



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT
7:00 P.M. WHITE BEAR CITY HALL
MINUTES of August 21, 2012

APPROVAL DATE: 9/18/12

1. CALL TO ORDER The August meeting of the White Bear Lake Conservation District was convened by Chair Mike Stawnychy at 7:05p.m.

2. ROLL CALL Present were: Chair Mike Stawnychy, Vice Chair Luke Michaud, Directors George St. Germain, Mike Parenteau, Jane Harper, Yale Norwick, Suzanne Donnell, Bryan DeSmet, Sue Cernohous. A quorum was present. Recording secretary was Julie Yoho. Absent was Diane Longville (excused).

3. AGENDA

MOTION # 1 (Stawnychy/Parenteau) Move to approve agenda. All aye, passed.

4. APPROVAL OF MINUTES

MOTION # 2 (Stawnychy/Michaud) Move to approve minutes of July. All aye passed.

5. PUBLIC COMMENT TIME

Mike Crary, WBL Homeowners Assoc.

This will be my last yr as president.

Here to present donation and thank you for working on milfoil and water level issues. We have 150 plus individuals who contributed funds. Here with funds to fulfill the expenditure for the “ecosub” for the USGS study. Funds for milfoil treatments for next year, funds for milfoil or water level study as needed.

Encourage cities to kick in remaining 10k needed to complete study.

Stawnychy – thank you for your time and efforts for milfoil control.

Crary- What is the status of earlier treatment? And for treating larger area?

Parenteau – plan is still waiting DNR approval. LQC is working to get speedier DNR process

George Benz – Mahtomedi

Launched boat in & out of Ramsey beach never saw inspectors, 8 times.

Concerned over lack of inspectors and Zebra mussels.

Norwick – We have paid for extra boat inspections for past 3-4 years. Board has supported extra hours. Surprised no one was there.

Stawnychy – I’ve been stopped every time on weekends. Unknown how much weekday coverage is there

6. NEW BUSINESS

none

7. UNFINISHED BUSINESS

none

8. Reports/Action Items

8a. Lake Quality Committee

8a1. Lake Temp is 74 degrees

8a2. level 920.12. 3.96 inches lower than last month

8a3. EWM treatment update. Will have full evaluation next month but currently looks like the treatments were very effective. Milfoil grew in other places as well as the 140 acres we were allowed to do by the DNR this year.

Norwick – How does the lake level compare to last year?

Parenteau – almost 8” lower than last August.

Stawnychy – and we had above ave. rainfall this year.

Donnell – question about environmental impact of chemicals used to treat EWM?

Parenteau – Chemical used (triclopyr) is selective to milfoil. Evaluation will show effect on other plants. Approved for use by the DNR.

8b. Lake Utilization Committee

8b1. McCartney Estates

dock will go into lake at angle. Nee to pay \$50 late fee.

MOTION # 3 (Michaud/St Germain) Move to approve application for 2012. All aye passed.

8b2. Harrod/Mahoney

This is a land dispute which is out of our jurisdiction. Complaint is that dock goes over disputed area, Harrod asked for resolution. LUC reviewed and has prepared a findings report. Conclusion calls for moving both docks to center of properties. Does Board want to issue with 4 weeks left of season?

Debbie Harrod

Tried to work out over last 2 summers, but they kept moving dock toward our property. Forced us here. Would like them to move immediately. Dock was in place for 20 years until last year they moved it.

Bergman, attorney for Mahoney’s

Survey has been done, examiner needs to approve prior to it being filed. Mahoney’s put dock in 11.5 feet from edge of where they think their property line is. Doesn’t make sense to move dock now, probably both have to be moved. If not resolved by next year put docks off disputed lines. Water level is an issue if in middle of lot.

Michaud – WBLCD got complaint this summer. We have found placing docks in middle of property typically the best decision. No indication of huge safety issue, going forward would place in middle.

Harper – when I look at survey Mahoney starts then jogs toward Harrod property line. Specify it extend straight out.

Michaud – in conclusion specify extend from point. “extend straight into lake”.

Harper – removing property from lake bed – does that address winter storage? Clarify so not an issue over winter.

Michaud – good point, will add to conclusion winter storage in non disputed area.

Harper – this is just until property line is settled?.

Michaud – yes.

Michaud – will board approve “findings” with changes and send out as order? Do we want dock moved now or wait until end of season?

Donnell – wait thru season

Norwick – wait, safe distance between

Parenteau – frustrating but wait

Stawnychy – agree, wait and maintain composure

Harper – agree

DeSmet – no comment

St Germain – wait

MOTION # 4 (Michaud / St. Germain) Move to adopt findings with changes as discussed and send as dispute resolution. All aye passed.

Also note you can work it out on your own “unless agreed to and approved by WBLCD”

8b3. Leinswangwong dispute over placement of easement dock on property.

Richard Galena, representing Leinswangwong

There are 2 docks encroaching on my clients land. (as packet for the board). Certified survey from Aug 20, 2012 shows that the easement dock and Schoeller dock both encroach. Yellow indicates easement. In 1946 easement was granted, now easement has moved outside of area by 12’. Photo shows Schoeller, and easement dock taking up 40 feet when it should be 10. The property owner has not consented to having these docks on his land. There is a historical court order regarding placement of easement dock They must stay within what was granted to them. We are asking easement dock be removed within 4 weeks. Live within means, 10’ strip. They have 25 feet of equipment out there width. There are 40-45 easements along WBL. If suddenly all easements could increase widths and angles there would be chaos. Remove boat lift immediately – it is a nuisance that shouldn’t be there. Not being used. Same with Schoeller dock – starts on client’s property then 15’ into ADUA. See handout. Markings done by WBLCD members were not certified and have caused Schoeller dock to be in clients ADUA. Asking Board vacate those markings, they are not accurate. Remove Schoeller dock in 4 weeks. In 2013 it stay within ADUA. Easement dock is encroaching due to letter ordering them to move. Request board vacate letter so it will not be effective in 2013. Asking easement dock and boat be removed in 4 weeks,

lift removed now. Not being used. In 2013 easement dock stay on property line and run parallel. Any accessories not take up over 10' width.

Steve Schulz – Easement holder. Lived there since 1972. Dispute going on then, will in future. Extending lines out results in pie shape and crossing due to curve of shoreline. Anything you do in this area has to affect others, ripple effect. Will comply to any recommendation. We have a spot where dock needs to touch shore. With low water levels tough to find spot. Personally we don't care, will move wherever. Preference is WBLCD direct where everyone has to put dock. Problem is lake is moving so how to resolve...? Court order did not contemplate current geometry.

Donnell – easement was to access lake, doesn't say anything about boat and lift – when did they come in?

Terrence Fruth , attorney for Roxanne Hodgson
Only solution is to adopt site plan for this bay. ADUA concept does not work here. Hierarchy of laws here. Riparian rights. “land” from ohm is gov. not his clients. Riparian has right of use, overarching right is public use/navigation. Property owners should pay for survey, contour maps, engineer and set in place forever. Length dependent on water level. Dr. is violating over arching right of navigation. Dr. is root cause of problem by placing dock too far north and crowding others. If he moves south crowding goes away. Has been case for long time here. Do away with ADUA in this area, move Dr. dock south. Right to place dock on property not a riparian right

Julie Neujahr – my boat on is on easement dock. Put lift on to establish space temporarily.

Greg (?) representing Mr Shoeller. Boils down to reasonableness. Did not have opportunity to look at survey presented by Galena. Client Schoeller can't move at all, Dr can move south.

John Gadboy - easement language does provide for boat and lift.

Galena – who has rights between ohm and water line? Case law says adjoining landowner has rights unless state wants it for something. One is 1914 case, Korrer. 1989 hawk vs LMCD. To deny my client title to low water mark is not compliant with state law. Disagree Dr is causing problem between Hodgson and Schoeller. Order has placed clients at odds with easement holders.

Michaud – we're being asked to rescind order we made. Board and Alan need to put together our own findings of fact. Change was made based on complaint from property on north that easement dock was too close. Easement dock starts within 10' of property line. This particular case the

court addressed boat lift and where it was to be stored, board has inferred the easement language allows for boat in my opinion.

Norwick – been working on this for long time. Had voluntary site plan meeting and Dr. Leinswangwong did not show up. Tried to work thru to accommodate everyone, now slipping back.

Michaud – last year had 10’ separation. Set marks on shore for dock that is historically first in. Dock went in correctly. Different person put dock out first at different angle.

Harper – ADUA doesn’t say ... from ohw?

Michaud – yes typically from ohw 200’ out. Does not move.

Harper – width of area. McCartney Estates width was not to exceed width of shoreline. In this case stay within 10’?

Michaud – will come as finding of board. In past try to stay in frontage

Harper – in this case it is wide area

Michaud – agree

Harper – lift and boat should be on same side of dock. Agree we should draw up our own findings and our own legal opinion over low water area.

Parenteau – anything we’re going to do tonight?

St Germain – ADUA is approximate figure

Parenteau – so ok to use 22’ off 10’ easement?

Stawnychy – lift referenced in legal case in past.

Parenteau – could order boat lift put into storage

MOTION #5 (Michaud / Harper) Move to send letter to easement holder to put lift and boats all on south side of dock for remainder of year.

Donnell – wrong side, encroaches. Empty, remove it.

Michaud – angled to south because easement is encroachment on property and ADUA, that is what an easement is. Schoeller should not be cut off because not their easement.

Harper – would agree to south side because if moved to north would be back to original problem with less than 6’ clearance on north side.

Stawnychy – ask easement to remove or place on same side

Michaud – ***“remove lift or place lift and boat on south side”*** friendly amendment.

Motion vote

2 nay, 7 aye, passed.

Luke will write letter.

St Germain – historically if issues, property easement came out of gets the burden.

Donnell – seems owners were not informed prior to it happening.

Stawnychy – allowed easement

Norwick – worked on site plan. Family was invited. Were aware of issues. Ultimately may be going to Mr. Furth’s suggestion of directing where each dock will have to be placed.

Michaud – letter. Alan and anyone else who is interested will put together findings and put under unfinished business for next month.

8c. Lake Education Committee

Boat tour will be on Sept. 20 from 5 – 7 pm. Perry Jones will be attending. We have room for 12 max., there may be room for Board members.

MOTION # 6 (Norwick/Parenteau) Move to spend \$100 for donation to the “Lets go fishing” boat. All aye, passed.

Stawnychy – There is a lake clean up out of Bellaire Beach this sat.

8d. Treasurer’s Report

MOTION # 7 (Stawnychy/Parenteau) Move to pay checks 4117 – 4122. All aye, passed.

8e. Board Counsel Report

none

8f. Administrative Staff Report

Items included in packet this month:

- Agenda
- July draft minutes
- Finance report
- Harrod/Mahoney dock dispute & response letters & surveys
- McCartney Estates dock application

9. CONSENT AGENDA

MOTION # 8 (Michaud/Parenteau). Move to approve consent agenda. All aye, passed.

10. ANNOUNCEMENTS

11. ADJOURNMENT

MOTION # 9 (Stawnychy/Parenteau) Move to adjourn. All aye, passed.

Meeting adjourned at 9:04 pm.

ATTEST:

Administrative Secretary

Date

APPROVED:

Board Chairperson

Date