



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

**DLWID OFFICE
August 4, 2011
6:00 P.M.**

PRESENT: Randy Weldon
David Skirvin
Brian Green
Noel Walker
Kip Ward

ABSENT: None

AUDIENCE: Don Sell, Joe Barnes, Mitchell Moore, Raylene Erickson

STAFF: Paul Robertson, Seth Lenaerts and Intern, Lisa Lynch

MEDIA: None

Green called the regular meeting of the DLWID Board of Directors to order at 6:03 P.M.

Minutes of the June meeting

Green moved to approve the Minutes of the previous meeting and Walker seconded.

Vote: Unanimous. Motion carried.

Financial Report

Skirvin arrived and then asked for Robertson to present information on the financial report. Robertson noted that \$699 was paid for a new laptop computer and the credit card charge for the new meter was paid this month.

Skirvin moved and Green seconded approving the financial report.

Vote: Unanimous. Motion carried.

Public Comment

Unfinished Business

Mitchell Moore: Regarding information on City Manager David Hawker's proposal to investigate discontinuing water services outside the city's urban growth boundary, he has characterized Devil's Lake as being "polluted." Moore feels that Mr. Hawker could refer to the lake as nutrient-loaded or use another less offensive term. Moore does not feel that Mr. Hawker's and the District's goals are compatible. He feels the Board should take note and consider the message that Mr. Hawker may be imparting by referring to the lake as polluted—it is not conducive to improving the lake's value.

The Devils Lake Plan

Septic Tank Revitalization Program (Lenaerts)

No significant update. Nobody is championing the issue at this time, until the city gets some items off its agenda. We'll just continue knocking and eventually the issue might be picked up again.

Skirvin: Can you reach out during the next month and ask Mr. Hawker about the "pollution" verbiage and the status on the septic tank issue?

Green asked that Lenaerts call or e-mail David Hawker and suggest that he use the term "reduction of nutrient loading" rather than "substantial pollution" of the lake. Lenaerts will do what he can.

SOS--Save our Shoreline Campaign (Lenaerts)

The Rain Garden sign will be placed at the Regatta Grounds project. Any comment on the sign?

Green said it looks nice. Skirvin told Lenaerts to go ahead and install it.

Lenaerts said that he would like to coordinate a class for lake shoreline property owners similar to the previous one held for landscapers—prior to October. With any interest, new projects could be completed before it starts raining. Cost for the previous class included direct mailers, coffee, tea and cookies.

Skirvin said it would be good to prepare a flyer to hand out at the Devils Lake Revival festival.

Lenaerts said that sending out the mailers would cost about \$250. Skirvin asked what the budget was for the landscapers' class and suggested this issue be brought up again under New Business.

Vegetation Management

Robertson said he got in touch with Laura Tessler of ODFW (re the grass carp issue); however, she has been away from this issue for a year. She named Rhine Messner of ODFW as the best contact. Robertson and Skirvin met with Mr. Messner in Salem.

Tessler said that about 50% of the appeals under her jurisdiction were successful. One was a size of lake issue—13 acres, privately owned and not in a floodplain. The second one was in a floodplain, but they were granted permission provided the applicant raised the dike around the lake by 10 feet. Two unsuccessful appeals were with floodplain issues and one had a direct connection to another stream. The commission denied them. None of those are what we are most concerned with—the public access issue. Regarding the floodplain, we could probably get an exception. The fish would die rather than escape. On acreage, from 10 to 680 is quite a stretch. The one that they don't have the ability to offer an exception for is the public water access and that is the challenge.

According to Rhine Messner, what we need to do is to petition the commission for a rule change. In the petition we would request that there be an activity permitted which would allow grass carp to be stocked in Devils Lake—he said to use specific language for Devils Lake rather than for state-wide.

Skirvin added that the language could be modified to petition that Devils Lake be excluded from the rules restriction or we can add an activity that is solely for Devils Lake. We would submit both approaches and then they would decide which one is more plausible for them. The overall time line is that we have to prepare a research packet with positives and negatives and then the commission would either say yes or no. If they accept our petition, then there are a couple of panels to approach—one is an aquatic panel and the other one is a wildlife panel. Those two groups would work through the information we provide to them. Messner did not have any idea how long this would take; some of it would depend on when staff time is available. It would probably be up to a year. We might wish to retain counsel to prepare some of the verbiage.

Green: One way we can be differentiated from the rest of the state is that we are under a public body that collects tax dollars and has the capability of monitoring the issues. If they are going to allow us to input carp, they do not want to set a precedent for other lakes to do the same.

Skirvin: And, our watershed dumps into the Pacific. We don't feed into another water body and are an isolated watershed. One of the negatives is the public access issue. People can take the carp and plant them someplace else.

Green noted that the fish are sterile, so this should not have much of an impact.

Messner informed Skirvin and Robertson that petitions like this do not happen often. The only one he recalls was from a Tilapia farm in another part of the state.

Ward asked how many fish we are talking about. Robertson said 22 fish per affected acre is the maximum they would allow. Some clarification would be required for this reference. It is felt that there should be 25% vegetation in a coastal lake.

Skirvin said his understanding is that we could add more fish as time goes on. This petition is all about establishing an avenue for installing the fish.

Weldon said that fish do not grow as fast as the weeds do, so with 22 per affected acre, we might not be able to keep up.

Discussion on how much vegetation versus how many fish might be permitted.

In response to Ward's question, Robertson said that the weeds could be back causing a substantial change within 18 months, once the grass carp disappear.

Skirvin said the expert should compile information on how the watershed can be managed effectively. We would have counsel work with them to write the rule to create an activity or rewrite the components of the rule to allow us to do it. We might not have to load up on all the studies mentioned previously. It's a process of working together for a recommendation for the commission.

Regarding an expert on research, Robertson said one of the names he found was Dr. Scott Bonar who works for the University of Arizona; however, he is not eligible due to working for the Federal government. One of his documents can be found on our website—"Efficacy of Sterile Grass Carp for Aquatic Plant Control in the Pacific Northwest." He recommended we talk with the U of W. They did a study in 1983. Or, we could work with Oregon State that has a great fishery department. He said a third possibility would be a funded PhD grad student. We could arrange that through Oregon State. TetraTech provided a contact through some of their connections—Jena Lemke, a research biologist who works for ABR, Inc. in Forest Grove. They have a NOAA Fisheries and USFWS background. If there is a threatened species, they have to consult with NOAA fisheries. Skirvin said that ODFW will not approve a petition until all entities have input.

Robertson said that another option would be Joe Eilers who is a certified fisheries biologist as well as a certified lake manager. He is well respected and is familiar with Devils Lake, having done two

studies for the District previously. He is currently writing papers from the Diamond Lake treatment. His recommendation was to allow “quantified” vegetation to return to Devils Lake.

Green said he recalled that Eilers is on record as not being totally opposed to grass carp. And, when he was with SolarBees he said that he would be willing to back us on acquiring limited grass carp.

Green said that Eilers has contacts with ODFW and given his history of being somewhat anti-grass carp, if he flip-flops on that issue, that could be good or bad.

Skirvin: Now that we have a better understanding of the issues, we need to have Paul draft an RFP for someone to take the lead on this. We can review it at our next meeting. Paul, you were going to get another list from the grass carp symposium, maybe some contacts there. Once the RFP is in place, we can post it and do some interviews in September.

Weldon: The people from U of W might have some more data since they allow grass carp there.

Robertson: We will petition to amend the rule and include an activity to plant grass carp within the other existing rules.

Skirvin: So, Robertson will write an RFP for an October issue.

Sewer (Brian Green)

Everything is going along fine; in the northern area where the easements are required, a couple of people don't want to be included the LID. The city engineer and the hired engineer are trying to change the boundaries so that they don't have to be included. This is slowing things down a bit, but we are not going to start construction before winter anyway. It will be larger than when we started—from Dr. Oksenholt's as the northern boundary. There are 14 extra parcels and some of them are large. There will be different assessment tiers. Our area will pay the original rate and the other people who are mostly Oksenholt's will pay a different rate. Our area will include pavement and sewer and the others will just be sewer.

The Café – Union 50

Green has set a meeting with Kurt Olsen for next Thursday at 11:00 a.m. If anyone wants to attend, they can do so. Robertson, Ward and Joe Barnes will be there. Robertson noted that there might be an issue with including a non-member, such as Barnes, as it may constitute a public meeting. Any committee that brings recommendations to the Board becomes a public meeting. Green said that this was not a committee; but he will check out the committee issue.

Communications Report

Devils Lake Revival

Lenaerts: The Festival is set for August 27, from 10:00 to 2:00. There will be an area with booths, one of which will include the non-profit backpack program. Schooner Creek String Band will perform, and possibly a second band. Yaquina Bay Yacht Club will let us know by 8/15 whether they can get some boats for a regatta. The Coast Guard will be there. And, we rented the pontoon so we can take people on tours around the lake. We are still looking for kayaks. We have set up some advertising schedules—radio, *Oregon Coast Today* and *The News Guard*.

Lenaerts showed the poster that will be printed on Monday. Food will include burgers, hot dogs, veggies and chowder. Roberson announced that his father was with Yaquina Bay Communications radio.

Weldon: Noted that posting posters on the route on the day of the event would draw more people.

Skirvin asked if the Coast Guard would be available to conduct boat inspections. Also, the State Police and/or the sheriff's deputies.

Lenaerts said he would print about 50 11" x 17" posters. He will check on creating a banner for the Copeland Building.

Weldon asked if it might be feasible for a U of W representative to attend. Robertson said that it is a possibility.

Newsletter

The E-newsletter went out to 220 people as of mid-July via Constant Contact. Robertson said that at least half of them opened the newsletter. Staff is working on placing their logo within the newsletter so that people can differentiate it from the Devils Lake Navigator E-newsletter.

DSL Open House

Robertson reported that he and Lynch attended the DSL workshop that was attended by about 40 to 60 people, and spoke to 60 to 80 percent of them. Skirvin and Weldon were in attendance and Lenaerts attended for a time. Robertson and Lynch fielded a lot of questions. He feels that events such as this are great for the District.

Skirvin noted that DSL provided a huge map outlining all the primary docks and boat houses. [It is posted in the DLWID office.]

They did not include the retaining walls and structures, but identified only the structures that are fee-based.

Safety Report

No issues.

Erosion Study

Robertson: We provided daily feedback to the contractor regarding the map layouts and formatting. The full report will be completed in October.

Intern Report

Lisa Lynch has been continuing the weekly water testing. They began going out in the boat and testing the water quality—out in the lake instead of around the lake. She has been organizing and collecting project information and placing this data into a word.docs spread sheet with summaries of all the projects and it will be linked to maps of the projects around the lake in nine different categories—information, research and studies with graphic icons and more. She still has some training to complete for cyanobacteria testing if it is required. And, she has been working on the Festival.

Lynch is in charge of the educational activities and is collecting prizes to incentivize attendees to sign up with their e-mails. So far, she has a gift certificate for a night's lodging at DSands and dinner for two at Mo's Seafood Restaurant. She is collecting crossword puzzles and goodie bags for kids, kids fishing poles, etc.

She sent out the summer E-newsletter and has updated the "About us" page with photos. She is also working on a page for the website on what people can do to help.

Skirvin said we need some larger prizes. Ward offered to donate dinner for two from the Anchor as a prize.

Skirvin suggested the District purchase a grand prize, such as a kayak, paddles and vest.

Skirvin moved to authorize an additional \$500 for a basic kayaking package to be offered as a grand prize giveaway. Walker seconded the motion.

Vote: Unanimous. Motion carried.

Weldon asked Lynch if she was taking temperatures of the lake and she replied that the temperatures are averaging 71 degrees, but vary according to the depth. Weldon said he feels Sexton, the lake contractor, needs better temperature gauges. He said Sexton's temperatures fluctuate and are lower than Weldon's. Robertson said the gauge is ethanol based rather than mercury and the technology should be sufficient.

Skirvin noted that Robertson should check out Sexton's gauges, and if Sexton needs a new gauge, one should be purchased.

Neotsu Public Beach – K Street

Robertson said the sign has been approved and submitted to the lake contractor for installation [slightly down the hillside to prevent obstruction of views and to prevent the sign from being blocked visually by parked vehicles.] It should go up this week.

New Business

Insurance

Robertson met with Paulette Isham-Wolf, Isham-Sprague Insurance. She informed him that January is the soonest the policy can be changed. We are locked into the existing staff insurance. The other option is to cancel it outright and try to go with another private market; however, she said it will not be lower since we have a higher-end policy that the District is contracted to provide. We can get something that will average out after January.

Ward said that in some group insurance policies, the rate is higher than for individuals since you must take people with pre-existing conditions.

Discussion continued on the best avenue to take for purchasing insurance.

It was determined that Robertson will research the options again in January for making changes that will average out to the budgeted amount of \$500.

DNA Bacterial Source Tracking

Robertson has not had any feedback from Seattle yet. Robertson said that he wants to look at D River. The readings have been good at D River. He will continue to pursue the capacity of doing those analyses through that company, based on the best cost.

DLWID Regular Meeting Venue

Ward said that the District has the opportunity to move the monthly meetings to the city council chambers. Hawker indicated that he was supportive of the move and spoke with Dick Anderson, who supports moving the meetings to the city council chambers, where the District can use whatever equipment is required, although there may be a charge for the use of any equipment. This opens up the meetings to more public and improves communications. The cost for overtime staff will be approximately \$20 to \$22 per hour, so the cost per month would be about \$60.

Skirvin asked Robertson to inform the city council that we would like to begin in October.

Robertson said that would be a good time to move since TetraTech will be presenting in October. The meetings can then be posted on Channel 4 and we can use the A/V equipment.

Audit

Signe Grimstad and Associates have submitted a letter of interest to continue performing the District's audits. The three-year contract has expired. There is no specific cost noted in the letter of interest; however, the last years' costs were \$3,300 per year. Signe has offered to perform the audit for time and materials and last year's process would be repeated.

Robertson feels it would be appropriate to create an RFP and the District could consider three separate people who might respond. There is also an option for a "Review" process; however, it would not save much money. Robertson said a decision needs to be made by the end of the summer since the audit must be completed by the end of December. Rules and the state managing process constantly changes.

Skirvin: Do we have enough time for an RFP or shall we extend the contract?

Robertson said if we went to an RFP, we could finish the process in October and that would give the auditor a month and a half to complete.

Green to Robertson: Do an RFP for an audit that needs to be completed by December 31.

Moore: The Board should hire the auditor. The committee makes a recommendation to the full board and the board makes the decision.

Green: As long as we get the auditor hired by the October meeting, that should be enough time.

Skirvin: You can include the documentation you have provided in the past and then see if anything else is needed. We will expect to review the RFP in September.

Non-Agenda Items

Skirvin: On the east side of the road, Thompson Creek is slow moving, stagnant. It is not representative of the area of the lake that people look at our for the E.coli monitoring. Nobody is going to utilize that area. I was thinking we might consider changing the E.coli monitoring to focus solely on the recreational areas of the lake. The tributaries are not affecting the overall condition of the water where people recreate. I think the interface between the end of the canal and where the canal starts where you are in four feet of water would be a better spot. We are creating a communication that says we've got a hot spot, but it does not come close to any measurable impact. Skirvin suggested limiting the E.coli map to recreational areas.

Weldon: That would be a better representation. The public is not in a ditch on the east side of the road.

Robertson proposed something that would not immediately change the Monday sampling program. Maybe take a sample on a different day--sample five grabs. Then do one at the beginning of the canal, in the larger area and another at East Devils Lake Road. Check the impact at the first interface and then downstream. We wouldn't then be connected to *The News Guard* timeline.

Skirvin: We could then remove that from the recreational information.

Mitchell: As a user of the canal, I routinely go back in a kayak. Residents would like you to become aware of their canal. It is not technically state land.

Skirvin said he could help with a sampling on Monday morning if Robertson wanted him to do so. They will coordinate on Monday morning and meet at Sand Point at the public boat launch.

Walker: Hostettler Park is a wetland, according to Jim Hoover. If it is a wetland, why are they mowing it?

Most of it is declared wetland, said Robertson; however, not a "significant" wetland, according to the 1996 map survey. It is not delineated. DSL doesn't regulate the mowing of a wetland. They

only care about fill and removal. The city had some language for significant wetlands or significant riparian lands. This is not either.

Walker and Skirvin asked Lenaerts to approach the city on this issue and suggest that the city not mow that area.

Weldon said that he discovered a lot of shell in the soil on the east side of the lake. He mentioned the large amount of shell when the landslide occurred a few years ago that pushed down power lines and trees.

Robertson reiterated previous communication with DSL, DEQ and the Army Corps, who promised to consider the issue but did not do anything. DSL said it was not their issue since it was not intentionally placed there. Robertson said he would make a phone call.

A reminder that Board of Directors training is scheduled on August 19 at 9:00 A.M. and is open to the public, who can observe, but not participate.

Regarding an education session for shoreline residents, Lenaerts noted that the primary cost for a session would be the mailing, plus tea, cookies and snacks. He suggested a budget of approximately \$500 for the workshop to be held in mid-September.

Skirvin moved to allow Lenaerts to spend up to \$500 for the workshop. Green seconded the motion. Vote: Unanimous. Motion carried.

Lenaerts will try to add verbiage to the Devils Lake Revival flyers noting that raffle prizes will be provided. He will work with Ward on distribution.

Adjournment

The meeting adjourned at 8:35 P.M.

The next Board meeting will be held on September 1 at 6:00 PM.

Respectfully submitted, Linda Burt