



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT
7:00 P.M. WHITE BEAR CITY HALL
MINUTES of October 20, 2009

APPROVAL DATE: 11/17/09

1. CALL TO ORDER The October meeting of the White Bear Lake Conservation District was convened by Chair Thomas Hoffman at 7:05 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, Sue Cernohous. Absent was George St. Germain (excused). A quorum was present. Recording secretary was Julie Yoho

3. AGENDA

Add items: zebra muscle report; add lake level & water temp; update on water patrol
MOTION #1 (Michaud/Parenteau) Move to approve agenda with above additions. All aye, passed

4. APPROVAL OF MINUTES

MOTION #2 (Michaud/Cernohous) Move to approve September minutes. All aye, passed.

5. PUBLIC COMMENT TIME

Richard Galena, Birchwood

Concerned with milfoil in WBL. Was member on the Board in early 90s when it first appeared. Good surveys were done and areas chemically treated. There is controversy over harvesting. Spoke with Dick Osgood about new herbicide used in Lake Minnetonka – Triclopyr. 2 bays were treated with success, it's a selective herbicide. Harvesting is slow. Asking for better plan next season. Herbicide more effective and faster than harvesting, can treat in spring without waiting for growth. Will provide the Board more information.

Stawnychy – agrees Board needs to be more proactive

Steinworth – We have 2000 acres of milfoil distribution. 200 acres of monoculture and that is what was treated. DNR regulates how much can be treated (percentage). It's tough to get a proactive permit. Problem has to exist and be delineated, then permit can be gotten for treatment. Harvesting can be permitted beforehand, proactively. Have not yet discussed treatment for next year. Board will be looking at ways to be proactive.

Michaud – public comment time is for public comment, not for extended response.

Brian McGoldrick, Docks of White Bear

Will have more definitive plan for ice skating at next meeting.

Regarding dock fees, historically fees based on number of slips approved v.s. how many can be used due to low water. Should I request 150 or hope for rain for 200 slips?

The winter carnival ice fishing parking has been agreed on – since they changed location.

Good discussion on the commercial bay slip allocation

6. NEW BUSINESS

Ordinance 5 proposed changes. 1st reading has passed. Now public comment and second reading.

Kantrud – final changes will need to be published.

Hoffman – have received concern from 10' easement holders over setback requirements

Norwick – no problem with changing setback

Michaud – recommend sticking with original language as it has worked for long time

Stawnychy – what about first in conflicts?

Danks – agree to include language to have minimum frontage before setback is requirement. Part 3 sub 1c1 allows for adjoining owners to adjust. Part 7 variance section provides relief option.

Michaud – if stated as less than 40', problems will come up all around lake

Public comment

Gene Altstatt, 67 Wildwood Beach Road

Previously has served on LMCD. This ordinance is nearly the same as theirs. Unintended consequences that occurred: converging lot lines (with extension) will create more neighbor disputes. Affects property values. LMCD had to initiate some litigation based on rules, rather than it coming to them. Current ordinance seems to work. Once this in place, impossible to undo. Could be real problem for future vs what you have now. Seems you've been able to resolve disputes currently, rather than dealing with litigation due to minuteness of law you are considering. At minimum, don't do extended lot lines, but go parallel from ordinary high water mark. Maybe less complication in future. A lot of people on WBL have no idea what this means to them / how it affects them. At least recommend table and get more public input on this.

Brian McGoldrick

Clarification. If setback is 5 feet on each side....

Michaud – current is 10' away from another structure, unless mutual agreement

McGoldrick – need to have rules. Always will have people disagreeing and suing. Would like to see some setbacks if done fairly.

Dick Galena

Agree with what Gene said. Ask Board to table for further input from community. Was on board when Ord 5 was adopted, so is familiar with it. New provision not needed. 99% of people have figured out correct placement.

Historical placement. 5' Setback will affect 99 percent of people and will create major conflict. If only applies to 40 feet or more, very discriminatory, why single out and will cause litigation. Giving more rights to some. Board should not be doing. Most people do not go according to lot lines, usually perpendicular to their shoreline. This will have docks going at strange angles, not perpendicular, problem for neighbors. Benefit to public in changing this is very little. Huge burden on people who have historically placed docks, have steps, etc. 5' setback – why do you need if no conflict? Compromise of within 10', then board can mandate the 5' setback if needed. (as it stands) why mandate if not needed? Doesn't make benefit, rather burden. Slip structure canopy text applies to what? Too vague. Table for more input and better written ordinance. Steinworth – off topic, board should discuss first and hasn't. focus on one issue at time.

Hoffman – intent was to open discussion for all of Ord. 5. intent was to be more specific about ADUA boundaries, create setbacks, address large canopies
Parenteau – ADUA extending property lines is problem for many areas. No problem with canopy language as it's not shore station. Ordinance did not need tweaking.

Stawnychy – 5' setback will cause more problems around lake. LUC has been handling when there are problems. Would like to see that the board has power to locate docks.

Steinworth – misconception that we are mandating location of docks. Dealing with dispute resolution guidelines we can use when there is a problem. In all cases where there is mutual agreement, no changes have to be made.

Michaud – like several others here, I have no problem with regulating the large garage style moorings/canopy. Remainder of the ordinance with the ADUA and setbacks language - will not support changes. Deal with this more than others.

Norwick – if setback is problem, they were too close anyway. Need to have base line, more definitive guidelines. LMCD delineates based on amount of shoreline. Not going to make everyone move their boats, but eliminate the 1st in placement issue. This provides baseline to grant variance.

Danks – ADUA definition – create more problems for board... not looking at objectively. Don't know if there is hardships created by one vs the other. I think there are some areas that will have more issues, but those are in the minority. Language is helpful for homeowners to decide where structure should be placed without having to come to Board or committee. There is still relief for narrow lots and diverging boundaries, variance process is in place and can codify resolution. Intention is to set up mechanism where neighbors can come to decision on where to place.

Hoffman – I feel this clarifies, like setback, wont impact 99 percent of lake, eliminates race to be first. I support canopy language.

Michaud – problems get solved at Board level, not at LUC. I've been on board for 12 years, dealt with disputes. This is the first year there has been a dispute due to first in. Most disputes arise out of personality, not geography. Current ord allows us to adjust things, neighbors to adjust things.

Kantrud – you need justification for the 40' text change. You are dramatically changing law for 1 percent of lake. If you table another month, I can work with Mr. Galena to develop better text on canopies.

Hoffman – We are putting in writing the long standing intent of the original ordinance, not changing for 1 percent
Stawynychy – dealing with a few people issues, this will keep some from having a dock on 10 feet of land
Hoffman – 40’ is threshold for allowing dock and boat lift

Public comment

Kathy Madore

If someone has 10’ they cannot have dock? You will have problems. Do I understand this correctly?

Norwick – if ordinance creates a hardship, a variance can be granted

Madore – but you are taking something away, have to come in for variance?

Bob Nicholson, Birchwood

Was not aware of this ordinance change. Most people have not seen this or read this either. Recommend you table so more people can participate and understand old ordinance and changes. There is a lot of change suggested here, confident you will see litigation without public support.

Don Madore, Birchwood

Why is there text about slip structure canopy? Where did this come from?

Don’t follow LMCD just because

Michaud – agree not to just follow, but LMCD recommended this as they are used as fences, fights with neighbors. The ordinance defines large structure

Dick Galena

Steinworth said it would provide dispute resolution guidelines to follow. There is difference between rules, guidelines, ordinances. Guidelines can exist without being in ordinance. You can have rule in case of problem, on case by case. Not broad paintbrush, what is reason to apply to all? If no dispute, no rational reason for this. Can accomplish same objective in a rule or guideline, rather than ordinance that applies to all. Please consider. Table.

Hoffman – motion for any action?

MOTION # 3 (Michaud / Longville) Move to table entire ordinance.

Norwick – have been working on for long time, many meetings, want to be clear.

Vote

3 nay, (Hoffman, Norwick, Steinworth) 6 aye. Motion passes. Ordinance tabled

7. UNFINISHED BUSINESS

7a. Norwick -Water patrol update - Washington county

Sheriff boat may be kept at WBYC. Will have estimate of annual hours soon.

Acknowledged they have responsibility and will commit manpower to WBL

Hoffman – next year will have both patrols, as we see how it works out we can plan for 2011

Thanks to WBYC and to DWB for offering slips for patrol boats.

8. REPORTS/ACTION ITEMS

8a. Lake Quality Committee

8a1. Steve McComas completed plant survey and zebra muscle study in September. Should be able to predict what kind of milfoil growth to expect next year. Zebra muscle report coming soon. Water and bottom conditions are favorable for muscle growth, however may not be enough food/algae. Report in November

8a2. Temp 49 degrees. Water level 919.89 = all time low.

8b. Lake Utilization Committee

8b1. Bearly Open golf tournament.

MOTION # 4 (Michaud/Parenteau) Move to approve tournament permit. All aye, passed

8b2. Polar Plunge. Change in location to Ramsey co beach due to size of event.

MOTION # 5 (Michaud / Parenteau) Approve permit and waive fee for the event. All aye passed.

Event is the same day as the Winter Carnival ice fishing. All organizers have met, and moved ice fishing event to VFW area. Parking has been arranged there with area businesses.

Friendly amendment MOTION 5 – waive fee for Bearly Open. (Michaud/Parenteau) All aye, passed.

8b3. Bob Broen change adding one boat

MOTION #6 (Michaud/Parenteau) Move to approve permit for Bob Broen.

Discussion

Steinworth – is there reason for increase?

Michaud – nothing stated

Steinworth – any other app with increase is usually accompanied by explanation or appearance. Need reason to vote for increase.

Danks – were neighbors notified?

Yoho – yes

Parenteau – would be best to have him here, had reason in past which we accepted

Steinworth – not fair, what is objective criteria?

Vote

6 aye, 3 no (Norwick, Longville, Steinworth) passed

8b4. Snyder's bay

MOTION # 7 (Michaud/Cernohous) Move to approve permit for Snyders Bay. All aye, passed

8b5. Veterans pier

MOTION #8 (Michaud/Parenteau) Move to approve permit and waive fee. All aye, passed.

8b5. Matoska park

MOTION # 9 (Michaud/Parenteau) Move to approve permit. All aye, passed

8b6. Commercial bay slip allocation handout

A look at numerical application of slip numbers. 1 per 4' ratio, 1 per 5', as today 1 per 3.13 feet. Shows impacts on operators. For discussion purposes

Steinworth – has there been another meeting? Let me know if/when

8b7. Dock dispute in Mahtomedi

LUC will do draft of dispute resolution and bring to next meeting. Any suggestions please let Luke know.

Copy of letter to South Shore owners in dispute area.

Parenteau – 2 parties are here, any comments?

No, friendly neighbors

City of Birchwood extension request.

Move deadline to January meeting date

MOTION # 10 (Michaud/Hoffman) Move to extend deadline to January for City of Birchwood. All aye, passed

8c. Lake Education Committee

Email data base for WBLCD. Subscribers could receive voluntary information. Mail chimp provides services for 500 or less, its free. Can provide link from our website to sign up. Handle administration. We would have to provide information using their templates to send out.

Hoffman – is there way to control number of subscribers and cost?

Danks – we would be gatekeepers and control number

Hoffman – great idea to communicate.

Danks – who will prepare information for release? Staff? Board member?

Should we decide before we commit?

Hoffman – have standard communication that can go out without board approval. Any special communication can come before board.

8d. Treasurers report

MOTION #11 (Longville/Michaud) Move to approve and pay checks 3937 – 3944. All aye, passed.

Michaud – have bills been sent for non payment?

8e. Board Counsel Report

Kantrud – slow month

Update on Birchwood – criminal charges in Wa county. Dispute resolution has been focus, mediator has been found. Will meet before December.

8f. Administrative Staff Report

email boxes have been set up. Some problems.

Items included in packet this month:

- Agenda
- Sept draft minutes
- Sept LUC draft notes
- Ordinance 5 draft changes
- Permit applications – 2
- Dock permit applications – 4
- 2009 dock summary spreadsheet
- Zebra muscle article
- South Shore Blvd. dock placement letter

9. CONSENT AGENDA

MOTION # 12 (Michaud/Parenteau) Move to approve consent agenda. All Aye, Passed.

10. ANNOUNCEMENTS

none

11. ADJOURNMENT

MOTION # 13 (Parenteau/Michaud) Move to adjourn. All Aye, passed

Meeting adjourned at 8:51 pm

ATTEST:

Administrative Secretary

Date

APPROVED:

Board Chairperson

Date