

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., February 13, 2019
Wayzata City Hall

WORK SESSION

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

Members present: Gregg Thomas, Tonka Bay; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Ben Brandt, Mound; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Mike Molitor, Minnetrista; Andrew Punch, Excelsior; Sue Shuff, Minnetonka; Deborah Zorn, Shorewood; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; and Vickie Schleuning, Executive Director.

Members absent: Dan Baasen, Wayzata; and Chris Rich, Woodland;.

Persons in Audience: Adam McLain, Aaron Bean, Richie Anderson, Eric Evanson, and Kate Hoelscher.

1. Request for Proposal (RFP) Vegetation and AIS Master Plan Feedback.

Cook provided an overview of the feedback regarding the RFP.

Klohs asked if he could incorporate all comments received into the RFP document.

Cook stated that it might not be possible to incorporate all comments specifically, however all comments would be addressed. Many of the concerns were about what an item should be referred to such as RFQ or RFP.

Kroll stated he thought the meeting was helpful.

Klohs thought that the comments might be helpful for the vendors so they are aware of the nuances of the project.

Thomas stated there will be an officers' meeting next Wednesday, February 20, 2019 at 8:30 am where this item will be discussed further. All board members are welcome.

Cook stated that he plans to update the document and have it available prior to the next meeting for the board to review.

2. Board Self-Evaluation Review.

Schleuning stated overall the results indicated positive responses from the board members for many aspects of the organization regarding culture, organization, operations, policy, etc. Based on some responses, there are areas that it may be beneficial for the board to discuss in further depth in the future. It was agreed that there are a couple of questions that may not apply as well to this board compared to a private board.

For example, Gilchrist mentioned that the whistleblower/conflict of interest question is not as applicable to

this board as it is for corporate boards. These items are governed by state law for this board. Criminal penalties would apply to violations.

Schleuning mentioned that some of the applicable state laws, such as conflict of interest is summarized in the Board Directors guidebook.

Molitor asked if there was any significance to the way the open-ended questions were listed in the report.

Schleuning stated they were shown in the order of the responses by each board member. For example, number 1 included all the answers that each board member wrote in number 1, number 2 included all the answers provided as their second answer. She stated that Zorn and she could summarize or put some type of rating system to provide more context to the open-ended answers.

Zorn arrived 6:35 p.m.

Shuff asked if there was a way to better inform who was on a committee.

Schleuning stated a handout is provided in the folders that indicates members of the committees and work groups.

Thomas noted that while board members all had a chance to review the questions, after taking the survey some items came to light. He thought it was an overall good process and asked the board if it should be continued next year.

Walesch arrived 6:40 p.m.

Board members indicated the self-evaluation should be completed again next year.

In other business, Thomas mentioned that Lt. Vnuk was transferred out of Water Patrol.

Klohs mentioned this was a surprised since the new Hennepin County Sheriff has stated he wasn't planning any changes in leadership at Water Patrol.

Board members agreed about the benefit to public safety under Lt. Vnuk 's leadership the past five years.

Hughes made a motion to adjourn, Punch seconded, and motion carried unanimously to adjourn the meeting at 6:50 p.m.

REGULAR SESSION

7:00 p.m.

1. CALL TO ORDER

Acting Chair Thomas called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Ben Brandt, Mound; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Mike Molitor, Minnetrista; Andrew Punch, Excelsior; 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: Dan Baasen, Wayzata; and Chris Rich, Woodland.

4. APPROVAL OF AGENDA

MOTION: Hughes moved, Cook seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Gilchrist administered the Oath of Office to the following Commission members.

- A) Oath of Office to Jake Walesch (City of Deephaven)
- B) Oath of Office to Dennis Klohs (City of Village of Minnetonka Beach)
- C) Oath of Office to Mark Kroll (City of Orono)
- D) Oath of Office to Gary Hughes (City of Spring Park)
- ~~E) Oath of Office to Chris Rich (City of Woodland)~~
- F) Oath of Office to Gregg Thomas (City of Tonka Bay)

6. APPROVAL OF MINUTES- 01/23/2019 LMCD Regular Board Meeting

MOTION: Shuff moved, Hughes seconded to approve the 01/23/2019 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (8), Abstained (4 - Kroll, Molitor, Zorn, Thomas). Motion carried.

7. APPROVAL OF CONSENT AGENDA

MOTION: Cook moved, Molitor seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (02/01/2019 – 02/15/2019); **7B)** December Financial Summary and

Balance Sheet.

VOTE: Motion carried unanimously.

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

Adam McClain, Fuelbote, stated that the impression that he has gotten in the past for not providing additional direction to the Fuelbote has been because of the issue that could be opened regarding other sales on the lake (pizza, ice cream, etc.). He stated that he has hired an attorney that has been working with Gilchrist to determine if an amendment could be made that would only allow for this service activity and not open up the lake for all sales activities. He asked if the Board would be willing to bring the topic back to a future worksession for further discussion.

Kroll noted that this would be a very rough draft ordinance amendment.

McClain agreed that this would be a very rough draft, and this was simply an example of an amendment that could be made specific to this application.

Thomas noted that the Board has heard from McClain and his partner multiple times and he has talked to staff. He noted that if the Board were willing, Gilchrist could draft an ordinance amendment that would allow fuel sales on the lake that would not open up the door for all retail sales. He asked the appetite of the Board on further discussing the topic.

Klohs stated that he would like to discuss the topic at a workshop and believed that the topic should be sales in general, noting that the outcome of the meeting could be to allow only fuel in the end.

Zorn stated that she would be open to further discussion and agreed that it should be a broad discussion on all services.

Kroll stated that he would agree to opening this up to a smaller chunk and focus on simply fuel right now, rather than trying to solve the entire sales issue in one discussion. He stated that focusing on the topic of fuel would be more manageable and would allow the Board to provide clear direction. He noted that it could take years to determine consensus on philosophical sales on the lake.

Hughes stated that his concern would be regarding the State Fire Codes.

Thomas stated that if the Board decided to allow fuel sales on the lake, then Gilchrist would tell the Board the requirements that would need to be met. He stated that the Fuelbote people are aware of the requirements, but legal staff will direct the Board as to which elements will need to be incorporated into the ordinance.

Walesch agreed that the discussion should occur at the worksession.

Cook stated that he would also like to discuss this topic at a worksession, with a focused presentation by staff

and legal counsel before the Board begins discussion.

Molitor stated that when ordinance changes are considered at a City level, the applicant then pays for the legal costs to complete the proposal. He asked if it would be feasible then to ask the potential applicant to pay for the legal costs in drafting ordinance amendments.

Gilchrist stated that if a zoning amendment is initiated by the resident, that cost is then often charged to the applicant. He stated that the Board Code is not drafted in the same manner and therefore that would not be an option for this case. He agreed that could be a good option to draft language for in the future.

Molitor stated that perhaps the fee discussion be brought forward again as well to prevent additional legal charges from being incurred.

Thomas noted that the fee issue has taken a backseat because of recent issues that have arisen.

Molitor stated that he would like to have the fee discussion at a worksession prior to the Fuelbote conversation, as the fee discussion could impact the Fuelbote discussion.

Klohs stated that there is already a big agenda for staff and this topic should not take up additional time.

Thomas stated that the proponent has done a great job of explaining what they would like to do and bringing forward a strong proposal. He believed that it would make sense to give that proponent a more solid answer.

Hoelscher agreed that this is something that needs to be discussed. She stated that perhaps the Board should figure out the highest priority items and when they can be scheduled. She stated that while she supports the topic, she is flexible on the timing.

Kroll asked how late an answer could be provided that would allow the business to operate in 2019.

McClain stated that he would need an answer in one month in order to start at the beginning of the season. He stated that he would be willing to start in July, if that is the timing. He stated that he simply would like an answer and would be agreeable to paying the legal costs for Gilchrist to draft the amendment that would not open the door to outside sales.

Kroll stated that the Board owes these people a yes or no answer and there does not have to be a strict policy of doing nothing on new proposals.

Gilchrist stated that it appears that McClain is willing to reimburse legal fees for his request and would recommend considering the Fuelbote issue separate of an overall sales discussion. He noted that decision may inform a bigger discussion but did not believe that a bigger discussion on sales could occur during a portion of one worksession.

Thomas confirmed the consensus of the Board to bring the Fuelbote topic forward to the second worksession

in February for discussion.

McClain asked if there is anything else that he could do in preparation for that worksession meeting.

Thomas stated that he is not aware of any additional information that the proponent could provide for the discussion.

Aaron Bean, Bean's Greenwood Marina, asked if anyone has looked into any other lakes that have allowed this activity. He stated that he emailed staff and provided a contact that is on Lake Geneva in Wisconsin that paints a very different picture than what has been painted thus far. He urged the Board to reach out to people that have fuel boats on their lake.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

A) Nominations and Election of 2019 LMCD Board Officers

Thomas noted that the Nominating Committee has been very active and has a slate of candidates to present.

Zorn stated that the Nominating Committee was formed in December and went through self-nominations and conducted interviews with the four candidates that self-nominated. She stated that Officers were interviewed to determine their interest in possible positions and additional discussion occurred to determine which Officer would be best suited for specific positions. She reported that the Nominating Committee recommends Gregg Thomas for the position of Chair, Dan Baasen for the position of Vice-Chair, Bill Cook for the position of Treasurer, and Ann Hoelscher for the position of Secretary.

Walesch stated that during the interview process, he believed that the slate of Officers proposed had great ideas and a lot of energy, therefore he felt that these were the appropriate candidates for the positions.

Zorn stated that nominations could also be taken from the floor or a vote could be taken.

Thomas thanked the Committee for their slate of Officers. He asked if there are any other nominations for any of the positions.

There were none.

Thomas called for a vote on the slate of candidates recommended by the Nominating Committee.

VOTE: Motion carried unanimously.

Thomas stated that he is honored to accept the position of Chair and plans to fully engage the other Officers as they are a great group of people with a lot of energy. He stated that he is going to setup a standing Officer meeting in attempt to ensure that things keep moving forward. He noted that any interested members of the Board would be welcome to attend the Officers meeting. He stated that Cook had the idea that the next Chair contact each of the Board members to gain input on how they believe the Board is operating and the skillset that each member possesses. He stated that he will have those phone discussions within the next few weeks. He stated that he will be asking if there is an interest in serving on any of the Committees as well.

11. OLD BUSINESS

A) Vegetation and AIS Master Plan Update

Cook stated that last week the AIS Task Force met to discuss the RFP at length. He noted that a meeting was also held with potential proposers to provide additional feedback. He stated that the Officers Committee will be meeting one week from today to review a summary of the comments with the intent of bringing a final draft RFP to the Board at the next meeting for review.

Shuff stated that there were not any City representatives at the meeting.

Thomas replied that this was a meeting of the AIS Task Force and there are not members of the cities that are not on the LMCD as a part of that group. He noted that the information has been publicized and shared with the cities and he has shared that information with his city, as should the others on the Board.

Shuff stated that she has talked with representatives from multiple cities and noted that she will simply ask those individuals to submit written comments to staff. She stated that the RFP is beautifully written but there are questions with the funding, and this supplants the harvesting process.

Walesch stated that he is sure that everyone has been in contact with their city about the harvesting program, noting that he has been in contact with Deephaven. He stated that he has heard that cities are asking for a plan of what is going to happen on harvesting for 2019. He was unsure that everyone was clear that there would be a gap, as the budget approved by the cities included money for harvesting and it was communicated that service would be provided. He stated that he does not have strong feelings on whether the harvesting occurs this year but feels that it is important to communicate the plan. He stated that there would be an option to partner with another public agency or partner with a private company to harvest the highly impacted areas as needed. He stated that Deephaven is concerned with someone harvesting, whether it is the LMCD or another group, to harvest around the public docks or beach. He noted that there are probably areas of high interest in other cities as well. He stated that he would like to determine if there are public agencies that the LMCD could partner with to possibly harvest in high priority areas while this work occurs.

MOTION: Walesch moved, Zorn seconded that the Executive Director and LMCD staff determine the following prior to the March 31, 2019: 1) options to harvest impacted areas; 2) determine the estimated cost to hire private companies or to partner with other public agencies for these impacted areas in 2019; 3) the impacted areas are areas that are high volume navigation routes

or critical for public safety.

Further discussion: Kroll asked what would stop Deephaven from getting a private contractor to do that harvesting work in 2019. He stated that there is nothing that would preclude that activity.

Walesch stated that if that is what is decided, that is what Deephaven would do. He stated that when he presented the budget to Deephaven that included funds for harvesting and was represented as something the LMCD was going to do. He stated that the question would be whether there are funds in the budget to clear the critical areas or whether the cities would need to contract for that service themselves.

Shuff commented that is one point that City Council members have made to her, both that the budget included harvesting and that if the funds are diverted that is a huge amount of the discretionary funds for something that is not a direct service to constituents.

Walesch stated that he has had several discussions with all the Council members in Deephaven and their interest is solely to know what the plan is, not that the LMCD would be violating a core function by not harvesting.

Klohs stated that the budget will need to be amended.

Cook agreed that the member cities deserve clarity. He stated that the budget has line items for harvesting and if the LMCD is not going to harvest, that budget will need to be amended and an explanation will be given as to how those funds will be used. He stated that the LMCD is not going to discontinue harvesting and keep the money, the harvesting has been suspended and a budget amendment will be completed showing what will be done with that money.

Klohs stated that the RFP would not be approved without the budget amendment.

Cook stated that the intention is not to spend the harvesting funds on the RFP process. The Board and staff will need to determine how the RFP process will be funded before that is published.

Klohs stated that if the amendment to the budget is not approved by the Board, that would not move forward.

Gilchrist stated that a member city does not have a direct role in modifying the budget. He stated that there is a process to modify the budget prior to July 1st and reviewed that process. He stated that the LMCD does have an obligation to provide notification that the budget has been amended but each city does not vote on this directly. He agreed that a city could direct their representative to vote against the motion when it comes forward.

Molitor asked staff if the language is available to review from the motion that was passed in December, as he believed that harvesting would be suspended until the decision is made.

Gilchrist confirmed that there was a list of items that would be accomplished prior to the decision being made

on harvesting. He noted that there is not a set date included in the motion but a list of things that must be accomplished. He stated that until the list is completed, the harvesting program is suspended. He stated that the Board does have the opportunity to change its mind.

Thomas clarified that the motion would simply provide options and costs for the Board to discuss.

Shuff stated that she would be voting against this as there is not an option for the LMCD to conduct its own harvesting.

Kroll stated that he would be opposed to the motion because there is not clarity on the high impact areas. He stated that perhaps Deephaven could just call staff to determine what the options are.

Walesch stated that originally Shuff's option was included but that was not seen as feasible this year and therefore was removed. He stated that if no one else feels that their city is looking for a determination on whether harvesting would occur in their city limits, the motion does not have to be passed. He stated that he is simply attempting to provide an answer within a timeline for these cities on what they should expect.

Cook stated that the LMCD has perhaps not been clear enough with the member cities, asking them to read between the lines to determine what the Board meant when the harvesting program was suspended. He agreed that the cities should have comfort that once this is figured out there would be a budget amendment. He stated that he would be interested in having a communication with the cities that gives them the information to move forward. He stated that the motion could be interpreted that two spots in channels will be harvested to keep navigation going or could be construed as a backdoor way of opening the program as it would be hard to define an impacted or critical area at this time. He stated that he would be in favor of communicating with the cities but would be worried about the language to potentially harvest in critical areas if the need arises. He believed that there could be options on retainer and if an emergency presents itself, an emergency is declared and fixed. He stated that he did not want to turn this into a harvesting by contractor operators rather than directly.

Thomas stated that his interpretation was that this would identify options but would not say the LMCD is going to pursue those options.

Walesch stated that he would recommend that each Board member speak with their member city to determine if there are high priority areas, that could then be assessed. It would be made clear that this would not be the same map that was harvested the previous year.

Molitor stated that he agrees that there should be communication to the cities. He stated that a timeline should also be provided, as cities need to know the decision of the LMCD by a set timeline as that would allow cities to contract for their own harvesting if they desire. He was concerned that this motion would conflict with the previous motion that was adopted in December. He agreed that there should be communication and a set timeline identified that would allow cities to harvest on their own should they choose.

VOTE: Ayes (5 – Zorn, Cook, Punch, Walesch, Thomas), Nays (6 – Shuff, Kroll, Klohs, Hughes, Hoelscher,

Brandt) Abstain (1 – Molitor). Motion failed.

Hoelscher stated that she thinks that those things identified in the motion should be accomplished and a backup plan is necessary and should be part of this process.

B) Board Self-Evaluation Update

Thomas stated that the worksession included a discussion on the Board self-evaluation. He stated that everyone had an opportunity to provide input on the questions prior to the survey, but after reviewing the results it was determined that a few edits could be made to the questions. He stated that the comment was made that it would be helpful if comments could be made in addition to a yes or no answer. He stated that the Board was unanimous that a self-evaluation should continue to be done each year.

Hoelscher stated that an Executive Director evaluation was also completed, and the results have been compiled and will be reviewed at an upcoming worksession meeting.

12. NEW BUSINESS

There was no new business.

13. TREASURER REPORT

Cook reported that the audit will be completed next week. He stated that the budget information within the Consent Agenda shows the income about \$40,000 over the expenses and therefore a small transfer into the reserve accounts will be made. He stated that income was higher in court fines and dock license fees and other expenses including legal, printing and professional services were under budget.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Committee and Workgroup assignments were included in the packet and Board members should alert staff if they would like to change assignments.
- Deicing inspections have begun, and staff will be in contact with parties that have not met the requirements.
- A dewatering operation is occurring for the bridge repair on County Road 44 in Minnetrista. Therefore, there will not be access through that channel between Priest and Halsted Bays this winter.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Nominating Committee: No report.

Recodification Workgroup: Gilchrist reported that he was able to provide an updated version of the Code to review and suggested that the workgroup be reactivated to discuss how best to obtain comments from the public at large and stakeholders. He stated that although this is substantively restructured, this will not change dock permits or boat units. He explained that this attempts to put the many years of Code amendments into a more readable format.

Save the Lake Committee: No report.

Strategic Plan Subcommittee: Zorn confirmed that 20 minutes of the next worksession will be set aside for the Strategic Plan review. She stated that she will work with staff to have that information included in the next Board packet.

Schleuning asked and received clarification that the Subcommittee should meet prior to the next worksession.

16. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:30 p.m.

Gregg Thomas, Chair

Ann Hoelscher, Secretary