

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**
7:00 P.M., April 24, 2024
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; Deborah Zorn, Shorewood; Nicole Stone, Minnetonka; Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Brian Malo, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; and Denny Newell, Woodland. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Maisyn Reardan, Office, and Finance Manager; Raina Gabler, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

Members absent: Mark Kroll, Excelsior; Dennis Klohs, Minnetonka Beach; Ryan Nellis, Tonka Bay; Matthew Thompson, Wayzata; and Jim Van Bergren, Deephaven.

Persons in Audience: Steven Schussler, Sunhi Schussler, Tyler See, Major Shane Magnusson, Lt. Rick Rehman, and Attorney David Archer.

4. APPROVAL OF AGENDA

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

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

Chair Hoelscher stated that the Officers workgroup has been meeting semi-regularly and would like to formalize that, meeting the first Wednesday of every month at 9:30 a.m. and therefore would operate as a committee and they would abide by the open meeting law rules. She stated that the City of Minnetrista has requested that the LMCD provide a letter in support of a grant. She asked the Board to review the draft letter and requested Board approval to sign and submit the letter.

MOTION: Zorn moved, Kirkwood seconded to authorize the Chair to sign and submit the draft letter in support of grant funds for the City of Minnetrista.

Further discussion: Newell noted that this is the first time that he has seen this and asked if it was included in the packet.

Hoelscher stated that this was a late receipt but there is a time deadline for the grant application.

Brimeyer commented that staff received the request the previous day requesting support for a water treatment

plant. He stated that the application is due Friday.

Newell asked and received confirmation that the LMCD is not being asked for any financial contribution.

Jabbour stated that Tonka Bay did receive \$1,500,000 or \$2,000,000 through Congressman Phillips and other cities are experiencing similar issues.

Brandt commented that Mound received similar funding from Representative Meyers for their drinking water issues. He asked if the LMCD would be willing to provide letters of support to other cities as well.

Hoelscher stated that as long as the city makes the request, she would not see a problem providing a similar letter of support to other cities.

VOTE: Motion carried unanimously.

6. APPROVAL OF MINUTES- 04/10/2024 LMCD Regular Board Meeting

MOTION: Jabbour moved, Brandt seconded to approve the 04/10/2024 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

Anderson stated that he has a question about a voucher, noting that the report for Save the Lake is incorrect because of the way the voucher was entered in. He noted that he would address that under the Treasurer's Report. He thanked Maynard's for the \$2,500 contribution to Save the Lake.

MOTION: Malo moved; Stone seconded to approve the consent agenda as presented. Items approved included: **7A)** Audit of Vouchers (04/16/2024 – 04/30/2024); **7B)** Resolution #264 Accepting Save the Lake Contributions (04/06/2024 – 04/12/2024).

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

There were no presentations.

10. PUBLIC HEARING

A) Variance for 2217 Huntington Pt Road E

Tully presented a variance request for the property located at 2217 Huntington Point Road East on North Lower Lake in Minnetonka Beach to adjust the dock length, side setbacks and allowed dock use area (DUA). He stated that the site was granted a variance in 2007 and the new variance was submitted in an effort to resolve the issue of conflicting dock use areas, water depth, and compliance issue with LMCD Code. He provided a review of the current variance and site plan, approved in 2007, and compared that to the new proposal. He reviewed the new proposed site plan and identified the hardship of water depth and conflicting dock use areas. He stated that two comments were received from the City of Minnetonka Beach, one comment of concern from a property to the north, and one written letter received today from RSLT Holdings, LLC, requesting a delay in the public hearing to gather more information. He reviewed the concerns expressed from the City of Minnetonka Beach and potential impacts to their rented dock space. He explained that a slight tweak to the angle of the dock near 103 feet would provide more navigable water for the adjacent dock use area for the City of Minnetonka Beach. He then reviewed the recommendations and conditions of staff.

Anderson commented that he has been involved in dock planning for a long time and has never seen the situation recommended by staff, to include a 30-degree bend. He understood the reason that was done, to provide more navigation for the adjacent public dock, noting that is brilliant. He commented that this would allow all the boats to navigate. He asked and received confirmation that the City of Minnetonka Beach supports this plan.

Malo asked if the four-foot depth was in effect in 2007.

Tully replied that the depth of the water was not considered at that time, noting that the 2007 variance was based upon the conflicting dock use areas.

Jabbour commented that this property has been the subject of litigation for several decades and staff has attempted to resolve this situation, reaching an agreement in the fall.

Tully confirmed that staff worked routinely with the applicant, City, and neighboring properties to reach an agreement that felt comfortable moving forward.

Jabbour recognized the efforts of staff to find a resolution for this issue.

Hoelscher opened the public hearing at 7:26 p.m. No comments were offered, and the public hearing was closed at 7:26 p.m.

Malo asked if it would be feasible that the property to the north would want to move their dock more towards the south in the future.

Tully commented that it is not his place to design or predict what a property owner may wish to do in the

future.

Zorn asked if there were any other comments or context from RSLT Holdings other than the letter.

Tully commented that staff spent many hours speaking with the properties to the north and south to describe this proposal and minimize the impacts of the variance.

Anderson asked and received confirmation that an as built would be required. He asked if that would be required annually. He asked if the City dock is required to provide that documentation as well.

Tully commented that Minnetonka Beach has submitted a final design but did not believe that as built was required from the City.

MOTION: Anderson moved, Newell seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Steven Schussler for the property located at 2217 Huntington Point Road East in Minnetonka Beach for final approval at the May 8, 2024, LMCD meeting.

Further discussion: Jabbour commented that he likes the findings of fact to mention the hardship(s) and asked that those things be included when this is presented for final approval.

VOTE: Motion carried unanimously.

11. OTHER BUSINESS

A) Caribbean Marina

Item withdrawn.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

A) Audit Report

Tyler See, Abdo, presented the 2023 Financial Statement Audit reporting an unmodified opinion with no legal compliance issues. He stated that there was one internal control finding related to the preparation of financial statements, which is a continued finding and is common for smaller municipal entities. He provided more details on the general fund, Save the Lake, and related balances.

Anderson commented that the Save the Lake fund has always been separate from the General Fund and

asked if those could be merged together.

See replied that the main source of revenue for the Save the Lake fund is donations, so it is easier to track separately, but they could be merged if desired.

Hoelscher commented that it was her understanding that the Save the Lake fund is for the purposes of public education and safety and therefore the funds must be spent in that manner, but if someone specified a purpose on their donation, the item would be applied in that manner.

Jabbour commented that historically Save the Lake was not receiving much for donations, but that increased after the riots. He stated that it was his understanding that once the donation is received, it is taxpayer money to be spent accordingly and therefore legally did not think there was an obligation to designate funds towards a donor identified expense, although morally that would be the right thing to do. He asked if a separate expense column should be identified for Save the Lake and whether funds would need to be spent in the way a donor specified for their donation.

See replied that if someone specified a donation for a purpose, it is typically earmarked for that purpose. He stated that most of the Save the Lake donations are made for public safety. He stated that there is no legal statute requiring Save the Lake to be a separate fund.

Newell commented on changes to Save the Lake over the years to focus more on public safety, noting that solar lights are now funded through the general fund. He stated that the Save the Lake message still includes the broader, public safety, public education, and solar lights. He asked if that message should be updated to eliminate solar lights as he believed the message to be confusing.

Hoelscher stated that is a discussion for the Board and not the auditor.

Stone thanked See for his assistance throughout this process.

B) Review of 2025 Preliminary Budget

Hoelscher recognized the past efforts of Anderson in the prior budgeting and thanked him for bringing staff and the new Treasurer up to speed this year. She commented that the workgroup disagreed on some of the items and noted that it is okay for opinions to be expressed during this discussion as well.

Stone stated that a memorandum was included based on the last meeting of the workgroup relating to changes on the revenue and expense sides. She stated that the biggest discussion item for the Board is related to personnel expenses as the LMCD now has three full-time employees along with the contracted Interim Director. She noted that three options were presented relating to personnel and welcomed input.

Hoelscher welcomed input on the budget as a whole. She commented that there is a statutory formula for calculating the LMCD levy, noting that they are nowhere near the top limit as they continue to operate in a fiscally responsible manner. She recognized that this proposed budget would be balanced by a transfer from

the reserves as they are trying to decrease the reserve balance, but eventually the reserve level will reach the desired 35 percent level and the budget would then have an impact on the levy.

Zorn echoed the comments about the levy, recognizing that the levy will most likely need to be adjusted in the future. She stated that she would support option one for personnel.

Kirkwood stated that he presented this spreadsheet with a staff and Mayor of Minnetrista last week and they had no objections. He stated that he would also support option one for personnel.

Brandt commented that the reserve balance is still at 83 percent, acknowledging that they are using about 15 percent per year in a transfer, which would put them about four to five years out from needing to adjust the levy. He referenced AIS, noting the deletion of AIS grants and the mention that future grants would be provided through Hennepin County and asked for clarification on whether that would eliminate future LMCD grants for AIS.

Stone replied that it was how it was proposed, although that was not her personal opinion.

Hoelscher recognized the AIS grant program that the LMCD had been providing, noting that it was not used as much last year and therefore those funds were transferred to another line item. She commented that is an item that should be discussed, as to whether it should continue.

Brandt questioned the availability of Hennepin County funds for this lake.

Zorn commented that she would be interested in Brandt's opinion because he was so close to this issue and could perhaps provide further guidance as to why those funds were not fully used the previous year.

Brandt replied that he believed the first-year funding for projects was a success. He stated that there were some discussions about expanding the program to fund multi-year projects but that stalled when the workgroup was eliminated. He stated that Hennepin County was challenged as to the funds it was providing for this purpose on the lake.

Newell commented that the funds were originally collected for AIS and therefore wondered if the LMCD has an obligation to deploy those funds for that purpose.

Stone asked what an appropriate line item would be for that purpose.

Brandt stated that he is not currently aware of any funding requests but would like to see some funds available for this purpose.

Hoelscher stated that \$50,000 was budgeted for 2024 and any unused funds could be moved to the same line item for 2025.

Jabbour commented that the LMCD previously received \$60,000 for the purpose of AIS along with \$40,000

in-kind. He stated that the LMCD funding for that purpose has now been eliminated and Hennepin County annually receives \$310,000 that is supposed to be allocated. He stated that he would be opposed to burdening the taxpayers in addition to the taxpayer funds already allocated to Hennepin County for this purpose. He stated that he is opposed to including any funding for AIS in the budget as those funds should be received from Hennepin County. He stated that the budget for the LMCD as a whole cannot even dent the issue of AIS. He recognized the comments of Newell that if funds were collected for AIS, they should be used for that purpose. He asked if there is a standing balance for AIS.

Hoelscher stated that a line item within the overall general budget can be reallocated.

Malo referenced line five, interest, and asked for details on that proposed increase.

Stone stated that funds were moved from one bank and placed in a high interest savings account.

Malo stated that he also supports option one for staffing.

Anderson stated that the AIS line item for \$75,000 was for harvesting and that has previously been eliminated as harvesting was also eliminated. He commented on the 2024 budget and changes that were made for the presentation tonight. He noted that contract labor had been budgeted as zero for 2024 but is shown in this presentation that it was \$50,000.

Hoelscher stated that could be discussed offline. She stated that personnel option one would be to keep the same staffing in place for 2025 that exists today.

Anderson commented that he does support that personnel option. He referenced funding of Water Patrol in the amount of \$100,000 for 2025, using reserves. He asked how that would continue in the future because the reserves continue to be used and the line item would remain. He asked why the Water Patrol would not remain under Save the Lake for 2025, with the hope that matching funds would be received through donations.

Brimeyer commented that \$50,000 was budgeted last year through Save the Lake and the general fund for Water Patrol but at the workgroup meeting it was stated to place it all under the general fund with a transfer of \$50,000 from Save the Lake.

Anderson commented that the current Save the Lake fund balance is about \$91,000 and half of that would be spent this year. He strongly recommended that \$100,000 is not placed into the expense side for the general fund.

Hoelscher stated that the LMCD has been funding the Water Patrol for many years, starting with smaller donations, and increasing over the years. She commented that the Water Patrol program has been tested and shown value to all the cities. She stated that the cities should see what is being funded, and while donations may continue to fund that, that funding may need to come from the cities in the future. She stated that she would agree to eliminate the AIS item as there is not currently a need, noting that if there is a need in

the future that could be shown and discussed. She stated that she has had the luxury of collaborating with the current staff over the past 18 months and they have been awesome, but they need to recognize that Brimeyer cannot continue for the long term. She stated that she would support budget option one, but eventually more money will need to be spent to receive this level of staff knowledge.

Kirkwood encouraged the Board members to have a conversation with their city staff. He commented that this city recognized the police function that is needed on the lake and had options in mind as to how that could be funded in the future, whereas he originally thought they might be opposed. He wondered if there needed to be more marketing of the AIS funds available.

Jabbour commented that the AIS funds that the LMCD would have available would not even dent the issue. He stated that the LMCD should define its mission and focus on that, leaving the AIS matter to the experts that have funding to tackle that matter. He commented that in the past, there has been a complaint about the LMCD levy when it has been higher. He stated that he would like to see the Water Patrol funded indefinitely and noted that some cities would be willing to provide contributions to their levy allocation because they see value in that.

Anderson noted that the 2024 version shown in the presentation is not the 2024 budget shown to the cities and therefore the 2024 budget should be amended.

Hoelscher noted that everyone agrees and that can occur in the future.

Anderson noted that he believes that the \$100,000 from Water Patrol should be removed as a line item.

Hoelscher reviewed the budget calendar.

Brimeyer commented that if option one is chosen for staffing, they will need to get creative as that is not the option he supports.

Hoelscher stated that there are items in the budget the Board will need to discuss going forward including the future of Save the Lake and staffing.

C) Review of LMCD Postcard

Hoelscher displayed a copy of the postcard that will be mailed in the beginning of May in place of mailing a newsletter. She stated that any additional comments on the postcard could be provided to staff.

Jabbour commented that he would want to ensure that the picture being used is not in violation of copyright laws.

14. TREASURER REPORT

A) April Balance Sheet

B) April General and STL I&E Reports

Anderson referenced the P&L for Save the Lake, noting an expense of \$6,900 for the voucher for solar lights and brackets. He stated that should actually be reflected to the general fund rather than Save the Lake.

15. EXECUTIVE DIRECTOR UPDATE

Brimeyer confirmed upcoming meeting dates.

16. ADJOURNMENT

MOTION: Jabbour moved, Zorn seconded to adjourn the meeting at 8:38 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary