

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

6:00 P.M., September 23, 2020  
Virtual Meeting

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; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

**Members Absent:**

Bill Cook, Greenwood; and Deborah Zorn, Shorewood.

**Persons in Audience:**

Chris Bank; Stacia Bank; John Bendt; Pete Bergsland; Greg Blasko; Sara Engemann; Sonja Ess; Eric Evenson; Tom Ewers; Christopher Gernentz; Adam Hoffman; David Hoffman; Gabriel Jabbour; Mike Jilek; Brian Kenny; Will Kieley; Fred Lang; Jennifer Linder; Donald MacMillan; Shane Magnuson; Meredith Paul; Dana Paulson; James Seal; Anne Silverman; Jill Simms; Bryan Suchy; Andy Weigman; and Chris Whiteman.

Additional account usernames in audience: 612-801-7580; anne's iPhone; Anne's iPhone 11; dmac; John B; jonmariolsen; Kramer's; Luke Stoker; Mark; Mike's iPhone; Rob; Scott; skapyak's iPhone; The Rose Law Firm PLLC; tj's iPhone; tokyo's iPhone; Tom; and Travis.

**1. Conflict of Interest Discussion – Continued - Bylaws**

Gilchrist reviewed the key points of the memorandum regarding a potential change to the LMCD Board of Directors Bylaws that would address conflicts of interest:

- Conflicts of interest are considered a violation of the public trust vested in officials.
- A member voting when he or she has a conflict of interest can invalidate the action and, if the conflict involves a contract, void the contract, and expose the member to criminal liability.
- Actual conflicts can be difficult to identify and so it is important to raise potential conflicts with the LMCD attorney prior to the meeting to allow for a discussion and recommendation on how best to proceed.
- The Board has a right to protect its decision-making process and so has the authority to act to prohibit a member with a conflict from voting on a matter.
- The recommendation is to establish a conflict of interest policy as part of the Board's bylaws to address the factors to consider when deciding if there is a conflict and provide a process for raising and deciding a claim that a member has a prohibited conflict.

- The policy reflects the statutory and common law factors, except the following language was added to give some practical direction on what will be considered a conflict:

Gilchrist explained that a Board member shall be considered to have a conflict of interest if the outcome of a matter could substantially affect a member's financial interests or those of an associated business.

Anderson recalled at a recent meeting that a Board member indicated that Mr. Anderson may have a conflict of interest regarding a decision to approve or deny a request from another marina, as Mr. Anderson himself owns two marinas on Lake Minnetonka.

Gilchrist said that Board Directors should approach Mr. Gilchrist several days in advance of a meeting at which such a potential conflict of interest may arise so that he may review the matter on a case-by-case basis.

## **2. Overview of Minimum Wake & Quiet Water Areas Methods and Maps**

Schleuning stated that the purpose of this discussion is to conduct an informational overview of the current regulations and methods regarding minimum wake areas. She provided details on the types of wake control including standard minimum wake/speed areas, quiet water areas, and high-water regulations. She reviewed types of wake controls such as public buoys, private buoys, and other options. She reviewed the standard minimum wake areas map and the watercraft concentration map, noting that staff would like feedback on the maps. She asked if additional buoys or relocation should be considered for certain channel areas or other areas, whether there are educational options that may improve effectiveness of existing regulations, and whether additional data and information would be useful for future discussions.

Hughes referenced the standard minimum wake regulations, noting that the regulation states 150 feet from the shore but should also reflect 150 feet from the end of the dock or the end of the marina dock.

Chair Thomas asked if that is reflected in the maps.

Schleuning agreed with that language but noted that it would be difficult to include as buffers on the map. She noted that perhaps that could be done for the commercial marinas, but it would be difficult to show the residential docks on the map.

Hughes noted that there are areas that have long docks because of the shallow waters and believed that the language should be clarified to reflect that requirement.

Schleuning stated that the educational campaigns have included that language.

Anderson agreed with the comments of Hughes. He stated that perhaps the language could state 150 feet from structures, other boats, and the shore.

Schleuning noted that her attempt was just to provide a summary to the Board and gain feedback. She stated additional clarifications could be added to the Notes section.

Anderson referenced the notion that there is increased traffic on the lake. He noted that while more people may be using the lake, he believes that less gas is being used as boats are often not moving around once they are on the lake. He asked how this item was added to the agenda with such short notice. He asked the Board Directors and members of the public that staff has spoken with. He stated that this subject was previously dropped.

Chair Thomas stated that the agenda is set by the Executive Director and the Chair. He stated that this was on the workshop agenda to determine if the Board would like to pursue additional information.

Anderson noted that this is on the regular agenda as well with potential action to be taken.

Schleuning clarified that these are existing regulations and information that she has presented. She explained that the intent is to share information with the Board and the public. It provides data that can be expanded on in the future.

Kirkwood stated that he sees this as two separate decision issues. He noted that there are some concerns with the standard water level speed and congestion issues on the lake, which is not the high-water issue that will be discussed during the regular meeting. He asked if traffic should slow to a safe no wake levels when there are two buoys, one red and one green. He asked in cases where there are six buoys, red and green, people are expected to come to a slow no wake speed within 150 feet.

Lieutenant Shane Magnuson replied that red and green buoys are not necessarily slow or no wake areas. He explained that there are slow no wake channels and there are speed channels. He stated that around Big Island there are areas where you can be on plane and areas where you need to slow to no wake speeds. He stated that if someone is outside of the 150 feet of docks or shoreline, you can go faster.

Kirkwood asked how a boater would know the difference if red or green buoys are used.

Magnuson replied that they would not know by the buoys but by the 150-foot regulation.

Anderson asked if Kirkwood was part of the group of Directors that was involved in this topic.

Kirkwood replied that this came to him in the same way it came to Anderson, as a part of the Board packet. He noted that he has previously expressed concerns with safety in the channels.

### **3. Save the Lake Update Regarding Funding for UMN Research**

Baasen stated that there have been questions from a few Board members asking what the Save the Lake was attempting to accomplish. He reported that Save the Lake met on September 8<sup>th</sup> and provided an

update on that meeting. He stated that the group discussed the UMN Research study related to wake and whether the LMCD should be a part of the study. He noted that one member of Save the Lake suggested contributing to the cost of the study and the group agreed as the LMCD has an interest in this topic. He noted that a financial number was not discussed.

Anderson recognized that the LMCD is absent from the list of contributors, noting that other Lake Minnetonka partners have contributed towards the study. He stated that he would support a contribution that Save the Lake members feel comfortable with.

Baasen stated that the amount discussed thus far was between \$2,000 and \$5,000 but noted that the amount can be further discussed during the regular meeting.

There being no further business, the work session was adjourned at 7:01 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; 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; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

**Members absent:** Bill Cook, Greenwood; and Deborah Zorn, Shorewood.

#### **Persons in Audience:**

Chris Bank; Stacia Bank; John Bendt; Pete Bergsland; Greg Blasko; Sara Engemann; Sonja Ess; Eric Evenson; Tom Ewers; Christopher Gernentz; Adam Hoffman; David Hoffman; Gabriel Jabbour; Mike Jilek; Brian Kenny; Will Kieley; Fred Lang; Jennifer Linder; Donald MacMillan; Shane Magnuson; Todd Olson; Meredith Paul; Dana Paulson; Todd Pottebaum; James Seal; Anne Silverman; Jill Simms; Marshall Stanton; Bryan Suchy; Aaron Switz; Andy Weigman; Chris Whiteman; John Wooden;

Additional usernames in audience: 612-801-7580; anne's iPhone; Anne's iPhone 11; Dan's iPhone; Dean's iPhone; dmac; Gabriel; jamie; John B; jonmariolsen; Kramer's; Luke Stoker; Mark; Mike's iPhone; mr boat dealer; Rob; Scott; skapyak's iPhone; The Rose Law Firm PLLC; tj's iPhone; tokyo's iPhone; Tom; and Travis.

#### 4. APPROVAL OF AGENDA

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

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

#### 5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

#### 6. APPROVAL OF MINUTES- 8/26/2020 LMCD Regular Board Meeting

**MOTION:** Kroll moved, Kirkwood seconded to approve the 8/26/2020 LMCD Regular Board Meeting minutes as submitted.

**VOTE:** A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Hoelscher	aye
Hughes	abstain
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Thomas	aye

Stone	aye
Walesch	aye

Motion carried unanimously.

## 7. APPROVAL OF CONSENT AGENDA

**MOTION:** Baasen moved, Anderson seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (09/16/20 – 09/30/20); **7B)** Resolution Accepting Save the Lake Contributions (08/01/2020 – 08/31/2020).

Further discussion: Anderson asked if there is an update on the July statement reflecting of the comments at the last meeting.

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

Schleuning noted that staff intended to include an update, but Cook is recovering from an accident and therefore could not be present at tonight's meeting. She noted that an update will be provided once Cook has recovered.

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

Jill Simms, National Marine Manufacturers Association (NMMA), stated that she has concerns regarding conversations around quiet bays and access during normal times of non-high-water declaration. She hoped that they could be a part of the conversation as they believe in access for all users. She stated that they would like to ensure that all users have equal access to the water, regardless of their preferred water activity. She stated that the water sports industry association has done a study on the effects of wake boats and recommends a 200-foot setback from shore. She recognized that there is an increase in new boater and boating activity and stated that they would just want to be a part of the discussion.

Gabriel Jabbour stated that he feels data presented to the Board earlier in the workshop is meaningless. He stated that in 2004 the LMCD decided to stop completing lake surveys, which were previously completed every four years along with user satisfaction surveys. He stated that he has been on the lake for the past 50 years and has seen the lake change. He stated that the community of the lake has become more affluent and therefore have more boats but not necessarily as many drivers as boats. He stated that one of the boats he picked up for storage has six hours on it over the season. He stated that unless the boats are on water, they are just an extension of the dock. He stated that profound studies have been done on boats and their traffic and did not believe boats should be counted on the shore. He stated that this is an outlier year because of COVID and the increased activity on the lake. He asked if the LMCD considered that the declaration of high water should be changed upward or downward. He stated that in order to enforce the ordinances the LMCD is considering, it could have a cost of \$3,000,000 to \$5,000,000 to enforce while the largest ticket that can be issued has a penalty of \$100. He asked if the LMCD is willing to put this burden on the Water Patrol, noting that the Water Patrol has more important duties than regulating complaints on North Arm Bay. He stated that he is a strong proponent for responsible use of the lake and an advocate for the environment of the lake.

Mike Jilek, Wayzata Bay resident, stated that he is the Dock Director of the Groveland neighborhood. He stated that wake boats are creating some damage to the boats docked in that location. He stated that it appears that it is clear to the LMCD that this is a concern. He stated that the problem is real where he lives.

John Bendt stated that he has spoken before the Board before on the issue of wake boats. He stated that in listening to the previous speakers it is obvious that there is an issue that will not go away. He urged the Board to do its duty and address the issue, coming up with a solution. He stated that the issue related to access to the lake is an issue that wake surfers and other users of the lake have in common. He stated that both groups want to have access to the lake, and both want to be able to enjoy their preferred form of lake recreation. He stated that the problem is that the dominant presence of wake boats and their large waves diminish the ability of other users to enjoy the recreational activity that they prefer. He stated that many of the other recreational users cannot have access to be able to enjoy the lake because of the large waves that interfere with their activity. He stated that while the discussion has gotten heated in the past, this should not be a fight pitting one group of users against the other, but instead should be about restoring balance to ensure that everyone can share and enjoy the lake. He stated that in order for everyone to share the lake, something needs to be done about the large waves the wake boats emit. He stated that his proposed solution would be to develop timeslots for activities which would provide a predictable time for those that want to kayak, canoe, paddleboard or fish to enjoy their recreation without being bounced around by large waves and would also provide times for wake boats to have their time to enjoy the lake. He did not believe it would be difficult to develop a policy that would allow all users to share the lake. He asked the Board to take action, noting that the need for that action has been demonstrated by people speaking at meetings as well as signed statements submitted to the Board. He asked everyone to work together to create rules and regulations that would allow everyone to enjoy the recreational activities that they prefer.

Lieutenant Shane Magnuson stated that he has comments related to 11A and asked if those should be provided now.

Chair Thomas commented that those comments will be allowed under that agenda item once the staff presentation is provided.

Andy Weigman stated that he considers himself to be a wake surfer community leader and therefore is comfortable stating that he speaks for a lot of the wake surfers that use the lake. He stated that he does not believe that anyone has ever shown up to the lake and not been able to use it because of wake surfers. He stated that this is not a problem of boat type of whose wave is bigger, but more that wake surfing is the most popular boat activity. He stated that as the group size increases, so does the smaller part of the group that may not respect the rules. He stated that this is the same as when jet skis first came to the lake and found it worrisome that a group would try to regulate the activity of any group of users of the lake. He stated that the wake surfers and others that want to use the lake are concerned about the public opposition to that activity, noting a newspaper article where a member of the LMCD Board has stated that he would like to shut down his bay.

Chris Bank stated that WSIA has been in the Watersports Protection Association for 30 years, is a Lake Minnetonka property owner, and owns a wake boat and a cruiser that has the capability of making a much larger wake. He stated that there needs to be reference to data and historic approach. He commented that Lake Minnetonka is unique and needs to follow the guidelines of the State of Minnesota. He agreed that the lake is busier but urged the LMCD to step carefully as there is a larger reverberation outside of homeowners in regard to the amount of commerce related to the boating industry as a whole. He stated that this is a much larger issue than someone wanting to go fishing without being interrupted by waves. He cautioned the Board to be careful as to how this is framed and how this is presented; whether it results to lake levels and the damage done, or whether there are other hands at play and someone wanting to move their personal motives under the guise of damage done from lake levels.

## **9. PUBLIC HEARING**

There were no public hearings.

## **10. OTHER BUSINESS**

There was no other business.

## **11. OLD BUSINESS**

### **A) Discussion Regarding High Water Regulations for Smaller Bays**

Schleunig stated that the purpose of this agenda item is to discuss high water regulations and the impacts during those times, not specific to any type of boat or activity. She stated that the main intent is to gain input on whether the Board would like staff to look into this subject further and bring back to a future meeting for the board to consider adding bays to the minimum wake list for high water conditions. She stated that staff received concerns during high water times on the lake and from specific bays. She explained that high water regulations provide better protections of lakeshore, structures, and public safety. She stated that these are



high water regulations and the intent is to review the current regulations to determine if amendment is necessary. She explained when high water regulations can, or must' be activated. She reviewed the different regulations that are activated under high water declaration and reviewed the bays that become no wake bays under times of high-water declaration. She asked if the Board would like staff to review this topic further for future consideration.

Chair Thomas asked how many bays become no wake under high water declaration.

Anderson replied 17.

Schleuning reviewed safe distance for boating during high water declaration, noting that others may exist. She displayed a map identifying the different buffer widths for standard wake areas showing comparison of standard wake areas versus high water 600 feet restricted areas for all 42 bays. She noted some bays are narrow, with a smaller amount of standard wake areas, specifically mentioning North Arm and Harrison. Some of the information included with the agenda item was discussed as part of the previous workgroup and submitted to staff. Staff considered the coverage map, but also believed it was important to show the distances between the 600-foot buffer where standard wake was in effect during high water. Therefore the map shows all bays for comparison.

Chair Thomas stated that the intent is to protect the lake and lakeshore in the unusual circumstance when the LMCD declares high water due to the established criteria. He stated that during that time it requires no wake within 600 feet of shore and there are currently 17 bays that result in no wake bays/areas during high water declaration. He stated that the question before the Board is whether additional bays/areas should be added to the list.

Hughes stated that he would be willing to look into whether there are new options that would improve something, but otherwise the current regulations work.

Newell stated that he looks at the area left in some of the bays and a boater would almost need a GPS to stay within the navigable area of water. He stated that if the area is marginal it should be shut down during times of high water as that would make it easier to manage administratively.

Kirkwood agreed with the comments of Newell that he would prefer to make things simple and would want to help protect shore owners during times of high-water declaration.

Anderson stated that there are bays listed within the staff report as examples and was unsure why those bays were listed compared to the other bays that could also be considered. He referenced the meeting of June 19<sup>th</sup> when he brought forward his buoy concept but was told it was not on the agenda. He noted that at the same meeting Kroll was allowed to talk in depth about North Arm Bay, and the Chair stated that a public hearing would be needed. He noted that in the potential motion it includes directing staff to shut down certain bays. He did not believe that this discussion should occur without a public hearing tonight. He referenced language within the staff report which he believes to be inaccurate. He asked who was involved in the work group and the Board Directors that were involved in this discussion prior to tonight's meeting. He stated that at the June

12<sup>th</sup> meeting the decision was to have a public hearing rather than attempting to sneak this in the backdoor as it is being done tonight. He stated that this is not data and is all observation. He stated that he has been living on his property for 42 years and there has not been any damage to his shoreline.

Brandt stated that he is fine with the language as currently written and does not believe that more needs to be added to. He stated that the 600 feet should be clearly communicated, and it should be clearly differentiated between wake and times of high-water declaration. He stated that high water declaration is a rare occurrence that lasts a few days and does not happen often.

Kroll stated that the problem with bays like North Arm and Harrison, with 88 and 86 percent coverage is that they leave a crippled snake down the middle and therefore even a well-armed boat could not navigate within that area without mechanical assistance. He stated that people use that small strip to go all over the bay and it makes it impossible to enforce the 600-foot wake rule. He stated that this is a common sense thing, and something needs to be done to address this. He suggested that the long narrow bays be added, or the 600-foot setback should be removed all together.

Stone stated that she agreed with Brandt that if this is specific to high water declaration, it effects the lake very infrequently and works fine as it is.

Klohs stated that this discussion is related to the lake elevation of 930 to 930.25 feet. He noted that once those three inches are exceeded, the entire lake is shutdown. He stated that what is being shown is the current regulations and the intent is to gather input on whether the Board believes amendment is necessary. He stated that if changes were proposed, a public hearing would certainly be held in the future. He stated that this was reviewed about one decade ago and it was very contentious. He believed another public hearing would be appropriate to gather additional input.

Walesch stated that it was his understanding that the intent was to discuss high water declaration regulations and asked for input on the examples of safe distances for boating that were included in the staff presentation, such as lengths of towing ropes.

Schleuning stated that the examples of safe boating provides recommended distances between multiple uses.

Walesch asked how that ties into the high-water issue.

Schleuning stated that it is intended to show distance between boats and whether there is safe navigation for multiple boats.

Walesch stated that when the Board talks about these issues it is important to be as concise as possible. He stated that the topic tonight is related to high water and whether additional bays should be restricted when above the high-water declaration of 930. He stated that the 600 feet should be the common standard used, but if there is a bay where it would be impossible for one boat to maintain that without violation, that could be brought to the attention of the Board. He stated that if a boat could not wake surf, waterski, or make a wake while meeting the 600-foot setback, he would be interested in reviewing those instances otherwise the 600-

foot rule should stand. He stated that with that delineation, the Board could then determine whether it would be practical to recreate under high water declaration. He stated that people are very sensitive to shutting down bays under any conditions and the Board should recognize that. He stated that if there is information showing that recreation would not be practical under the 600-foot rule, he would be interested in seeing that data in a public hearing.

Hoelscher agreed with Walesch that most people do not want to see the lake shut down at all. She stated that the LMCD needs to do better at communicating when high water declaration goes into effect and demonstrating what 600 feet really is. She stated that it would be difficult for her to judge 300 or 600 feet. She stated that if there are ways that can be demonstrated it would be helpful to the general public as most people want to boat safely and follow the rules. She stated that she would want to work closely with Water Patrol, as the goal is not to write tickets and find violators but to help boaters follow the rules.

Baasen stated that this is a subject that has been wrestled with for some time and believes that there is proper coding and framework to manage the lake in times of high water. He did not believe that the LMCD needs to over manage and believes the regulations are fine as written.

Lieutenant Shane Magnuson stated that Hennepin County Sheriff's Office was named in this agenda item and therefore he wanted to speak on the item. He stated that he attended the meetings previously discussed, but for tonight would like to only focus on situations where the water is above the level of 930. He stated that overall, the Sheriff's Office is very happy and believes that the ordinance is good as it stands. He stated that clearly it is the decision of the Board whether to include additional bays. He used the example of Maxwell Bay which has over 1,000 feet of open water even under high water declaration. He stated that Echo Bay comes up often as well, noting that it is impossible to enforce other than education. He explained that there is a lot of water and everyone has a different idea of where the bay starts and ends. He stated that everyone keeps coming back to wake surfing but noted that this would impact everyone using a boat including those trying to go across the lake for a meal or a fisherman moving their boat. He stated that the majority of people they see on the lake in the evenings are not wake surfing. He stated that this would impact everyone in a boat and not just wake surfers. He stated that enforcement can be difficult, and they only focus on gross violators. He was unsure that regulating the other bays would provide much benefit. He stated that they thought the plan was set to focus on education, noting that the Sheriff's Office has jumped on to the Own Your Wake campaign, noting that campaign is used by the State of Minnesota and other states as well including Wisconsin and Florida. He stated that there are a lot of people that want to do the right thing, they just need to be educated. He stated that if there is high water, they need to be able to communicate that well. He stated that there are now signs that can be placed at access points onto the lake and on top of buoys, to alert boaters to the no wake in effect because of the high-water declaration. He stated that the Sheriff's Office has also utilized its social media and the social media of the other lake partners. He noted that there are also reference buoys in different areas of the lake, to create a point of reference for boaters to recognize that type of distance. He stated that most of the boats have fish finders or GPS with a 500-foot range and people can be taught how to use those settings. He stated that in his opinion the LMCD is very good and believes that education, communication, and reference leading into these types of events will help to alleviate problems that occurred in 2019. He noted that if issues arise after an incident of high water, he believes that should be the time to review the ordinance rather than doing that at this time.

Chair Thomas asked if there have been an enforcement concerns in North Arm or Harrison bays related to high water.

Magnuson replied that he is not aware of any enforcement problems on those bays during high water. He stated that Echo Bay continues to be the bay with the most enforcement issues both in high water declarations and in regular everyday conditions. He stated that one of the biggest things they ran into was that people were not aware of the 600-foot rule being in place. He again stated that the ordinance is good, and education and communication should instead be the focus.

Chair Thomas thanked the Hennepin County Water Patrol for their continued partnership with the LMCD and the excellent service they continue to provide.

Kroll commented that the Water Patrol does a tremendous job with its limited resources. He asked if he heard correctly that Magnuson would support converting the two bays that are over 80 percent coverage which would be Harrison and North Arm.

Magnuson replied that is not correct. He stated that his stance is that the ordinance is good and should remain the same with the change in communication and education.

Kroll thanked Magnuson for the clarification. He stated that the 250 feet narrow strip on North Arm would be almost impossible to enforce, as two boats could barely narrowly pass within that strip. He stated that residents do not call Water Patrol to report complaints as often offenders are gone by the time response arrives. He stated that people are also intimidated as violators will request information from the Sheriff's Office to find out who reported them; therefore, a lack of tickets does not provide data. He stated that there was a working group that worked hard on this issue and attempted to keep it simple by adding these two bays to the list. He asked if Brandt and Stone had ideas of how these narrow bays could be enforced during high water declarations.

Stone stated that she does not have a solution for enforcement. She stated that she wanted the input of Magnuson on that topic. She stated that if Magnuson feels that the current ordinance is working then she supports that.

Kroll suggested that Stone talk to residents on North Arm to hear whether those residents feel that this is working.

Brandt commented that he believes that 600 feet is pretty straightforward to begin with and predictably it is not a surprise that enforcement is focused on egregious violators. He stated he would find it more straightforward as a boat owner to triple the normal distance from docks and shorelines rather than memorizing a list of the bays that may or may not be part of the restrictions.

Anderson referenced the comments of Kroll related to North Arm and the related bays mentioned. He asked where those boats would then go. He stated that if the Board remembers as part of the discussion for high

water, there are 600-foot lanes setup in Cruisers Cove and there would be 600-foot buoys and signage. He stated that the LMCD has not even given the Own Your Wake campaign a chance to work. He asked why the Board has forgotten about the plan that was already developed and would support not including any additional bays or areas to the minimum wake areas during high water declaration based on the reason that the Water Patrol agrees with the ordinance as written.

Chair Thomas suggested that the Board allow members of the public to provide comments on the topic at this time.

Klohs cautioned the Board that this has not been noticed as a public hearing.

Gilchrist commented that even though this was not noticed as a public hearing, the Board can still allow public comments.

Gabriel Jabbour stated that he owns and manufactures wooden boats. He stated that he does not like to see the waves beating on his boat and if he wants serenity and peace, he can go to the Boundary Waters. He stated that he does not want people to be abusive to his property and provided background information on the work he has done to establish quiet waters. He stated that the 600 feet was created arbitrarily and noted that perhaps that standard should be changed to 500 feet. He stated that he is not an advocate for abuse of the lake but is an advocate for responsible enjoyment of the lake. He stated that some people are using the lake unjustifiably. He stated that this is abusive of the process, as one self-motivated person has taken thousands of hours and made them at odds with their neighbors. He believed that a 500-foot buffer would be adequate. He noted that summer is already short enough and he does not see a reason to shorten that season. He asked the Board to be reasonable. He stated that NMMA had proposed to legislators 200 feet and it passed the environmental committee. He noted that he is not sure he agrees with that but also does not agree with the 600 feet he helped to create.

Mr. Lang echoed the comments of Magnuson that the ordinance is fine as it stands. He stated that people should have no problem staying 600 feet from shore.

Ms. Sims stated that NMMA would support the recommendation from the Hennepin County Sheriff's Office.

**MOTION:** Anderson moved, Walesch seconded to not include any additional bays or areas to the Minimum Wake areas during high water declaration for the following reason: the Water Patrol agrees with the ordinance as written.

Further discussion: Kroll stated that he supports law enforcement but stated that law enforcement generally does not want more laws as it creates additional work. He did not believe that sloppy rules should be kept in the ordinance to make it easier for law enforcement. He referenced the comment of Brandt related to memorizing two more bays, noting that there are already 17 bays that do not allow wake during high water days, so it would actually make it simpler to add the additional bays rather than trying to figure out which parts of the bay would be useable.

Klohs reinforced the comment from Jabbour, noting that there is a study from the UMN, but it is preferable to make decisions based upon data. He believed that this type of vote should wait until the data from the UMN is available. He stated that perhaps 500 feet would be fine, or 700 feet, and believed that information should be received before taking action.

Walesch stated that he appreciates those comments and would agree with that position if the item was not on the agenda and if the Board had not just spent 1.5 hours discussing this topic.

Klohs stated that there would have been much more input if this had been noticed as a public hearing. He stated that there would be no harm in waiting.

Walesch stated that this was on the agenda with a proposed motion in the Board packet, therefore if the public read the material, they could assume action would be taken. He stated that if there was a public hearing, it can be assumed that there would be more comments from both sides of the topic. He stated that the Board can always reassess this once the study results are available. He stated that the Sheriff's Office is clear on what they support, and he believes it would be appropriate to vote.

Kroll disagreed with the statement that there would be more comments on both sides of the issue. He stated that in the past few days there has been a Facebook campaign with what he believes to be incorrect information. He stated that if this is brought forward with full information, there are residents of the different bays that would have input. He stated that only two residents from North Arm spoke tonight and there were no comments from Harrison Bay. He stated that there are residents on both bays that would like those two bays added.

Walesch stated that it appears that there is a huge channel that would allow one, if not two, boats to travel through North Arm Bay. He stated that if there is a few hundred feet where activity can occur, they should wait to see the study results as that may support additional amendments. He noted that at this point, even if there were additional speakers, the facts would not change, and the needs of the lake still need to be balanced. He stated that he would want a decision based on data and not on people's wants.

Gilchrist reminded the Board that it often does not conduct public hearings before it acts on ordinances. He stated that the proposed options were not to adopt anything, but rather whether or not the Board wanted to direct staff to put additional work into a proposed ordinance. He stated that as the motion stands, the Board would be choosing not to direct staff to put additional work into the issue at this time. He stated that is certainly a decision the Board can make and if the position of the Board changes in a few months, that direction can be provided to staff at that time.

Anderson referenced the statement made by Kroll related to sloppy rules and the Sheriff's Department. He noted that hours and hours were spent on this topic and to create signage and develop the Own Your Wake campaign. He stated that the Board should give those elements a chance to work.

Kirkwood stated that he has a concern related to the stories of docks and boats being lifted during high water and would be concerned that people would want to have their voices heard.

Kroll stated that Stubbs Bay is not completely covered by the 600-foot rule and yet it is still on the no wake list. He stated that he would like to add Harrison and North Arm, with the exception that boats with GPS could still use the bays if they remained outside of the 600-foot areas.

**MOTION:** Kroll moved, Kirkwood seconded amend the motion to include Harrison and North Arm to the list of no wake bays, with the exception that boats with GPS could still use the bays if they remained outside of the 600-foot areas.

Further discussion: Chair Thomas stated that it would be difficult for the Sheriff's Office to know who has GPS and who does not.

Anderson asked if he would have to accept the amendment.

Gilchrist stated that the motion maker and seconder would not have to give permission for someone to amend a motion. He stated that he is concerned because the amendment is directly contrary to the intent of the original motion and therefore is not an amendment and should be its own attempt for action.

Chair Thomas stated that he agrees with that opinion and reported that the Board will not accept or vote on the amendment. He stated that Kroll could certainly make his motion after the vote on the original motion takes place. He called for staff to call for a roll call vote on the original motion made by Anderson and Walesch.

**VOTE:** A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Hoelscher	aye
Hughes	aye
Kirkwood	nay
Klohs	nay
Kroll	nay
Newell	abstain
Stone	aye
Thomas	aye
Walesch	aye

Motion carried.

## 12. NEW BUSINESS

A) Funding for University of Minnesota Research on Boat Generated Wake and Prop Wash Produced by

### Recreational Watercraft

Baasen reported that the Save the Lake Committee met on September 8<sup>th</sup> to discuss the Own Your Wake Campaign and the UMN wake study that could approach \$400,000. It was the consensus of the Committee that a recommendation be made to the LMCD Board that the Board support a financial contribution to the UMN wake study, as it will provide benefit to the LMCD. He noted that an amount of \$5,000 was suggested. He clarified that the discussion was on an amount between \$2,000 and \$5,000 and not necessarily to use Save the Lake funds, but rather LMCD funds.

Chair Thomas asked the potential sources for funding.

Baasen suggested that the general fund of the LMCD be used, or if the Board felt appropriate a lower amount could possibly come from Save the Lake.

Brandt commented that these will be dollars well spent, especially given the amount of time that has been spent recently discussing wake. He believed that the funds should come from the general fund rather than Save the Lake and would support \$5,000. He stated that he would have liked to have input from Cook.

Baasen stated that Cook is the member of Save the Lake that suggested \$5,000.

**MOTION:** Hoelscher moved, Walesch seconded to approve funding in the amount of \$5,000 for the University of Minnesota (UMN) research on boat generated wake and propellor wash produced by recreational watercraft with the funds to come from the general fund.

Further discussion: Newell thanked the Board for considering this noting that it is a worthwhile study that the LMCD should be involved in.

Anderson asked for an opinion on whether Cook stated that general funds or Save the Lake funds should be used. He stated that there is an overabundance in the Save the Lake Fund. He stated that if Save the Lake contributes \$5,000, he will make an equal donation of \$5,000 to Save the Lake to be added to the UMN wake study contribution.

Baasen stated that any person can make a contribution that is directed for a specific purpose. He stated that whether the \$5,000 comes from the general fund or not, Anderson could still add to the donation in the manner he suggested.

Anderson stated that he is interested in using the Save the Lake fund. He stated that he will not make the additional \$5,000 contribution if the general fund is used.

Baasen stated that the comment from Cook was that the reserves of the general fund were sufficient to make a contribution to this cause. He stated that if Anderson would like to add to the contribution it can be done directly to the UMN or through Save the Lake; one is not conditional upon the other unless Anderson makes that condition.



Anderson stated that he and Jabbour made the contributions through Save the Lake earlier this year to fully fund the Water Patrol position. He commented that he has no interest in adding to the general fund, but he is interested in Save the Lake because of the good work that group does.

Chair Thomas noted that there is a motion and second on the table. He stated that Anderson could ask for a friendly amendment to the motion, increasing the total donation to the UMN to \$10,000 which would include a \$5,000 donation from Anderson through Save the Lake to be directly applied to the UMN research study.

Anderson stated that the research does not move him much because it is overfunded. He stated that he is concerned that the LMCD is not on the donor list. He stated that he would propose a friendly amendment to have the \$5,000 contribution come from Save the Lake rather than the general fund and then he would contribute an additional \$5,000.

Walesch commented that phase I of the study is already overfunded. He stated that it is known that there will be multiple phases and the Board can revisit the topic of donating additional funds to future phases. He noted at that time there can be further review of the different funds that could be used and their available balances but at this time everyone is supportive of using the general fund for this donation of \$5,000. He stated that there will be many opportunities to provide funding in the future.

**MOTION:** Anderson moved to make the \$5,000 contribution from Save the Lake fund rather than the general fund and to increase the donation to \$10,000, with the stipulation that Anderson would donate the additional \$5,000 through Save the Lake earmarked to be used towards the UMN wake study.

Motion failed for lack of second.

Hoelscher commented that she supports the study and does not want to be caught up where the funds come from. She believes that the contribution should come from the general fund and that Anderson's contribution should not be contingent upon Save the Lake being used.

Baasen stated that due to the actions taken by some of the Board, the Save the Lake budget for 2021 has been maxed out for contributions and therefore there is not an additional \$5,000 to contribute from that fund. He stated that the Save the Lake reserve fund cannot give more than 25 percent of the balance in the fund.

Chair Thomas asked staff to call for the roll call vote on the original motion presented by Hoelscher and Walesch.

**VOTE:** A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye

Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Thomas	aye
Stone	aye
Walesch	aye

Motion carried unanimously.

#### **B) Website Developer Professional Services Agreement**

Schleuning reported that the current website was developed in 2010 and although many updates to navigation and content have been completed, customer use and needs continue to evolve. She reviewed some of the user experience and administrative performance items that could be improved. She stated that she and Hoelscher met virtually with two companies to receive quotes with various cost options. She provided a highlight of website statistics and the devices people are using to access the website. She provided input on the different options and noted that staff would recommend a combination of Option 1 and Option 2 up to \$17,500. She stated that funding sources could include the general fund reserves, Save the Lake fund, or a combination of both.

Hoelscher stated that in talking with the two providers, the current LMCD platform is outdated and cannot be updated; therefore a new platform needs to be purchased in order to provide the needed functionality. She stated that optimization of the website falls within the Strategic Plan and its priorities. She stated that staff has done a great job of adding the necessary information to the website, but the update would make that more user friendly and assist the LMCD in communicating more effectively. She stated that there are funds within the general fund that could be used for this purpose and could be split between 2020 and 2021 budgets.

Walesch asked the amount of funds needed for 2020.

Schleuning stated that \$12,500 is suggested for 2020.

Walesch asked if \$7,500 could be contributed in 2020 and \$10,000 in 2021.

Schleuning stated that could be an option and would simply be a matter of timing on when things are completed.

Anderson echoed the comments that updating the website is included on the Strategic Plan. He stated that he supports this action.

Brandt asked for details on how the website is not responsive to mobile or tablet users, as the majority of people use those platforms to access the website.

Schleuning provided details on the difficulties of accessing the LMCD website from those applications.

Brandt asked if the ultimate goal in revamping the website would be to gain more traffic or awareness.

Hoelscher replied that in her mind the goal would be to make the website easier to navigate and for users to be able to find the information they are looking for. She stated that a new platform is necessary in order to allow for that functionality.

Kirkwood asked if this would also make it easier for staff to add information to the website.

Schleuning confirmed that it would improve efficiencies.

Baasen stated that it sounds like this is desperately needed for communication and distribution purposes. He stated that he believes that the motion should state a use of general funds, which would allow the Treasurer to navigate in the budget rather than dictating how that is done.

Brandt stated that it appears that 30 percent of the web traffic went to the home page and then the COVID page. He asked for information on the return of investment that would be provided from the website update.

Schleuning stated that in the four years that they have been updating the website, there have been a lot of hits to the website. She stated that the ability for people to access information on the website related to events, such as COVID or high water, helps to reduce the number of calls that office staff receive about those topics.

Walesch stated that this is clearly a communications issue and therefore would believe that the Board should make the stipulation on how the funds will be allocated rather than directing the Treasurer to find a way to fit this in the budget. He believed that communications funds should be used.

Anderson echoed the comments of Walesch.

**MOTION:** Walesch moved, Klohs seconded to direct staff to work with legal counsel to enter into a professional services agreement with a firm for development of a new website in an amount up to \$17,500 with the allocation that \$7,500 come from the 2020 general fund reserves and \$10,000 from the 2021 communications budget.

Further discussion: Anderson stated that the assumption would be whether it could be done that way but noted that it seems plausible that work could begin in 2020 and be completed in 2021.

Kirkwood asked if this would put the communications budget at risk of achieving other goals for 2021.

Hoelscher replied that she is unsure. She noted that \$20,000 was included in the 2021 budget and a website update was part of that. She stated that they will just need to be frugal in the communication budget expenditures in 2021.

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

### 13. TREASURER REPORT

No report.

### 14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Copper Low Dose Treatment for Zebra Mussels web conference – Update provided
- Bridge Closure information was posted.
- There will be sanitary and watermain updates beginning in early September. There will be short impacts in different locations. Information will be posted on the website.

### 15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Communications & Legislative Relations: Hoelscher reported that the group will meet the following day via Zoom, and anyone is welcome to join.

Save the Lake Committee: Baasen reported that the group is in the process of developing the year end

solicitation letter and would hope to have the letter included in the Board packet at the first meeting in October.

Anderson asked if Save the Lake has a list of contributors for the year and whether that is published on the website at the end of the year, similar to how donors were listed for the UMN research study. He noted that the LMCD was motivated to donate to the cause because it was not on the list and stated that perhaps similar motivation would be found for Save the Lake.

Baasen stated that is not the policy thus far and a full discussion would be needed to fully vet that idea. He noted that the list of donations is included in the Board packet.

Strategic Plan Subcommittee: No report.

Anderson commented that perhaps the list of future items could be reviewed and updated.

## 16. ADJOURNMENT

**MOTION:** Walesch moved, Hoelscher seconded to adjourn the meeting at 9:59 p.m.

**VOTE:** A roll call vote was performed:

Anderson	nay
Baasen	aye
Brandt	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Thomas	aye
Stone	aye
Walesch	aye

Motion carried unanimously.

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Gregg Thomas, Chair

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Dan Baasen, Secretary