

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, April 25, 2007
Wayzata City Hall

CALL TO ORDER

Skramstad called the meeting to order at 7:05 p.m.

ROLL CALL

Members present: Tom Skramstad, Shorewood; Katy Van Hercke, Minnetonka; Tom Scanlon, Spring Park; Tom Seuntjens, Minnetonka Beach; Gene Altstatt, Greenwood; Doug Babcock, Tonka Bay; Mary Bader, Wayzata; David Gross, Deephaven; Leigh Harrod, Excelsior; Steve Johnson, Mound; Andrew McDermott, Orono; Pete Nelson, Victoria; Herb Suerth, Woodland; Lisa Whalen, Minnetrista. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician.

Members absent: None.

CHAIR ANNOUNCEMENTS, Chair Skramstad

Skramstad stated that he had no Chair announcements. He asked the Board and Nybeck whether they had any announcements or requests.

Altstatt stated that he would like to go into executive session at the end of the meeting to get an update on the pending Canning litigation.

LeFevere concurred with the request made by Altstatt because there were a couple of issues that George Hoff needed clarification from the Board on for the proposed settlement agreement.

READING OF MINUTES- 4/11/07 LMCD Regular Board Meeting

MOTION: Seuntjens moved, Gross seconded to approve the minutes from the 4/11/07 LMCD Regular Board Meeting as submitted.

VOTE: Ayes (11), Abstained (2; Bader and Harrod); motion carried.

Babcock arrived at 7:10 p.m.

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

Mr. Rick O’Gara, 21120 Excelsior Blvd., commented on the pending Canning litigation and the apparent executive session to discuss the proposed settlement agreement. He supported the concept of a proposed settlement because the Canning situation had indirectly impacted he and his wife’s ability to live and enjoy Lake Minnetonka. Based on a recent meeting with LMCD legal counsel to discuss the proposed settlement agreement, he generally supported it. He requested that the Board allow him to install a canopy at his dock as part of the settlement agreement. If this request were to be made part of the settlement agreement, he believed that he and wife would support it and he asked the Board to discuss the canopy request during the executive session. If this cannot be made as part of the settlement agreement, he stated that he would need to protect his property rights.

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 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. Items so approved include: **1A, 2007 Multiple Dock Licenses**, staff recommends Board approval of 2007 renewal, without change, multiple dock license applications for Bayview Apartments, Bean's Greenwood Marina, and Lindbo Landing, **2A**, Accept minutes from the 2/9/07 EWM/Exotics Task Force meeting, and **3B**, March financial summary and balance sheet.

PUBLIC HEARINGS

- **Seanote Cruises of Lake Minnetonka, LLC**, new on-sale intoxicating liquor license application for the charter boat, SeaNote II.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 4/19/07, which summarized a request from Seanote Cruises of Lake Minnetonka, LLC for a new intoxicating liquor license, with Sunday option. He recommended that the Board approve the new on-sale intoxicating liquor license application, with Sunday option, for the 2007 charter boat season. He entertained questions and comments from the Board.

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

MOTION: Harrod moved, Gross seconded to approve the 2007 Seanote Cruises of Lake Minnetonka, LLC new on-sale intoxicating liquor license application, with Sunday option, for the charter boat SeaNote II.

- **City of Deephaven**, new multiple dock and special density license applications to reconfigure the St. Louis Bay facility.

Skramstad asked Harper for background on this agenda item.

Harper stated that the City of Deephaven submitted new multiple dock and special density license applications in 2003 for Board consideration. No action was taken on these applications and they were not processed by the LMCD because the City of Deephaven signed an indefinite waiver to the 60 day rule. Two changes have been proposed by Deephaven. First, they have proposed to convert 10 slides to slips and add them south of the main dock in St. Louis Bay. Second, there are four minor housekeeping items to the approved site plan, which were outlined in the staff memo dated 4/19/07. He highlighted five LMCD Code Sections to evaluate the applications. These included: 1) Code Section 2.03, subd. 7- outlines the multiple dock license process, 2) Code Section 2.01, subd. 1- outlines authorized dock use area requirements, 3) Code Section 2.02, subd. 1- outlines density requirements, 4) Code Section 2.05, subd. 2- outlines special density license requirements, including public amenities, and 5) Code Section 2.05, subd. 8- outlines the abandoned and revoked clause for special density licenses not constructed within two years. If the Board was comfortable with the

proposed public amenities, he recommended that the Board should direct LeFevere to prepare Findings of Fact and Order for approval of the new multiple dock and special density license applications for the 2007 season. He also recommended that an additional condition should include that watercraft stored in BSUs 18 through 43 need to be fully contained within the dock structure. He entertained questions and comments from the Board.

Skramstad asked for additional background and comments from the applicant.

Mayor Paul Skrede stated that he and City Administrator Dana Young were in attendance representing the City of Deephaven. The purpose of the applications was to catch up with the perceptions of the Deephaven Boat Committee, the City of Deephaven, and the boating public. Watercraft on Lake Minnetonka have been increasing in size and it was determined that there were too many spaces for small fishing boats that the public was not using. Because of this trend, the proposal was to convert 10 slides to slips, while respecting the neighbor to the north and not intruding any further into the bay. Comments from Deephaven residents have been solicited in this process at both the Deephaven City Council and Boat Committee meetings.

Young stated that the intent dating back to 2003 was to solicit comments from the Deephaven residents on the municipal docking program, with an emphasis on the St. Louis Bay facility. There are a lot of amenities in the St. Louis Bay area and the purpose was to propose a neutral application to the LMCD. There are no proposed increase in BSUs, while taking into consideration the swimming beach and other public amenities in this area.

Skrede addressed their proposal to revise their approved fishing pier public amenity to a pier only. Deephaven would prefer to not be required to have a fishing pier and meet minimum public amenity points other ways.

Van Hercke questioned whether transient docking was being proposed because some of the public amenities, such as children's playground and picnic tables/shelter, imply that the public should be able to enjoy these amenities.

Young stated that transient slips were not available, although it was not uncommon for the public to use shore or slip spaces that were vacant at the time. Although the proposal does not include transient BSUs, they possibly could be added to the south end of the main dock. He stated that one problem that the City of Deephaven was having was accomplishing the minimum public amenity points because they were unsure of the point value system. In Deephaven, there were duplication of some public amenities, such as there were five swimming beaches and two public accesses, and there was a question of how many points to be credited for these amenities.

Babcock stated that he would prefer that public amenities, if possible, should be accessible to users of Lake Minnetonka. Although some of the amenities were of service to the public, a question remains on whether they should get credit towards public amenity points if transient slips were not provided. He questioned whether the proposed 40' make ready dock at Carsons Bay associated with the City of Deephaven special density license was duplicated in the approved Minnetonka Yacht Club special density license.

Harper stated that he believed it was associated only with the Deephaven special density license, although he would need to check into this further.

Babcock stated that there was a similar request made by Minnetonka Yacht Club some years ago to convert slides to slips, which was denied. He did not recall the City of Deephaven's position on that request, although he questioned whether Deephaven would support a similar request by Minnetonka Yacht Club in the future.

Young stated that he did not recall the position on the past Minnetonka Yacht Club application. However, he did not believe that the City of Deephaven would have problems if the requests were similar.

Skramstad questioned if it made sense to have the City of Deephaven work with LMCD staff to further refine the proposed public amenities for further discussion at an upcoming LMCD Board meeting.

Skramstad opened the public hearing at 7:59 p.m.

Ms. Lori Boisclair, 19400 Azure Rd., stated that she was the abutting property to the north of the main dock. She questioned whether the proposed relocation of BSU #1 for the service pontoon and the canoe launch ramp would violate any of the conditions in the 3/25/81 Variance Order.

Harper stated that it appeared that BSU #1 would comply with side setback from the adjusted side site line. In order for the canoe launch to comply with LMCD Code, the size of the ramp would need to be reduced and it would need to be moved to the south to meet side setbacks.

Babcock stated that it appeared that the storage of BSU #1 would be within the dock use area, although any boat stored at this location would have to transverse within the neighbor's dock use area. He questioned whether there was an alternative location to store the service pontoon.

Boisclair stated that the approved 1981 Variance Order allowed the temporary setback variance on the north end of the applicant's dock use area only until such time the dock was reconstructed by the City of Deephaven. She had a survey conducted on her property for docking purposes, which included the 1981 temporary variance. She stated that she would drop this off at the LMCD's office because she was concerned about future expansion to the north.

Nybeck stated that he believed this was a judgement call for the Board to decide whether the proposed changes constitute a reconstruction. The City of Deephaven has taken the position that the proposed changes would not constitute a reconstruction. One possibility of the Board to consider was to relocate proposed BSU #1 for the service pontoon.

There being no further comments, Skramstad closed the public hearing at 8:07 p.m.

Babcock asked Deephaven whether they would be willing to relocate BSU #1.

Young stated that the service pontoon boat was used each season to maintain the municipal docks and buoys licensed by the LMCD. He believed that the service boat could be relocated to currently approved BSU #1 at the shore stations.

The Board discussed proposed public amenities in further detail. The consensus of the Board was

that: 1) proposed amenities 1, 3, 4, and 5 should be considered as valid "PUBLIC ACCESS" amenity points (10 points each), 2) proposed amenities 1, 2, and 3 should be considered as "ENVIRONMENTAL PROTECTION" amenity points (5 points each), and 3) proposed amenities 1 through 6, including the pier listed under "PUBLIC ACCESS", should be considered as valid "PUBLIC SERVICE" amenity points (3 points each). The consensus of the Board was that no points should be provided for those public amenities listed under Group D- OTHER AMENITIES.

MOTION: Babcock moved, Gross seconded to direct LeFevre to prepare draft Findings of Fact and Order to approve the 2007 special density and new multiple dock license applications, subject to: 1) to relocate BSU #1 for the service pontoon as agreed to by the applicant, 2) to provide public amenity points as agreed to by the Board in the previous paragraph, 3) all boats stored at BSUs 18 – 43 must be fully contained within the dock structure, and 4) to provide no refund of any fees submitted with the applications in 2003.

VOTE: Motion carried unanimously.

Skramstad stated that these draft Findings would be back for Board consideration on May 9th.

- **City of Minnetonka Beach (Dock Sites 10 & 12-15)**, reconfiguration of non-conforming, multiple dock license application and dock length variance application for Dock Site 10.

Skramstad asked for background on this agenda item from Nybeck.

Nybeck stated that the City of Minnetonka Beach had submitted new multiple dock license and variance applications to reconfigure the legal, non-conforming facility. They are approved for 86 Boat Storage Units (BSUs), at 25 dock sites, with 2,370' of non-continuous shoreline. They are considered a legal, non-conforming facility for density purposes, 1:28', and a number of sites are legal, non-conforming sites for dock use area requirements. The proposed changes were: 1) to reduce the number of BSUs at Dock Site 10 from five to four, 2) to continue the 100' dock length variance at Dock Site 10 because of shallow water, and 3) to relocate the fifth BSU from Dock Site 10 to Dock Site 15. He highlighted four LMCD Code Sections to evaluate the proposed applications. These included: 1) Section 2.015- outlines the process to reconfigure legal, non-conforming facilities, 2) Section 2.01- outlines authorized dock use area requirements, 3) Code Section 2.01, subd. 3c - outlines mutual consent arrangement for non-compliant side setbacks, and 4) Code Section 1.07- outlines the variance from LMCD Code process. He further analyzed the proposed applications with these four LMCD Code Sections, which was outlined in a staff memo, dated 4/19/07. He believed that there was a legitimate hardship for a dock length variance at Dock Site 10, shallow water. If the Board was comfortable with the proposal for 2007, he recommended that the Board direct legal counsel to prepare Findings of Fact and Order for approval of the new multiple dock license and variance applications for the 2007 season. He entertained questions and comments from the Board.

Skramstad asked for additional background and comments from the City of Minnetonka Beach on their proposed applications.

Mayor Joann Anderson stated that she was in attendance representing the City of Minnetonka Beach. She was new to the process and she had been on a fast curve to become familiar with the municipal dock system. Dock sites in Minnetonka Beach are very important because it was the goal to provide all residents a dock site to Lake Minnetonka, whether or not they have lakeshore frontage, if they choose so. Minnetonka Beach has

committed to improve documenting approved site plan on surveys, which should be completed in the next two to three years. One year ago, Mayor Gasch stated that the City of Minnetonka Beach would provide a long-term solution to Dock Site 10 in 2007. There was a delay in resolving this because the abutting property owner to the south had sold their property in 2006 and there was a need to wait for the new property owners. For 2007, there has been a consent agreement with the new property owners to the south, the Hoefts. She reminded the Board that the congestion of the area would be reduced and that the arrangement with the Hoefts would be required on an annual basis. She requested Board approval of the applications and entertained questions and comments from the Board.

Dr. Bill Hite, 2217 Huntington Point Road E., stated that he and his wife, Lisa Smith, had owned the abutting property to the north for approximately 10 years. He commented on the BSU density at Dock Site 10. According to the LMCD, the overall BSU density at Minnetonka Beach was 1:28'. At Dock Site 10, it has been as dense 1:6' when there was six boats stored at this site and 1:10' with the proposal to store four boats at the site. This BSU density was nearly three times the density of the overall multiple dock license, and he believed that no other dock site was this dense in Minnetonka Beach. He questioned what made this density at Dock Site 10 acceptable. At residential sites, the most restrictive rule was 1:50' and he believed that the grandfathering thought process was outdated. At Dock Site 10, a longer dock was needed to accommodate for a greater boat density because of the shallow water in the area. In 1998, he and his wife were told by Minnetonka Beach planner JoEllen Hurr that the number of boats would be reduced at this Dock Site 10 through attrition because the site was too small for even four boats. He and his wife believed that two boats stored at Dock 10 were appropriate and he requested that the Board not grant the 2007 dock length variance application for Dock Site 10. He entertained questions and comments from the Board.

Altstatt questioned whether Hite and his wife would be comfortable storing two boats at Dock Site 10.

Hite stated that they would.

There being no further comments, Skramstad closed the public hearing at 8:36 p.m.

Altstatt asked whether the reduction in boats from six to five to four was because of attrition.

Nybeck stated that the original variance approved in the mid 1990's was for six BSUs, with one BSU opening towards each abutting neighbor and a requirement for mutual consent. In the early 2000's, the number of BSUs were reduced from six to five because the mutual consent from the Hite/Smith site was revoked. With the current applications, Minnetonka Beach has proposed to reduce the number of BSUs at Dock Site 10 from five to four.

Altstatt stated that he assumed the boats being stored at Dock Site 10 had been at this site for a number of years because it was close to their homes.

Suerth questioned whether it was possible to relocate two boats from Dock Site 10 to another location within Minnetonka Beach.

Anderson stated that there were other dock sites where boats could be relocated, although it would cause an inconvenience.

Seuntjens stated that there were 10 residents that desired a dock space at Dock Site 10. One of the problems relocating BSUs from Dock Site 10 was that dock sites along County Road 15 were not desirable because of the large amounts of vehicular traffic.

Babcock stated that he believed that incremental improvements had been made to Dock Site 10 in recent years, which has had historical problems. He stated that he was comfortable with the proposal from a multiple dock standpoint because it was consistent with recent compromises, in particular mutual consent arrangements, because it reduced the dock structure footprint to the south. Although incremental improvements had been made, he acknowledged that it was not the ideal situation for the abutting property owners. He believed that the Board should discuss the nature of the variance application because the request installs dock structure in a side setback area. He expressed concern about a permanent side setback variance that would not require on-going annual mutual consent from the abutting neighbor to the south.

Altstatt questioned whether a Variance Order could reduce the number of boats at a site through attrition.

Whalen stated that for land variance, the applicant needs to document the Code excerpt resulting in the hardship to the applicant. For the Minnetonka Beach proposal, she questioned whether inconvenience could be used as a hardship.

Nybeck stated that the Board had historically considered shallow water as a hardship for dock length variance. The standard used by the Board in making this determination was four feet of water depth at the end of the dock use area from the 929.4' contour. There have been two previous variance applications approved at Dock Site 10 that established four feet of water depth 100' into the Lake from the 929.4' shoreline.

Whalen stated that she was referring to a variance from LMCD Code for density purposes.

Nybeck stated that the only variance requested by the applications was for dock length.

Babcock stated that municipalities were allowed to combine non-continuous shoreline for the purposes of a multiple dock license. In general, he believed that a municipality should place docks and store boats at shoreline that does not require a variance to LMCD Code. For this request, he believed that both dock length and side setback variances were needed. One unique feature at Dock Site 10 was the compromises that took place at this site over the years. Thus, he was generally in favor of this proposal, although there may be a need to bring this site closer to compliance with LMCD Code in the future.

MOTION: Altstatt moved, Van Hercke seconded to direct LeFevere to prepare Findings of Fact and Order to approve the 2007 multiple dock license application and dock length variance application for Dock Site 10, subject to reducing the number of boats stored at Dock Site 10 through attrition to two by change in property ownership.

Skramstad asked how the LMCD would achieve the goal to reduce the number of boats through attrition.

Altstatt stated that the City of Minnetonka Beach would need to inform the LMCD when a property was sold that stored a boat at Dock Site 10. When this occurred, the new resident would need to store their boat at different dock site.

Gross asked what authority the LMCD would have to regulate how a municipality assigns their dock spaces. Additionally, the proposal meets all of the LMCD's ordinances and he questioned how the Board would have the ability to place such a restriction.

Babcock stated that the proposal met the multiple dock license requirements, although the variance application did not meet dock use area requirements.

Seuntjens stated that he reviewed the Board minutes from 1996 when the original dock length variance was granted for Dock Site 10. At that time, there was discussion that a reasonable solution for Dock Site 10 would be to store four boats at this site and the City of Minnetonka has worked hard towards this compromise. He believed that the reduction of dock structure at Dock Site 10 in the proposal was a significant improvement.

Babcock stated that he had been a strong advocate of the abutting neighbors' rights through mutual consent arrangements. He expressed concern about granting a permanent side setback variance without a requirement of on-going mutual consent from the abutting neighbor to the south.

LeFevere stated that the LMCD was not operating under the Municipal Land Planning Act for the granting of variances. Thus, the LMCD had more latitude for granting of variances. However, once the Board determines that the application of LMCD Code causes a hardship due to the unique nature of a specific site, it would be hard to justify that a variance was only justified for four residential sites.

Van Hercke stated that she had been part of the discussions relating to Dock Site 10 over the years. Although she applauded the efforts to reduce the number of boats and dock structure at Dock Site 10, she believed that it was highly congested and unsafe, especially with the ability to relocate additional boats to another dock site.

Altstatt stated that made the motion because he supported the property owner rather than the City of Minnetonka Beach. Additionally, he did not believe that LeFevere had stated that a conditional variance could not be accomplished through attrition.

Nelson stated that he believed it was a reasonable goal to reduce the number of boats stored at Dock Site 10 to two. However, he understood the concerns of the City of Minnetonka Beach to relocate boats along County Road 15. He believed it would be more appropriate to address the situation if the abutting property owner to the south removed their consent to the proposed docking configuration.

Whalen questioned whether it would make more sense to reduce the number of boats at Dock Site 10 through a period of time.

VOTE: Ayes (3; Altstatt, Harrod, and Suerth); Nays (11); motion denied.

MOTION: Babcock moved, Nelson seconded to direct LeFevere to prepare Findings of Fact and Order to approve the 2007 Minnetonka Beach new multiple dock license application and dock length variance application for Dock Site 10, with annual mutual consent required from the abutting neighbor to the south.

LeFevere questioned whether it would be appropriate to approve a variance contingent on on-going mutual consent from a neighbor(s). Either there was a hardship or not and the situation does not

change based on how the neighbor thinks. If the neighbor were to withdraw their mutual consent for setback encroachments, this would require Minnetonka Beach to submit a new multiple dock license application for future Board consideration.

VOTE: Ayes (12), Nays (2; Altstatt and Van Hercke); motion carried.

Seuntjens questioned whether the remaining dock sites, excluding Dock Sites 10 and 15, could be installed because there were no changes proposed.

Babcock stated that he was not troubled with docks being installed where no changes for 2007 were proposed.

1. WATER STRUCTURES

A. Seahorse Condominium Association, consideration of 2007 renewal, without change, multiple dock license application.

Skramstad asked for background on this agenda item.

Harper stated that Seahorse Condominium Association was a legal, non-conforming facility with a Boat Storage Unit density of 1:34'. LMCD staff observed non-compliance with the approved site plan in 2006 and this was communicated to their representatives. A renewal, without change, multiple dock license application had been submitted for 2007, although these unapproved changes were proposed to continue. In response to the staff memo that summarized Seahorse Condominium Association's 2007 renewal, without change, multiple dock license application, they have submitted an indefinite extension to the 60-day rule. LMCD staff would like to reconcile the deficiencies through a new multiple dock license application, with public hearing, and believed that the Board should establish a timeframe to submit such an application.

Nybeck stated that Harper had been working with representatives of the association over the past year to resolve non-compliance with the approved site plan based on multiple dock license inspections. There appears to be two distinct factions at the association, those that would like to make changes and those that would not like to make changes. From a LMCD standpoint, either the association needs to submit a new multiple dock license application to reconfigure the legal, non-conforming facility or they need to adjust their docks so that they are in consistent with the approved site plan. He believed that 30 to 60 days to submit a new multiple dock license for Board consideration was an adequate amount of time to the association.

MOTION: Babcock moved, Whalen seconded direct staff to notify Seahorse Condominium Association that action on their 2007 renewal, without change, multiple dock license application was continued to the June 13th Board meeting for action, with the possibility of denial and revocation, unless a new multiple dock license application to reconfigure the legal, non-conforming facility was received by June 7th.

VOTE: Motion carried unanimously.

B. Additional Business;

There was no additional business.

2. EWM/EXOTICS TASK FORCE

C. Chair update of 4/13/07 EWM/Exotics Task Force meeting.

Skramstad asked Suerth for an overview of the 4/13/07 EWM/Exotics Task Force meeting.

Suerth stated that he believed the I-LIDS program was on course and should be up and operating by May 12th. He expressed concern about the lack of volunteers to assist in public access inspections in 2007. He encouraged Board members to get trained by the MN DNR Watercraft Inspection Program in 2007, with the possibility of conducting limited inspections in 2007. He believed that there was further follow-up that needed to be conducted with licensed homeowners around Lake Minnetonka. He hoped that Board members would assist in following up with these contacts in their municipality during the 2007 boating season.

Nybeck stated that there was possibility of coordinating with the Minnetonka Power Squadron in 2007 on a pilot volunteer inspection program.

Suerth stated that there was significant discussion of a partial Lake Vegetation Management Plan (LVMP). Chip Welling with the MN DNR has agreed to assist in this effort and he believed there was a need to conduct adequate aquatic plant survey work prior to conducting any further coordinated herbicide treatments.

Harrod stated that the NRICH grant funds available might be an appropriate funding mechanism for a LVMP. She believed that one shortfall with the recently denied application was the lack of partners and that it would be easy to get each city to sign on as a local partner.

D. 2007 EWM Harvesting Program, evaluation of Truck Hauling Bids.

Skramstad asked Nybeck for background on this agenda item from Nybeck.

Nybeck reviewed the staff memo, dated 4/19/07, which summarized the timeline and the sealed bid process for the 2007 EWM truck hauling contract. He recommended that the Board award the trucking contract for the 2007 EWM Harvesting Program to Curfman's Trucking and Repair, Inc subject to receiving all documents.

MOTION: Seuntjens moved, Scanlon seconded to award the 2007 EWM truck hauling contract to Curfman's Trucking and Repair, Inc. at an hourly rate of \$65.00 for one truck-service and \$130.00 for two-truck service.

VOTE: Motion carried unanimously.

E. Consideration of quotes received for outboard motor for EWM Harvesting Program pontoon.

Skramstad asked for background on this agenda item from Nybeck

Nybeck stated that he solicited quotes from Tonka Bay Marina, R and R Marine, and Crystal-Pierz Marine on a new 50 horsepower motor. Quotes were received from Tonka Bay Marina (\$7,709.06) and R and R Marine (\$7,272.89). Each quote received included the pick-up of the pontoon, the rigging of the pontoon, bringing it back to Lake Minnetonka, test running and adjusting the motor, and installing temperature and tachometer gauges. He believed that there were two approaches for the Board to consider at the meeting. First, the Board could direct staff to solicit additional quotes and make a recommendation at the May 9th Board meeting. Second, the Board could make a decision based on the two quotes received. If the Board decided to take this approach, he recommended that the Board award the purchase of the new 50 horsepower, four-stroke, Mercury, outboard motor to R and R Marine, in an amount not to exceed \$7,272.89.

Skramstad asked where this purchase would be funded from.

Nybeck stated that this would be funded from the Equipment Replacement Fund.

MOTION: Gross moved, Harrod seconded to award the purchase of the new pontoon motor to R and R Marine, in an amount not to exceed \$7,272.89.

VOTE: Motion carried unanimously.

F. Additional Business.

Pending Legislation

Skramstad updated the Board on the pending aquatic invasive species (AIS) legislation being authored by Representative John Berns. The pilot inspection program has been incorporated into an omnibus bill, which was currently in conference committee. The good news was that there was pending legislation still active and he stated that he would keep the Board informed on it.

Recent Mayors Forum

Skramstad stated that he had recently attended the most recent mayors forum where AIS was discussed. An update of efforts being taken relating to AIS on Lake Minnetonka, including the pending legislation, was discussed at this meeting. He believed that the general consensus of the mayors in attendance was that they emotionally supported the LMCD in this effort, although they would have more problems supporting this effort financially or physically.

Nybeck stated that the one follow-up that needed to be done was the preparation of a comprehensive zebra mussel prevention plan that could be forwarded to the LMCD member cities.

Nelson apologized for not attending the most recent mayors forum. One of the primary purposes for the mayors forums was to address the charter restrictions of the LMCD.

Skramstad stated that MCWD had agreed to coordinate a State of the Environment conference.

Whalen stated that she attended the meeting and she believed the mayors in attendance understood the issues facing the LMCD. However, the mayors in attendance believed that this was a larger issue than just Lake Minnetonka. The mayors expressed concern about the effectiveness of the draft resolution and believed that concerted effort of the LMCD, the LMA, and number of other organizations to lobby the state

legislature for additional funding was needed.

Nelson and Babcock stated that they believed there was a high degree of awareness of zebra mussels. However, there was not a high awareness of additional funding mechanisms.

Harrod stated that she believed the LMCD should re-submit a new ENRICH grant application in the next funding cycle.

3. FINANCIAL

A. Audit of vouchers (4/16/07 – 4/30/07).

Skramstad asked Nybeck to comment on why he requested this agenda item to be removed from the consent agenda.

Nybeck stated that check number 16378 to Action Mailing Services, in the amount of \$862.94, should be added to the audit of vouchers. This invoice was in response to mailing costs for the 2007 LMCD spring newsletter.

MOTION: Scalon moved, Johnson seconded to approve the audit of voucher from 4/16/07 – 4/30/07 as amended, adding check number 16378 to Action Mailing in the amount of \$862.94.

C. Additional Business.

There was no additional business.

4. ADMINISTRATION

A. Staff update of Code Enforcement/Permitting Intern position.

Skramstad asked for background on this agenda item.

Nybeck stated that he had hoped to make a recommendation at this meeting. However, further interviews were going to be scheduled and he hoped to make a recommendation on this position at the May 9th Board meeting.

B. Consideration of staff recommendation for compensation adjustment for Administrative Assistant, Emily Herman.

Skramstad asked Nybeck for background on this agenda item.

Nybeck reviewed a staff memo, dated 4/25/07, which summarized a compensation adjustment for Emily Herman. He made three recommendations to the Board relating to her compensation adjustment. First, he recommended permanently adjusting her hourly rate for her Administrative Assistant position 4.9% from \$17.50 to \$18.35, retroactive 4/19/07, for 50 percent of her time the next six months. Second, he recommended temporarily adjusting her annual hourly rate for her added LMCD Code enforcement responsibilities to \$21.15 for 20 hours per week for the next six months. Third, there was a need for Herman to document her time spent for each responsibility during the next six months and to report back

to the Board in October.

MOTION: Altstatt moved, Seuntjens seconded to approve the compensation for LMCD Administrative Assistant Emily Herman as recommended by Nybeck.

VOTE: Motion carried unanimously.

C. Additional Business;

There was no additional business.

5. SAVE THE LAKE

Nelson asked Nybeck to comment on the recent upgrades to the LMCD's website for Save the Lake, including paypal.

Nybeck stated that Herman had coordinated these upgrades in conjunction with the spring LMCD newsletter because they were referenced.

6. LAKE USE & RECREATION

There was no discussion.

7. EXECUTIVE DIRECTOR REPORT

Nybeck stated that there was a copy of the spring LMCD newsletter in the handout folders. He asked Board member to assist the office in distributing a supply of newsletters to each city hall for distribution to residents that had interest.

Harrod left at 9:50 p.m.

8. OLD BUSINESS

Gross stated that there was an article in the spring LMCD newsletter relating to updates to LMCD Code. At a recent Board meeting, there was discussion of establishing an Environmental Review Committee. He offered to chair this committee.

The Board discussed this and the consensus of the Board was to allow Gross to chair the Environmental Review Committee, including recruiting Board members that were interested in serving on this.

9. NEW BUSINESS

Skramstad updated the Board on three items. First, the MN DNR had recently sent out a letter to dock installers and manufacturers relating to enforcing the eight foot dimension standard. He questioned how they would be handled but he believed the MN DNR would be following up on this. Second, the LMA newsletter had recently been sent out. Third, the MCWD had recently updated its lake level measurements so that it can be reviewed on an hourly basis during the course of a day.

10. ADJOURNMENT

Skramstad asked LeFevere to clarify for the record why the Board was going into an executive session.

LeFevere stated that the purpose for closing this meeting and going into executive session, as an exception to the Open Meeting Law, was attorney/client privilege to discuss the Canning litigation and the proposed settlement agreement. He believed that the discussion would be short because he needed feedback from the Board on a couple of questions. Upon completion of the executive session, the Board most likely would adjourn the meeting.

MOTION: McDermott moved, Nelson seconded: 1) to go into executive session at 10:05 p.m. to discuss pending Canning litigation and the proposed settlement agreement, as allowed by the Open Meeting Law, and 2) to adjourn the meeting upon completion of the executive session.

VOTE: Motion carried unanimously.

Tom Skramstad, Chair

Tom Scanlon, Secretary