

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., November 9, 2022  
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; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Thomas Tully, Environmental Administrative Technician.

**Members absent:** Dan Baasen, Wayzata; and Jake Walesch, Deephaven.

**Persons in audience:** Shawn Wischmeier, Kelly Wischmeier, Eric Evenson.

**4. APPROVAL OF AGENDA**

**MOTION:** Hoelscher moved, Kirkwood seconded to approve the agenda as submitted.

**VOTE:** Motion carried unanimously.

**5. CHAIR ANNOUNCEMENTS**

Chair Thomas recognized Attorney Gilchrist for his service to the LMCD and LMCD Board and to Kennedy & Graven.

**6. APPROVAL OF MINUTES-** 10/26/2022 LMCD Regular Board Meeting

Jabbour referenced the application for the property at 135 Mound Avenue and noted that he made a comment that two adjacent neighbors can eliminate the line between them within residential zoning and would like that statement added.

Thomas noted that the minutes are a summary of the discussion at the meeting, and he is reluctant to add to the minutes.

Jabbour noted that his comment would be applicable as there is a provision within the LMCD Code that would allow two residential property owners to eliminate the line between their properties, which then eliminates the need for the properties to come forward to a public hearing.

**MOTION:** Jabbour moved; Anderson seconded to add a statement to the minutes in the review of the

application for 135 Mound Avenue to state, "The LMCD Code allows for two residential property owners to eliminate the line between their properties, which would avoid the process to go forward for LMCD review and a public hearing."

Further discussion: Kroll asked if this statement was made and missed in the minutes.

Schleuning stated that the minutes are a summary of the discussion and do not reflect every statement made at the meeting. She commented that she does recall a statement being made during the meeting.

Hoelscher stated that she would like to see the comment written and asked that staff review the recording and provide a draft statement for the Board to review at the next meeting.

**MOTION:** Jabbour moved; Anderson, seconded to table the 10/26/2022 LMCD Regular Board Meeting minutes.

Further discussion: Brandt asked if the minutes are outsourced to a third party that types the minutes and whether they pick and choose which comments to include or exclude.

Thomas confirmed that the minutes are outsourced to a third party. He noted that as stated by staff, the minutes are not a transcript and are instead a summary prepared by that third party. He noted that the minutes are then reviewed by the Officers for accuracy.

Brandt stated that he was just clarifying why a comment would or would not be included but noted that process does make sense.

Jabbour commented that perhaps it would be helpful for the Board to understand why he would like the comment included. He stated that the whole application was meaningless when the City reserved its right to change its mind and the record should show that. He noted that when people go back to do research, they do not watch the video, they read the minutes.

Gilchrist commented that continuing when there is not specific language proposed to amend it would be appropriate to table for that additional review. He commented that the minutes are a summary which come forward for approval and it is the decision of the Board as to whether amendments should be made. He stated that the motion to table would be appropriate in this situation.

**VOTE:** Motion carried unanimously.

## 7. APPROVAL OF CONSENT AGENDA

**MOTION:** Kroll moved; Zorn seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (11/01/2022 – 11/15/2022); **7B)** Resolution Accepting Save the Lake Contributions (10/12/2022 – 11/01/2022); and **7C)** Approval of Variance for Adjusted Dock Use Area and Setbacks, 135 Mound Avenue, Tonka Bay, Gideons Bay.

**VOTE:** Motion carried unanimously.

## 8. RECOGNITIONS

Thomas recognized those who have made recent donations to Save the Lake.

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

Richie Anderson, owner of North Shore Marina in Browns Bay, commented that he has no issue with approving a variance application that will be considered. He commented that his application was considered by the Board in September, and he still has not received the proper documentation. He noted that LMCD attempted to return his check at the last meeting, but he declined as he would like that to be done when his license is updated and corrected in the 2018, 2019, 2020, 2021, and 2022 licenses. He stated that he would like to know when those licenses would be corrected and provided to him. He noted that if he were to sell the marina, he would need to show he was in compliance and would like the licenses provided to him before the next Board meeting.

Eric Evenson, Director of Lake Minnetonka Association (LMA), referenced the discussion about Board minutes which leads into his comments tonight. He commented on the difficulty in accessing LMCD Board minutes and the ability to search for certain things in the minutes on the website. He noted that he believed all the cities around the lake have their minutes available on their websites which are easily accessible and in a searchable format. He highlighted reasons that posting past minutes and agendas is important to be archived online. He commented that the old website format did archive all agendas and minutes, although it was a bit clumsy. He provided a sample resolution the Board could use to direct staff to report back to the Board by a certain date with a timeline and cost to get this done.

Thomas commented that this item is currently on the agenda of the Communications Committee and therefore that committee and office staff will follow up on that request.

Hoelscher confirmed that she would raise the priority of that item for the committee.

## 10. PUBLIC HEARING

### A) New Residential Multiple Dock License, 540 Big Island, Orono; Lower Lake South – Continued from October 26, 2022, Board Meeting

Thomas noted that this item was continued from the previous Board meeting upon request of the Applicant.

Tully presented a request for a new multiple dock license for the property at 540 Big Island in Orono. He provided a summary of the request noting that the dock length has been reduced to be within the maximum allowed length in the code and therefore a variance is no longer required. He stated that nine BSUs are proposed for 475 feet of shoreline which would be a density of 1:53. He reviewed an aerial site plan

comparing what had previously been proposed to what is currently proposed. He reviewed the proposed site plan and noted that an EAW was not required or recommended. He provided a brief summary of how the request meets the criteria of the LMCD for a multiple dock license. He stated that no comments were received from the MN DNR or watershed district and the City of Orono expressed that it would follow the recommendation of the LMCD. He stated that there was one public inquiry, and the resident had no issue with the proposal. He stated that staff recommends approval with the conditions noted in the staff report.

Jabbour asked the relevance of the water depth and how that was verified. He believed the less detail, the better.

Schleuning commented that the previous variance application for length included discussion about water depths and inquired whether that would be consistent with other applications. She stated that the water levels were verified by the applicant and staff.

Kroll stated that he has no problem with the request. He stated that reading this reminds him that the LMCD should update its numeric style in the rules to improve comprehension and readability. He stated that numbers should be shown in numerical form rather than spelled out.

Newell commented that this is the smaller part of Big Island as when he navigates around that many of the homes already have docks in place. He asked why homes would want to be part of this dock when they could have their own dock on their own shoreline. He stated that everything appears to be appropriate but asked if it would be possible that this could turn into a commercial dock.

Thomas commented that this could not turn into a commercial site of any kind, unless it is licensed as such and that is not what is being requested. He stated that part of the multiple dock license would require all of the watercraft to be registered in the name of the homeowner.

Anderson noted that the staff report stated approximately 100 feet and believed that should just say 100 feet. He asked if the reflective material was requested because the dock could become permanent. He recognized the importance of reflective material on a permanent dock as snowmobiles could come around and would need to see it but noted that seasonal docks are not required to have reflective material.

Schleuning stated that was required because it was originally requested as a permanent dock. She stated that the applicant also agreed it would be good to have reflective material regardless.

Anderson commented that if this were to be a permanent dock, he would agree but was not sure why it would be a requirement if that requirement is not placed upon others.

Schleuning stated that the original discussion was for a permanent dock, but they may choose to have a seasonal dock and therefore they are leaving that type of dock open for the decision of the applicant.

Thomas opened the public hearing at 7:37 p.m. No comments were offered, and the public hearing was closed at 7:38 p.m.

**MOTION:** Anderson moved; Jabbour seconded to direct staff and LMCD legal counsel to prepare Findings of Fact and Order approving the residential multiple dock license for Shawn Wischmeier for the property located at 540 Big Island in Orono as presented for final approval at the December 14, 2022, Board meeting.

**VOTE:** Motion carried unanimously.

## 11. OTHER BUSINESS

There was no other business.

## 12. OLD BUSINESS

There was no old business.

## 12. NEW BUSINESS

### A) 2023 Employee Compensation Adjustment

Schleuning commented that each year they review the potential cost of living increase for employees noting that they also compare that to some area cities. She noted that it was a bit difficult to compare this year as many cities are looking at market rate adjustments as well. She stated that the consumer price index used for comparison in 2021 was 5.4 percent compared to 8.2 percent for the past 12 months. She provided the comparison information that she was able to obtain from cities in this area which range from 3.0 percent to 9.0 percent. She stated that last year they implemented a 3.0 percent increase and this year they would propose an increase of 5 percent for staff noting that does not include the Executive Director position.

Thomas stated that typically Schleuning provides this recommendation for her staff at this time each year, and a performance review for Schleuning is conducted in the first few months of the following year at which time her adjustment would be recommended.

Anderson stated that a 3 percent increase was included in the 2023 budget and a new benefits package was just approved by the Board as well. He stated that he would like to send this to the Finance Committee for review to come back at a future meeting.

Thomas commented that the budget is drafted in the first half of the year with estimates as to what will happen, noting that sometimes those estimates are high, low, or accurate. He stated that inflation has continued, and the cost of living has continued to increase past what had been projected.

**MOTION:** Cook moved; Anderson seconded to send this request to the Finance Committee to provide a recommendation to the Board at the next meeting.

Further discussion: Thomas asked and received confirmation that the increases would go into effect January 1, 2023, and therefore that this delay would not cause any issues.

**VOTE:** Motion carried unanimously.

**B) Appointment of Nominating Committee**

Thomas stated that this time of year the Board selects members to serve on the Nominating Committee. He stated that although unable to attend tonight, both Baasen and Walesch stated that they would like to serve on the committee.

Zorn, Stone, and Kroll also volunteered.

Kroll noted that 5 members is probably too many for an efficient process.

Thomas noted that the committee would need to stay under 8 in order to avoid the issue of a quorum.

Kroll commented that it is difficult to have people on the Nominating Committee that would perhaps be considered for nomination. He stated that Stone is an excellent leader and perhaps would like to consider being nominated rather than serving on the committee.

Stone confirmed that she would exclude herself from being a member of the committee.

Anderson noted that Baasen should also exclude himself from the committee unless he no longer wishes to serve as an Officer.

Thomas stated that he was asked to put the names in for discussion but does not have an opinion as he will not be on the Board next year.

Hoelscher asked why someone on the committee could not be an Officer.

Kroll stated that it is not prohibited but there are very frank discussions of the committee, and it is difficult to have someone involved that would like to serve as an Officer.

Zorn commented that she would be comfortable moving forward with the 5 members. She noted that when Baasen served on the committee previously, he excluded himself from the interviews and following discussions. She stated that there would not be a problem with someone interested in being an Officer involved in the early discussions as that is more about process.

**MOTION:** Appointing Stone, Zorn, Kroll, Walesch, and Baasen to the Nominating Committee for selection of candidates for Officers in 2023.

**VOTE:** Motion carried 11 – 1 (Anderson opposed).

**C) 2023 Public Meetings Calendar**

Thomas noted that the calendar for 2023 was included in the Board packet for review and welcomed any input.

**MOTION:** Jabbour moved; Kroll seconded to adopt the 2023 LMCD Public Meeting calendar and request a one week notice of any meeting cancelations.

**VOTE:** Motion carried unanimously.

**14. TREASURER REPORT**

Anderson had no report.

**15. EXECUTIVE DIRECTOR UPDATE**

Schleuning provided the following information:

- RFP for Civil Legal Services has been posted and the Selection Committee will follow up according to the process and timeline
- Zebra Mussels were recently found in Lake Shetek and Fish Lake
- 2023 Minnesota AIS Grant applications open the following day which is earlier than normal
- Deicing licenses will be mailed next week
- Multiple dock license renewals will soon be mailed
- Information is being gathered for contracts and agreements for 2023
- Some rain has been received to assist with the low water conditions, but not to the extent as originally predicted by weather stations

**16. STANDING LMCD COMMITTEE/WORKGROUP**

Aquatic Invasive Species: Brandt stated that they are working to organize a year end AIS meeting to recap 2022 and prepare for the next year.

Thomas asked for details on who would be eligible for the MN DNR AIS grants.

Brandt stated that they did apply for three different grants through that program last year but was not awarded any funds.

Jabbour provided background on previous funds the LMCD had been awarded from the DNR and how that was changed when funding was allocated to counties noting that the LMCD has not received funds since that change in allocation.

Communications: Hoelscher stated that the committee will meet next on December 13<sup>th</sup>.

Finance: Anderson reported that the committee will meet after Thanksgiving to review the salary increase item and make a recommendation to the Board prior to the next Board meeting.

Operations: Zorn reported that the committee met prior to this meeting. She stated that Jabbour and Cook would like to join the committee and asked for the support of the Board.

**MOTION:** Zorn moved; Kroll seconded to appoint Jabbour and Cook to the Operations Committee.

**VOTE:** Motion carried unanimously.

Zorn noted that the committee discussed potential Board training topics to be considered in 2023.

Kroll commented that there are many times the Board is not holding a work session and asked if the regular meeting could be held at 6 p.m. on those nights.

Zorn stated that she would default to the recommendation of staff, noting that all other municipal meetings begin at 7 p.m.

Gilchrist stated that while most communities begin at 7 p.m., there is no regulation for the start time. He noted that if the time fluctuates, there would be an issue with the open meeting law.

Thomas noted that if the meeting time were to change to 6 p.m., the work session would need to start at 5 p.m. and not all members may be able to attend that early.

Jabbour noted that could also conflict with Wayzata's use of the space.

Save the Lake: Newell stated that at the last meeting Jay Soule brought up an interesting discussion about how the mission of Save the Lake has grown to safety and support of the Water Patrol, and therefore perhaps the method of solicitation should change as well. He noted that this should be looked at as a revenue item within the levy and the Save the Lake committee will continue discussions on the topic.

## 16. ADJOURNMENT

Being there is no further business, the meeting adjourned at 8:00 p.m.

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Gregg Thomas, Chair

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Dan Baasen, Secretary