

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 PM, Wednesday, February 28, 2007  
Wayzata City Hall

**CALL TO ORDER**

Skramstad called the meeting to order at 7:01 p.m.

**ROLL CALL**

**Members present:** Tom Skramstad; Shorewood; Katy Van Hercke, Minnetonka; Tom Seuntjens, Minnetonka Beach; Paul Knudsen, Minnetrista; Gene Altstatt, Greenwood; Doug Babcock, Tonka Bay; Mary Bader, 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.

**CHAIR ANNOUNCEMENTS**, Chair Skramstad

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

Nybeck stated that there were two LMCD meetings scheduled for the month of March, 3/14/07 and 3/28/07. He did not believe that there was a need for both meetings and he recommended that the Board cancel the 3/14/07 LMCD Board meeting. The Board discussed Nybeck's recommendation and the consensus was to cancel the 3/14/07 LMCD Board meeting.

**READING OF MINUTES-** 01/10/07 LMCD Regular Board Meeting  
02/14/07 LMCD Regular Board Meeting

**MOTION:** Knudsen moved, McDermott seconded to approve the minutes from the 1/10/07 LMCD Regular Board Meeting as submitted.

**VOTE:** Motion carried unanimously.

**MOTION:** Scanlon moved, Bader seconded to approve the minutes from the 2/14/07 LMCD Regular Board Meeting as submitted.

**VOTE:** Ayes (8), Abstained (3; McDermott, Scanlon, and Van Hercke); motion carried.

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

Mr. Dick Osgood, Executive Director of the Lake Minnetonka Association (LMA), commented on the following:

- The LMA Board reviewed the proceedings of the February 14<sup>th</sup> LMCD Board Meeting and directed him to reaffirm their position on the need for a moratorium for new multiple dock license applications.
- Eric Lindberg from Environmental Sentry Protection had communicated to him of a close call relating to a zebra mussel introduction last summer at a commercial marina. He summarized the details of the

close call, pointing out that adult zebra mussels were found beneath the water line in the interior part of an outboard motor. He stated that this boat was not launched into Lake Minnetonka.

- He recently attended an Indiana Lake Management Society meeting in which they discussed the discovery of hydrilla in a local lake. He explained that hydrilla was another aquatic invasive species that was more aggressive than Eurasian watermilfoil. Indiana has quarantined the lake and initiated three whole lake herbicide applications. For this reason, he reiterated the need for LMCD to initiate a more comprehensive inspection program versus the signing of an affidavit form for special events.
- During the planning stages of the 2006 Milfoil Demonstration Project, an objective was discussed to evaluate whether or not the chemical treatments could supplement the LMCD's milfoil harvesting program. He asked the Board if those discussions were in the works and recommended the continuance of those efforts.

Suerth questioned Osgood whether a qualified individual confirmed the presence of the zebra mussels at the commercial marina he spoke of and when this information became available.

Osgood stated that Lindberg had communicated this information to him last week and that he was unaware of the individual that discovered it.

Van Hercke asked Osgood to clarify what marina this took place at.

Babcock arrived at 7:10 p.m.

Osgood stated he could not report that information as he did not have his notes with him.

Nybeck asked Osgood if he could check his notes and report back to the LMCD. He informed the Board that the marinas on Lake Minnetonka are dedicated to the prevention of invasive species and have had other similar cases where boats were not allowed to enter the lake prior to taking the proper precautions.

Skramstad requested clarification from Osgood relating to the 2006 Milfoil Demonstration Project comment. He stated that there was not funding available in 2007 to continue or conduct a similar project.

Osgood stated that one of the objectives of the 2006 Milfoil Demonstration Project included an evaluation of whether one of the three treatments could supplement the Harvesting Program. That evaluation has not been completed to date and the LMA was interested in seeing that completed.

Harrod arrived at 7:15 p.m.

Nelson stated the LMCD was committed to following through on assessing the effectiveness of the herbicide treatments. However, he heard Osgood say that the real benefits were not just the ecological benefits but also the cost advantages if the herbicide treatments are effective. He questioned Osgood whether the LMA was prepared to conduct a cost effectiveness analysis using the data being prepared by the Army Corp of Engineers.

Osgood stated that this could be done and would be a relatively straight, forward exercise.

**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.

Nelson moved, McDermott seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included: **1B**, Audit of vouchers (2/16/07-2/28/07), **1C**, January financial summary and balance sheet, and **2A, 2007 Multiple Dock Licenses**, staff recommends Board approval of 2007 renewal, without change, multiple dock license applications for Baycliffe POA, Cardinal Cove Beach Association, Forest Arms Improvement Association, Harborage Homeowners Association, and Seton Village, Inc.

## 1. FINANCIAL

### A. Abdo, Eick, and Meyers, review of draft 2006 LMCD Audit.

Skramstad welcomed Steve McDonald of Abdo, Eick, and Meyers, 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 2006 LMCD Audit by making the following comments:

- He reviewed the Management Letter and commented on segregation of duties for small offices and how to improve the process of procedures over cash disbursements and deposits. He stated that LMCD staff resolved concerns raised in the past in this area.
- He reviewed the LMCD's compliance with specific statutes on how funds are spent, deposited, or invested as it pertains to use tax. There was one minor concern with the lack of paying use tax and had recommended all invoices document tax, where applicable, prior to paying.
- He discussed fund balances of the LMCD. The General Reserve Fund Balance as of 12/31/06 was \$100,710, which is approximately a 29 percent reserve. This compares to a balance of \$120,261 as of 12/31/05, which was approximately a 34 percent reserve. He recommended that the Board should consider this reserve fund policy when preparing the 2008 LMCD Budget process.
- The Eurasian Milfoil Reserve Fund as of 12/31/06 was \$129,018, an increase of \$8,120 from 12/31/05. This was primarily due to a slight increase in revenue and slight decrease in expenditures.
- The balance of Special Revenue Funds in 2006 totaled \$477,306, with Save the Lake totaling \$276,239 and Equipment Replacement totaling \$72,049. McDonald expressed concern about the Equipment Replacement level because this account was used to replace harvesting equipment. The harvesting equipment was depreciating at \$30,000 per year and the LMCD was not setting adequate funds aside to replace it. Thus, he recommended transferring the \$8,120 from the Eurasian Milfoil fund to the Equipment Replacement Fund.
- He reviewed GASB Statement Numbers 43 and 45 and how they would impact future LMCD audits.
- He reviewed new auditing standards relating to risk assessment, SAS 104-111.
- He entertained questions and comments from the Board.

Babcock asked if SAS 104 - 111 pertained equally to the public, non-public, and government agencies.

McDonald stated that it did.

Scanlon asked if the completion of the Sales and Use Tax form was the responsibility of the seller. Additionally, he asked if it was his opinion that an audit needs to be completed annually.

McDonald stated the responsibility to complete a Sales and Use Tax Form falls to the purchaser. However, the best control was to not pay the invoice until it is correct. With regards to audits being conducted annually, this was a requirement for the LMCD because it exceeded a revenue threshold.

Skramstad asked Nybeck how the Board should proceed on the draft 2006 LMCD audit.

Nybeck stated that the Board might want to accept or approve the 2006 LMCD audit through a motion. Additionally, he asked the Board to approve draft LMCD Resolution 117 that was included in the handout folders. Essentially, this resolution would transfer \$8,120 from the Eurasian Milfoil Fund to the Equipment Replacement Fund.

**MOTION:** Seuntjens moved, Babcock seconded to approve LMCD Resolution 117 as submitted.

**VOTE:** Motion carried unanimously.

**MOTION:** Babcock moved, Seuntjens seconded to accept the draft 2006 LMCD audit as amended, subject to submitting the proper 2005 Fund Balances on page 6 of the Management Letter as pointed out by McDonald.

**VOTE:** Motion carried unanimously.

## 2. WATER STRUCTURES

### B. Review of draft Report that summarizes 2006 LMCD Code Enforcement Efforts.

Skramstad asked Harper for an update on this agenda item.

Harper stated that in 2006, the LMCD developed and implemented a process for a pro-active Code enforcement program. He updated the Board on what had been completed to date by highlighting the following:

- The establishment of the following five enforcement activities: 1) Residential boat storage violations, 2) LMCD licensed facilities and special approvals, 3) Authorized dock use area (DUA) length violations, 4) Authorized DUA width violations, and 5) Dock construction standard violations.
- At the May 10<sup>th</sup> LMCD Board meeting, the following sub categories were established as high priority enforcement activities in 2006: 1) Sites storing five or more restricted watercraft, 2) Sites storing three or four larger, restricted watercraft, 3) inspections of the 112 multiple dock facilities, and, 4) inspections of the 32 licensed de-icing facilities. Low to medium priorities in 2006 included the documentation of: 1) non-conforming dock and platform dimensions, and 2) long docks (wetland and non wetland areas).
- The methodology to complete the documentation of the activities included incorporating the

documentation of enforcement activities with the 2006 Shoreline Boat Storage Count during the months of June to August 2006. LMCD staff documented potential LMCD Code violations by: 1) the use of digital photos, 2) obtaining the MN DNR registration information, 3) maintaining a description of the possible violation(s), and 4) taking GPS coordinates of the documented sites.

- He reviewed the database created for LMCD use and the process in which the possible violations were reviewed, which included the assistance of GIS software and Hennepin County Property Search information.
- He summarized the following statistics based on an estimated 3,500 residents on Lake Minnetonka: 1) 81 sites (2.3%) stored five or restricted watercraft, 2) 58 sites (1.7%) stored three or four restricted watercraft, and 133 sites (3.8%) had non-compliant docks and platforms.
- He entertained questions and comments from the Board.

Van Hercke thanked staff for their efforts on this project because it was one of the goals of the Lake Minnetonka Boat Density Action Plan. She asked if the database provided the LMCD the ability to create a template for producing an educational letter to the documented sites and what was staff's input on how enforcement should proceed.

The Board discussed the next steps in this project. Some of the discussions included: 1) the recommendation to send out a generic educational, informational letter, 2) the recommendation to pinpoint the violation to minimize phone calls into the LMCD office, 3) historical and current use, including storage, of personal watercraft, 4) the importance of educating the public during the heavier months by updating the website, utilizing the newsletter, and facilitating with other member cities' newsletters, and 5) the comparison of what the LMCD storage rules are compared to municipal zoning ordinances.

Skramstad asked Nybeck to summarize the current Board discussion and what needs to be addressed.

Nybeck stated that it was the consensus of the Board to have LMCD staff draft and submit an educational letter to the sites highlighted by Harper. Additionally, the Board needs to provide direction to LMCD staff on the 2007 LMCD Code enforcement priorities. Nybeck's suggestion was to continually monitor the documented sites and enforce the five or more restricted watercraft violations during the 2007 season as a minimum. The Board should focus on budgeting for 2008 LMCD Code enforcement efforts, pointing out that there was a \$7,000 line-item in the 2007 LMCD Budget that could be used for this year's project. One aspect he envisioned for 2007 was a Code Enforcement/Permitting intern for this upcoming summer. More information will be provided on this at the March 28<sup>th</sup> Board meeting.

Van Hercke requested staff take the information at hand, consider the intern position, and come back to the Board with a budgeted plan for the 2007 boating season to review the documented site and provide educational letters for review at the 3/28/07 Board meeting.

#### C. Additional Business

There was no additional business.

**3. SAVE THE LAKE**

**A. Consideration of draft 2007 "Save the Lake" Budget**

Skramstad asked Nybeck for background on this agenda item.

Nybeck provided an overview of the draft 2007 "Save the Lake" Budget. This included: 1) projected revenue of \$54,156, with solicitation contributions of \$46,626 (an increase from \$25,000 in 2006), 2) a \$2,000 expenditure for the Solar Buoy Lights Program to replace some existing lights and to potentially purchase some lights for new locations, 3) a \$6,680 expenditure for the Public Access Inspection Program with the MN DNR, 3) a \$35,376 expenditure for the I-LIDS Program, 4) \$800 for the Winter Ice Cleanup Project, and 5) \$300 for the Voluntary Safety Program with Shorewood resident Greyson Hensley. He entertained questions and comments from the Board.

Babcock questioned whether the proposed increase in solicitation contributions was attainable.

Nybeck believed that this increase was attainable, although it requires Board involvement to expand the existing database of potential contributors. Updates to the database need to be done very soon because the next solicitation letter would most likely be sent out in the next 60 days.

Nelson concurred with Nybeck's comments.

Scanlon stated he had received a number of positive comments on the Solar Buoy Lights Program. He questioned whether this could be expanded.

Nybeck stated that he believed the majority of the high-volume channels were already covered, with a number of the lower volume channels covered. Some funding is available for potential expansion.

Skramstad asked Nelson to report on the fund raising campaign efforts.

Nelson commented on two key areas of the campaign. First, he stated that he hopes to initiate Pay Pal in a time for the spring solicitation letter. Second, he solicited Board members to make a personal effort to talk with their neighbors to create a list of additional names to add to the existing database.

Skramstad reviewed a process he implemented in obtaining additional names for the expansion of the database.

**MOTION:** Knudsen moved, Nelson seconded to approve the 2007 "Save the Lake" Budget as submitted.

**VOTE:** Motion carried unanimously.

**B. Additional Business**

There was no discussion.

**4. LAKE USE AND RECREATION**

**A. Review of Lake Minnetonka Boat Density Committee Action Plan**

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that there were discussions at the December 13<sup>th</sup> Board Meeting relating to prioritizing special projects for 2007. Review of the Lake Minnetonka Boat Density Committee Action Plan was scheduled for that meeting but tabled to a future Board meeting. He believed that there was a need for the Board to review the five tasks, to re-commit to accomplishing these tasks, and to make modifications if deemed necessary. He recommended that Board member Van Hercke, who chaired this committee, should provide an overview of the Action Plan.

Van Hercke stated that the LMCD received an application in 2003 that resulted in the Board establishing a committee to review the 1974 Boat Density Policy Statement. Because boat density is such a broad topic, a second committee was formed with the assistance of a contracted facilitator. A public meeting was conducted by the LMCD on May 11, 2005 to gather feedback from the public on a variety of topics being considered by the second committee. The committee established a set of recommendations for the purpose of achieving three major goals. These included: 1) that storage and boat use ordinances are clear and simply stated, 2) that boaters and lake shore residences share a common understanding of ordinances and courtesy on the lake, and 3) ordinances are enforced consistently and fairly. These recommendations resulted in the following objectives: 1) to educate the public on the LMCD ordinances, 2) to clarify the ordinances, and 3) to enforce the ordinances. To accomplish these objectives, the Board adopted a Boat Density Action Plan in June of 2005, which entailed five tasks. These included: 1) Task A- Develop/refine communication strategy, plan, and timeline, 2) Task B- Proactively advocate for a Boat Operator's License (This will most likely require the forming of a coalition that will determine the strategy including key tasks, timelines, and contacts needed to work with the state legislature), 3) Task C- Water Patrol liaison (Keep in contact to continue to support the Water Patrol, particularly in their efforts to identify, track, and notify discourteous boaters about their lake use behaviors), 4) Task D- Enforcement, and 5) Task E- Work with the LMCD Executive Director on a redraft of the 1974 Boat Density Policy Statement and the Lake Use and Recreation Chapter of the 1991 Management Plan for Lake Minnetonka. She updated the Board on progress that had been made on these five tasks.

Nybeck provided further review of progress that had been made on these five tasks. One of these tasks, redrafting the 1974 Boat Density Policy Statement, has been put on hold at this time because the Board has made reviewing and updating LMCD Code, where deemed necessary, a higher priority for 2007. He stated that the Board might want to consider further consolidating and refining these tasks.

The Board discussed this and there was no consensus on whether changes should be made to the Action Plan.

**B. Additional Business.**

There was no additional business.

**5. ADMINISTRATION**

There was no discussion.

## 6. EWM/EXOTICS TASK FORCE

Suerth updated the Board on two items. First, he had spoke with Eric Lindberg relating to the 2007 I-LIDS project. He hoped that Lindberg would be setting up a demonstration project in the near future to test the new camera capabilities. Second, a meeting was conducted earlier in the day relating to the development of a management plan for Lake Minnetonka. He expressed that there was a significant amount of interest from a number of governmental agencies and there was some preliminary discussion relating to a Lake Vegetation Management Plan (LVMP) for Lake Minnetonka.

Nybeck stated that he was encouraged with this preliminary meeting. He and MCWD District Administrator Eric Evenson will be preparing a meeting report in the near future, with Evenson to discuss this further at the March 28<sup>th</sup> LMCD Board meeting. With regards to a LVMP for 2007, he did not see that happening through this process. However, he believed that a partial LVMP could possibly be done through agencies that participate at EWM/Exotics Task Force meetings. This most likely will be an agenda item at the April 13<sup>th</sup> EWM/Exotics Task Force meeting.

## 7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on three items. First, a potential settlement proposal relating to the Canning litigation was currently being reviewed by the Cannings and their attorney. He hoped that this would be discussed at the March 28<sup>th</sup> LMCD Board meeting. Second, he directed the Board to a spreadsheet in their handout folders that summarized LMCD and State of Minnesota rules relating to watercraft for hire. He reminded the Board of two transitory charter boat ordinances adopted last spring that expired on 12/31/06. Based on staff's review, it appears that the Board might be able to make changes for charter boats under 21' in length. He stated that he would work with LeFevere on a possible Code amendment unless the Board objected. There were no objections. Third, the LMCD had recently received concerns about a deicing permit that has been issued for a seasonal dock in Forest Lake. This site had a permit prior to the updates to de-icing regulations and was grandfathered from the new LMCD Code, which prohibits new de-icing at residential sites.

The Board discussed this and there was a consensus to make no changes at this time.

## 8. OLD BUSINESS

Nybeck stated a spreadsheet was created by LeFevere and recently e-mailed to the Board in an effort to solicit feed back from discussions held at the February 14<sup>th</sup> LMCD Board meeting. To date, feedback had been received from only a few Board members and he encouraged further feedback from additional Board members.

## 9. NEW BUSINESS

### Legislative Update

Skramstad reviewed the following legislation being considered at the committee levels of the Minnesota legislature: 1) a pilot study regarding a Lake Minnetonka Zebra Mussel Control project, proposed by Representative John Berns, 2) a pilot project for the control of eurasian watermilfoil on Green Lake, 3) a study to modify the rule making authority of designated infested waters, 4) a proposal to modify the

membership of the Board of Water and Soil Resources, and 5) a bill providing for the protection of restoration of water quality in lakes.

#### Compensation Analysis

Skramstad stated that at the May 10<sup>th</sup> Board meeting last spring, discussion was held on conducting a compensation analysis of LMCD staff salaries every few years, at which time he solicited Board assistance. Since then, he had spoken to a consultant who could complete a comprehensive evaluation of the LMCD staff salaries within a couple weeks for under \$1,000. He solicited the Board's input on this idea.

The consensus of the Board was to proceed with a formal compensation analysis. However, the Board agreed that this should wait until 2008 to allow for this to be budgeted.

#### Board Evaluation

Skramstad stated he would be emailing the Board's representative city for the purpose of receiving feedback on whether the representative were meeting the expectations of their city.

#### LMCD Office Lease

LeFevere stated that the LMCD had maintained a lease agreement for the past eight years in its current location. The original lease was for five years, with a second five-year lease option for the LMCD. There were a number of unusual terms in the second five-year lease option and the landlord had recently made a claim that an error was found and was requesting back rent of approximately \$12,000, plus the LMCD's percentage of operating expenses. LeFevere stated that he had been in contact with the landlord's attorney in hopes of working an arrangement out to their claim because what they had proposed for back rent and operating expenses was unbudgeted. He believed that there were arguments to be made on both sides and one possibility was to negotiate a lease going forward as the current lease would terminate in less than two years. In order to evaluate the terms, the current rental market needs to be established. He solicited the Board's expertise in real estate background.

Babcock suggested contacting a couple real estate brokers soliciting their input without contract.

#### Deephaven Docking Update

Nybeck stated he would be attending the March 5<sup>th</sup> public hearing on the proposed docking plan in St. Louis Bay and that he would report back to the Board.

### **10. ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:37 p.m.

Tom Skramstad, Chair

Tom Seuntjens, Treasurer

