



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

**COUNCIL CHAMBERS, CITY HALL, 3<sup>rd</sup> Floor  
November 3, 2011  
6:00 P.M.**

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

**ABSENT:** None

**AUDIENCE:** Raylene Erickson, Mitchell Moore, Don Sell

**STAFF:** Paul Robertson, Seth Lenaerts

**MEDIA:** None

Skirvin called the regular DLWID Board of Directors meeting to order at 6:08 P.M.

**Consent Agenda**

**The Minutes from October and the October Financial Report were approved unanimously by the Board.**

**David Skirvin signed Resolution 2011-10, transferring \$11,748.09 from the General fund Net Working Capital to the Improvement Fund.**

**Public Comment**

**Mitchell Moore** said he wanted to comment on the sewer/septic issue. He supports the septic inspection program; however, he has some concerns. He suggested that the District attend the workshop to include information about the current environment. It is important to gain the support of the public for these types of issues. This is not a popular time for home owners to be taking on any more expenses. Consider the Roads End issue of annexation where the City's most recent steps exceed their authority. Since Representative Jean Cowan is not going to seek reelection, it is probably that the relevant bill will pass in 2013. He said that the District should consider that they

may negate the recent goodwill that they have worked so hard to achieve. This is not a sewer project similar to the one Brian Green is working on where there are just LID charges. Consider the local newspaper article and proceed with caution. Bring the information back from the City and choose the best path. He is not against the projects, he just feels that it is not the right time.

## **Unfinished Business**

### **The Devils Lake Plan**

#### **Septic Tank Revitalization Program (Lenaerts)**

Lenaerts reported that an informational workshop is scheduled for November 7 at the City Council, to which the District has been invited, along with the Salmon Creek Watershed Council, the Siletz Tribal Council and others. No decisions will be made. They will consider the possible scope of work involved in accelerating sewerage of the rest of the lake vs. the septic inspection program. Lenaerts said in researching sewerage feasibility studies that have been in process, he is concerned that they are moving away from the septic tank inspection issue toward sewerage. Issues would be cost, feasibility, topography, poor soils, depth to water table, jurisdiction--many of the homes are outside the city limits. It is possible that these projects can run simultaneously. Three of the Board members plan to attend the meeting.

### **Save Our Shoreline**

On the East Devils Lake Park Project, Lenaerts met with the state archaeologist and the person who will be responsible for maintenance of the project. The archaeologist does not feel that there are any sensitivity issues involved; however, she would like to be present when the project is in progress. The RFP was sent; three responses were received. Lenaerts passed out comparative information on bidders to the project.

Skirvin asked if the bidders have fulfilled the requirements, to which Lenaerts replied, "Yes. They will need machinery that was not needed for the Regatta Grounds project."

Devils Lake Rock Company and the John Thompson Construction were within \$50 of each other. He said there would be some value in having a second contractor who is familiar with the lake projects. Lenaerts, therefore, recommends John Thompson Construction.

Green said both companies have good reputations and he agreed that it would be a good idea to have two companies familiar with projects.

**Skirvin moved to contract with the Thompson Construction Company, whose bid was \$4,450.00 and Green seconded the motion. Vote: Unanimous. Motion carried.**

Lenaerts said that they will work to begin the planting on or about the 21<sup>st</sup> of November with Spiro Landscaping and the project should be completed by Thanksgiving.

### **Vegetation Management**

Robertson submitted a table comparing two companies' responses to the RFP. He also submitted a memo to the Board regarding his conversation with NOAA's Rob Markle regarding the issue.

Robertson reported that the responses to the RFP were from E&S Environmental Chemistry, Inc., whose lead scientist is Dr. Raymond, and from Max Depth Aquatics, Inc., whose lead scientist is Joe Eilers, who performed work on Devils Lake in 1994 and 2005. Dr. Raymond has a PhD and Joe Eilers has an MSc.

Robertson's table compares the two companies' qualifications and lists the types of projects each has performed in the past.

NOAA Fisheries' contact, Rob Markle, is not certain that NOAA would need to be involved. However, the District is still obligated to meet the requirements of the Endangered Species Act. The District could conduct a Habitat Conservation Plan that would be lengthy and expensive, but provide a "take protection" on the threatened or endangered species issue. Other groups will weigh in and provide some additional information. If the District required a Federal permit, which it does not, then NOAA would certainly be involved.

Skirvin said the Board needs to interview both Eilers and Dr. Raymond. He suggested that a couple of Board members meet with them during the upcoming month, along with Robertson, and make a recommendation to the rest of the Board during the December meeting. Robertson suggested that the same two who conduct the interview sit on the panel.

Walker asked if interviewing by Board members was necessary. He said he would be concerned with their qualifications and their position on supporting the Board's efforts. Would they champion the carp cause?

Skirvin said that Robertson would be the interviewer on the scientific side; however, he feels that the Board should feel comfortable with the working relationship.

Green said the District needs an advocate for its position and he would want to know how persuasive this individual could be. He said he would be available from the 9<sup>th</sup> through the 18<sup>th</sup> of November to meet with the individuals. Skirvin said he would be a backup; however, he will only be available Thursday and Friday of next week. Weldon said he is available and would be willing to participate. Robertson will try to set up some dates to meet with the candidates in Lincoln City—at least an hour each and will notify the Board members.

The plan is to award the contract in December.

### **Sewer (Brian Green)**

No updates. They are currently working on the final report for the City Council.

### **Communications Report**

IT staff for the City is working on installing a banner on the bottom of the Channel 4 reruns of the District's meetings. It would include the date, the logo and the website address.

Robertson suggested they display an easel during the meetings, along with a poster, depicting the District's mission and its top five goals that could be focused on during the video. This would indicate why decisions are being made. The Board agreed that it would be a good idea. Robertson said it should cost less than \$200.

### **Safety Report**

No incidents.

### **Erosion Study**

Robertson said that by November 16 he should have TetraTech's report and the presentation should be on line by November 18. In December, TetraTech will do their presentation.

Skirvin asked Robertson to create a timeline. Public comments should be submitted in writing prior to the December meeting so that issues can be addressed during the presentation. In January, we could permit additional public comment. No decisions should be made until February or March—a timeline for the next few months.

### **DNA Bacterial Source Tracking**

Robertson reported that, unfortunately, the rain will preclude this tracking project. The pump has not yet been received.

### **Audit**

Robertson reported that he received some comments on the review price quotes. One offer is for the three-year contract for a Review--\$3,300 for the first year, \$3,600 for the second year, and \$3,800 for the third year. This would include a written report to the Board.

Green said he is in favor of the three-year contract for reviews. Walker said it appears to be a fair price, since in 1993 the cost was \$1,600.

Robertson said that Signe commented that she has not charged full price since the District is a long-standing client.

**Skirvin moved to accept the revised offer for a Review for a three-year term at the price as submitted by Signe Grimstad & Associates. Green seconded the motion.**

**Vote: Unanimous. Motion carried.**

### **New Business**

#### **Internship Request (Winter Term)**

Robertson said that a former Taft High graduate who is completing his bachelors at OSU contacted him and would like to volunteer his time of 60 to 90 hours of work during the next couple of months. This is a requirement for his degree—two or three credit hours. Last meeting the Board discussed doing some research into alternative forms of vegetation management. The cost of worker's comp coverage would be minimal, and there is space available in the office.

**Skirvin moved to authorize Robertson to establish a volunteer-based internship for the student seeking a job. Green seconded the motion.**

**Vote: Unanimous. Motion carried.**

#### **SDAO Rate Lock Agreement**

Robertson said that the Special Districts Association of Oregon has offered a \$181 refund for two years if the Board decides to remain in the program from January 1, 2012 to December 31, 2013. This would guarantee a rate lock of a 5% increase in premium, provided there is not a loss of 50%.

**Green moved to continue the Board liability insurance with Special Districts Association of Oregon for two years and receive the \$362 refund. Skirvin seconded the motion.**

**Vote: Unanimous. Motion carried.**

### **Non-Agenda Items**

Robertson requested authorization to write a letter to the landowner of an 11-acre parcel of wooded land off Logan Road in the Urban Grown Boundary, currently slated for logging. The landowner wishes to develop and the City has rejected the request for not meeting its water quality/erosion goals. The gentleman said he will log the land in preparation for development. The city has written a letter to the landowner stating that they are going to oppose his annexation if his plan is to log the property and then get it annexed. Robertson would like to write a letter on behalf of the District cautioning the owner to consider impacts to the lake with 11 acres of denuded land within the watershed. There is steep topography. There is not a lot of logging value there and the City will not

give him water to the 60 planned lots. He has to log it for forestry purposes and not for development. Forestry will not give him the permit if he is going to develop it. Skirvin said he feels that people should be able to do what they want with their property and he does not see any value in informing people they cannot do something with their property. Green suggested the District could just caution the individual and ask him to be prudent. Robertson said there is a stream there and the parcel that would be developed is half the parcel. It's a small stream and about a 1200-foot-wide parcel that would be denuded. The stream would pass through a second parcel; however, sediment and nutrients would flow down the hill. Adding runoff is a long-term issue. He suggested an awareness letter listing DLWID's mission statement and concerns, asking the land owner to consider development impacts. There is a large knotweed patch at the top of the hill in the middle of the parcel and if it is disturbed it could take over the entire parcel, along with the Scotch broom that will fill in. Native vegetation is the goal and heightening awareness. Skirvin asked Robertson to draft a letter and e-mail it to him and they could work on it together.

### **Adjournment**

The meeting adjourned at 7:30 P.M.

The next Board meeting will be held on December 1, 2011, at 6:00 PM.

Respectfully submitted, Linda Burt

To my friends at DLWID:

I would like to share a few thoughts with the board prior to the meeting to help economize the time used for public comment. Indeed Brian, all you need do is acknowledge my written comments and there will be no need for me to formally comment. I would like to comment on two topics on the agenda for this meeting. They include the Erosion RFP, and the Devils Lake Plan.

### **Erosion RFP**

I continue to be concerned that DLWID is about to spend a tremendous amount of money on a study that will provide little in the way of conclusion or advice that the District could act upon. Indeed the only advice that was requested is found on page 4 of the RFP; which specifically requests, "from this overall erosion study the contractor will provide a summary of the data and conclusions drawn as to if and how the dam operation may be impacting the shoreline."

It is not realistic to make adjustments further lowering the summertime level of the lake. This is due to the new management procedure, which attempts to balance the lake inflow, and outflows from August through October. This procedure effectively lowers the lake .5 feet during the months that require balancing. If we begin the year at the previously suggested 9.0' level, the resulting summer's end level would severely affect recreational use and potentially water quality. Focusing only on lake level of course ignores what occurs on the lake for over half of the year when nature takes over and the District takes a back seat.

I've stated before that the most problematic part of the requested study is that it's based on the assumption that DLWID's sole remedy is adjusting the lake level. What the District will undoubtedly discover is that the solution is much more nuanced requiring a variety of techniques to improve the situation. Unfortunately, the author of this study has not been asked to suggest any corrective actions, which the District could implement. Generally, any of the corrective measures that could impact erosion, must be taken by either a government agency with jurisdiction or individual property owners, who would require approval of those same government agencies (DSL, Lincoln County, or Lincoln City). DLWID simply does not have the required jurisdiction to force or approve these actions, but armed with a list of suggested corrective measures it can create a program like Save Our Shoreline to encourage action by homeowners and other governmental agencies.

It would be my recommendation for the District to pause prior to awarding this RFP, and assess the purpose of the study. I assume the goal is to make an impact on erosion sites on the shoreline of Devils Lake. At a minimum, the RFP should be withdrawn and re-drafted to direct the focus of the study toward the creation of a set of mitigating options that will minimize erosion in the Devils Lake watershed. All options should be crafted in a way that can be implemented. These options should be designed so they may be acted on by DLWID, other government agencies and perhaps most importantly near lake homeowners.

Without these changes to the project, I would have to recommend that the District not proceed. The project as it stands, represents a poor use of District funds. Proceeding would mean that the District would have yet another study placed on its bookcase; a study void of any actionable recommendations for the District to follow.

## Devils Lake Plan

As you know from my past comments, I am a supporter of revisiting the Devils Lake Plan with the goal of creating a comprehensive strategy for managing the lake. You know that I have been a proponent of public input, and perhaps more importantly public education on the contents of the plan.

The effort that has recently been given to this process is encouraging. I appreciate the schedule that has been set to complete the project. When viewed from my perspective; as a member of the public, I feel compelled to share a concern about your process and suggest a simple solution.

This concern has grown from observing the Devils Lake Plan discussions in the past few months. It appears that the plan may be in danger of losing its way; rather than being the lead document for managing the lake, it seems to be morphing into a support document for the grass carp application. I fully support the grass carp application as a component of the comprehensive management plan for Devils Lake. It is my opinion that in the interest of moving the carp application ahead the time required for quality public input related to the plan is suffering. Public input is crucial on such an important document. This document will govern how the lake is managed for years to come.

In the proposed schedule, there are only two months between the completion of the plan and its adoption. One public meeting is scheduled for local citizens to comment with no time or process to promote the contents of the plan to the public. The meeting is scheduled for January, a time of the year when most affected lake users are not focused on Devils Lake. The schedule calls for final board approval the first week of February. This is just a bad approach, which will end poorly. You will never obtain the level of public support required to implement any of the Districts plans if you continue on this path.

I understand the desire for the District to complete some tasks and count some successes. This goal does not need to suffer as I believe you can enhance the public process immensely with only minor delays. Here are some specific suggestions:

1. Begin by recognizing that the Devils Lake Plan is the controlling document through which the Board communicates its plans and actions to District staff and the public.
2. Release the plan to the public at least a month prior to the scheduled public hearing. The release should be well publicized. The District should summarize the document for the public in a flyer and on the web. I would be willing to help with this effort; if pre-released the Devils Lake Navigator could also summarize the plan giving a public voice to the document. I believe that I am generally supportive of the plan but have not seen its contents. The Navigator's review would be released to correspond with the official release of the draft. I would be willing to work with staff to ensure our summary is accurately portrayed.

3. Develop a communications plan for the release of the Devils Lake Plan, development materials describing the plan contents, and create a public process to promote the plan and obtain public input. This is not complex, the District just did a terrific job promoting the SOS program. This communication should be planned in advance.
4. Provide for public comment in a minimum of two meetings, the first at a regular board meeting, the second on a weekend at a neutral location such as the D-River Community Center. It won't be well attended because it's the dead of winter but it will be viewed as an honest attempt. Use of the alternate site will signal that the District takes this step seriously.
5. The Board should assess the suggestions, additions and changes identified during the public process. After incorporating those it deems appropriate, the Board can adopt the plan.
6. Immediately following its adoption, publish a high-profile announcement of the action. Include an overview of the plan and further announce that the District is planning an informational meeting to be held on a mid-summer weekend to present details of the plan to interested parties. This should again be at a location such as the Community Center to show the importance of the event. By this time, you may be ready to start generating excitement over the grass carp application, and you could use the meeting to get the public behind the process.
7. On an ongoing basis, promote the specific elements of the plan that are appropriate based on the activities of the District at that moment. In other words, continue to promote the plan and District activities. Never stop selling.

The process outlined above should only delay the adoption of the Devils Lake Plan by a month, perhaps March 2011. There is no reason to think that the extra time allowed for public input should delay the grass carp application as much of that process can continue concurrently. Indeed, a public vetted and supported management plan will likely get much further with ODFW than a plan that just went through the motions. In the end, the District needs the full support of the public and the addition of these simple steps is a great way to get it.

Thank you for considering my comments,

Mitchell Moore

