

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, September 27, 2006
Wayzata City Hall

CALL TO ORDER

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

ROLL CALL

Members present: Tom Skramstad, Shorewood; Tom Seuntjens, Minnetonka Beach; Paul Knudsen, Minnetrista; Gene Altstatt, Greenwood; Doug Babcock, Tonka Bay; John Berns, Wayzata; David Gross, Deephaven; Leigh Harrod, Excelsior; Steve Johnson, Mound; Andrew McDermott, Orono; 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: Pete Nelson, Victoria; Katy Van Hercke, Minnetonka.

CHAIR ANNOUNCEMENTS, Chair Skramstad

Skramstad asked Nybeck for an update on the October LMCD Board meeting schedule.

Nybeck stated that there were two Regular LMCD Board Meetings scheduled for the month of October, 10/11 and 10/25. He did not believe that there was a need for both meetings and he recommended that the Board cancel the 10/11/06 Regular LMCD Board Meeting.

The Board discussed the recommendation of Nybeck and the consensus was to cancel the 10/11/06 Regular LMCD Board Meeting.

Nybeck stated that George Hoff would be in attendance at the end of the Board meeting to provide an update on the recent Minnesota State Supreme Court decision on the petition to review the Minnesota Appellate Court decision on the pending Canning litigation.

READING OF MINUTES- 07/20/06 LMCD/MCWD Planning/Workshop Meeting Report
08/09/06 LMCD Regular Board Meeting
08/23/06 LMCD Regular Board Meeting

Knudsen stated on page 1 under "Present" for the July 20th Meeting Report, the word "Treasurer" should replace the word "Secretary" behind his name.

MOTION: McDermott moved, Gross seconded to approve the 7/20/06 LMCD/MCWD Planning/Workshop Meeting Report as amended, to include the comment made by Knudsen.

VOTE: Ayes (9), Abstained (2, Babcock and Seuntjens); motion carried.

MOTION: Seuntjens moved, Gross seconded to approve the minutes from the 8/09/06 LMCD Regular Board Meeting as submitted.

VOTE: Ayes (9), Abstained (2; Babcock and McDermott); motion carried.

MOTION: Seuntjens moved, Knudsen seconded to approve the minutes from the 8/23/06 LMCD Regular Board Meeting as submitted.

VOTE: Ayes (8), Abstained (3; Babcock, Berns, and Scanlon); motion carried.

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

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

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

Gross moved, McDermott seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included: **3A**, Audit of vouchers (9/1/06-9/15/06) and (9/16/06-9/30/06), and **3B**, August financial summary and balance sheet.

Harrod arrived at 7:10 p.m.

1. LAKE USE & RECREATION

A. Hennepin County Sheriff's Water Patrol, update from Lt. Jeff Storms on 2006 Lake Minnetonka related activities;

Skramstad welcomed Lt. Storms on behalf of the Board and asked him to provide an overview.

Lt. Jeff storms introduced himself as unit commander of the Hennepin County Sheriff's Water Patrol. He reported the following:

There has been a 65 percent change in staffing of full-time employees in recent months. He provided background, including years of service and types of experience, on himself and other key employees that work directly on Lake Minnetonka.

The Water Patrol permitted some 50 to 60 special events throughout Hennepin County. Permitted special events on Lake Minnetonka included fishing tournaments, regattas, triathlons, and firework displays. A growing concern that the Sheriff's Water Patrol had, which Storms brought to the Board's attention, was permitted triathlon special events and public safety concerns relating to swimmers in the water.

He outlined various activities that were successfully conducted on Lake Minnetonka this year; including safeguarding the dignitaries from around the country. In an effort to work with citizens on public safety issues, Water Patrol staff has attended a number of organized events around Lake Minnetonka, including National Marina Day.

He reported on 2006 key statistical information. First, Boating While Intoxicated (BWI) citations increased from 22 in 2005 to 41 in 2006. Second, citations for careless boating decreased by 2 from seven in 2005 to five in 2006. Third, citations for minor consumption increased from one in

2005 to 34 in 2006. Fourth, citations for personal flotation devices increased from three in 2005 to 87 in 2006. He believed that the Water Patrol deputies and special deputies directly attributed this increase to the recent LMCD ordinance amendment pertaining to safety checks.

He believed that the Sheriff's Water Patrol and the LMCD continue to be a leader in the nation for safe boating practices. Storms stated that he fields many calls throughout the nation that looks to the practices of the Water Patrol in maintaining a statistically safe boating lake. Most of these organizations were referred to the LMCD's website as to the rules and regulations.

Through August 31st, the Water Patrol has logged over 3,134 hours of patrol time on Lake Minnetonka compared to the next closest body of water, the Mississippi River at 357 hours. He entertained questions and comments from the Board.

Skramstad asked if the Water Patrol required a certain number of spotter boats per swimmer in Triathlons.

Storms stated that requiring a certain number of boats per swimmer was currently being discussed.

Scanlon asked if the lowering of the legal alcohol concentration level for impaired operation to .08 contributed to the increase in BWIs in 2006.

Storms stated that the change to .08 has now been in place for two years. Additionally, the Water Patrol policies in how they handle field sobriety tests and stops based on probable cause have not changed.

Skramstad asked whether a high percentage of the 2006 minor consumption citations took place at Cruisers Cove.

Storms stated that a large percentage of minor consumption citations take place at Cruisers Cove because of boat congestion in that area.

Gross stated it appeared that a high percentage of watercraft personal injuries took place on jet skis. He asked Lt. Storms if he concurred with this and if so, if it was related to careless operation.

Storms stated that a high percentage of watercraft personal injuries took place on jet skis. There are other accidents taking place on other types of watercraft; however, these accidents do not get reported as frequently since injuries are not involved.

Skramstad asked how many citations are given for excessive speed or noise.

Storms stated four to five citations for noise are issued per year, with many warnings given. Speed is a primary concern for the Water Patrol. Operators are well educated on Lake Minnetonka speed limits, pointing out that the signage at public accesses and other locations greatly assists on this.

McDermott asked how the public safety lanes were working at Cruiser's Cove.

Storms stated that he believed the lanes were working well, with a few incidents that were resolved

on a case by case basis. He believed that the number of boats that use the Cruiser's Cove area was significantly down from three to four years ago.

Suerth asked if the Water Patrol received citation statistics from the MN DNR conservation officer relating to exotic species.

Storms stated two MN DNR conservation officers are assigned to Lake Minnetonka, although one was vacant at the present time. Due to most citations for the carrying of exotic species are issued on land, the Water Patrol would not receive the statistical information. He offered to look into that statistical number for Suerth.

Babcock asked what plans were being made for the winter.

Storms stated the boats were currently being winterized and the Water Patrol was working on the special deputy recruitment process for next year; Due to the ice conditions last winter, only 100 hours were logged on Lake Minnetonka. If conditions warrant this year, Storms stated that efforts would include concentrating on channel and shore zone areas.

Skramstad thanked Storms and the Water Patrol for their public safety efforts on Lake Minnetonka. The Board discussed possible dates for the annual LMCD/Sheriff's Water Patrol meeting. The consensus was to hold this meeting after election day and to allow Storms and Nybeck to finalize the date.

B. Staff update of 2006 Lake Minnetonka Shoreline Inventory Project.

Skramstad asked Harper for an update on this agenda item.

Harper informed the Board that the fieldwork for the shoreline inventory project had been completed and that staff was in the process of compiling statistical information. He entertained questions and comments from the Board.

Skramstad requested clarification as to where the staff was in collecting information on possible violations regarding dock platforms and boat storage.

Harper stated that dimensions, registration numbers, GPS coordinates, and pictures were obtained for possible violations of platforms and boat storage on the Upper Lake and three of the bays of the Lower Lake.

C. Additional Business

There was no additional business.

2. WATER STRUCTURES

- A. Curly's Minnetonka Marina, Inc.**, consideration of draft Findings of Fact and Order for approval of an adjusted Authorized Deicing Area (ADA) variance application.

Skramstad asked Nybeck to provide background on the agenda item.

Nybeck stated LeFevere had prepared draft Findings to approve the ADA variance application as discussed at the August 23rd Board meeting. He entertained questions and comments from the Board.

Babcock stated that he believed that approval of the draft Findings would be a good compromise on both parties. He proposed one change to the last sentence in paragraph one on page two. In this sentence, the words "dock use" should be deleted and the word "deicing" should be inserted in their place.

MOTION: Babcock moved, Gross seconded to approve the Findings of Fact and Order as amended, changing the words "dock use" to "deicing" in the first paragraph on Page 2 for Curly's Minnetonka Marina, Inc.

VOTE: Motion carried unanimously.

B. Additional Business

There was no additional business.

3. FINANCIAL

C. Additional Business

There was no additional business.

4. EWM/EXOTICS TASK FORCE

A. Review of 2006 EWM Harvesting Program Final Season Report.

Skramstad asked for background on this agenda item from Nybeck.

Nybeck highlighted the 2006 Report through a powerpoint presentation. Some of the key points included: 1) a summary of the harvesting season data and harvesting condition, 2) operating highlights, 3) personnel, 4) equipment operation, 5) status of the harvesting equipment, 6) budget analysis, and 7) conclusions. Some of the highlights of his presentation included:

Although lake levels were similar in 2006 compared to 2005, he believed that the "High Water Emergency" declared during the month of May had an impact on early season growth.

The total acres harvested in 2006 was 267, a 35 percent decrease from 2005 (395 acres).

In 2006, the totals for harvester loads and truck loads were 195.25 and 122. This compares to 320.5 harvester loads and 175 truck loads in 2005. Thus, there was a 39 percent decrease in harvester loads and a 30 percent decrease in truck loads in 2006.

2006 provided for 195.25 harvester loads and 122 truck loads; resulting in an average truck loads per day of 2.98. This is compared to 320.50, 175 and 4.07 respectively, in 2005.

Three factors that he believed contributed to these statistical changes in 2006 included: 1) cooler weather and higher precipitation in May, 2) areas not harvested in 2006 due to the 2006 Milfoil Demonstration Project, and 3) large percentage of down time due to mechanical difficulties.

Curfman Trucking and Repair, Inc., served as mechanic for the sixth consecutive year in 2006. In 2006 there was a 440% increase in downtime of the harvesting equipment for repairs; providing for 144 hours in 2006 compared to 32.75 in 2005. He believed that it was just of those seasons. He entertained questions and comments from the Board.

Gross asked if the milfoil statistics were down between 30 and 40 percent, why was the budget not down between 30 and 40 percent.

Nybeck stated that it appear as though the budget would be below the budgeted figure of \$107,000, although not 30 to 40 percent below. He stated that some of the expenses were fixed, the maintenance contract, and a number of other expenses in 2006 were higher than originally anticipated, primarily fuel. In hindsight, some of the personnel expenses could have been reduced beyond what they had already been cut. However, there was the possibility of a late season growth of milfoil that has taken place in many recent years.

McDermott asked what the life expectancy of a harvester was.

Nybeck stated that a replacement schedule was developed in the late 1990's that provides for the replacement of the harvesters. All three of the harvesters have been replaced in accordance with this schedule and the proposed life expectancy of each harvester is 10 years.

B. Review of draft Comprehensive Prevention Plan to prevent the introduction of zebra mussels and other aquatic invasive species into Lake Minnetonka.

Skramstad reminded the Board that LMCD and Lake Minnetonka Association (LMA) representatives met with MN DNR Commissioner Gene Merriam in July to discuss exotic species prevention efforts on Lake Minnetonka, with an emphasis on zebra mussels. Some of the discussion included out of the box ideas such as consolidation of public accesses for inspection purposes and charging user fees. He stated the MN DNR's perspective was that Lake Minnetonka and all other bodies of water in the State of Minnesota are public and the charging of a fee was not on their agenda. However, they challenged those in attendance to further refine the ideas in writing for presentation at an October 4th meeting. The LMA has prepared a document and he asked LMA Executive Director Dick Osgood to comment on it.

Osgood thanked the Board for the opportunity to provide an overview of the draft document, which he proposed discussing at the October 4th MN DNR meeting. He reviewed the document in detail, which included a proposed Comprehensive Prevention Plan consisting of: 1) comprehensive physical inspections, 2) closure of some accesses to facilitate inspections, 3) assessing fees to pay for the inspection program, 4) inspections on tributary lakes, 5) continued use of surveillance devices to supplement inspections, and 6) the inclusion of road-end accesses, private facilities and tournaments. He entertained questions and comments from the Board.

Babcock recommended that all areas of traffic be identified. He stated that he had gone through a similar exercise in the early 1990's and he expressed concern that the collection of access fees would delete the matching federal funds provided to the State of Minnesota. So that these funds were not jeopardized, he recommended policy changes be added to the document after discussing the issue with the MN DNR. He

questioned if the fees should be equal to residents versus access users.

Nybeck stated that at the July meeting with the MN DNR, one of the expectations they established was that any program should be fair and equitable to all users of Lake Minnetonka.

Suerth stated the EWM/Exotics Task Force Committee had not been given the opportunity to review the draft document. He believed protocol should be followed and the 10/4/06 MN DNR meeting should be postponed to allow for review by the EWM/Exotics Task Force.

Skramstad solicited further comments from the Board.

The Board discussed the draft document. Some of the discussion included: 1) the ideas are radical and need to be promoted via education; including more research on how zebra mussels are transported and what the effect of the lake will be, 2) the document was viewed as "quarantining" the lake, 3) a recommendation to involve the Hennepin County Environmental Management staff, which would assist in obtaining grants for the program, 4) the suggestion of referencing the scientific statistics, 5) Lake Minnetonka is viewed as a bench mark and should lead by example, 6) timing is of the essence as the State of Minnesota was working on next year's budget, 7) it is a responsible plan and should be statewide and not just for Lake Minnetonka, and 8) that Legislative Commission on Minnesota Resources (LCMR) funds be researched.

Nybeck stated that he had a number of questions, comments, and concerns relating to the draft LMA document. He believed that he and Osgood could sit down and discuss these questions, comments, and concerns prior to the October 4th MN DNR meeting.

Osgood agreed with Nybeck's recommendation to fine-tune the draft LMA document prior to the October 4th MN DNR meeting.

MOTION: Seuntjens moved, Berns seconded that the LMA and the LMCD move forward in presenting the LMA document at the 10/4/06 MN DNR meeting, with the understanding that the document is in draft form and that additional agencies and funding possibilities would be added in the future.

Gross requested that a sentence should be added to the draft document under "External Requirements" that states the plan will work in conjunction with a state-wide plan with the MN DNR and not just a plan for Lake Minnetonka.

VOTE: Motion carried unanimously.

C. Additional Business.

Suerth stated that CEO Eric Lindberg of Environmental Sentry Protection (ESP) was in attendance to provide the Board an update on the 2006 I-LIDS project.

Lindberg thanked the Board for their time. He stated footings were currently installed for the monitoring system at the Grays Bay and Spring Park public accesses. To date, 1,200, 30-second video segments

have been captured. Key activities highlighted to date include: 1) Grays Bay footage indicates that citizens are taking more of an effort after they take the boats out to remove vegetation, and 2) four percent of the boats entering the water at the Grays Bay public access had vegetation attached to the boat and/or trailer. Lindberg stated that he had been educating citizens himself; however, he recognized that monitoring systems were not self-sufficient for the prevention of evasive species. A full Report of the 2006 I-LIDS project would be presented at the October 25th Board meeting.

5. ADMINISTRATION

A. Consideration of draft MCWD Cynthia Krieg Grant Application.

Nybeck stated interest had been expressed in the LMCD submitting a request for Cynthia Krieg Grant funding from the MCWD. He reviewed the historical background of the Cynthia Krieg Grant; which included deadlines, available funding, types of grant funds, and the review criteria. Based on his review, Nybeck was unsure of possible projects that the LMCD might consider in submitting a grant application to the MCWD. Two possibilities included: 1) the replenishment of invasive species literature, or 2) a lake vegetative management plan, which ideally should have been done in advance of the 2006 Milfoil Demonstration Project. He expressed reservations for the submittal of a grant application until a concrete project was in place. However, if the Board deemed it necessary to move forward, he recommended matching funds should be provided from the "Save the Lake" Budget. He entertained ideas and solicited interest levels of the Board.

Comments made by the Board members included:

Having an attitude of perseverance and optimism to go forward with a grant.

The consideration of obtaining an intern to write future grants

Two possible grant ideas included: 1) planning for the prevention of invasive species with the MN DNR, and 2) "Future of the Lake Day".

The consensus of the Board was to not submit a grant proposal to the MCWD at this time.

B. Appointment of nominating committee for 2007 LMCD Board Officers.

Skramstad stated that it was that time of the year for the Board to appoint a nominating committee for 2007 LMCD Board Officers. He asked former nominating committee chair Scanlon if he would consider chairing the committee once again.

Scanlon agreed to the commitment.

Skramstad suggested Board Members contact Scanlon to help with this committee.

C. Review of draft letter to be forwarded to LMCD member cities regarding Board appointments for 2007.

Skramstad stated that there was a draft letter for 2007 LMCD Board appointments and a Board attendance sheet for the past year to be forwarded to the 14 member cities. Without objection, he stated that he would direct staff to forward the letter as prepared. There were no objections.

D. Additional Business.

There was no additional business.

6. SAVE THE LAKE

There was no discussion.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on two items. First, the lake level was 928.64 on 9/26/06, with the dam discharging at 150 cfs. Second, he wanted to thank his staff, Administrative Technician Judd Harper and Administrative Assistant Emily Herman for their dedication during a period when projects have been unusually large and challenging.

8. OLD BUSINESS

Phase II of "Save the Lake" Fundraising

Skramstad stated that Phase II of the "Save the Lake" fundraising had not been initiated to raise funds for special projects, such as the 2006 Milfoil Demonstration Project. To date, funds raised through the annual "Save the Lake" solicitation letters was right on schedule compared to recent years.

Newsletter

Skramstad asked Nybeck to update the Board on the Fall 2006 newsletter.

Nybeck stated the end of October was targeted for a four page LMCD newsletter. Topics being considered for this newsletter include: 1) a Chair Column, 2) review of Lake Minnetonka winter rules, 3) an update on LMCD deicing regulations and winter rules, 4) an update on the 2006 Milfoil Demonstration Project, and 5) possibly a question and answer section.

9. NEW BUSINESS

Citizen Concern

Skramstad stated that he had received correspondence from a citizen expressing concern for the lack of parking for a restaurant at a commercial marina facility. He believed that how a commercial marina manages their approved slips was a business decision that they needed to make, not the LMCD. This citizen was not accepting this response and he solicited comments from the Board on this matter.

Babcock stated that it appeared what the resident was asking for would require a policy change by the Board for transient slips. If the Board were to make such a policy change, he believed that a dockmaster should be required at all times.

Skramstad stated he would follow-up with the citizen.

Compensation Analysis

At the May 10th Board meeting, Skramstad informed the Board that a compensation analysis was typically

completed every two to three years and suggested that one be accomplished by this fall. To date, the analysis had not been initiated. To expedite progress in that area, Skramstad recommended utilizing the latest pay ranges and adjusting them three percent a year.

The consensus of the Board was to adjust the salary ranges three percent a year for all LMCD positions.

City of Deephaven Docking Update

Gross stated the City of Deephaven would be holding a public hearing on October 16th to discuss proposed changes to their municipal docking program.

Tom Kurak New MDL Application Update

Nybeck stated he had recently met with Kurak to discuss updated survey work. This updated survey work had not been completed and he hoped to bring the pending application back sometime this winter.

City of Minnetrista Moratorium

Knudsen stated the moratorium remained in place while Minnetrista continued to work with the Metropolitan Council on density issues of proposed developments.

10. EXECUTIVE SESSION – Discussion of Canning litigation strategies.

11. ADJOURNMENT

MOTION: Berns moved, McDermott seconded to: 1) go into executive session at 9:43 p.m. to conduct Canning litigation strategies, as allowed by the Open Meeting Law, and 2) adjourn the meeting following completion of the executive session.

VOTE: Motion carried unanimously.

Tom Skramstad, Chair

Tom Seuntjens, Secretary