

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 PM, Wednesday, February 8, 2006  
Wayzata City Hall

**CALL TO ORDER**

Skramstad called the meeting to order at 7:04 p.m.

**ROLL CALL**

**Members present:** Tom Skramstad, Shorewood; Paul Knudsen, Minnetrista; Tom Seuntjens, Minnetonka Beach; John Berns, Wayzata; David Gross, Deephaven; Steve Johnson, Mound; Andrew McDermott, Orono; Pete Nelson, Victoria; Tom Scanlon, Spring Park; Herb Suerth, Woodland. Also present: Charles LeFevre, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

**Members absent:** Doug Babcock, Tonka Bay; Katy Van Hercke, Minnetonka; Cree Zischke, Greenwood. The new representative for the City of Excelsior will take the oath of office at the 2/22/06 LMCD Regular Board Meeting.

**CHAIR ANNOUNCEMENTS**, Chair Skramstad

There were no Chair announcements.

**READING OF MINUTES**- 1/11/06 LMCD Regular Board Meeting

**MOTION:** Knudsen moved, McDermott seconded to approve the minutes from the 1/11/06 LMCD Regular Board Meeting as submitted.

**VOTE:** Ayes (7), Abstained (3, Gross, Seuntjens, and Suerth); 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.

Gross moved, Suerth seconded to approve the consent agenda as submitted. Ayes (9), Abstained (1, McDermott); motion carried. Items so approved include: **1A, 2006 Multiple Dock Licenses**, staff recommends Board approval of 2006 renewal without change applications as outlined in 2/2/06 staff memo; **2A**, Minutes from the 12/9/05 EWM/Exotics Task Force Meeting, **3A**, Audit of Vouchers (1/16/06 – 1/31/06 and 02/01/06 –02/15/06); and **3B**, December financial summary and balance sheet.

**PUBLIC HEARING**

- Marvin and Nancy Blair, variance application to install a bridge over emergent vegetation at 3768

North Shore Drive on North Arm. The proposed variance application is for variance from LMCD Code for bridge length requirements and an adjusted bridge use area.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 2/3/06, which summarized a request by Marvin and Nancy Blair for a variance from LMCD Code for bridge length requirements and an adjusted bridge use area. He recommended that the Board discuss the following fundamental questions prior to taking action on the application: 1) Is the proposed use reasonable, 2) Is 3' to 3.5' adequate water depth for navigation, 3) Would it be preferable to grant dock length and adjustment of a dock use area variances, 4) Would the proposed bridge plan be beneficial to keep a dock away from the public access, and 5) Would the variance for the bridge adversely affect the purposes of this ordinance and reasonable access to, or use of, the Lake by the public or riparian owners. He entertained questions or comments from the Board.

Gross asked Harper the following three questions: 1) Does the wetland to the west of the proposed bridge qualify as navigable water, 2) Would the construction of the bridge allow for kayak and canoe passing, and 3) Is the proposed bridge permanent or seasonal.

Harper stated that the wetland to the west of the bridge could "possibly" qualify as navigable water and suggested that LeFevere might clarify the definition. The contractor representing the applicant would be more qualified to verify if the construction plans provide for the bridge to be high enough to allow watercraft passage underneath. The proposed bridge would be constructed with traditional seasonal docking, but would remain in the lake permanently. He stated that the only neighboring property in which the bridge would affect navigation is the City of Orono, adding that Orono does not have any construction plans at this time. He provided the Board an overview of water depth measurements in the immediate area.

McDermott questioned the placement of the dock and whether it would be at the same length as the neighboring peninsula.

Harper stated that the length would be close to the length of the peninsula.

Berns questioned: 1) If it was legal, or possible, to dredge the site, and 2) Does LMCD have any responsibility for maintaining the shoreline, as there is a large tree at the construction site.

Harper stated that the MCWD has permitting authority for dredging and shoreline enhancement projects on Lake Minnetonka.

LeFevere stated that the LMCD does not have any regulatory authority with regards to the shoreline. The local jurisdiction, most likely the City of Orono, would regulate the shoreline. The LMCD could take into consideration the environmental impact, which also includes vegetative wetlands. He stated a legal definition of navigable waters is not a universal term for all legal purposes. Lake Minnetonka, as a whole, was determined years ago to be a navigable body of water. Therefore, when LMCD Code uses the word navigable, it is used in a common term. When a bridge crosses an inlet, it may be over waters that are navigable for smaller boats; knowing that a bridge will have impact to some individuals. With regards to the application at hand, LeFevere stated the a hardship exists as the inlet waters are a

dead-end to a dock use area that may not be navigable due to existing vegetative wetlands and conversion of lot lines. Therefore, the Board must decide if granting the variance is reasonable and the request provides for the least impact.

Berns questioned whether the granting a variance for dock length and an adjusted dock use area was more appropriate than granting a bridge length and adjusted bridge use area variance.

LeFevere stated that the public hearing notice was published for a bridge application rather than a dock application. If the Board were to determine that a dock was more appropriate for this site rather than a bridge, this would require the re-publishing of this application and a new public hearing.

Gross asked Harper if there was a dock use area for both the main and peninsula properties.

Harper stated that there are separate dock use areas for both sites.

Skramstad opened the public hearing at 7:40 p.m. He asked the applicant to provide further background on their applications and to address questions and comments raised by Board members.

Ms. Nancy Blair, 5501 Village Drive in Edina, addressed the Board and provided a brief history of the surrounding property and current plans for the bridge construction. The construction of the bridge was described as being picturesque with accompanying landscape.

Gross asked the applicant if the LMCD would see construction plans of the bridge and if there was objection to raising the bridge to allow for public access to this wetland area for unrestricted watercraft.

Mr. Randy Ketcher, contractor representing the Blair's, stated that he could not enter the inlet in a rowboat last fall due to the emergent vegetation in this area. Although he did not have construction plans, he stated the construction of the bridge would be cedar and would be similar to the dock currently installed.

Nybeck stated that one issue the Board needs to understand was that the dock currently installed from the main shoreline does not comply with LMCD Code because it is outside of the authorized dock use area for this site.

Seuntjens encouraged the applicant to consider installing one bridge for multiple sites in the immediate area to minimize the impact on the wetland area.

Mr. John Erickson, 1620 Shadywood Road, stated that he was a neighbor of the Blairs and he provided some historical background. He supported the application and encouraged the Board to approve it.

There being no further comments, Skramstad closed the public hearing at 8:06 p.m. The Board discussed the following options: 1) granting the request as requested, 2) granting the request with docking stipulations, and 3) granting the request, with bridge height standards, to maintain navigable waters within the wetland area.

**MOTION:** Nelson moved, McDermott seconded to direct LMCD legal counsel to prepare Findings of Fact and Order to approve the bridge and variances applications submitted by Marvin and Nancy Blair.

Seuntjens recommended a friendly amendment to the motion that would require docking and boat storage at the main site to comply with LMCD authorized dock use area requirements. Nelson and McDermott agreed to this.

Ms. Blair stated that they would remove the dock from the main site, if needed.

**VOTE:** Ayes (9), Abstained (1, Gross); motion carried.

Skramstad informed the applicant that the draft Findings of Fact and Order would be on the agenda for the 2/22/06 Regular LMCD Board Meeting.

## 2. WATER STRUCTURES

**B.** Discussion on whether there is a need to establish an ordinance that establishes a time period that pending LMCD applications need to be processed in.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that pending LMCD applications, which have signed an indefinite extension form to the 60-day rule, have been listed on the bottom of recent Board agendas for informational purposes. Some Board members have expressed an interest in resolving these applications within an undetermined time period, possibly through either an ordinance amendment or new policy. He stated that he did not have a recommendation for the Board and this was scheduled on the agenda to encourage Board discussion.

McDermott asked if there was a recommendation on how long this time frame should be if a new ordinance was established.

LeFevere stated that he did not have a recommended time frame for the number of days. However, the Board could consider that some applications would become "stale" over time as LMCD Code, Board members, and demographics change. If one of these applications were reinstated, a new public hearing would likely be required. Whether an ordinance amendment or policy is needed is a decision that needs to be made by the Board.

The Board, with Nybeck's assistance, discussed the pending applications listed on the Board agenda, the pros and cons of establishing a time frame schedule, possible time frames, and potential waivers for these applications that could be addressed within a draft ordinance amendment.

**MOTION:** Nelson moved, Gross seconded to have LMCD legal counsel prepare a draft ordinance amendment that would provide pending LMCD applications to be ceased or invalid if not acted upon by a certain date yet to be determined.

**VOTE:** Ayes (8), Nays (2, Knudsen and Seuntjens); motion carried.

C. Additional Business

There was no additional business.

2. EWM/EXOTICS TASK FORCE

B. Update on the 2006 Milfoil Demonstration Project.

Skramstad asked Nybeck for background of the sealed bids received.

Nybeck provided a summary of his staff memo, dated 2/8/06, which summarized the sealed bids received for the "Public Treatment Areas". This included:

- Background on the proposed project, including the December 14th Board approval to proceed with the project and the January 11th approval to solicit sealed bids for the project.
- Background on the sealed bid process, including a January 27th deadline for comments on the specifications and a February 6th deadline for the submittal of sealed bids for this project.
- Sealed bids were received from three herbicide applicators for this project by the February 6th deadline. Costs for the project were as follows: 1) Professional Lake Management, Inc.- \$16,906.59, 2) Lake Restoration, Inc.- \$18,759.80, and 3) Lake Management, Inc.- \$14,098.48. All three bids were determined to be complete.
- He discussed funding options for the project because this project was not included in the adopted 2006 LMCD Budget. He did not believe that fundraising efforts were needed at this time because there are other funding sources available through a slight reduction of the 2006 EWM Harvesting Program Budget and potential "Save the Lake" funds.
- Optional information was provided by all three herbicide applicators for the "Private Treatment Areas". These areas abut the "Public Treatment Areas" and are within 150' from the shoreline. The Lake Minnetonka Association (LMA) will supervise the "Private Treatment Areas" and this information was requested by the LMA.
- He recommended that the Board award the contract for the 2006 Milfoil Demonstration Project to Lake Management, Inc., in the amount of \$14,098.48, provided that a number of documents are submitted. These include: 1) a certificate of insurance consistent with Section A-7, 2) performance and payment and material bonds, each in the full amount of the contract, consistent with Section A-7, and 3) all information deemed necessary to demonstrate their qualifications to perform the work.
- He entertained questions or comments from the Board.

Seuntjens requested confirmation of the MN DNR's approval of the permits so that the Board could coordinate communications with their member city.

Nelson publicly thanked Nybeck for his efforts and stated that the LMCD was one month ahead of schedule.

Discussion was held amongst the Board as to the funding of the Project. The consensus of the Board was to utilize "Save the Lake" funds to initiate the program expenses, with the stipulation that money raised through fundraising efforts replenish the "Save the Lake" fund used.

Skramstad asked LMA Executive Director Dick Osgood to provide an update to the Board on the project.

Osgood thanked the Board for the opportunity to provide an update. The LMA will participate in the fundraising efforts for the private sector portion of the program. The private aspect of the cost-per-acre for homeowners will contribute as more a fee for service and will not be included under fundraising. He expressed an interest in having the per acre cost of the homeowner's treatment proportional to the public portion of the program. Coordinating the communications will be a straightforward task upon receipt of the database from the LMCD. He stated that he would provide a draft letter to the LMCD for review prior to submittal to the residents. The MN DNR is providing exceptions to their current rules, through a variance, that allow residents to treat their entire shoreline and out 150' from their shoreline. The LMA will gather the desires of homeowners wishing to treat and will draft one permit for all the homeowners. Upon treatment, the homeowners will write a check directly to the applicator. The LMA may collect fees for the permit.

Nybeck concurred with comment raised by Osgood that the cost-per-acre for the "Private Treatment Areas" submitted by Lake Management, Inc. was not proportional to the cost-per acre for the "Public Treatment Areas". However, the LMCD needs to either award the contract to the lowest, responsible bidder or reject all three bids and start the process over.

**MOTION:** Knudsen moved, McDermott seconded to approve the contract for the 2006 Milfoil Demonstration Project contract to Lake Management, Inc., in the amount of \$14,098.48, subject to the applicant submitting the information as recommended by Nybeck.

Gross recommended a friendly amendment that the contract would also be contingent upon securing the necessary permits from the MN DNR for the "Public Treatment Areas". Knudsen and McDermott agreed to this.

**VOTE:** Motion carried unanimously.

Suerth expressed an interest in confirming who would lead fundraising efforts for this project.

Skramstad stated that he would coordinate these efforts for the Board and that it would be discussed at another Board meeting.

Nelson stated he would assist Skramstad in the fundraising efforts.

Skramstad stated that a second aspect of this agenda item was to discuss possible letter(s) to be sent out to the LMCD member cities. A draft letter was included in the packet and a recommendation has been made to have two separate letters: 1) one for the three member cities that the treatment areas are planned for, and 2) a second informational and educational letter for the remaining 11 member cities. He asked for feedback from the Board on this.

Upon consensus of the Board, it was decided that two separate versions of the letter should be submitted to the 14 LMCD member cities, with a suggestion that the second version letter be added in the LMA mailing to the residents abutting the "Public Treatment Areas".

D. Additional Business

There was no additional business.

3. FINANCIAL

C. Additional Business

There was no additional business.

4. ADMINISTRATION

A. 2006 LMCD Board Members, staff update on terms that expired in January 2006.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that a letter was sent out in October to six member cities informing them that the term for their appointed Board member would expire on 1/31/06. Confirmation has been received from five of the six-member cities, with all re-appointing their Board member. These member cities include Minnetrista, Orono, Shorewood, Tonka Bay, and Woodland. Excelsior has recently appointed Leigh Harrod to replace Michael Maloney and she will likely be at the next Board meeting.

Skramstad updated the Board on communications that he has had with the City of Greenwood on the status of Cree Zischke. Communications are on-going and he stated that he would keep the Board up to date.

B. Discussion on draft Request for Quotes (RFQ) for new summer public access signage on Lake Minnetonka.

Skramstad asked Nybeck for background on this agenda item.

Nybeck made the following comments:

- He reviewed Phase 1 of this project, which was the purchase of 20 new winter public access signs from Lake Way Signs, Inc. in December. These signs were delivered in early January and have been installed.
- Phase 2 of this project, new summer public access signage, would be initiated with this RFQ. The RFQ has been prepared for 12, 3' x 3' summer/winter signs and 50, 2' x 3' summer only signs. The 12 summer/winter public access signs would be installed on a one-time basis, with a new feature of a literature drop box on these signs. The 50 summer only signs would be provided at those sites that have summer access only.
- One item for the Board to discuss is whether to change the color schemes from the current signs, which are blue with white lettering. One possibility is a white background, with black lettering and an orange border.
- He reviewed verbiage to be placed on both the summer/winter and summer only public access signs.
- He raised four questions that need to be addressed. These included: 1) How does the Board feel about combined summer/winter public access signage, 2) How does the Board

feel about requiring a literature drop box on the summer/winter public access signs, 3) Does the Board want to maintain the current color scheme for public access signage or make changes, and 4) Is the Board comfortable authorizing staff to solicit quotes through a RFQ for new summer public access signage at this time.

- He entertained questions or comments from the Board.

The Board addressed the four questions raised by Nybeck. The consensus was that: combining the summer/winter rules was a good idea, installation of the literature drop box on the larger sign was a good idea, and to maintain the color scheme of blue and white. Other changes proposed included adding verbiage to the first section of the sign for “a required fire extinguisher and horn” and that consideration be given to encourage boaters to be responsible for their wakes.

**MOTION:** Gross moved, Berns seconded to direct staff to solicit quotes for the purchase of new summer public access signage on Lake Minnetonka through a RFQ.

**VOTE:** Motion carried unanimously.

**C.** Discussion of Proposal to Establish LMCD Newsletter.

Skramstad asked Herman for background on this agenda item.

Herman reviewed her memorandum, dated 2/8/06, stating that the Board had expressed a “high priority” interest in establishing an LMCD newsletter and that staff was directed to provide proposals for consideration. Three areas of consideration were outlined. These included the development, printing, and mailing of the newsletter. She stated that LMCD has received a good-will offer from a lake resident to design the provided articles with high-end marketing software. Utilizing that offer and the lowest preliminary estimates of printing and mailing, Herman provided estimates in accomplishing the task from start to finish for the production of a four page newsletter, on 80 pound paper, in two colors at the quantities of 5000, 6000, and 7,000. The quotes for this newsletter ranged from \$2,324 to \$2,989.

The consensus of the Board was to proceed with a LMCD newsletter for this upcoming spring. It was also the consensus of the Board that the newsletter not be staff intensive and that it be outsourced for printing and mailing. Further recommendations included starting with a two-color newsletter, establishing a professional identity, and targeting the first mailing in March prior to the 2006 boating season.

**D.** Additional Business.

There was no additional business.

**5. LAKE USE & RECREATION**

There was no discussion.

**6. SAVE THE LAKE**

There was no discussion.

## 7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on three items. These included: 1) a 2006 Board meeting schedule for informational purposes, 2) the MCWD will be holding a Water Quality Workshop on February 9th and all Board members are welcomed attend, and 3) a proposed redevelopment of a parcel of property in the City of Wayzata that has a large amount of shoreline associated with it. The developer and their legal counsel have requested a meeting in advance to the submittal of applications, with two possibilities including an on-site visit or a Board Planning/Workshop Session.

LeFevere stated that typically governmental agencies are hesitant to dedicate time on a project that has not yet submitted an application. However, LMCD does not have a planning commission and this project might be complicated enough to warrant scheduling a Board Planning/Workshop Session.

The Board discussed this request and there was no consensus.

## 8. OLD BUSINESS

### Smithtown Bay Culvert

Nelson updated the Board on this project. The MCWD will be reviewing all three culvert replacement options, most likely in April, through a public hearing. He stated that he would keep the Board up to date.

### "Save the Lake" Advisory Committee Chair

Seuntjens stated the current Chair of this committee, Board member Babcock, agreed to serve in this capacity on an interim basis. He recommended that there was a need to find a replacement for Babcock.

The Board discussed this and the consensus was to schedule this as an agenda item at an upcoming Board meeting.

### Six Mile Creek Update

Knudsen updated the Board on the recently adopted ordinance by the City of Minnetrista pertaining to Six Mile Creek. He believed that the ordinance generally addressed the same concerns that the LMCD had in this area.

### De-Icing Update

McDermott stated that the Board recently received public comments from an Orono resident that expressed concern about the LMCD allowing deicing to occur at a residential site that has a seasonal dock installed 12 months a year. He asked the Board if they were comfortable with current LMCD Code pertaining to this or if there was a need to revisit it again in the future.

The Board discussed this and noted that the deicing site in question was grandfathered from the new ordinance adopted in August. The consensus of the Board was not to revisit the new ordinance at this time. However, there might be a need to revisit whether the grandfathered status would carry forward for this property if it were sold in the future.

## 9. NEW BUSINESS

### LMCD Participation in Future Boat Shows

Nelson stated that there are a number of boat shows that take place each year. He recommended that the LMCD might want to consider participating in these boat shows in the future.

The Board concurred with this recommendation and recommended that an agenda item be scheduled at a future Board meeting to further discuss this.

### National Marina Day

Skramstad reiterated the importance of the LMCD participating, in some manner, in National Marina Day in the future. This will be brought for further discussion at a future Board meeting.

### LCMR Funding

Berns stated that one funding source that the LMCD might want to tap into for future LMCD environmental projects is Legislative Commission on Minnesota Resources (LCMR) funds.

## 10. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 p.m.

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Tom Skramstad, Chair

Tom Seuntjens, Secretary