

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, April 12, 2006
Wayzata City Hall

CALL TO ORDER

Seuntjens called the meeting to order at 7:02 p.m. He stated that he would be chairing the meeting due to Chair Tom Skramstad and Vice Chair Katy Van Hercke not being able to attend this meeting.

ROLL CALL

Members present: Tom Seuntjens, Minnetonka Beach; Paul Knudsen, Minnetrista; Gene Alstatt, Greenwood; Doug Babcock, Tonka Bay; John Berns, Wayzata; Leigh Harrod, Excelsior; Steve Johnson, Mound; Andrew McDermott, Orono; Pete Nelson, Victoria; Tom Scanlon, Spring Park; Herb Suerth, Woodland. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

Members absent: David Gross, Deephaven; Tom Skramstad, Shorewood; Katy Van Hercke, Minnetonka.

CHAIR ANNOUNCEMENTS

Seuntjens stated that the City of Greenwood had recently appointed a new Board member to the LMCD. He welcomed Gene Altstatt on behalf of the Board and asked LeFevere to administer the oath of office.

LeFevere administered the oath of office to Gene Altstatt. He was seated as representative for the City of Greenwood.

READING OF MINUTES- 3/8/06 LMCD Regular Board Meeting

MOTION: Knudsen moved, Johnson seconded to approve the minutes from the 3/8/06 LMCD Regular Board Meeting.

VOTE: Ayes (9), Abstained (2, Babcock and Altstatt); 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.

McDermott moved, Knudsen seconded to approve the consent agenda as submitted. Motion carried unanimously. Items so approved include: **2A**, Audit of vouchers (3/16/06-3/31/06) and (4/1/06-4/15/06); **2B**, February financial summary and balance sheet; **3A, 2006 Multiple Dock Licenses**, staff recommends Board approval of 2006 renewal, without change, applications as outlined in 4/7/06 staff memo; **4A, 2006 Liquor Licenses**, staff recommends Board approval of renewal Intoxicating Liquor, Wine, and Non-Intoxicating Malt Liquor License applications as outlined in 4/7/06 staff memo.

Seuntjens requested a change to the scheduled agenda by moving agenda item 2C, review of the draft 2005 LMCD Audit, in front of the four scheduled public hearings. Mr. Steve McDonald was in attendance representing Abdo, Eick, and Meyers and he believed that this agenda item was relatively straight forward. Unless the Board objected, he stated that he would make this agenda change. There were no objections from the Board.

2. FINANCIAL

C. Abdo, Eick, and Meyers, review of draft 2005 LMCD Audit.

Seuntjens welcomed McDonald on behalf of the Board.

McDonald stated that their responsibility was to plan and perform the LMCD's audit and to obtain reasonable, but not absolute, assurance that the financial statements are free of material misstatement and are fairly presented in accordance with accounting principles accepted in the United States. He summarized the draft 2005 LMCD Audit by reviewing the Management Letter. Two areas he highlighted included segregation of duties and fund balances. First, a review of the internal control of the LMCD's operating procedures warranted a concern for segregation of duties. This concern was noted as a direct result of the size of the LMCD's office. Second, he provided an update of the General and Eurasian Milfoil Reserve Fund Balances. The General Reserve Fund Balance as of 12/31/05 was \$120,261, which is approximately a 34 percent reserve. This compares to a balance of \$168,303 as of 12/31/04, which was approximately a 50 percent reserve. The LMCD has an agreed upon reserve level of 50 percent and the Board might want to address this in the 2007 LMCD Budget process. The Eurasian Milfoil Fund Balance as of 12/31/05 was \$121,241, which is at the agreed upon reserve level of a 100 percent reserve. Revenue received in 2005 for the Eurasian Milfoil Fund exceeded revenue budgeted by \$14,342. This was primarily due to the MN DNR grant for the harvesting program and the Board might want to consider transferring these funds to the Equipment Replacement Fund for equipment depreciation, which has been a recommendation in recent years to increase this fund balance. He entertained questions or comments from the Board.

The Board asked McDonald to further clarify his comments on segregation of duties.

McDonald stated that the comment on segregation of duties was common for smaller governmental agencies, such as the LMCD. There are some things that can be done to improve this and he stated that he would communicate these to Nybeck.

Seuntjens thanked McDonald on behalf of the Board.

PUBLIC HEARING

- **City of Excelsior**, new multiple dock license and special density license applications to reconfigure the conforming multiple dock site on Excelsior Bay.

Seuntjens opened the public hearing at 7:16 p.m. and asked Harper for background.

Harper reviewed the staff memo, dated 4/7/06, which summarized a request from the City of Excelsior for new multiple dock and special density license applications to reconfigure a conforming multiple dock site on Excelsior Bay. The City of Excelsior has proposed to: 1) install the previously approved transient dock on the north end of the park and designate all of the slips for overnight storage, and 2) convert eight of overnight storage BSU's to transient BSU's on the southernmost 16 slip dock. He recommended that the Board could approve the new multiple dock license application for the 2006 season and direct LMCD legal counsel to

prepare Findings of Fact and Order for approval of the special density license application. He entertained questions or comments from the Board.

Seuntjens asked for background and comments from the applicant.

Mr. Larry Whittaker, Excelsior City Manager, thanked the Board for considering their applications. He stated that he did not have anything to add to Harper's background and that he would address Board questions and comments.

Berns asked Whittaker why the City of Excelsior has proposed to change the one dock pier from all transient to a combination of transient and overnight storage.

Whittaker stated that the City of Excelsior has economic constraints to construct the fourth pier for transient purposes only. By allowing for half of the slips to be leased for overnight storage, this should provide enough funds to pay for construction and maintenance of this dock.

Berns stated that the main difference between the approved plan and the proposed plan is a reduction in transient slips at this dock from 16 to eight. He questioned how the Board might feel about this reduction in transient slips.

Babcock stated that one of the main features of the original proposal was the added 16 transient slips to Excelsior Bay. The Board historically has viewed transient slips differently from overnight storage slips because they allow for destination points, such as downtown Excelsior. He supported the relocation of the transient slips but expressed concern about the net reduction of eight transient slips, although the proposal meets all LMCD Code objective requirements.

Altstatt questioned if the Board could require that the eight overnight slips be reverted back to transient slips after a certain period of time.

Berns asked Whittaker how the City of Excelsior might react if the Board were to require that all 16 slips be for transient purposes rather than a combination of transient and overnight storage.

Whittaker stated the City of Excelsior would have to re-evaluate that, if requested.

Babcock questioned whether the security gate would be removed from the dock that would be a combination of transient and overnight storage slips.

Whittaker stated that the security gate would need to be removed from that dock pier.

There being no further comments, Seuntjens closed the public hearing at 7:30 p.m. He asked the Board how it would like to proceed.

MOTION: Harrod moved, Suerth seconded to: 1) approve the new multiple dock license application for the 2006 season, and 2) direct LMCD legal counsel to prepare draft Findings of Fact and Order to approve the special density license application.

Berns proposed a friendly amendment that would require appropriate signage at the combination docking pier that would identify the eight transient slips and prohibit overnight storage at them. Harrod and Suerth

agreed to this.

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

- **Minnetonka Power Squadron**, new multiple dock license application to reconfigure the conforming multiple dock facility on Big Island Passage.

Seuntjens asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/6/06, which summarized a request by Bud Broekema, representing Minnetonka Power Squadron, for a new multiple dock application to reconfigure the conforming multiple dock facility. He stated the facility is approved for 45 Transient Boat Storage Units (BSU's) on approximately 2432' of continuous 929.4' shoreline, making the applicant a legal conforming facility with a BSU density of approximately 1:54'. Recent documentation by the applicant's surveyor stated that there was approximately 3705' of 929.4' shoreline at this site. Since the applicant was not proposing to increase the number of BSUs, the shoreline characteristics do not have to be analyzed at this time. The following three changes were proposed: 1) to designate the 45 BSUs as overnight BSUs to accommodate the occasional overnight use of the docks, 2) to add one dock on the east side of the 10 docks to create a protected swim area, and 3) to add dock structure to the dock in the lagoon located on the northwest side of the site. Harper 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 whether Code Section 2.02, subd. 7, which allows the Board to reduce usable shoreline in certain cases, would apply to this application.

Nybeck stated that that Code provision would only apply to new multiple dock license applications when the number of BSU's would increase, which was not the case in this application.

Seuntjens opened the public hearing at 7:48 p.m. He asked the applicant to provide further background on their application and to address questions and comments raised by Board members.

Mr. Gregory Korstad introduced himself as the outgoing Commander for the Minnetonka Power Squadron. He stated that he had been working with LMCD staff in recent years to bring the facility in compliance with LMCD Code, with an emphasis on the current transient slips. He did not have anything to add to Harper's comments and he entertained questions and comments from the Board.

Seuntjens asked Korstad for clarification of when the Minnetonka Power Squadron uses the greatest number of transient BSU's.

Korstad stated that the transient BSU's are used the most on weekends and holidays during the summer, with the greatest demand on July 4th. During weekdays and other non-peak times, the demand for these transient BSU's is not that high.

Berns asked Korstad if there was a need to designate all of the transient BSU's for overnight storage.

Korstad stated these transient BSU's are used primarily by Minnetonka Power Squadron members, with an occasional visitor boat. Because some of these boats stay overnight, there is a need to change the designation of these BSU's to overnight storage because this is prohibited by a transient use designation.

Suerth asked if residents in the immediate area would have a concern about the change in designating these BSU's to overnight storage.

Korstad stated that he was not aware of any concerns because these BSU's are already being used for overnight storage purposes. He reviewed a number of efforts made by the Minnetonka Power Squadron to be a good neighbor, especially noise concerns after 10:00 p.m.

There being no comments from the public, Seuntjens closed the public hearing at 7:59 p.m. He asked the Board how they would like to proceed.

Babcock stated that he lived near the Minnetonka Power Squadron and he complimented their efforts to be a good neighbor. He believed that the traffic flow at this facility might be a little bit higher than what has been communicated by Korstad. He questioned whether the application of LMCD Code for straight-line measurements was consistent with the spirit and intent of when the ordinance amendment was originally adopted. For this proposed application, he believed the applicant needed to clarify that they were proposing the existing 929.4' shoreline measurement, 2,432', rather than the new 929.4' shoreline measurement, 3,705'.

The Board discussed shoreline measurements at this site and how the increased 929.4' shoreline was documented on the new survey. After discussing this with the applicant, it was concluded that the added 929.4' shoreline most likely occurred with the stream and wetland in the back of this site. At the recommendation of LeFevere, the Board asked Korstad to either amend the new multiple dock license application or clarify in the minutes that the 929.4' shoreline associated with this proposal was 2,432' rather than 3,705'.

Korstad stated that the surveyor documented the additional 929.4' shoreline when Harper asked for the total amount of shoreline at this site. For this application, Korstad clarified for the record that the amount of 929.4' shoreline associated with the new multiple dock license application was 2,432'.

MOTION: McDermott moved, Babcock seconded to approve the Minnetonka Power Squadron new multiple dock license application for the 2006 boating season as submitted.

Babcock recommended a friendly amendment that the Minnetonka Power Squadron be prohibited from leasing sellable overnight storage BSU's to the general public. McDermott agreed to this.

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

- **Clay Cliffe HOA**, new multiple dock license application to reconfigure the conforming multiple dock facility on Old Channel Bay.

Seuntjens asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/5/06, which summarized a request from Mr. Ben Fowke, representing Clay Cliffe Homeowners Association (HOA), to reconfigure the conforming multiple dock facility on Old Channel Bay. The proposed application would maintain the nine BSU's; however, increase all slip dimensions to 16' X 48'. He recommended the Board approve the new multiple dock license application for the 2006 season. He entertained questions and comments from the Board.

Seuntjens opened the public hearing at 8:10 p.m and asked for background and comments from the applicant.

Mr. Ben Fowke, 10 Clay Cliffe Drive, stated that he was a resident of Clay Cliffe HOA. He did not have anything to add to Harper's background and he would address Board questions and comments.

Berns asked for clarification of the proposed slip sizes.

Nybeck stated that historically, Clay Cliffe HOA has not always installed all nine BSU's and slip dimensions up to the approved size. This facility conforms to LMCD Code and the proposed slip sizes would provide them some flexibility on a season to season basis. He did not believe that they would install any more dock structure than was necessary for that boating season.

There being no further comments, Seuntjens closed the public hearing at 8:15 p.m. He asked the Board how they would like to proceed.

MOTION: Babcock moved, Knudsen seconded to approve the Clay Cliffe Homeowners Association new multiple dock license application for the 2006 season as submitted.

VOTE: Motion carried unanimously.

- **Chris Clipper**, amended variance application for dock length, side setbacks, and an adjusted dock use area at approximately 35' of continuous shoreline at 4730 Carlow Road.

Seuntjens asked Nybeck for background on this agenda item.

Nybeck reviewed the staff memo, dated 4/7/06, which summarized a request from Chris Clipper for a variance from LMCD Code on the channel between Seton and Black Lakes in the City of Mound. He stated the application was originally submitted for variance from LMCD Code for dock length requirements, side setback requirements, and an adjusted dock use area for two residential sites. However, Mr. Clipper has recently amended the application when the owner of the second residential site, Ms. Cynthia Lilligren, withdrew her participation. The amended variance application was for two Boat Storage Units (BSU's), both 10' x 28', at approximately 35' of continuous shoreline at the Clipper site. He believed that the applicant has demonstrated that hardships of converging lot lines and emergent vegetation exist at this site. Because of this, the Board could direct LeFevere to prepare Findings of Fact and Order for approval of the variance application. However, the Board should discuss whether the proposal is reasonable and might want to consider restricting the number and size of watercraft allowed to be stored at the proposed dock. One condition of any Board approval should prohibit canopies at this dock. He entertained questions and comments from the Board.

Babcock stated that there were a number of sites on the locator map in the vicinity of the applicant's sites that have a numerical reference of "85". He asked for clarification of these sites.

Nybeck stated that those sites are tax-forfeited properties under the control of the City of Mound. He believed that any 929.4' shoreline associated with these sites has been included in the Mound Commons Docking Program.

Seuntjens asked if the property at 4731 Kildare Road had lakeshore frontage.

Nybeck stated that 4731 Kildare Road does not have lakeshore frontage. The Board granted a dock length variance in recent years at the adjacent site, 4738 Kildare Road. At this site, it has approximately 115' of 929.4' shoreline and docking and boat storage was limited to two restricted watercraft, with size limitations. Additionally, a condition was included that would make this approved variance null and void if the property was subdivided, including control of the lakeshore frontage. He recommended that the Board should use this approved variance in its decision making process on the proposed variance application because Mr. Clipper has discussed purchasing the 4731 Kildare Road property and subdividing it into two or more properties.

Seuntjens opened the public hearing at 8:26 p.m. He asked the applicant to provide further background on his application and to address questions and comments raised by Board members.

Mr. Chris Clipper, 4730 Carlow Road, thanked the Board for their time. He read a letter, dated 4/4/06, which summarized his situation and the reasons for his variance application. He entertained questions and comments from the Board.

Scanlon asked why the second applicant had withdrawn their participation in the variance application.

Clipper stated that the abutting neighbor had withdrawn their participation in a joint variance application because of potential property tax concerns.

Nybeck stated he had recommended Mr. Clipper and the abutting neighbor consider a joint variance application for two reasons. First, this would establish docking rights and boat storage for two properties at one dock, which would minimize the impact on the emergent vegetation. Second, the joint variance application would have resulted in approximately 200' of non-continuous 929.4' lakeshore frontage. He pointed out that there was a small amount of 929.4' shoreline between the two sites under the control of the City of Mound.

There being no further comments, Seuntjens closed the public hearing at 8:35 p.m. He asked the Board how they would like to proceed.

The Board discussed the variance application and what was a reasonable request. Some of the discussion included: 1) the modest amount of lakeshore frontage at the site, 2) the length of the proposed dock, 3) the number and size of restricted watercraft to be stored at the dock, 4) the ownership of the restricted watercraft to be stored at the dock, 5) the purchase of the 4731 Kildare Road property, including and possible subdivision, and 6) an assessment of the 4738 Kildare Road approved variance with the applicant's proposal.

MOTION: Babcock moved, Suerth seconded to direct LMCD legal counsel to prepare Findings of Fact and Order for the approval of the Chris Clipper variance application with the following conditions: 1) to restrict the number of slips at this dock to one, 2) to direct the applicant to work with LMCD staff on the redrawing of the adjusted dock use area, 3) to require the boat to be stored at the one slip to be fully contained within the dock structure, 4) to prohibit a canopy at this dock, and 5) to include a null and void condition similar to the 4738 Kildare Road approved variance if the property is subdivided and lakeshore frontage is not under common ownership.

Suerth recommended a friendly amendment to direct staff to research historical records to verify whether two restricted watercraft could be grandfathered at this site. Babcock did not agree to this friendly amendment because of the legal assessment provided by LeFevere that they would not qualify for this because the dock

was not legally in existence.

VOTE: Ayes (5; Babcock, Harrod, Johnson, Nelson, and Scanlon), Nays (6); motion failed.

MOTION: Berns moved, Altstatt seconded to direct LMCD legal counsel to prepare Findings of Fact and Order for the approval of the Chris Clipper variance application with the following conditions: 1) to approve one 10 x 28' three sided slip and one tie-on BSU with a 22' length overall condition on the restricted watercraft, 2) to direct the applicant to work with LMCD staff on the redrawing of the adjusted dock use area, 3) to require the boats to be stored at the two BSU's to be fully contained within the established dock use area, 4) to prohibit canopies at this dock, and 5) to include all other conditions deemed necessary that are established in the 4738 Kildare Road Findings.

VOTE: Ayes (8), Nays (3; Babcock, Nelson, and Scanlon); motion carried.

1. EWM/EXOTICS TASK FORCE

A. Environmental Sentry Protection, LLC, proposal to LMCD for Boat Launch Education and Monitoring System to Address the Spread of Aquatic Invasive Species.

Seuntjens stated that Mr. Eric Lindberg was invited to provide an overview of this proposal. He welcomed him on behalf of the Board.

Lindberg stated he was a former resident of Lake Minnetonka. He provided an overview of his proposal through a powerpoint presentation. Some of the highlights of the powerpoint presentation included:

- An overview of Eurasian Watermilfoil and zebra mussels pertaining to Lake Minnetonka.
- An overview of his analysis of information received from the 2004 Boat Density and User Attitude conducted jointly by the LMCD and the MN DNR.
- An overview of his assessment of boat launch and monitoring conclusions for Lake Minnetonka.
- An overview of an Internet Landing Installed Device Sensor (I-LIDS) Demonstration System as a pilot project for Lake Minnetonka, including how it works.
- An overview of project objectives.
- An overview of proposed responsibilities of Environmental Sentry Protection, LLC and the LMCD.
- An overview of how the I-LIDS Demonstration System could work at the Grays Bay public launch ramp.
- An overview of his conclusion pertaining the I-LIDS Demonstration System and a possible pilot project on Lake Minnetonka.
- He entertained questions and comments from the Board.

The Board discussed the proposal and what issues would need to be resolved for a pilot project. Some of these issues include: 1) the fact that other governmental agencies, not the LMCD, have jurisdictional control of public accesses on Lake Minnetonka, 2) the potential legal problems associated with using a I-LIDS Demonstration System from an enforcement standpoint, and 3) the potential use of an I-LIDS Demonstration System from a public awareness and educational standpoint.

Suerth recommended that this proposal be referred to the EWM/Exotics Task Force for further review and discussion, with recommendations to be brought back to the Board.

MOTION: Harrod moved, Babcock seconded to refer this proposal to the EWM/Exotics Task Force Committee for further review and discussion, with recommendations to be brought back to the Board.

VOTE: Motion carried unanimously.

B. Update on 2006 Milfoil Demonstration Project

Seuntjens asked Nelson for an update on this agenda item.

Nelson stated that the LMCD's part of this project, the "Public Treatment Areas" was essentially ready to go. He invited Dick Osgood, the Lake Minnetonka Association (LMA) Executive Director, to comment on their part of the project, the "Private Treatment Areas".

Osgood stated that the LMA was having some problems getting in communication with the approximated 93 residences that abut the "Public Treatment Areas". Thus, the number of residents that have opted into this project is running below what was projected. The MN DNR permit for the "Private Treatments Areas" has been secured from the MN DNR and could most likely be amended if additional residents opt into this program

Nelson recommended that the LMA concentrate on contacting the residents of Carmans Bay first because that site is scheduled to be treated first.

C. Additional Business

There was no additional business.

2. FINANCIAL

D. Review of proposed timetable for 2007 LMCD Budget process.

Seuntjens asked Nybeck for background on this agenda item.

Nybeck stated that the 2007 LMCD Budget process was beginning and the first formal review is scheduled for the 5/10/06 Board meeting, with subsequent review at the 6/14/06 and 6/28/06 Board meeting. The Board has typically scheduled a working session prior to the first formal review of the draft budget and he recommended that this be done the week of 5/1/06 through 5/5/06. There will be an opportunity for interested city officials to review and comment on the draft 2007 LMCD Budget in the office at 12 NOON on Thursday, May 25, 2006. The adopted 2007 LMCD Budget will be forwarded to the 14 member cities by the July 1 deadline established by the state enabling legislation for the LMCD. Nybeck entertained questions from the Board.

E. Additional Business.

There was no additional business

3. WATER STRUCTURES

B. Groveland HOA, consideration of request to change four-foot overhand restriction placed on their multiple dock license in 1998.

Seuntjens asked Nybeck for review of this agenda item.

Nybeck stated that a request has been received from Groveland HOA to change a license condition that has existed since 1998. Specifically, two boats cannot comply with the license condition that placed a four foot overhang restriction, length overall, on all watercraft at this facility. Non-compliance of these two boats with this license condition has been observed by LMCD staff for a number of years and a request has been made by Groveland HOA to grandfather these two boats. The request has been made through an e-mail from Mile Jilek and no formal change application has been received. A question for the Board to discuss was whether to consider their proposal at this meeting or to require the submittal of a new multiple dock license application, with public hearing.

Suentjens invited a representative from Groveland HOA to comment on the request.

Mr. Mike Jilek, 2800 Center Road, stated that the two boats being discussed were in existence in 1998. He believed that requiring these two boats to comply with this license requirement would cause them a financial hardship.

Suentjens question how long these two boats were, length overall.

Jilek stated that these two boats are being stored in 10' x 20' slips. The length overall measurement for these two boats are 25.5' and about 26'.

Babcock stated that Groveland HOA has proposed to retire these two boats and comply with the four-foot overhang restriction once they are retired. He believed that there might be a need to also eliminate any grandfathering, if approved by the Board, when the properties are sold. Additionally, the boats being stored in BSU's 1-18 are either at or near the 100' contour line from the 929.4' shoreline and there is a need to ensure that both dock structure and boats are fully contained within this contour line.

MOTION: Knudsen moved, Babcock seconded to grant the request from Groveland HOA to grandfather the two boats, subject to the following conditions: 1) moving BSU's 1, 2, and 3 closer to shore to ensure that the dock structure and boat storage is fully contained within the 100' contour line from the 929.4' shoreline, and 2) an annual update from the Groveland HOA during the renewal, without change, multiple dock license process for the upcoming boating season on the status of these two boats.

Babcock recommended a friendly amendment that the grandfathering of these two boats would be rescinded for any future violations that are not consistent with the approved site plan and multiple dock license conditions. Knudsen agreed to this.

VOTE: Motion carried unanimously.

Suerth left the meeting at 10:03 p.m.

C. Discussion of LMCD's jurisdiction in the channel between Smithtown Bay and Smithtown Road.

Seuntjens asked Nybeck for background on this agenda item.

Nybeck stated that this agenda item was scheduled at the request of Board member Nelson. An e-mail has been received from Mr. Dale Homuth, MN DNR Regional Water Managers, relating to the watercourse between Lake Minnetonka and Lake Virginia. Homuth has interpreted that this short watercourse is legally considered to be part of the bed of each lake. Thus, the part of the watercourse between Smithtown Bay and Smithtown Road is part of Lake Minnetonka.

Nelson stated that he believed this was an issue that would need to be resolved at some time. Based on his discussions with Senator Gen Olson on the legislation that she authored, he questioned whether the interpretation of Homuth was totally accurate.

Nybeck stated that he believed the interpretation of Homuth was consistent with a previous interpretation of the Board in the channel from Jennings Bay to County Road. In that instance, the Board concluded that Lake Minnetonka was east of County Road 110. This was communicated to Senator Olson and the LMCD has not got any feedback from her on this.

D. Additional Business

There was no additional business.

4. LAKE USE & RECREATION

B. Al & Alma's Supper Club, consideration of 2006 renewal liquor license applications for the following charter boats:

- Avant Garde, Avanti, Avenir, and Aventure (Intoxicating Liquor)
- Allante and Avalon (Wine and Non-Intoxicating Malt Liquor)

Suentens asked Nybeck for background on this agenda item.

Nybeck stated that a number of renewal liquor license applications were scheduled for consideration by the Board at this meeting. All of these applications, with the exception of those received from Al and Alma's, were on the consent agenda. He explained that they were not included on the consent agenda because of the event that took place last fall on one of their boats. Investigations for these six charter boats have been conducted by the Hennepin County Sheriff's Department and everything came back favorable. He recommended that the Board approve these licenses for the 2006 season. However, the Board has the opportunity to comment on the event from last fall or ask questions of Al and Alma's.

Babcock stated that he supported the service provided by Al and Alma's. However, this is the second time where there has been a liquor related offense on an Al and Alma's charter boat since he has been on the Board. He stated that the Board needs to recognize this and set the expectation that the LMCD will not tolerate a third offense.

Seuntjens invited a representative of Al and Alma's to comment on this.

Mr. Jay Soule, Manager for Al & Alma's Supper Club, stated he believed the company fully recognized the liquor license is a privilege to the business and that the employees get special training annually. He addressed the incident of last fall and believed that Al and Alma's acted appropriately.

Berns stated that he believed that Babcock summarized the concerns on behalf of a number of Board

members.

MOTION: Knudsen moved, Harrod seconded to: 1) approve 2006 renewal Intoxicating Liquor licenses for the charter boats Avant Garde, Avanti, Avenir, and Aventure, and 2) approve Wine and Non-Intoxicating Malt Liquor licenses for the charter boats Allante and Avalon.

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

C. Additional Business

Harper stated that a request has been made by Queen of Excelsior, Inc. to refund \$1,300 in application fees submitted for the 2006 season for the charter boat Isabella, which have recently been withdrawn. These fees break down further to \$1,150 for the Intoxicating Liquor License Application and \$150 for the Charter Boat Application. He clarified that this charter boat would be operating under the management of Al and Alma's in 2006.

MOTION: McDermott moved, Altstatt seconded to refund the application fees, in the amount of \$1,300, to Queen of Excelsior, Inc. for 2006 charter boat and liquor license applications that have been withdrawn.

VOTE: Motion carried unanimously.

5. ADMINISTRATION

A. LMCIT Liability Coverage-Waiver Form, staff recommends the Board approve a motion that the LMCD does not waive monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

MOTION: Berns moved, Babcock seconded to approve a motion that the LMCD does not waive monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

VOTE: Motion carried unanimously

B. Additional Business

There was no additional business.

6. SAVE THE LAKE

There was no discussion.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on four items. First, the most recent Executive Director Newsletter was included in the packet for informational purposes. Second, he informed the Board that lake levels are high and that a "High Water Declaration" was possible in the near future. Third, the first LMCD Newsletter was near completion and should be distributed in the near future. Fourth, a copy of the "2005 Summer Rules" brochure was included in the handout folders. This will be updated in the near future and he requested that Board members pass on any recommended changes to the "2006 Summer Rules" brochure by April 26th.

8. OLD BUSINESS

There was no old business.

9. NEW BUSINESS

Nelson informed the Board that the MCWD will be sponsoring an informational meeting on April 20 at the City of Victoria to discuss the reconstruction of the Smithtown Bay culvert.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:30 p.m.

Tom Seuntjens, Secretary

Paul Knudsen, Treasurer