

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, April 26, 2006
Wayzata City Hall

CALL TO ORDER

Skramstad called the meeting to order at 7:09 p.m.

ROLL CALL

Members present: Tom Skramstad, Shorewood; Katy Van Hercke, Minnetonka; Tom Seuntjens, Minnetonka Beach; Paul Knudsen, Minnetrista; Gene Altstatt, Greenwood; John Berns, Wayzata; David Gross, Deephaven; Leigh Harrod, Excelsior; Steve Johnson, Mound; Andrew McDermott, Orono; Pete Nelson, Victoria; Herb Suerth, Woodland. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

Members absent: Doug Babcock; Tonka Bay; Tom Scanlon, Spring Park.

CHAIR ANNOUNCEMENTS, Chair Skramstad

Skramstad updated the Board on a special recognition event recently held by Governor Pawlenty to recognize Dick Gray of the Gray Freshwater Biological Institute for his lifelong contributions to the environment, freshwater, and society in general.

READING OF MINUTES- 4/12/06 LMCD Regular Board Meeting

MOTION: Seuntjens moved, Johnson seconded to approve the minutes from the 4/12/06 LMCD Regular Board Meeting.

VOTE: Ayes (9), Abstained (3; Gross, Skramstad, and Van Hercke); 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.

Nybeck requested that agenda item 1E be removed from the consent agenda.

Seuntjens moved, Van Hercke seconded to approve the consent agenda as amended, removing Item 1E. Motion carried unanimously. Items so approved include: **1C**, Staff recommends Board approval to refund variance application deposits as outlined in 4/20/06 staff memo, **3A**, Audit of vouchers (4/16/06-4/30/06); and **3B**, March financial summary and balance sheet.

PUBLIC HEARINGS

- **Al and Alma's Supper Club**, new on-sale intoxicating liquor license applications for the charter boat, Isabella.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/20/06, which summarized Al & Alma's Supper Club's request for a new intoxicating liquor license, with Sunday option. He recommended the Board approve the new intoxicating liquor license application, with the Sunday option, for the 2006 charter boat season. He entertained questions or comments from the Board.

Skramstad opened the public hearing at 7:14 p.m. There being no comments, he closed the public hearing at 7:15 p.m.

MOTION: Van Hercke moved, Nelson seconded to approve the 2006 Al and Alma's Supper Club new on-sale intoxicating liquor license application, with Sunday option, for the charter boat Isabella.

Skramstad asked Harper to comment on the liquor license guidelines set forth by the LMCD.

Harper stated that the LMCD requires liquor licensees to attend an annual training session prior to issuing the liquor license. Other agencies included in the training session are the Hennepin County Health Department, the Minnesota Department of Labor and Industry, and the Hennepin County Sheriff's Water Patrol. Rules and procedures are reviewed at the training session, including the availability of the Sheriff's Water Patrol.

VOTE: Motion carried unanimously.

- **Presbyterian Homes on Lake Minnetonka**, new multiple dock license application to reconfigure the conforming multiple dock facility on Black Lake.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/21/06, which summarized a request from Presbyterian Homes on Lake Minnetonka of a new multiple dock license application to reconfigure the conforming multiple dock facility on Black Lake. Proposed changes include: 1) increasing the number of Boat Storage Units (BSU's) from 10 to 11, 2) proposing to consolidate watercraft storage onto the main dock, and 3) proposing to add dock structure to the wheel chair loading ramps in BSU's 1 and 2 and at the observation deck/sitting area south of BSU 11. He recommended approval of the new multiple dock license application, with a recommended condition that no overnight or transient watercraft storage be allowed on the 35' dock on the west side of the site, for the 2006 season. He entertained questions and comments from the Board.

Skramstad asked Harper to address two questions. These included: 1) Whether the origin of the walkway for the main dock was proposed to be changed, and 2) Whether the smaller dock on the west end of the site would be replaced.

Harper stated that the placement of the westerly dock structure would be a good question for the applicant to address. With regards to the origin of the walkway for the main dock, he did not believe that was an issue to be concerned about because the proposed dock would be within the authorized dock use area for this site.

Nelson stated that the increase in BSU's from 10 to 11 appears to be allowed by LMCD Code because of the small amount of increased 929.4' shoreline documented on the proposed survey. He asked what the applicant would be using the extra BSU for.

Harper stated that the new survey was provided by the applicant at his request to document all necessary information, including the amount of 929.4' shoreline at the site. He indicated that he was unaware of the applicant's intentions for usage.

Skramstad opened the public hearing at 7:29 p.m. There being no comments, he closed the public hearing at 7:30 p.m.

Mr. Rob Lahammer stated that he was the Campus Administrator for Presbyterian Homes on Lake Minnetonka. He confirmed that the westerly dock was in disrepair; however, there are no plans to have it removed next year. The intent of the additional BSU provided for future growth without having to reapply with the LMCD. The proposed changes would: 1) provide for taking residents out in two large pontoons owned by Presbyterian Homes on Lake Minnetonka, 2) improving wheelchair accessibility for residents on the dock in a sitting area, and 3) to possibly be used as a fishing pier.

Skramstad stated that origin of the walkway for the main dock originated from lot 14 on the approved site plan. This has changed to lot 15 on the proposed site. He asked the applicant to comment on this.

Lahammer stated he was not sure why the origin of the walkway of the main dock had changed on the proposed site plan. He clarified that the new dock would be constructed in the same location as the existing dock. The proposed docks would be seasonal at this time.

Harper stated that if the applicant has a desire to construct a permanent dock in the future, they need to understand that current LMCD Code would prohibit the issuance of a deicing permit for this facility.

MOTION: Knudsen moved, Suerth seconded to approve the Presbyterian Homes on Lake Minnetonka new multiple dock license application for the 2006 season, subject to no overnight or transient storage on the 35' dock on the west end of the site.

Gross proposed a friendly amendment requiring staff to work with the applicant to clarify the origin of the walkway of the main dock. Knudsen and Suerth agreed to this.

VOTE: Motion carried unanimously.

- **St. Albans Bay Villas**, new multiple dock license application to reconfigure the non-conforming multiple dock facility on St. Albans Bay utilizing LMCD Code Section 2.015.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/21/06, which summarized a request from St. Albans Bay Villas for a new multiple dock license application to reconfigure the non-confirming multiple dock facility on St. Albans Bay. The application has been submitted to correct inconsistencies in the original dock installation. He recommended approval of the application, subject to the applicant bringing the dock

structure into compliance with the approved site plan within 30 days of approval. He entertained questions and comments from the Board.

Suerth questioned the length of the boats and if there was a four foot overhang restriction at this facility.

Harper stated that approved BSU's at this facility are 10' x 24', with a four foot overhang restriction at all 19 BSU's.

McDermott asked if the dock was seasonal.

Harper stated the dock was a seasonal dock; however, it was installed 12 months a year.

Skramstad open the public hearing at 7:40 p.m. He asked the applicant or general public to comment on the application.

Mr. Bill Slattery, 21955 Minnetonka Boulevard (unit 5), stated that the application would cause hardship to he and a resident of unit 1. The proposal, if approved, would: 1) reduce his BSU size and not allow for future handicap accessibility, and 2) remove one foot of water accessibility on the north end of the existing dock structure. He expressed concern about the ability to comply with the condition recommended by Harper that would require bringing the dock structure into compliance with the approved site plan within 30 days of approval. He expressed concern about Mick Nedegaard submitting the application because Mick was representing Nedegaard Construction rather than the homeowners association.

Nybeck clarified for the record that this multiple dock facility has been out of compliance since the dock was first inspected by LMCD staff in 2002. This was communicated to St. Albans Bay Villas at that time and staff has been working with them to bring them into compliance with LMCD Code and the multiple dock license requirements.

Altstatt stated that he spoke with Mick Nedegaard, who was representing St. Albans Bay Villas in his brother's absence. Mick has communicated that he was comfortable with the application and he wished to move forward with it.

Slattery asked if a variance from LMCD Code was an available option for the slight encroachment in the setback area on the north end of the site.

Nybeck stated that he did not believe a variance from LMCD Code was an option to resolve the issues at this facility, primarily due to the Code provision that this facility was approved by prohibits variances.

Altstatt offered to work with Slattery to address his concerns.

MOTION: Altstatt moved, Gross seconded to continue the St. Albans Bay Villas public hearing to the 5/24/06 Regular LMCD Board of Directors Meeting.

The Board discussed what should be clarified prior to the continuation of the public hearing at the 5/24/06 Regular LMCD Board Meeting. Two issues that need to be clarified by the applicant include: 1) who is the representative of St. Albans Bay Villas, providing documentation as to their authority with the

association, and 2) whether the association will be proceeding with the proposed site plan or submitting a revised proposed plan.

VOTE: Motion carried unanimously.

2. WATER STRUCTURES

A. City of Excelsior, consideration of draft Findings of Fact and Order approving a special density license.

Skramstad asked for comments from the Board on the draft Findings.

Berns stated that an additional condition needs to be added to the draft Findings to require adequate signage denoting the proposed eight transient BSUs.

MOTION: Seuntjens moved, Harrod seconded to approve the draft Findings of Fact and Order approving the City of Excelsior's special density license application as amended, adding the condition of installing proper signage denoting the eight transient BSU's.

VOTE: Ayes (10), Nays (2; Altstatt and Van Hercke); motion carried.

B. Chris Clipper, consideration of draft Findings of Fact and Order approving a dock length, side setback, and adjusted dock use area variance at 4730 Carlow Road.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that LeFevere had prepared draft Findings of Fact and Order consistent with the discussion at the last Board meeting. He entertained questions or comments from the Board.

Knudsen asked the applicant if he was comfortable with condition 1(b) in the draft Findings that states, "All watercraft stored at the facility must be owned by and registered to residents of the Subject Property at 4730 Carlow Road."

Mr. Chris Clipper, 4730 Carlow Road, stated that he was aware of condition 1(b) and was in agreement with it.

MOTION: Seuntjens moved, McDermott seconded to approve the draft Findings of Fact and Order as submitted, approving Chris Clipper's dock length, side setback, and adjusted dock use area variance application.

Berns recommended a friendly amendment to the draft Findings to include a condition that the variance would become null and void in the event of future subdivision of this property. Seuntjens and McDermott agreed to this.

VOTE: Motion carried unanimously.

D. Wayzata Bay Management, consideration of 2006 new multiple dock license, with minor change, application.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/20/06, which summarized the Wayzata Bay Management's new multiple dock license, with minor change, application. He recommended approval of the application, with a recommended condition that the applicant not store watercraft on either side of the gas dock because it is to be used exclusively for fuel sales. He entertained questions and comments from the Board.

MOTION: Berns moved, Knudsen seconded to approve Wayzata Bay Management's 2006 new multiple dock license, with minor change, application as submitted.

VOTE: Motion carried unanimously.

- E. **2006 Multiple Dock Licenses**, staff recommends Board approval of 2006 renewal, without change, multiple dock license applications for Baycliffe POA, North Shore Marina, and North Shore Marina East (Sites 1 & 2).

Nybeck clarified that Baycliffe POA should not have been included on this agenda item and that Bayshore III HOA should be added in its place. He recommended Board approval of these four applications for the 2006 season.

MOTION: McDermott moved, Johnson seconded to approve the 2006 renewal, without change, multiple dock license applications as amended, removing Baycliffe POA from the agenda item and adding Bayshore III HOA.

VOTE: Motion carried unanimously.

- F. Additional Business

There was no additional business.

1. **EWM/EXOTICS TASK FORCE**

- A. Minutes from the 4/14/06 EWM/Exotics Task Force Meeting.

Nelson provided an update on the 2006 Milfoil Demonstration Project. The first herbicide treatment was planned for Monday, May 1st on Carmans Bay. He spoke with Lake Minnetonka Association (LMA) Executive Director Dick Osgood to get an update on the "Private Treatment Areas" aspect of this project. Osgood has communicated that the overall opt-in rate for the "Private Treatment Areas" in Carmans Bay would be around 44 percent.

Skramstad thanked Nelson for the update and entertained a motion to accept the minutes.

MOTION: Van Hercke moved, Nelson seconded to accept the minutes from the 4/14/06 EWM/Exotics Task Force Meeting as submitted.

VOTE: Motion carried unanimously.

- B. Update on Environmental Sentry Protection (ESP), LLC proposal.

Skramstad asked Nelson for an update on this agenda item.

Nelson stated that ESP provided an overview of this proposal at the April 12th Board Meeting. The proposal was referred back to the EWM/Exotics Task Force, which conducted a meeting on April 12th. At this meeting, the ESP proposal was further reviewed and discussed by the Task Force. The general consensus of the Task Force was that there was an interest in proceeding with this proposal at the earliest opportunity. The Task Force believed that the I-LIDS proposal could be used as an educational tool, not as a means for enforcement purposes. The Task Force recommended that Eric Lindberg, CEO for ESP, further refine a Project Plan for consideration by the Board.

Lindberg reviewed a Project Plan that he had prepared at the recommendation of the Exotics Task Force. The Project Plan was prepared for the LMCD to estimate total costs, to determine responsibilities of the LMCD and ESP, and to identify a proposed schedule. He believed that the goal of the Exotics Task Force was to have something in place by the May 13th fishing opener. Tentative review has been initiated of this proposal at the MN DNR after the April EWM/Exotics Task Force Meeting. Two issues that have been raised so far include liability and legality, and he hoped that these issues could be resolved. He reviewed potential costs associated with this proposal. Some of the potential costs to the LMCD include \$350 per month and one half of the costs associated with the ISP, with a cap of \$2,000. Any costs up and above \$2,000 would be ESP's responsibility. He reviewed what would happen after the data is collected at a public access. He entertained questions and comments from the Board.

The Board discussed a number of aspects relating to the ESP proposal to install an I-LIDS at a public access on Lake Minnetonka, preferably at Grays Bay. Some of this discussion included:

- Who would own of manage the data collected from this proposal, including how the Data Privacy Act would apply to this data.
- The request for up to \$2,000 from the LMCD and how this could be funded because this proposal was not included in the approved 2006 LMCD Budget.
- Whether this was a proposal that the LMCD should partially fund or if it should funded entirely by ESP.
- Whether the timeline proposed by ESP could be accomplished or if it needed to be modified.
- Whether the proposal was legal and what potential liability the LMCD could be exposed to.
- How this proposal might be able to assist the LMCD in its efforts to prevent the introduction of zebra mussels into Lake Minnetonka.

MOTION: Knudsen moved, Johnson seconded to authorize ESP proceeding with the I-LIDS project in 2006, with the LMCD reimbursing ESP up to \$2,000.

Berns stated that although he supported the ESP proposal, he wanted the Board to be mindful of budget concerns, especially if the project does not kick off until later in the summer. He proposed a friendly amendment that would prorate costs to \$400 per month if the equipment is not operational after May

15th. Knudsen did not agree to this friendly amendment.

LeFevere stated that he was not quite clear of the intent of the motion. For example, would the \$2,000 be paid to ESP in advance or after something has been done. He stated that he was not clear of what the deliverables from ESP would be and what each party would be responsible for. Thus, the drafting of an enforceable contract would be extremely difficult. An alternative approach for the Board to consider would be draft up a \$2,000 grant agreement, with less definition of expectations and deliverables.

Knudsen proposed a friendly amendment to his motion. He proposed granting a first installment of \$1,000 after the equipment is up and operating, with the second installment of \$1,000, thirty days after the equipment is up and operating. Johnson agreed to this.

LeFevere restated that he had concerns about the drafting of a contract because of the lack of details.

Knudsen and Johnson withdrew their motion.

MOTION: Gross moved, McDermott seconded to direct LMCD legal counsel to prepare a draft Grant Agreement for the ESP proposal for consideration at the 5/10/06 Regular LMCD Board of Directors Meeting.

VOTE: Motion carried unanimously.

C. Evaluation of Truck Hauling Bids for the 2006 EWM Harvesting Program.

Skramstad asked Nybeck for background on this agenda item.

Nybeck reviewed the staff memo, dated 4/20/06, which summarized the timeline and the sealed bid process for the 2006 EWM truck hauling contract. He recommended that the Board award the trucking contract for the 2006 EWM Harvesting Program to Curfman's Trucking and Repair, Inc. subject to receiving all documents.

MOTION: Seuntjens moved, Suerth seconded award the 2006 EWM trucking hauling contract to Curfman's Trucking and Repair, Inc., at an hourly rate of \$61.00 for one-truck service and \$122.00 for two-truck service.

VOTE: Motion carried unanimously.

D. 2006 EWM Harvesting Season, staff overview of project.

Skramstad asked Nybeck for background on this agenda item.

Nybeck provided an overview of the 2006 EWM Harvesting Season. This overview included: 1) an update on 2006 EWM seasonal staff and independent contractors, 2) an update on the draft 2006 EWM Harvesting Program and Exotics Budget, and 3) proposed harvesting schedule. He recommended that the Board: 1) approve the draft 2006 Budget, and 2) authorize LMCD staff to approve the hiring of the seven seasonal staff positions as outlined in the Report. He entertained questions or comments from the Board.

MOTION: Suerth moved, Van Hercke seconded to: 1) approve the 2006 EWM Harvesting Program and Exotics Budget as proposed, and 2) to authorize LMCD staff to hire the seven seasonal positions as outlined in the Report.

VOTE: Motion carried unanimously.

E. Additional Business.

There was no additional business.

3. FINANCIAL

C. Additional Business

Nybeck stated that the 2007 LMCD Budget process was in progress. The first review of the draft 2007 LMCD Budget is planned for the May 12th Board Meeting. In the past, a Board Working Session has been scheduled in the LMCD office prior to first review of the upcoming year's LMCD Budget. He recommended that this continue and that a Board Working Session should be conducted on the week of May 1st through May 5th.

The consensus of the Board was to schedule a Board Working Session at 7 a.m. in the LMCD office on May 5th to review the first draft of the 2007 LMCD Budget.

4. ADMINISTRATION

A. LMCD Resolution 116, consideration of draft resolution authorizing the transfer of Eurasian Milfoil Funds.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that this agenda item was in follow-up to a recommendation at the April 12th Board Meeting by the auditor. At this meeting, the auditor recommended that the Board should consider transferring the excess revenue of \$13,342 for the "Eurasian Milfoil Fund" to the "Equipment Replacement Fund". In order to make this transfer, the Board needs to approve this through a resolution.

MOTION: Seuntjens moved, Nelson seconded to approve LMCD Resolution 116 as submitted.

VOTE: Motion carried unanimously.

C. Additional Business

There was no additional business.

5. LAKE USE AND RECREATION

There was no discussion.

6. SAVE THE LAKE

Nelson stated that the Board members should have been in receipt to a draft fundraising letter he had written for the "Save the Lake" audience. He acknowledged that the letter was lengthy and welcomed any input by the Board. He anticipated the letter would be submitted to a broader audience than traditionally utilized in an attempt to increase fundraising efforts.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on three items provided in their Board packet. First, a series of newspaper articles were included in the packet and handout folders for informational purposes. Second, he provided an update on recent lake levels taken by the MCWD. Third, a copy of the first LMCD Newsletter was included in the packet. He encouraged Board members to take 50 or so newsletters to their respective cities for distribution to the mayor, city council members, other city officials, and residents.

8. OLD BUSINESS

Smithtown Bay Culvert

Nelson updated the Board on the April 20th MCWD Board of Managers Meeting. At that meeting, MCWD voted unanimously for Option B, which was very similar to the option preferred by the LMCD Board.

Congressman Ramstad Meeting

Van Hercke updated the Board on a conversation she had with Lance Olson, Communications Director for Congressman Ramstad's Office. She and Mr. Olson are coordinating another collaborative meeting with the MN DNR to discuss the prevention of zebra mussels on Lake Minnetonka. Mr. Olson has submitted a letter to DNR Commissioner Gene Merriam in hopes of establishing a meeting date.

Beddor Property Update

Skramstad asked Greg on an update for the Beddor Property.

Nybeck stated the City of Minnetrista had recently adopted a one-year moratorium on new development because of density issues they need to resolve with the Met Council. He indicated that he would keep the Board up to date on this.

Locust Hills Development, LLC

Skramstad asked Nybeck for an update on the Sweatt Property.

Nybeck stated issues are proceeding and he expects an application to be submitted sometime this summer.

9. NEW BUSINESS

There was no new business.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:40 p.m.

Tom Skramstad, Chair

Katy Van Hercke, Vice Chair