

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**
7:00 P.M., May 24, 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; Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Deborah Zorn, Shorewood. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Environmental Administrative Technician; Maisyn Reardan, Administrative Coordinator; and Interim Executive Director Jim Brimeyer.

Members absent: None.

4. APPROVAL OF AGENDA

MOTION: Cook moved; Walesch seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Chair Hoelscher asked Jabbour to provide an update on the boater education bill.

Jabbour commented that he is happy to announce that the House and Senate have passed the bill and it is awaiting signature from the Governor. He provided a summary of the bill to the members of the Board.

Kroll thanked Jabbour for his efforts on this matter.

Jabbour noted that credit should also be given to Representative Osmek who made progress last year and to Representative Morrison this year along with Joe Schneider and Jeff Forester. He also mentioned the other stakeholders that had been involved in the previous year.

Hoelscher thanked Jabbour and acknowledged his efforts and the time he has spent on this matter.

6. APPROVAL OF MINUTES- 05/10/2023 LMCD Regular Board Meeting

Anderson noted on page seven, the second paragraph, it should state, "He stated that he ~~did get an inquiry from~~ heard that Minnetrista ~~asking~~ asked why more funds were not being levied."

MOTION: Baasen moved, Walesch seconded to approve the 05/10/2233 LMCD Regular Board Meeting minutes with the noted correction.

VOTE: Ayes (13), Abstained (1), (Zorn) Motion carried.

7. APPROVAL OF CONSENT AGENDA

Anderson removed Item 7A, "Audit of Vouchers" from the consent agenda.

Hoelscher noted that item will be placed under Old Business.

MOTION: Cook moved, Walesch seconded to approve the consent agenda as amended, making the change noted by Anderson above. Motion carried unanimously. Items approved included: **7B)** Agreement with Hennepin County Sheriff's Office for Extra Water Patrol.

VOTE: Motion carried unanimously.

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

Eric Evenson, Lake Minnetonka Association, thanked Jabbour for continuing to serve on the LMCD Board and expressed appreciation that the City of Spring Park asked him to continue. He noted his longstanding relationship with Jabbour and the assistance that Jabbour has provided for matters of the lake. He noted that the previous day Jabbour volunteered his day to assist him in collecting water samples around the lake and also thanked Zorn for allowing them to use her slip. He noted that the assistance of those two Board members saved the taxpayers at least \$2,000 and will provide valuable information. He noted that they waited longer than usual to do curly leaf surveys and some bays will not require treatments. He provided an update on the treatments that have begun in different bays. He commented that the bay captains have been doing an amazing job, acting quickly with the late start to the season. He noted that they will soon begin the milfoil surveys and hope to have those treatments done as well. He stated that the remote AIS monitoring station will be installed once again at Maxwell Bay. He noted that they would be interested in installing a similar device on Grays Bay. He hoped that they could encourage more use of the cleaning stations. He noted an upcoming pollinator workshop that will be held on June 28th.

9. PRESENTATIONS

There were no presentations.

10. PUBLIC HEARING

There were no public hearings.

11. OTHER BUSINESS

A) Open Meeting Law/Conflict of Interest

Langel stated that his memorandum addressed the topics of open meeting law and conflicts of interest. He acknowledged that it is a case-by-case review on conflicts of interest and noted that if any Board member has questions, they can reach out to him.

Jabbour stated that comments keep arising about marina owners sitting on the Board and would like some legal opinion. He stated that it is his understanding that there is not a conflict of interest unless the marina owner would disproportionately gain from the action. He stated that it is also his understanding that if there is a conflict of interest, the member should mention it to the Chair prior to discussion of the issue. He stated that every single person could be seen as having a conflict because they live on the lake.

Langel commented that if there is a question of whether something would be a conflict of interest, it should be mentioned as early as possible so that he would have a chance to review the situation and provide his opinion. He stated that in regard to the concept of disproportionality, which is not a concept he has seen in conflict-of-interest cases. He stated that in broad terms there are contractual conflicts and non-contractual conflicts and provided more explanation on each type of conflict. He again noted that there would be a case-by-case analysis on whether there would be a conflict and if there were to be a conflict, someone could simply abstain from the vote and discussion. He stated that in regard to contractual conflicts, abstaining would not be an option and provided more details. He encouraged Board members to reach out to him as soon as possible if they believe they may have a conflict so that he could provide an opinion.

Jabbour commented on the vast amount of knowledge and experience that he brings to the Board as a marina owner and resident and did not want others on the lake to be discouraged in serving on the Board.

Anderson provided an example from the past in which AIS funding was provided to a bay and a member of the Board was a resident and captain of that bay.

Langel commented that the conservative approach could be to abstain in that situation.

Anderson commented that the situation will most likely be repeated as the bay treatments continue.

Jabbour commented that in that type of situation the person abstaining cannot participate in the discussion or vote.

Hoelscher encouraged members of the Board to reach out to Langel, herself and Brimeyer if they believe they will have a conflict.

12. OLD BUSINESS

A) Audit of Vouchers

Anderson referenced a payment to CD3 General Benefit Corporation for the annual software fee. He did not

recall the Board entering into a continual agreement to update the software.

Walesch stated that he did not recall that being disclosed or talked about and was not aware of any ongoing expense for the machine.

Brandt also recalled that the LMCD was contributing to the cost for the equipment and not ongoing costs.

Newell stated that it was his understanding that the LMCD was contributing towards the cost of the equipment and Hennepin County/DNR was going to cover the ongoing costs.

MOTION: Anderson moved, Jabbour seconded to approve the Audit of Vouchers (5/16/23 – 5/31/23) with the exception of the voucher from CD3 General Benefit Corporation.

VOTE: Motion carried unanimously.

13. NEW BUSINESS

A) Update on Docking LMCD Boat at City of Tonka Bay

Brimeyer stated that he spoke with someone in the City of Tonka Bay, and they have begun the approval process for an LMCD slip.

B) Approval of 2024 LMCD Financial Budget

Anderson stated that there have not been changes since the last review with the exception of the addition of the information related to Save the Lake.

Zorn commented that she made inquiries to the office this week that prompted an additional document showing how the levy has fluctuated over the years. She acknowledged that there is a zero percent increase to the levy this year but that will not always be the case and should be mentioned in communications with city councils, as the Board is working to reduce the reserves.

MOTION: Cook moved, Stone seconded to approve the 2024 budget and direct staff to seek input from the member cities.

VOTE: Motion carried unanimously.

14. TREASURER REPORT

A) April Balance Sheet and I and E Reports

Anderson provided an overview of the financial documents and reports.

15. EXECUTIVE DIRECTOR UPDATE

Brimeyer stated that they are moving forward with the City of Mound on extending the lease of the office space. He noted that staff has done some research on variances by reaching out to the lake communities and almost all the cities require an escrow and require recording of the variance.

A) Administrative Fines

Brimeyer stated that using the White Bear Lake Conservation District fine policy as a model, he created a draft policy that is being reviewed by Langel.

B) Document Scanning Update

Brimeyer noted that a quote was received today, and that the process is moving forward.

C) Intern and Seasonal Position Update

Brimeyer stated that they did not get a great response from the advertisement for the intern position, but he did meet up with one candidate. He noted that Tammy will be retiring at the end of July and therefore he would like to proceed with hiring the intern, who is a college graduate, and has similar experience. He stated that he has an internal candidate who is interested in Tammy's position and has been managing some of those duties. He commented that with this method Tammy's position would be filled by the internal candidate and the intern could then fill the position that will become vacant in that transition; therefore, the same number of staff will remain in the office. He noted that he will provide something in writing prior to the next meeting.

Brimeyer noted that he will not attend the June 14th meeting.

Anderson commented that he would like to be involved in the discussions related to compensation.

16. STANDING LMCD COMMITTEE/WORKGROUP

Hoelscher stated that there was a special workshop planning session tonight and the decision was made to abolish the committees and transition to a monthly workshop format. She commented that they will hold the Officers meeting on June 7th prior to the June 14th meeting.

Aquatic Invasive Species: No report.

Communications: No report.

Executive Director Selection: No report.

Finance: Anderson reminded staff to send out the budget to the cities.

Operations: No report.

Save the Lake: Baasen reported that there will be a boater education class on June 19th.

- Save the Lake Contribution Recognitions

Brimeyer commented that he has received notification that June 19th will now be a national holiday. He stated that the class has been moved to June 20th.

Baasen stated that they still need additional help for the class and asked if three members could volunteer.

Hoelscher thanked Kirkwood and Newell who represented the LMCD at Trista Days this past weekend.

Jabbour noted a volunteer that teaches that class and also assisted in buoy placement on the lake.

Kroll noted the Excelsior Art Festival that will be held on June 11th noting that the LMCD will be represented at the event.

17. ADJOURNMENT

MOTION: Walesch moved; Kroll seconded to adjourn the meeting at 8:04 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary