



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

**COUNCIL CHAMBERS, CITY HALL, 3rd Floor
February 2, 2012
6:00 P.M.**

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

ABSENT: None

AUDIENCE: Don Sell, Hank Marlowe, Larry Brown, Raylene Erickson, Mitchell and Dana Moore

STAFF: Paul Robertson, Seth Lenaerts, Project Manager

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

Skirvin called the regular DLWID Board of Directors meeting to order at 6:00 P.M.

Consent Agenda

Green moved to approve the Minutes and the Financial Report from January. Weldon seconded the motion. Vote: Unanimous. Motion carried.

Public Comment

Mitchell Moore: Comments from Mitchell Moore are attached at the end of these Minutes. Issues were Septic System Program, Communications Report, Cyano Watch Changes, and Public Records Request.

Larry Brown: Owns a home in Indian Shores. Regarding the decrease in taxes on the DLWID quarters, Robertson discussed the issue with the landlord, Bruce Polvi, who obtained the documents necessary for the partial tax exemption. The documents should be signed by March 15, which will be in line with the March 31 deadline.

Re the septic inspection issue, Brown opposes the inspections and feels it is outside the mission of the District. He said nobody in the District is an expert on this issue and experts have agreed that there is no major problem with the septic tanks. It is more likely that canine that have caused the problem. He feels the septic tank owners will be inclined to take care of their own septic issues if there are any. He feels the District's involvement creates bad will.

Re the Lakescape classes, he does not feel there will be much involvement in March. He also feels that further Lakescape projects will be a maintenance nightmare. There is too much work involved in weeding and watering the plants.

He would like to see lake levels posted on the website so that out-of-the-area home owners would be able to view the levels.

Also, the logs in the middle of D River should be moved out. He feels that the idea that the logs are fish habitat is not a viable reason for not removing the logs.

Re the Cyanobacteria, he feels this verbiage should be deleted from all literature, signs and posters. Blue-green algae should be the designation.

Re the public records request policy, he feels the 25 cents per page is too much. The District should take a careful look at the fees and remember that it is a goodwill issue to the public. Make the records more affordable.

Unfinished Business

The Devils Lake Plan

Septic Tank Revitalization Program (Lenaerts)

Lenaerts said that staff is available at any times to discuss or clarify any issues that anybody would like to discuss.

The County records were searched for any updates on septic systems within the two-year period since the data base was created on the septic systems. Nineteen permits have been requested, according to the County. These include new construction, evaluations, repairs, alterations, etc. Lenaerts noted that he was unaware if any of those permits were due to change in ownership. There were 680 systems in the watershed, one-third of which were installed before 1974. Ten years is the extent of the life of steel tanks. Fifteen of the recently-permitted systems were part of the non-documented systems.

A new ordinance is in the drafting process, with the city attorney and city manager working on the issue. It might be available in March or April for the Board to review. The City has asked the District staff to assist in drafting inspection criteria. Lenaerts has been working on drafts and is organizing a meeting with DEQ, Lincoln County, the City and local private inspectors.

SOS--Save our Shoreline Campaign (Lenaerts)

Lenaerts has organized two separate classes on Lakescaping—one was held for landscapers and the second was for homeowners. He is planning another two-hour class “Why Lakescape” to be held in March focusing on certain components. Lunch will be included and he will include the history of Devils Lake, the benefits of native plants, design maintenance and will promote the SOS program. Lenaerts requested a budget for the Lakescape class that would include a mailer to residents. The mailer would provide information even if they do not attend the class.

Skirvin asked if it could coincide with Spring Break so that more people might be here to attend.

Green moved to authorize Lenaerts to offer the Lakescape course on a date in March of his choice with a budget amount of up to \$800. A draft of the mailer would be provided to the

Board at the March meeting. Weldon seconded the motion. Vote: Unanimous. Motion carried.

Weldon suggested the best time to hold the class would be when Washington Spring Break is scheduled.

Discussion ensued on the number of Shoreline Planting Guides to be printed and whether or not the content should be changed. Lenaerts will make some requested changes and submit them to the Board for approval prior to printing.

Lenaerts noted additional items that he has been working on:

He requested plants from NORP.

He submitted a letter of support on behalf of SDCWC's National Fish and Wildlife Foundation grant.

He secured a ten-person team of AmeriCorps members to do site maintenance at the two rain gardens and additional invasive species removal and prevention at East Devils lake State Recreational Area. This will take place February 14.

Vegetation Management

Robertson noted that he has completed assembling and organizing files received from ODFW and sent them to the consultant. Other items from ODFW are pending and a Public Records Request estimate was received for \$808.75. This is for items that the state discussed relating to grass carp. This amount would come out of the Improvement Fund.

Weldon moved to authorize payment for the public records request of \$808.75. Green seconded the motion. Vote: Unanimous. Motion carried.

Robertson noted that he will meet with the consultant and ODFW in February and he has a separate meeting scheduled with the consultant in February in conjunction with the trip to Special District's Association Meeting in Central Oregon.

Sewer (Brian Green)

Green reported that the consulting engineer on this project is currently developing his report and has been doing so in a collaborative manner.

An issue has risen that could become an obstacle. There is a suggestion that has been floating among the staff for the engineer to include a recommendation that the LID ordinance include a must-connect date. Green is not sure if this is a serious idea. He has talked to different people involved and most of them say the DEQ will not require this. Green says his understanding is that DEQ only requires the people within the LID to connect when they have an event that requires a permit. This would include an enlargement, a failure, ATT work, etc. Green said that his original letter to the homeowners informed them that immediate hook-up was not a requirement. So, a major premise that interested the majority of the property owners was that they would not have to immediately hook up or have a must-connect date as part of the ordinance. As to the District's interest in this issue, there will never be another sewer LID initiated by property owners if must-connect dates are part of the ordinance. Green is not aware of where the idea originated that DEQ required this must-connect clause.

If the City recommended this, then Green said he would go to the City Council and inform them that they will never get another LID from property owners.

Robertson asked Green if he wanted the District to write a letter to the City.

Green agreed, and Skirvin directed Robertson to write the letter that Green will review clarifying that the residents must hook up only when DEQ requires a permit. Skirvin will sign it on behalf of the Board.

Green said that DEQ's policy is that a resident's request for a permit for repair or expansion of an existing septic system will not be granted if they are within 300 feet of available sewer line. Instead, they must hook up to the sewer line if they are within 300 feet of access.

Erosion Study

Robertson anticipated a copy of the next draft by January 23. He spoke with Dr. Pennington yesterday, who forwarded it on to her colleague in Fort Collins who will review it this weekend. Robertson will talk with them on Tuesday. The goal is to have it to staff for feedback and back to the Board within two weeks. This will be tight for March, but that is the goal. Robertson received by Fed Ex the worksheets that were taken and another computer drive with updated photos that were missing. Progress is being made.

Skirvin: We can look at what we want to accept after we review it.

Robertson said it will eventually be available on the website. TetraTech also put together a video that was requested as part of the RFP.

Communications Report

Robertson said there have been positive comments about information posted on the website. He said they will try to post the water depth when possible, but do not wish to be obligated to monitor water depth and be responsible and possibly liable regarding this information. Audio from the Board meetings are posted on the website and the video of this meeting will play on Channel 4 during February. People can go to the ListServe if they wish to sign up for the e-mails. They can text Water 42828, which will allow them to sign up for our Water Quality email. Skirvin noted that information is sent out monthly.

Robertson said this texting venue will primarily be used at the kiosks by smartphones. QRC codes appear at the bottom of the *E.coli* signage. If you scan that, you get the District's address and contact information.

Safety Report

No accidents.

Cyano-Watch Program

Robertson showed a slide show of the HABs program. DLWID has been involved with HABs for five years. He said changes could be made for the upcoming season. The state currently has informational flip signs that they would provide similar to the salt water signs that appear at the beaches.

Weldon worked with Robertson on redesigning the District's signs and posters.

The Green sheet would be posted year-round. It informs about the program. What the blue-green blooms look like, how you can tell they are toxic, etc. It features FAQ's and informs the public that Memorial Day through Labor Day is our monitoring season.

The Yellow sheet has a HABs logo. This would be published at sample testing sites. It is very informative about health risks and when you might be at risk. "Cyanobacteria" has been removed.

The Red advisory sheet would go up when an advisory is in effect. It cautions about swimming and contains a “no pets” symbol. It is a simple bullet-point format with Spanish below the English. It lists contact details for the District and Oregon Health Authority.

Robertson showed the green sign that is being distributed state-wide by the state. The headline is “Harmful Algae Blooms in Oregon Waters.” He said the District’s logo could be added along with local contact information. The state made it pretty basic.

“What is this stuff?” “How can I help prevent a HAB?” (This is good because it lists ideas for the public to help minimize nutrients: Don’t leave animal waste, maintain septic tanks, plant native plants along shorelines, do not use pesticides, etc.) “How to keep my family safe.”

“When in doubt, stay out.” are also on the sign.

Robertson showed the triangle that is placed over the warnings when there is no danger.

“Water Monitoring.” (Could be the state’s yellow equivalent.) When opened full, the sign says “Health Advisory,” and “Avoid Water Contact.”

Skirvin says he likes the changes made in the District’s signage. He feels that the HABs documents are good, but duplicate the information of the District’s signs. There is no conflict of information and some of the details of information will be lost if the state’s signs are adopted.

Weldon said that the headline of “Harmful Algae” screams “Danger!” He likes the District’s more informational verbiage. The Yellow District signage is very valuable and important. Walker concurred. Robertson thanked Weldon for working on helping to redesign the signs.

Robertson noted that the state’s five-year grant is up next year; their signs are available now, but will most likely not be offered next year.

Walker asked if the state would permit any changes to their signage. Robertson said small changes, most probably. He will check.

Weldon said it boils down to whether or not we want to use the cyanobacteria verbiage or whether we want to keep the verbiage slightly softer.

Skirvin said the District has an ongoing program for people who visit this area who will be familiar with the signage. He does not see why we should shift.

Ward said that cyanobacteria are harmful and he feels it is wrong to minimize the danger so that someone might do something they wouldn’t do if they hadn’t read the sign.

Discussion continued on details of the verbiage. Oregon’s HABs verbiage is cyanobacteria aka blue-green algae. Robertson said he was asked to create a message that was in line with the state’s message.

Nevertheless, if the District is going to go with the state’s signage, now is the time to order them.

Green said the way to cure misunderstanding is to provide as much information as possible. It’s our job to put the information out there. He said he does not have a problem with putting all this information out there. Walker said he was concerned with the heading of the state’s sign, “Harmful Algae.” People will not read the rest of the sign.

Skirvin moved for the District to use the newly-designed signs created by the District, but also to go ahead and order the state-designed flip signs for the future in the event the District wishes to switch to them. Walker seconded the motion.

Voting Yes: Walker, Skirvin and Weldon. Voting No: Green and Ward.

New Business

Budget

Robertson said the annual budget meeting is scheduled in May.

Don Sell is in Position 1

Jim Hoover is in Position 2

Alex Ward is in Position 3

Jim Park is in Position 4

Doug Pirie is in Position 5

There will be one vacancy after this summer when Position No. 2 expires (8/31/12).

The terms are all two-year terms. The public is welcome to attend the budget meetings.

The meetings are typically about three hours in length. Tonight, the Board should appoint a budget officer and adopt the Budget Calendar.

Green noted that he has an obligation that he cannot change for May 3, 4 and 5 in Multnomah County. He requested changing the date of the Budget meeting on May 4 as well as the regular Board meeting on May 3. The Board decided to change the regular May meeting date and the May Budget meeting date to May 10 at 6:00 P.M. and May 11 at 10:00 A.M., respectively.

Green moved to appoint the lake manager as budget officer. Skirvin seconded. Vote: Unanimous. Motion carried.

Public Records Request Policy

Robertson noted the policy request allows, according to ORS 192.410-192-505, for the District to charge for costs associated with providing records and/or access to records. The District currently has a form for such requests which the new policy would support. Robertson asked that the Board review the proposed policy, which he has researched very thoroughly with various entities, including Oregon Special Districts' policy. He noted that Green added some language and Robertson incorporated some additional information. The policy provides for up to 15 minutes of free service and some free photocopies. A copy of the proposed policy is attached.

Walker moved to accept the changes and adopt the public records request policy as written.

Green seconded. Vote: Unanimous. Motion carried.

Weldon asked if the employee address referred to staff. Robertson said yes.

Resolution 2012-01, Adopting Public Records Request Policy, was unanimously adopted by the Board and Skirvin signed the Resolution.

Board Comments

Ward: Ward referred to Intern David Phillips' report from last month wherein he presented alternatives to the grass carp solution for vegetation management. He said he has been researching the diver-assisted suction option. The manufacturer said its program might be a viable option for the lake. The lake is currently denuded down to five acres of weeds and one of these machines could make short work of that five acres. After that, maintenance would be within the machines' ability to take care of spot problems as they come up. There could be some unknowns, but Ward encouraged the Board to put this on the table. If the bottom should fall out of the grass carp option, these machines could be a solution. The cost would be \$30,000-\$40,000, and could be worth considering.

On another issue, Ward says he gets confused when someone uses the word pollution. Some people say there is no pollution while others insist the lake is polluted. We have nitrogen and phosphorous pollution. There is a difference of opinion about what constitutes pollution.

Skirvin said nutrient loading is a form of pollution. We determined we had *E.coli* coming from animal sources. But overall pollution level is not high.

Green suggested that the word "pollution" should be discouraged and references should be more specific.

Skirvin suggested that Robertson create a list of standard terminology that can be used, a kind of dictionary of vernacular.

Robertson said that there are many types of pollutants and lots of levels of pollution. For instance, thermal pollution relates to temperature and then there is bacterial pollution. Our major concern is nutrient loading. Those sources include septic tanks and geese landing. Those are real issues. This type of nutrient loading makes our weeds coming back more probable. Reducing nutrients is a key issue.

Green said to Ward: Regarding the diver-assisted suction option, we've heard that the lake is 20 to 25 percent vegetated. Nobody really knows how much that is. Can you expand your research to determine how much it would cost? Would we try to keep it at 25 percent?

Skirvin said when you are talking about management area, five acres is quite different from 600 acres because we are doing 10-foot of shoreline.

Ward said the manufacturer's point of view is probably biased; however, we do have an ideal lake for this type of management, according to them. They use a community observation program.

Residents spot areas that need attention. The good part is it is very selective.

Skirvin suggested Ward meet with Robertson and get some direction from him on what information he would find valuable.

Skirvin suggested adding an item to future agendas on this issue.

Weldon said he would like to have him take a look at the lake depth map. In July, the weeds could actually take over.

Ward said they can maintain two acres a week. That would be on the aggressive side. You would need at least two people.

Robertson said it would require a permit; however, if the District wanted to do something like this and had researched it thoroughly, while could not speak for the state directly, he would hope that they would be considerate of such a proposal and offer a permit.

Weldon said, "So, with one or two guys working year-round, you could cover the entire lake."

Robertson said more like 100 acres.

More discussion continued on the feasibility of this option for vegetation management.

Public Comment

Adjournment

The meeting adjourned at 8:15 P.M.

The next Board meeting will be held on March 1, 2012 at 6:00 PM.

Respectfully submitted, Linda Burt

Comments for DLWID February (from Mitchell Moore)

1. Septic Tank Program

- a. As it relates to the scale or potential impact of program
 - i. The updated permit count interesting but, I'm concerned that the focus has been to discuss watershed wide numbers while the ordinance will only focus on lakefront properties
 - ii. The decision making on this project should be guided by scale of the actual project.
 - iii. The Board, City Council and public should be discussing this issue base on the lakefront home counts.
 1. 400+ Lakefront homes
 2. Impacting 250 Septic Lakefront vs Generic 700 Homes touted by Mr Hawker
 3. District states now 205 w/out Records 28%
 - a. 70 Potential Lakefront based on %
 - b. Likely much lower because many of this group have sold in past 10 years.
- b. By Oregon Law the Department of Environmental Quality has the authority to set regulatory standards related to Onsite septic systems.
 - i. Currently the DEQ has authority to regulate onsite systems as provided on ORS 454.010
 - ii. Under their OAR's (340-071-0120), the Oregon DEQ has entered into agreements with counties including Lincoln County authorizing them to be the department's agent for onsite systems
 - iii. DEQ has not designated Devils Lake Water Improvement District or the City of Lincoln City to be their agent and they should refrain from setting septic inspection standards.
- c. Inspection Requirements Needs to Be Uniform
 - i. Homeowners must currently comply with DEQ rules managed by Lincoln County
 - ii. Homeowners will also need to comply with proposed rules drafted by DEQ to comply with the Coast Zone Management Act.
 - iii. Staff's report implies the Septic Program standards should be more extensive than DEQ requirements.
 - iv. This sets the stage for costly re-inspection under the District's program.
 - v. This would occur when septic systems newly installed, recently repaired, or recently inspected on sale under the DEQ rules would not meet DLWID standards. This would result in unnecessary additional charges to homeowners.
- d. A Couple of Comments on Enforcement
 - i. Water shut off puts the entire program at risk
 - ii. Based on its use in annexation it will be challenged
 - iii. Hostage annexation is now a statewide issue
 - iv. If I were Mr Hawker or Mayor Anderson I would be quite concerned that a water shut off based septic program will make the City much more vulnerable to a legislative reversal of their tactics.
- e. Other Concerns Include
 - i. The Staff report was critical on County procedures as it states "at this point, regular maintenance is not monitored"
 - ii. Not sure what is being suggested here but please remember that this type of reporting will be part of the DEQ modifications and does not need to be addressed by DLWID.
- f. RECOMMENDATIONS
 - i. The board should be provided actual home counts of what will be inspected under the ordinance. Details presented about this program to the City and public should be based on that subset, not the entire watershed.
 - ii. Inspection criteria must be uniform under State, County and DLIWD programs, therefore the District should use current DEQ standards and participate in DEQ's rule making to express their concerns as the rules are modified.
 - iii. Water Shut off should not be part of this program.

2. Communications Report
 - a. I'd like to express appreciation for the water level and weather updates that the district provided via Facebook and Twitter.
 - b. I understand that we can't count on it but feedback I have received indicates it was very valuable information.
3. Cyano Watch Changes
 - a. Fully support the proposed changes to HABS designation
 - b. Greatest benefit is that it will be easier for public to look for blue green algae information online because it is a more prevalent designation
 - c. It seems there is one inconsistency; FAQ advises in presence of bloom to "boat at slower speed, avoid excessive spray" while Water Contact Advisory notice says to "Avoid areas of scum when boating", I think the FAQ is better advice.
4. Public Records Request
 - a. Purpose of the document is misguided. The primary purpose of the document shouldn't be to minimize the impact on the District's workload.
 - b. The purpose should be the promotion of full access to the District's public records in order to assure continuing public involvement and promote confidence in the District's activities.
 - c. The Internal Advisory Communications paragraph is more restrictive or at least more confusing than the paragraph it came from in ORS 192.410 which is clearer as originally written. I would suggest it be reviewed.
 Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.
 - d. The Confidential submission paragraph seems a little out of place with the liberal use of "informant", the concept is valid but it is just a little creepy and should be modified.
 - e. At face value, the pricing seems quite high with just 10 pages of photocopy or printing at no cost. However, the footnote appears to provide appropriate pricing latitude. The concept in the footnote is so important it should have a more prominent placement in the policy
 - f. What about a pdf delivered by email, it's not mentioned in policy yet clearly the lowest cost method.
 - g. RECOMENDATION: Defer approval till next month after board input, modification and further public comment.