

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 PM, Wednesday, July 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; Doug Babcock, Tonka Bay; Steve Johnson, Mound; Andrew McDermott, Orono; Pete Nelson, Victoria; Kelsey Page; Greenwood; Tom Tanner, Wayzata; Lisa Whalen, Minnetrista. Also present: Charles LeFevere, LMCD Counsel; Greg Nybeck, Executive Director; Judd Harper, Administrative Technician; Emily Herman, Administrative Assistant.

Members absent: David Gross, Deephaven; Leigh Harrod, Excelsior; Herb Suerth, Woodland.

CHAIR ANNOUNCEMENTS, Chair Skramstad

- Skramstad stated that the City of Wayzata had recently appointed a new Board member to the LMCD. He welcomed Tom Tanner on behalf of the Board and asked LeFevere to administer the oath of office.

LeFevere administered the oath of office to Tom Tanner. He was seated as representative for the City of Wayzata.

- Skramstad asked Nybeck to update the Board on the annual Lake Inspection Tour that was scheduled for July 30th.

Nybeck stated that arrangements were confirmed with Al & Alma's Supper Club on July 30th for a cruise from 6:30 p.m. to 9:30 p.m. He encouraged Board members who had not yet spoken with Herman on their attendance to do so this evening.

- Skramstad asked Nybeck to update the Board on the August Board meeting schedule.

Nybeck recommended delaying discussion of the August Board meeting schedule to the end of the meeting agenda so that the Board may consider this based on discussions at this meeting. The Board concurred with the recommendation made by Nybeck.

READING OF MINUTES- 06/27/07 LMCD Regular Board Meeting

Nybeck stated that these minutes had not been finalized and would be included in the packet for the next Board meeting.

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

- Ms. Cheryl Uran, 19 Center Street, stated that she was an Excelsior resident and was a part-time resident of Big Island at a cabin she and her husband owned. This cabin was located at 120 Big Island near Cruiser's Cove, and was currently for sale. She stated that they were having problems selling the cabin, which she attributed to the noise being generated by new sound systems on watercraft at Cruiser's Cove every weekend from 12 Noon on Fridays through Sundays. She believed that this activity had taken on a carnival-like atmosphere and she and her husband felt helpless. She stated that they had periodically contacted the Sheriff's Water Patrol and they had responded when they could, although she understood that the Water Patrol had limitations. There were five cabins that she believed were affected in the area and she asked what the Board might be able to do to assist them in addressing this issue.

Skramstad thanked Ms. Uran for her comments and suggested that she might want to contact the City of Orono.

Nelson stated that it appears that the concerns raised include the congregation of people and the level of noise created by the new sound systems. He questioned if the Board should consider Code changes relating to sound systems on private watercraft similar to charter boats on Lake Minnetonka.

- Greenwood Mayor Bob Newman stated that he was in attendance to cover three points. First, he thanked the Board for their efforts in reducing the levy increase to the 14 member cities in the recently adopted 2008 LMCD Budget to 5.8 percent. He realized that it was difficult for the Board to decrease this from a double digit increase because of the complex issues that the LMCD was dealing with. Second, he complimented the Board on how they were dealing with these complex issues on behalf of the City of Greenwood. Third, he commented on the planned executive session for the pending Canning litigation and he hoped for a satisfactory resolution as soon as possible.

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, Whalen seconded to approve the consent agenda as submitted. Motion carried unanimously. Item so approved included: **1B**, Staff recommends Board approval to refund variance application deposits for recently approved variance applications as outlined in 7/19/07 staff memo; **2A**, Accept minutes from the 6/8/07 EWM/Exotics Task Force; and **3A**, Audit of Vouchers (7/1/07 - 7/15/07) and (7/16/07 - 7/31/07).

- **Hennepin County Sheriff's Water Patrol**, Mid-Season Report from Lt. Kip Carver on 2007 Lake Minnetonka boating activities.

Skramstad welcomed Lt. Carver on behalf of the Board and asked him to provide an overview on 2007 boating activities.

Lt. Kip Carver stated that he had been with the Hennepin County Sheriff's Department for 18 years. During this time, he had worked in the areas of the jail, security, crime laboratory, internal affairs, and most recently promoted to the Sheriff's Water Patrol. He highlighted the following 2007 mid-season activities:

- There has been one drowning in 2007 on Lake Minnetonka, which was a snowmobiler in Seton

Channel during the month of January.

- The Water Patrol has been proactive in working with detectives and other local police departments in 2007. He highlighted a multi-agency sting operation that successfully apprehended and arrested two individuals who were cited for the following: 1) operating an illegal charter operation without a watercraft for hire registration certificate, 2) serving liquor without a liquor license, 3) serving liquor to minors, and 4) violating the Quiet Water ordinance.
- There was quite a bit of undercover work between multi-agencies in the Cruiser's Cove area. In light of the comments received during the "Public Comments" section earlier in the meeting, Carver expressed an interest in working with the City of Orono to see if other patrol units would be available to more thoroughly cover that area.
- Underage drinking citations (21 years and under) provided for 53 citations in June alone; most of which were on watercraft on Lake Minnetonka. If the individuals were 18 years and younger, they were cited and returned to their parents. By state law, schools are notified of those individuals that were 18 years and younger.
- Boating While Intoxicated (BWI) arrests through June were up by three from this time in 2006.
- The Water Patrol spends approximately 80% of their time on Lake Minnetonka. This is a large amount of time because there are 104 lakes and three rivers within Hennepin County, as well as the need to investigate all drowning in Hennepin County as required by state law.
- Two incidents occurred on the same night that he highlighted. First, a swimmer was run over by a boat near Boy Scout Island. The operator of the boat has been located and the incident has been referred to the County Attorney's Office and was currently under investigation. Second, there was a personal injury accident involving two boats near the Arcola Bridge. This investigation was nearly complete and had been turned over to the prosecuting attorney.
- He entertained questions and comments from the Board

Tanner asked what the hours of patrolling were for the Sheriff's Water Patrol.

Carver stated that the shifts for the Sheriff's Water Patrol were generally from 8:00 a.m. to 4:00 a.m. the next morning, seven days a week, until the middle of September.

Skramstad asked Carver to explain how one should handle general concerns such as loud operating or speeding watercraft.

Carver stated the citizens should call the Sheriff's Dispatch number for the dispatching of an officer. Many times the officer is already on the scene or in close proximity. He stated there were areas of the lake that officers observe watercraft for speeding, which provides an avenue for the officer to conduct BWI investigations.

Nelson asked Carver to explain how the Water Patrol handles public safety calls such as boat fires.

Carver stated that for boat fires, a contact would be made for assistance by a local fire boat. Additionally, each Water Patrol boat carries a fire pump for small fires.

Tanner asked how many crews work on Lake Minnetonka and what the staffing level was for an individual boat.

Carver stated that on weeknights there were two deputies working. On weekends, up to four boats could be staffed, with two deputies on each boat.

Page asked what penalty was being assessed to underage drinking.

Carver stated that he was not aware of the fine schedule for underage drinking.

Skramstad thanked Carver and welcomed him to Lake Minnetonka.

PUBLIC HEARING

- **Smithtown Bay Association**, reconfiguration of non-conforming multiple dock license application, utilizing LMCD Code Section 2.015.

Skramstad asked Harper for background on this agenda item.

Harper reviewed the staff memo, dated 7/19/07, which summarized a request from Smithtown Bay Association for a reconfiguration of non-conforming multiple dock license application to reconfigure the non-conforming multiple dock in Smithtown Bay at Outlot B. The applicant has proposed to: 1) reduce the number of Boat Storage Units (BSUs) from 17 to 16, and 2) to adjust the sizes of the 16 remaining BSUs. He highlighted three relevant LMCD Code Sections in evaluating the proposed application. These included: 1) Code Section 2.015- reconfiguration of legal, non-conforming facilities, 2) Code Section 2.01, subd. 1- authorized dock use area requirements, and 3) Code Section 2.01, subd. 3c)- mutual consent allowances between two or more adjoining sites. He stated that the abutting neighbor to the south at 830 Smithtown Terrace, Tom Thompson, had provided consent for 2007 because the proposed plan was not contained within the authorized dock use area for this site. He recommended that the Board approve the Smithtown Bay Association reconfiguration of non-conforming multiple dock license application for the 2007 boating season with the following conditions: 1) all watercraft must be stored within authorized BSUs, 2) only one watercraft may be stored per BSU location, 3) all BSUs must comply with the four foot overhang restriction- watercraft stored at this site may not exceed 25' length overall including all equipment and attachments in their normal operating positions, and 4) approval of the multiple dock license is contingent upon Smithtown Bay Association maintaining continuing consent to waiving the side setback requirement from the owners of the property to the south (830 Smithtown Terrace). Withdrawal of such consent shall automatically revoke the approval of the multiple dock license and the applicant will be required to meet the required side setback and submit the appropriate applications to reconfigure the site. He entertained questions and comments from the Board.

Nelson stated that there was an outlot at this development (Outlot C) that was in common ownership by the entire development, which was located in front of the Thompson property. To determine setback requirements on the south side of Outlot B, he questioned whether extension of the common side site line with the Thompson site would be used or whether it would take into consideration all of Outlot C. He stated Thompson, over the years, has had no problems with the dock installation and he questioned whether the annual mutual consent recommendation was necessary.

Harper stated that there would be a need to assess Outlot C with the 929.4' shoreline to determine whether Outlot C would have an impact on required setbacks from the Thompson site.

Babcock stated that if the applicant wanted consideration of Outlot C taken into consideration by the Board, the application would need to be amended.

Harper stated that he understood that Outlot C was entirely under water.

Nelson stated that he understood that a small portion of Outlot C was above the water that served as a walkway. He suggested that the applicant's representative might want to address this.

Seuntjens questioned whether the Board had enough information to take into consideration Outlot C because it was not part of the application and it was not documented on the survey submitted by the applicant. He asked two points for Harper to address. First, would the additional extension into the channel further restrict its use by the public and the site on the other side of the channel. Second, what was the thought process of not moving some docks in the channel further to the north.

Harper stated that prior to 1990, the length of the docks in the channel area were 16'. In 1990, the docks were allowed to expand to 20' in length, provided there was a navigability review of the channel area. He pointed out that there was a licensed multiple dock on the other side of the channel, Harborage HOA, and there were some limitations on where they can place their current docks to take into consideration navigation. The 2006 license for the applicant had a condition that restricted the length of the slips in the channel area to 20'. What has happened in recent years was that the docks had been replaced and that new docks were installed illegally because they were too long, generally 24'. The contact with the Harborage HOA has communicated to the LMCD office that they were not opposed to the proposed application, provided it did not extend further into the channel area. A letter was also received from the four Smithtown Bay Association residents south of Outlot B in the channel area, which did not object to the proposed application. One thing to take into consideration was the possibility of Harborage HOA wanting to install docks and storing boats in the future on the channel area.

Seuntjens stated that based on the aerial photos that were part of the Powerpoint presentation, he questioned whether the boats to be stored in the channel area would comply with the 25' length overall requirement.

Babcock stated that when talking about length overall, it takes into consideration the length of the boat from stern to stern, not the boat hull length or the manufacturers boat size. He believed that there would be a number of boats in violation of this condition if the Board were to approve the application as proposed. Additionally, he believed that it might be more favorable to move some of the boats to the north and not require consent from the abutting neighbor to the south, although this might cause some problems to the applicant's on how they use their lakeshore frontage.

Nelson questioned whether they had the freedom to move docks to the north because of a condition on the original dredging permit. This condition required the Association to take the docks from Smithtown Bay and move them into the channel area. He believed that the channel was narrow; however, the problem existed primarily 150' to the south. He had talked to Mr. Thompson and he had no problems with the proposed dock location. In fact, Mr. Thompson was of the belief that the problem was created by an arbitrary interpretation of LMCD rules.

Babcock stated that the applicant cannot have it both ways. Either the Association needs to live with the mutual consent arrangement, which can be revoked at any time, or the docks should be reconfigured in a manner that does not require mutual consent.

Harper asked for clarification of what agency placed the restriction to store boats in the channel area as part of the dredging permit.

Nelson stated that approximately \$100,000 was invested to dredge the channel initially in the 1970's. Permitting and/or review was required from a number of agencies, including the MCWD and the MN DNR. This channel was allowed to be dredge at that time to take boats from the primary part of the lake and re-locate them into the channel area. Because of this, the Association does not have the right to re-locate boats back to the primary part of the lake without violating this condition of the original dredging permit.

Skramstad asked for further background and comments from the applicant.

Mr. Tom Sheehan, 810 Smithtown Terrace, stated that he was president of the Smithtown Association. He addressed questions and comments that had been raised by the Board. Relative to Outlot D and the issues of side setbacks, the Association has elected to address this issue after the expansion issues have been resolved. He believed that the setback issue would require additional analysis to find out where Outlot D exists. With regards to moving slips further to the north in the channel, this might be problematic because these slips, in their current locations, were not removed during the winter months. He addressed the number of BSUs, including the proposal to reduce the number from 17 to 16. It was determined that this BSU was not necessary and the square footage from this BSU was reallocated for the proposed increase in length from 20' to 21'. One of the remaining BSUs, proposed BSU 16, needed to be reserved for an unbuilt property. He stated that he was unclear on the intent of the four foot length overall overhang restriction. He understood that this condition would restrict a watercraft from extending greater than four feet beyond the end of the dock.

Babcock asked if it was the applicant's intent to proceed with only Outlot B at this time.

Sheenhan stated that it was.

LeFevere stated when assessing the four foot overhang restriction, he believed it took into consideration the four foot overhang including the swim platform, the motor, and anything else sticking out the back. If there was overhang at the front of the boat, such as a bow sprit that extended three feet over the shore, he did not believe that this would be factored in the length overall measurement.

Skramstad opened the public hearing at 7:56 p.m. There being no comments, he closed the public hearing at 7:57 p.m. He asked the Board for comments on how they might want to proceed.

McDermott stated that if Outlot D were truly owned by the Association, it was possible that Mr. Thompson did not own any lakeshore frontage.

Nelson suggested that this issue does not need to be addressed at this meeting because of the mutual

consent granted by Mr. Thompson. If this situation were to continue in the future and the abutting neighbor did not have any problems, the Association might ask that the annual mutual condition be removed.

LeFevere stated that his previous reference to the four foot overhang restriction was incorrect. Code Section 2.015, subd. 9 outlines watercraft length limitations for these types of applications. He clarified that the bow sprit was included in the length overall measurement, even if it were hanging over the shore.

Sheenhan expressed concern about the four foot overhang restriction interpretation and he was unclear on how to proceed. The bow docks in front were not connector docks because these BSUs were directly connected to the seawall. With this interpretation, he believed that a number of Association members would need to sell their current boats to comply with the four foot overhang restriction.

Babcock stated that the clarification provided by LeFevere was the way the ordinance was written, not an interpretation.

LeFevere stated that he believed it was easier for staff to enforce the ordinance by measuring the length of the boat rather than the overhang of the boat at a slip.

Seuntjens stated that he believed that this was an example of the pressure to store larger boat on Lake Minnetonka.

Babcock reminded those present that the four foot length overall applied only to those facilities that were legal, non-conforming and were applying to reconfigure.

Nelson stated that the issue before the Board was an ordinance issue rather than an environmental issue. He believed that the Board, in the past, tried to work through issues with the public. However, this has created problems with neighbors as to what exists and puts a burden on the applicant as to what they can or cannot have.

LeFevere stated that the Code allows the Board to specify a different length limitation at the time of approval if the Board concludes that the four foot length limitation was not appropriate. For the Smithtown Bay Association application, the Board has the ability to shorten or lengthen the 25' length overall restriction if deemed appropriate.

Skramstad stated that he would favor allowing the Association to have a four foot overhang at the back of the slip, with no overhang restriction at the front of the slip, provided the boats do not impede navigation.

Babcock stated that he was troubled with discussion to allow for exceptions to rules when the primary reason for the application was that the Association was illegally installing larger docks in recent years to store larger boats.

Nelson concurred with the comments made by Skramstad.

Nybeck stated that if the Board were to proceed with approval of the application with an exception to the four foot overhang restriction, he believed that it should be limited to a boat(s) and should go away once the boat(s) were sold.

Whalen questioned whether that would be appropriate because the Association had already installed docks that exceeded what was approved. She believed that the better route was to either: 1) give the applicant an opportunity to come back with a different plan to comply with LMCD Code, or 2) have the LMCD look further into this and specify which slips would be allowed longer boats. She questioned whether this could be done at this meeting and she believed that the Board might want to allow the applicant further time to consider these options.

Babcock concurred with Whalen in giving the applicant more time.

Scanlon questioned whether the Board should be concerned about the rights of the property on the other side of the channel.

Babcock stated that he believed the Board had been concerned about their rights in the past and this should continue. However, there did not appear to be a significant change at this time.

Skramstad stated that the Board would need to decide whether the dock structure and boat storage was impeding navigation, which was subject to interpretation.

Van Hercke stated that she also supported giving the applicant more time based on the discussion at this meeting.

LeFevere stated that it had been implied that the Association had done something wrong by increasing the size of the boats being stored at the docks. What the applicant had done wrong was the illegal increase in slip sizes. If the docks were installed at the approved length and larger watercraft were stored in these slips with an overhang greater than four feet overall length, this would not be a violation of LMCD Code.

Skramstad asked Sheehan if he would like more time to have further discussions with the Association prior to the Board taking action on the application.

Sheehan stated that he was not prepared to accept the four foot overhang restriction at this time. The conflicts that would be created by variable length docks for all with an equal share was huge for the Association. The Association spends a lot of time and money on the channel, believing that it was a service to the Lake and that they were reasonably good stewards. Finally, it was probably the Associations by laws that led to the dilemma. The bylaws have changed to not allow for voluntary increase in dock size without approval from the Association. If the Association reduced the dock lengths to the 20' dock length that was already approved, would there be an overhang restriction.

Babcock stated that there would be no overhang restriction, provided it does not impede navigability.

Skramstad stated that there would no further discussion at this meeting and he encouraged Sheehan to work closely with Harper.

1. WATER STRUCTURES

- A. **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 asked for an update from LeFevere.

LeFevere made the following comments:

- At the May 23rd Board meeting, a public hearing was held on the Lovaas variance application, with the Board directing him to prepare draft Findings of Fact and Order to both deny and approve the variance request. These draft Findings were presented at the June 27th Board meeting for consideration.
- During that meeting, legal counsel for the applicants requested that the matter be continued so that the Board could take up consideration of an ordinance amendment. This ordinance amendment, if adopted, would make the need for variance from LMCD Code unnecessary. Specifically, this site would continue to qualify for the five foot grandfathered side setback requirement.
- He reviewed the details of the draft ordinance amendment. Both length and side setback restrictions are subject to some exceptions. Some of those exceptions are grandfathered sites, such as sites in existence since on 2/2/70. These sites are allowed to have smaller setbacks than newly created sites, along with longer docks than their shoreline would otherwise entitle them to. The current Code requires the site to be in existence on that date. Over the years, the LMCD has interpreted that to mean is that if the site was changed in some way, it is not the same site and it loses its grandfathered status. In the case of the Lovaas' site, there was a small addition of shoreline to the site, which under past interpretation, would lose their grandfathered status. He provided examples of what the Board may interpret as a small change to a lot vs. larger changes.
- He reviewed the draft ordinance amendment where a site would not cease to qualify as a site in existence on 2/2/70. Three events were analyzed. First, a decrease in the shoreline of the site caused by a taking of a portion of the shoreline by a government for a public purpose. Second, a change in the site that does not alter the shoreline of the site. Third, the addition of shoreline to the site that does not result in total frontage of the site of 60' or more with respect to length of the dock use area under paragraph a) or more than 50' with respect to setbacks under paragraph b).
- If the Board were to adopt the draft ordinance amendment, the effect on Lovaas' variance request was that the dock use area they proposed would not involve a side setback variance because they would qualify for the five foot setback requirement.
- He entertained questions and comments from the Board.

Seuntjens questioned if the dock length would be impacted by the draft ordinance amendment.

Nybeck stated that the dock length would be 60' or four feet of water depth, whichever was less. Four feet of water depth at this site has been established approximately 56' into the Lake.

The Board discussed the draft ordinance amendment prepared by LeFevere. Some of the comments included:

- The need to clarify that “shoreline” refers to the “929.4’ shoreline”.
- The need to possibly include a more defined term for the word “taking” in the first event.
- The need to understand that a replatting of a site off the shore might have an impact on how a dock use area was defined rather than the amount of shoreline at the site.
- What implications that adoption of this ordinance amendment might cause in the future.
- There was a need to think this ordinance amendment thoroughly by requiring possibly all three readings to take into consideration all possibilities.
- Whether the Board should consider the proposed application under existing ordinances rather than a possible ordinance change.
- An alternative to the proposed ordinance amendment would be for the Board to grant a five foot side setback variance for the Lovass variance application.
- The applicant had agreed to the 56’ length were four feet of water depth had been documented.

Based on the Board comments noted above, it was the consensus of the Board to have LeFevere and staff redraft the proposed ordinance amendment for further review at the next Board meeting.

C. Chair update of 7/10/07 and 7/24/07 Environmental Committee Meetings.

Skramstad asked for an update from Nelson in Gross’ absence.

Nelson stated that a committee meeting was conducted on July 10th, with a brief meeting conducted on July 24th. He believed that everyone agreed that rule changes should be considered for how the rules were used, including environmental purposes. At this time, he believed that the committee was considering two paths. First, there was a need to establish an environmental factual basis for Lake Minnetonka. This has been initiated by LMCD staff and there was a further need to define this with the MCWD. Second, the committee believes that there was a need to re-evaluate the meandering shoreline ordinance, pointing out that the committee would be further evaluating this by working with LeFevere. He believed that another committee meeting would be coordinated in the near future.

D. Additional Business

There was no additional business.

2. EWM/EXOTIC TASK FORCE

A. Chair update of 7/13/07 EWM/Exotics Task Force Meeting.

Skramstad asked Nybeck for background on this agenda item.

Nybeck stated that the Task Force meeting that took place on July 13th focused on a 2007 Lake Vegetation Management Plan (LVMP). The primary discussion at this meeting was to fine-tune the survey questionnaire, with a number of revisions that have been made based on the discussion. This questionnaire was near finalized and should be sent out to stakeholders in the near future. The LVMP boat tour took place on July 23rd with a number of the participating organizations attending. He anticipated scheduling the stakeholder meetings for August, September, and

October in the near future.

B. 2007 EWM Harvesting Program Mid-Season Report.

Skramstad asked for an update from Nybeck on this agenda item.

Nybeck stated that the mid-season report was primarily informational. One point that he highlighted was the reduction in the MN DNR grant from \$40,000 to \$32,700. This was of no fault to the MN DNR and he stated that he was researching options to balance the 2007 EWM Harvesting Program Budget.

C. Additional Business

There was no additional business.

3. FINANCIAL

B. June financial summary and balance sheet.

Skramstad stated he believed it was important to get a more detailed update on the mid-year financial summary and balance sheet. He asked Nybeck to provide such an update.

Nybeck made the following comments:

- Each monthly financial summary and balance sheet assesses planned versus actual revenues and expenditures for both the Administrative and EWM/Exotics Budgets.
- Actual revenues in the Administrative Budget were \$213,455, compared to planned revenues of \$242,484. Three contributing factors to this \$29,029 deficit included: 1) municipal levies- \$14,001, 2) court fines- \$10,920, and 3) licenses- \$5,264. He reported that the \$14,001 deficit in municipal levy revenue had been resolved during the month of July.
- Actual expenditures in the Administrative Budget were \$194,352, compared to planned expenditures of \$205,147. Although actual expenses were \$10,796 below what was planned, he pointed out that legal expenses incurred to date were \$12,733 over what was planned.
- Actual revenues in the EWM/Exotics Budget were \$33,736, compared to planned revenues of \$36,999. The primary contributing factor to this \$3,263 deficit was municipal levies- \$4,327, which has been resolved during the month of July.
- Actual expenditures in the EWM/Exotics Budget were \$25,886, compared to planned expenditures of \$42,325. He stated that it was difficult to provide much of an assessment because the 2007 EWM Harvesting Program commenced in the middle of June.
- He entertained questions and the comments from the Board.

D. Additional Business

There was no additional business.

4. LAKE USE AND RECREATION

A. Ordinance Amendment, second reading of an ordinance relating to the regulation of watercraft for

hire on Lake Minnetonka.

Nybeck recommended that the Board consider moving discussion of this agenda item to another Board meeting due to the timing of the meeting and other planned agenda items at this meeting. The consensus of the Board agreed with Nybeck's recommendation.

B. Additional Business,

There was no additional business.

5. ADMINISTRATION

There was no discussion.

6. SAVE THE LAKE

Nelson thanked all the generous donors to "Save The Lake", and acknowledged a recent donation from Dr. and Mrs. Glen Nelson.

7. EXECUTIVE DIRECTOR REPORT

Nybeck updated the Board on three items. First, there were a series of articles provided in the Board packet for informational purposes. Second, the lake level as of July 25th was 928.52', with the dam closed. Third, the Board needed to discuss August Board meeting schedule. Two meetings were planned for August, 8/8/07 and 8/22/07. Public hearings were scheduled for the August 22nd Board meeting and he did not believe that there was a need for two Board meetings in August. Thus, he recommended cancelling the August 8th Board meeting.

The consensus of the Board was to conduct two meetings in August, with a much lighter agenda on August 8th. Possible agenda items on August 8th were continued discussion of the Lovaas variance request and additional discussion of the Environmental Committee.

8. OLD BUSINESS

Babcock asked LeFevere to provide the Board an update on the status of the residential boat storage ordinance based on the recent Court of Appeals ruling.

LeFevere stated that he had initiated communications with Tallen on this ordinance amendment and that a draft would be back before the Board sometime in the near future.

9. NEW BUSINESS

Skramstad stated that a representative of the LMCD had attended the annual event coordinated by Minnesota Waters called "River Night". This event was scheduled for August 15th in 2007 and he believed that it was beneficial for the LMCD to send a representative. He endorsed a Board member, and possibly their significant other, to attend at the LMCD's expense. Tickets were priced at \$125 per person.

The Board discussed LMCD's attendance to the event. In light of the mid-year budget provided by Nybeck earlier in the meeting, a number of Board members discussed whether it was an appropriate expenditure from the Administrative Budget and perhaps would be more appropriate from the "Save the Lake" Budget. Tanner expressed an interest in attending this meeting, stating that he would pay his own way.

MOTION: Nelson moved, McDermott seconded to authorize the expenditure of "Save the Lake" funds for the attendance of up to two Board members to the 2007 River Night event, with attendance of significant others being personally funded.

VOTE: Motion carried unanimously.

10. PENDING LITIGATION (LMCD vs Canning – the Board may vote to discuss this pending litigation in an Executive Session)

11. ADJOURNMENT

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. Upon completion of the executive session, the Board most likely would adjourn the meeting.

MOTION: Babcock moved, Page seconded to: 1) go into executive session at 9:15 p.m. to discuss pending litigation, as allowed by 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