

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., December 11, 2019
Wayzata City Hall

WORK SESSION

6:00 p.m. to 7.00 p.m.

Members present: Rich Anderson, Orono; Dan Baasen, Wayzata (arrived at 6:55pm); Bill Cook, Greenwood; Ann Hoelscher, Victoria; Gary Hughes, Spring Park; Chris Rich, Woodland; Nicole Stone, Minnetonka

Members absent: Ben Brandt, Mound; Dennis Klohs, Minnetonka Beach; Mike Molitor, Minnetrista; Gregg Thomas, Tonka Bay; Jake Walesch, Deephaven; Deborah Zorn, Shorewood; Vacant, City of Excelsior and Woodland.

Present in Audience: Steve McComas, Jason Naber, Denny Newell, Eric Evenson, Gabriel Jabbour, Rod Kern, and others that may not have signed the attendance sheet.

1. Lake Minnetonka Vegetation & AIS Master Plan Update

B. Cook provided a presentation on the Harvesting Program Review.

He presented the review criteria and a brief overview of what actions related to vegetation the LMCD took in 2019. He noted some characteristics and observed effects of several aquatic invasive species found in Lake Minnetonka.

He stated great efforts were made to engage the community and collect feedback through the LMCD website, social media, media releases and more. He noted that many comments and suggestions were received through the web mapping tool, the vegetation survey, and the technical advisory group.

He provided a map from the web mapping tool showing where lake users reported problematic vegetation.

He stated the harvesting program covered a small percentage of the littoral zone and is constrained to the summer months because of staffing which limits the capacity for addressing vegetation before it becomes a nuisance. He also discussed weed cutting and the floating material produced by boat traffic.

He provided a map indicating bays that are treated with herbicides and a map of the areas that were harvested in 2018.

He stated that operational efficiencies could be improved with more strategic communications elements and supervision of field staff, as well as by the addition of pre and post field surveys.

He stated that harvesting equipment would not need to be replaced in 2020 and that the recommended additions to the program, including additional field supervision, harvester operator training, floating weed collection, and other services, would cost the LMCD about \$50,000 per year over and above the budgeted cost. He noted municipal dues would increase 10 percent as a result.

He presented the recommendation given by EOR/Blue Water Science that a 3-year pilot study be introduced, during which the LMCD would contract harvesting in navigation areas based on communication with fisheries, bay captains, and residents. He also stated the recommendation that a lake management professional be hired to conduct surveys and determine no cut areas.

He stated that no effective preventative starry stonewort program is in place in Minnesota and a new approach, including early detection systems and rapid response capabilities, is needed.

He asked if there were any questions and informed the board on how it may proceed.

Mr. Naber (EOR) stated the starry stonewort document sets the stage for active prevention when available in the future.

Mr. McComas stated it is a good mission, harvesters still have a role regardless of some inefficiencies, and described the 150ft or more criteria. There is a subjective perception of a problem and one permit may be needed along with vegetation delineation.

Hughes stated on page 5 that the 150 ft zone doesn't work with Seton Lake since the whole area is a public corridor and there were problems this summer with vegetation.

Mr. McComas said channels such as this would be clarified.

B. Cook stated the navigation areas or 150 feet for 2020 is 1 of 3-year pilot.

Hoelscher asked what would happen with the LMCD's harvesting equipment during the pilot.

Mr. Naber stated that the harvesters will be stored and will receive routine maintenance.

Anderson stated main channels remain open due to boat traffic so not in favor of contract harvester.

Mr. Naber stated oversight of harvesters would be provided.

Walesch inquired if we want to harvest, where and why, and does not support that role.

B. Cook stated we are not far apart and that is the purpose of pilot, to collect additional data and be strategic.

Walesch recommended we check with people and do we respect cities request.

Stone stated that her Mayor wants a holistic view and consideration of resources and knowledge.

Hughes again stated Seton was bad and is a public channel.

The meeting was adjourned at 6:57 PM.

REGULAR SESSION

7.00 p.m.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director.

Members absent: Gregg Thomas, Tonka Bay; Dennis Klohs, Minnetonka Beach; and Mike Molitor, Minnetrista. Excelsior and Woodland Vacant.

Present in Audience: Eric Evenson, Gabriel Jabbour, Rod Kern, Steve McComas, Jason Naber, Denny Newell, Steven and Sunhi Schussler, James Gilbert, Esq., and others that may not have signed the attendance sheet.

4. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Acting Chair Baasen thanked everyone for the work completed in the past year. He encouraged the members of the Board to participate in a work group, if they are not already.

6. APPROVAL OF MINUTES- 11/13/2019 LMCD Regular Board Meeting

MOTION: Cook moved, Hoelscher seconded to approve the 11/13/2019 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (8), Abstained (2), (Stone and Zorn). Motion carried.

7. APPROVAL OF CONSENT AGENDA

Anderson removed Item 7A "Audit of Vouchers (11/16/2019 – 11/30/2019)" from the consent agenda.

Acting Chair Baasen noted that Item 7A will be considered under Item 10.

MOTION: Hughes moved, Walesch seconded to approve the consent agenda as amended, making the change noted by Anderson above. Motion carried unanimously. Items so approved included: **7B)** November Financial Summary and Balance Sheet; **7C)** Resolution Accepting Save the Lake Contributions (11/01/2019 – 12/03/2019); and **7D)** 2019 Appointments for Legal Services, Auditor, Bank Depository, and Official Newspaper.

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

Gabriel Jabbour, 985 Tonkawa Road, stated that he attempted to participate in the AIS meeting but there was less than desirable equipment which caused difficulties in hearing comments. His opinion is that the legislature scope can be expanded by choice. He provided background information on discovery of milfoil in the lake and the donations that were provided by residents to begin harvesting. He stated that in the process of attempting to do the right thing, the LMCD ended up taking on a responsibility that was not its own. He believed that it is the responsibility and authority of Hennepin County to keep the thoroughfare open, not the LMCD. He provided background information on the DNR decision to not provide funds for harvesting to the LMCD and instead providing a larger allocation of funds to Hennepin County to provide that service. He urged the LMCD to attempt to gain assistance from Hennepin County.

Denny Newell, Woodland resident, stated that it is anticipated that he will join the Board in 2020 and has been attempting to get up to speed. He recalled reading information that about 40 percent of the boats are indigenous while the remainder are transient. Therefore, the lake provides a recreation space for people in the County and State and there should be some type of assistance in maintaining this asset. He commented that Minnetonka is a dirty lake as more boats come out dirty compared to those going in, using information from the checkpoints.

Eric Evenson, Lake Minnetonka Association, stated that Phelps Bay is shown as being treated with herbicides but has not been since 2015.

Acting Chairperson Baasen noted that this topic will appear at a later time on the agenda and therefore the comments could be brought forward during that discussion.

Mr. Evenson provided clarification on the amount of funding Hennepin County receives and provided background information on the funding requests the LMA has submit to Hennepin County but has not been awarded. He agreed that Lake Minnetonka is a regional resource and the heaviest recreational lake in the state, but yet the lake is left to manage itself. He agreed Hennepin County should provide funding.

Cook asked that the LMCD develop talking points that could be shared by the Board members and/or City Council members when speaking with County Commissioners.

Schleuning commented that the Hennepin County application process is open, and staff will prepare applications to submit.

Steve Schussler, 2217 Huntington Point Road East, stated that he would like to settle his issue amicably so that he is not responsible for a financial burden to the LMCD or Minnetonka Beach. He stated that the facts regarding the property at 2217 Huntington Point Road East have been misrepresented by the LMCD and City of Minnetonka Beach. He provided background information on the three previous property owners and three letters of disappointment submitted. He stated that as a property owner he pays over \$60,000 in taxes but is unable to have a dock. He stated that it is hard when the neighboring dock goes 50 percent in front of their property, taking away their riparian rights. He provided input on Klohs and a bill he submitted to the property owner in the amount of \$635 for the supposed inconvenience that the slip renters have incurred. He provided input on the investment that he and his wife put into the fire lane to ensure that the neighboring dock would have continued access during his construction. He identified the four dock slips that are in front of his property. He commented on the inappropriate behavior of Klohs and the other slip holders. He stated that the LMCD and City of Minnetonka Beach are responsible for their representative and what he says. He commented that he would like to avoid going down a legal route but will hold the LMCD responsible. He provided additional information on instances where Klohs did not recuse himself on issues related to dock 10. He commented that the LMCD has robbed his property of its riparian rights. He stated that this should be an issue of common sense and thanked the Board for listening to his concerns.

James Gilbert, attorney representing the Schussler party, stated that he is present as dock 10 has caused problems in the community for the past decade and he was hired to review the history and laws. He stated that in his opinion dock 10 is illegal and is located on an easement with density that would not be allowed in a residential area. He stated that his client has 110 feet of shoreline but is unable to have a dock because of the location of dock 10. He noted that he and his client spoke at the Minnetonka Beach City Council, but the City has not been cooperative and therefore they are attempting to resolve the issue with the LMCD. He referenced the letter that they sent to the LMCD the previous week as they were concerned that dock 10 would receive administrative approval for dock 10 renewal. He believed that the LMCD has the ability to eliminate dock 10 from the application. He asked that if dock 10 is going to be included, he would ask for a public hearing to present additional information to the Board.

Anderson commented that he has read the brief and that he supports the rights of the property owner at 2217 Huntington Point Road East. He stated that he is a long-term member of the community and cannot imagine that dock 10 would be allowed to go in the fire lane and in front of the home in this manner.

Mr. Gilbert asked that his information be distributed to the Board for further review.

Sunhi Schussler, 2217 Huntington Point Road East, stated that the biggest issue they have is safety as the dock 10 slip is almost on their shoreline. She commented that the neighboring property owner has small children using the lake and they feel that this is a recipe for someone to get hurt.

Walesch asked if this topic would be considered on a future agenda.

Gilchrist stated that the City of Minnetonka Beach is making an application for a renewal without change, which does not require the application to come before the Board unless determined by the Executive Director. He stated that he will follow up and provide additional information to the correspondence received. He stated that the Board has heard from the landowner that the renewal come before the Board, but the Code does not require that action. He stated that the LMCD has not yet received the renewal request.

Walesch asked if the Board would hear more about this prior to the renewal being considered.

Schleuning stated that typically renewals are reviewed in March and we need time to review the materials.

Anderson stated that it would seem to him to simply just not include dock 10 in the Minnetonka Beach renewal request.

Schleuning stated that staff needs time to review the materials and provide information to the Board to make an informed decision regarding suggested next steps.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

7A) Audit of Vouchers (11/16/2019 – 11/30/2019)

Anderson stated that it appears that legal counsel is paid monthly but noted a prosecution cost that appeared in the list.

Schleuning stated that there is a cycle for prosecution costs and noted that she will provide additional information to Anderson.

MOTION: Zorn moved, Stone seconded to approve **7A)** Audit of Vouchers (11/16/2019 – 11/30/2019).

VOTE: Motion carried unanimously.

11. OLD BUSINESS

A) Lake Minnetonka Vegetation & AIS Master Plan Update

Cook reported that there is a recommendation from the consultants to initiate a three-year pilot study, under the conditions that the LMCD will not be operating its harvesters during that period and any harvesting needing to be done would be contracted through private harvesters. He stated that the consultant also recommends hiring a lake management professional to assist in strategic assessment of vegetation and AIS issue that arise and to help

determine future practices. He confirmed that the lake management professional would be a consultant/contracted position and not a direct employee of the LMCD at this time.

Eric Evenson, LMA, noted his previous comment related to Phelps Bay. He spoke in support of the comments from Walesch and Anderson regarding the overall question as to whether the LMCD should be harvesting. He stated that he received a call from a resident on Seton Lake that was asking how the other bays were treated and explained chemical treatment and costs. He stated that the issue with the County funding is not with the County Board, but with the County staff.

Gabriel Jabbour stated that Hennepin County staff receives the funding and is in charge of allocating the funding. He recognized the challenge Hennepin County has in terms of budget management because of the size of the County. He provided examples of when the LMCD can interact with Hennepin County staff on this topic.

Cook referenced the question of whether the LMCD should be harvesting. He commented that he is unsure whether the LMCD should be harvesting. He stated that he is pretty sure that the LMCD is harvesting too much. He stated that he expects the pilot study to provide an answer to that question, specifically whether the harvesting equipment could be sold, and the organization move to a contracted service for needed harvesting. He expressed appreciation for everyone that participated throughout this process in attempt to provide a better history of the lake.

MOTION: Cook moved, Hoelscher seconded to initiate a three-year pilot study where the LMCD does not harvest and only completes harvesting through contracted service on an as needed basis and to initiate a procurement process to obtain a professional lake manager to assist in this process, with the first task being to assess whether Seton Lake and that area would benefit from a different approach.

Further discussion: Walesch asked if the actions could be separated to be voted on independently. He stated that he likes the first proposed action but believed additional parameters should be added for "as needed basis".

Acting Chair Baasen provided additional input on how he interpreted the motion.

Walesch asked if Cook is open to separating the two issues.

Cook replied that he believed the two issues go together as he did not believe the first item could be completed without the technical and analytical skills that would be provided by the lake management professional and therefore would be inclined to keep the actions as one. He stated that a similar path was followed the previous year and the LMCD did not contract for harvesting, but this motion would provide the LMCD with the flexibility to address an issue that may arise.

Walesch commented that consultants have been hired to complete this study and was unsure why another consultant would be hired.

Cook explained that this position would be a continuation of what the consultants are doing, as the actions desired are not part of the original RFP. He stated that the current consultants would be eligible to bid on the services, similar to other contractors. He noted that the Board would be a part of the selection of the contractor.

Walesch asked if this would develop a proposal for the lake management professional.

Cook confirmed that to be more accurate language. He agreed to amend the motion to state: initiate a procurement process to obtain a professional lake manager.

Gilchrist noted that he understood that to be a clarification of the motion made.

Acting Chair Baasen confirmed that both Cook and Hoelscher were comfortable with the amended language.

Hughes stated that he would want to ensure that this would include other options, such as chemical treatment.

Acting Chair Baasen confirmed that this will review the topic on a holistic level and will include options of that nature.

Anderson suggested that the LMCD not complete contracted harvesting and instead assist the general public if they have a desire for harvesting in their area.

Acting Chair Baasen noted that would significantly amend the motion.

Cook commented that this would be similar to the process that was followed this past season, noting that the LMCD did not have a condition that required the LMCD to contract for harvesting. He noted that although the situation may not arise, the LMCD should be provided with the ability.

Hoelscher agreed that the LMCD should have the ability to respond if there is a safety issue that arises and requires action.

Walesch provided additional background information on why that ability is helpful for the LMCD to have. He confirmed that the bulleted items included in the staff report were not included in the motion as proposed.

VOTE: Motion carried unanimously.

12. TREASURER REPORT

Cook reported that the organization is tracking close to budget, noting that court fines are falling behind but the prosecution costs are also lower, so those items balance out. He pointed out that several expenses are yet to be invoiced. He noted that the AIS planning work is operating under the budgeted amount. He stated that the Save the Lake income is about half of the projected amount as the organization typically receives the remainder following the last solicitation letter that was recently sent out.

Anderson noted the staff comment that some residents have commented that they will not be contributing to Save the Lake because the harvesting was not completed.

Schleuning stated that there were additional comments that some people would be willing to pay more for

harvesting.

Anderson asked staff to provide the number they are lacking in donations and he would work to collect additional donations to make up that anticipated gap.

Schleuning stated that might be difficult but would attempt to determine the impact.

13. NEW BUSINESS

Anderson asked if this would be an opportunity to discuss future business. He referenced applicants that have made mention to make improvements. He stated that there was a mention of an EAW but did not believe it would be fair to require an EAW for those applicants as the Caribbean was not required to complete an EAW. He asked if the LMCD allows permanent docks, as the City of Orono is going to submit a permanent dock application. He asked if there is a moratorium on new de-icing licenses.

Schleuning stated that the EAW requirements and policy should be discussed in January. She noted that the LMCD would follow the process in place, but the Board could discuss the policy itself. She provided information on the process for permanent dock applications and the eligibility requirements for de-icing. She also noted that applicants are made aware of the limitations regarding new deicing requests.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Current activities are listed on the website. Schleuning briefly reviewed the upcoming events and activities.
- Information has been added to the website in attempt to assist the public in easily gathering information. She highlighted some of the useful links available.
- Spiny Waterflea Webinar will be hosted on December 19th by the MAISRC. It is free but registration is required. She encouraged Board members to register for the event.
- Draft 2020 meeting calendar will soon be available. She noted potential conflicts with the November Board meeting dates and asked the Board to consider alternate dates.
- Schleuning provided information regarding the high cost of AIS across the country.

Hoelscher asked that Board members that have not yet completed the Executive Director evaluation or board self-evaluation to complete those surveys.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Save the Lake Committee: Baasen reported that the second solicitation letter was sent out three weeks ago and some responses have been received. He echoed the comments that there have been responses that people are

disappointed with the navigation issues caused by the lack of harvesting. He encouraged the Board to contribute to Save the Lake. He stated that the LMCD cannot do a lot of things that it does if Save the Lake is not successful.

Anderson noted that he sent a note to a couple Board members and staff related to illegal de-icing activity and was impressed with the swift action of staff.

Strategic Plan Subcommittee: No report.

Nomination Committee: Zorn stated that the group will meet within the next few days and will communicate to the Board on the process. She noted that the self-nomination deadline is December 31st.

16. ADJOURNMENT

Being there no further business, the meeting was adjourned at 8:31 p.m.

Gregg Thomas, Chair

Ann Hoelscher, Secretary