

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, September 14, 2005
Wayzata City Hall

CALL TO ORDER

Skramstad called the meeting to order at 7:03 p.m.

ROLL CALL

Members present: Tom Skramstad, Shorewood; Katy Van Hercke, Minnetonka; Paul Knudsen, Minnetrista; Doug Babcock, Tonka Bay; John Berns, Wayzata; Steve Johnson, Mound; Michael Maloney, Excelsior; Andrew McDermott, Orono; Pete Nelson, Victoria; Tom Scanlon, Spring Park. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

Members absent: David Gross, Deephaven; Tom Seuntjens, Minnetonka Beach; Herb Suerth, Woodland; Cree Zischke, Greenwood.

CHAIR ANNOUNCEMENTS, Chair Skramstad

Skramstad made three Chair announcements. These included:

- Skramstad thanked the Board and LMCD staff for their efforts in the "Future of the Lake Day" special event.
- Skramstad stated that the LMCD annually meets with the Sheriff's Water Patrol in the fall and a meeting date needs to be selected. He asked Nybeck for potential dates for the Board to consider.

Nybeck stated that he had discussed this matter with Lt. Storms. Possible dates include October 11, 18, 19, and 25 at 7:00 a.m. at the Water Patrol Headquarters in Spring Park.

The consensus of the Board was for Nybeck to coordinate this meeting date through Chair Skramstad.

- Skramstad asked Nybeck to review the September LMCD Regular Board Meeting schedule.

Nybeck stated that there are two Regular LMCD Regular Board Meetings scheduled for the month of September, 9/14/05 and 9/28/05. He did not believe that there was a need for both meetings and he recommended that the Board cancel the 9/28/05 Regular LMCD Board Meeting.

The consensus of the Board was to cancel the 9/28/05 Regular LMCD Board Meeting as recommended by Nybeck.

READING OF MINUTES- 8/10/05 LMCD Regular Board Meeting

MOTION: Berns moved, McDermott seconded to approve the minutes from the 8/10/05 LMCD Regular Board Meeting as submitted.

VOTE: Ayes (7), Abstained (3, Babcock, Maloney, and Nelson); motion carried.

PUBLIC COMMENTS - Persons in attendance, subjects not on agenda (5 min.)

There were no comments from the public on subjects not on the agenda.

CONSENT AGENDA- Consent agenda items identified with a (*) will be approved in one motion unless a Board member requests discussion of any item, in which case the item will be removed from the consent agenda.

There was no consent agenda because Berns requested that agenda item 3A be removed from the consent agenda and Scanlon requested that agenda item 3B be removed from the consent agenda.

PUBLIC HEARING

- **T. Michael Miller**, new multiple dock license application for six Boat Storage Units (BSU's) on 485' of continuous 929.4' lakeshore frontage at 19640 Cottagewood Road.

Skramstad opened the public hearing at 7:10 p.m. and asked for background from Harper.

Harper reviewed the staff memo, dated 9/8/05, which summarized a request by Mr. Ben Arnold, representing T. Michael Miller, for a new multiple dock license for six BSU's on 485' of continuous 929.4' shoreline at 19640 Cottagewood Road. This further breaks down to one dock with four BSU's at the Miller property, and a second dock with two BSU's for the residents at 19680 Cottagewood Road. He recommended that the Board approve the new multiple dock license application for the 2006 season. He entertained questions or comments from the Board.

Babcock asked Harper to address the westerly extended side site line extension because of the curvature of the 929.4' shoreline in this area.

Harper delineated the westerly extended side site line extension as requested by Babcock.

Van Hercke questioned why the Millers are proposing a second dock for the property behind them.

Harper suggested that it might be more appropriate for the applicant to address this.

Mr. Ben Arnold, representing the applicant, addressed the Board as representative of T. Michael Miller. He stated that the Miller property is burdened by an existing easement and the proposed dock would relocate this easement.

Berns asked Arnold for explanation of his position as representative for the applicant.

Arnold stated that he was an employee for Mr. Miller and takes care of a lot of his personal affairs.

Mr. Mike Ronald, 4853 Bartlett Blvd., asked if there was a dock on the site today and whether it was proposed to be relocated on the proposed site plan.

Harper stated that there was an existing dock today and he identified where this dock and boat storage was proposed to be relocated.

There being no further comments, Skramstad closed the public hearing at 7:25 p.m.

Babcock expressed concern about the westerly extended side site line and the impact that it could have on the abutting properties, especially since a number of them already have a variance approved by the LMCD.

LeFevere stated that the Board should focus its attention on the proposed site plan for the application. If the proposed dock plan does not create a problem but the authorized dock use area does, that is a decision for the Board to address at a later date. He pointed out that the 300' of 929.4' shoreline required for this multiple dock license application is achieved by the straight-line measurement between the ends of the site. He recognized that there were overlapping dock use areas in this area.

Babcock stated that the proposed site plan and westerly extended side site line extension contradicts how the Board has approved variances, primarily dock length, in this area of the Lake. He questioned whether it would be appropriate to require the westerly extended side site extension, for dock placement purposes, to extend to the north rather than to the west. He recommended this as a possible condition on the multiple dock license.

LeFevere stated that he believed that this could be achieved on the multiple dock license by requiring the dock structure to be constructed in strict compliance with the approved site plan.

MOTION: Babcock moved, Knudsen seconded to approve the T. Michael Miller new multiple dock license application for the 2006 season, subject to the docks being constructed in strict compliance with the proposed site plan.

VOTE: Motion carried unanimously.

1. LAKE USE & RECREATION

A. Ordinance Amendment, second reading of an ordinance relating to watercraft equipment, adding new Subdivision 9 to LMCD Code Section 3.04.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that at the 8/10/05 Board Meeting, the Board approved first reading of this ordinance relating to watercraft equipment, which was originally requested by Lt. Storms at the 7/27/05 Board Meeting. The Board directed staff to schedule second reading of this draft ordinance amendment for this Board meeting and to provide a copy of the applicable State of Minnesota rules and regulations referred to in this ordinance, which have been provided.

MOTION: Berns moved, McDermott seconded to approve second reading of this draft ordinance amendment, to waive third reading, and adoption of the ordinance.

VOTE: Motion carried unanimously

B. Discussion of 8/13/05 "Future of the Lake Day" Special Event.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that he believed the special event went very well for the first year, especially with the short time frame to plan for it. He estimated that there were between 150 and 175 kids that attended the event, which was the primary focus. The overall expense incurred, slightly under \$4,100, was well below the \$6,000 budgeted for the special event. He reminded the Board that LMCD would be responsible for 50 percent of these costs, with funding from the "Save the Lake" Budget. He recommended that there is a need to get going on this special event quite a bit sooner if the Board would like to coordinate it for 2006, possibly as soon as January or February. He believed that the highlight of the special event was the free charter boat rides, with a light lunch, provided to the youth and parents that attended that day. He thanked Berns for his leadership on this project and other Board members for their assistance.

Berns thanked LMCD staff and Crystal-Pierz Marine, especially Michael Deering, for their efforts in making this a successful special event.

C. Additional Business.

Skramstad asked for the Team Leaders to report on their tasks in the Lake Minnetonka Boat Density Action Plan.

- **Task A: Develop/refine communication strategy, plan, and timeline. Oversee team members performing the following tasks.**

Scanlon stated the communication committee, with the various Team Leaders, met prior to this Board Meeting. He envisioned that further meetings would take place in the near future to further develop/refine a communication strategy, plan, and timeline. He pointed out that Board member Nelson has committed to being the Team Leader to "Develop/improve new materials that clarify LMCD rules."

- **Task B: Proactively advocate for a Boat Operator's License. This will most likely require the forming of a coalition that will determine the strategy including key tasks, timelines, and contacts needed to work with the state legislature.**

Knudsen stated that he had nothing new that was too significant to report at this time. However, he planned to meet with a MN DNR official in the near future to discuss this. Additionally, he stated that he had met with his State Farm Insurance agent to discuss a discount program for individuals who complete a boater safety course.

Johnson stated he was working with the Minnetonka Power Squadron on setting up a mass program for training purposes. One of the primary concerns for the Minnetonka Power Squadron was to determine how to set this up, possibly utilizing the boat registration time frame.

- **Task C: Water Patrol liaison. Keep in contact to continue to support the Water Patrol, particularly in their efforts to identify, track, and notify discourteous boaters about their lake use behaviors.**

Van Hercke stated that Seuntjens was working with the Sheriff's Water Patrol on this task. She reminded the Board of the upcoming annual meeting with the Sheriff's Water Patrol.

- **Task D: Enforcement.**
 1. **Develop and implement a process for enforcing storage ordinances.**
 2. **Work with 14 LMCD member cities to actively involve them in common enforcement related issues.**

Van Hercke stated that she had not heard back from Board member Zischke on whether she agreed to "Develop and implement a process for enforcing storage ordinances". Because of this, Board member Maloney has agreed to do this instead of "Working with the 14 LMCD member cities to actively involve them in common enforcement issues". She believed that this should be done by each of the LMCD Board members for the city that appointed them.

- **Task E: Work with the LMCD Executive Director on a redraft of the 1974 Boat Density Policy Statement and the Lake Use and Recreation Chapter of the 1991 Management Plan for Lake Minnetonka**

Van Hercke stated she had received a commitment from Board Member Babcock to assist Nybeck and Board member Gross on this task.

2. EWM/EXOTICS TASK FORCE

A. Review of 2005 EWM Harvesting Program Final Season Report

Skramstad asked for background on this agenda item from Nybeck.

Nybeck highlighted the key points of the 2005 Report. These included:

- The 2005 season consisted of 43 working days beginning on June 10th and ending on August 12th. The total acreage harvested for 2005 has not yet been finalized, but should be sometime in the near future. Harvester and truck loads in 2005 went down slightly when compared to 2004, although these statistics are favorable when compared to the 2001-2003 seasons. This needs to be looked into further by staff.
- 2005 Harvesting priorities were based upon removing impediments to public boat navigation on the open water, with higher priority given to areas on the lake that were matted. The LMCD implemented the South Upper Lake harvesting option in 2005.
- Judd Harper served as Project Manager for the fifth consecutive year. Chris Sones served as Site Supervisor, Jeff Schmidt as Assistant Site Supervisor, and six other seasonal employees were hired to fill out the remaining four positions.
- Curfman Trucking and Repair, Inc. served as mechanic for the fifth consecutive year in 2005. He stated that downtime continues to improve each year, pointing out that the three harvesters collectively were down for only 32.75 hours during the 43 working days in 2005, which compared to 142 hours in 2004.
- He estimated that expenses incurred in the program would be below the \$109,000 budgeted in 2005.
- He entertained questions or comments from the Board.

McDermott complimented the efforts made by LMCD staff and the crew in addressing concerns raised by the City of Orono in 2005 relating to the use of Lydiard Beach as an off-load site in Carmans Bay. For background purposes, Lydiard Beach has been used as an off-load site since the inception of the program. Some residents like the harvesting program and some residents do not because they believe it impacts the ability to use Lydiard Beach for swimming purposes. Prior to the 2005 season, the gates were relocated closer to the Lake at the request of the neighborhood, which made it problematic for the harvesting crew to off-load. Because of this, the gate was damaged slightly by the harvesting crew and needed to be adjusted, which was later coordinated between LMCD and City of Orono staff. Additionally, the harvesting crew cleaned the lagoon just to the south of the off-load site in June because there were residents that believed the fragmented milfoil was caused by the harvesters. During subsequent cuts, the harvesting crew placed a boom at the entry of this lagoon area to address this.

Nybeck stated that Lydiard Beach is the only off-load site that LMCD has in Carmans Bay and one of heaviest milfoil growth bays on Lake Minnetonka. Thus, there is a need to address the concerns of the City of Orono and the residents to keep this off-load site open. Based on the discussions with the City of Orono, Orono supports the LMCD continuing to use Lydiard Beach as an off-load site. However, the City of Orono has expressed concern about private harvesting companies using Lydiard Beach as an off-load site in the future.

B. Update on 8/25/05 MN DNR meeting relating to exotic species.

Skramstad asked for background on this agenda item from Nelson.

Nelson stated that he and Board members Skramstad and Van Hercke met at the MN DNR office on August 25th at the request of Congressman Jim Ramstad with representatives from the MN DNR and the LMA. The consensus of the participants acknowledged that: 1) milfoil has been in Lake Minnetonka since the late 1980's, 2) milfoil is not getting any better on Lake Minnetonka, and 3) producing better results in the control of milfoil needs to be a top priority. The participants discussed the possibility of an experiment being held on 12 highly infested areas of Lake Minnetonka to determine ways to establish an abatement program. The goals of the experiment included: 1) maintaining results for the reduction of milfoil, 2) establishing how effective the use of chemical treatments are, 3) establishing the fiscal needs to accomplish the experiment, 4) utilizing the publicity that the experiment will generate, maintaining exotics in general on the front burner, and 5) defining a well-run program for the continued ability to regularly raise funds.

Skramstad recessed the meeting at 8:00 p.m. and re-convened it at 8:05 p.m. due to due to technical difficulties in the council chambers.

Nelson outlined the logistics of this project, stating that he would like to: 1) develop the basic framework by meeting with constituents in the next few weeks, 2) formalize the general statements made in the above outline, 3) provide the plan for review at the October EWM/Exotics Task Force meeting, 4) come back to the Board for approval shortly after review by the EWM/Exotics Task Force, 5) define the organizations that might be involved in funding this project, adding that the LMCD will not be the sole fiscal supporter, 6) have a plan finalized by the end of the calendar year to allow time to fundraise, and 7) an initial evaluation is anticipated next summer.

Skramstad thanked Nelson and asked him to keep the Board informed on the progress of this project.

C. Additional Business.

There was no additional business

3. FINANCIAL

A. Audit of vouchers (8/16/05 – 8/31/05) and (9/1/05 – 9/15/05).

Skramstad asked Berns to provide background on why he had this agenda item removed from the consent agenda.

Berns asked for clarification on check number 15722 to Judd Harper, in the amount of \$437.72, for training and professional development.

Harper stated that he had been taking GIS night classes at a local community college to improve what can be done in the LMCD office.

Berns stated that he supported utilizing training or educational courses to improve LMCD staff. However, he would like the staff member to provide a short summary to the Board on the benefit associated with attending this training session or education course.

Harper stated that LMCD has recently purchased GIS software that will be utilized in a number of different projects. One project includes the production of maps and visual aids for a variety of projects.

Berns left the meeting at 8:10 p.m. for a Wayzata fire call and returned at 8:15 p.m.

MOTION: Babcock moved, McDermott seconded to approve the audit of vouchers for the periods of 8/16/05 – 8/31/05 and 9/1/05 – 9/15/05 as submitted.

VOTE: Motion carried unanimously.

B. July financial summary and balance sheet.

Skramstad asked Scanlon to provide background on why he had this removed from the consent agenda.

Scanlon requested clarification of the cash management funds outlined in the July financial summary and balance sheet, with an emphasis on investing funds that receive higher rates of return.

Nybeck stated that the First National Checking Account would be closed as soon as specific checks have cleared. The U.S. Bank is a newly established checking account that is provided through the 4M Fund, which the LMCD belongs to. He clarified that the 4M Fund and 4M Plus Fund are cash management type accounts that are liquid, but draw a modest amount of interest. The remaining investments are held within four CD's, with staggered expiration dates.

MOTION: Van Hercke moved, Scanlon seconded to approve the July financial summary and balance sheet.

VOTE: Motion carried unanimously.

C. Update on LMCD Investments.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that this memo summarized how the LMCD has its funds invested in the 4M Fund as described in the previous agenda item. This includes the U.S. Bank checking account, the 4M Fund and 4M Plus accounts, and the four CD's currently invested.

Skramstad questioned Nybeck how often he provided the Board an update on LMCD investments.

Nybeck stated that prior to the LMCD relocating its funds to the 4M Fund, an update was provided to the Board at the time a CD matured.

The consensus of the Board was to maintain the update only when financial changes are made or twice annually.

D. Additional Business

There was no additional business.

4. WATER STRUCTURES

A. Update from LMCD staff on potential concerns observed during multiple dock license inspections.

Skramstad asked for background on this agenda item from Harper.

Harper stated that 2005 multiple dock license inspections were nearly completed and he wanted to provide an update on trends observed during these inspections. Three trends have been observed that should be brought to the Boards attention. These included: 1) an increase in the use of storage boxes on the docks, 2) an increase in watercraft extending out beyond the end of slips outside the dock use area, and 3) an increase in the number of personal watercraft being stored on the back of watercraft. He provided an overview of these three trends, which was outlined in a spreadsheet, through a PowerPoint presentation. This spreadsheet identified related LMCD Code Section(s) for each of these trends, an explanation of LMCD Code, and staffs interpretation of LMCD Code for each trend.

During the course of the presentation, a number of questions or comments were made by Board members and addressed by LMCD staff. Some of these included:

- Skramstad stated that he had been working with the MN DNR, manufacturers that work with dock installers, and dock installers themselves in an effort to work towards a better understanding of the LMCD Code and what differences there might be with the MN DNR's rules and regulations. A boat tour is in the process of being scheduled for all parties involved.

- Van Hercke questioned why LMCD was restricting the use of storage boxes.
- Babcock provided some historical background on why the LMCD has prohibited storage boxes in the past.
- Berns questioned whether the LMCD had any ability to hold dock installers accountable to LMCD rules.
- There was discussion relating to the parking of boats at slips on the outer edge of a structure that was granted a dock length variance to 200'.
- There was discussion on overhang management and how it primarily applies to either facilities constructed at the outer edge of the dock use area or a four foot overhang for facilities that are reconfigured through LMCD Code Section 2.015.
- There was discussion on the number of multiple dock facilities that have watercraft storing personal watercraft on the back of them.

B. Additional Business

There was no additional business.

5. ADMINISTRATION

There was no discussion.

6. SAVE THE LAKE

There was no discussion.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on the following:

- The lake level was 929.19' on 9/12/05, with the dam discharging at 50 c.f.s.
- The annual Hennepin County Sheriff's Water Patrol banquet dinner that recognizes special deputies is scheduled for Saturday, October 15th. He stated that he would like to have at least one person representing the LMCD.
- An updated list of pending LMCD projects is included in the handout folders for informational purposes. This is a first draft and will likely be enhanced and embellished. Any comments from Board members should be forwarded to the LMCD office.
- A staff memo, dated 9/13/05, was included in the handout folder to address three issues previously raised by Board member Seuntjens at the 8/10/05 Board meeting. This was included for informational purposes.
- The LMCD runabout is in poor condition and needs to be replaced prior to the 2006 boating season. He sought a motion from the Board to dispose of the LMCD's runabout at the least cost to the LMCD.

MOTION: Babcock moved, Nelson seconded to dispose of the LMCD's runabout in the most cost-effective manner to the LMCD.

VOTE: Motion carried unanimously.

Nybeck continued his Report:

- An inspection has recently been conducted at the Bayview HOA outlot in the City of Victoria. Two restricted watercraft were being stored at the site, which is in compliance with LMCD Code at this time. LMCD staff will continue to monitor this in the future and the Board will be kept up to date.
- George Hoff's office, the attorney for the LMCD on the pending Miles Canning litigation, has communicated to the LMCD office that the Cannings have appealed the ruling of the district court. The LMCD is proceeding on this case and the Board will be kept up to date, including the possibility of inviting George Hoff to update the Board.

LeFevre stated that he expected the Minnesota Court of Appeals to have a ruling on this prior to the 2006 boating season.

8. OLD BUSINESS

Deicing Update

Harper stated that the 2005-2006 renewal, without change, deicing applications had recently been sent out.

Six Mile Marsh

Knudsen reported that the Minnetrista Planning Commission meets on September 20th in regards to the MN DNR's comments and feedback on the Minnetrista adopted ordinance. The primary concern raised by the MN DNR was the possibility of creating a situation where visitors would not be able to visit the properties in the Six Mile Marsh area. He believed that the City of Minnetrista would try to address the concerns raised by the MN DNR.

9. NEW BUSINESS

National Marina Day

Skramstad stated that he attended the Rockvam Boatyards on August 13th after the "Future of the Lake Day" special event for National Marina Day. He suggested that the Board might want to consider some form of a role in helping promote this in the future.

RiverNight 05

Skramstad stated that the River Council of Minnesota sponsors an annual RiverNight social/business event, which will be held this year on September 22nd. This provides for an opportunity to network with Governor Pawlenty, his Water Cabinet, and other agencies involved in water conservation in Minnesota. He stated that he would attend this event if the Board did not object, at a cost of \$125.

The consensus of the Board was for Skramstad to attend this on behalf of the LMCD, with the LMCD reimbursing Skramstad \$125 to attend this event.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:55 p.m.

Tom Skramstad, Chair

Katy Van Hercke, Vice Chair