

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**
7:00 P.M., March 27, 2024
Wayzata City Hall

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Nicole Stone, Minnetonka; Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Brian Malo, Greenwood; Matthew Thompson, Wayzata; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Ryan Nellis, Tonka Bay; and Denny Newell, Woodland. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Raina Gabler, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

Members absent: Ann Hoelscher, Victoria; and Deborah Zorn, Shorewood.

Persons in Audience: Bill Olson, Eric Hartman, Major Shane Magnuson, Sgt. Rick Waldon, Jay Soule, Roxanne Rockvam, Ed Lethert, James Wisker.

4. APPROVAL OF AGENDA

MOTION: Stone moved; Kroll seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

Jabbour honored Jerry Rockvam, a member of the lake community who recently passed away. He noted Mr. Rockvam's daughter who attended the meeting. He shared some stories and experiences with Mr. Rockvam as well as some of his contributions to Lake Minnetonka.

6. APPROVAL OF MINUTES- 03/13/2024 LMCD Regular Board Meeting

MOTION: Kirkwood moved; Newell seconded to approve the 03/13/2024 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

Brimeyer noted the three items on the Consent Agenda which were posted in the amended agenda.

MOTION: Stone moved; Malo seconded to approve the consent agenda as amended. Items so approved included: **7A)** Audit of Vouchers (03/15/2024 – 03/31/2024); **7B)** Resolution #261 Accepting Save the Lake Contributions (01/09/2024 – 03/21/2024); and **7C)** Resolution #262 Approving 2024 Liquor and Alcoholic Beverage Licenses for Watercraft for Hire Licenses.

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. PRESENTATIONS

A) Minnehaha Creek Watershed District Update

James Wisker introduced himself and provided an overview of the Minnehaha Creek Watershed District, its vision and the integrated planning and partnerships that allow the entity to work collaboratively to complete projects and develop policy. He highlighted some of the projects the District has been able to complete in conjunction with its member cities in order to improve water quality and accomplish other goals. He also reviewed some of upcoming projects that are planned and highlighted some of the projects that will provide benefit to Lake Minnetonka and its surrounding sub watersheds. He also provided more details on how the District collects data and uses modeling to assist in planning and better water management.

Kirkwood asked for more details on the use of alum.

Wisker explained how alum is used to aid in phosphorus reduction within water bodies.

Kirkwood asked how residents could assist in improving water quality.

Wisker commented on some of the more localized actions that residents could take to aid in the process.

Jabbour commented that the use of alum did not work in Long Lake and the District is now working to address the water coming into that lake in attempt to solve the problem. He stated that the Board is often asking how it can partner with other entities to improve the lake and/or experiences on the lake. He commented on the issue of governance, which he previously spoke with Wisker about, and believed that the Board could partner with the District on that without slowing down the progress of the District. He asked for more details on the District experience with carp.

Wisker stated that he did speak with Jabbour about the need for a governance study and therefore if there is a need or demand to describe water governance and different roles, they could pursue that. He commented that it seems that there is a nexus between the two entities in the areas of public safety and the regulations related to dock use and surface water and provided some examples including dredging. He stated that there

is a joint policy statement from 1993 explaining how the District, LMCD, and DNR should work together related to dredging and docks.

Klohs asked if there would be a significant impact to water quality if every city on the lake were to require a rain garden that paralleled the lakeshore on every property bordering the lake.

Wisker stated that he would have to run the math on that concept. He stated that runoff comes from different sources and therefore they use data collection and modeling to find the biggest impact that they can have. He stated that the major pipes from cities that run into lakes are the main focus as that would provide the largest impact. He commented that if every property were to have a rain garden, it would be effective, but he was unsure of the actual benefit that would be provided and whether it would be worth the hassle of enacting such regulation in every lake community. He commented that there are many existing grant programs available for residential rain gardens. He provided details on the multi-year program the District completed relating to carp, the data they were able to collect through tracking, and the management program they were able to implement. He noted that while some lakes responded as expected, some did not and therefore the District is now working to determine why using the District's data along with data they have collected from other entities that have completed carp management.

Anderson praised the District for the lake leveling it completes with the dam, noting that the chart used is incredibly well done.

Kirkwood thanked Wisker for the presentation.

B) Electrical Installation Hazards

Kroll introduced Ed Lethert who is a national expert on electrical shock drowning that lives locally and agreed to make a presentation to the Board.

Ed Lethert introduced himself, noting that he has made presentations to the Board in the past and recently met with the Lake Minnetonka Association Board as well. He commented that anything that goes in the water that is run by electricity can cause a risk, noting that this information is applicable to all bodies of water including lakes, ponds, swimming pools, etc. He stated that electricity is a silent killer, noting that relatively low currents can cause injury, which is even more of a risk when someone is in the water. He provided more information on the risks of electrical current on/in the water from different devices. He provided additional details on recent regulations from the NEC related to electrical use on/near the water. He explained the widespread abuse and misuse of extension cords.

Kirkwood commented that Lethert has sophisticated equipment that can assess and verify that electrical equipment is running correctly.

Jabbour asked and received confirmation that you cannot swim or be in the water within 150 feet of an electrical cord or current. He stated that people have a false sense of security using monitors purchased online and placed at the end of the dock but that only covers a small area. He stated that public safety is a

main task for the LMCD, and he is extremely critical of using aeration to push weeds away, especially in a public access setting. He noted that rodents love to chew wires and cause damage to installed wiring. He stated that he sent Lethert photographs of the public launch in Spring Park which he believes violates the State requirements.

Lethert provided additional details on a study on leaking electrical current that was done at marinas and half the problems existed from wiring of the marina while the other half was from the boats. He stated that effective in 2026, marinas will be required to assess a boat prior to allowing it to plug into shore power. He stated that he would have to review the pictures from the launch again. He noted that if an extension cord is used the State would not be interested but perhaps the Fire Department would. He acknowledged that many people are not aware of electric shock drowning.

Malo thanked Lethert for the presentation as he was not knowledgeable on this topic. He asked if the LMCD has educated the public on this topic previously, as perhaps sharing this information would be helpful.

Kirkwood agreed that information should be shared in the newsletter and on the LMCD website.

Lethert also commented on the danger of going into the water to help someone when the water is not yet safe.

Thompson commented that the different voltages used and asked if reduced voltage that uses solar power would be a reduction of risk.

Lethert agreed that those units are self-contained and use a lower voltage, therefore are much safer.

Kirkwood thanked Lethert for the presentation.

10. PUBLIC HEARING

There were no public hearings.

11. OTHER BUSINESS

A) Rental of Watercraft

Jabbour provided photographs of the new buoys thanking Water Patrol and the Sheriff's Office. He stated that in 2017 they began to have an issue with rental boats for hire and since that time the LMCD and Water Patrol have been trying to find a way to manage that activity. He stated that a committee was created to develop a potential Code to consider regulating this activity. He stated that the draft language was provided to the Board to review prior to holding a public hearing. He commented that it is also imperative to involve the member cities because what is done or allowed on the water does impact what occurs on land as well.

Brimeyer commented that if the LMCD is going to ask cities to be involved, it could become a challenge if their

approval would be requested for rental watercraft.

Jabbour commented that cities have been asked to permit port of call. He stated that if the cities do not want to be involved, then parking and issues that occur at the public launch parking areas will be their problem.

Shane Magnussen, Hennepin County Sheriff's Office, commented that they do believe the cities need to be notified, explaining that if cities are not notified and permits are granted that could seem to be overstepping. He noted that it would be the choice of the city as to whether it would want to be involved but agreed that the information should at minimum be shared.

Brimeyer asked that any comments from the Board be provided tonight on the draft language.

Nellis commented that there has been a lot of progress made by the committee in the attempt to make the lake a safer place. He believed that this one amendment would be significant and impactful, and feedback will be needed from the cities. He noted that once that input is received the committee would then meet again. He acknowledged that not all cities will want to be actively involved. He asked if the Board agrees to share the letter with the cities. He recognized that with the timeline to involve the cities will not allow implementation before the boating season begins.

Thompson stated that he received calls today from two rental boat owners that were interested in the requirements for this next year. He agreed that the letter should be shared with the cities as soon as possible and also suggested that a timeline be developed to keep boat owners aware.

Jabbour commented that people are coming from other areas and parking/staying at the boat launch all weekend, renting their boat(s) to others throughout the weekend. He acknowledged that full implementation would likely not occur this boating season. He noted that it would be great for cities to be issuing permits along with the LMCD for rental boats.

Klohs commented that Jabbour has argued the opposite point for years that LMCD has nothing to do with the land.

Jabbour commented that the LMCD does not have anything to do with the land and that is why this proposed partnership would be helpful in regulating this issue.

Kirkwood asked if the Board is supportive of sending the draft letter to the cities.

Nellis commented that it sounds like staff does not believe that the letter is ready to send to the cities.

Brimeyer commented that the letter within the packet leads to confusion. He stated that if the Board wishes to send a letter, he would like to redraft the letter and could run that by the committee to ensure endorsement. He noted that the launches are not all city owned, some are owned by other entities such as the State, Park District, etc. and he would want to ensure consistency at each launch.

Jabbour commented that he has spent countless hours on this matter and wants to see this move forward rather than the typical LMCD path of one step forward and five steps back. He stated that he and Walesch reviewed the draft Brimeyer sent him and agreed that the letter in the packet should be sent rather than the changes made by Brimeyer.

Nellis commented that everyone wants to proceed with this but agreed that the committee could continue to work on the letter to gain input from the cities.

Anderson noted that Jabbour and Walesch as well as Water Patrol and the Sheriff's Office agree with the letter as drafted in the packet and asked what the issue would then be with sending the letter. He commented that while some cities are not experiencing the same issue, others are experiencing issues with people running their rental business from a public launch. He noted a person that was renting many jet skis through a public launch.

Brimeyer asked that the co-chairs of the committee sign the letter to be sent out. He confirmed the consensus of the Board to send the letter and noted that it would be sent within the next four days. He asked if there were any additional comments on the draft Code language.

Jabbour commented that if there are comments on the draft Code amendments, Board members could email him.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

There was no new business.

14. TREASURER REPORT

- A) March Balance Sheet
- B) March General and STL I&E Reports

Stone reported that the audit took place on March 14th, but she does not yet have the preliminary results.

15. EXECUTIVE DIRECTOR UPDATE

Brimeyer referenced an issue with the Caribbean Marina noting that the deck had some failures and was removed because the marina considered it to be a safety issue. He stated that staff visited the site to take some photos and noticed erosion of the shore. He stated that it also appears that a deck on land would now be a deck over the OHW line and therefore would be subject to the LMCD Code. He stated that LMCD counsel deemed that the deck could be replaced with the same dimensions and same structure. He noted a

joint meeting that took place involving the LMCD, DNR, and Watershed District and because the structure was removed without contacting any of the agencies, the legal nonconforming status may have been lost. He stated that staff again consulted legal counsel and deemed that the structure could be replaced with the same structure and dimensions but because it is over the OHW line, it now falls under the LMCD Code. He stated that they have also deemed that if the deck, which would now be a dock, is rebuilt, they could no longer use it for food or alcohol service as commercial sales are not allowed on the water. He stated that the owners of the marina have been notified of the position of all agencies and are proceeding with replacement of the structure.

Jabbour asked how it could be a legally nonconforming structure if it was never a dock.

Langel commented that the structure was legally nonconforming even as a deck, but over the decades the structure became within the jurisdiction of the LMCD. He stated that this is not blessing something but acknowledging that the structure exists. He stated that from the previous diagrams shown, the majority of the deck was on land, but a portion extended to the shoreline. He stated that due to the eroding shoreline, the majority of the deck is now over water. He recognized that this is a unique situation.

Jabbour asked for the opinion of the DNR on the width of the deck/dock.

Langel commented that the LMCD is not permitting something but acknowledging that it exists, and that the user would have the ability to repair/replace the nonconforming structure.

Kroll commented that for over 50 years he has enjoyed getting a burger and beverage at this location and would hate to see that ability lost. He asked if there could be something done to recognize the historic beer and burger joint.

Brimeyer commented that the marina may come forward with a request but has been told that commercial operation is not allowed on a dock.

Anderson commented that he has been in the marina business since 1976 and cannot even have an ice machine on his dock. He stated that the same regulations should apply to all businesses. He commented that you can clearly see that the deck was always over the shoreline/water. He stated that if this is grandfathered in at 30 feet wide, he is unsure how the LMCD could tell others their 12-foot-wide dock is not allowed. He commented that this is very contradictory, and the marina should only be allowed an eight-foot-wide dock.

Nellis commented that he respects all opinions, but this is a Board of 14 people. He stated that he has been on the lake for over 20 years near this business and believes they should find a way to keep the Caribbean open.

Jabbour commented that a decision has to be based on fact and the LMCD does take individuals to court, using the example of a ten-foot-wide dock that has been in court for five years. He commented on the need for consistency in applying the rules.

16. ADJOURNMENT

MOTION: Stone moved; Newell seconded to adjourn the meeting at 9:04 p.m.

VOTE: Motion carried unanimously.

Mike Kirkwood, Acting Chair

Jim Brimeyer, Interim Executive Director