



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

**DLWID OFFICE
March 3, 2011
6:00 P.M.**

PRESENT: Randy Weldon
Dave Skirvin
Joe Barnes
Jack Strayer
Brian Green

ABSENT: None

AUDIENCE: Alex Ward, Doug Pirie, Raylene Erickson, Noel Walker
Chuck Noriekis, Larry Brown

STAFF: Paul Robertson, Seth Lenaerts

MEDIA: Patrick Alexander, *The News Guard*
Dave Price, *Oregon Coast Today*

An Executive Session was held at 5:30 P.M. prior to the regular Board of Directors Meeting.

Green called the regular meeting to order at 6:10 p.m. at the office of the Devils Lake Water Improvement District.

Minutes of the previous meeting

Green moved and Skirvin seconded approving the Minutes from February.

Vote: Unanimous. Motion carried.

Financial Report

A couple of additions were mentioned by Robertson. He also noted an overdraft protection is in place for the accounts.

Green moved and Strayer seconded approving the financial report for February.

Vote: Unanimous. Motion carried.

Public Comment on Agenda Items

Larry Brown asked about the status on log removal at D River. Skirvin said it would be discussed in April. Barnes asked for it to be placed on the Agenda for next month. Green said he thought it was under consideration for this year in April or May and would be considered for an annual removal. Roberson noted he had received some informal quotes; he could go for a third quote and the Board could make a decision to act on it. Robertson said the District could spend up to \$5,000 with three bids. He noted that a permit would be required for removal. Brown reminded the Board that Ray Drayton had said he could sell the logs. Green stated that it would be discussed under Non-Agenda Items.

Unfinished Business

Devils Lake Plan Revisions and Adoption

Strayer asked for the comments to be summarized.

Robertson stated that they had conducted five open houses for comments.

He listed the many groups and individuals who had submitted comments—various agencies, Department of State Lands, Department of Agriculture, ODFW, Lincoln County, Chamber of commerce, North Lincoln Fire & Rescue, T&L Septic, various individuals and others. U.S. Fish and Wildlife commented relative to the Rock Creek/East Devils Lake area. And, Mark Sytsma from Portland State commented as did Oregon State University, and there were 12 comments from individuals relative to warm water fishing. Comments were submitted via the on-line digital form. Robertson noted that he added a species list, added a couple of paragraphs, made some verbiage changes and included five or six maps. He also pointed out where many of the comments had been addressed within the existing plan.

Discussion continued on the ODFW letter received from Bruce McIntosh, Deputy Fish Division Administrator for Inland Fisheries, regarding the grass carp issue.

Strayer noted that they have to appoint a panel to review the application; they also require a scientific study.

Green noted that removing the grass carp from the Plan is premature. The Plan as presented will generate some good additional ideas and debate. Grass carp is only one component of managing aquatic vegetation.

Strayer asked if the ODFW letter and comments could be placed on the website for the public's viewing.

Skirvin asked if Strayer was making a motion to pull grass carp out of the Plan.

Strayer moved to remove the grass carp as a priority out of the Plan.

The motion was not seconded. Green noted that Motion died for lack of a second.

Strayer continued with, "I was looking over your Fish and Wildlife section and [ODFW's] Attachment 1 is a better statement of the status of the lake. I'd like you to look at their comments and consider adopting them."

Discussion continued on bass fishing and methods of controlling the weeds.

Strayer stated that Dr. Sytsma came up with a list of various methods of controlling weeds. He felt that the grass carp were used to control the weeds because it was a cheaper fix.

Noel Walker stated that in 1985 when the grass carp were planted, there had been a public outcry against any chemicals and harvesters could not remove the weeds because there was no place to dispose of them. The same choices are here now as were available in 1985. He disagreed with the fact that grass carp had been used because they were cheap.

Discussion began on the three-state agreement to place grass carp in the lake in 1985. Someone asked Robertson if the grass carp had been identified as being "sterile." Robertson responded that it had been noted.

Green: Other options were explored in the '80's and we did it again three or four years ago. I am not saying that we should not look at some of the methods mentioned by Dr Sytsma; however, we are now discussing the plan.

A question was brought up about the time-line for installing grass carp should this be the decision.

Barnes: Things will change if they tell us we cannot have grass carp. We need to go to Plan B at that point.

Robertson reminded the Board that the plan is adaptable and flexible.

There was a discussion about weed growth that sprang up in one area of the lake within four months when the area was inaccessible to the grass carp.

DEQ 319 Grant

March 31 is the due date and Robertson noted that a great deal of time will be spent on this issue during the coming month. He has received all of the required information.

Robertson explained for the audience that the grant would compile all digital information and place it into a database and create a report on the outcome. This project was possible from a matching grant wherein the District participated with in-kind staff time.

Septic Tank Revitalization Program (Lenaerts)

Lenaerts noted that David Hawker had suggested that Mayor Anderson, Brian Green, Paul Robertson and Seth Lenaerts meet to review the issue. This meeting would be to determine if the outline would be favorable for approval by the city council.

Skirvin noted that he would like to attend this meeting.

Barnes said he'd like to have Robertson go before the council and do a presentation.

Lenaerts noted that during his previous presentation nobody in the city council wanted to act on it. With a new mayor and a new council, there is a benefit to considering a compromise.

A discussion about septic tanks vs. the benefits of sewer began. Robertson reminded that installing sewer around the lake is an issue for far into the future and that working septic tanks are sufficient for now.

Lenaerts will try to set up a meeting for spring break week.

SOS--Save our Shoreline Campaign (Lenaerts)

March 15 from 10:00 AM to noon, a landscapers' course will be conducted. Anyone with a license can obtain continuing education hours for attending the seminar. Strayer asked if the notice has gone out to the valley and Lenaerts replied that a notice was placed on the Oregon Landscape Contractors Board website.

Regarding the Regatta Grounds RFP, Lenaerts noted that two responses were received—one from Devils Lake Rock and another from Thompson Construction. Site preparation will be completed and then the planting will begin. Devils Lake Rock's bid came in at \$2,500, while Thompson Construction's came in at \$2,625. Devils Lake Rock noted that they would supply and install the rocks.

Barnes moved to award the bid to Devils Lake Rock and Weldon seconded the motion. Weldon, Strayer, Barnes and Skirvin voted: Yes.

Green excused himself due to his relationship with Thompson Construction.

Motion carried.

Lenaerts noted that Director of Parks and Recreation, Ron Ploger, retired on February 28. He is hopeful that this will not delay the project.

Devils Lake Rock agreed to complete the project prior to April 1. The date can be extended if necessary.

Lenaerts noted that the flag pole will remain in place; however, the light will be moved from under the pump station.

Lenaerts reported that the seed packets will be soon available. He asked about other promotional materials. He researched the cost of small flags--\$8 to \$12, plus printing costs. The Board asked him to research the cost of printing the DLWID logo on the flags. He will bring a couple of options next meeting. It was determined that the flag should be a high-quality flag for longevity.

Vegetation Management

Robertson continues to work on the grass carp "fact sheet." He is waiting for additional information from ODFW.

Sewer (Brian Green)

Green presented the sewer installation petition before the city council on February 14 with Stephanie Reed, city engineer. Green said it was good environmentally for the lake and a substantial number of the property owners were in favor of it. The city authorized hiring an engineer to perform an assessment at a cost to the city of \$20,000 (a budget line item). This is the single biggest component. The engineer will obtain bids and verify what Green has completed. If the project does not go forward, the city will absorb the \$20,000. There will be no change on the storm water runoff, no change in the impermeable surfaces and no increase in development of the area because all properties are currently eligible for septic systems if the sewerage doesn't happen.

Comments from the city council members was generally favorable. The engineer's report will be ready in two to three months. There will be two public hearings in the future, but so far, so good.

The Café – Union 50

Green and Barnes met with Patrick O'Connor, President of OCCC. The Union 50 building and property were donated to them and they are in need of funds. They cannot afford to retain it for their use. They are required to maintain a contingency of 10% and currently have almost none; their budgets have been cut.

Barnes: The Board needs to make a case for value. Based on the amount of contingency the college is required to maintain, a figure of \$400,000 or so might be considered. We can put together some comps. We currently pay \$1,200 per month. We'd have taxes and insurance. If we had a \$1,000 monthly deficit, we could secure a co-op partnership.

Green said he favors going with the project if we are paying no more or if there is a visible benefit worth acquiring the project. Robertson said the current rent here is below market value.

Green: We might be able to get lower interest rates.

Robertson mentioned that Urban Renewal might be willing to partner with the District on the project.

Barnes said we need to fine-line a few things and work on getting some partners. Spend some money on a rendering that shows what the vision is and spend some time researching it. We could secure a partner that could take some of the space. That would dictate the maximum amount we could offer the college. The next step is to make sure we are all on board.

Green: Let's contact some lenders and find out what's available finance-wise that might be better than the market at large. Figure out what pencils for us without partners.

Barnes: Paul can contact some lenders and do some research on government funding, look at interest rates, and we will analyze it at the next meeting. We need a development check list. If we can get all the boxes checked, we can make an offer.

Robertson said that PSU wanted to see a business plan.

Robertson said the District could set up a formal meeting and begin a conversation with the Urban Renewal Board. He was asked to set up a meeting with Brian Green and Kurt Olsen from Urban Renewal to talk about a partnership.

Green asked Robertson to call Special Districts, a good resource.

Green asked for Robertson to compile some basic information prior to their meeting with Kurt Olsen.

Barnes moved to approve the Devils Lake Plan with the requested changes on 2.1.

Skirvin seconded the motion.

Strayer said he felt the ODFW comments should be included and the No. 1 goal of getting grass carp and should be directed to aquatic vegetation management.

Barnes said the plan is a moving, flexible plan. It is a good start and it reflects the priorities of the board as well as the District.

Voting to approve the Devils Lake Plan were Weldon, Green, Skirvin and Barnes.

Strayer voted No.

Motion passed.

Communications Report

Robertson said the website has been updated and all Board resolutions are included on the meetings page.

He reported that he had been asked to create 40 four-color copies of information similar to that in the brochure—take some of the information and make it into one two-sided 8 ½ x 11 collateral piece. This would be placed in the VRD’s visitor guide books that includes area attractions and things to do. The cost is a little time spent designing it and printing it with the office printer.

The Board asked for a draft of the piece to be sent via e-mail for their approval. Robertson said that the deadline is March. The Board said that if they required no changes, it could be approved by e-mail. If changes are required, it would have to be placed on next month’s agenda.

Lenaerts presented a draft of a brochure he has been working on for the past few weeks. He will clean up some of the text and some of the sections and by next month he will have a clean draft that they can look at and approve.

Green said the front page appears to be promoting DLWID. He would like the focus to be on educating people on Devils Lake. Currently, a sail boat is on the front of the brochure with Strayer’s house in the background.

Seth said the cost is \$1,236 for 10,000 copies and a little bit more with the graphic design estimate. Robertson confirmed that 10,000 would be required.

Safety Report

No activity.

Thompson Creek

The letter is finished. Robertson suggested including a seed packet in each of the envelopes that are being created for the S.O.S. program. Robertson said the letter is one sheet, two sides and includes two graphs.

Erosion Study

The next step is a teleconference with TetraTech scheduled for Monday, March 7, at 9:30 a.m. to include the specialist from Fort Collins, Colorado. Supplemental aerials were obtained from Lincoln City and sent to TetraTech.

New Business

Budget Committee

Jim Park contacted Robertson and agreed to serve in one of the vacant spots on the committee. The other vacancy will be held up until filled or until the beginning of the budget committee meeting.

Green moved to appoint Jim Park to the budget committee. Skirvin seconded the motion. Vote: Unanimous. Motion carried.

Robertson will notify Jim Park that he is on the budget committee.

Lake Steward Award

Two nominations were received for the Lake Steward award.

Mitchell Moore was nominated by Jack Strayer and Nancy Earl was nominated by Seth Lenaerts.

Nancy Earl was the first person to participate in an SOS project. She helped recruit the second person who participated and it is felt that she is a positive influence for the program. After her project, the projects accelerated.

Mitchell Moore was nominated because he provided the free website and analysis and contributed in Board meetings many times with valuable comments. Mitchell has hosted events and is a major contributor to the communications committee. He originated the SolarBee website, changing it to the Navigator website to inform the public about issues. He has organized and hosted picnics at the Point for people interested in the lake.

Mitchell Moore received a majority of the votes and will therefore be awarded the Lake Steward Award at the upcoming Community Days dinner. Green, Barnes and Strayer voted for Moore; Weldon voted for Nancy Earl while Skirvin abstained.

Boat Wash Stations

Robertson said he would like to meet with Bill Sexton, Raylene Erickson and a representative from the city regarding boat washing stations.

A design is needed. Strayer noted that a portable unit is available.

Discussion began about staffed or unstaffed units; it was determined that cost of staffing would be prohibitive. Barnes asked if it was necessary to have a pressure washer.

Robertson stated that Lake Oswego boaters must display a decal certifying that their boats have been washed; he doesn't know if there is a specific site designated for a boat wash unit. He said that Maine has been proactive in boat washing.

He stated that two or three might be considered—one at Regatta Grounds and one at Devils Lake Park. He said that the cost would be about \$15,000.

Weldon asked Robertson to do some research and report to the Board about the feasibility of the invasive mussels surviving.

Barnes asked for more research on the boat washing units.

Doug Pirie said that most people coming into the lake enter from the south end.

Green said that an unmanned unit must be considered.

Barnes was concerned that a high pressure hose would invite people to use the station for other vehicle washing.

The Board asked Robertson to research an unmanned boat washing unit for next month's meeting.

Robertson and Raylene Erickson will meet and research the stations. Raylene said the Water Council might have some suggestions.

Green asked Robertson to bring information on the best unmanned station he could find.

Staffing Plans

Green said this issue was all about a summer intern vs. project manager.

After some discussion, Skirvin moved to have Robertson post the non-paid internship position and Barnes seconded the motion.

Vote: Unanimous. Motion carried.

Non-Agenda Items

Skirvin moved to have Robertson obtain estimates on removing logs one for just the canal, the other from the dam to the canal Green seconded the motion.

Vote: Unanimous. Motion carried.

Barnes said he talked with an engineer who informed him that it should be relatively easy to remove the sand from the canal—just enough to get the water flowing.

He said it would have to be deep enough to suck the sand out.

Pirie led a discussion about the feasibility of the dredging lasting and the various types of sand involved. He said it might be good for five years. But, there is a concrete funnel in front of it.

Robertson noted that in the past, the fire department had blown out the sand. Discussion continued about asking North Lincoln Fire and Rescue to do so again; a permit would be required for the removal. Robertson will talk with the chief and report back to the Board next meeting.

Adjournment

The meeting adjourned at 9:12 P.M.

The next Board meeting will be held on April 7, 2011, at 6:00 P.M.

Respectfully submitted, Linda Burt

Mitchell Moore
2929 NE Loop Drive
Otis, OR 97368

March 03, 2011

Devils Lake Water Improvement District
820 SE Hwy 101, Suite D
Lincoln City, OR 97367

Dear DLWID Board Member:

I would like to provide input on the Devils Lake Plan – Version 2.1, which is on this month's agenda. I will not be able to attend the meeting therefore, I am submitting you written comments prior to the meeting.

QUALIFIED SUPPORT FOR THE DEVILS LAKE PLAN

Overall, I support the contents of the Devils Lake Plan. There are many good ideas contained that can be pursued. Unfortunately, the District still seeks to draft four new ordinances and become the active enforcement vehicle for those and other existing ordinances. This is in no way meant as a threat, but from what I read in the Plan, I may find myself working with the District on the Plan goals but actively opposing the District on their efforts to create and enforce new regulations on lake users. This of course could be avoided by the removal these references from the Plan.

LISTENED BUT DID NOT HEAR

I appreciate the opportunity to provide comments on the Devils Lake Plan at the last board meeting. While you listened to my comments, it seems you did not hear my concerns. It is possible that you simply did not agree, but I believe that my suggestions are pragmatic in that the removal of the police actions contained in the Plan would eliminate the Plan's critics and bolster public support. The changes between versions 2.0 and 2.1 are minor; and did not address the most controversial elements of the Plan. Indeed, the term "mandatory" was reduced from five to four. The term ordinance was increased from thirteen to fourteen times, recommending four new ordinances. The Plan also recommends the District be a party to active enforcement of these ordinances.

I would continue to recommend that all references to "mandatory" and all references to the term "ordinance" that contemplate or recommend the creation of a new rule or legislated requirement be removed from the Devils Lake Plan. The District can move forward with each Plan element without these regulatory threats against the very people they seek to motivate.

SEPTIC PROGRAM

Once again, I have stated in previous meetings that I support the septic program; at least making the first round of inspections of all the tanks in the watershed. I have gone on record several times to oppose the City's intention of withholding water service to residents outside the City as an enforcement tool for the program.

Last month I warned that this one provision would put the entire program at risk, as residents will not let this stand unchallenged. By now, you may have seen the article in the latest News Guard related to House Bill 3144. If you have not read it, I have posted a link on the District's Facebook page.

This legislation was drafted by a Roads End homeowner and was introduced by Representative Kim Thatcher. It is specifically aimed at the situation in Roads End but would apply to Neotsu and East Devils Lake residents and to residents throughout Oregon. The language in this bill will likely be amended to contain a specific restriction from imposing unrelated conditions, such as septic inspections, before being forwarded to the floor for a vote. This bill is designed to address the provision of extraterritorial services by governments, which are generally sewer and water service. Simply put...

It would NOT prevent a City from demanding annexation or consent to annex contracts in exchange for providing a NEW service or extraterritorial service to an area that has not previously been receiving it. It would not prevent Cities from using the most common annexation methods, those being the double or triple majority provisions of ORS 222. It would NOT prevent DLWID from combining a City and County ordinance to create a septic inspection program.

What it WOULD do is prevent a City, which has historically been providing extraterritorial service from threatening to curtail that service if the affected residents do not agree to annexation. It WILL kill any appetite by the City to draft and enforce ordinance on non-City residents by threat of water shut off.

This bill has received the backing of Oregon Communities for a Voice in Annexations (OCVA) as well as a couple of very large Oregon corporations. I expect the usual opposition, the League of Oregon Cities, which will argue vehemently against this. There is growing support for this type of "Hostage Annexation" reform as part of an ongoing effort to bring fairness to Oregon's annexation laws. There are a total of four active bills before the Oregon Legislature this session that address annexation abuse, many of their proponents will use Lincoln City's behavior as an example because it is the text book "Bad City" threatening County residents. It is impossible to predict if these bills will pass, but I would suggest that public debate will impact the District's proposed septic ordinance.

There is nothing in the Oregon Revised Statutes, which would allow the City to impose unrelated conditions such as septic inspections on the provision of extraterritorial services. Indeed, the actions already taken by the City toward the septic ordinance will only fuel the arguments in favor of HB 3144. With the promise of new taxes from Road's End at stake, it is reasonable to expect the City to drop and further pursuit of the septic ordinance.

When you couple this with the potential for prohibition on the placement of unrelated conditions on the provision of extraterritorial services; then the septic program is in real jeopardy. This is easy to rectify without any real change to the septic program. As suggested last month the District should modify the Devils Lake Plan as described below; by doing so you proactively offer the City a quick way to evade this broiling controversy, get the job done and bank the political capital for another day.

The District should reconfigure the septic program engaging the two governmental bodies that have clear jurisdiction. The City should draft and enact an ordinance that creates an inspection program within the City limits, which utilizes the normal Municipal Court system for enforcement. The septic systems outside the City would be addressed through a companion County ordinance that requires septic inspection in a designated watershed, beginning with the Devils Lake basin. Enforced once again could be accomplished through the Municipal Court system. This will give the septic program proper standing in each jurisdiction and removes the risk of litigation or debate associated with the current scheme suggested by Lincoln City.

IN CONCLUSION

I appreciate the opportunity to address you. I hope you will give these comments due consideration.

Sincerely,
Mitchell Moore