

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., October 25, 2023
Wayzata City Hall

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Ann Hoelscher, Victoria; Jake Walesch, Deephaven (arrived at 7:06 p.m.); Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Kristi Conrad, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; and Denny Newell, Woodland. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Maisyn Reardan, Office and Finance Manager; Raina Arntson, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

Members absent: Dan Baasen, Wayzata; Ryan Nellis, Tonka Bay; Nicole Stone, Minnetonka; and Deborah Zorn, Shorewood.

Persons in Audience: Jay Soule, Mike Kelly, Lt. Richard Rehman, Representative Andrew Myers, Chris Hickman, Peter Hitch, Tom McCarthy, Harry Johnson, and Jeff Parkhill.

4. APPROVAL OF AGENDA

MOTION: Hoelscher moved, Kirkwood seconded to postpone Item 9B, Back Channel, at the request of the applicant.

Further discussion: Jabbour commented that it is his understanding that when a public hearing notice is published, the public hearing would still need to be opened and then postponed.

Langel commented that the Board could follow either path forward. He stated that the applicant does have the right to postpone his request. He stated that if the public hearing is opened and postponed, it would need to be postponed to a specific date and therefore it would seem to make more sense to postpone the item as Hoelscher suggested.

Hoelscher stated that people that were here to speak on that item that would still like to speak tonight could provide comments during the public comment portion of the agenda.

Anderson noted that the item has been postponed a few times and asked if notification is mailed each time. He stated that if this is postponed to April, he would think the notice should be mailed again.

Tully confirmed that when there is a significant change of time, such as this, staff would republish and re-mail notices.

Jabbour requested to make a friendly amendment to the motion to add an item Buoy Discussion as Item 11B.

Hoelscher accepted as did Kirkwood.

VOTE: Motion carried unanimously.

MOTION: Kirkwood moved, Kroll seconded to approve the agenda as amended, making the changes noted by Hoelscher above.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

A) Discussion – Rep Myer

Kirkwood introduced Representative Myer who represents District 45A.

Walesch arrived.

Representative Myer expressed appreciation for the dedication of the members serving on the Board. He provided background information on himself and his experience in local government prior to his election to the legislature. He recognized the love of the lake that all of these communities have along with the importance of the lake regionally and across the state. He stated that he attempted to make an operational impact on the Bills reviewed during the latest legislative session. He provided a summary of actions that took place related to topics that could interest this group as well as highlighting items that they will continue to work on. He commented that he serves 11 cities and attempts to hear input from as many people as he can in order to serve those residents. He provided his cellular phone number for people to reach out to him.

Jabbour commented that most of the items mentioned were spearheaded by people within that district and provided input. He commented that the coalition that worked on boater education previously asked the AIS money in half as some of that money is not going to those actually working on the matter. He stated that the funds were previously allocated through the DNR, and through that process the LMCD received \$60,000 through a grant and had to perform to get that. He stated that \$10,000,000 was allocated to be divided among the different entities in the state based on the car/trailer parking and accesses that exist but those funds were given to the counties to administer. He stated that some of those counties are misusing those funds and the LMCD has been impacted by that as Hennepin County Environmental Services is misusing those funds. He stated that in one instance Hennepin County proposed a project to LMCD with matching funds but in actuality used the AIS funds that should have been designated to the LMCD through for its share, which meant the LMCD was matching its money against money it should have been given. He stated that Lake Minnetonka has an enormous amount of research occurring by different entities and he was disappointed that the AIS money was funded through public access. He stated that 76 other counties are appropriately using the money and could suffer from a change, but something needs to happen with Hennepin County.

Hoelscher commented on the knowledge that Jabbour has on the lake and encouraged Jabbour to meet with Myers to share some of his knowledge and concerns.

Jabbour agreed that he would love to meet with him.

Myer commented that he has heard from other legislators that have met with Jabbour and he would love to do that along with Chair Hanson.

6. APPROVAL OF MINUTES- 10/11/2023 LMCD Regular Board Meeting

MOTION: Kroll moved; Brandt seconded to approve the 10/11/2023 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Kroll moved; Walesch seconded to approve the consent agenda as presented. Items approved included: **7A)** Audit of Vouchers (10/16/2023 – 10/31/2023); and **7B)** Resolution 257 Accepting Save the Lake Contributions (08/01/2023 – 10/02/2023).

VOTE: 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 HEARING

A) Wayzata Panoway Length

Tully presented a length variance request for the City of Wayzata multiple dock license (MDL) at 402 Lake Street. He provided an overview of the MDL which was approved earlier this year and reviewed the current dock configuration. He stated that the applicant requests to extend the dock structure at both the depot and roadway sides from 150 feet to approximately 190 feet to allow for larger transient slips, noting that only nine slips would extend into the additional area. He noted that the applicant would also like to reaffirm the existing variances on the site. He reviewed the current approved site plan, which was approved in April, along with the proposed site plan. He reviewed the narrative provided by the applicant detailing what it believes to be the hardships for the variance and reasoning for the length variance. He summarized the application review details and provided information on the current dock structure compared to the proposed dock structure. He stated that no comments have been received from public agencies or the general public. He stated that based on the information available when the staff report was drafted, staff recommends denial of the request and reasoning supporting that recommendation.

Walesch referenced the narrative from the applicant which mentions ADA compliance and asked how that would relate to whether the dock is 150 or 190 feet in length.

Tully replied that the City feels that a length variance is required to adequately provide ramping for ADA requirements when the water is low.

Walesch asked and received confirmation that this would be a floating dock. He mentioned the issue of water depth mentioned in the narrative and asked for more information.

Tully replied that the water is quite shallow near the shore and if the water level were to drop the applicant was concerned with navigation behind those slips.

Walesch referenced the proposed dock plan for the west and noted that the structure is mostly within 150 feet, with one dock extending further past. He asked if there is anything proposed that would push the structure closer to shore. He noted that if the one dock finger were removed the structure would come into compliance.

Tully confirmed that is true.

Walesch referenced the east site plan as proposed, noting that the 150-foot mark cuts through some of the slips and noted that some of the larger slips could be moved to the west and remain within 150 feet.

Kirkwood asked if there would be anything that would prevent those docks slips from being moved around to prevent extension past the 150-foot mark.

Tully commented that as long as the double setbacks are met, and the structure is within 150 feet that would meet the LMCD Code.

Anderson stated that the ADA plan was not included in the site plan as the ramp is not shown. He commented that although water depth is mentioned in the narrative, the water depth is not shown on the site plan to provide that information on whether water depth is an issue for this site. He stated that another reason mentioned by the applicant is related to deicing, stating that deicing would be better managed with a longer dock. He stated that making the dock longer would actually make deicing harder.

Newell stated that he agrees with the statements made by Anderson that information is lacking to support the applicant's narrative. He stated that his recollection is that the water is deep in this location. He questioned the hardship of depth and was conflicted about an oblique takeoff from the dock structure. He noted that much of this could be mitigated with a T-bone design.

Tully commented that the green line on the site plan shows the three-foot water depth, however the drop off is drastic after that point.

Jabbour asked if the main walkway is ten feet wide and received confirmation of that. He asked if a variance is being requested for that ten-foot walkway.

Tully replied that a variance is not requested for that as Code allows for a municipal dock to be more than eight feet wide as long as the municipal dock stays within 150 feet.

Jabbour commented that he agrees with the comments of the previous Board members. He stated that if the dock finger were not tilted, they could fit as many slips as they want. He noted that the choice is 100 percent cosmetic.

Anderson stated that the dock dimensions are also missing. He acknowledged that ten feet was requested for the boardwalk. He asked if ten feet was requested for these walkways as well.

Tully confirmed that there is a lack of dimension.

Anderson replied that because ten feet is not requested, the assumption should be a width of eight feet.

Hoelscher invited the applicant to address the Board.

Mike Kelly, Wayzata Public Works Director, and City Engineer stated that pages 24 and 25 of the packet show setbacks and dimensions. He stated that in terms of ADA that is provided to the left of the depot dock and that is not a concern. He stated that ADA compliance is a concern for the Broadway dock because of the long gangway to the slips. He noted that a longer ramp must be provided to reach the normal lake level. He stated that they have also provided flexibility for the floating docks to accommodate the lower lake levels. He stated that the gangway to the docks is depicted as ten feet wide and while they ideally would like that space to allow two wheelchairs to pass each other, they would not require that width. He stated that on the west end of the dock facility, the lake level drops off and therefore if the larger boat slips were moved to that area, it would require more structure and deeper pilings in order to support the larger boats. He referenced the question related to orientation of the docks, noting the setbacks that prevent that from occurring.

Jabbour asked how far the gangway goes on the finger. He confirmed that one part of the gangway is fixed on shore and asked for the elevation.

Kelly replied that the elevation is 934 at the top of the ramp and that goes just past the 100-foot mark.

Jabbour asked how 200 feet would do anything for them as it is a triangle. He stated that the function of the ADA slope, if there were a permanent dock that were sloped, would be based on the lengths of the gangway and height above sea level. He stated that if the gangway were fixed there would be no benefit from the point the gangway touches the dock to the end of the dock. He asked how many slips are designated for handicap use and how many stalls are designated for handicap use. He commented that there are zero stalls designated for handicap therefore the ADA is not an excuse. He stated that he works hard to provide access to disabled people and get them on boats and this presentation lacks mathematical accuracy. He stated that if the City wants the benefit of the 200-foot dock, the gangway has to be to the end of the dock.

Kelly commented that the gangway slopes from the fixed point on the shoreline and is hinged and connected to the floating docks, providing the rampway. Therefore, as the lake level rises and falls, so does the ramp. He commented that in the high-water conditions of 2016 and 2017, they would be closer to level but with the current water level, they are barely meeting ADA requirements for the slope.

Jabbour asked how that is related to 200 feet in length. He stated that he uses floating docks for veterans on the island.

Kelly commented that the handicap accessibility of the dock is the ramp and does not extend to the far end of the longest slip and they are not asking it to.

Walesch commented that the ramp is fixed to the shore and to where the gangway ends which means that slope varies for that portion of the dock/ramp based on water levels. He stated that the confusion is how the longer dock distance would then interact with the issue of ADA compliance. He stated that the length of the dock does not have an impact on the slope of the ramp.

Kelly agreed that is correct. He explained that the handicap accessibility is to maintain accessibility to the docks. He noted that the larger slips would accommodate larger boats that are known to be on the lake.

Anderson referenced the elevation of 934 near the tracks and asked the elevation of the boardwalk.

Kelly replied that the boardwalk is at 933 or 934 but was unsure on the exact elevation.

Anderson commented that it would then be flat from the railroad tracks onto the boardwalk. He stated that hopefully the boardwalk would be built at 931.5 as that is a difference of four feet rather than seven feet in elevation difference to the water level. He asked the ADA ratio that was used.

Kelly commented that ideally, they would be at one to 12, but have designed it within all three depending on the conditions.

Anderson commented that would be a steep slope.

Kroll commented that the ADA requirement is tough and understands the need for a 100-foot ramp, but the problem is the three big slips that are 61 feet long. He stated that the easy solution would be to move those west which would still meet ADA and LMCD regulations.

Kelly commented that the further west those slips are moved to the west, the more challenging construction becomes because of the deeper depth. He stated that the main long finger is intended to accommodate transient drop off boats and could be a temporary stop for the Minnehaha or a charter boat that needs a stop during wind conditions. He stated that they worked with a group for nine months that included the charter boat folks, private residents, the Chamber of Commerce, along with engineers and architects and this was developed as a solution acceptable to all.

Hoelscher asked if there is an agreement with the Minnehaha or whether that is a hopeful scenario.

Kelly commented that their main wooden dock has always been a port for the Minnehaha.

Hoelscher commented that the boat has not been in the water for the last several years.

Kelly commented that is correct but noted that their depot dock was designed to accommodate that boat. He stated that they hope that someday the Minnehaha will be back on the lake.

Hoelscher stated that she does hope that but that has not been shown to be a fact.

Kroll referenced the finger which states 75 feet loading only on the east side of the depot dock and asked why that is not moved to the west as there would not be an issue with deeper pilings and would still provide a width of 16 feet.

Kelly replied that is placed on the eastern side to accommodate the eastern winds. He stated that larger boats can drift into the eastern side depending on the wind.

Kirkwood asked if dolphin poles could be installed on the eastern side to control a large ship.

Kelly replied that the docks will be supported with steel piling that will come up with a rail about three feet above the dock to tie off.

Kirkwood explained how dolphin ties are used for large ships.

Kelly replied that they have not provided that as the dock is not meant to be a permanent location but a drop off location. He stated that the primary location for charter boats would be the wooden dock.

Newell referenced the westerly dock, and the finger on the far right, asking if that could be put on the far left to accomplish the same thing within 150 feet.

Kelly replied that they kept that on the east to accommodate larger boats in the wind, in particular the Minnehaha.

Conrad referenced the finger and asked if that could be constructed with the intention that it could be extended if the Minnehaha were to come back.

Kelly believed that could be done.

Jabbour stated that he received three phone calls from charter boat people that objected to these designs. He stated that they were uncomfortable with the design and spoke out that the LMCD would not approve the design in this configuration. He stated that he was also told that the contract was awarded for this project in

May.

Kelly replied that they had a working group and there was consensus on the dock design. A dock contract was awarded in June, but the project has not yet started.

Jabbour commented that it would have been helpful to work early on to ensure the drawing would meet the expectations of all the agencies. He was disheartened to see someone parachute from Colorado to tell them how docks should be designed here and choose this design for cosmetic appearance.

Kelly appreciated the consideration of this application and hoped that the LMCD supports this request. He stated that they worked with the previous LMCD Administrator as part of the design of the overall Panoway project. He stated that the LMCD has not been left out of the overall process.

Hoelscher opened the public hearing at 8:05 p.m.

Chris Hickman, 44 Highcroft Road, commented that the wind and the angle will be a challenge for larger boats. He stated that he is on a committee that takes care of lagoons. He stated that the City does not have a slip for any resident of Wayzata. He stated that other communities have added slips as their community has grown while Wayzata continues to reduce slips for its community. He stated that these are Wayzata tax dollars being used for the project and paying a high cost, therefore these slips should be affordable for Wayzata residents. He stated that he is very impressed with the comments and knowledge of the Board, which he appreciates.

Peter Hitch commented that he was a part of the dock working group and is the Executive Director of the Wayzata Conservancy. He stated that he has been a user of Lake Minnetonka since the 1960s and was recently provided use of a 26-foot boat. He reviewed the mission of the Wayzata Conservancy related to the Panoway project, noting that this project is years in the making. He reviewed the intent of the Panoway project, noting that one of the initiatives is to restore the lakefront to promote the ecology and environment. He stated that they are requesting a variance from the 150-foot length. He stated that on the Broadway side, every to the east is too shallow and there are other riparian owners. He stated that on the depot side there is also a shallow area. He stated that the Code provides the opportunity for a variance to be granted. He noted that the practical difficulties have been described. He commented that between the docks is deep but where the docks are is shallow, as are other areas needed for navigation. He stated that the ADA compliance issue has also been discussed related to the Broadway ramp. He noted that the variance for length could also be provided for maintenance and believed that exists to the north of the depot dock and Broadway docks. He stated that the Captain of the Minnehaha can also speak to the practical difficulty of landing that boat dependent on the wind direction.

Tom McCarthy, Medina resident, stated that he is from a fourth generation Lake Minnetonka family. He commented that he just finished his term as President of the Museum of Lake Minnetonka that operated the Minnehaha. He stated that they have consolidated with other local historical agencies and that entity is dedicated to returning the Minnehaha to active service on the lake. He stated that he cannot provide an ironclad guarantee that will happen, noting that he has spent the past three plus years attempting to do that.

He provided details on a grant application they have received to assist in rehabilitating the hull of the boat. He stated that if the boat is returned to active service, it will need a place to dock in Excelsior and Wayzata. He stated that they were invited to participate in the planning of the docks, and they have a century old boat that does not have the navigational aids of newer boats. He commented that landing the boat is a challenge with the winds. He stated that the finger would provide them with an option for a more controlled landing. He provided details on how the boat docks.

Hoelscher appreciated the work McCarthy did for the Minnehaha and the Historical Society. She stated that they all support getting the Minnehaha back on the lake.

Jabbour commented that he is one of the two people that founded that organization and he rescued that boat 15 to 20 times. He commented that the boat is unique and difficult. He asked if McCarthy would feel comfortable docking the boat where there are not repeat pillars every so many feet, noting that there are no pillars on the dock to be used as bumpers. He stated that when they went to Big Island they have to put outside piers to dock. He asked if McCarthy would be comfortable docking on a floating dock.

McCarthy replied that it is his understanding through this process is that there would be bollards to structurally support the weight of the boat.

Jabbour commented that the pier would be inside the dock and not on the outside.

McCarthy commented that he would need to see that detail again. He stated that based on the information he was shown in the past, he was comfortable.

Jabbour commented that he does not want to dilute the fact that the love of the Minnehaha is meaningless in terms of a practical hardship for the City of Wayzata. He stated that variances cannot be provided for individual bias.

Hitch commented that the appendage on the depot dock would have fortified piling that would be strong enough to manage the Minnehaha and allow the lines to slow the boat. He stated that a variance requires the Board to review the practical difficulties, including the shallow water.

Harry Johnson, Crosby Road resident, commented that his family has existed on the lake for over 100 years. He asked the number of the Board that have frequent use of the Wayzata docks. He discussed the practicality of the use of the docks and wind challenges. He stated that currently, navigating along the north side of either dock with current lake levels becomes difficult as the wind tends to push the boats towards shore where the water is shallower. He commented that any boat 26 foot or longer could not navigate in three feet of water. He stated that part of their concern in the dock work group was to ensure they could navigate berths on the north sides of the docks safely under all conditions. He stated that to the east of the Broadway dock is very shallow and therefore the eastern side would be a loading zone. He stated that because of the shallowness of the water to the east, a boat would need to back out into oncoming traffic to load and unload passengers. He stated that if the dock is extended, those boats could exit to the east safely. He stated that currently the berth lengths are not long enough to accommodate large boats and therefore boats extend past the slip and create

unsafe conditions for traffic. He stated that they thought about the design and functionality of the docks. He stated that the design is limited by the depth of the water. He noted that steel piles are used because of the depth of the water. He stated that shifting the configuration would not address the other items that were considered when designing the docks. He asked the Board to consider the usability and safety along with functionality and form of the docks.

Anderson asked the length of the existing Broadway dock.

Conrad replied that it would basically end where the new dock starts.

Anderson stated that this would go out considerably further and he is not aware of anyone having problems with water depth and navigation in this location. He commented that there is 7.5 feet of water depth before the dock finger.

Johnson commented that he has a 32-foot boat on the north side of the dock and the stern of his boat extends 36 to 38 feet towards the shoreline to turn around.

Anderson replied that the 922-contour line is seven feet in depth. He stated that it will be difficult to back out of these slips because of the design, noting that a boater would back into the slip to ensure they could pull forward to get out of the slip.

Conrad commented that she does frequent this dock. She stated that typically they come in and because of the winds, try to find a spot where both slips are open and then drift to the other side. She agreed that the docks are hard to navigate with any wind and was unsure that this design would solve the problem. She stated that the inside slips would be more challenging to navigate. She commented that no one wants to use the inside slips as they currently exist because it is difficult to get in and out and the new design will create a bottleneck at the end. She was concerned with the angle of the inside slips.

Hitch commented that they are asking for an extension as it would provide more room for a boat to turnaround between the slip and shoreline and then navigate out.

Conrad stated that her concern is the tiny area at the end of the dock that is very close to the boardwalk. She stated that many boats will need to come in and out at the same time and there is not enough space.

Hitch stated that perhaps that could be moved out to provide more space.

Conrad stated that is why the Board has mentioned using a 90-degree angle rather than a triangle.

Jeff Parkhill, Wayzata City Council, commented that he is the newest Councilmember in Wayzata. He stated that in listening to this, the reference about someone from Colorado designing the dock jumped out at him. He stated that is why the working group was formed. He stated that they felt that there was not enough consideration given to the boaters, the public and the users of the lake. He stated that the group met eight times for two to three hours at a time to discuss the nuances of how the docks worked. He agreed that there

may be some widths that need to be tweaked. He stated that they are solving the problem of having enough slips with enough space to accommodate different sized boats. He stated that the current docks are not designed to accommodate the boats using them. He stated that this is more of a gateway into the lake than it is into the city. He reviewed some of the stakeholders that have experience on the lake that were brought in to address these issues of the lake. He stated that they are requesting very slight variances as this was the best design, they came up with to accommodate all the considerations. He stated that perhaps it is not perfect and there are things that could be done better. He stated that they did not design this to reach 200, but tried to solve all the problems given the parameters they have. He commented that this project is a benefit to the entire lake and even those that do not have a boat as the lake walk will get people on the water.

Hitch stated that the Code has made it possible to allow for variances and they have discussed the practical difficulties. He stated that once the design is worked out, they want to be sure they do not affect the ecology of the lake, public welfare, or reasonable access of the lake by the public and they have worked to do that. He stated that the section foreman house is being restored to become an environmental learning center. He stated that the railroad obliterated the shoreline, and this project aims to restore that area and improve it. He stated that the boardwalk is in shallow water and the docks were moved out to ensure that boats are not pushing water towards the shoreline. He stated that the pilings are enhanced to allow the movement of the dock and provided an example of how the project will enhance the shoreline. He stated that the purpose of the docks is to get people down to the water, which increases public access. He commented that this design also enhances the safety of this area. He stated that he liked the comment of Conrad to tip that out a bit further to increase the area for boats to get through. He believed that they have presented practical difficulties that would allow the Board to approve the request because of ADA compliance and the need for maintenance. He commented that they will be enhancing the health and ecology of the lake as well as increasing public safety and public access.

Jay Soule, 5905 Loring Drive, stated that he is from Al and Alma's and noted that they had the privilege of being a part of the working group that discussed the dock plans. He was thankful that there were passionate people involved to move the project forward. He stated that charter boats were being called out in the variance request, he wanted to provide more information from his point of view. He referenced the west side of the dock and the extra slip on the outside. He commented that the new design of the dock cuts off the access that has always been there at the commercial pier which led to that finger for loading. He commented that once constructed that would prevent big boats from getting into that area, which led to the idea to add another loading zone on the east. He commented that they are very appreciative of the process being inclusive, but as a spectator, he is also appreciative of flexibility. He believed that the Code and Board are at a point where they agree with most of the design as it seems that the big loading finger is the sticking point. He stated that if that is eliminated on the west it would allow big boats to get into that area and the BSUs could be transferred from the west to the east and transient boats big and small could use the dock. He believed that would be one idea that could help to resolve the differences. He referenced the statement that the pilings would be on the inside of the dock and noted that the owner of Tonka Built Docks was part of the design process and the designs always included special engineered bumpers that would work on the outside of the dock, although he was unsure if the City included those on the final design. He noted that there was thoughtful discussion about the need for those. He stated that commercial boats are only allowed use of the legacy docks and not the Broadway docks. He noted the suggestion that some of the slips could be moved

and noted that would also be a path forward.

Jabbour asked if the working group listened to the input of Soule, and if so, why did this design move forward. He commented that this is an imminent health danger. He commented that both he and Soule have piloted 100 plus foot boats in many different situations, and this is an imminent health danger. He asked if Soule feels comfortable with the inside docks.

Soule replied that his opinion, which is probably late to the game, is that if the transient dock design as presented is the number one priority, the boardwalk would not jog out towards the transient slips and would have instead hugged the shore which would have expanded the navigable waters. He stated that he did provide his input, but he was just one member. He stated that he did feel listened to, and the long walkway is a result of that discussion to accommodate the charter boats. He thinks that the design the City is proposing, and the ordinance requirements are not that far apart, which was the point of his comments and how they could find a path forward.

Anderson referenced the alignment of the boardwalk and asked if Soule participated in the discussion of the design of the boardwalk which jogs out towards the dock.

Soule stated that he does not remember whether he saw the boardwalk alignment, but when you see how those things interact that becomes clearer. He stated that the work group focused on the transient docks and not the boardwalk. He stated that there were several times during the discussion where thoughtful consideration was given to public input. He stated that the community desired jogs on the boardwalk. He stated that the dock design came in second and now you can see how those things act together.

Hitch commented that the biggest consideration for commercial boats was the Minnehaha. He commented that perhaps they could canter out to provide more space for boats to get in and out, within 150 feet. He stated that the biggest issue is the deepness of the west end of the dock and the correct piling. He stated that by placing the longer slips at that end it would decrease the stability of the docks. He stated that the shallow depth and very deep water creates a practical difficulty.

Richie Anderson, 3205 Crystal Bay Road, stated that he has owned five of the six marinas in Orono and has designed numerous dock plans. He presented a dock configuration for the east that would fit within 150 feet with the same slip dimensions which does not tip in towards the boardwalk, cutting off the travel lane. He noted that the same thing could be done on the other side. He stated that in 2017 Excelsior requested to go to 200 feet through a PUD, which was what the city was supposed to do, and provided details on what was provided in exchange. He stated that the staff recommendation for denial is solid. He provided a dock system that he is working on at Minnetonka Beach. He provided an example of the My Boat Club LMCD lawsuit. He stated that there is nothing unique about this property and a dock system could be proposed that would meet the requirements of the LCMD Code. He provided his input on why none of the practical difficulties presented by Wayzata are legitimate, noting that the dock configuration that he presented would accomplish the same desires but also stays within 150 feet.

No additional comments were offered, and the public hearing was closed at 9:09 p.m.

Klohs commented that everything turns on the length and it has been stated that Excelsior used the PUD section of the ordinance to go out to 200 feet. He stated that the length would not be an issue through the PUD process. He stated that as drafted the PUD ordinance would not be applicable to what Wayzata is doing. He stated that they have proven that 200 feet is not an issue on the lake, it just happens that nuance is not available through ordinance. He stated that the design can always be tweaked. He suggested approving the length and working within that parameter to create a better design.

Anderson agreed that the PUD process is not available because Wayzata did not do this in the right way.

Klohs commented that this is a good design that can for sure be better. He stated that if Wayzata went through the PUD process, the length could not be denied but they cannot go through that process.

Walesch thanked everyone that came out tonight and spoke about the project. He commented that this is a great project and will be a great improvement for the area. He stated that he has personally used the docks. He did not think a PUD would have relevance in this situation and noted that a variance could easily be obtained if a practical difficulty were shown. He stated that he is struggling with what the practical difficulty is. He stated that any reasonable person would agree that it is not a good idea to push the north docks closer to the shore as it will already be tough to navigate in that area, however the variance is for the length of the dock and therefore the City would need to explain why it needs the additional length. He stated that the commercial dock, the depot dock, could have potential arguments to ensure that they can support commercial watercraft. He stated that on the east dock he does not understand the hardship. He stated that the information included in the packet does not make sense. He stated that ADA will not change depending on the length of the dock, as that does not impact where it is fixed to shore or where it lands. He stated that whether or not the north docks are pushed closer to the shore or not will not require additional length, and actually moving the dock northwest creates the problem where that longer dock is needed. He stated that if that dock were straight going out there would be plenty of length to allow long boats. He stated that he did not see a practical difficulty and the applicant has not done the job of explaining it. He agreed with Soule that they are not far off, and some changes could be made to make this into something that could be approved. He stated that if there then is a real issue with the west dock, as it relates to the commercial loading area, there could be valid arguments. He recommended that the applicant make the changes and if a variance is still needed, it should be well thought out in terms of practical difficulties. He asked why a 75-foot slip is "needed" and was unsure that they would need that. He stated that a long slip could be accommodated without the angle.

Kroll commented that this is a tough issue and was impressed with the presentation from Wayzata. He commented that he has had difficulty docking in Wayzata with the wind. He stated that he would be comfortable supporting an alternative to the east dock, which would involve the serpentine disability route or moving the three longest BSUs down three spaces. He stated that would eliminate the 190-foot issue. He stated that he would support a configuration for the depot dock that would satisfy the needs of the commercial boats. He stated that he is close to liking the depot side but would not support the Broadway side as is. He stated that if they had to vote tonight, he could not support this.

Conrad commented that there is a substantial effort that was made by Wayzata and its constituents and there are marks they are trying to hit, and the design sometimes comes away from what they are trying to do. She stated that they made the effort to stay within 150 feet for the majority but then created other problems in terms of navigation. She agreed that they are closer together than they think.

Jabbour commented that it is important to lead with the understanding of reality, and the reality is that the City is not in the position to do a PUD because they already used the shore and shoreline preservation is needed for a PUD. He stated that Wayzata has already made the choice to spread rather than cluster, therefore the PUD is not an option. He stated that there is a reasonable use of property, and the City has the right to get a dock, but the City wants more than that. He commented that the west dock could be managed by flip flopping configuration and therefore that variance is not necessary. He did not believe practical hardship was demonstrated as the City enjoys the rights to riparian use. He stated that what the LMCD does today will set precedent for other requests that come, and the Board has to understand that.

MOTION: Jabbour moved, Anderson seconded to direct LMCD staff and legal counsel to prepare Findings of Fact and Order denying the City of Wayzata, New Variance application for the property located at 402 Lake Street East in Wayzata as presented for final approval at the November 8, 2023 Board meeting.

Further discussion: Anderson stated that the dock plan he presented was a straight dock with a 16x75 foot on the side. He stated that Klohs is collaborating with him on the dock plan for Minnetonka Beach and they would love to go out to 200 feet. He stated that he is tired of not supporting the recommendations of staff after the length of time that staff spends reviewing requests to the LMCD Code.

VOTE: Ayes (9), Nays (1), (Klohs). Motion carried.

Hoelscher commented that Panoway is an amazing project and looks forward to continuing to work with Wayzata.

Klohs left the meeting.

~~B) Back Channel~~

Item postponed.

10. OTHER BUSINESS

There was no other business.

11. OLD BUSINESS

A) Resolution 258 – Special Events Permits

Brimeyer commented that a provision was added that Water Patrol would notify the LMCD of special permit requests.

Hoelscher noted a typographical error.

MOTION: Walesch moved; Kroll seconded to approve Resolution 258 as presented.

VOTE: Motion carried unanimously.

B) Buoy Discussion

Jabbour stated that the County, by statute, is in charge of the lake including the buoy placement. He commented that he is disturbed by the lack of quality service relating to buoys. He stated that this started when he was towing a boat with the help of the Water Patrol as he was hitting buoys that he could not see. He provided input on the buoys and lack of desire for lighting on the buoys from the Sheriff's Office. He stated that he belongs to a coalition of people from other lakes that will be approaching the County to request a change to the makeup of the Board/Committee and how those funds should be spent. He stated that on two occasions Hennepin County used the LMCD to match funds. He stated that every buoy is owned and approved by Hennepin County, but it has been stated that certain buoys are from the LMCD. He was concerned that the LMCD started a plan to subsidize the services of Hennepin County. He stated that the Sheriff provides a baseline service to Lake Minnetonka as it does for every lake and the LMCD chose to subsidize that in terms of deputy service to increase safety and now that is being requested for buoys as well. He stated that there is a network of people that have knowledge and experience that they are willing to share. He commented on the belief of mismanagement of funds from Hennepin County staff. He stated that he does not want to see more bridge signs or paintings and wants to see the funds used in an implementation manner.

Hoelscher heard the comments and agrees that it is a big issue but was unsure of the best way to approach that. She stated that they can work with the County regarding buoy placement, noting that perhaps a working group of the LMCD Board, staff, and members from the County and Water Patrol is created. She asked if anyone would be interested in pursuing that.

Jabbour commented that they should reduce buoys as there are a lot of buoys still placed in areas that do not require them. He stated that \$30,000 is not going to buy buoys. He stated that he regularly lifts boats up to remove buoys from propellers. He commented that many buoys are destroyed each year. He stated that the Board decided to focus on safety and docks, and this would be an issue of safety.

Jabbour, Anderson, Brandt and Kirkwood volunteered.

Kroll left the meeting.

12. NEW BUSINESS

A) 2024 Board Appointments for Cities

Brimeyer commented that a draft of the letter to the cities was provided in the packet, noting two terms set to expire in 2024.

14. TREASURER REPORT

- A) October Balance Sheet
- B) October General & STL Income and Expense Reports

Anderson apologized for his thoughts at the last meeting related to funding the scanning and commented that the method from Walesch and Hoelscher was better.

14. EXECUTIVE DIRECTOR UPDATE

- A) WFH Moratorium

Brimeyer commented that the moratorium expires in October and asked if formal action would need to be taken to extend that into November.

MOTION: Walesch moved, Jabbour seconded to extend the moratorium for 90 days for the Watercraft for Hire Work Group.

Further discussion: Hoelscher asked if they need to extend this as winter is coming and therefore there would not be any applications.

Walesch stated that there is a motion so they should just extend this. He stated that if an application were received, it would need to be processed under the old rules if this is not in place.

VOTE: Motion carried unanimously.

Brimeyer commented that he just learned that it was practice for the Executive Director to provide an update to the City Managers. He stated that he did draft that and sent a copy to the Board. He noted that the newsletter will go to print early next week.

Hoelscher stated that the newsletter will be mailed to lakeshore owners and sent digitally to those on the mailing list. She stated that they are also shortening the winter rules brochure.

Anderson commented that the Save the Lake insert should be included.

Hoelscher confirmed that is included on the back page.

Walesch stated that perhaps the new law related to littering should be added to the winter rules.

Brimeyer commented that the LMCD boat is out of the water and in the parking lot.

15. ADJOURNMENT

MOTION: Kirkwood moved; Walesch seconded to adjourn the meeting at 9:44 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary