

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, August 23, 2006
Wayzata City Hall

CALL TO ORDER

Skramstad called the meeting to order at 7:00 p.m.

ROLL CALL

Members present: Tom Skramstad, Shorewood; Katy Van Hercke, Minnetonka; Tom Seuntjens, Minnetonka Beach; Paul Knudsen, Minnetrista; Gene Altstatt, Greenwood; 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; John Berns, Wayzata; Tom Scanlon, Spring Park.

CHAIR ANNOUNCEMENTS, Chair Skramstad

There were no Chair announcements.

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.

Altstatt requested that agenda item 3A be removed from the consent agenda.

Seuntjens moved, Van Hercke seconded to approve the consent agenda as amended, removing agenda item 3A. Motion carried unanimously. Item so approved included: **2A**, Minutes from the 8/11/06 EWM/Exotics Task Force, and **3B**, July financial summary and balance sheet.

PUBLIC HEARING

Curly's Minnetonka Marina, Inc., variance application for Adjusted Deicing Area (ADA) from LMCD Code Section 2.09.

Skramstad asked Nybeck for background on this agenda item.

Nybeck reviewed the staff memo, dated 8/16/06, which summarized a request from Gordon and Rosalind Koch of Curly's Minnetonka Marina for an adjusted ADA variance application from LMCD Code Section 2.09. He believed that there were adequate hardships and difficulties to grant a variance from LMCD Code. However, Nybeck recommended that the Board needed to determine

what was reasonable and what conditions should be included in the draft Findings if the Board was inclined to approve the application. He provided a copy of previously approved ADA Variance Findings from Sailor's World Marina to assist the Board in its decision. He entertained questions and comments from the Board.

Skramstad asked Nybeck to review the comments received from the City of Tonka Bay.

Nybeck stated that the City of Tonka Bay had verbally communicated concern about the fence on the west side progressively swinging out wider, which could create more unsafe conditions.

Skramstad asked the applicant to provide further background on their application and to address questions and comments raised by Board members.

Mr. Jim Penberthy introduced himself as legal counsel for the Kochs. He stated that Nybeck thoroughly addressed the proposal in his presentation and he welcomed questions or comments from the Board.

Skramstad asked Penberthy how his clients would respond to the possible requirement of a deicing curtain(s) at this site.

Penberthy stated that his clients would prefer not to have to install a deicing curtain(s), although it appeared that the Board might make this a condition.

Skramstad opened the public hearing at 7:18 p.m. There being no comments, Skramstad closed the public hearing at 7:19 p.m.

McDermott asked Nybeck to further comment on the need for a deicing curtain(s), especially on the east side.

Nybeck stated the applicant has conveyed a concern about prevailing northwesterly winds causing ice problems on the east side because of shifting water. Tonka Bay Marina, which is also on Echo Bay, has some of the same problems. On the west side, a deicing curtain most likely would be appropriate because of the heavily used winter public access.

The Board discussed the pros and cons of requiring an ice curtain on either one or both sides. This discussion included how prevailing winds impact deicing, public safety factors, and LMCD Code requirements.

MOTION: Seuntjens moved, Van Hercke seconded to direct LMCD legal counsel to prepare Findings of Fact and Order to approve the Curly's Minnetonka Marina ADA variance application with the following conditions: 1) installing de-icing curtains on both the east and west sides of the facility, 2) to allow for fencing and deicing to occur 20' outside of the most westerly slip on the west side, and 3) to allow for fencing and deicing to occur 20' outside of the most easterly slip on the east side.

Penberthy stated that technically, an ADA variance was not required on the east side. However, if the Board would like to restrict fencing to 20' outside of the most easterly slip, he believed that his clients would agree to that.

Seuntjens concurred that an ADA variance was not required on the east side. However, deicing photos from 2005 identify that deicing within the extended side site line on the east side would most likely be a problem without a deicing curtain.

Penberthy stated that he agreed with comments made by Seuntjens, although he wanted the minutes to reflect that a variance was not required on the east side.

Seuntjens proposed a friendly amendment to his motion relating to deicing on the east side of the facility. He recommended that the original motion should be changed to reflect that a deicing curtain would be required on the east side and that deicing and fencing needed to be contained within the extended side site line. Van Hercke agreed to this.

VOTE: Motion carried unanimously.

1. WATER STRUCTURES

A. Cedarhurst Association, 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 8/17/06, which summarized the Cedarhurst Association new multiple dock license, with minor change, application. He recommended that the Board must decide whether the proposed change was substantial enough to require a new multiple dock license application, with public hearing, and if the proposed hand drawn site plan was sufficient. If the Board believed that the change was minor and that the hand-drawn site plan was sufficient, he recommended approval of the application for the 2006 season with two conditions. These included: 1) no watercraft may be stored at the swim dock, and 2) no watercraft may be stored overnight at the transient Boat Storage Unit (BSU) located at the visitors dock. He entertained questions and comments from the Board.

Seuntjens provided a clarification of Harper's recommended condition that no watercraft may be stored at the swim dock. He believed that this condition should also prohibit their ability to moor a watercraft at the swim platform at any time. He recommended that the Board approve the application because he believed it was a minor change.

LeFevere stated that one issue that LMCD staff struggles with is the determination of whether a proposed change is substantial. What might be minor to an applicant might not be minor to LMCD staff. In this proposal, the applicant has proposed that adding an 80' long swim dock was not substantial. However, this interpretation of the proposed 80' long swimming dock not being substantial could make it difficult for LMCD staff in the future because this dock was not approved. The Board might want to reconsider re-writing LMCD Code Section 2.03, subd. 7 based on the Board's interpretation of what was substantial.

The Board discussed whether the proposal should qualify as a minor change. Some of the discussion included: 1) the facility complied with the 1:50' General Rule, 2) what would be accomplished by requiring a public hearing, 3) whether there was a need to comply with the established multiple dock license application process, 4) whether a swim platform could be viewed differently than a dock, and 5) how the Board might interpret what was substantial.

MOTION: Seuntjens moved, Nelson seconded to approve 2006 Cedarhurst Association new multiple dock, with minor change, application, subject to the conditions recommended by Harper and to clarify that no watercraft could be moored at the swimming dock at any time.

McDermott proposed a friendly amendment to change the words from a "swimming dock" to a "swim platform". Seuntjens and Nelson agreed to this.

VOTE: Motion carried unanimously.

B. Locust Hills Development, LLC (Grays Bay Site), Consideration of Draft Findings of Fact and Order to approve a new multiple dock license application for 44 Boat Storage Units (BSU's) on approximately 4,705' of continuous shoreline on the northwest end of Grays Bay.

Skramstad stated that there were two pending application agenda items relating to the Locust Hills Development that would be processed by the Board separately. However, these two agenda items would most likely be discussed together. He recognized that there were members from the public in attendance that would like to make some brief comments and this would be allowed. Additionally, there were some Board members that had some new comments relating to these applications. He entertained those comments first.

Altstatt stated that he reconsidered his opinion on the proposal for 44 BSU's to be stored entirely on Grays Bay shortly after the August 9th Board meeting. He resided on St. Albans Bay, which has a lot of similarities to Grays Bay, and he questioned whether the City of Greenwood would support this type of request if it were on St. Albans Bay. He questioned whether the Board gave enough consideration to the concerns raised by the residents on Grays Bay, which were further substantiated with the e-mails in the handout folders for this Board meeting from Grays Bay residents. He believed that the Board needed to take more time to address the concerns of these residents. The primary issues for the LMCD to address were the dock structure, the number of boats, and how they affect Lake Minnetonka. He stated that he would not see a problem with storing some boats within the lagoon area. Although the MCWD Executive Director strongly advised against this, he did not believe that the Board needed to agree with this because the MCWD Board of Managers had not discussed the question of dredging for this project. He believed that calling this lagoon area a wetland was a stretch and that storing some boats within the lagoon area was appropriate because the water depths are deeper in this area than the area proposed on Grays Bay. He recommended storing 14 boats within the first part of the lagoon area and reducing the number of boats on Grays Bay accordingly. Additionally, he recommended that the Board should consider reducing the number of boats allowed at the three residential sites on Grays Bay. Another possibility would be to require the applicant to dedicate the 680' of lakeshore

frontage for the three residential properties to the multiple dock license application. He reminded the Board that the straight-line measurement could be invoked for this application and he believed that this was a test case for potential future projects that the Board would consider. He recommended that the Board should have LMCD staff conduct a study to investigate how many associations around Lake Minnetonka have one slip for each house within the development.

McDermott stated the shoreline for the three residential home sites was separated from the multiple dock license application.

Altstatt stated that he understood that this shoreline was not dedicated to the multiple dock license application. However, there was nothing to prevent the applicants from amending the application and dedicating the shoreline from these three residential sites to the multiple dock license application.

Gross stated he had a problem with the third sentence in the fourth paragraph on page one. This sentence stated "The shoreline in the lagoon area is useable for watercraft storage with a relatively small amount of dredging at the inlet to the lagoon area". He did not recall that the Board concluded this at the August 9th Board meeting. In fact, he believed that the opposite was concluded because the Board believed that the lagoon area was not suitable for watercraft storage.

Seuntjens stated that the applicants had already documented through pictorial evidence that watercraft could access the lagoon area, despite the illegal bridge at the mouth of the lagoon. He questioned whether it was appropriate for the Board to discuss adding the shoreline from the three residential properties until the applicants amend the application. He recommended that the Board needed to take into consideration the total amount of lakeshore frontage including the lagoon area, 4,705', rather than just the shoreline on Grays Bay, 770'. Because of this, he believed that the applicants were requesting a much smaller number of BSU's than they could. He believed that the straight-line ordinance should be applied to marshland, which the lagoon area was not. He did not agree with the comparison of Grays and St. Albans Bays.

Knudsen stated that he concurred with the comments of Seuntjens on the number of watercraft. However, he was agreeable to listen to where the boats should be stored. In this case, the City of Wayzata supported the number of watercraft proposed by the applicants.

Van Hercke referred to an e-mail that she circulated to the Board and asked the Board to reconsider its motion on August 9th to have draft Findings prepared to approve this application. She stated that a number of Board members have indicated that they believe the straight-line ordinance was only for wetland areas. She did not believe that this was correct because the ordinance was also for narrow inlets and coves. She did not believe that it was fair to determine that the shoreline within the lagoon area was useable, despite this being an inappropriate area to place docks and store watercraft. She agreed with Altstatt that this was a big decision for the Board and that it would be appropriate for the Board to visit the site prior to making a decision. She reminded the Board of the Goals of the Lake Minnetonka Boat Density Committee. These included: 1) storage and boat use ordinances are clear and simply stated, 2) boaters and lake shore residents share a common understanding of ordinances and courtesy on the lake, and 3)

ordinances are enforced consistently and fairly. She believed that this was an opportunity to enforce an existing ordinance, the straight-line measurement ordinance.

Altstatt stated that he recently visited the site and there are buoys on Grays Bay that indicate shallow water in this area. Based on that visit, he believed that the BSU's closest to shore would be grounded and these BSU's would be good candidates to be relocated to the southern most area of the lagoon.

Nelson stated that the Board talked at length at the August 9th meeting about the number of boats, where the boats should be stored, and the length of these boats. He believed that the Board could make its decision based on the environment or LMCD Code and precedent. The Board chose to listen to the expertise of the MCWD. After the August 9th Board meeting, Nelson stated that he learned that 87 percent of Grays Bay was within the littoral zone, which was 15 feet or less of water depths. Overall, Grays Bay has water depths of 4.7'. Littoral zones are more susceptible to prop dredging. He still supported not storing any watercraft in the lagoon areas at either the Grays Bay Site or Minnetonka Inlet Site. One pending issue he believed that the Board needed to address was the installation of 20, 40' long BSU's on Grays Bay that was 87 percent littoral zone. Because of this, perhaps it would be advisable to establish a short moratorium to investigate this further with the applicants and the MCWD.

Skramstad welcomed brief comments from the public.

Mr. Rob White, 16744 Grays Bay Blvd., stated there were 20 members from the Grays Bay area community in attendance at this meeting. Unfortunately, two-thirds of the community did not know that this process was taking place. He made two comments. First, he requested that the Board give the process some time to allow the residents to get a better understanding of the process, how this process had come about, and what was planned. Second, he provided an overview of the seven danger buoys that already exist on Grays Bay. Because of this, a large part of Grays Bay was already unusable, especially taking into consideration the congestion around the Grays Bay public access.

Skramstad reviewed the requirements of the LMCD in notifying the public of public hearings. Specifically, the LMCD was required to notify all residents within a 350' radius of a site, which was complied with in these applications.

White stated that not many residences on Grays Bay would have been included within the 350' radius from these sites.

Ms. Karen Sanger, 16588 Grays Bay Blvd., stated that she had lived on Grays Bay since 3/30/76. She had watched Grays Bay change over the years. This included the sale of Grays Bay Marina, the conversion of this marina to the current MN DNR public access, and higher lake levels on Grays Bay. She stated that she had been in the Minnetonka Inlet Site and the only way to access it was by fishing boat or canoe. The storage of motorized watercraft at the Minnetonka Inlet Site was a stretch and she believed that the applicants should not get credit for this shoreline. She believed that the number of boats allowed per feet of shoreline took into consideration public safety, which she believed was relevant with the recent accident on Christmas Lake. She

recommended that invoking the straight-line ordinance would be a step in the right direction for public safety purposes.

Mr. Pat Alexander, 16540 Grays Bay Blvd., stated that he was in attendance representing the Grays Bay Homeowners Association (HOA). The HOA represents all of Grays Bay and was shocked and surprised that the Board was considering approving the additional storage of 44 watercraft on Grays Bay. He stated that this was the first time that a real proposal had been brought to the Grays Bay HOA's attention. The HOA has retained legal counsel and Alexander read a letter, dated 8/23/06, from Larry Koch. At the conclusion of this letter, Koch stated that "In conclusion, it is the position of my client that such approval would be contrary to adopted rules and regulations of the LMCD and would thus violate Minnesota's environmental laws for the reasons which I discussed above. We therefore request that the Board table consideration of the Application until my client has had an adequate opportunity to review the application, etc. and all Minnesota laws, and the rules of the LMCD have been complied with". Based on his visit of the site, Alexander restated that the bay was very shallow and there were seven danger buoys on Grays Bay, with three of them in front of the subject shoreline. He recommended that the Board should take a closer look at this area and reconsider the draft Findings.

Mr. Jeff Sagal, 21420 Excelsior Blvd, thanked the Board for the opportunity to speak. He supported the views expressed by Altstatt and the need to apply the straight-line ordinance for this application. As a Greenwood City Council Member, he appreciated the need to balance the wants of a developer with the needs of a community, within the confines of ordinances. Personally, he believed that the Board needed to consider the beauty of Lake Minnetonka, citing that he believed a development could damage this. He recommended that the Board should take into consideration how much of the site was on Lake Minnetonka and there was a need to firmly guide the process because the decision made would set a precedent. One possible compromise he suggested was a Boattelle concept similar to those used in Maryland.

Mr. James Gilbert stated that he was legal counsel for the applicants and he was in attendance at the August 9th public hearing. He believed that there was a need to comment on the issues, which included the new issues raised this evening. He made the following comments:

His clients have rights to attend and participate in a public hearing, which took place and had been closed. He did not believe there was a need to table or delay this proposal because there had been over two years of work on this project. This was the last permit that his clients needed to secure and he believed it was improper to take public comments at this meeting.

All of the legal requirements were met by the LMCD for the August 9th public hearing. He expressed concern about the testimony from Mr. White because his wife participated in this public hearing.

He thought that the focus of this meeting was to consider the draft Findings prepared by LeFevere. Although he had no input on these draft Findings, his clients were agreeable to support them as proposed.

He believed that the Board agreed to approve this project at the August 9th Board meeting. He did not believe that Findings were necessary because he believed that they were reserved for special density license and variance applications. He requested that his

clients applications be based on the merits as any other multiple dock license applicant, not based on five or six projects that might not materialize.

He believed that it would be an error for the Board not to approve the draft Findings as prepared by LeFevere; again noting that his clients would consent to them.

He addressed the comments regarding the shoreline within the lagoon area. The proposal, if approved, would get credit for approximately 35 percent of shoreline within the lagoon area, not the entire amount. If his clients were requesting 100 percent of the shoreline within the lagoon area, the number of boats would be 143. He thought it was interesting that his clients were asking for less watercraft at this site than most of the residences on Grays Bay.

He restated there were two concessions that his clients would be agreeable to. First, they would agree to remove the bridge at the mouth of the lagoon area off of Grays Bay.

Second, they would agree to withdraw the Minnetonka Inlet new multiple dock license application.

His clients take public safety on Grays Bay very seriously. Because of this, personal watercraft would be prohibited at this development.

He requested that the Board approve the draft Findings of Fact and Order as prepared by LeFevere.

Altstatt asked what would happen if the draft Findings of Fact and Order were not approved.

LeFevere stated that in the State of Minnesota, certain land use applications were deemed approved if not acted upon within 60 days. There had been no judicial determination to whether this law applied to LMCD applications. However, the LMCD has complied with this rule because he believed it was prudent. Under this law, the LMCD has 60 days to make a decision and the LMCD could unilaterally request a second 60 days. If the Board does not act within 120 days, the application was approved without any conditions. Although no action was required by the Board at this meeting, it would eventually be approved if not acted upon by the Board.

Skramstad asked when the 60-day rule began.

LeFevere stated that it began on July 10th.

Harrod stated she believed that it appeared that the boats to be stored within the slips would be too large for the lagoon area. Because of this, she did not believe that the shoreline within the lagoon area should be counted to determine the number of watercraft. She questioned whether the inlet to lagoon area was natural. In fact, she believed that it was man made through dredging. If the Board concludes that, then the Board must also conclude that it was a class 4 or 5 wetland area by definition. She concurred with the comments made by Nelson about the environmental risks of prop dredging in this area, which would discharge to the remainder of the Watershed District through the Grays Bay dam. Evidence shows that there was a significant hydrological connection between the Jordan Aquifer and the Lower Lake, which would make it harder to maintain the water level on Lake Minnetonka unless the dam was always closed. Because of this, she supported a motion to take another 60 days to think about all of the environmental issues.

Ms. Jean Larson stated that she was a resident on Grays Bay Blvd., although on the Libbs Lake side. She believed that public safety and density were problems and she recommended further study. Although there was adequate land space for the proposal, she questioned whether there was adequate water surface use area on Grays Bay.

Seuntjens reminded the Board that if the Grays Bay Site new multiple dock license application was approved, the applicants have agreed to withdraw the Minnetonka Inlet Site new multiple dock license application.

Nelson stated that he did not believe all of the environmental information was at the Board's disposal on August 9th. He did not have a quarrel about the number of boats because he believed that it was consistent with what had happened in the past. He agreed with the clustering of boat on Grays Bay from an environmental standpoint. He restated that he had concern about how the storage of 20, 40' long boats, and the additional 24 smaller boats, might put too much of a load in this area. He stated that he would support the possibility of smaller boats.

Suerth stated that he raised two concerns at the August 9th Board meeting. First, he did not believe that the Board was listening to the public concerns raised. Second, he believed that the proposed boat sizes were too large for this area. He concurred with the comments raised by Nelson and the need to potentially reduce boat sizes.

Van Hercke proposed delaying the decision on the draft Findings until the Board makes an on-site visit to better educate the Board about the shoreline.

Skramstad stated that if action on the draft Findings were delayed, he questioned what other actions needed to be done other than an on-site visit, such as review of the EAW.

Nelson stated he did not agree with the comment made by the Grays Bay HOA legal counsel in that the LMCD could not use the City of Wayzata's mandatory EAW document for the LMCD's interests relating to docking and boat storage.

Gross questioned whether the EAW was appropriate because it pertained to the land development and not to the environmental questions for Grays Bay. He expressed concern about approving the proposal because it would not work, primarily because of water depth and access to and from the area by water. If the proposal was supported with a dredging or a rip rap plan to the site on Grays Bay, it would be a different matter. He did not think the plan was realistic and was not ready for Board approval.

Skramstad stated that he looked at the project as a site that had approximately 70 acres of land and had been well thought out over the past couple of years. The LMCD has been coached to protect the water and the applicant has agreed to withdraw the Minnetonka Inlet Site application. He stated that he was comfortable with the application for 44 BSU's and he hoped to get to a Board direction this evening.

LeFevere stated the Board was limited to what LMCD Code stated at the time. There have been a number of reasons given why the Board should not add more boats to Grays Bay, especially prop

dredging and public safety. Although these might be legitimate concerns, he did not recall the Board ever denying an application due to these concerns and the Board should act on the application within the limits of LMCD Code. He reviewed the density restrictions in LMCD Code pertaining to the storage of restricted watercraft on Lake Minnetonka. The 1:50' General Rule was the most restrictive storage rule. He believed that authors of some of the e-mails received relating to the straight-line measurement might not have fully understood the ordinance. Whether the Board invokes this ordinance was a decision for the Board to decide. However, he cautioned against not giving credit for any of the lagoon shoreline because it would be very difficult to defend this decision, although the applicant perhaps should not get full credit for the lagoon shoreline. He believed that the Board should decide what was the appropriate carrying capacity for boat storage on this shoreline.

Seuntjens encouraged the Board to think about the rights of the applicant, comparing it to the rights of typical residential properties and grandfathered commercial marinas on Lake Minnetonka. If the owners of these properties cannot get out from these slips due to low water, he believed that this was their problem.

Van Hercke stated that she agreed that the applicant had rights. However, she believed that the shoreline at this site was meandering and that the Board needed to think about the future. If the shoreline at this site within the lagoon area cannot be used, she recommended that only part of this shoreline should be allowed. She expressed concern about setting an undesired precedent.

Gilbert stated that he believed the applicants had already compromised relating to shoreline within the lagoon area. With regards to delaying action for further environmental review, he did not think that this was necessary because his clients had consulted with LMCD staff prior to the mandatory EAW document, which was prepared by the City of Wayzata this past March. He stated that time was of the essence because his clients wanted to start construction as soon as September.

MOTION: Knudsen moved, Seuntjens seconded to approve the draft Findings of Fact and Order for approval of the Locust Hills Development (Grays Bay Site) new multiple dock license application as submitted.

Nelson stated he believed that the Board should take into consideration LeFevere's comments regarding not giving credit to any of the shoreline within the lagoon area. As much as he would like the applicants to voluntarily reduce the boat lengths, he stated that he would support the motion.

Altstatt stated that he would not support the motion because the Board had the ability to invoke the straight-line measurement ordinance and reconsider the number of 44 BSU's to a reduced number. He believed that not invoking the straight-line ordinance would not be responsible.

Seuntjens questioned whether some Board members understood the straight-line ordinance. If a Board member would like to invoke this ordinance, he asked what the right number would be because the applicant was only asking for partial credit of the shoreline within the lagoon area.

Van Hercke asked LeFevere what would prevent the applicants in the future from requesting a greater number of BSU's in the future.

LeFevere stated that this could happen.

VOTE: Ayes (5), Nayes (5; Altstatt, Gross, Harrod, Suerth and Van Hercke), Abstained (1; McDermott); motion failed.

Seurth stated that he would like to see a motion to approve the proposal but to reduce the maximum watercraft size to 35'.

The meeting was recessed at 9:30 p.m. to allow the applicants to discuss whether they would be agreeable to reduce the length of some of the watercraft. The meeting was reconvened at 9:45 p.m.

Skramstad stated that the applicants had agreed to make the following adjustments to the proposed site plan: 1) reduce the number of 40' long watercraft from 20 to 10, 2) maintain the same number of 26' long watercraft at 14, and 3) to increase the number of 36' long watercraft from 10 to 20.

Suerth stated that he would be comfortable with that compromise to move the application forward.

Skramstad stated that he believed there was one pending issue to be resolved, which was enforcement. He asked LeFevere for assistance on this.

LeFevere stated that the compromise summarized by Skramstad referenced watercraft sizes rather than slip sizes. Because of this, it would make it more difficult for staff because staff would have to measure the watercraft size rather than the slip size. The purpose of this compromise was to assist Grays Bay as a whole and he questioned whether there was a need at this meeting to identify which slips were changing sizes. If the Board wanted to move forward with this application, he believed that the motion could be to approve the draft Findings of Fact, with Memorandum, and dock plan, subject to: 1) reducing the dock length of 10 BSU's from 40' to 36', and 2) review of this amended dock plan by LMCD staff to confirm compliance with LMCD Code.

MOTION: Suerth moved, Knudsen seconded to approve the draft Locust Hills Development (Grays Bay Site) Findings of Fact, with Memorandum, and dock plan, subject to: 1) reducing the dock length of 10 BSU's from 40' to 36', and 2) review of this amended dock plan by LMCD staff to confirm compliance with LMCD Code.

VOTE: Ayes (6), Nayes (4; Altstatt, Gross, Harrod, Van Hercke), Abstained (1; McDermott); motion carried.

- C. Locust Hills Development, (Minnetonka Inlet Site),** consideration of a new multiple dock license application for seven BSU's for approximately 2,464' of continuous shoreline at a site located off of Gays Bay through a box culvert under Bantas Point Road (Public Hearing conducted at the 8/9/06 Regular LMCD Board Meeting).

LeFevere stated that it appeared that the applicants would agree to withdraw this application. He recommended that this application should be formally withdrawn by the applicants and reflected in the minutes.

Gilbert, on behalf of the applicants, stated that his clients were withdrawing the Locust Hills Development (Minnetonka Inlet Site) new multiple dock license application.

D. Additional Business.

There was no additional business.

2. EWM/EXOTICS TASK FORCE

B. Chair update of the 8/11/06 EWM/Exotics Task Force Meeting.

Skramstad asked Suerth for background on this agenda item.

Suerth provided a recap of this EWM/Exotics Task Force Meeting. Some of the discussion included:

An update on the 2006 I-LIDS project with Environmental Sentry Protection, which was up and operating on an intermittent basis.

He stated that he would like to advocate for enforcement of existing transporting rules by a MN DNR Conservation Officer on Lake Minnetonka, preferably on the Labor Day weekend, if the Board did not object. There were objections from the Board.

There had been some minor regrowth of milfoil in the areas associated with the 2006 Milfoil Demonstration Project. The Army Corps of Engineers scheduled the Final Report for this project for December and he recommended that the Board not consider a 2007 Milfoil Demonstration Project until this Report had been prepared and presented to the Board. The Board discussed this and the consensus of the Board was to agree with this recommendation from Suerth.

A preliminary update of the 2006 Public Access Inspection Program was provided. Excellent data was being provided by the MN DNR and a more detailed Report was scheduled for this fall.

The 2006 EWM Harvesting Program had recently concluded with the removal of the harvesting equipment on August 16th.

C. Discussion of draft comments on draft MCWD 10-year Comprehensive Watercraft Resources Management Plan for Lake Minnetonka pertaining to invasive species.

Skramstad stated that he had passed on his comments relating to the draft MCWD's 509 Plan. He asked Nelson to comment on this.

Nelson stated that the draft 509 Plan stands out on two points for the LMCD. First, it did not address zebra mussels and whether it was a water quality issue for the MCWD. Second, he believed that there was some missing data that needed to be corrected. He recommended that

he and any other interested Board member should meet with the MCWD to go over the draft 509 Plan on a page by page basis.

Evenson thanked the Board for taking the time to read the draft 509 Plan. He concurred with the comments of Nelson and recommended that a sub-committee of the three MCWD Board of Managers that live on Lake Minnetonka, and interested LMCD Board members, should be created to review the draft 509 Plan.

Skramstad stated that Nelson had volunteered to be on this sub-committee. He asked if there were other LMCD Board members that would like to participate. Although no other LMCD Board member agreed to serve on this committee, he stated that he would check further into this and get back to the MCWD.

D. Additional Business.

There was no additional business.

3. FINANCIAL

A. Audit of vouchers (8/16/06 – 8/31/06).

Altstatt requested clarification to check numbers 16207, 16216, and 16221.

Nybeck stated check number 16207 was for the LMCD's prosecuting attorney. Check numbers 16216 and 16221 were checks associated with the 2006 EWM Harvesting Program

MOTION: McDermott moved, Nelson seconded to approve the Audit of Vouchers (8/16/06 – 8/31/06) as submitted.

VOTE: Motion carried unanimously.

C. Additional Business.

There was no additional business.

4. LAKE USE & RECREATION

A. Discussion of 8/19/06 "Future of the Lake Day" Event.

Skramstad thanked everyone for participating in this special event to make it a success, especially Board member liaison Altstatt and his wife. He asked Altstatt or Nybeck for an update on the 2006 event.

Altstatt stressed the importance of conducting a meeting ASAP to evaluate the 2006 event and what should change for 2007.

Nybeck stated that he concurred with the recommendation of Altstatt. He recommended that this meeting should take place ASAP with representative from Crystal-Pierz Marine and the K-102/St.

Judes Fishing Tournament. However, he recommended that representatives of the LMCD should meet separately prior to meeting with these 2006 co-sponsors.

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 stated there were two Regular LMCD Board Meetings scheduled for the month of September, 9/13/06 and 9/27/06. He did not believe there was a need for both meetings and he recommended that the Board cancel the 9/13/06 Regular LMCD Board Meeting.

The Board discussed the recommendation of Nybeck and the consensus was to cancel the 9/13/06 Regular LMCD Board Meeting.

8. OLD BUSINESS

LMCD Newsletter

Skramstad stated that the first LMCD newsletter was published this past spring. The second LMCD newsletter was planned for this fall and he encouraged Board member participation in topics for this letter.

MN DNR Meeting

Nelson stated that at the July meeting with MN DNR Commissioner Gene Merriam, the LMCD agreed to put some material together in preparation with a meeting they have scheduled with legislators in October. These materials have been initiated and there was quite a bit of work yet to be done.

Skramstad asked Nelson to provide the Board deadlines that the LMCD needs to keep in mind while putting these materials together in September.

9. NEW BUSINESS

Skramstad asked if there was an update on the pending Kurak multiple dock license application.

Nybeck stated that there was no new update.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:20 p.m.

Tom Skramstad, Chair

Katy Van Hercke, Vice Chair