subject to the following conditions:

- Install ice barrier (silt curtain)
- Provide lighting specifications for approval by staff
- Ensure sound levels in compliance with regulations
- Noted – the applicant has a local agent for monitoring and emergencies.

Walesch asked when the picture provided was taken. He stated that he would be uncomfortable with an owner that is not present having a de-icing facility.

Matt Cook noted that he was unsure of the date of the photograph. He stated that when he inspected the site on January 17th, there was no de-icing occurring. He confirmed that this is a private residential operation.

Zorn asked if installation of a silt fence would help to provide solid ice for the adjacent ice to walk on the ice on their property.

Matt Cook confirmed that is believed to be true.

Zorn asked if there has been a history of compliance for this property owner.

Matt Cook stated that the applicant first received their de-icing license the previous year and confirmed that the email received for this request is the first communication or concern expressed by neighbors or members of the public.

John Smith, representing the applicant, stated that he had people on the ice building the dock on April 17, 2018. He stated that this home has security cameras that follow you as you walk through the yard and are monitored by the homeowner. He stated that this is a smart house and the equipment can be turned on and off from his home in Texas and noted that he is the local contact.

Green asked for the location of the silt curtain.

Schleuning replied that the curtain is recommended to be installed all around the deicing area.

Green asked why the de-icing is occurring as he did not believe the ice moves that much in this bay.

Smith replied that the ice does move in this bay and explained that the previous dock had been damaged. He confirmed that this is a permanent dock.

Green stated that if the de-icing line is tight to the dock with the silt curtain that that should prevent issues for the neighbors.

Matt Cook stated that an email was provided to the Board from Director Cook that suggested additional language for a condition that states that the license may be reviewed/terminated at the determination of the LMCD Board or for issues of non-compliance or hardships of adjacent property owners caused by this action.

Shuff stated that she would like to hear from the neighbors.

Walesch stated that there does not seem like a plan to manage this.

Smith replied that he has been hired to develop that plan.

Walesch stated that this seems a lot different than the well planned out commercial license that was just considered.

Schleuning stated that the comments were received recently and staff contacted the property owner today, who has agreed to do whatever is necessary to keep this operation safe and contained. She noted that the local agent is also available to monitor the site in person along with the smart technology.

Smith confirmed that the same floating silt curtain would be used as suggested by LMCD staff.

Hoelscher asked if Smith is committed to checking the site periodically to ensure that this is well maintained.

Smith confirmed that he would be doing that monitoring at least once every few weeks.

Thomas stated that the neighbors were obviously not happy with the situation when the picture was taken. He suggested that the additional language suggested by Director Cook be included and stated that if any additional issues arise, the neighbors would most likely alert the LMCD.

Hughes stated that he would like to see a plan in writing regarding monitoring that will be conducted.

Thomas noted that could be added as a condition.

Walesch stated that he would not be voting in favor of this request but suggested that the number of aerators be limited as he believed that five aerators would be absurd. He stated that two to three aerators should be sufficient, and the direction should also be noted.

Smith stated that each aerator has directional indicators. He stated that the manufacturer recommended five, but they planned to use three with two as backup.

Green confirmed the consensus of the Board to direct staff to incorporate the comments made tonight and bring back further documentation before this request moves forward.

Zorn asked staff to explore the language around the frequency of monitoring during certain times of the year, noting that certain times are more critical and suggested weekly monitoring.

Shuff stated that she would like something to address the concerns of the neighbors.

Zorn asked if there is a part of the license that the neighbors be empowered to perhaps share the contact person, should an issue arise.

Schleuning stated that when the owner was made aware of the light issue from a neighbor, he was able to immediately address the concern.

13. TREASURER REPORT

No comments.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Solar lights are being removed for the season. She thanked the partners (Al and Almas, Paradis Cruises, ABC of Lake Minnetonka, etc.) the LMCD works with to help make this program possible.
- Hennepin County stated the buoys will begin to be removed around October 15th.
- Staff is working on several applications for updates and reconfigurations of facilities. These projects will result in significant improvements to safety and ecology.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Committee/Taskforce: Green reported that the next meeting is scheduled for Friday, October 19th at 8:30 a.m. He stated that after the call from Jabbour, he is following up on several harvesting concerns. He stated that there are a number of topics that need to be discussed. He stated that he is leaning towards a recommendation for a moratorium on harvesting for 2019 with a number of concerns to be addressed. He stated that his main issues would be regarding safety protocols and training, development of an action plan, and why and where harvesting occurs. He stated that in the interim for 2019, his recommendation would be to put out an RFP for private contractors to harvest in spots if necessary. He encouraged all members of the Board to attend the meeting on October 19th to discuss the topic in further detail. He noted that he receives reports that the harvesters were not cleaned up at the end of the season and that is a concern because of the cost and upkeep of the equipment. He stated that it looks poorly on the LMCD that those things are not being done correctly.

Kroll stated that if there is going to be a one or two-year moratorium on the harvesting, it would be good to have scientific data. He agreed that a more in-depth discussion is needed on the topic.

Hoelscher agreed with the comments of Green but noted that she will not be able to attend the meeting on October 19th. She stated that she requested that the Board hold a workshop to discuss harvesting prior to recommendations being made. She believed that the decision should be thoughtful and not simply reactionary. She agreed that the overall purpose of the program, as well as safety, are the main concerns.

Green stated that at the AIS meeting he would like to have all the data and documentation provided.

Hoelscher asked that the Board hold a workshop prior to the next Board meeting to discuss the topic, following the AIS meeting.

Schleuning stated that the LMCD operates on a minimal budget and it is therefore difficult to run programs at certain levels depending on expectations.

Green commented that may also be a reason not to move forward with the program if it cannot be done at an adequate level. He confirmed that Jabbour is invited to attend the AIS meeting on the 19th.

Kroll suggested that the Board workshop be held on November 14th rather than prior to the next meeting.

Another meeting date that was suggested was October 24th.

Walesch stated that the 19th is within MEA weekend and therefore anyone with young kids may be out of town. He stated that he could review the notes from the meeting as he will be out of town.

Green stated that members of the Board can provide their comments to be discussed prior to the meeting on the 19th if they are unable to attend.

Budget Workgroup: No comments.

Recodification Workgroup: Gilchrist reported that October 15th is soon approaching for the homework deadline. He thanked the members of the Board that have returned their sections of the code to review and asked the remaining members to return their comments. He stated that once all comments are received he would incorporate the comments for a new draft.

Save the Lake Committee: Baasen stated that the Committee has not met since the last update. He expressed his thanks to the trainer Jay Soule for the boater education classes, that is also present in the audience, for his efforts in making the lake a safer place. He stated that the second half of the year appeal will be sent out to the mailing list by the end of the month.

Shuff stated that there was a booth at the Minnetonka open house and once again the floating keychains were wildly popular as was the rock with the zebra mussels as an educational tool. She stated that if anyone has a larger rock with zebra mussels that would be helpful for display purposes. Schleuning responded to comments and stated the rock was shellacked.

Strategic Plan Subcommittee: No comments.

16. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:42 p.m.

James Jay Green, Chair

Ann Hoelscher, Secretary