

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, June 27, 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; Doug Babcock, Tonka Bay; Mary Bader, Wayzata; David Gross; Deephaven; Steve Johnson, Mound; Andrew McDermott, Orono; Kelsey Page; Greenwood; Lisa Whalen, Minnetrista. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

Members absent: Leigh Harrod, Excelsior; Pete Nelson, Victoria; Herb Suerth, Woodland.

CHAIR ANNOUNCEMENTS, Chair Skramstad

Skramstad made two Chair announcements. First, he stated that there were two LMCD meetings scheduled for the month of July, 7/11/07 and 7/25/07. Nybeck has recommended cancelling the July 11th Board meeting. If the Board did not object to Nybeck's recommendation, Skramstad stated that he would cancel the July 11th Board meeting. There were no objections. The Board also scheduled a new LMCD Board Member orientation session at 6:00 p.m. prior to the July 25th Board meeting. Second, the annual Board Lake Inspection Tour was re-scheduled for Monday, 7/30/07, from 6:30 p.m. to 9:30 p.m. Staff will be sending further notification to Board members as time nears.

READING OF MINUTES- 06/13/07 LMCD Regular Board Meeting

MOTION: Whalen moved, McDermott seconded to approve the minutes from the 6/13/07 LMCD Regular Board Meeting as submitted.

VOTE: Ayes (9); Abstained (2; Nelson and Van Hercke); motion carried.

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

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

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

Bader moved, Van Hercke seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included: **3A**, Audit of Vouchers (6/16/07–6/30/07), and **3B**, May financial summary and balance sheet.

1. WATER STRUCTURES

- A. **Jeff and Jill Pugh**, consideration of draft Findings of Fact and Order to approve a dock length, side setback, and adjusted dock use variance at 3585 Frederick Street.

Skramstad asked LeFevere for background on this agenda item.

LeFevere stated that he believed the draft Findings of Fact and Order were consistent with the discussion at the June 13th Board meeting, with one exception that needed further clarification from the Board. In condition three on page two, LeFevere stated that he left the side setback blank from each of the adjusted extended side site lines. Because the width of the site was 19' and the width of the dock use area for docking and boat storage was 14', this allowed five feet for setback requirements. On the proposed drawing attached to the draft Findings, this entire five feet was on the west side of the dock. With one boat allowed to be stored on the east side of the dock, there would no side setback requirement from the easterly adjusted extended side site line. He questioned whether the Board fully understood this at the June 13th public hearing and he asked whether they would like to balance the five feet of setback from both adjusted extended side site lines for navigational purposes.

Babcock asked if the Findings of Fact and Order could be changed to allow for a 14' wide dock use area, with zero foot setbacks from the adjusted extended side site lines.

LeFevere stated that the Board could decide to require zero foot setback where the dock abuts the adjusted extended side site line. In this scenario, the setback would be from the edge of the boat or boatlift to the edge of that adjusted extended side site line.

Babcock stated that the scenario outlined by LeFevere would require the dock to be moved five feet to the west. He questioned whether any adjustments for side setbacks would delay the consideration of the draft Findings.

McDermott stated that one alternative would be for the Board to consider LeFevere's suggestion that a small setback be required from both extended side site lines.

LeFevere stated that the proposed site plan documented as "ATTACHMENT ONE" was not referred to in the draft Findings of Fact and Order. It was only attached for convenience purposes. If the Board approved specific side setbacks from the westerly and easterly adjusted side site lines, they would be identified in the Findings and a new site plan was not warranted.

Nybeck stated that one of the original proposals considered by the applicants was to adjust only the easterly extended side site line. In this proposal, the applicants were proposing a zero foot setback from the westerly extended side site line to minimize the impact on the abutting neighbor to the east.

Babcock expressed concern about changing the expectations that were discussed at the June 13th Board meeting.

Nybeck stated that he believed the proposed site plan, "Attachment One", was discussed by the applicants at the June 13th Board meeting.

Page stated that he believed the five foot setback was discussed at the public hearing, with the five foot setback targeted from the westerly extended side site line because it involved a greater degree of deflection.

MOTION: Gross moved, McDermott seconded to approve the draft Jeff and Jill Pugh Findings of Fact and Order as amended, with a five foot setback from the westerly adjusted extended side site line and a zero foot setback from the easterly extended side site line.

Nybeck stated that LeFevere had previously recommended adding the addresses of the two abutting neighbors to the Findings because they were getting dock length relief in conjunction with the Pugh variance application. He recommended this as a friendly amendment. Gross and McDermott agreed to this.

VOTE: Motion carried unanimously.

B. Mark and Kati Lovaas, consideration of draft Findings of Fact and Order to approve a dock length and side setback variance at 17840 Breezy Point Road.

Skramstad stated that the Lovass' had retained legal counsel relating to this agenda item. Their legal counsel has requested the opportunity to comment and make suggestions to the Board on the draft Findings of Fact and Order.

Mr. William (Skip) Dickel, Attorney at Law, stated that he represented Mark and Kati Lovaas as it pertained to their request for variance from LMCD Code. He reviewed his letter, dated 6/26/07, and asked the Board to consider two requests. First, he respectfully urged the Board to consider a reasonable clarification of what changes would make a "site" a "different site" for the purposes of "narrow lot" Code provisions. Second, he asked the Board to table the Lovaas variance application until such clarification was completed. He reviewed a proposed Code amendment that was outlined on page five of his letter. He recognized that the LMCD Board most likely did not have adequate time to review the letter in detail since it was included in the handout folders for this meeting. He entertained questions and comments from the Board.

Babcock agreed with the recommendation to table the draft Findings to allow LeFevere and the Board a better opportunity to review the Dickel letter.

MOTION: Babcock moved, Van Hercke seconded to table the draft Lovaas Findings of Fact and Order to the 7/25/07 LMCD Regular Board Meeting.

Skramstad asked for questions and comments from the Board.

Babcock questioned whether Board discussion during a motion to table was appropriate.

LeFevere clarified that a motion to table was not appropriate because there was not a motion on the floor to table.

Babcock and Van Hercke withdrew their motion to allow for Board questions and comments.

Nybeck provided the Board an update on the current dock installation at the Lovaas site. He believed that the current dock installation exceeded what would be allowed in the draft Findings. The applicants were aware of this and that there would be a need to reduce the dock and boat installation to comply with whatever was approved by the Board.

Gross asked how a dock could be installed at the applicants site when the Board had not approved a variance from LMCD Code.

Nybeck stated that the current dock installation and boat storage was illegal in theory. However, there have a number of similar situations in the past when the LMCD did not ask the public to remove a dock when there were was a pending application(s) being considered by the Board.

Babcock stated the philosophy of the Board in the past involved voluntary compliance by the public, provided an application process was moving forward to a realistic and reasonable resolution.

Page stated that if this matter was tabled, he questioned whether the LMCD would need to comply with the 60-day rule. He believed that tabling the application would require the applicants to sign a written waiver of consent from the 60-day rule.

Nybeck stated that the Lovaas variance application was deemed complete by LMCD staff on April 2nd, with a written request for an additional 60 days within the first 60 days. If the Board were to grant Dickel's request to table the draft Findings, the applicants need to sign a consent form for an indefinite waiver to the 60-day rule.

Dickel stated that his clients would be willing to sign the waiver of consent form to the 60-day rule.

Skramstad asked LeFevere what the proper procedure would be to move this agenda item to the July 25th Board meeting.

LeFevere stated that the previous interpretation of tabling was in response to a strict parliamentary procedure question. Thus, the Board could continue or table this agenda item to the July 25th Board meeting. He believed that the Dickel letter had raised some good questions, some of which were discussed at the May 23rd Board meeting. He believed that he could give a more thorough analysis of the Dickel letter at the July 23rd, as well as allowing the Board more time to consider whether the requests made by Dickel made sense. He believed that a motion to table would defer discussion on this agenda item to the July 23rd Board meeting.

Mr. Bert Foster stated that he represented the abutting neighbor to the west, Peter Hajas. A lot of time was spent at the May 23rd Board meeting discussing the Lovaas variance application. He recognized that there might be some interest to the LMCD to address the concerns raised by Dickel. However, his client believes that the drat Findings were fair and reasonable, and he requested that the Board approve them as prepared. If the Board were to change this ordinance in the future, the applicants could re-apply to the LMCD in the future. He requested one change to the conditions in the draft Findings. He believed that a condition should be included that requires the installation of range markers to assure that the dock was installed in the right location. He

questioned whether the request by Dickel was delay tactic to allow an illegal dock to continue to be installed.

Gross also questioned whether the request was a delay tactic to allow a 72' long dock to continue to be installed illegally because this length would exceed what would be allowed at this site even if it were grandfathered.

Nelson agreed with Gross' comment and he stated that he would like to approve the draft Findings as submitted. However, he recognized that there might be a need to further clarify the term "site" in LMCD Code and to check into this independently from the draft Findings.

MOTION: Nelson moved, Bader seconded to: 1) approve the draft Lovaas Findings of Fact and Order as submitted, and 2) to direct LeFevere to review the definition of the use of the word "site" independent from these Findings.

LeFevere stated that the confusion was understandable and he clarified the issues for the Board. The discussion at the May 23rd Board meeting was that the site had changed after the grandfathered date, which resulted in this site not qualifying for the five foot side setback requirement. There was another provision for length for grandfathered sites that might come into play. At the May 23rd Board meeting, this grandfathered length allowance was not discussed because the applicants proposed a 72' long dock. The grandfathered length allowance would allow for a 60' long dock or four feet of water depth, whichever was less. If it were decided by the Board that the site had not changed, there would be no restriction on the number of boats at the site because there would be no need for either a dock length or side setback variance.

Babcock concurred that the need for a variance at this site was based on whether there was ambiguity on definition of the word "site." From a process standpoint, he believed that it made more sense to address the definition of the word "site" prior to approving the draft Findings.

Seuntjens stated that he believed the Board should make decisions on current ordinances, not to what it might be changed to. He asked LeFevere if the review of the proposed ordinance amendment could be processed within the next 30 days or if it would take the remainder of the season.

LeFevere stated that he was not prepared to respond to that question at that time.

Whalen questioned whether the Board was discussing the clarification of the word "site" rather than a Code amendment.

LeFevere stated that although the Board could interrupt its own Code, he cautioned against this. He believed that it made better sense for the Board to amend the Code to reflect what the Board would like it to say.

Skramstad stated that he would prefer to table action on the draft Findings to allow the Board to review the letter submitted by Dickel.

LeFevere addressed the previous comment made that the current dock installation was illegal. He

did not think the Board was suggesting that it was okay to have an illegal dock. However, from a practical standpoint the only choice the Board had was to initiate a criminal prosecution. This most likely would not be decided until well after the Board makes its decision on whether to amend the Code or to approve the draft Findings. He did not believe that it made sense to initiate a criminal prosecution while there was a pending application because the courts most likely would not look favorable on this.

Page stated that he would be abstaining from voting on this agenda item because he was not on the Board when the past discussions on this application took place.

LeFevre stated that Dickel had just informed him that the Lovaas' would reduce the length of their dock to 56' in the interim during this process.

Nelson and Bader withdrew their motion.

MOTION: Nelson moved, Bader seconded to continue the considerations of draft Finding and Fact and Order until the July 25th Board meeting, subject to the applicants: 1) reducing the length of the current dock to a maximum length of 56', and 2) the applicants agreeing in writing an indefinite extension to the 60-day rule.

Gross proposed a friendly amendment to include conditions 1, 2a, 2c, and 2d. Nelson and Bader did not agree to this because the applicants had agreed to reduce the length of the dock to 56.

VOTE: Ayes (10) Abstained (1; Page); motion carried.

C. Additional Business

There was no additional business.

2. EWM/EXOTICS TASK FORCE

A. Update of 2007 Internet Landing Installed Device Sensors (I-LIDS) project on Lake Minnetonka.

Skramstad asked Nybeck for background on this agenda item.

Nybeck recapped discussion at the last two Board meetings. At the May 23rd meeting, an update was provided on compliance of the contract by Environmental Service Protection, LLC (ESP). It was communicated that two of the units were up and operating, Grays and Maxwell Bay public accesses, and that two were not up and operating, North Arm and Spring Park Bay public accesses. The Board discussed these two sites and the consensus was to prorate the monthly seasonal costs for the number of days that they were not functioning. Based on this discussion, ESP submitted an invoice for fixed costs at the Grays and Maxwell Bay public accesses. He stated that he was uncomfortable paying these invoices at the June 13th meeting because of non performance of the I-LIDS unit at the Grays and Maxwell Bay public accesses based on weekly reports submitted by ESP. Because Eric Lindberg was unable to attend that meeting, payment discussion was held off until this meeting.

Skramstad asked Lindberg for an update on the 2007 project.

Lindberg stated that he was in attendance to provide the Board a mid-season update as required by the contract. He made the following comments:

- Three of the four units are powered by solar power batteries. The only public access that the unit was powered by electricity was Grays Bay.
- He reviewed the wireless access points and the installation of the footings for these units.
- New signs that were agreed to by LMCD staff were made and installed at the four public accesses. Undesirable locations of these signs originally existed at the North Arm and Spring Park Bay public accesses. This has been resolved with Hennepin County, although he believed that there were yet more desirable locations for these signs.
- He reviewed the location of the I-LIDS unit at each of the four public accesses. One of the primary issues was the lack of power at three of the public accesses and the inability to provide continuous coverage. One challenge was to determine the most effective way to provide coverage with the I-LIDS unit. He realized that there were some power issues at the Maxwell Bay public access, which resulted in outages of the unit. He believed that this should be resolved with the Rev 2 circuit board.
- The unit at the North Arm public access became operational on June 4th, although there were some days that fewer sequences were captured because he was fine-tuning the software. The circuit board at this location was designed to be detected by a disturbance in the earth's magnetic field, such as a car/trailer. He was excited by this technology, although solar power battery problems continued to exist.
- The unit at the Spring Park Bay public access has been up and operational since June 9th.
- He reviewed a series of video sequences taken in 2007 by the higher resolution camera. To date, there have been three aquatic vegetation violations documented to date. One challenge he was facing was the high number of video sequences captured that needed to be reviewed during non MN DNR inspection hours. 9,500 video sequences have been reviewed to document over 1,200 boat launches. Prior to the contract being initiated, he estimated that there were 60,000 launches at public accesses in 2006.
- Weekly reports need to be submitted to the LMCD office in compliance with the contract. He recognized that he was behind in this contract requirement, although new tools were being implemented to improve reviewing video sequences in a more timely manner.
- He entertained questions and comments from the Board.

Nybeck directed the Board to a time video sequence report within their packet for the week of June 3rd through June 9th. That week, 595 video sequences were documented at Grays Bay, 492 at Maxwell Bay, and five at North Arm. These video sequences included those taken during MN DNR inspection hours and should be backed out because they do not need to be reviewed by ESP. This would reduce the video sequences for the week to 824 (428 at Grays Bay, 391 at Maxwell Bay, and five at North Arm). The Board should keep in mind that a good number of these video sequences were triggered by something other than a car/trailer entering Lake Minnetonka.

Nelson asked if the MN DNR inspectors maintained statistics of the percentage of violations that could be compared to what was being captured by the I-LIDS units

Nybeck stated that he had a telephone call into the MN DNR to get that statistical information. He reminded the Board to keep in mind that the MN DNR reported that the number of car/trailers

arriving to Lake Minnetonka with attached vegetation was 0.7% in 2005 and 1.2% in 2006.

Babcock stated he was more concerned about the LMCD getting the bang for the buck on this project rather than discussing the performance of each unit. Additionally, he believed that there needed to be discussion of compensation by the Board on this project.

Skramstad asked Lindberg for his feedback on the contractual performance of ESP.

Lindberg admitted to some outages and delays in the getting the correct circuit boards installed at the public accesses. However, the contract did not include a service level agreement and how the contract would be adjusted when conditions were not being met, such as outages. Based on his experience, he recommended a two percent daily adjustment of monthly fees for outages that exceed four per month or an outage that exceeds 48 hours of downtime.

Babcock stated he was less concerned about the periodic outages than he was about 50% of the units not being in operation. Additionally, he expressed concern about line-items on the invoice for repairs, spare parts, and a bunch of other undefined stuff that he questioned whether the LMCD had agreed to.

Lindberg stated that the expenses included on the invoice were defined in Appendix A of the contract.

Nybeck stated that Lindberg's comments on Appendix A were correct, although some of the line items on the invoices were seasonal costs rather than fixed costs. He explained why he was uncomfortable making payment of this invoice when this topic was discussed at the June 13th Board meeting. When this was discussed at the May 23rd Board meeting, the LMCD was working off the assumption that the units were working properly at the Grays and Maxwell Bay public accesses because no weekly reports had been submitted by ESP at that time. When these weekly reports were submitted for the first 22 first working days at these accesses, it was observed that these units were either not capturing video sequences or where capturing very few video sequences on 18 days, or approximately 40 percent of the time. This included nine consecutive days at the Maxwell Bay public access. A meeting was coordinated in the LMCD office on June 5th with Lindberg to discuss these concerns, with the first weekly report was submitted to the LMCD office two days later. If this weekly report had been submitted in accordance with the contract, there most likely would not have been the incident where the units was not operating for nine consecutive days. A question for the Board to address was how to compensate ESP for these days that the equipment was not operating, such as prorating the seasonal expenses. He also expressed a concern about the use of timers at three of the four public accesses because the contract required seven day a week, 24 hour per day coverage.

Nelson believed that the program was experimental because the LMCD was unaware of how the technology would work and what the response of the boaters would be. He recognized that the technology was not perfect, partly because of the aggressiveness of the LMCD. Although there have been problems, and one could argue that there were more than a few problems that were not minor, he believed that this project has been an incredible success and he expressed concern about a company being overly penalized for non-compliance with contract conditions. He recommended that it was time to pay ESP for fixed and seasonal costs incurred to date, provided

that the contractor meets performance standards for the remainder of the 2007 project.

Skramstad stated that the contract makes reference that the contractors should install and test the units to ensure that they were functioning properly prior to the contract commencing. He believed that this was ambiguous and he asked Lindberg to comment on how he could be more accountable to comply with the 2007 contract requirements.

Lindberg stated that if there were outages for an agreed unreasonable time, he believed that there should be a financial withholding. He acknowledged that the Spring Park and North Arm public accesses would not be billable for May because they were not up and operating. However, fixed costs have been incurred, which he stated were considerable.

Seuntjens asked Lindberg to comment on why the 2007 project proceeded without direct power at three of the four public accesses.

Lindberg stated that he attempted to get direct power at the North Arm and Spring Park Bay public accesses from Hennepin County, as well as the MN DNR for the Maxwell Bay public access. Neither agency authorized the use of direct power in 2007 for this project and he reviewed the shortfalls associated with the solar-powered batteries.

Seuntjens stated that if powering of the units were a primary issue, he believed that direct power should be pursued because the project cannot perform without it.

Nelson concurred and suggested that the LMCD might be able to help facilitate direct power. He asked Lindberg to expand on his comment about a service level agreement that would define precisely what was reasonable.

Lindberg recommended the following service level agreement " ESP run a daily check on four cameras to insure proper operation. For internal factors, ESP will commit to having camera operational within 48 hours, with four outages allowed per month for all sites. Video processing costs, monthly operational fees, capturing and storage fee, will be reduced by two percent each day over this monthly limit where no videos are captured. In the event of an outside factor (e.g. vandalism) ESP will make best efforts to have ILIDS operational within one week".

Harper stated that when reference was made to video sequences, this did not necessarily mean watercraft/trailers that were being launched. For example, quite a bit of the power being used at the accesses could be non-launch activities such as people walking by, birds, or other similar events. Additionally, these non-launch activities were included in the raw data provided by ESP to the LMCD and he believed that it would be beneficial to the LMCD to have only watercraft/trailers that were launching as the data provided by ESP.

Lindberg stated that it would be too time consuming to sanitize the submittal of videos for watercraft/trailer launches only.

Babcock questioned whether the line-item for network configuration and testing should be done at the North Arm and Spring Park Bay public accesses until they have been installed and were operational.

Lindberg stated that all four units were installed and operational.

Nybeck clarified that the unit at the North Arm public access was installed and operational on June 8th. To date, the contractor had not provided evidence that the unit at the Spring Park Bay public access was operational. He clarified that the contract requires that ESP install and test the I-LIDS units to ensure that they comply with the requirements outlined in specification four. He believed that he could work with Lindberg to identify when the unit at the Spring Park Bay public access was up and operating.

Babcock stated that he was asking these questions because the Tonka Bay city council had questioned him on the amount of money being spent on this project when he was reviewing the draft 2008 LMCD Budget with them. The City of Tonka Bay questions whether there was justification for the high costs of this project for the benefits received. A concern was also expressed that the LMCD was not actively enforcing potential violations based on data received. He stated that he had some of the same concerns and he believed there was a need to conduct a cost analysis with the MN DNR inspectors. He believed that the value of this project was public relations and the project might make more sense economically in the future to have four public accesses with footings, with one camera that was rotated amongst the four sites. These reduced costs might make this project sustainable in the future.

MOTION: Nelson moved, Gross seconded to authorize payment of the two invoices to ESP, in the total amount of \$14,484, for seasonal costs incurred with the 2007 I-LIDS project.

Scanlon questioned whether the 2007 projects costs would fall within the \$35,376 detailed within the contract.

Lindberg stated that the contract would fall within this amount because he would not be billing the LMCD for seasonal costs from May 12th through about June 9th for the units at the North Arm and Spring Park Bay public accesses.

Babcock proposed a friendly amendment to delete payment of \$900 for "Network and Configure Test" since the units at the North Arm and Spring Park Bay public accesses had not been documented to the LMCD staff's satisfaction in compliance with the contract prior to invoicing the LMCD. Nelson and Gross did not accept this.

Nybeck stated the contractor was to provide documentation that the sites were functioning properly prior to invoicing the LMCD. That was done at three of the four public accesses, with a need to document this at the Spring Park Bay public access. He believed that this could be worked out between he and Lindberg and could be reflected in the motion. He stating that the fixed costs for the 2007 project were \$11,500, noting that some of the costs in the motion for \$14,484 were seasonal costs. This included \$2,900 for "Insurance, Installation, Removal, Storage, Repair" at the four public accesses.

VOTE: Ayes (5; Bader, Gross, Nelson, Page, and Page), Nayes (7); motion failed.

MOTION: Page moved, Whalen seconded to approve payment of \$11,500 to ESP constituting the line items listed on the invoice that were fixed and agreed to by the LMCD and ESP.

Babcock proposed a friendly amendment to pay sales tax in addition to the \$11,500 of fixed costs. Page and Whalen agreed to this.

VOTE: Motion carried unanimously.

Skramstad stated the payment of seasonal costs were now up for discussion.

Lindberg stated that the invoice in the amount of \$2,247 was for the first month of seasonal costs incurred at the Grays Bay and Maxwell Bay public accesses. This invoice did not reflect a service level agreement because this had not been established at the time the invoice was created.

Page asked Lindberg to clarify how this invoice should be adjusted based on the service level agreement he proposed.

Lindberg stated that the I-LIDS unit was either not functioning or collecting two or fewer video sequences for 14 days in the first month. With a monthly threshold of four days, he recommended adjusting the monthly operation and video processing expenses for these 10 days by two percent or day. With a monthly expense of \$820 for these two line items, he recommended adjusting the invoice by \$164 for the outages at Maxwell Bay for the first month.

MOTION: Page moved, Babcock to pay ESP \$2,100 for the first month of seasonal costs incurred at the Grays Bay and Maxwell Bay public accesses.

Seuntjens stated that monthly insurance was not included for payment at this meeting as part of seasonal costs. He asked the Board how they would like to address this.

The consensus of the Board was for Lindberg to submit a separate invoice to the LMCD for monthly insurance costs.

Gross asked Lindberg to comment on the motion to pay \$2,100 in seasonal costs for the first month at the Grays and Maxwell Bay public accesses.

Lindberg stated that he believed the motion was fair.

VOTE: Motion carried unanimously.

The Board discussed the monthly invoicing to the LMCD by ESP. The consensus was that the details of monthly invoicing for seasonal costs incurred should be worked out between Lindberg and Nybeck, with the possibility of a service level agreement to be considered by the Board in the future.

C. Additional Business

Skramstad asked Gross for an update on the Environmental Review Committee.

Gross stated that the committee had held one meeting to review objectives prior to discussion of details. Based on the discussion at this meeting, the committee has established three preliminary objectives. First, should non-useable lakeshore be used for boat storage or in shoreline calculations for the purposes of established boat storage capability. Second, should environmentally sensitive lakeshore be used for boat storage or shoreline calculations of boat storage. For this objective, there was a question of who would define what was environmentally sensitive or not. Third, should owners of non-riparian lots in a new sub-development be awarded riparian rights based on joint ownership of riparian property. He believed that this had been a problem in the past and a question on whether ordinance changes were necessary was relevant. In conjunction with these with the three objectives, a question has been raised on whether a moratorium on new multiple dock license applications while the committee addresses these three objectives.

Skramstad asked if there was any Board feedback on the three objectives summarized by Gross.

Babcock stated that he was on the committee, although he was unable to attend the first meeting. However, he concurred with the need to better address sites with marginal shoreline, meandering shoreline, and outlots. If the Board were to provide the committee direction to work on these three issues, he supported that.

Nelson stated he supported the committee's objectives and he hoped that the Board would provide the committee the support that it needs.

The consensus of the Board was that the three objectives raised by Gross warrant review by the committee, with the possibility to treat some shoreline around Lake Minnetonka and apply a more restrictive density standard than the 1:50' rule, such as shallow areas and wetlands. The Board discussed on whether a moratorium was appropriate while the committee conducts its work. There was no consensus by the Board on this.

Van Hercke left at 9:33 p.m.

3. FINANCIAL

C. Final review of draft 2008 LMCD Budget.

Skramstad draft 2008 LMCD Budget was approved and certified at the June 13th Board meeting, subject to a final review by the Board at this meeting. He did not believe that another motion was necessary by the Board on this agenda item, unless the Board makes a change at this meeting. He entertained questions and comments from the Board.

Babcock stated that the Tonka Bay city council had asked him to communicate to the Board that they believed the Board was taking on too many new projects rather than being good at a few projects. This results in being spread too thin and making some line-items unrealistic, such budgeted legal fees compared to legal fees incurred. Two main messages for the Board include: 1) that the LMCD be more focused and do a few things well so that the costs for those few things are justified by the member cities, and 2) to accurately budget for line-items that were trending

upwards.

Page stated that he had recently communicated to Greenwood Mayor Bob Newman of the 5.8% increase in the levy to the member cities in the 2008 LMCD Budget when compared to 2007.

Skramstad stated that the 2008 LMCD Budget had been approved and certified based on the motion at the June 13th Board meeting. The adopted 2008 LMCD Budget would be sent out to the 14 LMCD member cities on June 28th.

D. Additional Business

There was no additional business.

4. LAKE USE AND RECREATION

A. Ordinance Amendment, first reading of an ordinance relating to the regulation of watercraft for hire on Lake Minnetonka.

Skramstad asked LeFevere to update the Board on this agenda item.

LeFevere provided the Board with an overview of: 1) existing LMCD Code requirements for obtaining a watercraft for hire license and how that Code compares to State of Minnesota regulations, 2) background on a interim ordinance that had expired, which allowed the use of specific boats that were 21' or shorter in length that did not require a license under State law but did so under the LMCD code, and 3) the request by the Board directing LeFevere to come back with a proposed ordinance for review that provided minimum safety requirements, which is defined by State law, for watercraft for hire operations which currently exist but have not obtained a license (fishing guides, ski schools, shuttling services, etc.). He directed the Board to the draft ordinance in their packet for first reading, which provided those specific boats to have the following: 1) a licensing process by the Board that shows minimum safety requirements, with the addition of a cell phone or marine radio providing for emergency channels, 2) the requirement of insurance, and 3) demonstration of proficiency, which was a question for the Board to address. He stated that larger watercraft for hire require a pilot's licenses by the State. The proposal before the Board stated that the pilot had to be 18 years of age or older and certified by: a) a pilot's license, and b) provide a list of proctored courses that have been taken. He entertained questions and comments from the Board.

The Board discussed what was considered sufficient for the pilot demonstrating their proficiency. The consensus of the Board was that they were comfortable with the pilot demonstrating proof of completing a training program of some kind and that they questioned if the words rental of watercraft and watercraft for hire need to be defined in the Code. The Board also discussed the distinction between a watercraft for hire and a rental boat.

Nybeck stated that for future readings of the proposed ordinance amendment, he would provide the Board with historical minutes on the subject, along with a spreadsheet that was previously provided to the Board.

MOTION: Babcock moved, Seuntjens seconded, to approve the first reading of the draft

ordinance as submitted.

VOTE: Motion carried unanimously.

B. Additional Business,

There was no additional business.

5. SAVE THE LAKE

Nybeck stated that donations received for the spring Save the Lake solicitation letter was just under \$8,500. Of these donations, approximately 13% of them were received from supplemental lists provided by Board members Skramstad and Bader. He believed that further donations were out there and he encouraged the remaining Board member to provide a supplemental list similar to those provided by Board members Skramstad and Bader.

Nelson asked staff to bring additional spring solicitation letters to the next Board meeting to be handed out.

6. ADMINISTRATION

There was no discussion.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on five items. First, the lake level as of June 27th was 929.23', with a discharge of 50 c.f.s. Second, there were a series of articles in the Board packet for informational purposes. Third, he and Harper recently attended a boat tour with representatives of the White Bear Lake Conservation District (WBLCD). Representatives of the WBLCD have been extended a similar invitation for the 2007 LMCD Board Lake Inspection Tour scheduled for July 30th. Fourth, he reminded the Board of the Quiet Water Request by Dr. Flannery on the north end of the North Arm Bay. This request requires at least three observations of the area by LMCD staff during normal high-use periods. The first observation took place on June 23rd, with at least two additional observations planned during the 2007 boating season. Fifth, this was Board member Bader's last meeting and her replacement, Tom Tanner, was in the audience.

Skramstad thanked Bader for her service on behalf of the Board.

8. OLD BUSINESS

There was no old business.

9. NEW BUSINESS

There was no new business.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 p.m.

Tom Skramstad, Chair

Tom Scanlon, Secretary