



**MINUTES  
DEVILS LAKE WATER IMPROVEMENT DISTRICT  
REGULAR MEETING**

**DLWID OFFICE  
March 5, 2009  
6:00 P.M.**

**PRESENT:** Jack Strayer  
Otis Winchester  
Brian Green  
Smokey Aschenbrenner

**ABSENT:** David Juenke

**AUDIENCE:** Randy Weldon  
Doug Pirie  
Don Sell  
Mark Richards  
Jerry Bottemiller  
David Skirvin  
Kerry Richards

**STAFF:** Paul Robertson

**MEDIA:** Green called the meeting to order at 6:00 p.m.

**Minutes from February**

Strayer moved and Winchester seconded approval of the minutes from February.

**Financial Report**

Robertson said there was nothing unusual on the report except for a different format. Aschenbrenner asked if the financial statement is on the website; Robertson responded, "No." Strayer moved and Aschenbrenner seconded approval of the financial report.

**Public Comment**

None

## **Unfinished Business**

### **Boat House/Docks**

ODFW has held up bringing their comments to the County to ensure that they are compatible with DSL. The County has asked ODFW to make their comments. This issue was begun more than a year ago. NOAA Fisheries and Oregon Marine Board and USACE (Corps) have asked to participate, which complicated the issue further. The Marine Board is concerned about unstable docks if metal structures were to be required, because floating docks are designed for wood. ODFW's recommendations would play out in other state waters. They prefer see-through docks so the fish cannot hide under the docks. When the state creates recommendations, other entities usually want to be part of the discussions. ODFW is trying to come up with state-wide recommendations and Lincoln County would need to be in line with those. Dan Avery has a call in to his supervisor, Patty Snow, but has not yet heard from her. Robertson said the District should push forward with the County, even if it might be less restrictive. It would be limited to the issues we already have identified. This would ensure that future applicants have standard reasonable requirements—geared more toward what is now on the lake.

### **Land Use Complaints**

A couple of complaints that were at issue were those for 2551 NE E Devils Lake Road and the 11<sup>th</sup> & East Devils Lake Road. The first one has filed for an Erosion Control Permit through the County. The project was to have been completed by February 15; but has just now begun the process. They need to undo work that was performed—to remove all but a few concrete blocks. They need an erosion control permit to actually remove those blocks. The other project has not completed any visible work. Their deadline was extended to the end of February. DSL is responsible for overseeing these issues; however, the state said they probably would not administer any secondary fining. They said they have the deadlines on a calendar to check on the projects and if there is nothing accomplished, there are legal means to ensure compliance. Robertson said he does not feel they will choose legal means. Robertson asked Pirie to notify him if he notes any progress on the 11<sup>th</sup> Street work. Green asked if there is anything further the District could do. Robertson said he would write another letter.

### **Lake Level Discussions**

Robertson gave some history of this issue. He said a year ago, State Parks requested Water Resources Department to check on the District's permit compliance. Robertson said that a fax he just received from Greg Beaman, Watermaster for the District, indicated that the District had exceeded its permit in operating with the three boards on the dam. The concrete was initially 7.76 feet above sea level; it was changed in 1993 to 8.03' above mean sea level. Later, documentation had retained the 7.76' measurement. If three boards are added, more water than 1360 AF is blocked; this places the dam height at 9.9. In an attempt to reduce flooding at the state park, it was most recently set at approximately 9.7' last summer. This was done stacking 2-4x8s and 1-4x6. There are no solid criteria about the natural height of Devils Lake. With two boards, the level is at 8.03, plus 15 inches, or 9.2. Adjustments can be made in the boards to accommodate a range of heights. Randy Weldon suggested that 9.0 feet would be perfect, in response to Green's query about their petition. From the fax received earlier in the day from Greg Beaman Watermaster District 1, the full use of the water right would be obtained by using a total of 18" of board space above the concrete, or effectively 9.53' above MSL.

Robertson said if you are trying to achieve uniform water height under docks, then the boards are required; however, if the goal is to maintain healthy shorelines, then a dam should probably not be installed because the wetlands function best with natural fluctuation. The District is now creating a backflow in a wetland. He continued that there are benefits to having healthy wetlands. Green said perhaps the lake level should be maintained at a similar level year-round. In 1996, there was a hydrologically-natural system, said Robertson. Green asked how much natural shore line there is. Robertson estimated about 20 percent. Green asked about working toward a summer level of 9.3 and wait for residents' feedback.

Weldon said that at 9 feet, the beaches begin to appear. He said he and his friends prefer a calm lake. At a level of 8.6, they have three or four feet of beach. He feels that the waves can break in the shallow water on the beaches, thus resolving erosion issues. Jerry Bottemiller said he has lost a lot of shoreline and may even lose some trees. He lives across from Regatta Park and pointed out his location on the map. When the lake started coming up, he lost land. Green asked if between July and August when more boaters are active there is more erosion, to which he responded, "Yes." Green said perhaps this is an argument for dropping the lake level. Strayer responded that there are boaters who would not be able to get their boats in. Douglas Pirie said people on the canal would not have access with a prop boat—he wouldn't take a good boat out. Below 9 feet or so, there is no clearance. He continued with some technical observations—when wake boards get into shallow water, they touch bottom. When they touch bottom, the wave length shortens and the wave becomes steeper. There is a more violent eroding force in shallow water than in deeper water. Wake board boats and lower water is an erosion combination. Ski boats have a lower wake than wake boats.

Discussion ensued regarding notifying residents about the lake level and other issues. Green said he felt the District was improving contact with residents on various issues—the blog and the website and the newspaper. The consensus is that blog voting is not reliable. Evidence of the capacity to log multiple votes has been seen. Discussion ensued regarding a possible restriction of wake board boats. Short of deputizing citizens or incentivizing deputies to issue tickets to offenders, it was determined that boat types could not be restricted, nor could the distance from which they must boat to the shore and homes. Green said he believes the District should request a deputy to enforce better. Robertson said it would be hard to enforce.

**The Devils Lake Plan:  
Native Revegetation  
Tetra Tech**

Tetra Tech's bid was \$6,500. Strayer said he thought Robertson was in favor of vegetation planting guide book. When the grass carp disappear, it may be possible to make a difference with the vegetation. Green agreed if the introduction would be throughout the lake. Strayer discussed the information received from Tetra Tech. They can provide a road map on the botany of natural plants and where to go to harvest them in lakes to the south (a GPS location), how to harvest, how to store and replant and which ones would be best in certain situations. Green suggested that if the Tetra Tech information is not going to be utilized should the District pay for it? Winchester agreed.

Green continued that one positive issue is that the information needed has been identified. He said the Board should make a decision. Strayer said if things are placed in a sequence, there would be a shorter time to get plants into the lake. Green said it shouldn't have to be more than two months. Robertson felt there probably is not a time frame, but a summertime component would be best. Strayer told the Board that a decision did not have to be made today. Green agreed, and it was decided to table the issue for the time being.

### **DSL Removal/Fill**

Regarding the DSL removal/fill permit for inserting aquatic vegetation, ODFW said the project was not acceptable because of the salmon and the trout issue. Unless it could be modified to accommodate their needs, there is apparently no way it could go forward. Strayer drafted a letter to ODFW for the Board's review. It stated objections to the Department's requirements and requested comments from the Board. Green's comments were incorporated, having to do with toxicity and the invasive vegetation. Robertson's comments were noted: he feels the letter should not be sent. Strayer said he solicited all comments.

Some of Robertson's objections and Strayer's responses are listed below: Robertson is uncomfortable questioning ODFW in Newport after they declined the request due to their best judgment. Strayer responded that when he asked for scientific studies, they did not furnish any specific scientific studies. Secondly, ODFW said that if they did approve the request, they would require a predation study on warm water fish that could cost \$100,000. Robertson said he feels they would require the predation study; it is a significant study and is quite expensive. Strayer said he feels the ODFW's requirement for the District to monitor is unreasonable, and he doesn't remember being informed that the District would have to do this. Discussion continued regarding warm water fish that were placed into the lake in the '30's. Since Devils Lake is very shallow, the temperature can increase to 75 degrees in the summertime, making it lethal to salmon; Devils Lake is not a premier salmon and trout lake. Another comment by Robertson was that he objects to individuals attempting to push change on officials who have actually studied the issues. Strayer responded that scientific information is changing and they should be able to justify whatever they are directing. Robertson's final point was that he wishes to retain a positive, not a fractured working. There was some discussion on the relationship between the District and government entities. Robertson explained that although he will continue good working relationships with government entities, he does not expect them to grant favors that are in conflict with their scientific studies.

Strayer discussed the benefits of the aquatic vegetation project in ten locations in the lake. He said that he did not set out to challenge ODFW, but he feels strongly that this environmentally-friendly project needs to be considered. Milfoil and other weeds will return if aquatic vegetation is not considered more favorably. Strayer recommended that Green sign the letter since Robertson did not wish to sign it. Green said that the entire issue of natural vegetation may be more easily handled if the SolarBees are going to be installed anyway. They could shift the advantage from the invasive plants to the native ones. He continued that we are either going to have natural revegetation or not, and we can avoid the problem that ODFW is concerned about without the exclosures. We don't have to provide the congregating places for the salmon to allow them to be consumed by other fish. When the carp are gone and the balance is shifted to the native vegetation, it

seems you would be able to accelerate the restoration period and you have sidestepped the entire contentious issue with ODFW. Green suggested putting the native revegetation issue on hold until it can be determined how the SolarBees will perform for a couple of seasons. In Blue Lake, the invasives died back and the environment changed. By then, the carp may be gone and we won't have to use the exclosures. Winchester stated that he was reluctant to send the letter and Aschenbrenner agreed the issue could wait. If DSL declined the permit now, it might be difficult to reapply.

### **DSL Easement**

Robertson said Chris Castelli called and asked if the District was still interested in the easement. The easement would have to be issued at no charge for the District to afford it. Robertson did not return the call, since he wished to discuss the issue with the Board first. Castelli said the \$750 easement application fee could probably be returned.

Green moved that the application for the DSL removal/fill permit be withdrawn with a notice that the District intends to submit it at a later date. Aschenbrenner seconded the motion.

Vote: Green, Aschenbrenner and Winchester voted for the motion; Strayer voted against it. Motion carried with a majority.

Green submitted that he is assuming with respect to the DSL easement, Robertson will indicate that the District is taking this action with the intent of submitting the application at a later date. Since the USACE (Corps) is part of this application, Robertson will also notify the Corps of the District's intent.

### **Model DEQ 319 Grant**

Robertson spoke with David Waltz of DEQ and Jesse Ford of OSU regarding the potential scope of this project. Ford will have to contact DEQ to determine how best to create a user-friendly database model grant. Waltz was on vacation. The District does not have anything concrete on the work plan other than a large component of work to do to create a septic tank overlay. Robertson said he is relying on DEQ to initiate the process.

### **SolarBees**

#### **Grant Submission Update.**

#### **DEQ Revolving Loan Program.**

Robertson submitted the EPA grant for \$595,000. EPA will make a decision in the spring of 2009 and applicants will be notified. The Compton Grant and NOAA grants are being developed for submission by April of 2009. These would help to augment the funds.

DEQ has developed a loan program from the stimulus money that has opened up their project funds. Robertson is attempting to create an application into the language of their DEQ revolving-loan program. The project scope would have to include non-point source reductions, such as the Septic Tank Revitalization project. The City or the District would hold the funds and make smaller loans to home owners needing septic tank replacement, tied to the deeds of their houses. DEQ contacted Robertson regarding a previous conversation about the funding potential for Solar Bees. There is a potential that half the loan might be forgiven. If more is requested, it is possible that the other half might be at a no or low-interest loan. These are large capital projects. The application needs to be submitted soon. Green suggested that Robertson apply for the full amount—it

would be easier to scale back if the funds come through. If the funds are at two percent, it can be amortized over the life of the SolarBees. Shoreline Enterprises are working with Urban Renewal and they are loaning for unique projects (environmental) for which banks will not loan. TLC was considering a 15-year loan at 5 or 6 percent.

Green moved that Robertson submit an application to the DEQ revolving loan program for the full amount of the SolarBee proposal and use his discretion and expertise to craft a suitable application that would include the septic tank revitalization program. Winchester seconded the motion. Vote: unanimous. Motion carried.

### **SolarBee Proposal**

The purchase price is \$48,475, including the marker light. The delivery and field services amount is \$4,894. As part of their SOP, they will provide water testing down to a 25-foot depth. There was discussion regarding how close to the surface to place the SolarBees. Robertson said placing them on the bottom of the lake would be his recommendation as any turbidity would be short-lived, and the circulation would then be throughout the lake's depth. Green suggested the District await notification on the grant before responding to SolarBees. Robertson said Green might respond with a counter-offer.

Aschenbrenner noted that the buy-back program on the SolarBees proposal had been eliminated. Aschenbrenner asked if the Board might consider renting a couple of units—one at Regatta and one at Sandpoint. This would determine if the units would withstand the weather and determine if they are effective. Green said he feels the value could thus be determined by how well they function for a year, but it wouldn't determine how they function for 15 or 20 years. Discussion ensued regarding the pros and cons of renting two SolarBees versus the full-lake coverage of 20. Green said he would submit a counter proposal that would not make any commitments. The Board would be asked to approve the proposal prior to his sending it.

### **New Business**

Robertson said the Lake Steward award comes up again on April 18. Nominations could be made now or later; he feels the secret ballot makes it more special. The next Board meeting is April 2 and a two-week turn-around time is possible. Discussion began about where to purchase the award and who should be nominated. Robertson reminded that it should be someone who is active in the community who has volunteered for the lake. There is a spot on the Community Days agenda to make the award. Robertson will remind the Board prior to the next meeting to bring their nominations.

Robertson informed the Board that he has a couple of applications for the internship position and he will interview the applicants and bring a recommendation to the Board.

There are two upcoming Board openings—Green's and Juenke's positions. March 19 is the last day to apply for a position. A form and \$10 or a form and ten signatures are required. There is also one vacancy on the Budget Committee.

### **Non-Agenda Items**

None

## **Public Comment**

None

### **Announcements**

KBCH 1400 am: Tuesday, March 10, 7:15 am

Next meeting: April 2, 2009

Budget Committee: May 11, 2009, 10:00 am

SOLV: May 16, 2009, Union 50

Oregon Lake Association: September 11, 12, 2009-01-30

Erosion Control Seminar: October 8, 2009

Adjournment: 8:45 p.m.

Respectfully submitted,  
Linda Burt