

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

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

WORK SESSION

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

Members Present:

Rich Anderson, Orono; Dan Baasen, Wayzata; Ben Brandt, Mound; Bill Cook, Greenwood; Ann Hoelscher, Victoria; Gary Hughes, Spring Park; Mike Molitor, Minnetrista; Gregg Thomas, Tonka Bay; and, Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director, and Matthew Cook, Environmental Administrative Technician;

Members Absent:

Dennis Klohs, Minnetonka Beach; Nicole Stone, Minnetonka; Deborah Zorn, Shorewood; City of Excelsior Representative (Seat Vacant); and City of Woodland (Seat Vacant).

Persons in Audience:

Shane Magnuson, HCSO Water Patrol; Rob Schatzle, Caribbean Marina; Dave Hemink, Caribbean Marina; Ben Mitlyng, variance applicant; Denny Newell; Eric Evenson, LMA; and Matt Johnson.

1. Deicing Operations Overview

Schleuning presented information regarding the licensing process and requirements for licensed deicing facilities for the Board to review. She explained that staff would like to receive Board feedback on standards and policies pertaining to deicing licensing.

Schleuning said that the purpose of regulating and licensing deicing facilities was to minimize hazards to humans and animals by providing standards for property owners to follow as they protect their investments from ice damage via deicing.

Schleuning briefly reviewed the basic process of annual license renewal and license application review criteria. She noted that licensees are required to maintain liability insurance and install safety equipment – fencing, signage, lighting, etc. – around the deicing operation.

M. Cook reviewed photographs from inspections of licensed deicing facilities, comparing the status of safety equipment on sites that were not operational, sites that met requirements fully, sites that had minor issues, and sites that needed immediate attention.

Schleuning stated that staff would like to identify areas where the Board is comfortable with current Code requirements and policies and areas where the Board would like to develop a Code amendment or alter policies. She highlighted the following items:

- The current standards for monitoring require someone to be constantly present on site
- The current standards for violation review require sites with any violations to be reviewed by the

Board for renewal. Staff would like to explore if graduated enforcement standards could be developed.

- Currently, licensed deicing sites are inspected a minimum of one (unscheduled) time per season. Staff would like to explore whether deicing activity warrants additional minimum inspection rates per season.

Thomas suggested that between one and three Board members get together as a workgroup to review the deicing standards. He noted that while requiring someone to be constantly physically present at a deicing site seems excessive, remote video monitoring is increasingly common and could be adequately effective.

Anderson stated that floating silt curtains deployed around licensed deicing facilities are very effective at containing the area of open water and weak ice. He added that the signs most licensees purchase are not actually reflectorized. Anderson said that he was excited to work with LMCD staff and the Board to review deicing regulations.

Molitor noted that many other pressing items have been listed as “future items” on the LMCD Board meeting agendas for some time. He said that the Board should prioritize those items before spending time on them.

Anderson and B. Cook volunteered to review deicing regulations.

Hughes requested to ride along on a deicing inspection.

2. Winter Rules Feedback

Schleuning stated that the Winter Rules are in the process of being updated to include information regarding safety information for ice house installation and use, when temporary structure permits are required, address nuisances, and more. The public has also requested some additional information be provided in the handout.

Hoelscher suggested adding more information regarding deicing.

Walesch suggested adding more information about pressure ridges and the risk they pose to persons driving snowmobiles and other vehicles on the ice.

Referring to the “future items” entry title “permanent docks” on the agenda, Walesch asked what discussion of that item would center around.

Schleuning stated that staff would review the types of permanent dock applications the LMCD receives, how the LMCD currently processes those applications, and how certain outcomes driven by potential trends could affect the lake.

REGULAR MEETING

7:00 p.m.

1. CALL TO ORDER

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; Rich Anderson, Orono; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Mike Molitor, Minnetrista; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleunig, Executive Director; and, Matt Cook, Environmental Administrative Technician.

Members absent: Dennis Klohs, Minnetonka Beach; Chris Rich, Woodland; Nicole Stone, Minnetonka; and, Deborah Zorn, Shorewood

4. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

A. Oath of Office to Rich Anderson (City of Orono)

Gilchrist administered the Oath of Office to Rich Anderson.

Anderson provided background information on himself and his experience on the lake, noting that he has been a marina owner since 1976 and currently owns two marinas. He stated that he has volunteered to go with Matt Cook to inspect de-icing sites as he is very passionate about that topic.

B. Executive Director Performance Appraisal

Chair Thomas stated that there was a late start last year and the attempt would be to finish that on time this year. He stated that Board members will receive an electronic form to complete and Hoelscher will compile the results which will be shared with the Board in a closed session. He asked all members of the Board to take a few minutes to complete the evaluation.

C. Board Self-Evaluation

Chair Thomas commented that the first Board self-evaluation was completed the previous year and that process will occur again this year.

D. Other

Molitor stated that his term expires at the end of January and he will not be seeking reappointment. He stated that Minnetrista has begun the process to find a replacement and hopes to have a new member appointed by the end of January.

Chair Thomas thanked Molitor for his contributions to the Board.

6. APPROVAL OF MINUTES- 10/23/2019 LMCD Regular Board Meeting

MOTION: Walesch moved, Thomas seconded to approve the 10/23/2019 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (6), Abstained (3), (Baasen, Cook, and Anderson). Motion carried.

7. APPROVAL OF CONSENT AGENDA

Chair Thomas noted an error in the agreement with Mark Hodges that specified the LMCD meets once per month when the group actually meets twice per month.

Gilchrist noted that staff will make that correction.

Walesch removed Item 7D "Caribbean Marina and Restaurant (Tonka Bay Holdings, LLC), new multiple dock license for a reconfiguration of a nonconforming multiple dock facility; located on Lower Lake South; 135 Lakeview Avenue, 100 and 110 Sunrise Avenue, Tonka Bay from the consent agenda.

MOTION: Cook moved, Baasen, seconded to approve the consent agenda as amended. Motion carried unanimously. Items so approved included: **7A)** Audit of Vouchers (11/01/2019 – 11/15/2019); **7B)** October Financial Summary and Balance Sheet; **7C)** Resolution Accepting Save the Lake Contributions (09/25/2019 – 10/31/2019); **7D)** ~~Caribbean Marina and Restaurant (Tonka Bay Holdings, LLC), new multiple dock license for a reconfiguration of a nonconforming multiple dock facility; located on Lower Lake South; 135 Lakeview Avenue, 100 and 110 Sunrise Avenue, Tonka Bay;~~ **7E)** Variance for adjusted dock use area (length and side setbacks) for 870 Windjammer Lane, Orono; **7F)** LMCD Board Meetings Contracts Agreements: City of Wayzata, agreements for use of Community Room and Video Production Studio; Lake Minnetonka Communications Commission, agreement for Video on Demand; Mark Hodges, Producer Agreement; and Timesaver Off Site Secretarial, Inc., meeting minutes.

VOTE: Motion carried unanimously.

Chair Thomas noted that Item 7D will be considered under Old Business.

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

Rich Anderson addressed the Board as a member of the public. He stated that he had an issue with the clarification on why an EAW was not needed for the Caribbean Marina. He noted that he chose to seek additional input from a lawyer on the topic as it was stated that an EAW was not required because this was not an expansion. He referenced prior projects that were completed that required an EAW that did not expand. He stated that the input from the lawyer stated that an EAW would be needed for an expansion or construction. He stated that at the first meeting on this topic, Zorn asked who would be in charge of checking into the environmental impacts from pulling the poles. He noted that Matt Cook replied that staff would check with the DNR. He stated that when an EAW is completed, which he believes should have been done, multiple agencies are provided the ability to review and comment. He stated that about six other marinas have had to complete an EAW. He noted that there are dates specified when poles cannot be driven. He referenced the Site Plan provided for the Caribbean Marina noting that is not the same plan discussed at the October 23rd meeting. He stated that the Board has not seen a full-scale surveyor map of the site. He believed that an EAW should be completed. He stated that the LMCD did not provide other agencies a chance to speak to this plan.

Dave Hemink 4834 Timber Ridge Circle in Minnetonka, and Rob Schatzle, 4688 West Arm Road in Spring Park, spoke in representation of the ownership group for the Caribbean Marina and Restaurant. Dave stated that it is a bit confusing as to why the item was pulled from the Consent Agenda. He stated that it was clear that there were no issues with the non-requirement for an EAW. He stated that there is a reason marinas are considered static businesses. He stated that it is concerning that nothing has been materially presented that would warrant this item being pulled. He stated that they have spent a lot of time on this matter and have met all the requirements. He appreciated that Zorn raised a concern, but nothing was substantiated and asked that the Board move this along. He stated that he would also like to have a discussion about a conflict of interest with Anderson and would request that Anderson recuse himself from the discussion.

Chair Thomas clarified that any member of the Board can request an item to be pulled from the Consent Agenda for additional discussion.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

A) Hennepin County Sheriff's Office Update

Lieutenant Magnuson stated that the LMCD provides funding for Water Patrol and therefore he is present tonight to provide an update on what the LMCD received in return for that contribution. He stated that the Water Patrol spends the majority of its time on Lake Minnetonka and reviewed the number of Water Patrol and volunteers that provide assistance on the lake. He provided a summary of the number and type of stops and citations issued this year. He stated that the highest issues citation remains to be PFDs. He advised that four boats remain on the lake during the year with about 500 hours on each boat. He stated that the verbal warnings issued were much higher this year while the number of citations remained consistent. He reported that there were no deaths on the lake this

year and there was only one large incident involving fire. He stated that ice water training began today for the Deputies. He provided statistics on the Deputy that was funded by the LMCD, noting that person spent 627 hours on the lake. He thanked the Board, marinas and charter boats that help Hennepin County keep the lake safe.

Hughes stated that in the past his five-year-old grandson received a coupon for ice cream for wearing his life jacket.

Magnuson confirmed that was continued this year and is funded by the State, similar to coupons given to children riding their bikes with helmets.

Anderson stated that this spring the Water Patrol gathered the marina owners to discuss private/public relationships that could be developed and believed that was a good opportunity. He reviewed some of the benefits that arose from those relationships/partnership. He expressed appreciation to the members of the Hennepin County and Water Patrol team.

Schleuning asked for additional information regarding Special Deputies and the educational impacts.

Magnuson explained that the Special Deputies are volunteers from the community that receive training and then receive additional onsite training with the Water Patrol. He stated that there is some authority to write citations and ordinance violations. He noted that a tremendous amount of help is received from these volunteers. He provided additional explanation on the different elements of assistance that is provided which allows the Deputies to get back on the water where they can be most effective. He noted that the majority of the dive team is currently composed of volunteers.

Chair Thomas thanked Magnuson and his team for the tremendous amount of help that is provided on the lake.

Magnuson commented that the goal is to have everyone safe on the lake.

11. OLD BUSINESS

- A)** Caribbean Marina and Restaurant (Tonka Bay Holdings, LLC), new multiple dock license for a reconfiguration of a nonconforming multiple dock facility; located on Lower Lake South; 135 Lakeview Avenue, 100 and 110 Sunrise Avenue, Tonka Bay

Gilchrist advised that Anderson not vote on this matter.

Baasen referenced the receipt of the information received from a lawyer and asked if that would alter the opinion of legal counsel.

Gilchrist stated that does not change his opinion.

Chair Thomas noted that the comment was made that the Site Plan included tonight is not the same Site Plan reviewed at the last meeting.

Matt Cook stated that the memorandum references the Site Plan dated October 21st and that does not have any changes other than the labeling shown in the November 8th Site Plan. He noted that the labels regarding docks on

the northern most area were corrected as 104 had previously been located in the navigation channel. He stated that he is not aware of any structural differences.

Dave Hemink, applicant, confirmed that the correction to the labeling is the only change that was made.

Walesch thanked the applicant for bearing with the Board throughout this process. He thanked Anderson for taking his time to provide input, noting that he does this because he cares. He stated that in speaking with staff there is a coherent policy as to when a requirement for an EAW is applied. He noted that perhaps the EAW policy should be discussed in the future at a worksession setting. He stated that he does not feel it would be fair to the applicant to be subjected to a retroactive policy change. He stated that he trusts that this follows the policy and the necessary information has been provided.

Anderson asked if the Board voted on attachment one at the previous meeting.

Schleunig advised that is not the plan that was voted on. Another plan was provided at the meeting and voted upon similar to the one in tonight's packet.

Anderson noted that would explain why he saw inconsistencies.

MOTION: B. Cook moved, Baasen seconded to approve the Caribbean Marina and Restaurant (Tonka Bay Holdings, LLC) new multiple dock license for a reconfiguration of a nonconforming multiple dock facility; located on Lower Lake South, 135 Lakeview Avenue, 100 and 110 Sunrise Avenue, Tonka Bay.

VOTE: Ayes (8), Abstained (1), (Anderson). Motion carried.

B) Communications Initiative and Activities Update

Schleunig stated that much of the communication brochures and handouts have been updated along with ongoing updates to the website. She summarized some of the updates that have taken place and are currently occurring.

Hoelscher stated that part of this will be to develop a process to respond to items. She noted that a draft plan was included that can be updated as the needs and issues change. She noted that this will be a tool used to guide the organization related to communications. She welcomed additional suggestions for fact sheets. She noted that there are also mockups for business cards that could be distributed to people and direct them back to the website. She asked that the Board begin using the website. She stated that the more the Board uses the website, the more input that can be given to the updating process to make the site more user friendly. She encouraged the Board speak with their cities, share the materials, and meet with local officials to further establish those relationships.

Molitor stated that in reviewing the draft plan, one of the major reasons for this project was in response to legislation that passed earlier this year and noted that he does not see much about that legislative process. He encouraged the Board to keep that focal point in mind as this continues to move forward.

Chair Thomas thanked Hoelscher for her efforts on this matter.

Walesch asked about the process for finalizing the information sheet.

Hoelscher stated that they have been reviewing the information with the consultants, noting that the document has gone through several drafts. She noted that any additional input can be provided to staff and shared with the consultant. She noted that multiple fact sheets could be completed as well.

Walesch stated that a lot of the information is good, and most items are specific. He commented that perhaps additional specifics could be added to some of the items.

C) Lake Minnetonka Vegetation and AIS Master Plan Update

Schleuning stated that EOR has been recording all the comments for the harvesting program evaluation and starry stonewort plan. She provided an update on the upcoming timeline and meetings to review those comments. She noted that she will distribute copies to the Board once completed.

Anderson stated that he has involved in some of the letters that have been sent. He stated that he is blown away as to why there cannot be some cohesiveness. He stated that there does not seem to be any mention of chemical treatment compared to harvesting. He stated that it does not seem like there is much progress being made with partnering with the agencies the LMCD would need to partner with. He stated that chemical treatment was done in his bay and it worked very well.

Chair Thomas stated that now that Anderson is on the Board, he looks forward to having additional input on the topic. He stated that he is not passionate about harvesting or chemical treatment but is passionate about making the lake the best it can be.

Baasen noted that he met with a number of people one year ago in Shorewood and they asked the LMCD to determine how this could be done better. He stated that a master plan was developed to provide additional guidance and input on harvesting. He stated that he would ask that the stakeholders and other groups allow the LMCD to develop the master plan which will provide further guidance.

Anderson stated that he simply commented on harvesting because that is the only element that he is knowledgeable about. He stated that in his opinion the LMCD is spending a lot of money to obtain this input but when reviewing the letters received from those partners it does not appear it is going in the right direction.

Walesch stated that the organization did go out and ask for comments and that is what was received, which is part of the process. He believed that the comments were well thought out and will help the process. He confirmed that the moratorium was enacted to allow this study, the delineation was completed, and findings were provided. He stated that he did not find the report very helpful. He stated that sometimes a document needs to be produced in order to gather input and advised that the LMCD is serious about the comments received and about addressing those comments. He recognized that there has been some frustration with the process but noted that the collaboration can begin more in depth. He stated that once the report is completed the Board can have a more in-depth policy discussion on how to move forward with harvesting.

Cook believed that after the meeting on Thursday the harvesting report could be finalized within a month or so and the policy discussion will follow and will be a public discussion.

Hoelscher stated that the word “we” is being used a lot. She stated that this plan is the expert’s draft plan that the Board has done nothing with. She stated that they are still in the feedback and drafting the plan stage.

12. NEW BUSINESS

A) 2020 Employee Wage Adjustments

Chair Thomas stated that he spoke with Schleuning and this is an opportunity to provide an annual base adjustment for the three employees that work for Schleuning of 2.75 percent for 2020, effective January 1st. He stated that was based on a review of the cities served which ranged from 2.5 to 3 percent.

MOTION: Hughes moved, Cook seconded to approve the annual base wage adjustments for employees in 2020 at a rate of 2.75 percent.

VOTE: Motion carried unanimously.

13. TREASURER REPORT

Cook had nothing further to report.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning had nothing further to report.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No additional report.

Budget Workgroup: No report.

Save the Lake Committee: Baasen reported that the group was supposed to meet yesterday but lacked a quorum. He noted that they are in the process of drafting the fall solicitation letter with the intent of sending the letter prior to Thanksgiving. He confirmed that donations made to Save the Lake can be earmarked for certain activities such as Water Patrol.

Strategic Plan Subcommittee: No report.

16. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:16 p.m.

Gregg Thomas, Chair

Ann Hoelscher, Secretary