

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., February 10, 2021  
Wayzata City Hall

**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:** John Bendt, Eric Evenson, Gabriel Jabbour, Cpt. Shane Magnuson, Jill Sims, David Spatafore, Craig Swanson, Luann Tolliver, and Jake Youngren.

**4. APPROVAL OF AGENDA**

**MOTION:** Baasen moved, Kroll seconded to approve the agenda 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	aye
Zorn	aye

Motion carried unanimously.

## 5. CHAIR ANNOUNCEMENTS

- A) Oath of Office to Jake Walesch (City of Deephaven)
- B) Oath of Office to Gregg Thomas (City of Tonka Bay)
- C) Oath of Office to Dan Baasen (City of Wayzata)

Gilchrist administered the Oath of Office to Walesch, Thomas and Baasen. He noted that this is a ceremonial swearing in and the officers reappointed will still need to sign the oath in front of a notary.

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

**MOTION:** Baasen moved, Kirkwood seconded to approve the 01/27/2021 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	aye
Zorn	aye

Motion carried unanimously.

## 7. APPROVAL OF CONSENT AGENDA

**MOTION:** Cook moved, Walesch seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (02/01/2021 – 02/15/2021); **7B)** LMCIT Liability Waiver Form; **7C)** New Residential Association Multiple Dock License for Crosby Cove Homeowners Association, 16139 Crosby Cove, Minnesota; **7D)** Variance for Adjusted Dock Use Area, Length, 975 Heritage Lane, Orono; and **7E)** Resolution Accepting Save the Lake Contributions (01/01/2021 – 01/31/2021).

**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)

There were no public comments.

**9. PUBLIC PRESENTATIONS**

**A) Hennepin County Sheriff's Office Water Patrol Annual Update**

Captain Shane Magnuson commented that 2020 was an incredibly busy summer, most likely a record year as to the number of people on the water. He reported that one Deputy was funded full-time on the water through Save the Lake and provided an overview of that activity. He stated that because it was such a busy year there were two additional deputies on the water for the season as well, funded through the DNR. He also reviewed totals for search and rescue hours during the season, which equate to 2.5 deputies continuously on the water for just search and rescue. He continued with the summary of activity for 2020 and compared those figures to 2019. He noted that 45 percent of enforcement was related to jet ski activity. He stated that in mid-May he was able to pull the School Resource Officer to be on the water full-time and in mid-summer he was able to pull an additional Officer to be on the lake three days per week. He commented that people did tend to spread out more on the lake and the higher density activity was more related to family activities within bays.

Kirkwood commented that the statistics in the presentation do not seem to match the handout.

Magnuson clarified that the handout is related to the Save the Lake Deputy and his presentation also included the statistics for the entire Water Patrol activity.

Kirkwood stated that it would be helpful to have all of that information within the staff report. He asked if there is a sense as to the jet skis that were privately owned and those that were rentals.

Magnuson commented that he did stop some rentals, noting that the rentals tend to stay within a localized area but stated that he does not track rentals versus ownership.

Baasen commented that he was glad that the Board stepped up to increase the contribution for Water Patrol in order to support the increased water activity. He asked if Magnuson would be comfortable with him using this data in order to support the request for continued and perhaps increased funding.

Magnuson confirmed that the data could be used and confirmed that additional funding will help. He stated that they will also continue to look at other resources that they can creatively pull such as the School Resource Officer and Administrative Officers. He noted that there will be a challenge this year because of the coverage that will be needed for the upcoming trial.

Anderson asked for clarification on the funding from Save the Lake and whether that was slightly short of the needed funds.

Magnuson provided additional details on the funding and the training that is necessary to bring a Deputy up to speed, noting that training period is covered by Hennepin County. He confirmed that he is comfortable continuing to supply the necessary training hours and only using the Save the Lake funds for times the Deputy is able to provide service on the lake.

Schleunig confirmed that she emailed the full statistics to the Board. She noted that portions of the report may be confusing as it includes all Water Patrol activity on all the lakes Hennepin County provides service to. She noted that there is a section of the report specific to Lake Minnetonka activity.

Kirkwood stated that he enjoys this report and would like to look at it further in order to learn more. He referenced the search and rescue hours and asked for more specifics on the different categories that fall under that description.

Magnuson provided additional details related to boating fatality, drowning, and missing child. He stated that Hennepin County also assisted Ramsey County in a water plane crash. He noted that those were multi-day searches and were not all completed on Lake Minnetonka. He confirmed that the department also responds to drownings in swimming pools as the department is responsible for responding to anything that occurs in water from a hot tub and larger.

Chair Thomas congratulated Magnuson on his promotion and read aloud a letter that will be sent to him thanking him and the Water Patrol for helping to make Lake Minnetonka safe.

Magnuson thanked the LMCD and noted that he will continue to work with the LMCD on the educational campaigns.

**B) Wake Surfing Education Program Update**

Schleuning provided a brief introduction and turned the presentation over to Jill Sims.

Jill Sims, National Marine Manufacturers Association (NMMA) recognized that there are intense feelings on both sides related to wake surfing and wake boats. She stated that a working group was created involving different stakeholders and reviewed the organizations she has been working with, or attempting to work with, on this topic. She stated that the goal was to create a model that could be shared and potential classes to be held in order to spread education on the topic. She stated that this is the base model, and they hope to continue to work with the partners and build upon it. She provided an overview of the educational model including information on safe wake surfing, Own Your Wake, lower music noise, proper driving for wake surfing, launching boats, AIS awareness, and wake responsibly.

Chair Thomas asked if the intent would be to have the Communications Committee review this information.

Hoelscher commented that the group could review it as the Committee meets the following day and will continue to discuss the process for the Board to receive wake input. She stated that she would be interested as to what other Board members think.

Anderson commented that the Finance Committee discussed the desire to hold at least three educational seminars, which he believed are hosted by Save the Lake. He stated that in his opinion this could be held via Zoom to allow increase participation.

Walesch commented that the educational component is great, whether or not the LMCD is a partner. He stated that the messaging seems beneficial for the LMCD to convey. He stated that if the LMCD is going to consider a partnership he would want to know if NMMA is still lobbying for 200 feet from shore.

Sims stated that the boating industry supports a 200-foot setback. She stated that at this time there is not currently any legislation introduced for Minnesota. She stated that there is legislation through seven different bills in four different states currently. She stated that the NMMA position is based on the available science. She stated that they are interested in seeing the results from the University of Minnesota study. She stated that the 200 feet is a baseline and boaters are recommended to be at least 200 feet from shore.

Walesch commented that he believes that this information would be helpful in asking people to wake surf responsibly. He stated that his concern would be that the advocacy would not imply support for other policies NMMA may support. He suggested that the Communications Committee and Board further discuss potential partnership.

Kroll stated that he would also share that concern. He stated that the education program is fantastic and stated that he would support the educational campaign but would not want that to imply that the LMCD supports other efforts or legislative positions of the NMMA.

Chair Thomas stated that the language clearly states that "the industry" recommends a distance of at least 200 feet from shore and not that all the partners share that position.

Kirkwood stated that perhaps an additional footnote could be added differentiating that recommendation and specifying that is only the position of the industry.

Walesch stated that the LMCD does not have a consensus or policy on the distance endorsed at this time which would make it difficult to add that language. He stated that there would need to be discussion as some people on the Board have a concern about 200 feet and therefore, he would want to ensure that the support of the education is not implied as support for that recommendation.

Cook commented that the LMCD currently plans to hold one boater safety course but both the Finance and Save the Lake Committees have discussed holding additional courses. He stated that he would like permission to use this information in the courses, noting that if there is something controversial that could be mentioned in the course.

Hoelscher stated that she likes this as an educational campaign and continuing the conversation about lake safety. She stated that she likes the comments related to noise and suggested including the antidote that if you cannot hear people on the boat or your surfer, the music is too loud. She stated that she would be happy to have this discussed in the Communications Committee meeting the following day.

Klohs commented that if anyone comes up with a number it has to be easy to interpret and not misunderstand. He stated that if a number is given, that is the only thing a person will remember. He stated that is the language is 200 feet from shore or a dock, people will only remember 200 feet from shore. He suggested that 300 feet from shoreline be used as some docks can extend out 100 feet.

Magnuson commented that Water Patrol supports an easy to enforce rule and something that can be easily remembered. He stated that he would caution against 300 feet. He noted that some gas docks extend 225 feet and therefore the language should be that you must stay 200 feet away from anything else on the water, whether that is the shoreline, dock, or other boaters. He stated that he would hope to continue to spread this information noting that marinas have been a partner in the past and could be a partner in handing out flyers.

Klohs agreed that 200 feet from anything else on the lake would be a great example.

Magnuson stated that there could then be further information under that general recommendation detailing docks, gas docks, boats, and paddle craft. He recognized that many people on both sides of the issue have provided input and worked together to develop this language in the educational model.

Chair Thomas stated that this is being offered as a model and increased education is a benefit to the lake.

Newell agreed that this should not be locked into a number, as the 200-foot talking point arose from a study the industry provided that used a 27-inch wake. He stated that a bigger wake would take longer to wash out compared to a smaller wake.

**MOTION:** Hoelscher moved, Anderson seconded to support this educational program as set forth in this presentation with authorization for NMMA to use the LMCD logo as a collaborator.

Further discussion: Klohs asked if it would be called out that the LMCD does not endorse the 200-foot recommendation.

Kirkwood stated that he is concerned not with education but that some of the content is not universally agreed upon by the Board and therefore would prefer the Communications Committee review this further and bring back a recommendation to the Board.

Hughes commented that the red lettering is difficult to read and stated that he agrees that the Communications Committee should discuss this.

Brandt stated that input was received from Sims and Magnuson. He asked if it would be appropriate to receive input from Mr. Bendt as well.

John Bendt stated that the position of his organization is that they do not endorse the 200-foot setback from the shoreline and they made that clear in their collaboration. He stated that the last slide makes it clear that the recommendation is of the industry and his organization felt that did not commit them to that distance. He stated that the qualifiers that follow that make it clear that there is personal responsibility, and 200 feet is not the sole standard. He stated that his organization thinks that the Saint Anthony Falls Study should be heavily used for the eventual guides on the distance from shorelines. He stated that his organization felt that the educational content is worthy and addresses a number of their concerns and were insistent that the slide make it clear that the distance recommendation was of the industry and not the other partners.

Chair Thomas stated that it also how he interpreted the language.

Kroll stated that he likes the educational program but agreed that people will only remember the 200 feet and not the language that it is only recommended by the industry. He stated that he would feel better if that sentence is followed by something stating that further research may support greater distances. He stated that perhaps this motion is premature as it appears additional discussion would be needed.

Walesch commented that this is a great program with many positives, but if the LMCD is going to endorse something with its logo, the Board would be making a commitment to that and believes it then warrants more discussion on what that would mean. He stated that many people have expressed concern tonight related to the 200-foot language and it would be more powerful to have consensus. He stated that he supports education and collaboration and appreciated those that have worked together to develop this model, but it is clear there is concern about the 200-foot language and therefore could not support this as written tonight. He stated that perhaps additional tweaking or qualifying statements are added that could secure consensus support from the Board.

Anderson stated that he is pro wakeboard boats and that is well known, therefore when Chris Bank suggested this concept to spread education through wakeboard retailers, he thought it was a good idea to proactively educate boaters. He stated that when Magnuson came forward with his wake program, Stacia Bank signed on to help create the video for Own Your Wake along with other partners. He stated that it appears the Board

is stuck on the 200-foot language and noted that line could be removed, leaving the other two statements which still convey the message of safety and distance from other things on the lake. He believed that the Board should endorse this educational campaign with that line removed.

Hoelscher stated that her motion to support this was with the understanding that this is an educational program in process, and this is not a final draft. She stated that if the LMCD supports the motion it would simply be recognizing that education is important, and this would continue to be a collaborative effort that the LMCD would be involved with. She stated that she would hope that if the motion is supported, the Communications Committee would continue discussions and the LMCD would collaborate with the other partners.

Kroll stated that he would also support removing that statement as recommended by Anderson.

**MOTION:** Anderson moved, Kroll seconded to amend the motion to strike the first sentence on the Reminder: Wake Responsibly slide.

Further discussion: Chair Thomas asked Sims for input.

Sims stated that NMMA represents 1,300 members and therefore she represents all users of lakes. She stated that the intent was to gain approval for the LMCD to join the working group. She did not see a problem removing the statement but noted that she would need support from the other stakeholders working on this. She stated that she does not confuse education and policy and intends to keep those issues separate. She confirmed that the colors could be changed to make it more readable as well. She confirmed that her intent was not for the language to be approved tonight 100 percent but to gain the LMCD as a collaborative partner.

Gabriel Jabbour stated that it is imperatively important that the Board have more input from the other stakeholders. He stated that education is phenomenal and from experience that this would be one tool in a larger toolbox. He stated that this should not be confused for managerial education and operator permitting. He commented that the industry has a total buy-in for the 200-foot standard. He stated that he is supportive of the comments made tonight by Board members expressing concerns with that 200-foot regulation. He commented that the LMCD could do its own program without endorsing something created by the boating industry. He stated that relationships need to be maintained in order for the LMCD to continue to spread educational efforts. He stated that he is a part of the industry and a large stakeholder on the lake, noting that he was not invited to be a part of this process. He stated that the LMCD should continue to be involved in education but again cautioned against supporting something created by the industry that continues to support the 200-foot recommendation. He asked the Board to slowdown and continue its current path that involves a listening session as previously discussed. He clarified that he does not trust NMMA under any circumstances. He stated that if the organization means well it can address the concern and bring the item back to the next meeting.

Anderson stated that to clarify, the intent of his proposed amendment would be to remove the line with the 200 feet and keep the other two statements on that slide.

Jabbour confirmed that he would be okay with that but believed the NMMA to be acting in bad faith and therefore would caution against partnership at this time.

Chair Thomas asked for a roll call vote on the amendment to the motion.

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

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

Motion carried.

Hoelscher clarified that the intention of her motion would be to collaborate on this program, contingent upon that line being removed from the slide as adopted in the previous amendment.

Walesch asked if the motion would provide the NMMA with authorization to use the LMCD logo.

Hoelscher commented that her intent was that the logo could be used for this program if the 200-foot statement is removed.

Klohs stated that he would want to ensure that if the logo is used there cannot be a reference to 200 feet. He stated that if this approval is contingent upon the 200-foot language being removed, and therefore he wants it very clear that the LMCD logo could not be used unless that language is removed.

Chair Thomas asked for a roll call vote on the motion 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.

#### 10. PUBLIC HEARING

There were none.

#### 11. OTHER BUSINESS

There was no other business.

#### 12. OLD BUSINESS

- A) Ordinance and Summary Resolution Making Corrective Amendments to Sites with 50 Feet of Width or Less and Correcting a Cross Reference

**MOTION:** Walesch moved, Zorn seconded to adopt the Ordinance Making Corrective Amendments to the Lake Minnetonka Conservation District Code of Ordinances.

**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.

Gilchrist stated that there should also be a second action related to the summary resolution.

**MOTION:** Kroll moved, Baasen seconded to adopt the Resolution Approving Summary Language for Publication of Ordinance No. 240.

**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) Nomination and Election of 2021 LMCD Board Officers**

Zorn stated that the Nominating Committee included their recommendation within the Board packet, which was also sent to the Board on January 29<sup>th</sup>. She reported that the Nominating Committee met several times in January and provided details on the process that the group followed in order to develop its recommendation. She stated that unanimous agreement was reached on the recommendation of Gregg Thomas for Chair, Ann Hoelscher for Vice Chair, Dan Baasen for Secretary and Rich Anderson for Treasurer. She stated that the recommendation was based on continuity, succession planning, individuals requested to be considered for specific positions, and shared vision and alignment for unity. She reviewed key areas for the LMCD in 2021.

Chair Thomas stated that a resolution was approved in 2016 for a nomination process, which was included in the Board packet. He thanked the Nominating Committee for their time and effort in developing its

recommendation. He welcomed any additional nominations for any of the Officer positions.

Baasen nominated Bill Cook for Treasurer.

Anderson nominated Mike Kirkwood for Secretary.

Kirkwood declined the nomination.

Chair Thomas called for a motion and vote on the uncontested positions of Chair, Vice Chair and Secretary.

**MOTION:** Kroll moved, Kirkwood seconded to elect Gregg Thomas as Chair, Ann Hoelscher as Vice Chair, and Dan Baasen as Secretary for 2021.

**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 invited the nominees for Treasurer to each make a statement.

Anderson stated that he submitted his resume to the Nominating Committee, noting that he has completed his own books for his business for 25 years and uses the same program that LMCD staff uses, therefore he could provide assistance to staff if needed. He reviewed some of his recent activities related to the Lake including assisting to bring forward the wake surf boat educational campaign, contributing additional funds from his pocket (along with Jabbour) to fully fund the Water Patrol position for 2020, and involvement in the completion of the Flowering Rush Program with Jabbour and LMA. He believes that he adds value on the Lake and believes that he could add additional value to the Treasurer position for the Board. He recognized the skills and contributions of Cook but believed he could add value to the position.

Cook commented that he has been the Treasurer for some time and would like to continue a careful and mindful approach to managing the finances, budget, and reserve accounts. He recognized that he is not an expert with the technology used by staff but believed the role is more strategic and forward thinking. He stated that he would like to continue as the Treasurer for the next year but would then expect transition after that period.

Chair Thomas thanked both members for their willingness to serve. He asked staff to take a roll call vote with members voting for either Anderson or Cook.

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

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

The vote was tied at 6-6.

Gilchrist stated that this decision will likely come down to one or both of the members that passed having to vote and confirmed that another vote should be taken.

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

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

Stone	Anderson
Thomas	Cook
Walesch	Anderson
Zorn	Anderson

The vote again was tied at 6-6.

Chair Thomas suggested that the vote be taken again.

Gilchrist really encouraged the members that abstained to vote so that the vote does not deadlock. He stated that it is the duty of the Board to make tough decisions.

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

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

Rich Anderson was elected as Treasurer with a vote of 13-1.

Chair Thomas recognized Cook for his years of service as Treasurer and looked forward to working with Anderson in the position.

Anderson thanked the Nominating Committee for their support as well as the support of the Board for the position.

**13. NEW BUSINESS**

There was none.

**14. TREASURER REPORT**

No report.

## 15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- What's in Your Bucket Seminar registration is open for one additional week
- Ice depths continue with the colder weather
- Follow winter weather precautions to avoid frostbite

## 16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: No report.

Communications: Hoelscher reported that the Committee has recognized that making contacts with the legislative delegation is important and therefore have, or will be, inviting those legislators to attend an LMCD meeting. She encouraged the Board to reach out to any legislative connections they may have in order to increase the network of the LMCD. The Committee began discussion on the process for gathering input related to wakes and will continue the discussion at its meeting the following day.

Finance: Cook reported that the audit for 2020 is underway and once completed the Committee will review that information.

Operations: Zorn reported that the group will meet the following Tuesday and she is working to develop the agenda.

Save the Lake: Baasen reported that the group will meet in the beginning of March.

Nomination: Chair Thomas reported that this group will sunset for the remainder of the year.

## 17. ADJOURNMENT

**MOTION:** Kroll moved, Kirkwood seconded to adjourn the meeting at 8:57 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.

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Gregg Thomas, Chair

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Dan Baasen, Secretary