



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT  
7:00 P.M. WHITE BEAR CITY HALL  
MINUTES of March 17, 2009

APPROVAL DATE: 4/21/09

**1. CALL TO ORDER** The March meeting of the White Bear Lake Conservation District was convened by Vice Chair Luke Michaud at 7:10 pm.

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

**3. AGENDA**

Strike item 8a1 “rock bar update”

Add item 8c3 “April LRC meeting”

**MOTION #1 (Parenteau/Cernohous) Move to approve agenda as amended. All aye, PASSED.**

**4. APPROVAL OF MINUTES**

one change – page 3, Danks is statement, not question regarding neighbor meetings

**MOTION #2 (Cernohous/Danks) Move to approve minutes as amended. All aye, PASSED.**

**5. PUBLIC COMMENT TIME**

Tony Feffer, WBL resident, LUC member

Concern over Tally’s parking requirements. Permit is conditional to receiving letter from City - want to be sure there is parking space for 65 slips & that City realizes the application is for 65 slips.

Michaud – FYI to board, we are looking into/in process of reviewing with city Feffer – Tally’s has to prove compliance with city ordinances for parking with current number of boats. Seems number has to be reduced to be in compliance.

**6. NEW BUSINESS**

none

**7. UNFINISHED BUSINESS**

none

## 8. REPORTS/ACTION ITEMS

### **8a. Lake Quality Committee**

No information from DNR yet regarding rock bar

### **8b. Lake Utilization Committee**

8b1. Redpath water-ski course

***MOTION #3 (Michaud/St Germain) Move to approve permit for water-ski course for 2009, conditional to proof of insurance and naming WBLCD as also insured.***

#### Discussion

Danks – concern over time of use. Has been used prior to 7a.m. start time.

***Vote***

***All aye, PASSED***

8b2. City of WBL Municipal Marina (formerly WBBW)

***MOTION #4 (Michaud/St Germain) Move to approve permit for 2009 Municipal Marina conditional to proof of insurance.***

#### Discussion

Norwick – there is inconsistency in lakeshore frontage and parking in regards to how slips are allocated. Allocation is currently based on history.

***Vote***

***All aye, PASSED***

8b3. East Shore Dock Assoc

Application was tabled in November as it had to come from/be reviewed by City of Mahtomedi. City will neither deny nor approve.

***MOTION #5 (Michaud/St Germain) Move to approve 2009 permit for East Shore Dock Association conditional to proof of insurance. All aye, PASSED***

8b4. Birchwood – Ash Dock Assoc.

***MOTION #6 (Michaud/Cernohous) Move to approve 2009 Ash Dock Beach Assoc. permit conditional to proof of insurance.***

#### Discussion

Danks – will abstain and will not discuss this permit - is member of Ash. Will comment on others, no financial interest in the other applications.

Norwick – There are issues unresolved in some of the other applications, and concerns over City of Birchwood's role. This application not implicated by those issues.

Dick Galena – Birchwood resident

-Reviewed lawsuit of Sampair vs. WBLCD, City, etc. His opinion that City did not properly approve application as there was conflict of interest for a city council member.

***Vote***

***All aye, PASSED.***

8b5. Birchwood - Birch Beach Dock Assoc.

***MOTION #7 (Michaud/Stawnychy) Move to approve 2009 Birch Beach permit conditional to proof of insurance.***

Discussion

Dick Galena – not here in representative capacity, but as Birchwood resident. Lives 100’ away from this dock. City did not approve any canopies, they will look at issue in July. In past 10 years there has been proliferation of canopies (photo), last year blocked views. Length of dock is 116 feet. Length not consistent with others in area. Others are 70’ or less. Configuration is not in compliance with Ord 5. - too much traffic in area. Not conforming with area use. Is concerned with allegations in lawsuit. At LUC mtg tonight there were opinions expressed that WBLCD is not a policy making board, i.e. if city says it’s ok, then it is. Board has power to make own decision based on own review criteria, not someone else’s. Do not rubber stamp.

Mike Scanlon, Birch Beach Dock assoc., resident

Agrees that things have changed. Increase in boat size and canopies, growth is not inconsistent with riparian owners.

Michaud – aware of changing pressures and Board is currently looking at ways to address canopies.

Danks – feels number of boats is consistent with the surroundings. In this area it’s common to have 50’ properties with docks of 4 boats. Birch Beach has 125’ if it was divided up there could be 10 or more boats on 3 docks. Here they are all on one dock which makes it longer, but preserves some shoreline for swimming and views. Not inconsistent with area use.

Would like to provide some general info on dock associations. There are 5 parks with associations on them. Kay is only swimming. Other 4 allow boating as permitted. 36 members are currently permitted by City of Birchwood to use. There are 52 non boating members in the dock associations. Any Birchwood resident may join an association. Some residents have easement right-of-way language in their deeds.

Associations are aware that changes are required on terms of waiting lists and how to be more fair in who gets slip. They are meeting and working on. Ways of eliminating waiting lists are being developed to provide opportunities to more. Current members do maintenance and clean-up at parks.

Norwick – we are a policy setting board, traffic issues noted but I don’t see that as problem in this area. Area is public/commercial next to private. Canopies noted, board is looking at issue on visual impairment in multi user dock situations.

***Vote***

***All aye, PASSED.***

8b6. Elm Beach

***MOTION # 8 (Michaud/Cernohous) Move to approve Elm Beach application conditional to proof of insurance.***

***All aye, PASSED.***

8b7. Kay Beach association

swimming beach. Need to refund \$50 late fee, late deadline was approved

***MOTION #9 (Michaud/St Germain) Move to approve 2009 Kay Beach permit conditional to proof of insurance.***

***All aye, PASSED.***

8b8. Docks of White Bear Lake

layout same as last year. Some changes under use. 2 company, 6 transient. Will be required to mark as transient/no overnight parking.

***MOTION # 10 (Michaud/Stawnychy) Move to approve DWB 2009 permit conditional to marking transient slips.***

Discussion

Michaud -What is the rental?

Brain McGoldrick – son will try renting a few pontoons out.

Stawnychy – will gates on end of dock be open for transient slip owners to get thru?

McGoldrick – gates can be moved anywhere on dock to accommodate transient. Restaurant construction is beginning tomorrow. How do you want on application? On tape last month a few things raised. Dave Trach died 3 years ago, does not own shopping center. City ordinances regulate parking. We pay most tax, own more land, want it to be consistent. Are you checking length on other docks?

Stawnychy – docks will be measured this summer, will look at all.

Michaud – restaurant question was over location of sanitary facilities.

That is why questioned.

Norwick – inequity based on ordinances. At some point need to reallocate based on shoreline, parking.

McGoldrick – how would that process start?

Michaud – much like complaint. Send letter with issue

Kantrud – address directly with board in discussion. At least start at committee level. Board would have power to call all to table. Board has to act on request, can't initiate. Ask for specific task.

***Vote***

***All aye, PASSED.***

8b9. Dellwood Beach club – change in dock location on east side of property. Boats to west side (concern over ADUA). 8 boats from 12.

May not be best compromise, but LUC recommends approval

***MOTION # 11 (Michaud/Cernohous) Move to approve Dellwood 2009 permit conditional to insurance information and with regular review over summer.***

Discussion

Norwick – concerned over pending litigation, has not had opportunity to discuss with Kantrud. In past experience, an executive session would be held to discuss among Board.

Michaud – lawsuit is not specific to this application, more City of Birchwood policy issues

Kantrud – league of MN Cities will defend us. Never have had session in past, but can if desired. Would not let what is in lawsuit impact decision on application. Application should be reviewed on merit.

Norwick – scale question

Ron Malles – member of Dellwood, scale is ¼ inch = 8 feet. Edge of dock to ADUA is 36 feet.

Norwick – concern over how you can turn boats. Better layout than before, but looks like it remains a violation of the ADUA of the adjoining property. Unsure if it will work.

Malles – we can make it work. Association worked with WBLCD last fall in angling dock. The angle caused problem getting to lifts. Assoc. is trying to find compromise. We've always had 12 boats in past, now asking for 8. We have 24 members. Very shallow water.

Norwick – "T" layout doesn't seem to take full advantage of the 50' frontage. The more lake access the better, just want to optimize your space and not violate adjoining properties.

Malles – dock is 18 yrs old. Would like to replace next year and could potentially reconfigure to improve. Length is 144' from waters edge.

Michaud – once set in spring, that's it. No moving.

Dick Galena – Jim Greeley is out of town and asked Dick to bring some concerns before the Board. Jim objects to canopies, dock length too long for area, new configuration is different from where it has historically been – does not allow for public access for swimming. Ingress/egress will encroach on his ADUA and violates ordinance. City has not been responsible. Other objections based on lawsuit.

Tony Sampair, 409 Lake Ave

Violation of Ord. 5 will occur if this dock is approved tonight. 22 foot boat will violate ADUA on Greeley's side. Board refuses to enforce.

Angling dock didn't help. Moving dock and encroaching on Greeley is not answer. Approval gives access to a few private people on public site. Site frontage is too small for number of boats. Scale is off on drawing when measured, application is defective. Board shouldn't willfully approve a defective application. ADUA encroachment has been approved before at Alicia heights. At that site, Board wanted letter/agreement with neighbors to allow. No one has asked for agreement from him or Greeley. Need to consider that this started 2 years ago with safety issues of swimmers at this site. Requests table the application for further consideration.

Stawnychy – what is your solution to problem?

Sampair – grew up next to Grove St Dock Association. Never had problems. Things change with time, people are not neighborly anymore. Recommendation is to abide by ordinance, no more than 4 boats, DNR guidelines max 6 based on frontage.

Norwick – what is longest boat at dock?

Sampair – 26'. Distance they go over ADUA is considerable. Site is 47 feet wide according to survey. How can you approve based on Ord 5 or DNR recommendations? It's mathematically proven this will not work.

Malles – here is handout of boat sizes approved, averages over past 8 yrs hasn't changed. Not trying to get longer boats.

Galena – Michaud stated earlier, if there is unreasonable encroachment during summer, boats would be removed?

Michaud – yes

Galena – then make motion with provisions

Michaud – if unreasonable, then yes. If they can't leave the lift, then there is a problem

Dick – would board address the problem? Seems evasive

Norwick – If approved, and violation occurs under normal situation, there is remedy. Does not guarantee a full year.

Galena – if approved, revise to reflect that the Board will review, address and take action.

Michaud – LUC would review and make recommend action to Board

Galena – permit does not give authority to violate

Michaud – there are examples from the past on what board can do to address problems

Norwick – Torn, don't believe this can work. Are we just delaying the problem? There could be more flexibility if there was agreement in the area, which we don't have.

Michaud – Elm Street is similar, no complaints there

Parenteau – did Doug have another layout?

Danks – did meet with both parties. Configuration suggested was similar to last fall. Discussion never got past the number of boats (8) to address the layout.

Sampair – configuration didn't work in past, why would it now? 8 boats is too many

St Germain – if dock was on one side of lot and on angle, they may not encroach

Sampair – DNR stated 6 might work, 8 too many. Maybe willing to talk to again, but there are concerns of trust

Parenteau – did he say he was willing to work it out? Always best option

Steinworth - we used to try to deal with issue here. This time we put it back in City's hand since it was their community hoping they could work things out. That has failed, but city approved anyway. Board had to consider all issues. Number one is that the City has reviewed and approved as we have asked in past. This is a forum for lake issues.

St Germain – tough to get them together to resolve. City has reviewed, if it meets our criteria, we can approve. City understands that too, they reviewed to our criteria. They have done job as they see it, and it meets our request to send us something they support. Question is does it meet WBLCD criteria? We each have to decide. I think it does. If I doesn't work, we may have to correct it. Don't know the exact solution.

Parenteau – we cant change the layout without Birchwood's approval. Looks like there may be opportunity to discuss this more on both sides. Need to approach from understanding there will be 8 boats

Michaud – if 8 boats is a given, both sides will not talk

Danks – I support 8 boats. This is a compromised number, not all are happy with. There is a basis for. Ash has 8 on 50 feet. More consistent number for area. On the length issue, recommend less than 144 – suggest 124’, with allowance for variance in low water years. Dock should be as short as practical in normal water levels. Positions are entrenched on both sides, not leaving flexibility to solve problem. Resolution will not occur unless all parties can work thru and compromise. I hope its still possible. Agree that City passed on to us, requires some action. Is there way to look at submittal but leave room for modification? DNR recommendation on number of boats applies to residential lots after date of local zoning. This area has 1908 plat, DNR controls began in 1987. Not part of zoning provision.

Michaud – lets stick to our Ordinance

Danks – Tom Hovey stated there are no rules on number per foot of shoreline. 8 in this case is consistent with Ash, Elm, and multi user docks around lake. Number is fair and is a compromise. Now how do we configure?

Sampair – what is proposal? Table?

Danks – no

Sampair – so approve then we come back and complain? That is not meeting in the middle.

Michaud – Board needs to approve the application on it’s own merits, not on possible future change. Disagree that we are transferring issue to other side. Trying to find what will work with City. Not ready to withdraw without trying. I think you can navigate in and out. City has decided it meets general interest of public. If doesn’t work we’ll fix it.

Stawnychy – this is a mess. Neighbors are not happy, best thing you can do is keep problems down. Likes to see everyone use lake.

Parenteau – sounds like Sampair and Greeley are willing to work it out, then we can approve.

Mary Sue Simmons, resident, member of Dellwood Dock Association  
I own a 14’ sailboat. Most members are relatively harmless. It hurt to tell members we lost 4 spots, decision not arrived at easily. We hoped moving dock over would relieve Sampair violations. Association is not entrenched, but we have been dealing with year after year. Would like Board to pass and give us a chance. Last year you asked for change, we complied. We’re not angry or feisty.

Galena – Greeley had concern over layout that was dated December 1, hearing was in February. Greeley never saw new layout until 1 day before Birchwood hearing. No opportunity for input. When you ask about letting neighbors work it out, he would like to. But when new layout has been in existence for 2 months and only given to him 1 day before hearing...he had no chance to review. City wouldn’t listen to concerns even though city regulations require notification. To be fair, table it.

Make them work it out, and give opportunity for feedback and discussion.

Michaud – are you open to tabling Mr. Malles? Are you willing to discuss with neighbors and City to come up with solution?

Malles – yes

Sampair – yes. Greeley would say yes also.  
Michaud - is City ready to do?  
Councilmember Carson – would like this to be decided tonight  
Greg Donovan, resident, Dellwood assoc. member  
– City already reviewed. I'd suggest if binding mediation if problems continue in order to resolve. Talks in past have failed.  
Michaud – I see Board as mediation. After seeing responses, I'm willing to let motion stand. Size of boats is critical and will be watched.  
Norwick – wish he had better handle on size of lifts, etc. prior. This is high density, feels layout is destined to fail, cannot support. I wish we could have one more try.  
Steinworth – community has approved, there has been reduction in boats. I feel we should approve and give it a chance.  
Parenteau – there is opportunity to mediate now rather than drag out all summer  
Stawnychy – feels they can work it out

***Vote***

***6 Aye, 2 Nay (Parenteau, Norwick). Motion PASSED. Application approved.***

**8c. Lake Education Committee**

Lake clean up was held March 7. 25 volunteers removed 200lbs trash.

Steve Goranson has offered to help in updating the map/brochure. Could update with business info, maybe mark with known hazards. Would board like to update? Should map be updated? Only printing costs.  
Will put on April agenda.

LEC will meet April 21 at 5:00 in council chambers.

**8d. Treasurers report**

***MOTION # (Michaud/Parenteau) Move to approve and pay checks 3893 – 3896. All aye, PASSED.***

**8e. Board Counsel Report**

Regarding lawsuit, Alan will communicate if LMC takes up defense. No allegations we need to address now.

***MOTION # (Michaud/Danks) Move to refer case to League of MN Cities for representation. All Aye, PASSED***

**8f. Administrative Staff Report**

none

**9. CONSENT AGENDA**

***MOTION # (Parenteau / St. Germain) Move to approve consent agenda. All Aye, PASSED***



**10. ANNOUNCEMENTS**

none

**11. ADJOURNMENT**

***MOTION # (St Germain/Parenteau) Move to adjourn. All Aye, PASSED***

Meeting adjourned at 9:30pm

ATTEST:

\_\_\_\_\_  
Administrative Secretary

\_\_\_\_\_  
Date

APPROVED:

\_\_\_\_\_  
Board Chairperson

\_\_\_\_\_  
Date