

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., August 12, 2020
Wayzata City Hall

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

WORK SESSION

6:00 p.m.

Members Present:

Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matthew Cook, Environmental Administrative Technician.

Members Absent:

None

Person(s) in Audience:

Eric Evenson.

1. Public Input Regarding Proposed De-Icing Code Amendment

Gilchrist stated that there was a good meeting with the workgroup to ensure that the proper language was used to achieve what the group wanted to achieve. He highlighted some of the changes that were made.

Schleuning stated that Greenwood, Minnetonka Beach, and the Minnehaha Creek Watershed District supported the changes. She did not anticipate that additional comments would be received.

Kroll stated that Excelsior supports the ordinance and the proposed changes.

Anderson stated that the workgroup spoke about the signs and fencing near the shoreline. He stated that if the fencing continues to be required, there would not be as many people deicing early compared to those that would deice earlier if the fencing and signs were not required. He stated that perhaps maybe the shoreline fencing is not required after March 15th. He also provided input on the ten-foot fencing requirement.

Cook stated that he agrees with the comments from Anderson. He stated that they are attempting to limit the open water to as close as the property line as possible. He stated that if someone has a zero setback from the property line to the dock, they should be entitled to have a fencing area ten feet from their dock. He stated that the workgroup reviewed examples of deicing that were within five feet of the fence line and there was sound ice at the fence line.

Baasen commented on the effectiveness of curtains and asked when a deicer would be required to use a curtain.

Chair Thomas commented that he understood that it would be required when the dock is within or on the extended side sightline.

Gilchrist confirmed that is one circumstance when the curtain would be required. He stated that the group also talked about the idea of requiring a baffle if the open water area is not being contained.

Chair Thomas asked and received confirmation that there are two instances when the curtain would be required, although it could be used in other instances if desired.

Cook commented that the curtain would be used if there cannot be sound ice at the fence line.

Chair Thomas stated that the language states that the curtain would be required if your dock is within the extended side site line, but the workgroup is stating that would not be the case.

Gilchrist confirmed that as written it would be a requirement, but he can amend the language to state that the curtain would only be required if there is not sound ice.

Baasen asked how this would be enforced.

Gilchrist stated that he believes that this is enforceable.

Schleuning commented that she believes the language is clear and enforceable. She stated that there are some instances where people have been deicing and have not had problems and could be an option to continue as they have been.

Gilchrist stated that they could look at that. He noted that he would have some concerns with grandfathering in but believed the requirement for sound ice would help differentiate between those that were doing it well and those that were not.

Anderson asked if an exception could be given, for those that have neighbors that would not object to the fence being ten feet into their property, similar to the exceptions that are given for docks.

Schleuning commented that maybe language could be added where it would be covered under previously approved site plans.

Gilchrist commented that neighbor consent is a part of the Code and that could be looked into as an option.

Baasen stated that a number of permit holders have been approved in the past. He asked if it would be advisable to include a clause that deicing is a privilege and not a right and existing permit holders are

subject to review if they do not comply.

Schleuning stated that there is a section of the Code that addresses multiple violations. She noted that revocation of the license could be an option, but most people are willing to work with staff before that point is reached.

Chair Thomas asked if there is a public safety reason for private property owners to install the fence or whether it is meant to be an obstacle for people applying for deicing permits.

Anderson reviewed the deicing requirements for marinas.

Schleuning commented that it is an issue of public safety. She commented that there continues to be a lot of winter activity.

Cook stated that the workgroup had no intention in making that a barrier to deicing but was instead interested in lakeshore safety. He explained that if someone has a fence up, it is an indicator that deicing has occurred in that area.

Gilchrist stated that the current language in the Code requires the entire deicing area to be fenced between March 1st and March 15th. He reviewed the proposed changed language.

Kirkwood asked if sketches or graphics have been provided in the past to make it clear to people as to what is required.

Schleuning stated that most of the people staff work with already have site plans and operations in effect. She stated that there was discussion to creating a handout with best management practices as the next step.

Gilchrist stated that he will make changes based on the discussion tonight and provide those proposed changes to the workgroup with the intent to present the revised ordinance to the full Board at the next meeting.

2. Topic Highlights – Board of Directors’ Guide

Schleuning stated that she felt it would be helpful to review this information from the Directors Guide for new and existing Board members. She reviewed sections of the Directors Guide with the Board with a PowerPoint summarizing: format of the organization; important administrative controls in place to meet legal requirements; mission, vision, and values; staff role; regular meeting items; special, emergency, and executive/closed meetings; open meeting law and data practices requirements. She emphasized the importance of meeting these laws. She stated conflict of interest will be reviewed by Attorney Gilchrist at an upcoming meeting.

3. ADJOURNMENT

There being no further business, the work session was adjourned at 7:02 p.m.

FORMAL MEETING

7:00 p.m.

1. CALL TO ORDER

Chair Thomas called the meeting to order at 7:02 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matthew Cook, Environmental Administrative Technician.

Members absent: Ben Brandt, Mound.

Persons in Audience:

Daniel Lips, Jeff Mickelson, Andrew Punch, James Ronning, Gabriel Jabbour, and Eric Evenson.

4. APPROVAL OF AGENDA

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

A roll call vote was performed:

Anderson	aye
Baasen	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. APPROVAL OF MINUTES- 07/22/2020 LMCD Regular Board Meetings

MOTION: Cook moved, Kroll seconded to approve the 07/22/2020 LMCD Regular Board Meetings minutes as submitted.

A roll call vote was performed:

Anderson	aye
Baasen	abstain
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	abstain
Zorn	abstain

Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Cook moved, Walesch seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (08/01/2020 – 08/15/2020); **7B)** Resolution Accepting Save the Lake Contributions (07/02/2020 – 07/31/2020); and **7C)** June Financial Summary.

A roll call vote was performed:

Anderson	aye
Baasen	aye
Cook	aye
Hoelscher	aye
Hughes	aye

Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

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

James Ronning, 740 Tonkawood Road, stated that he would like to address the LMCD regulation to have a spotter in the boat for skiing. He stated that he and a friend often go out early to slalom ski on the bay. He stated that they are aware of all others on the lake and plan their course appropriately or delay skiing to ensure everyone's enjoyment. He stated that they have a wide-angle mirror that allows the driver to safely drive the boat and observe the skier's location. He stated that the observer is unnecessary and an unhappy participant at these early hours. He stated that Minnesota does not require this additional observer and White Bear Lake allows the mirror option during certain times of day and year. He commented that there are relatively few lakes that have laws that differentiate from Minnesota law related to observers in the boat. He stated that while he agrees that there are times when the observer requirement is necessary on Lake Minnetonka, there are times that would not be necessary. He asked that the LMCD allow a wide-angle mirror in lieu of an observer at certain times of the year and times of the day.

Anderson stated that he agrees with the concern identified by the resident. He stated that it would make sense to allow the mirror in lieu of the observer prior to 10 a.m. He suggested that the Board discuss this topic in worksession.

Gabriel Jabbour stated that he is happy to report that the University of Minnesota has exceeded its fundraising target and is anxious to begin the study. He stated that he disagrees with the summary of the law by the Executive Director and believed that should have been done by the legal counsel. He stated that the LMCD contributes to the League of Minnesota Cities and should be clear on what is a conflict of interest. He stated that he would like the Board to define a personal attack, as he frequently finds himself obligated to standup in front of the Board and correct something that he believes is incorrect. He stated that often people that express opinions in this section of the agenda are very frustrated and that comes across in their communication. He commented that 99 percent of his emails to the Board do not receive a response and therefore he often feels it necessary to bring the issue forward at the Board meeting.

Chair Thomas stated that he is delighted to hear that the University of Minnesota has obtained funding for the impact of wakes. He stated that residents are free to make comments or suggestions to the Board as a whole, he would simply ask that the public not make personal attacks on individual Board members.

Mr. Jabbour stated that he does not feel that it is appropriate to direct comments to the entire Board when certain comments are directed towards specific Board members and their actions/comments.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

Anderson thanked Kirkwood and Baasen for their contributions to Save the Lake.

Chair Thomas commented that most members of the Board make contributions to Save the Lake at different times of the year and thanked everyone for their contributions.

11. OLD BUSINESS

A) Vegetation Management for Black, Seton, and Emerald Lakes

Schleuning reported that a memorandum was included in the Board packet and noted that there have been concerns expressed about safety and navigation in these areas due to vegetation. She stated that there are funds available in the budget for this purpose and estimated a cost of \$3,000 to \$5,000 for this vegetation removal. She stated the board had previously reviewed this last year and asked for input from the Board on how to proceed.

Chair Thomas stated that he talked with Schleuning about this prior to the meeting and there was a question as to whether formal Board approval would be needed to contract for this spot harvesting for safety and navigation purposes. He stated that they still decided to bring it forward to the Board in order to obtain approval to proceed.

Walesch stated that he visited the site and traveled through all of the public navigation channels. He stated that in the public navigation channels there is not one single area encumbered by weeds. He stated that the Board has agreed that the LMCD would not harvest for three years and direction has been provided to allow the Executive Director to approve harvesting in public navigation channels and should not be in the business of ensuring navigation around docks. He commented that private navigation channels are the responsibility of the dock owners. He stated that because there are not weeds in the public navigation channels, he would not support harvesting. He stated that the Board is in the middle of discussing how to move forward with AIS and allocate that budget. He stated that the LMCD should encourage those that call in to organize and attempt to start a LID or attempt to gain an LMA Captain for their area. He stated that if people are concerned with their bay or around their dock, they should be finding a way to address that, it would not be the responsibility of the LMCD. He stated that homeowners can also work within their HOA. He stated that he would believe that the grant received could be used on any area of the lake, and not just this area specifically, and should be used for navigation purposes. He stated that the Board is in the middle of the AIS discussion and therefore no decisions have been made as to what will be funded. He noted that there are

still discussions as to whether a Lake Manager should be hired, noting that those discussions have remained high-level.

Stone echoed the comments of Walesch. She stated that the Board had a similar request from Libbs Lake and denied the request. She stated that she was also in this area of the lake this weekend as well and did not notice a navigation issue. She stated that the Board is in the middle of the AIS discussion and that should continue before requests of this nature are considered.

Schleuning stated that the grant received is specific for this area of the lake. She stated that the grant submission was in winter and based on board comments from the previous year. She stated that there have been concerns expressed for this area and the grant funds are specific for use in this area.

Walesch asked if the DNR has placed specific requirements on the funds to only be used in Seton and Black Lake.

Schleuning confirmed that to be true.

Zorn asked if the LMCD made the condition to specify that area or whether the DNR designated those terms.

Schleuning stated that the application must include the specific areas. She noted that these areas were identified because of past concerns of the board.

Zorn asked if there is documentation that details the concerns from last year compared to this year.

Schleuning confirmed that there have been several comments received. She stated that when they were onsite, they speak with residents about options, such as LIDs and the LMA. She noted that some residents are concerned with the initial cost to start those activities or the format.

Chair Thomas asked if the grant funds are only to be used for delineation and not treatment or harvesting.

Schleuning confirmed that those grant funds are to be used for delineation. She stated that staff could look into other areas the Board may have concern with related to navigation.

Kirkwood echoed the comments of Walesch. He asked if the emails and calls from residents are documented by staff, with names and contact information, that can be used for follow-up and a database.

Schleuning stated that staff has started to create lists, although some of the in-person contact is not documented.

Kirkwood asked if there is a log next to the phone so that calls can be documented in that manner.

Schleuning stated that staff attempts to do that but not all contacts are documented because of the volume of calls received.

Kirkwood asked the status of a TAG meeting that was discussed during the last AIS discussion.

Hughes stated that he has received comments from residents of Black Lake, noting that the weeds get chewed up as people come through the channel and end up on the lakeshore of the adjacent property owners. He asked the width of the open channel for navigation versus the width that boats travel. He stated that there needs to be some type of weed removal when you get out into the lake and not just the channel, as it is hard to define the channel.

Cook stated that he has not been through Black Lake in at least one week and therefore does not have up to date information on the condition. He stated that he had no problem getting through Black Lake when he traveled in that area. He stated that he would be concerned with harvesting, as it was being done around docks or in areas where small amounts of boats travel. He stated that he thinks the LMCD should err on the side of ensuring that public navigation channels are kept open. He stated that specific to this request, Eric Evenson had previously mentioned that chemical treatment should be considered for this area. He stated that if the LMCD is attempting to gain scientific data to support any type of weed program, a vegetation survey would be needed. He stated that he would therefore support the vegetation study, but it would take a lot of convincing for him to support harvesting without that information. He confirmed that the grant funds should be used to complete the vegetation survey.

Schleuning stated that the grant funds cannot be used for the delineation unless some type of AIS management is completed along with that.

Cook commented that he would then suggest that the vegetation survey not be completed. He stated that they are in the process of talking with potential facilitators for a TAG meeting. He commented that they do not want to setup the meeting until a facilitator is on board that would be acceptable to the LMCD and the other stakeholders.

Kirkwood asked if the Board should direct the message back to these residents with the points raised by Walesch, noting that the residents may choose to form a LID or talk with the LMA about the Captain process.

Schleuning stated that staff has discussed those options and will follow up with those residents again. She stated that the consensus of the Board is not to move forward with vegetation management for Black, Seton or Emerald lakes and appreciated everyone's feedback. This was a past concern of the board and wanted to make sure it was addressed.

Anderson displayed photographs of Emerald and Black lakes, which are pristine. He was unsure why this item would be considered when the Libbs Lake request was denied, noting that Minnetonka pays much more in dues than Spring Park.

12. NEW BUSINESS

There was no new business.

13. TREASURER REPORT

No report.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- An update regarding the University of Minnesota Wake Study and a potential presentation could be made to the Board at the next meeting.
- The water level as of August 10th read as 929.04 ft, noting that the OHW is 929.4 ft.
- Minnesota Wake Surf Championship held a recent event, noting that things were amended with the event to fit within the standards related to COVID.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Communications & Legislative Relations: Hoelscher stated that the group has not met but proposed that the group meet on Thursday, August 27th. She proposed that the meeting be made public and be posted. She suggested a time of 9 a.m.

Deicing and Permanent Dock Workgroup: Anderson commented that staff has mentioned that there is not a need to pursue discussion related to permanent docks.

Save the Lake Committee: No report.

Strategic Plan Subcommittee: Zorn stated that the group is intending to provide a presentation at the next Board workshop and asked that the Board review the information prior to the meeting.

Zorn asked for an update on an accident that occurred with a morning skier and Water Patrol.

Schleuning stated that she was unable to receive a formal report from Water Patrol at this time. She noted that it is under investigation by the Ramsey County Sheriff Office and information will likely not be available until the investigation is complete.

16. ADJOURNMENT

MOTION: Kroll moved, Cook seconded to adjourn the meeting at 8:08 p.m.

A roll call vote was performed:

Anderson	aye
Baasen	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary