



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT
7:00 P.M. WHITE BEAR CITY HALL
MINUTES of May 19, 2009

APPROVAL DATE: 6/16/09

1. CALL TO ORDER The May 19, 2009 meeting of the White Bear Lake Conservation District was convened by Chair Thomas Hoffman at 7:00 pm.

2. ROLL CALL Present were: Chair Thomas Hoffman, Vice Chair Luke Michaud, Directors Diane Longville, Mike Parenteau, Doug Danks, Mike Stawnychy, Yale Norwick, John Steinworth, George St. Germain. A quorum was present. Recording secretary was Julie Yoho. Absent was Sue Cernohous.

3. AGENDA

Add items: 8a4 LQC Committee report & '09 survey bid
8b4. DWB request; 8c2. '09 boat tour. Move budget to item 8d2.

MOTION #1 (Michaud/Parenteau) Move to approve agenda with additions noted above. All aye, PASSED.

4. APPROVAL OF MINUTES

MOTION #2 (Parenteau/Michaud) Move to approve April minutes. All aye, PASSED.

5. PUBLIC COMMENT TIME

Brian McGoldrick, Docks of White Bear

Has committee meeting regarding commercial bay been scheduled yet?

Michaud – busy month, nothing scheduled yet. Will plan to meet next month

6. NEW BUSINESS

6a. Steve McComas 2008 plant survey & lake levels

Performed concentrated milfoil checks in 4 areas used for racing to determine if control was needed. (brought to Board for decision). Full survey on all plants was done in August. Trends can be determined based on past data. Milfoil in WBL is both Eurasian Milfoil and hybrid cross (Eurasian x native northern). Since 98 has surveyed at same depth, same transect. Growth has been consistent over the years; areas of light growth have remained light growth. Only a few areas have heavy growth, and that has occurred on a one year basis, flared up. Matoska Marsh is heavy growth area. There is around 600 acres of milfoil in WBL. 16 – 20 acres are treated by lakeshore owners. There are a few more heavy growth areas in the past few years, likely due to low lake levels. As level goes down, more growth is at surface. Native plants are intact, no significant loss. Milfoil was first present in WBL in '88. It is not at nuisance growth levels.

Steinworth – as lake levels go down, is there new growth in the new shallow areas? Is it moving?

McComas – It's more concentrated. Benefit of low water is that more bulrush is sprouting. The sedges need low levels to sprout and expand.

Parenteau – will the denser growth areas become worse?

McComas – yes. Areas of heavy growth are now shallower, so more hits the surface. But high nitrogen is needed to create branching. WBL has low nitrogen, so milfoil grows single stems, not dense branching and matting that could be.

Parenteau – seems like numbers spike - why?

McComas – Milfoil has boom years then off years. The nutrient pool builds up = heavy growth. Then nutrients deplete = low growth until nutrients are replenished.

Parenteau – a couple areas have 2 yrs heavy growth. If heavy again, treat?

McComas – yes, potentially. Will check the transects and notify Board the next day if possible. For perspective, some areas of heavy growth in June had died back by end of July.

Kathy Madore – does hybrid variety cause faster spreading?

McComas – at this point the hybrid is present, but is not a factor in comparison to Eurasian. In other lakes it has not taken over. In some lakes it can be active for a year or two. Future surveys will indicate.

Steinworth – has the hybrid been found in other places?

McComas - It's been a minor factor right now in eastern metro lakes, Otter, Bald Eagle, WBL. Northern milfoil has always been in lake, but is not dominant.

Steinworth – how do we classify the hybrid – native or exotic?

McComas – non-native classification

Brian McGoldrick - Is treatment more effective when water levels are low?

McComas – If there is heavy growth, treatment can be considered. Timing of treatment is more important than water levels. EWM is not necessarily bad until at heavy growth levels. Surveys indicate pattern will continue of light growth in most areas. Consider treating only heavy areas.

Steinworth – can you discuss the effectiveness of treatment?

McComas – The milfoil comes back after treatment. If the sediments are conducive to growth, it will come back. Sometimes it will go away on it's own after nutrients are depleted. Treatments are an annual control measure, not necessarily long term control.

Steinworth – can you speak to sediment testing?

McComas – In '98 a survey was done of soils, with predictions of growth based on results.

Steinworth – can you speak on the Marsh area?

McComas - The Marsh area is peaty. Sediments are high in nitrogen which supports growth. It's also a shallow area so it doesn't take much growth to hit surface.

Mark Tippler, angler - How would treatment affect fishery? How does milfoil affect?

McComas – Milfoil stem density is no higher than native plants. If there is heavy stem density and matting it may affect fish movement. Main problem is for watercraft. Fish can move around. Not as bad of a problem as curly leaf pondweed. Herbicides, if done correctly, should not have acute impact. There are unknowns about long term chronic effects, more subtle. Fish will vacate treated

areas. The 16 – 20 acres treated over the past 10 years are probably not a substantial impact.

Fletcher Driscoll – While sailing A skows in the past 2 years, the boats have been picking up milfoil more and more. There is clumping that has been moving across lake. Not just matting. Seems growth is moving out into lake.

Steinworth – clumps are how thick? Are they free floating? What could we possibly do?

McComas – would have to use a harvester to pick up

Driscoll – at what depth does matting become a problem in the Boards opinion?

McComas – according to the Lake Management Plan, within 2 feet of surface.

Driscoll – It is a problem for sailors further down. Is there any way to change criteria to 3 feet? Afraid to organize races on lake.

Hoffman – Board would look at issue in Lake Quality Committee and look for recommendations changes in the criteria.

6c. Tally's parking, Tony Feffer

Feels there is an issue with the City of WBL's determination regarding grandfathered slips

Kantrud – has reviewed some of the documents. City does not seem clear. Board could write a letter seeking clarification.

Hoffman – have you brought this to city?

Feffer – no. WB Press has questioned, gotten run around. Refuse to address question. Would like to have Alan craft letter.

Norwick – feels comfortable if Alan has a concern that we draft letter to get clarification.

Alan – would need to get more information. Tony is not Board member, no one has ordered he look into this issue.

Hoffman – would like this to go to city and look at response. Seems like city issue.

Feffer – city has already sent 2 letters. Feels attorney should craft letter pointing out discrepancies. Will be treated diffidently coming from attorney.

MOTION # 3 (Norwick/Steinworth) Move to direct attorney to write letter of inquiry seeking clarification from city on the Tally's parking question.

Discussion

St Germain – issue is slips were granted and grandfathered in?

Feffer – zoning laws were required in order for those to be grandfathered in

St Germain – city is aware more slips were added in 99.

Michaud – haven't there already been lawsuits in this area?

Feffer – yes. Unsure if finalized, under appeal.

Michaud – first judgment went in favor of city? Do you have any financial relationship with Mr. Ettel?

Feffer – yes on the judgment, no relationship

Motion vote

4 Aye, (Norwick, Longville, Danks, Steinworth); 4 No (Stawnychy, St. Germain, Hoffman, Michaud), 1 abstain (Parenteau). Motion FAILS for lack of majority.

6d. Draft ADUA language – Danks. Would like board to review and prepare for public hearing in June. Here is draft language to clarify ADUA in Ordinance 5 (handout).

Hoffman – process?

Kantrud – This is time for board to look at, bring back next month for 1st reading. 2nd reading and public hearing in July. Then publish in legals. Ordinance becomes effective after publishing. Date could be placed in document for no retroactive effect

Jim Greeley – how can there be 5’ setback? there are lots of small lots that would be in violation

Danks – there are remedies in case of hardship

Parenteau – in past there was lots of trouble involved with extending lot lines. Suggest that language not be in there.

St Germain – purposely left it out in past over the concern that due to the natural coves and shoreline would completely eliminate some peoples ADUAs. Left it to discretion of Board to determine. Historically we use lot lines but not always possible

Michaud – oppose anything that makes the lake seem more like owned property. It is public water.

Norwick – disagree. LMCD addresses clearly and extends lot lines. Ordinance now is too subjective, too vague.

Steinworth – recalls workshop discussion, but doesn’t recall opposition to new language. Thinks it’s good and time to clarify. We still have leeway, but this gives more guidelines.

Norwick – would eliminate some of these dock situations and could better define why we do things

Parenteau – ADUA is a right to use lake. This could cause more problems due to lot shapes

Danks – There is still language here for board to adjust when there is a disagreement.

St Germain – staying perpendicular to shoreline where the lot hits shore would be a better rule

Norwick – good idea. Will still be an issue in some areas

Kantrud – Would like Doug to spend some time justifying why change is necessary. What are you trying to accomplish with modification, rather than get hung up on language.

Danks – subcommittee was charged with why Ordinance 5 should be looked at. Looking for a reasonable way to define setbacks and distribution. Much of language here is from LMCD ordinances.

St Germain – in past we purposely did not use this language.

Kantrud – You can change the language tonight, and have public hearing at the next meeting if final form/version is done. Board would officially pass the language at the first reading/public hearing meeting.

Steinworth – There is no rush, take time to do well

Stawnychy – staying perpendicular to shoreline makes more sense. Lot lines will cause problems

Norwick – right now we have vague ADUA. We can’t define a hardship case if ADUA is not defined

Kantrud – the lay of the land determines hardship. Things are already in place without extending lines into water. Procedures can resolve hardship.

Norwick – it's not black and white

Michaud – eliminate lot lines. Would suggest using a picture to define

MOTION # 4 (Danks/Steinworth) Move to table this discussion until June and propose another draft. All aye, PASSED.

5 min break

6e. Canopy language. Addition of language to Ordinance 5 specific to canopies.

Michaud – In the workshop we indicated need of regulation and desire to have text regarding canopies. Here is draft. (handout) There are 2 versions of the definition language, prefer 2nd.

Discussison

Tony Sampair – define ADUA if looking at sight lines

Kathy Madore – why?

Michaud – Board determined canopies should be looked at. Options are: no change, follow LMCD rules, or be more restrictive

Greeley – setbacks are different for lifts with canopy vs. lifts.

Michaud – this is specific to lifts with canopies. Setbacks only apply to canopies

Jim Simney, Birchwood - People have investments in their boats. Multi use docks are being singled out. Finds this offensive. Selective enforcement.

Norwick – LMCD does the same thing. This is designed so there is not a wall up with 20 boats visually blocking out the lake.

Kantrud – can move this language to public hearing in June

Michaud – Lets draft all changes to Ordinance 5 at one time.

Steinworth – control was intended to contain color and obstructions before out of control. Can Alan help with verbiage to define color?

Kantrud – Would suggest tabling so he can look at

Hoffman – suggest motion to table

MOTION # 5 (Danks/Steinworth) Move to table and combine draft addressing both issues in Ordinance 5 and look at again in June. All aye, passed

6f. Committee Appointments

Steinworth to be chair of LQC in 2009.

MOTION # 6 (Michaud/Parenteau) Move to approve change of LQC chair to Steinwoth. All aye, passed.

7. UNFINISHED BUSINESS

none

8. REPORTS/ACTION ITEMS

8a. Lake Quality Committee

8a1. Swimmers itch – We budgeted to reimburse for 1 treatment per beach. Julie to send standard letter.

8a2. buoys – need 7 more. Don't need graphics

MOTION #7 (Parenteau / Michaud) Move to approve spending up to \$1500 for 7 more buoys. All aye, passed.

8a3. Lake level 920.82 today. Temp. 62.

8a4. held LQC meeting tonight. Looked at survey. Received bid for '09 survey for \$6100.

Should we talk about getting competing bids for plant survey?

Kantrud – not mandatory. Rule excludes professional services and is under the mandatory amount.

Steinworth – is there a reason to change? It would be too late to collect early survey data; would compromise our data

MOTION #8 (Parenteau/Steinworth) Move to accept bid for 2009 plant survey from Blue Water Science.

Kantrud – suggest if you want to switch or get other bids, do it in off season

Norwick – would be best practice to do periodically

All aye, passed.

8a4. Zebra muscle study bid: Parenteau - Steve McComas has provided a bid to contract an assessment for potential zebra muscle impact in WBL. Also, could develop new signs in conjunction with LEC regarding zebra muscles and milfoil.

Steinworth – can we have brief summary of the study proposal?

McComas – zebra muscles have been found in Prior Lake. More concern about spreading from Mille Lacs. If discovered in WBL, assessment will be pre-emptive strike to determine how much of the lake bottom is sediments vs. hard surface. Will give us an idea if we should be nervous or not. It takes time for them to have impact in worse case scenario. This can proactively address questions.

Stawnychy – how can we keep them out? How to kill?

McComas – boat inspections, information & education. If caught early enough, can maybe control - has to be early. Ways to kill include water drawdown, tarp w/bleach, or hand removal. Must treat in first few months of detection. Takes 3-7 yrs for them to spread. Need hard substrate composition to live. Assessment would include mud line determination and dives to look at substrate. Zebra muscles can live at any depth if there is oxygen. They filter algae and deposit feces which can impact fish and plants. We did a similar study for milfoil.

MOTION #9 (Steinworth/Hoffman) Move to spend \$3500 to do study / assessment for zebra muscles.

Discussion

Michaud – Is the first step examining lake? Or an education piece?

Steinworth – sounds like there is a small window to treat at beginning. Do we do nothing? Or know places to look to find in early stages? Sounds like they will eventually come. What is our obligation to be proactive? Is it winnable?

Parenteau – 1 time study, annual inspections?

McComas – every dock that comes out can be inspected.

St.Germain – the record is not good at beating these

Hoffman – this is good information to have on record
Danks – LEC will work on signage and start design process

Friendly amendment to include LEC informational sign design (Danks).

Vote

All aye, passed.

If treatment as needed, money comes from reserves.

St Germain – some in milfoil account, then reserves

8b.Lake Utilization Committee p

8b1. Altstatt buoy permit. Tabled until next month, not complete, need drawing.

8b2. Mark Tippler charity bass tournament

MOTION # 10 (Michaud/St. Germain) Move to approve permit subject to insurance and waive fee for charity event. All Aye, passed.

8b3. Birchwood's Dellwood Park and neighboring docks
review of draft resolution findings

MOTION # 11 (Michaud/St Germain) Move to issue order of the Board to enforce the draft dispute resolution findings.

Discussion

Norwick – neighbor docks do not obstruct, does not violate Ordinance 5. They are more in compliance than the Dellwood dock.

Kantrud – Ordinance 5 lets Board resolve conflict. Usually parties involved resolve their issues themselves. But Board can ask any and all to do what is appropriate. You have authority to do.

Norwick – LUC is advisory committee

Kantrud – now issue is in front of full board

Norwick – Alan, have you reviewed letters from LUC that occurred without full board?

Hoffman - Keep on issue

Norwick – would like professional opinion. Offended by draft going out. Why do we see only one side?

Danks – would like to hear from neighbors on why they put their docks right on the lot lines

Michaud – This resolution addresses the full conflict, not just this years placement

Greeley – is there a procedure for a summary that was written before meeting takes place?

Michaud – this is my draft, no date

Greeley – Is there complaint from the riparian owner?

Norwick – complaint is that dock was positioned within 10 feet of structure

Michaud – there is ongoing conflict in the area that needs to be resolved

Greeley – should be driven by riparian owner complaint. No one asked for this to be done. Question over safety hazard within ADUA. We were close to a resolution then Dellwood moved boats to other side of the dock.

I put dock on lot line to provide safety for my users. Issue is Dellwood

boats intruding into ADUA. Request this to be tabled so we can work out. This is arbitrary and capricious.

Kathy Madore, neighbor - They all should move, not just one. The Assoc. does not own land, the others do. Is it safety issue? Why does anyone have to move?

Michaud – We've already made the association move for 09.

Madore – landowners can put their docks wherever they want. Seems arbitrary

Michaud – in most cases yes, they can place wherever they want

Brian Lind, Dellwood Dock Association President – Have a handout showing how they placed dock, procedure they went through, plat maps...

Michaud – placement of Dellwood dock is not in this motion

Norwick – drawings don't seem to match the application

Friendly Amendment (Michaud/St. Germain) Survey to be ordered by the board to resolve the dispute and determine exact placement. Cost of survey to be billed to the 3 site owners in the dispute.

Norwick – permanent placement?

Michaud – yes, any deviation will require approval. Can add more specifics...

Norwick – so we only follow 95% of what we say?

Tony Sampair – feels same as Jim. How does my dock affect the safety of Dellwood members as it sits right now, in my own ADUA?

Norwick – I don't think it does

Michaud – resolution findings are right there.

Sampair – specifically how?

Michaud – you're out of compliance, within 5' of another structure.

Sampair – last summer they were completely within my ADUA, they were out of compliance. Arbitrary. Why don't they have to center their dock?

Michaud – isn't there currently a lawsuit? Can we answer?

Kantrud – based on that fact, agree, can't answer

Sampair – my attorney did not want to be here due to that. Whole process has been arbitrary and capricious. Draft shows wrong footage. All easements in Birchwood have been inconsistent. How would you like someone on your property? To what extent do you allow bending of rules? My shrubs were cut down. Would you like it?

Kantrud – land activities and trespass issues should not have impact on water decision.

Sampair – disagrees...

Jim Simning – footage of 50' vs 47' it's always been 50'. Discrepancies fall to east in the right of way.

Barb Carson, City of Birchwood - Thank you to the Board for volunteering your time on this. Would like this issue to be resolved and not tabled. Resolve so association can use boats as city has determined.

Hoffman – against resolution. This seems like dispute about property

Is it 50' or 47'? Agree we need to resolve. Would grant variance for the summer for association to keep dock there. Disappointed in neighbors inability to resolve on their own.

Steinworth – resolution of dispute is favorable. Will permanently fix and define lines, or dispute will continue.

Hoffman – suggest we move forward with survey

2nd Friendly amendment (Michaud/St. Germain) add “survey required only if owners can’t resolve dock placement”. Not required to have them do and pay for survey.

Danks – will neighbors move without board order?

Michaud – if dock placement was the only issue, that could work. Motion is on the table.

Norwick – lets follow rules, fix next year with revised ordinance. Feel we’re bending rules here. Original application does not reflect what we have.

Kantrud – deviation can be allowed, it’s built into order. Provides that they can still resolve on their own.

Ron Males, association member – Offers to help neighbors move. Jims dock is longer than theirs now.

MOTION #11 Vote

6 Aye, 3 Nay. Passed

8b4. Docks of White Bear. Would like to move transient slips out on end if fingers. Currently land locked due to water level. LUC recommends Mike Stawnychy look at site and look at options. We can do motion in June if reconfiguration happens.

Parenteau – have to work with low water levels this year

8c. Lake Education Committee

8c1. resolution :We have a resolution to accept funds from White Bear Homeowners association.

MOTION # 12 (Danks/Parenteau) Move to accept resolution accepting funds from the White Bear Homeowners Association.

Discussion

Hoffman – are they disbanding?

Danks - Yes

All aye, passed.

8c2. 2009 Boat Tour

will be June 18. There is concern over water level at Matoska launch. Will watch.

8d. Treasurers report

8d1. May treasurers report

MOTION # 13 (Longville/Parenteau) Move to approve May treasurers report and pay checks 3906 – 3913. All aye, passed.

8d2. 2010 budget – any additional changes?

St Germain – “misc. prof services” account should be re-named. Include explanation with budget.

Longville - If anything else, let Julie know.

St Germain – how confident do you feel (Yale) about Washington county helping with enforcement?

Norwick – sounds good

Kantrud – we would do joint powers or similar agreement if it works out

8e. Board Counsel Report

not much activity yet. Governors Fishing Opener went well

8f. Administrative Staff Report

Documents in packet this month:

Copies of correspondence:

- Notice of Discussion regarding Birchwood’s Dellwood Park and neighboring docks
- Pontoon Boat Tour invitation

Other items:

- Agenda
- April draft minutes
- Permit application – Altstatt
- Permit application – Tipler Bass Tournament
- 2010 budget draft
- ADUA language draft
- Org. chart / committee information
- Draft Dellwood Beach dispute resolution
- Water level chart
- 2 quotes from Steve McComas for 2009 studies

9. CONSENT AGENDA

MOTION # 14 (Michaud/Parenteau) Move to approve consent agenda. All Aye, Passed.

10. ANNOUNCEMENTS

none

11. ADJOURNMENT

MOTION # 15 (Michaud/Steinworth) Move to adjourn. All Aye, Passed.

Meeting adjourned at 10:30 p.m.

ATTEST:

Administrative Secretary

Date

APPROVED:

Board Chairperson

Date