

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

6:00 P.M., April 28, 2021
Virtual

WORK SESSION

6:00 p.m. to 7:00 p.m.

Members Present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matthew Cook, Environmental Administrative Technician.

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

Persons in Audience: Lt. Bill Gottwaldt and Cpt. Shane Magnuson.

1. Preliminary Discussion Regarding 2022 Budget

Anderson presented the first quarter report from 2021. He reviewed the goals and priorities the Finance Committee identified.

Stone further explained that the intent would not be to use the excess reserve funds immediately but develop a list of goals and activities and distribute the excess reserve level over five years.

Anderson continued to review the priorities identified by the Finance Committee. He reviewed the total fund balance. He stated that staff has stated that a boat would be helpful, and he would suggest a boat with a value of about \$50,000. He commented that the 2020 actual budget provides a good starting point for the 2022 budget. He reviewed the proposed 2022 budget, comparing those line items to the 2020 actual and fees that have been collected thus far for certain line items in 2021.

Schleuning provided an update on the items included in the legal fees.

Anderson commented that the prosecuting attorney does provide revenue for the cost paid.

Schleuning noted that cost also varies each year.

Anderson continued to review the proposed 2022 budget related to legal fees and asked Schleuning for review.

Schleuning stated that she would like to review some of the legal line items in further detail to compare them to the previous years.

Anderson continued to review the line items included in the proposed 2022 budget.

Walesch asked if there is a table related to the reserves, as that will help to guide this further. He asked if

there are any larger policy decisions for the Board.

Anderson stated that he would like input from the Board as to how the reserve would be spent. He noted that his presentation tonight is related to the line items for the proposed 2022 budget.

Hoelscher stated that in the past there was a line item for harvesting and asked where that went.

Anderson confirmed that is included in the AIS portion of the budget. He continued to review the items included in the proposed 2022 budget.

Klohs asked for more rationale on the suggestion to move from a policy of 50 percent reserve fund balance to 35 percent.

Anderson replied that the recommended range is between 30 to 50 percent. He stated that most municipalities choose 50 percent because they have other unanticipated expenses that the LMCD does not have. He stated that he does not understand the justification to have \$700,000 in reserve funds.

Thomas stated that the recommendation of the auditor is to have a reserve balance between 30 to 50 percent. He stated that the Finance Committee may recommend a policy based on 35 percent, but that has not yet come before the Board for discussion. He stated that the purpose of the discussion tonight is to review the proposed 2022 budget. He noted that while future reviews may involve using the reserve funds to offset a portion of that budget, that discussion has not yet come before the Board and will occur in the future.

Hughes commented that it would be helpful to have the line item numbers stated in the presentation so that he could follow along with the materials included in the packet.

Newell commented that the Finance Committee reviewed a spreadsheet provided by Schleuning that displayed the income versus expense per month. He stated that historically the monthly income and expenses are stable. He stated that the purpose of reserves is to cover catastrophic expenses and did not believe the LMCD has the same risk as municipalities and therefore excessive reserves are not needed. He stated that personally he believes that the LMCD reserves are overfunded.

Thomas noted that this is not a discussion for reserves but should instead focus on the proposed 2022 budget.

Walesch stated that perhaps the presentation should be broader with the full Board and not review each line item. He stated that there are policy issues that will dramatically impact the budget. He stated that there has been discussion for months that the recommendation from the Finance Committee will be to change the reserve policy to 35 percent. He stated that he would prefer to focus the discussion on the larger issues rather than the specific line items. He asked the recommendation from the Finance Committee related to reserves.

Anderson stated that the numbers were not what he thought and he would prefer input be provided by the Board related to the reserves as that is a Board decision. He stated that he would like to review the budget so that can be presented to the cities.

Thomas stated that he understands the question from Walesch and that the statement has been made that the Finance Committee would like to change the reserve policy to 35 percent. He stated that the request has been made that the Finance Committee present a formal recommendation to the Board related to the reserve policy. He noted that there is a timeline for the budget that must be met for the 2022 budget and therefore the reserve discussion could occur later.

Klohs stated that the reserve fund is an aberration because of the carryovers from not spending the AIS funds during the review of the programs.

Walesch commented that is not fully true as that would only be two years of carryover at \$80,000, therefore that is only \$160,000.

Klohs commented that some of those funds have been earmarked for other purposes and therefore the AIS reserve fund balance is not entirely accurate.

Hoelscher commented that the LMCD is also in the process of wrapping up the AIS Master Plan and awaiting that report. She stated that the consultant will provide some recommendations on how to move forward and there may be associated costs. She stated that will need to be addressed by the Board in a policy manner and therefore some of those funds should be slated for that purpose.

Thomas recognized that there are assumptions that have to be made in order to create a budget. He stated that while some of the expenses and revenue remain stable, there are some items that change from year to year.

Anderson continued to review the proposed 2022 budget related to Save the Lake and AIS.

Thomas recognized that there are some unknowns related to the AIS items at this time.

Klohs stated that if the LMCD removes itself from AIS activities, it should stop with the TAG meetings. He stated the idea was that funding may be increased from the \$80,000 after the Master Plan is completed.

Kirkwood commented that he was under the impression that the LMCD was moving away from the harvesting world and has not seen details as to what the Lake Manager would do or what the budget would be for that. He stated that he struggled to find the real action items that would be coming from the AIS Master Plan.

Brandt commented that it has been set that the LMCD is not going to be in the harvesting business.

Anderson replied that there was previously \$5,000 allocated for contracted harvesting that may be

necessary for navigation so that remained in the budget.

Brandt stated that part of the AIS Committee meeting was related to the TAG and Master Plan and what things will look like going forward. He recognized that the Committee has only met twice and is still getting its foundation set. He stated that there will be at least one more TAG meeting to receive input and the Committee will then make a more informed recommendation related to the Strategic Plan.

Thomas stated that the next step would be the preliminary review and approval of the 2022 budget by the Board. He asked that staff review each line item and meet with Anderson to review any differences to ensure the next review on May 12th would be more refined.

Anderson asked that Schleuning schedule a Zoom meeting with the Finance Committee to complete that review.

2. ADJOURNMENT

There being no further business, the work session was adjourned at 6:58 p.m.

REGULAR MEETING

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

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

Persons in Audience: Dave Hemink; Sara Noah; Shawn Wischmeier; Jake Youngren, and Eric Evenson.

The following usernames were also present, but the person(s) did not identify themselves: Rob; and, Martells.

4. APPROVAL OF AGENDA

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

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. PUBLIC PRESENTATIONS

A) Steve Tallen, LMCD Prosecuting Attorney

Steve Tallen was unable to join the meeting and this item was postponed.

7. APPROVAL OF MINUTES- 04/14/2021 LMCD Regular Board Meeting

MOTION: Baasen moved, Kroll seconded to approve the 04/14/2021 LMCD Regular Board Meeting minutes as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	absent
Hoelscher	aye
Hughes	aye
Kirkwood	aye

Klohs	abstain
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

8. APPROVAL OF CONSENT AGENDA

Thomas noted that Item 7C has been removed from the Consent Agenda.

MOTION: Walesch moved, Stone seconded to approve the consent agenda as amended, making the change noted by Thomas above. Motion carried unanimously. Items so approved included: **7A)** Audit of Vouchers (4/14/2021 – 4/30/2021); **7B)** Approval of New Multiple Dock License Application for Reconfiguration of a Non-Conforming Structure, Classification Change to Add Transient BSUs, and Reaffirm Existing Variance for Caribbean Marina & Restaurant, 135 Lakeview Avenue, et. Al., Tonka Bay, MN 55331, Lower Lake South; **7C)** Approval of New Multiple Dock License for Reclassification to a Qualified Commercial Marina for The Yacht Club, 4165 Shoreline Drive, Spring Park, MN 55384, Spring Park Bay; **7D)** Resolution Approving AIS Committee Chair and Secretary; and **7E)** Authorization of Lease Agreement with Minnesota Department of Natural Resources for AIS Prevention Stations at Grays Bay Public Access Launch.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Schleuning noted that the applicant withdrew their application request for Item 7C, therefore, this item was removed from the Consent Agenda.

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

There were no public comments.

10. PUBLIC HEARING

A) Public Hearing for Variance for Adjusted Dock Use Area, Length and Side Setbacks, for 940 North Arm Drive, Orono, MN 55364

M. Cook presented an application for 940 North Arm Drive for a variance to dock use related to length and side setback. He provided background information on the property and request for a dock of 153 feet for adequate water depth and setback adjustments due to converging lot lines. He noted that the request would include two proposed BSUs. He displayed an aerial photograph of the site, noting that the adjacent docks are similar in length. He also displayed the proposed site plan and depth measurements. He reviewed the Code requirements, review criteria, and variance standards. He reviewed the agency review comments received and noted that two verbal inquiries were made, and one statement of concern was received via the website. He stated that staff recommends approval subject to the comments noted within the staff report.

Anderson stated that he spoke with the Orono City Planner and the City has no issue with the request.

Kirkwood asked if the docks on either side of this request followed a similar process for their dock length.

M. Cook replied that neither of those sites have variances approved. He advised that the home at 870 Windjammer received a similar approval in 2019.

Thomas noted that property owner that received similar approvals was the resident that spoke with concerns for this request.

Kirkwood asked if the length of the adjacent docks fall under the LMCD requirements.

M. Cook replied that it would appear the lengths do not meet the requirements. He noted that this property owner opted to request the proper approvals, but not all properties choose to do so and most violations from the LMCD are on a complaint basis.

Thomas asked if when this issue comes to the attention of the LMCD, is a letter sent asking the property owner to apply for a variance.

Schleuning stated that it would depend. She stated that if there are navigation issues or hazards, those are

addressed. She further explained that in cases like this, the navigation shoreline is functionally from the edge of the emergent vegetation. Therefore the side setbacks could arguably apply from the vegetation similar to the shoreline, for the 0-50 foot and 50-100 foot distances.

Stone stated that when she first reviewed the request, she noticed that the adjacent docks are similar in length. She asked if there is an increase from one to two canopies and if that is what is driving the need for the setback variance.

M. Cook replied that there would only be one canopy and it would not cover the walkway. He stated that the setback is not related to the canopy.

Stone stated that she was also curious as to the fact that the other two properties do not have variances.

Thomas opened the public hearing at 7:23 p.m.

Jake Youngren, Tonka Built, spoke in representation of the property owner. He stated that the property owner has no issues with the existing docks of the neighboring property owners, which are closer to the property line than he is requesting. He noted that the length request is simply to reach navigable waters.

No additional comments were offered, and the public hearing was closed at 7:24 p.m.

Walesch commented that he agreed with Schleuning that the vegetation line is functionally the shoreline in this situation. He stated this seems to be a reasonable use with two BSUs requested and appropriate spacing from each neighbor. He stated that the spacing is certainly further from the property line than the adjacent neighbors. He stated that the length is also reasonable as it would place the boats outside of the cattails.

Hoelscher asked if the Code allows for neighboring property owners to waive the Code side setbacks without additional approval from the LMCD.

Schleuning confirmed that to be true.

MOTION: Walesch moved, Klohs seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from James Mattson for the property located at 940 North Arm Drive for final approval at the May 12, 2021 LMCD Board meeting subject to the staff recommended conditions.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	absent
Hoelscher	aye

Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	absent
Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

A) Membership to Minnesota Lakes and Rivers Advocates

Hoelscher stated that the Communications Committee recommends that the LMCD join the Minnesota Lakes and Rivers Advocates. She recognized that some Board members are individual members. She believed that there is value in joining the organization.

MOTION: Hoelscher moved, Baasen seconded to join the Minnesota Lakes and Rivers Advocates for a yearly membership at a cost of \$200.

VOTE: A roll call vote was performed:

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

Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

B) Hennepin County Sheriff's Office Water Patrol Request for Funding

Captain Shane Magnuson, Hennepin County Sheriff's Office, commented that there was increased activity on the water last year and a huge percentage of the Water Patrol time was spent on search and rescue efforts. He stated that if the LMCD could fund two deputies, those two deputies could remain on the lake all the time and would not be pulled for other activities such as search and rescue on other water bodies and other Hennepin County activities. He believed that there is good value in funding the positions and that it would be money well spent. He stated that volunteerism is significantly decreased, especially for the police. He stated that the LMCD has always been a good partner and he believed that the funds spent would provide value to the lake.

Thomas welcomed Lieutenant Gottwaldt to his new position.

Lieutenant Bill Gottwaldt, Hennepin County Sheriff's Office, stated that he is excited to work with everyone.

Baasen commented that the Save the Lake Committee has met three times this year to identify priorities and lake safety has been raised to the top of the list. He reviewed the historical revenue for Save the Lake. He stated that the Committee voted the previous night to support the request from Hennepin County Water Patrol. He recognized that last year was a challenge and believed that would continue into this year, therefore funding two officers is prudent and necessary. He stated that there is a barrier to approving that without using reserves. He noted that the cities are generally not supportive of giving funds back to Hennepin County that they have provided to the LMCD and therefore Save the Lake funds are used for this request. He stated that the Committee members are changing the fundraising strategy this year in order to attempt to increase contributions. He stated that the Committee would also recommend dissolution of Resolution 118 which was approved on June 9, 2008 and regulated how reserve funds are spent. He stated that the Committee believes that this would be a good use of reserve funds to provide increased safety on the lake.

Kirkwood stated that last year there was talk of a ride along program but that was not available last year with COVID. He asked if that would be a possibility this year.

Magnuson confirmed that all LMCD Board members are allowed to do a ride along. He noted that while that option is not fully open, any Board members interested would be able to participate.

Kirkwood asked if there would be a weekly or biweekly update, as that could possibly assist in fundraising efforts.

Thomas stated that the contract states that the LMCD be provided with monthly reports.

Kirkwood commented that he was not aware of that and would be satisfied with monthly reporting.

Magnuson confirmed that the current plan includes monthly reporting. He recognized that he did not always meet that standard but confirmed it could be met going forward.

Baasen stated that in order to meet the funding request there would need to be changes to guiding resolutions related to how the reserve funds could be spent, which most likely could not occur until May 12th. He asked if that would impact the timeline for the Sheriff's Office.

Magnuson stated that he could still begin training efforts along that timeline.

Brandt stated that this request is more than the past but believes it is money well spent. He asked if Magnuson could say if the Water Patrol budget has increased from Hennepin County as well.

Magnuson replied that the budget has been flat for the past two years. He stated that the money spent on trial coverage in Hennepin County has impacted other departments. He stated that this increase would support one additional dedicated officer on the water that cannot be pulled for other efforts.

Schleuning commented that many public safety agencies had a lot of budget impacts related to civil unrest and asked how that impacted the end of the year budget.

Magnuson commented that Hennepin County took a big loss last year related to civil unrest.

Thomas stated that the Board could make a motion to dissolve resolution 118, with the understanding that Save the Lake may propose a new resolution in the future. He stated that after the resolution is dissolved, a motion could then be made tonight related to the Water Patrol request tonight. He stated that action could also be postponed to May 12th.

Baasen commented that he believes that some of the Board members and Save the Lake members would want to know the guidelines going forward. He stated that he does not have a problem dissolving that resolution tonight and approving the Water Patrol request tonight, with the understanding that Save the Lake would come back to the Board in the next week with new guidelines.

MOTION: Baasen moved, Kroll seconded to dissolve Resolution 118, dated July 9, 2008 to be replaced with new guidelines for the use of the Save the Lake reserves in the future.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye

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

Motion carried unanimously.

MOTION: Baasen moved, Anderson seconded to approve the Hennepin County Sheriff's Office funding request in the amount of \$84,000 from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services and to amend the budget to use up to \$50,000 of Save the Lake reserves to fill the budget gap for this request.

Further discussion: Anderson stated that there is a goal to raise \$84,000. He asked for details on the timing of the payment from Save the Lake. He believed that perhaps the funds could be raised without having to use the reserves.

Thomas commented that staff has crafted the motion as proposed stating "up to \$50,000" which would allow for that possibility.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

C) Other

Thomas introduced Sara Noah, who is working on the AIS Master Plan facilitation and will be reaching out to Board members to gain input.

Sara Noah stated that she has talked with a few members of the Board and will reach out to the others to schedule a time that will work to have a discussion.

14. TREASURER REPORT

A) Quarterly Report

Anderson had nothing further to report.

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Solar lights have been cleaned and will be installed.
- Upcoming Committee meetings are scheduled.
- There has been concern with the wakes in Excelsior Bay. There is a high concentration of watercraft storage and some transient docks in the two bays. Hennepin County has agreed to move the buoys in various locations through the summer to review location options and determine if it will even be effective in reducing concerns of erosion at the park point and resident concerns regarding safety.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: Brandt reported that the group met the previous week to review the strategic mission and will be working to formalize the AIS initiatives and projects to bring to the Board for approval. He stated that the group also spoke about the AIS Master Plan, TAG Committee and Task Force. He stated that they would like to have at least one more TAG meeting to gauge interest of that group and other potential individuals perhaps in a Task Force capacity. He noted that more details will be known as the group moves forward. He confirmed that Sara Noah will be reaching out to the members of the Board for input related to the AIS Master Plan and thanked the Board for their participation.

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

Finance: No report.

Operations: Hoelscher stated that the Committee is working on the Strategic Plan and is attempting to align the strategic priorities with the Board structure and Committees to drive the work the Board is doing. She

commented that regulation does not nicely fall under any of the Committees and therefore the thought was to delegate that to Operations.

Thomas commented that realigning the strategic initiatives with the Committees makes a great deal of sense. He stated that related to regulation, he would believe LMCD regulations would fall under Operations while legislative regulations would fall under Communications.

Brandt commented that the AIS Committee discussed item four at its last meeting as part of its responsibilities and he supports this recommended direction.

Save the Lake: Baasen reported that this group of Committee members has a lot of passion and is very engaged. He stated that lake safety is the top priority for the group, and it will be important to communicate those efforts. He commented that the partnership with Hennepin County and the services provided above the commitment last year has been very valuable. He encouraged Board members to schedule and complete a ride along with Water Patrol to gain knowledge and confidence in that partnership.

16. ADJOURNMENT

MOTION: Kroll moved; Kirkwood seconded to adjourn the meeting at 8:13 p.m.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary