



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

**DLWID OFFICE
July 2, 2009
6:00 P.M.**

PRESENT: Jack Strayer
Otis Winchester
New Board member David Skirvin arrived later

ABSENT: Brian Green

AUDIENCE: Mitchell Moore, Dana Moore, Brian Moore, Bud Depweg, Jim Covert, Jim and Barb Gill, Beth and Avery Shipley, Julie Haas, Alvera Blanchard, Donna Elsasser, Jeri Elsasser, Tom Snair, Gary McGrath, Lawrence Brown, Douglas Pirie, Randy Weldon

STAFF: Paul Robertson

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

Strayer informed the audience and the Board that Green was absent and no quorum was present since David Skirvin, new member, was tied up in traffic on his way to the coast. Strayer stated that administrative issues would be addressed and public testimony would be taken while waiting for Skirvin.

Robertson reported that Board applications would be taken through July 15 for the Board vacancy. One application has been received from Randy Weldon. Green was re-elected. The terms are for four years on a two-year cycle. The applicant must own property in the District and be a U.S. citizen. It is an appointment position at this time. Then, in 2011, the appointed person must be elected.

Public Comments

Larry Brown: Is a part-time resident. In the last 45 to 60 days, he has talked to many District constituents—those who pay the bills and make financial sacrifices. He was in business for himself for 35 years and retired five years ago. His concern is that the Board wasn't getting the message. He believes the public does not want the SolarBees, nor do they want any fixed items in the lake, ever. He says blue-green algae are not a problem to property owners. It's been here forever. He said the residents and the Board can come up with some better solutions. He thinks the lake is "great" at this time. He doesn't think

water testing should be done in-house, but at consistent intervals, bi-monthly by two or three testing companies out in the center of the lake a couple of hundred feet from the shore. Walking around the shore is not the best place for testing.

Strayer asked if this was Brown's "opinion" and Brown replied, "Yes."

Brown said that if a swimming area is toxic, it could be closed down. Or, maybe a SolarBee could be placed in an area in a five-mph zone, such as Regatta grounds.

Regarding the lake manager, he feels it is important that the lake manager not be viewed as Lake Sheriff. He listed the official state and federal entities whom he thinks should be inspectors and enforcers of regulations. He said, "What we want in a manager is someone who is the constituents' best friend. He should send them e-mails seeking their cooperation, not dictating anything to any lakefront property owners. Owners and the lake manager need to work closely together. There are some very intelligent people on the lake from which we can learn stuff." Brown continued that he feels the Board should consider placing more grass carp in the lake.

Strayer responded that it is illegal for grass carp to be placed in any Oregon lake and the Board had already applied and been denied this procedure.

Robertson said that the District had applied, were rejected, and now an appeal process can begin if the Board decides to do so. To appeal, you must have a rejection. That was over a year ago. ODFW said that carp could be considered as an option. One of the reasons the SolarBees were being considered was because the carp have exacerbated the nutrient problem by consuming all vegetation. Cyanobacteria blooms have increased since 1986 when the weeds began decreasing. ODFW thought the SolarBees would be a good alternative.

Bud Depweg: Back in the early 80's when they started the project; people from back east came out here and put on a program as they gave permission to buy the carp. In the records in the State, they gave permission to replenish the fish in the future. In 93 the carp were replenished because they were only supposed to live 7 to 9 years. We didn't have to replenish them again because they were living longer. They are planting another lake in this state right now. Three years ago, he advised another lake on obtaining permission to plant carp. They had to put in a dam because their lake flows into the ocean as well.

Strayer asked what lake he was referring to.

Bud Depweg: Down near Coos Bay. [Could not remember the name]. The reason it hasn't been done is because they put a stipulation on it that they had to build a dam. There are only 18 owners on this body of water. You couldn't see a stone because of the weeds. He questioned what happened to the permission given to Devils Lake to replenish the carp.

Robertson said that in 2003 the State changed the way they were going to administer permission for grass carp. After that, no public body of water greater than 10 acres could possess them. And, no public entity could apply for them. In the 80's when the carp were placed in the lake, there was EPA support and they were looking at Devils Lake as a test site.

Depweg: A grant for \$250,000 had to be obtained; testing was performed at night. The fund was for a two-year period. The carp with twisted backs were the ones that were shot with stun guns that caused the crippling. There are just a few remaining.

Larry Brown: He would like to see a quarterly newsletter sent out to the lakefront property owners. It would also be nice to have weekly meetings; preferably meetings that were held at 1:00 on Saturday instead of Thursday night at 6:00. Get the newsletter

out in the mail to these people—it shouldn't take more than \$260 dollars for a mass mailing to all owners.

He would also like to see special events planned similar to the Rose City Water Ski Team. Something that is fun to watch and something that could be done in the summer, such as kayak races, fishing derbies, etc.

Tom Snair: Were you aware of what Bud was discussing [re the permission for more carp?]

Robertson: That right to his knowledge does not exist.

Snair: It is not in the record? Also, what would happen to the races if the SolarBees were installed?

Robertson: There is one family that coordinates the racing event. He asked them if they saw an issue with the SolarBees and they said, "No." They were confident they could still run the event, although the participants were not polled.

They suggested that four of the devices might need to be scooted aside for the track.

They only run a kilometer. They race from the point at the hospital across the lower bay.

Larry Brown: They are time trials. They are not races. The water is at sea level and that is why they are here. Only one boat at a time races.

Tom Snair: As a manager, you do not see a safety issue with these?

Robertson: I believe there are perceived issues. A fishing boat is of the same nature as a SolarBee. If people have a hard time moving around fishing boats, they might have a hard time moving around SolarBees. There are a lot of issues involved in the lake that the Board and the manager have been trying to resolve. We are talking costs and benefits. Aesthetics and safety are the two issues that prohibit this solution from being ideal. The ecological costs of dumping chemicals are also to be considered as well as the expense. The Board has not come to their decisions lightly. The nutrients in Devils Lake are the issue. There are nutrients coming off the water shed. The more it is developed, the worse it is.

Larry Brown: Boats, skiers and tubers don't have brakes. It is different from an automobile.

Strayer: Read the Resolution that the Board adopted at last month's meeting where they would postpone the issue of the SolarBees until further investigation into the dangers of cyanobacteria.

Mitchell Moore: The Board put a pause on the SolarBees decision. The funding mechanisms probably had a lot to do with this. Moore said comments that appeared in the newspaper lead one to believe that there are a few on the Board that feel the option is still open for SolarBees. The comments from the public seem to be a pretty resounding, "No." He feels that the Board needs to take that into consideration. If and when cyanobacteria become a problem, then we'll have to come up with some solutions. Put the issue of SolarBees to rest. The reality is that if no money comes along, they are pretty well dead. Let's move on to some more positive issues. Moore said he also wanted to discuss the septic tank issue. The concept of a required inspection program along with the cutting off of water seems punitive. We need to turn the program around, but it needs to be more positive. People should want to participate. Maybe there is something like the County being the police for the balance of the septic tanks on the lake. He doesn't feel the District should be the bad guy.

The Meeting was called to order at 6:51 with a quorum, upon the arrival of David Skirvin.

At this time, David Skirvin was sworn in as a new Board member by Jack Strayer.

Winchester moved that the Board defer the Board officer elections of chair, vice chair and treasurer until Brian Green is present.

Skirvin seconded the motion.

Vote: Unanimous. Motion carried.

Minutes from June meeting

Strayer requested one correction on Page 7 when Green asked for volunteers. Raylene Erickson should be added to the Communications committee. Winchester moved to approve the minutes as corrected. Skirvin seconded.

Vote: Unanimous. Motion carried.

Financial Report

Robertson noted that there was one small addition—a payment to Capital One since their invoice arrived late.

Winchester moved to approve the Financial Report. Skirvin seconded.

Vote: Unanimous. Motion carried.

More Public Comment on Agenda items

Gary McGrath: Asked if the Board has control over the 5-mph limit throughout the lake. Strayer responded that the State Marine Board is actually in charge of this issue.

Discussion ensued regarding buoys in the lake that were set for crawdad traps and water-ski courses.

Moore: Water ski courses do not need to be permitted. Buoys have to be placed by a permit. It's legal to place them out in the daytime and remove them at night.

Unfinished Business

Boat House/Docks

Robertson: Sent an e-mail to Dan Avery of ODFW asking for their recommendations. The District has been working on this issue for two and a half years. It came to light out of a protracted deal where a boat house was being proposed. There was a petition. ODFW provided comments that re-railed the proposal at a public meeting in Newport with the planning commission. We have a proposal into the county and ODFW has made recommendations to DSL who has not responded back to us. We have been waiting for two or three months.

Brown: Said he saw a new dock near Moore's home. Then he said nobody in their right mind would put in such a dock. You would not be able to lie down on it. Below the grading, the material is flotation and light isn't going through. It would be impossible to walk barefoot on the dock. He does not believe the new decking material is ideal.

Robertson: It was ODFW that had concerns about shadows providing good predatory habitat for fish such as bass that would eat Coho. When the ODFW makes comments, they have to look at risk to salmon, same as with NOAA Fisheries. If you reduce the amount of decking surface that is not transparent, you are going to have light transmission that doesn't provide as much shading where the predatory fish likes to hang out.

Strayer: There are plenty of regulations on boat docks, in his opinion.

Land Use Complaints

2551 EDLR. Bio-restoration project being proposed.

11th & EDLR. Fill is to be removed by October 31.

Seid Creek. No information on the slide. No investigation is being conducted.

Lake Level Decision

There is a dam at the end of the lake that stacks up water about a foot and a half over what it would be without it. It's a concrete dam with 18 inches of boards on top of it. This came out of the State Parks concern that they were being flooded out. They brought it to the Board who tried to come to a conclusion. The District was exceeding their water right established ten years ago that permitted stacking up to 24 inches. The volume was greater than that permitted for storing water. Word was received from Water Resources that the amount would be held by 18 inches to keep the lake at 9.4 feet at its peak. When the water stops flowing over the dam, the level is expected to be at approximately 9.3.

Brown: It's a lot better than last year—he now has a beach area.

Snair: Are we legal?

Robertson: Doesn't seem that that the State Parks is complaining.

Randy Weldon: He said he noticed that the wash-back action isn't as bad this year. As far as the water skier perspective, it is better. He said he feels it would be reading 9.5 feet and it is measuring 9.3 feet. He measured and feels that the staff gage is slightly off.

Donna Elsasser: Re wake boards and jet skis, she said she has lost nine feet of vegetation from the great wakes. Lots of erosion. Skiers come up and make the turn and you can see everything go back in. She said she is looking forward to the erosion control seminar.

Devils Lake Plan

DEQ 319 Grant

Robertson said the District was asked in November to apply for the grant from DEQ to complete data analysis of cyanobacteria and cyanotoxins to key in on data as far back as 1957 up to the '70's and '83, when the diagnostic study was done. An agreement on this work plan is anticipated by DEQ to be signed by July 2009 with work to be completed by November 2010. The object is to bring all that data into a workable computer base system that they could put it into. The grant is for \$15,000. Robertson said he would ally with Dr. Jesse Ford of OSU for database management and would hire someone for data entry and data mining that could be done in part with grant funds. The District would be required to provide an in-kind match of \$10,000. He estimates he would have to commit 188 hours or five weeks over the course of the project. Component 1 is to ensure that the District is providing Grade A data. Component 2 is to assess the data quality, conduct the data analysis and prepare the data report.

Robertson prepared a 319 project Work plan for Devils Lake Water Improvement District.

Strayer: Said he could not understand it. Asked some questions about the project.

Does this entail going back to all the records and certifying the data to DEQ and then reviewing it?

Robertson: Said yes—creating a system to do that and work on completing it. It might not be possible to extrapolate Grade A data.

Strayer: What are they going to do with this information? It does not seem we are getting a lot for our money.

Robertson said it would be nice if we have the time to do it. This will be our database. This is for cyanobacteria, dissolved oxygen, cyanotoxins and all the parameters we have

been studying. This is very significant and a really big win for us. It will fund the database creation which is pretty significant expertise. It will be a robust database that is easily extractable.

Robertson explained some technicalities on testing.

Strayer: Looking at past data is to look at trends for future data?

Robertson: Yes. You need to have pre- and post-data to know if you are making progress.

Robertson said he would contract with an individual from Oregon State for \$10,000 and then hire another individual for \$5,000 at \$10 an hour to do the calling on the phone and whatever the process is that gets the data graded and that could be another two months' work. It is a job that has benefit and the participant would be gaining skills. There are not always scientific skills in this area. Someone locally would have a great opportunity. There is a 60% match, including rent, overhead and staff time. 188 hours or about 5 weeks. About a month over the course of 18 months to move things from the 19th century into the 21st century. Robertson explained in more detail the opportunity and what DEQ wants to accomplish. He said that this is a competitive grant. We do not have to accept it. Robertson elaborated on the type of testing that could be done to determine the type of nutrients that are leaching into the lake. The city is helping in this as well. He explained the e-coli identification issues.

Winchester moved that Robertson proceed with the DEQ grant project. Skirvin seconded the motion.

Vote: Unanimous. Motion carried.

Native Vegetation

Robertson distributed a Draft of a Planting Guide and said the Board wants to pursue a planting guide for riparian, wetlands and aquatic vegetation.

The proposal includes five tasks. Plant List, Commercial Sources, Mesocosm, Planting Instructions and Guide Development. Robertson met with ODFW re native vegetation. Strayer provided a background on the native vegetation projects from the past. He said there is virtually no vegetation in the lake at this time. Migratory water fowl have decreased and fishing has diminished. He was attempting to improve the lake in this area and submitted a proposal to the Board. It was necessary to apply to State Lands to get a permit for underwater enclosures to plant native aquatic plants, which they rejected since it would attract salmon and predatory fish would eat the salmon. The permit was withdrawn. Strayer met with ODFW and asked where do we go from here? If we want a healthy lake, what should we do? They replied that they have some new ideas.

Robertson met with them to learn their new ideas.

Robertson said one of their new ideas is: Instead of creating large mesh underwater enclosures that would allow fish to come in and out, create near-shore ones that would not allow fish to come inside—namely, 1/8-inch mesh would be required. The District is being asked to come to the near-shore and make a fence with this mesh...a half moon to the shoreline, then plant vegetation on the near shore that could grow. It would be necessary to provide a mechanism to keep fish out of these environments.

Strayer: So, basically, there is a restricted way in the new proposal. There will be limited results, but something is better than nothing. We can start the native vegetation. Those are not firm commitments, but they came to us. What Strayer would like to see would be to piggy-back onto TetraTech, the best aquatic botanists to create structures identified by ODFW, and use that as the submittal to State Lands for a new permit request. Part of the contract would be to bounce their plans to ODFW.

We could build these pens outside of the property of the owners that volunteer and establish plants. Then, we would remove the structures and replant where they should be—down to the 5- or 6-foot level.

Brown: How many bass are there?

Strayer: Sexton said he has observed bass under docks. He described the electrofishing process. They have determined that there are no bass surviving the winter.

Moore: A lot of this is an attempt to get home owners involved in growing vegetation around the lake.

Strayer: ODFW is using chemicals to clear out lakes and ponds and they are happy with some of them. Does the Board want to authorize Robertson to develop an aquatic restoration project?

Winchester: Did we budget for that?

Strayer: We have some money left over from SolarBees.

Robertson: We have the lake improvement fund. There is \$19,000 in the General Fund set aside as loan servicing money for the whole lake circulation project.

Strayer: We could negotiate with TetraTech and get a proposal we are happy with.

Robertson referred the Board to the Vegetation Planting Guide for Devils Lake he distributed. Perhaps instead of a near-shore nursery, try an on-shore nursery. Because our coastal climate is cool enough, we could have success in planting.

Strayer: Phase 1 is pens for native plants. Phase 2 is replanting the plants into 6 feet to be a buffer for incoming nutrients.

Robertson: Their ongoing consulting fee is the same as identified here.

Strayer: We'd need another removal/fill permit. Robertson could contact DSL to see what their special requirements are. Restoration has to be a broader scale than research.

Robertson: If it is above the mean high water, 10.4 feet, you do not need a permit on private property.

DLWID Internship

Robertson introduced Hannah Nicholls, a junior from U of O working on her Marine Science degree. She is a local girl and a Taft High grad. Nicholls said she would like to work in water quality, monitoring estuaries, wetlands and water sheds.

RARE Internship

Robertson submitted the RARE application via e-mail. Interviews will be July 27 through 31 and the District has approved these funds that are in the budget. This is a U of O program—Resource Assistance to Rural Environment. Candidates are either Bachelor or Grad students in rural Oregon who are tasked with helping small districts or cities or counties further their work. They will work for a stipend and get good work experience. The intern will work on creating a septic tank revitalization program, sharing our shoreline education campaign and on water quality testing.

Financial Oversight Committee

Members of this committee will be the District treasurer, Jim Park and Doug Pirie.

Contract Review/Renewal

The lake manager's contract approval was postponed to next month due to the late hour and the fact that a full Board should be present to address the issue.

New Business

Communications committee Report

Strayer: There are a few proposals and the committee is set to meet after this meeting.

Board Vacancy

So far, there is one applicant; applications will be accepted until July 15 with interviews to be held in August and a final decision to be made in September.

Non Agenda Items

Public Comment (Non-agenda Items)

Depweg: He said he would like to see some control over “jumping out ahead” and creating a scare tactic, such as occurred yesterday and today on the local radio. He would like the lake manager to discontinue advising people that the lake is dangerous. So far, in his 34 years, he has yet to see anyone get sick because of skiing through the green slime.

Robertson: What has been set up is a cyanowatch program recommended by the Health and Human Services Department on 8/11/05. They developed guidelines and wanted the District to pursue these guidelines, which is what he has been doing. There are three phases. 1, get out the info. 2, as you see cyanobacteria, keep up the public awareness. Robertson explained more about the cyanobacteria issue. Then, phase 3 is to go to full health advisory against water contact. He said he is attempting to reduce public risk when cyanobacteria worsen. He asked, “What is the point of having a program if you do not follow it?”

Moore: The method of communicating is not effective. There are plenty of people who are ignoring the advisories.

Robertson: With the amount of cyanobacteria flourishing in the water, we did find it reasonable to raise the alert level to Yellow with the upcoming holiday weekend. [July 4]. He said you are at most risk when you are water skiing or swimming. Canoeing and kayaking are at much less risk than when you are skiing behind a boat. And, people should always avoid scummy water.

Announcements

KBCH 1400 am: Tuesday, July 7, 7:30 am to 8:00 am

Oregon Lake Association: September 11, 12, 2009-01-30, Union 50

Erosion Control Seminar: October 8, 2009—contractor focused.

North American Lake Management Society, October 27-31, 2009

Robertson thanked the entire Board for their dedicated service and presented an award he had created for the Board member who has exhibited a higher level of involvement. That member was Jack Strayer, who received a 2008-2009 plaque for his excellence of service.

Adjournment at 8:30 p.m.

Respectfully submitted,

Linda Burt