

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., January 27, 2021
Virtual

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

6:30 p.m.

Members Present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata (arrived at 6:35 p.m.); Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Dennis Klohs, Minnetonka Beach (arrived at 6:38 p.m.); Minnetrista; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members Absent: None

Persons in Audience: John Bendt; Jim Dolan; Eric Evenson; Erik Forsberg; Gabriel Jabbour; Dirk Miller; Jill Sims; and Jake Youngren.

1. Consider Process Regarding Public Comments About Wakes from Watercraft

Chair Thomas noted that a draft document was included in the packet that was drafted by Schleuning and provided a summary of the document. He asked for feedback from the Board related to the document and how they would like to receive feedback from the public. He stated that perhaps a separate workshop be scheduled in order to receive input from the public in this topic in a more structured manner as thus far input has just been received through comments made during the public comments portion of regular meeting agendas.

Anderson commented that he believes it would be a good idea to hold this as a separate listening session.

Kirkwood asked if this situation has presented itself in the past with a controversial topic with multiple stakeholders and asked if a similar process was followed.

Baasen agreed that a separate meeting would be needed with adequate time to provide time for everyone to provide input. He noted that an agenda and meeting parameters should be used to ensure everyone is aware of the format. He stated that the two issues he could recall that were similar were related to high water declaration and changing the marina envelope rules.

Cook stated that he would be concerned about hearing a few loud voices or repetitive voices. He stated that perhaps an electronic survey on social media could be used to gather additional input from a wider audience.

Chair Thomas asked if there is currently something of that nature on the website.

Schleunig commented that there is not a survey at this time but advised that a draft webpage has been started that has not yet been linked to the main webpage. She confirmed that the LMCD has used SurveyMonkey in the past and could develop something of that nature.

Cook stated that he would not want to see a SurveyMonkey that is ignored. He stated that he would prefer to seek good information rather than a lot of information. He stated that there should be an area for people to type in more detailed response.

Walesch agreed that listening would be great and stated that perhaps that could be the only, or primary, agenda topic on a regular meeting. He stated that if it were held as a separate meeting, he would make every attempt to attend, or at least watch it back later. He agreed that there should be a format for the meeting.

Newell agreed that this should focus on gathering good information. He referenced the recent email from Mr. Bendt, noting that it appears that following is over 1,000 people. He stated that while he agrees that everyone should be entitled to vocalize their concerns, the challenge would be to give everyone a voice without continuing to hear overlapping comments.

Chair Thomas agreed that Mr. Bendt and his organization have done a great job speaking as one voice representing a larger group.

Hughes commented that when there are large wake boats on the lake you do not see kayaks and paddleboards on the water, noting that he has not taken his kayaks on the lake for the past few years. He stated that he would want to see more information on the changes that have occurred on the lake because of the wake boat activity. He stated that businesses on the lake have been lost that rented paddleboards.

Walesch commented that once this gets out on social media there will be a lot of people that will rally on both sides and there has to be some limit, perhaps two-to-three-minute prepared statements, and a limit of 30 to 40 speakers on each side. He stated that there has to be structure and time limits. He stated that there will be a lot of people making good points on both sides. He agreed that this should be a structured process to listen without the Board making any statements or determinations.

Zorn stated that perhaps the Communications Committee could be aligned with this topic to help provide guidance.

Kirkwood agreed that there should be a focus on process and format. He noted that most likely the group will hear the same comments that they have heard throughout this past year on the topic but recognized that there could be some creative new suggestions. He agreed on a time limit for input. He commented that he would prefer to hold this as a separate meeting.

Hoelscher commented that the Communications Committee could discuss this at their meeting the following day.

Chair Thomas stated that perhaps that group could discuss the timing, specifically whether it should be held as soon as possible or wait until after the results of the University study are known.

Kroll commented that there is really no difference between Minnesota water and Wisconsin water and therefore does not believe the University study will provide different results than the other studies that have been done. He therefore did not believe this needed to wait until those study results are known.

The work session was adjourned at 6:56 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; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members absent: None.

Persons in Audience: Aaron Bean; John Bendt; Jim Dolan; Eric Evenson; Erik Forsberg; Tom Frahm; Gabriel Jabbour; Carol Larsen; Shane Magnuson; Dirk Miller; Gary Obermiller; Jill Sims; Craig Swanson; and Jake Youngren.

4. APPROVAL OF AGENDA

Chair Thomas requested to remove Item 11 from the agenda as the materials for that item were not included in the agenda packet. He noted that the item can appear on the next agenda.

MOTION: Thomas moved, Kroll seconded to amend the agenda to remove Item 11.

Further discussion: Anderson asked if this would be the appropriate time to request to add an item to the agenda.

Chair Thomas suggested that this action occur and then Anderson could bring forward his request.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Anderson stated that at the last meeting he had requested that the idea of selling the harvesters be on this agenda but it is not. He noted that Chair Thomas previously recommended that the sale of the harvesters be discussed 30 days prior to the TAG meeting. He requested that the item be placed on the agenda tonight.

Chair Thomas stated that his comment was that the sale of the harvesters would occur within 30 days after the TAG meeting rather than before, as that meeting will help guide that decision.

MOTION: Anderson moved, Newell seconded to amend the agenda to add an Item, Discuss Sale of Harvesters.

Further discussion: Cook commented that he did request at the last meeting for this item to be included on the agenda. He stated that he would like to talk about it and noted that he has done some work in attempt to organize a presentation. He stated that perhaps 30 minutes of presentation and discussion could occur at the next workshop followed by formal consideration at the regular meeting. He commented that he would prefer to offer the additional information in order for the Board to make an informed decision.

Schleuning stated that staff would need to have a valuation to determine the process for selling the equipment in accordance with state law.

Anderson stated that he did gather some information on how the equipment would have to be sold in preparation for tonight's meeting.

Kroll stated that it would be one decision to sell the machines, but staff would need additional direction on that process, as alluded to by Anderson. He was unsure that a motion tonight would help unless the purpose is to gain a sense of the Board.

VOTE: A roll call vote was performed:

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

Motion carried.

MOTION: Anderson moved, Kirkwood seconded to approve the agenda as amended.

VOTE: A roll call vote was performed:

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

Zorn aye

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Chair Thomas commented that following the previous meeting where the CD3 proposal was discussed, there was concern raised over whether there was a majority approving or whether the abstention impacted the vote. He stated that Gilchrist provided legal input and determined that the motion carried. He stated that there was also discussion related to the request for Anderson to make a motion, which he suggested wait in order to allow additional comments to be made. He recognized that he did not ask for a second to the motion made by Anderson but received confirmation from Gilchrist that the motion from Cook still stands. He stated that at the next Board meeting he asked Schleuning to schedule a closed session in order for the Board to provide feedback on the performance appraisal of Schleuning. He stated that he does have a summary of the SurveyMonkey results that he will mail to the members of the Board to review prior to the closed session meeting.

Kroll, Walesch, and Anderson noted that they do not recall receipt of the electronic survey link.

Chair Thomas commented that seven Board members responded but acknowledged that the responses are anonymous.

Walesch apologized that he did not participate in that electronic format, as that was not his intent.

Chair Thomas commented that the Board would still be able to provide feedback during the closed session.

6. APPROVAL OF MINUTES- 01/13/2021 LMCD Regular Board Meeting

MOTION: Thomas moved, Cook seconded to approve the 01/13/2021 LMCD Regular Board Meeting minutes as submitted.

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

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

Stone	aye
Thomas	aye
Walesch	abstain
Zorn	aye

Motion carried.

7. APPROVAL OF CONSENT AGENDA

MOTION: Kirkwood moved, Walesch seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (01/16/2021 – 01/31/2021); and **7B)** Variance Request for Dock Use Area, Length and Setbacks, 435 Lakeview Avenue, Tonka Bay.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

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

Gabriel Jabbour commented that he is present to address the way the Board treated the former Water Patrol Commander and the minutes that did not show the facts. He stated that he helps the Water Patrol by recovering burned boats and commented that the Water Patrol does a phenomenal job with limited assets. He stated that Hennepin County makes the decision on what to do and how to assign their assets, which will result in less action on the water. He stated that words of support go a long way and didn't appreciate comments by Kroll. He stated that he has worked hard to initiative noise limits on the lake. He asked how the LMCD could attract more volunteers, as that number is declining. He stated that it does not matter how huge a home is as the value lies in the lake. He asked Kroll to revisit his comments. He stated that the Board asked Walesch to bring forward an ordinance related to sewage and he worked with a marina owner and the

Water Patrol to create that language. He stated that you can create ordinances, but you still need enforcement.

Jill Sims, National Marine Manufacturer Association, commented that during the past few weeks they have been in discussion with stakeholders about a wake surf education program. She stated that her intent was to have something prepared for this meeting but has been busy with potential legislation across the country. She hoped to have her draft to Schleuning by Monday for future Board review and comment. She thanked the Board for the work they continue to do, noting the workshop discussion prior to tonight's meeting.

Hoelscher asked if Sims could share the potential legislation from the other states that is coming forward.

Sims confirmed that she would send that information to Schleuning.

9. PUBLIC HEARING

A) Public Hearing for Crosby Cove Homeowners Association, 16139 Crosby Cove, for New Multiple Dock License

M. Cook presented a request for a Multiple Dock License on Crosby Cove, provided background information on the property. He stated that the size of the watercraft that could get into the cove would be limited by the bridge height. He reviewed the existing site plan and compared that to the proposed site plan. He provided an overview of the site review noting that the applicant's proposal generally meets code requirements. He stated that while an association multiple dock would typically be allowed up to 100 feet, the navigation constraints of the channel limit the length of the dock that could be installed on the site. He noted that the memorandum within the packet includes the multiple dock criteria. He stated that a request for review was sent to applicable agents and no comments were received from the City of Minnetonka or the DNR. He reviewed a comment received from the MCWD and from a member of the public. He stated that staff recommends approval and reviewed the recommended conditions of approval.

Thomas opened the public hearing at 8:16 p.m.

Gary Obermiller, 16151 Crosby Cove, commented that he feels that as proposed they find this acceptable. He stated that his dock has been in the water since 2005, noting that silt has accumulated over time. He asked who could be contacted to discuss dredging of the channel.

M. Cook replied that the MCWD holds a general permit through the DNR. He stated that if desired the resident could follow up with LMCD staff to receive more information.

No additional comments were offered and the public hearing was closed at 8:18 p.m.

Newell stated that he bikes through this area, which is lovely, and referenced outlot A specifically asking if that intends to remain an outlot and whether it belongs to the association.

Chair Thomas commented that the LMCD has no jurisdiction on the land and suggested that Newell follow up with the association offline to gather those details.

M. Cook confirmed that the outlot is owned by the association.

MOTION: Walesch moved, Klohs seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the Multiple Dock License application for the property located at 16139 Crosby Cove in Minnetonka for final approval at the February 10, 2021 LMCD Board meeting.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

B) Public Hearing for Variance Request for 975 Heritage Lane for Adjusted Dock Use Area, Length

M. Cook presented a request for a length variance application on Tanager Lake and provided background information on the property and request. He noted that a similar length variance was approved the previous year for the adjacent property of 980 Heritage Lane. He stated that the applicant's proposal generally meets code requirements and reviewed those details along with the variance standards. He stated that a request for comments was sent to the applicable agencies with no comments from the DNR or City of Orono. He reviewed the comment received from the MCWD. He stated that staff recommends approval and reviewed the recommended conditions of approval.

Chair Thomas commented that it appears the land has been sold and the new owner would like to install this dock with four BSU's. He asked if a house would need to be constructed on the lot to allow four BSU's.

M. Cook stated that in this case construction of a home is not necessary.

Anderson asked for clarification on the water depth needed, whether that is three to four feet or four to five feet.

M. Cook replied that he was referencing the measurements provided by the applicant.

Thomas opened the public hearing at 8:31 p.m.

Jake Youngren spoke in representation of the property owner, stating that this is a straightforward request asking for the minimum needed to make the boatlift work. He stated that he also completed the project and submission for the neighboring property the previous year. He confirmed that they are working with the MCWD to address the de minimis request.

No additional comments were offered, and the public hearing was closed at 8:33 p.m.

MOTION: Walesch moved, Klohs seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the Variance application from Mark Schindele for the property located at 975 Heritage Lane for final approval at the February 10, 2021 LMCD Board meeting.

Further discussion: Anderson stated that he would want to ensure that the 929.4 be achieved and that the motion be based on all of the recommendations of staff.

Walesch stated that he did make his motion conditioned upon the recommendations of staff. He stated that he is unsure of the request related to the 929.4.

Schleuning stated that she contacted the surveyor and the shoreline identified is the 929.4. She noted that could be updated if desired.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

10. OTHER BUSINESS

There was no other business.

11. OLD BUSINESS

There was no old business.

12. NEW BUSINESS

A) Resolution Establishing an Aquatic Invasive Species Committee

Chair Thomas stated that at the last meeting there was discussion about converting the AIS Task Force into a Standing Committee, but it was noted that a resolution would be needed to do so. He stated that Gilchrist has drafted that resolution.

MOTION: Cook moved, Anderson seconded to establish a standing Aquatic Invasive Species Committee replacing the Aquatic Invasive Species Task Force.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Chair Thomas noted that Cook was previously Chair of the AIS Task Force. He stated that he would ask Cook to call the first meeting to order and the group could then elect Officers. He asked how the Committee should be populated.

Cook suggested that the Chair ask for volunteers similarly to the other Committees.

Chair Thomas asked for volunteers. He commented that Schleuning can send out an email asking for interest.

Newell, Cook, Brandt, and Zorn confirmed that they would like to be part of the Committee.

Cook stated that he would like to also consider non-Board member participation on the Committee.

Chair Thomas recognized that the Task Force historically had more non-Board members than Board members. He believed that it would continue to provide benefit to have non-Board members on the Committee. He stated that in order to do so, the group would need to bring forward a request to approve that membership.

Cook commented that could be addressed at the Committee meeting.

B) Discuss Sale of Harvesters

Cook commented that based on the evaluation of the harvesting program that was previously completed, it does not appear that the LMCD would be interested in completing harvesting as an organization. He stated that the harvesting equipment is sitting in storage and this would be a good time to sell the equipment as the equipment will only continue to deteriorate and lose value. He commented that there are higher priorities for equipment purchases and maintenance and the harvesters impact that ability. He strongly suggested that the Board implement a program to sell the harvesters.

Walesch commented that he supports the comments of Cook. He stated that he trusts the staff and AIS Committee to determine the right process to sell that equipment. He agreed that this is a good time of year to sell the equipment and agreed that the equipment is not gaining value. He believed that a vote should occur tonight.

Anderson stated that if the Board decides to sell the equipment, it must follow the government channels, per the information he gathered. He stated that he could reach out to Water Patrol to determine the path that must be followed if the equipment has to be sold at government auction.

Schleuning commented that whatever decision is made, she will follow the requirements and attempt to gain the most they can from the sale.

Gilchrist confirmed that sales of equipment by local government entities is subject to municipal contracting law, depending on the value of the equipment. He noted that he is familiar with the process and will ensure that is followed.

Cook stated that he would suggest that he, Anderson, and Newell provide input as a harvester sales workgroup.

MOTION: Walesch moved, Cook seconded to direct staff to work with the harvester sale workgroup to sell the harvesters.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

13. TREASURER REPORT

Cook had no report.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Tanager Bridge Reconstruction: Open house meeting was held today for the project which will begin in February. A link will be provided on the LMCD website.
- AIS Webinar: The Presentation will be provided through the AIS Detector Program and coordinated through Wildlife Forever. Those interested can register through the link on the LMCD website.
- AIS Management 101 Online Course: This course will be offered for a second time March 1st through April 1st and is self-guided. Many Board members participated in the course offered last year.
- Hennepin County Plastic Free Challenge: This challenge runs January 20th through February 17th in attempt to reduce plastic consumption and the plastic footprint. Information can be found online on the Hennepin County website.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Communications: Hoelscher reported that the group will meet the following day via Zoom.

Finance: Cook reported that the group will meet in the second week of February to start the budget process and noted that the audit process will begin that week as well.

Operations: Zorn reported that the Committee met the previous week, and she was appointed as Chair with Hoelscher as Secretary. She stated that the group will meet on the third Tuesday of each month at 10:00 a.m. via Zoom. She stated that the Committee discussed potential changes to the LMCD Board meeting schedule in attempt to simplify the staff workload noting that this discussion will continue. She stated that the decision was made to table the time and motion study until work resumes in person in the office. She stated that the group discussed updating the Strategic Plan for 2021 and the thought was to review that item and incorporate feedback from the Board Officers on the process. She reviewed the current membership of the Committee and noted that if anyone is interested there would be room for one additional member. She stated that the group also discussed how the Board could assist staff in reviewing dock applications.

Chair Thomas stated that minutes were incorporated with the Board packet for the December Operations and Communications Committees. He stated that those are good examples of the format minutes should take for the Committees.

Save the Lake: Baasen had no report noting that the group will meet again in March.

Nomination: Zorn commented that the Committee shared its timeline with the Board at the last meeting and completed interviews on January 19th. She stated that the Committee intends to share the recommended slate of Officers for 2021 on Friday of this week.

Other: Kroll suggested that consideration be given to holding daytime meetings given that meetings are being held virtually. He believed that afternoon meetings would provide a variety of benefits as people would be mentally sharper and it would not require staff to stay in the office at later times.

Chair Thomas stated that suggestion could be considered by the Operations Committee in their review of the meeting schedule.

16. ADJOURNMENT

MOTION: Cook moved, Walesch seconded to adjourn the meeting at 8:39 p.m.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye

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

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary