



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

**DLWID OFFICE  
January 7, 2010  
6:00 P.M.**

**PRESENT:** Jack Strayer  
Brian Green  
David Skirvin  
Randy Weldon

**ABSENT:** None

**AUDIENCE:** Dana Moore, Donna Elsasser, Don Sell, David Stiller, Tom Moore, Ruth Croft, Carole Kramer, Loren Leach, Mitchell Moore, Betty Wachs, Ron Roys, Jevon Montro, Gary and July Richmond, Tony McCasline, Miles Schlesinger, Bill Pigott, Doug Pirie, Mark C, Mark and Kerry Richards, Francis and Victoria Charbonnier, Paul Charbonnier, Al Kramer, David Hawker, Richard Raymond, Bill and Jean Read, Raylene Erickson

**STAFF:** Paul Robertson, Seth Lenaerts, RARE Participant

Green brought the meeting to order at 6:00 PM.

**Minutes of Previous Meeting**

Strayer requested a change on December's Minutes on Page 4 to read, "Strayer believes that the Board should not support this program. Stop it before it goes any further."

Weldon asked for a change on Page 7 to read, "Weldon said he could possibly vote for it if he had all the facts."

Green moved to approve the Minutes with the incorporated changes and Skirvin seconded the motion. Vote: Unanimous. Motion carried.

**Financial Report**

Robertson indicated there were three additional payments: One for TetraTech for one-fourth of the work they have completed; an invoice from Lincoln Storage for \$1,265 (first one in 12 months, since it is paid in advance), and the Capital One credit card bill for \$764.93, which he detailed for Green. Green moved to approve the financial report and Strayer seconded.

Vote: Unanimous. Motion carried.

## **Public Comment on Agenda Items**

A member of the audience asked the Board to give their names and explain their function. Green explained the Statute and what the Board's duties entail. She asked if the Board members were required to live on the lake. Green and Robertson replied that there is a requirement that a Board member must own property within the District.

## **Unfinished Business**

### **Board Appointment**

Green noted that each Board member was given a ballot and he asked each member to circle a name and give it to the Recorder.

Burt counted the ballots and noted that three circled Joe Barnes and one voted for Mark Christie. Voting for Barnes were Skirvin, Weldon and Green. Strayer voted for Christie. Joe Barnes, who is out of the area and will return for February's meeting, was appointed to fill the Board's vacant position.

### **Boat House/Docks**

No update, tabled priority.

### **Land-Use Complaints**

**2551 EDLR:** Robertson is further exploring the connection between essential salmon habitat and limiting the amount of fill that can be placed in the lake without a permit. Robertson said that it appears that DSL changed their requirements from the information they imparted in previous years. Robertson will address the issues with the new staff in Newport. Clarification is needed. To place fill in any flood area, a permit is required from Lincoln County.

**Seid Creek:** Bridgett Lohman is on maternity leave until late January, 2010. Robertson left a message with her substitute with a request for a follow up.

Green asked if there was any type of activity occurring at either of these sites and Robertson replied, "No."

### **Lake Level**

The lake has been flowing freely with no intervention this month and it has remained at 8.9 to 9.2 for most of the time. The city has reimbursed the District for half of the emergency dredging costs.

### **Devils Lake Plan**

#### **DEQ 319 Grant**

The final paperwork was received from DEQ and has been submitted. Received \$15,000 grant for data base creation using all existing data to place it into a robust database. Work on this project will be placed on high priority; staff time will go into the District's portion of the matching portion of the grant.

### **Native Vegetation**

Strayer, Skirvin and Robertson met with Dr. Pennington and Mary Metz of Tetra Tech, Inc. to review the draft plant list and the planting guide. District provided some basic feedback.

Simplicity and brevity are being considered in this plan. The project was extended for two weeks by the board members. Robertson has provided photos and files to include in the document. They are considering about 25 plants. Dr. Pennington is available for a February 4, 2010 phone conference during the next Board meeting. She has approximately 50% of the photos to display so that people can identify what native vegetation they might be interested in placing on their shorelines.

Strayer said it should be of use to people around the lake for many years, as it will specify what the plants will do for home owners. It will be available on the website. Strayer has a copy but cannot distribute it yet due to photo copywrites. It should be available in a month or so. Specific inquiries have come up from people who are interested in the plants.

### **Whole Lake Circulation**

No updates.

### **Septic Tank Revitalization Program**

Lenaerts said the City will have an exploratory meeting next Monday evening at 7:00 PM at city hall to discuss an ordinance. This issue has been in progress for the last 15 years, most recently the last two years. Lenaerts showed a slide show of the history of this program.

1993, CRMP (Coordinated Resource Management Plan) created a management plan for the lake. A printed copy of Lenaert's slide show was included in the meeting's packet which is available online.

Lenaerts showed the summary of records he has been researching and has now listed more than 200 homes. He reported the percentages of actions on septic tanks of homes around the lake.

Pre 1985-30%

1986 – 2000 41%

2000-2009 23%

Unknown 6%

Robertson said the District has the right to create ordinances; however, it does not have mechanism to enforce them.

Lenaerts said there are laws regarding septic systems that are DEQ regulated. Often the oversight is delegated to the County; however, unless the county receives a complaint, they may not know of an issue.

On January 11, the City will discuss a potential ordinance at their City Council meeting.

Green asked for public comment on issues other than septic tanks.

Hawker then spoke and reported that he has issued a recommendation based on a lengthy process of just researching the issues. He has sent an 11-page memo to City Council for discussion at the Monday night meeting. He referred the group to [lincolncity.org](http://lincolncity.org) for the memo, including all attachments. He said all that is currently being proposed to the Council is the drafting of an ordinance for late February or early March. There is a lot of time for public comment. Hawker stressed that this recommendation was precipitated from information that he has been researching; therefore, he is recommending an inspection

program to require that homeowners' septic systems comply with the regulations that were in place at the time their system was installed. An inspection on homes bordering Devils Lake or one of its tributaries would be required within the next five years. The system must function as it did when it was installed. Homeowners would pay approximately \$505 for the inspection and the septic would probably need to be repaired or replaced if there is a problem. If everyone is in compliance, the requirement might sunset permanently. For septic systems around lakes or water bodies such as Devils Lake, The EPA recommends issuing operating permits of a limited time period. If you can prove at the end of that period that you are in compliance, you can obtain another permit. Hawker said he is not recommending that tanks be brought up to current standards nor is he recommending anything as stringent as the EPA requires.

Hawker proceeded to answer questions from the audience. He said he checked with some of the private contractors and did not feel that some of them were conducting proper inspections. He noted that these inspections are only being required for homes that border the lake or that border water that is connected to the lake. He has not decided how the septic tanks will be inspected.

Hawker said that the City has provided water service to properties on the lake without sewer and everyone could be responsible for the pollution of the lake. He said the City has been working to create LID's for quite some time and so far has only sewerred five properties.

Robertson spent some time explaining the difficulty in defining specific areas from which nutrients are coming.

Strayer asked why all properties are being treated the same—some homes are smaller and some are occupied less than five days a month compared to others that have large families.

Hawker said this would be open to discussion on how the testing is conducted.

Strayer referred to his neighbor who comes to his home four days a year. The \$500 would be an extreme hardship on him, and there are others. Hawker said they would be open to exceptions for very infrequent users of their homes.

Green asked if a system isn't functional that was built in 1954, would that homeowner have to meet the 1954 requirements?

Hawker said if a property owner is "run over" by an inspector, the City would reserve the right to choose another inspector.

He said fewer than 25% of the lake home owners are within the city; water service outside the city is not a right, it is a privilege. There are 460 houses on the lake. About 80 have sewers.

Mitchell Moore asked why everybody in the water shed would not be inspected.

Hawker said one mission of this District is to aggressively assess causes of pollution and to support a program that gets these septic systems in compliance.

Green noted that Dr. Raymond said there are very few sources of nutrients about which the District can do something. It always seems that septic systems are one program that can be corrected. A failing system will go straight into the lake in a very short time.

This nutrient budget isn't going to provide any answers on how much is being contributed in terms of nutrients. It is another modeling system. Nitrogen is soluble in water. Phosphorus adheres to sediment and much of it will eventually be pumped and treated at Schooner Creek.

Hawker said the only thing the council will decide on Monday is whether there will be an ordinance. It doesn't get real specific until there is an actual ordinance before them. When an ordinance is in draft stage, every property owner would get a letter from the city. Hawker said they are working on a stormwater master plan and he would not answer any questions on that issue.

Green asked if there were any other experiences or examples of voluntary inspection programs that have been successful besides the Eugene area one. No one responded. He said that with an LID, a property owner could finance a new system; however, for the government to create an LID there must be a benefit.

Hawker reminded the group that sewer installation would permit accelerated development around the lake.

Green said that one option would be that on the sale of a home or every two or five years an inspection be mandated.

Pigott asked if he could place his letter in the record. Green said it would be a matter of public record. (It is attached).

In response to an audience question, Robertson said there were other entities that applied for the stimulus funds with higher priorities than the District's project, ten percent of which was earmarked for septic tank revitalization. Robertson said that it would require \$2.5 million for the entire lake.

Pigott said it is unnecessary, given the data. He feels there are other ways of handling the issue and he will be speaking at the city council meeting. It might be legal, but he doesn't think it is "right" [to use the water shut-off as a stick]. Pigott said we know there is a problem coming out of Thompson Creek and he doesn't feel they are covered by a "grandfather" clause.

Skirvin said he had to re-do his septic tank last January and the only requirement for him was to install a concrete tank. There was no impact downstream. He had been concerned about working with the county; however, he felt they had been fair.

Mitchell Moore asked to make a statement. He referred to a letter he had sent to every lakefront owner. He requested that a member of the Board attend the January 11 meeting and read the resolution to the City Council. He said he objects to the heavy-handed mandate, since there is no scientific proof that there is a baseline and no expectation from this action. What is the expectation between a failing system and a successful system? What is the expected change in nutrients based on these inspections? What type of financing can be available to help property owners? He named a few alternative ideas, including educating home owners. He said he did not believe the Board agrees with David Hawker's proposal. He said it would be disastrous to home owners and would alienate 80 percent of them. He said it would probably cost no less than \$1,200 to inspect tanks and make any minor corrections. He said to ask the city to kill this program and go back to the drawing board.

Green asked that the public comment be closed.

Pigott stated that the Board be asked to step up and support it or back off and send someone to the council meeting Monday night.

Green said the Board will discuss the issue and public comment is closed.

Green asked for input from the Board.

Strayer said he had drafted a resolution for the Board after hearing the city manager. He is attempting to remove some of the sanctions. He said he believes the Board might favor an ordinance that does not include fines, fees, sanctions or withdrawal of water services.

Weldon said septic systems are not the best around the lake; they are the only thing that can be fixed. He said he does not agree with the way Hawker is bringing the issue about, but he believes that there are faulty septic tanks around the lake.

Green said he believes you need a stick to enforce an ordinance. A carrot doesn't work. He said he does not believe the Board needs to commit to supporting the stick at this time since this would be an early draft.

Green read a proposed resolution seeking support of the City's proposal, and requested a second. No one seconded.

Weldon asked if the inspections would be "regularly scheduled." Hawker said a one-time inspection was what he is recommending. Weldon said he feels a moral obligation to keep the lake clean. If his system is failing, it contributes to everyone.

Green said you would have one inspection and no stick.

Strayer said the illusion is that the Board is co-sponsoring the ordinance. He said to wait and see what they could accomplish without sanctions.

Green read another proposed motion to which he received no second.

Strayer asked what the points are that they could agree on. City and County equal fees?

Skirvin said he did not like the concept of shutting off water; however, it is difficult to get an effective program without some element of that. He believes it has to have some incentive for people to comply.

Green said he feels that the people who will not volunteer are the ones who are not in compliance.

Lenaerts said that the Board should show support of an ordinance. The city has not even seen an ordinance draft yet. He said it seems that there is a consensus on the Board that they do support some type of ordinance.

Weldon said he believes the Board should not be in favor of the city shutting off water if property owners do not comply.

Robertson said if there is no hammer, there will not be compliance. He elaborated on the mission statement, reiterated all the issues and the benefits of an ordinance.

Strayer said we need more science. Green said we do not need more science.

Lenaerts said that getting a city and a county to work together is not an easy task. The District should be supportive. He would like to see something in favor of it. It is the District's duty to improve the quality of the lake.

Weldon said, "What if we agree as long as there was not a water-shut-off clause?" He suggested charging more for the water than mandating a shut-off clause.

Robertson said the city was looking for feedback on this. He feels the Board should have some statement.

Green said we don't have to say anything about a carrot or a stick. You go to the public hearing and state, "I don't think there should be a shut-off."

Weldon said to add to Green's motion: "We prefer the water shut-off clause not be included in the ordinance."

Green moved for a Resolution stating:

The Devils Lake Water Improvement District Board supports the efforts of the city of Lincoln City to enact an ordinance requiring that properties that abut the lake or its tributaries have an inspection of their septic systems in order to ensure that such systems function

properly in accordance with their original design, and that any penalty for non compliance should not include termination of water service.

Skirvin seconded.

Three Yes votes; Strayer voted No. Vote: Majority Yes. Motion for Resolution passed.

### **Save our Shoreline Campaign**

Last month Lenaerts did not complete much work on this project. This project would be to improve Devils Lake water quality by encouraging natural vegetation around the lake's shoreline. Lenaerts listed goals and objectives.

The goal is to create two or three sample plots 15 feet back (300 square feet) and use them as examples for other people who are willing to plant a similar shoreline. Oregon Volunteers grant application was not successful. The Board will most likely have to contribute between \$1,500 and \$3,000 to purchase plants for the project. He said as the planting season approaches, the plants become more expensive. Plants can be propagated on site.

He said that all planting will be above-water vegetation. He visited Blake's nursery and discovered that the average plant is \$5 per plant. He said we would like to subsidize the cost and the home owners (whose properties are chosen as samples) could probably contribute. Signage would indicate that these are pilot projects.

Robertson said that these will all be native plants and they will probably be on the Tetra Tech list. He said that shoreline improvements are a huge benefit to lakes. According to the recently released EPA National Lakes Study, the highest correlating factor to the detriment of a lake is that houses bordered the lake.

Strayer moved that Seth be provided a budget of \$3,000 to develop a plant inventory for the pilot project and to transfer the funds from Debt Service to Vegetation Management.

Weldon seconded.

Vote: Unanimous. Motion carried.

### **Financial Oversight Committee Report**

Weldon said this has not begun yet.

### **Communications Committee Report**

This Committee plans to meet with Paul tomorrow night (Friday) to obtain his opinion on how they will work on this project. They will present the plan at 11:00 AM on Saturday at the workshop on goal setting.

### **Safety Report**

Nothing to report.

### **Listserve Constant Contact**

The service has been purchased and Lenaerts is creating sample e-mails and learning the program. He is creating a template with general info for a newsletter that will be used for Meeting Minutes and the Agenda as well as water quality summaries from the summertime and working with the Communications Committee on the water bill inserts.

### **Devils Lake Low Power Radio**

Has been installed; awaiting connection from the Waldport contact person.

## **Webspace**

Skirvin has migrated the website to the new server. There is now an unlimited amount of space on Webspace, FatCow.com. They are adding e-mail accounts; Mitchell Moore, CEO of Clear Creek was thanked for previously hosting the website. The new e-mail address for the Board is [Board@dlwid.org](mailto:Board@dlwid.org); it will forward into each account. An additionally email has been set up to reach the Lake Manager as well: [Lake.manager@dlwid.org](mailto:Lake.manager@dlwid.org) Changes to the website will come about upon installation of the new computer.

## **Technology Needs**

Robertson said he has the new computer ordered. Two Board members approved the extra \$150 to obtain the computer. Technology is short on a printer; the budget contains \$601 in capital that can be spent on a printer. One thing that is required is a black and white printer and possibly a laser color printer for all the documents that go out in the field. A multi-functional printer could be purchased for \$601.

Green moved to authorize the extra \$149 for the new computer purchase. Skirvin seconded. Vote: Unanimous. Motion carried.

Skirvin said he would like to see Robertson do some price comparisons, and then they could address the printer issue at February's meeting.

Green moved to authorized expenditure of up to \$601 for one or two printers. Strayer seconded.

Vote: Unanimous. Motion carried.

## **New Business**

### **PADL's Next Steps: John Lazier**

John Lazier was unable to attend the meeting due to surgery.

### **Nutrient Model**

Dr. Raymond suggested the District create a desktop nutrient model. He talked to Robertson and said that there is value in developing a nutrient model. He previously submitted a document that is not a proposal but was a response to Strayer's questions about nutrients and offering some suggestions. He said when he worked on Devils Lake projects in 1992, they were having the same discussions.

He said a nutrient model is a mathematical representation of the lake; there are reasons why you might want to go with a simple model. The primary question is where are the nutrients coming from? What change can we expect if we change the nutrients entering the lake? Another question is how much would we have to change the nutrients to make it worth while? Another is where do we need to look to get the information we need? The bathtub model was developed by the Corps of Engineers and is a less-complex model. It comprises conditions averaged over the long term of two or three years.

Another model is a dynamic model where you can determine how things change based on changes over a whole year. Some time down the road if you are talking about doing structures, you might want to do this one. He suggests the District consider using data existing that is developing and assembling. Much of the data will not be applicable to the questions you are asking. Data that you have may be useful in developing a model and as a starting point you can use literature values to fill in the gaps. Develop this tool into the future. You make changes, and it evolves into a more current model as you enter data, although you might not arrive at the answer you were expecting.

Models are for comparing results, not necessarily for predicting what will happen. What will have more of an impact? What will have less of an impact? Raymond said full-speed ahead might not describe the septic system proposal. He believes the work that has been done has a good grasp of the category of sources. If you are trying to measure what is coming from all the septic systems into the lake, it is difficult because they are coming from all different areas. You can measure what is coming in from the Creeks. Is there an issue with sediment from within the lake itself? You can get at these answers using a model. You don't need to worry about whether the data is perfect. You can develop a pretty good first cut of water quality data. You might want to start with how many nutrients are in the lake and the easily-measurable sources. The model predicts chlorophyll. This would be a good way to go. You can maybe determine that 75% of the phosphorus is coming from Thompson Creek and 10% of the nitrogen. If that is the case, then you could determine that nitrogen is the primary problem, so Thompson Creek is not where you want to concentrate.

The Board has looked at the requirements from DEQ to determine whether the work would be duplicated. These communications are merely discussion documents; Raymond said in the future they would be happy to do a proposal. Raymond suggested getting the data put together, then we know better what we have to work with and we can get a better idea of what it's going to cost.

Robertson and Green discussed the benefits of staff contributing the matching amount and how much would be saved up to \$10,000.

### **Budget Process and Calendar**

Robertson said the Board needs to appoint a budget officer. Green moved to appoint Robertson and Skirvin seconded.

Vote: Unanimous.

Robertson said there are five additional people required (besides Board members) that would be named at the February meeting. Robertson is proposing to publish the notices in April and have the budget available on May 4. The Board would adopt the budget on June 3 after the hearing; it would be submitted to the assessor and the County Clerk in September. Skirvin asked if the budget could be available two weeks prior to the approval—Friday, April 30.

Green moved to adopt the budget calendar (attached) with the change that the approved budget be available on April 30 instead of May 4. Skirvin seconded the motion.

Vote: Unanimous. Motion carried.

### **NIXLE.com**

This is a new free service that police and fire fighters have begun using to disseminate emergency information. You can go onto the website, enter your cell phone and your e-mail address. If Lincoln City emergency teams determine there is an emergency, an alert will be sent to your cell phone or to your e-mail. These would include issues such as Highway 101 being closed, etc. It is NIXLE.com. Robertson said he would not want to use it to excess or people may not pay attention. Messages can be classified.

### **Non-Agenda Items**

Mark Richards asked about water rights being transferred to the Siletz Tribe by the District. Robertson said that is not the case.

### **Public Comments**

None

### **Announcements**

Robertson will be on the radio next Tuesday, 7:30 A.M. on 1400 AM.

### **Adjournment**

There being no further business, the meeting was adjourned at 9:35. P.M.

Respectfully submitted,  
Linda Burt