

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**
7:00 P.M., May 27, 2020
Wayzata City Hall

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; and Jake Walesch, Deephaven; Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matthew Cook, Environmental Administrative Technician.

Members Absent:

Nicole Stone, Minnetonka and Deborah Zorn, Shorewood.

Persons in Audience:

John Bent; Eric Evenson; John Lundquist; and Joleen Ray.

1. Policy Discussion Grants and Funding

Chair Thomas stated that Save the Lake has an operating policy for grant considerations and reviewed those details, noting that per the policy the available balance for grants would be \$39,445.

Baasen stated that the statement that he heard related to the Libbs Lake request was that if the District put a halt on harvesting in the lake, it would not then make sense to award Libbs Lake money for harvesting; and why Libbs Lake was segregated from other bays. He explained that Libbs Lake was the only request Save the Lake received. He believed that the Board wanted to discuss the process for considering/awarding grant funds.

Kirkwood asked if the requests are awarded on a first come, first serve basis for grants.

Baasen provided history on the Libbs Lake grant award, noting that in the past the LMCD harvesters could not get into the Libbs Lake area and the decision was then made to provide assistance through funding for that bay to complete harvesting. He noted that the City of Minnetonka continues to be the largest funder of the LMCD through the tax levy and does not feel that it always receives that level of benefit.

Chair Thomas agreed that there was consideration given to the fact that 20 percent of the levied amounts from the member cities comes from Minnetonka, which is the maximum amount by law that a city could pay.

Hoelscher stated that her thought was that even though the harvesting program has stopped, the LMCD has committed to ensuring there is navigation provided on the lake and therefore the request could be

dealt with through the regular harvesting fund rather than Save the Lake.

B. Cook stated that the reason he wanted to talk about this topic in work session is that he believes that there should be an idea of the projects the LMCD is interested in promoting around the lake. He did not believe that 25 percent of the reserve balance is the correct number for available grants and therefore believed that this was an appropriate time to look at the grant process and what the LMCD is attempting to encourage around the lake. He stated that it seemed appropriate to have a conversation related to revising the grant program or putting boundaries on a potential grant program.

Chair Thomas noted that the Save the Lake policy does include a broad statement, acknowledging that it is a broad statement.

B. Cook commented that 25 percent of the reserves is about equal to the amount Save the Lake raises in one year.

Baasen stated that Save the Lake has had to use its reserves for the past two years, operating within that level without fully funding any requests. He noted that often requests from Save the Lake are funded when there is a public match for a project that provides a safer lake. He noted that Save the Lake even funds its own administrative costs through its operating budget. He stated that currently Save the Lake contributes towards the cost for the Sheriff, solar light program, Libbs Lake, and boater safety. He provided examples of additional equipment Save the Lake has contributed funds towards for other applicable organizations (fire departments) that help to make the lake a safer place.

Walesch asked if there are financials for Save the Lake, and the current reserve balance.

Baasen replied that Save the Lake is a part of the audit process and believed the reserve balance to be about \$157,000.

Chair Thomas noted that the financials for Save the Lake were also included in the Board packet.

Anderson commented that 25 percent of the reserve fund balance would be equal to the funds that Save the Lake receives in a one-year time period. He stated that only \$5,000 was taken from the reserve to fund the Sheriff request. He stated that he likes the policy being set at 25 percent because that is equal to the amount that is brought in during the year, which results in a net zero.

Baasen stated that the motion passed that they could draw up to \$5,000 from the reserve fund, but not that the full amount would be used.

B. Cook clarified that he has a problem with the resolution that has been in place since 2008 because it sets a maximum of what could be done with Save the Lake reserves. He stated that he believes that the LMCD will be over that maximum in 2020 and would not want to be contrary to the written and approved policies. He confirmed that the 25 percent language is too restrictive. He stated that instead the Board should decide on an annual basis as to how the Save the Lake funds would be used, as the intent of the

resolution appears to tie hands.

Chair Thomas suggested that this go to the Save the Lake Committee to review the policy and program worksheet with the intent of providing recommendations for the documents.

Baasen advised of the next Save the Lake Committee meeting and noted that anyone can participate in the event, even if they are not a member of the Committee.

Walesch stated that it seems excessive to have four years of operating expenses in the reserve fund. He stated that he would be okay with the recommendation of the Committee but agreed that it should be further discussed to determine the appropriate balance for its reserve.

Baasen stated that there is a resolution from 2008 which calls for 25 percent of the reserve balance as a guideline. He stated that sometimes Save the Lake raises a lot of funds, sometimes it does not; sometimes there are requests, sometimes there are less. He agreed that there should be a review done as to what is appropriate and how the funds could be used, should that language be expanded.

Anderson agreed with Walesch. He asked the balance of the reserve fund in 2008 when the resolution was developed. He noted that 25 percent of a smaller balance would be a smaller amount than 25 percent of the current balance.

Kirkwood also agreed.

Walesch clarified that he was not sharing an opinion either way but wants the Committee to review the information and provide a recommendation.

Baasen provided details on the balance of the reserve from 2008, which was significantly higher than the current reserve balance for Save the Lake.

Schleuning noted that the next Save the Lake Committee meeting will be on July 14th. She stated that as of the December 31, 2007 audit, the Save the Lake reserve balance was \$267,000 significantly more than today.

Chair Thomas asked if Gilchrist has legal input.

Gilchrist stated that this decision would be of the Board, noting that the Board can make the decision to change the resolution as it sees fit.

2. High Water Declaration Review Update

Schleuning provided the revised project outline for the high-water declaration review and highlighted the revisions that were made. She asked for input from the Board on the development steps and timeline and reviewed the project objectives.

Chair Thomas stated the last time a high-water declaration was made, noting that there was feedback solicited after that declaration on both the policy and procedure. He asked if that information could be used rather than attempting to solicit input now, noting that people were probably most able to provide good feedback when the declaration was fresh in their mind.

Walesch stated that there has been a lot of correspondence, especially with Water Patrol and the Sheriff. He asked if staff would agree that is the number of stakeholder that the LMCD needs to communicate with.

Schleuning replied that the Sheriff's Office would be more of an implementer stakeholder.

Walesch stated that there was a work group that discussed this topic, noting that the group discussed other things off topic as well. He stated that the LMCD should be careful not to "overcook" this. He believed that there was discussion following the last high-water declaration with ideas of how the process could be improved. He noted that perhaps there can be discussion on how some of those ideas could be implemented. He stated that in the interest of everyone's time, perhaps staff work with the Sheriff to implement some of the good ideas and be done with it.

Kroll stated that he has a concern that the LMCD is not gathering data from the quiet voices, which was the reason for the survey. He believed it would make sense to gather information from those that do not make the most noise, noting that a survey would be the ideal method to gather that information.

Kirkwood asked if the discussion is meant to discuss Article 10 and whether it needs revision.

Schleuning replied that the intent is procedural, to review and determine administrative improvement that could be made. She stated that she would like to move forward with that as soon as possible. She noted that the second element would be whether the Board desires additional changes.

Kirkwood asked for details on the feedback received in 2018 following the high-water declaration.

Schleuning noted that mixed feedback was received. She reviewed some of the things that staff identified that could be implemented to make the administrative process more efficient and improve public education and outreach.

Kirkwood asked if staff logs the nature of calls from residents when there are high water incidents, to determine if there are any trends in the calls.

Schleuning stated that calls began so fast that staff did not have a method or time in place to fully log the calls, noting that is one of the procedures that staff believed could be improved.

Chair Thomas stated that he asked staff to attach Article 10 to the staff report for informational purposes.

Hughes referenced language found related to exceptions and noted that fire service should also be listed in that section.

Anderson provided phase one and phase two information that he has available to share with the Board.

Schleuning noted that is not what the water patrol or workgroup are working from, but confirmed that staff will share that information with the Board.

Anderson briefly shared the documents for phase one and phase two, noting that most of the items have been completed or is ready to go. He commented that it seems to be a non-issue as the Sheriff's Department has to enforce high water declarations and requires a 72-hour alert prior to making code changes.

Hoelscher asked if this could be on the agenda for the next regular Board meeting agenda to formalize.

The work session was adjourned at 6:59 p.m.

FORMAL MEETING

7:00 p.m.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; 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; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members absent: Nicole Stone, Minnetonka and Deborah Zorn, Shorewood.

Persons in Audience:

John Bendt; Eric Evenson; John Lundquist; Tony Nickolay; Joleen Ray; and, David [last name not given].

4. APPROVAL OF AGENDA

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

ROLL CALL VOTE:

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

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. APPROVAL OF MINUTES- 05/13/2020 LMCD Regular Board Meeting

Hoelscher stated that on page four, the sixth paragraph, it should state, "~~Gabrielle Jabour~~ Gabriel Jabbour..."
On page three, under public comment, the second paragraph, it should state, "~~LMLA LMA~~" On page two, under Chair Announcements, it should state, "~~...Highwater~~ High Water..."

MOTION: Thomas moved, Anderson seconded to approve the 05/13/2020 LMCD Regular Board Meeting minutes with the changes noted by Hoelscher.

ROLL CALL VOTE:

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

Walesch aye

Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Kroll moved, Cook seconded to approve the consent agenda as presented. Items so approved included: **7A**) Audit of Vouchers (05/16/2020 – 05/31/2020); and **7B**) April Financial Summary.

ROLL CALL VOTE:

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

Motion carried unanimously.

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

John Bent, Maxwell Bay, provided input related to wake boats. He reviewed the mission statement of the LMCD, noting that the mission applies to all of the lake's stakeholders and the Board has a duty to implement policies that accomplish the mission. He stated that it has been his experience that wake boats prevent the mission from being achieved by many of the lake stakeholders. He noted that wake boats have a large impact on the lake and experiences of others using the lake because of the wake they make and the noise level of the boat and its speakers. He stated that at times sound levels are so loud that his windows vibrate. He noted that other activities such as kayaking, and paddle boarding and swimming are negatively impacted by wake boat activity. He stated that his boats are not stored on lifts and have incurred damage from the waves that wake boats create. He commented that everyone, including wake boaters, should be able to enjoy the lake but the dominant presence of wake boats seriously diminishes the enjoyment of the lake for many stakeholders and believed there should be some type of balance. He urged the Board to take this matter seriously and find ways to create policies, or rules, that restore balance to the lake.

John Lundquist, North Arm Bay, echoed the comments expressed by Mr. Bent. He stated that in his time on the lake is for everyone but there needs to be a solution put in place to create balance. He stated that in his

experience on the lake, the loud music emanating from the wake boats is very loud and creates an unfortunate situation that negatively impacts the quality of life for the homeowners on the bay. He stated that he is not looking to ban wake boats but looking for the industry to police itself better or to implement a noise ordinance that could provide a solution. He stated that it is a big problem that deteriorates the quality of life for those on the bay. He noted that the lake is for the enjoyment of everyone, including the homeowners.

Eric Evenson, Lake Minnetonka Association (LMA), stated that he attended the workshop meeting earlier in the night with the impression that there would be a discussion on grants and funding. He thought that Hoelscher asked the question as whether requests, such as the Libbs Lake request, could be considered through the LMCD's harvesting budget line item. He noted that question did not receive discussion from the Board. He stated that his intent was to ask the Board whether grants could be made available for other Bay Captains to request using the harvesting funds within the Board's budget. He asked if there would be future discussion about that question.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

Newell asked if it would be appropriate to have a discussion related to AIS and how those funds could be used, while the LMCD is not harvesting, in order to help the communities.

B. Cook agreed.

Hoelscher stated that it would seem that the Board would need to review the AIS Plan and what that entails before the Board commits to anything else.

Chair Thomas agreed.

Newell stated that the LMCD has been working on the Master Plan for some time and really has not gotten it completed. He asked if some of the funds could be freed up to help the bays in the interim.

Chair Thomas stated that could be discussed at the next meeting, perhaps at the work session.

Walesch agreed that there should be a discussion as to what should/could be done and determine what the AIS efforts will be going forward. He stated that he personally would not be in favor of funding requests unless that was the direction of the plan.

B. Cook suggested that a brief presentation occurs at an upcoming workshop related to the Master Plan and the recommendations in the Master Plan in order to provide input.

Evenson provided information on how the LMA uses its funding. He stated that funds for bay treatments are

100 percent marked for that use.

Thomas stated he sends the money to LMA, not bay captains.

Evenson stated that the funds are used for bay treatments if specifically stated for that use. If not specified, it is used to fund other LMA activities. He noted that grants should be awarded to the Bay Captains.

Walesch stated that Carsons Bay is overfunded. He asked the number of bays that are overfunded and underfunded and asked for reasoning on the differences.

Evenson replied that none of the bays are overfunded, noting that some are struggling to raise the funds for the treatment. He stated that the LMA attempts to build reserves in each of the funds, as the funds are needed prior to beginning treatments each spring. He noted that the bays raise funds.

Walesch stated that he would like to make sure the lakeshore owners stay engaged and keep funding the activity, as he believes the bays should contribute funding. He stated that he looks forward to the discussion when it happens.

Evenson noted that not all of the cities provide funds for the treatment funds.

Hoelscher stated that Smithtown Bay does not have a Captain. She asked the percentage of the lake that have Captains and those that do not.

Evenson replied that there are eight Bay Captains, one each on the bays receiving treatments. He noted that he received an inquiry from a Smithtown Bay resident that was interested in becoming a Captain. He noted that he informed the resident that the job of the Bay Captain is to raise funds for treatment on their bay. He stated that he received three phone calls in the past week from different bay residents. He explained that the challenge in finding Bay Captains is that people do not want to step forward and be the one to take the lead on fundraising. He stated that more people would perhaps be willing to step up if they thought there was help through another agency, such as the LMCD.

Newell asked if the members of the Board should go back to their city and explain that the LMA is looking for Bay Captains.

Chair Thomas noted that would perhaps be the job of Evenson and the LMA rather than the LMCD and its Board members.

Anderson stated that Crystal Bay has been raising funds and welcome a donation from the LMA. He stated that there will be a Zoom presentation the following day and invited those interested to attend, as it will contain information that could be used by other bays.

11. OLD BUSINESS

A) 2021 Draft Budget City Letter

Schleuning reported that the Board approved the 2021 preliminary budget at the last meeting but wanted to further review the City letter. She provided details on the statutory requirements. She reviewed the comments she received from the Board related to the draft letter and provided clarifications.

B. Cook stated that at the last meeting there was a discussion related to the 2020 forecast. He noted the revisions that were made to that forecast.

MOTION: B. Cook moved, Kroll seconded to approve the communication of the preliminary 2021 LMCD budget, and direct staff to send the letter to representatives of the member cities.

ROLL CALL VOTE:

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

Motion carried unanimously.

B) Libbs Lake Association Response to Request for Funding

Chair Thomas provided background information on this topic. He noted that he suggested that the item appear on the agenda under Old Business rather than having the resident submit the comments in the Public Comments section of the agenda. He noted that the Board's decision from the last meeting can remain noting that the purpose was to hear this information.

Tony Nickolay, Libbs Lake, stated that he is a Bay Captain for Libbs Lake which requires a lot of volunteer time. He stated that he likes being on the lake and enjoys helping to make it a better place for everyone. He stated that he felt that there was confusion at the last meeting about the Libbs Lake Association and what they do. He provided background information on Libbs Lake and the high amount of traffic that the bay receives with lake activity and the public beach. He stated that the bay has worked hard to make improvements. He stated that weed control is a concern for the bay and the funds the LMCD has provided in the past have been used to improve navigation and safety. He stated that the request is related to navigation

and public safety first and would fall in line with the treatment on the overall bay similar to other bays. He stated that the residents of the bay will attempt to pursue a DNR variance, as mentioned at the last Board meeting. He stated that the City of Minnetonka has allocated some funds to use for navigation improvement in the bay and the homeowners have contributed as well. He stated that the funds the LMCD has contributed before has been used 100 percent for the purposes of improving navigation and public safety. He asked the Board to reconsider the request for funding to improve navigation and public safety. He stated that the LMCD harvesting equipment is parked and was bothered that the request from Libbs Lake seems to keep getting lumped into that category. He encouraged the LMCD to move away from the harvesting equipment and instead focus on how it could be helping to improve the lake in terms of navigation and public safety. He stated that the request from Libbs Lake has been considered and rewarded in the past because it took the effort necessary to submit the request and required information. He noted that anyone could choose to come forward with a request following the criteria outlined and their request would be evaluated. He asked the Board to reconsider the request.

Chair Thomas thanked the residents of Libbs Lake for the effort they take in order to make the area a better place.

Walesch thanked Mr. Nickolay for his letter. He stated that Libbs Lake is doing all the right things. He stated that he agrees there is a need but explained that his decision was based on the fact that the original requests from Libbs Lake were awarded because the harvesting equipment could not get into that area. He stated that now that harvesting is not occurring on the overall lake, that funding should not be given. He stated that he is not interested in support one of requests and would rather focus on the master plan for the overall lake. He stated that there are funds available for emergency navigation problems that arise. He stated that the request is a good example for the Board to discuss in its overall AIS discussion and how funds should be awarded.

Nickolay stated that he did not believe it to be a one off request, as other groups could submit requests. He stated that they should not wait for an emergency situation as this is a known problem and should be corrected to avoid a serious accident from occurring.

Chair Thomas thanked Mr. Nickolay for his input and sharing this information with the Board.

12. NEW BUSINESS

A) 2020 Appointment(s) for Official Newspaper

Schleunig reported that staff reviewed options for the designation of an official newspaper as required by State statute.

Chair Thomas asked if the Sun Sailor would meet the requirements laid out within State statute.

Schleunig noted that there is not one paper available that provides service to all 14 communities. She stated that of the available options, this was found to be the best choice given the state requirements.

Gilchrist provided background information on the requirement within State statute, which is geared towards a single municipality and does not contemplate 14 cities that border a large lake. He stated that in his opinion it is best to identify a single newspaper as the official newspaper and the LMCD could always choose to publish in additional publications if desired.

Baasen asked if there is an online version of the *Sun Sailor*, which would allow those that do not receive the publication to view the information online.

Schleuning confirmed that there is an online version.

Kirkwood asked if there has been any motion to eliminating the requirement for physical publication and making notifications electronic.

Schleuning stated that she is not aware of any motion in that direction currently as it would require a State law change.

MOTION: Thomas moved, Kirkwood seconded to approve the recommended designation of the *Sun Sailor* to be the official newspaper of the LMCD for the purposes of publishing legal notices.

ROLL CALL VOTE:

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

Motion carried unanimously.

13. TREASURER REPORT

No report.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- 2020 Summer Rules Brochure: New and updated information was reviewed.
- Own Your Wake: People can be held personally liable for damage resulting from their wake. Educational information was drafted to assist in public education and outreach. She welcomed any additional input.
- Wastewater Discharge and Maine Toilets Handout: The handout was completed and will be distributed.
- Boater Safety Class Canceled for 2020: The class was canceled and the LMCD will make more information available online.
- Solar Lights: The lights have been installed for the season.
- Lake Minnetonka Water Level: Staff continues to watch the daily water levels.
- Hybrid Watermilfoil in Minnesota Webinar: This webinar occurred on May 22nd. Additional research will be conducted about different hybrids.
- Lake Activities: The lake activity has increased this spring and the LMCD encourages everyone to review the rules on the website, be safe and have fun.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Communications & Legislative Relations: No report.

Deicing and Permanent Dock Workgroup: Anderson provided an update on the deicing review and activity that has been completed and circulated to the Board to review. He recommended that the Board accept the suggestions for new code language, application form and BMPs, and form for compliance inspections during the deicing period.

Anderson made a motion to approve the code amendment and all deicing suggestions by Cook and him.

B. Cook seconded the motion.

Thomas stated this item was not on the agenda for Board approval or consideration.

Schleuning noted that staff has not yet had a chance to review the information. She noted that the timing had been discussed at previous meetings and it had been marked as a lower priority during this time because there are several months before ice will come again and other competing work demands.

Anderson stated that while he does not have a problem waiting, he would like it to appear on the next agenda for consideration.

B. Cook agreed that he would be okay with waiting for the next agenda to take action.

Anderson stated that he is excited to move onto the permanent dock topic once the recommended action is taken by the Board.

Gilchrist noted that he has not yet reviewed the draft resolution/ordinance but confirmed that if he is sent the information, he will have time to review it prior to the next Board meeting.

Save the Lake Committee: Baasen reported on the items the Committee will discuss at its next meeting. He noted that a draft solicitation was provided to the Board to review and provide input. He stated that he will proceed with putting the letter into final form and distributing the letter.

Strategic Plan Subcommittee: No report.

16. ADJOURNMENT

MOTION: Baasen moved, Kroll seconded to adjourn the meeting at 8:40 p.m.

ROLL CALL VOTE:

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

Being there no further business, the meeting adjourned.

Gregg Thomas, Chair

Dan Baasen, Secretary