



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

**COUNCIL CHAMBERS, CITY HALL, 3<sup>rd</sup> Floor  
May 10, 2012  
6:00 P.M.**

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

**ABSENT:** None

**AUDIENCE:** Don Sell, Mitchell and Dana Moore, Mark Christie, Larry Rich, Kerry and Mark Richards, Susie Henderson, Pat Dooling, John Flory, Jack Strayer, Doug Pirie, Mariellen Rich, Tony McCasline, Mark Highland, Greg Whitaker, Bill Riverman, Patty Sorensen, Steven Schenk, Bud Depweg, Gary Fromm, Sherrel Smith, Jim Overgaard, Fran Recht, Peter McSwain, Les Davis, Jerry Bottemiller, David Martin, Jim Aasum

**STAFF:** Lake Manager Paul Robertson, Seth Lenaerts, Project Manager

**MEDIA:** None

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

**Consent Agenda**

**Skirvin moved to approve the Minutes of the Previous Meeting and the Financial Report from April; Green seconded the motion. Vote: Unanimous. Motion carried.**

[Resolution 2012-02: Transfer of \$4,000 Contingency to Consulting for Internship, was signed by David Skirvin.].

## **Public Comment on Non-Lake-Level Item**

### **Mark Christie's comments indicated that he intends to apply for a position on the Board.**

He said he has served patrons in the Sherwood School District for 15 years, helping to oversee a budget of \$38 million for 4800 students. He said they attract good educators and students perform well. They believe in 100 percent transparency and fiscal responsibility. He believes that property values on Devils Lake should increase and not decrease and he encourages the Board to engage and not alienate the lake property owners.

### **Special Order of Business-Public Hearing**

#### **Lake Level and Oregon Water Right Certificate #69267, Permits 52672 and R-11968 Opening of the Public Hearing, Introduction and Hearing Procedures**

Skirvin read instructions to the audience on the public hearing.

He noted that another hearing will be held on June 7 so that individuals not attending tonight's meeting or those not wishing to speak tonight would have that opportunity to speak.

### **Staff Report and Presentation**

Lake Manager Paul Robertson presented a PowerPoint program with a history of the issue.

Full copy of the report can be found at the following Link:

[http://www.dlwid.org/Projects/Lake\\_Level/Lake\\_Level\\_Staff\\_2012-05-10.pdf](http://www.dlwid.org/Projects/Lake_Level/Lake_Level_Staff_2012-05-10.pdf)

Some of the highlights were: Background. The lake is 14,000 years old.

Since 1859, the lake has been owned by all Oregonians; it has a 10.4-foot meander boundary. Devils Lake Facts.

In 1986, the original structure was installed as a fish fence; in 1991 the District began the process to apply for a water right. In 1996, the District obtained water rights, and in 1997 and 1998 the impoundment was first installed under permit R11968.

In 2006, the dam was repaired; in 2007 to 2009, complaints and accolades began.

In 2009, Oregon WRD reviewed and declared 9.53 above sea level the maximum water level allowed.

In 2011-12, an Erosion Study was performed to evaluate impacts on the SOS program and erosion.

Impoundment Structure photo was shown. It is 18 inches high, constructed of wood and steel on concrete.

From the early records available, between 1983 and 1991, water level fluctuated between 8.3 by mid summer and 10 feet by winter.

1998 – 2009, data shows the variability of the lake with winter lows going down to 8.5 or 8.3 and in late fall up to 10.4.

The dam is in operation beginning April 15; it is pulsed every other night May 15 through May 31 to assist the Coho's migration.

Topics to be covered were listed.

The Erosion Study from Tetra Tech, Inc. showed that as much as two miles (16%) of shoreline is eroding. This is caused by summer winds hitting the areas of highest erosion; these areas are also vulnerable to boat wakes.

More than 18% of wave energy comes from boat wakes. The dam has narrowed the impact zone.

Recommendations & Considerations:

Active Shoreline Restoration; remove invasives, plant native species. Opportunity to limit erosion with the impoundment structure is limited to 18”.

Coho salmon are on the endangered species list; their status is threatened.

The dam impedes outward migration May through mid-July.

Pulsing the dam—pulling sections of the dam every other night—does help somewhat.

Bass live in the lake and actually prey on the Coho.

The District modified the Rock Creek Dam upstream; created an infiltration gallery on Green Acres.

Other fish and wildlife species: Sea-run Cutthroat and Pacific Lamprey

Erosion prevention measures can protect human homes, but at the expense of fish and wildlife.

Impoundment Right was for water quality.

The dam blocks and traps; flowing water creates more oxygen and permits additional flushing.

Wetlands work to trap nutrients; inhibit bluegreen algae.

Wetlands store water that helps maintain the lake level throughout the summer.

Septic Systems: dam raises that saturation of soils reducing effectiveness of treatment; 685 systems in the watershed, 1/3 of which have no record, making them pre-1974 installation.

Recreation & Accessibility: Long history of recreation predating the dam, public access points established pre dam as were most private docks. Canals dredged many decades prior to provide otherwise landlocked properties access to the water.

DLWID representation and mission restated.

### **Questions and Comments from the Board**

Green brought up a question about increasing water mitigating temperature. Robertson said that more water could create additional shallow areas that would heat up more quickly.

Walker said that one slide indicated that it was logical that more water would create better conditions; Robertson said the slide included a question mark. It is not fully understood.

You could actually create opportunity for more water to pick up more nutrients as water is the universal solvent.

### **Public Comment Period**

Skirvin said that District has scheduled 2 hours for testimony, and that there were 26 people who signed up to speak. He said he would call them up in pairs, and that each person would be given 5 minutes to speak.

**Kerry Richards.** She said she wanted to remind the Board that they are elected officials with responsibilities. In 2009, the issue of lowering lake level was presented. There are 500 lakefront owners and 9,000 total residents in the District. After a previous grass-roots campaign, 70 residents attended a meeting indicating that they did not want the lake lowered. She read the mission statement of the District: Improving recreational opportunity and navigation. She addressed the board emphatically and told them they were elected to protect the District's mission.

Her comments included "code of ethics, impartiality, objectivity, avoiding potential conflict of interest, integrity, honesty." She said they need to avoid a potential conflict of interest, as they wield considerable power and they should hold themselves to the highest standards as opposed to considering their personal interests. She said the law sets a minimum standard of ethics; the bottom line is that being ethical means doing the right thing for the public. She believes that Skirvin and Weldon should recuse themselves from the vote of lowering lake level, as they have a conflict of interest since they ski on the lake. She admonished them to keep these ethical standards in the forefront of their minds.

**Dana Moore.** She presented a petition that she said contains 200 signatures from individuals who do not want the lake level lowered. (A hard copy is attached to these Minutes) They are expressing their opinions to the Board that the District should maintain a lake level of 9.53.

**Susie Henderson.** Sent an e-mail that she read. She said she and her husband had read through all the materials and are concerned that scientific decisions are not being made. She said lowering the lake level causes the lake to become warmer, thus creating nutrient concentration. She said if cyanobacteria is a concern, they could not see why lowering the lake would help. She feels that the meetings are confrontational and there is not enough dialogue. She said "we are all in this together, so please, let us know you are listening." She added that after her letter was sent to the Board, she received a nice note from Director Kip Ward and she now feels less distrustful of any personal agendas.

**Mark Christie:** (Letter is attached to the Minutes)

He asked that the Board make the correct decision and end this six-year battle over lake level once and for all.

**Pat Dooling:** (Letter is attached to the Minutes)

The website indicates the mission is to improve the environment for wildlife and humans, increase public access and improve the economy of Devils Lake. Lowering the lake does not further this mission. More than 200 people have signed the petition not to lower the lake level. Scores of home owners will not have access to their boat houses if the lake is lowered. He noted that two Board members have a personal agenda because they ski on the lake. He said that Weldon stated that at 9 feet, beaches were beginning to appear. Skirvin conducted his own survey of purported water depths and concluded that navigability is not an issue. Dooling discussed his personal issues and efforts to make his boathouse and boat accessible. The proposed action to lower the lake level is unwarranted; he asked the Board to continue the current policy and not to cause chaos to the community. He said the two Board members should recuse themselves from the vote to lower the lake level.

**Larry Rich:** He said that after reading over his letter, it sounded “whiny,” so in the interest of time, he has edited it. If he had known there was a Board who had the authority to lower the lake level, he would not have purchased his home on Loop Drive. In the May, 2010 Minutes, he noted that someone complained because of loss of shoreline and was going to attempt to lower his property taxes and might possibly consider a law suit. If the Board changes his property from lake front to lake view, this will cause him a loss of recreational opportunity. He urges the Board to reinstall the dam and maintain the lake at the 9.53 feet, according to existing policy.

**Director Randy Weldon:** Picking and choosing specific dialogue from Minutes over the last few years seems to be punitive. He said those residents who are permanent lake residents know that for the last 22 years, he is out with different people skiing in the early morning hours. So, whether the lake is at 8.0 or 9.0 does not affect his ability to enjoy the lake; he therefore does not appreciate the personal attacks that are directed at him.

**John Flory:** He said he purchased his home in 2003 because of lake access. He is concerned because he has a pontoon boat that was sitting on dry land. If the lake level is lowered, he will not have lake access; he said his neighbor recently lost his lake access. Four years ago, he made improvements to his dock and was informed that he needed to create a special design so that predatory fish could not hide under the dock. Now there is no water under the dock for the fish to hide in. He has wasted a lot of money on this project.

**Jack Strayer:** (Letter is attached to the Minutes) He said he was formerly a director for five years on the Devils Lake Water Improvement Board; he has been a resident for 30 years. He urges the Board to maintain the current lake level.

**Doug Pirie:** (Letter is attached to the Minutes) He said for ten years, he has enjoyed the lake. He agrees with Jack Strayer’s testimony. Fifteen years ago when he retired, he purchased hobie cats for sailing. He is concerned that much of the information presented by the lake manager is incorrect. He said maintaining the lake level to as high as possible is best. He said he can no longer give free lessons on sailing to kids because he does not have the water depth adjacent to his dock when the lake is below 9 feet; the optimum level would be 10 feet.

**Mariellen Rich.** (Letter is attached to the Minutes)  
She said discussions have been related to whether the lake level should be 9.0 or 9.6—a six-inch difference. The purpose of the public hearing is about the public water right certificate and permits to store water. After carefully reading the erosion study, it fails to make any specific recommendation for an ideal lake level. She does not understand why the dam removal is being considered. This would be devastating to all who use the lake in the summer. She compared Devils Lake to Green Lake near Seattle. She said when summer lake levels are low, phosphorous levels are higher. She asks the Board if they have considered why the dam was installed. The District was created with a mission to improve safe navigation and to improve the recreational activities on the lake. She urges the Board to follow the current policy and keep the lake level at 9.53.

**Tony McCasline:** He said upon reading the erosion study, it was noticed that Rock Creek and other areas were considered to be eroding. And, 16 percent of the shoreline is exhibiting some form of erosion; 72 percent occurs in unarmored areas. The District's aerial photos indicate that from 1977 to 2007 not much erosion has occurred, especially in the natural areas owned by the state. If you look at each year, you will see that each line varies slightly; however 1977 is the year that the dam was installed. The combined image display is almost a perfect overlay of the shoreline of 2007, indicating that the shoreline did not move significantly. From all appearances, nearly half the shoreline the District claims to be eroding is not eroding in an epic proportion. He therefore requests the District to install the dam on the D River immediately to maintain the 9.53 feet that was agreed to by the Board. He said to Robertson: If we replaced every septic tank around the lake, we would not see a one percent improvement in lake quality. It was stated that a 14-year-old boy would have to drink 15 gallons of water in one hour to be harmed. He said the lake is as clear as it's ever been.

**Mark Richards:** He expressed his thanks to the Board for their work. (Letter is attached to the Minutes)

He said the District's erosion study was for the summer months; the six months when the erosion is greatest was virtually ignored. The premise of the erosion study was to determine effects on the lake level of the impoundment structure operated only in the summer. Staff has chosen to concentrate on summertime wind energy and the discussion ignores 84% of the protected shoreline. Bulkheads play an important role in preventing erosion. The District states that boat wakes are five times greater than they actually are. The calculations are outrageous. With removal of the lake level controls the District thinks they can correct the problems. He urges the District to install the dam and maintain the 9.53 level.

**Mark Highland:** (Letter is attached to the Minutes)

He said he serves on the Tigard Water Commission Board; he has recreated on Devils Lake for more than 40 years. He has serious issues with the Board and the lake manager and the non-action that the District is exhibiting—replacing the dam. The lake manager said impoundment has changed the natural hydrology of Devils Lake. It would be impossible to construct a dam without changing hydrology. The lake manager said that soils that would be dry in the summer would be saturated and the shoreline would be more vulnerable. Highland requests that the District install the dam to maintain the 9.53 level according to existing policy.

**Greg Whitaker:** (Letter is attached to the Minutes)

He talked about the boats and the wave analysis of the erosion study of the lake. He said he was surprised at the information that was offered for the study. He said there is not an average of 30 wake board boats on an average day on the lake. One of the reasons for boating on this lake is that the weather normally precludes a lot of boaters from using the lake; therefore, the data exaggerated the amount of boat waves on the lake. He said information stated that 18% of total wave energy was caused by boats based on 30 boats on the lake. He said it would be more like 10% of wave energy.

The bottom line is that the treatment of this part of the erosion study shows a bias with a predetermined notion to lower the lake by using larger figures for wave energy. He said, as a side note, this type of faulty data could in the future be used to ban all motor boats from using the lake.

He urges the District to install the dam on the D River and maintain the 9.53 feet according to its existing policy.

**Mitchell Moore:** (Letter attached to the Minutes)

He said 61 people have come to the meeting to share their concerns. He asked the Board to consider what they've heard. More than 200 citizens have signed a petition asking that you leave the current policy in place. You wield a considerable amount of power. He reiterated the themes of many of the speakers: Dialogue is non-existent; personal agenda of some of the Board; arbitrary decisions that would lower property values; a former Board member that asked the Board to look a concerned citizen in the eye and tell him or her that the decisions they make are for the greater good.

He said the public has acted together to bring messages to the Board. Public support is important and the 9.53 level needs to be maintained, according to the existing policy.

**Fran Recht, Pacific States Marine Fishers Commission:** Fran said the public has an interest in fish and habitat and she is sure the people who have spoken previously care about the same values. She agrees that recreational access to the lake is important. This is a complex issue and we need to work to meet everyone's goals, but to balance the issues. When the dam is in place, Coho salmon's passage is impeded. Coho salmon is important to the State. There are about seven days in May when these Coho are being provided improved access to get out to the ocean; also sea cutthroat trout are not being provided for. She said it would be prudent for home owners to indicate that they would be willing to agree to septic system inspections if the dam were to remain in place with an opening to allow the fish to pass freely. She said more balance is called for—support for septic system inspections and working on planting native riparian vegetation. She condemned the personal attacks of the Board members and said that they should be thanked for their service. She said she heard only one voice that indicated concern for the fish. She urged property owners to write a letter supporting the fish and agreeing to the septic system inspection as a condition for maintaining higher lake levels.

**Les Davis:** Pat and Les Davis own a home and two lots on NE 20<sup>th</sup>. He thanked the Board for their service; he said he knows that they devote a lot of time and energy. He has served on the Hillsboro Chamber of Commerce Board where they are attempting to maintain all the water there that they can for industry and water recreation. He owns property that has a river running through it and works to maintain all the laws of the state; he worked with ODFW to put a fish bypass on his property. He has some concerns about lowering the lake level of Devils Lake. People have huge investments in this natural resource; the District may be casting a negative perception on the lake. He has many friends who spend their free time in Lincoln City because of the lake and he is concerned about the negative impact on home values in an area that is already hit hard by the economy and needs to protect the lake front property investments. Lowering the lake will decrease home values; land and home values are what is eroding here, not the lake. He is also concerned about safety. His property is on

the point at the end of 20<sup>th</sup> Street. It is shallow in front of his place—less than two feet. It is a hazard that is not apparent to boaters and skiers. He believes that higher levels can add value to the lake. When the lake was lower, it was not optimum; it has been improved. It is in the best interest of everyone to maintain the lake at the current levels.

**Jerry Bottemiller:** He noted that there have been some valid comments made. A larger issue is that fish are swimming over the flooded road on East Devils Lake Road. Since he has owned his property, he has lost eight feet of land from erosion. He has worked hard trying to install some natural obstruction to the erosion; Seth has been involved in some of this. He encouraged the Board and everyone to look closely at the data and make sure that they use the information wisely. Listen to the people who are talking to you and make decisions based on the better good. Please be certain that your judgment is based on facts.

**Sherrel Smith:** She said she lives on Hill Road and is a third generation pioneer. She held up the Devils Lake Plan that was created in 1987 when Dell Isham was lake manager. She said she would like all the Board members to read the original plan. She said the reason the dam was built was because they planted carp to get rid of the weeds. Then it flooded East Devils Lake when it raised the water level. She said she swam in Devils Lake when there was no dam and it was much colder. There was no problem with East Devils Lake Road then. Now it is flooded all year round and salmon are crossing the road; gas and oil are polluting the water from vehicles traveling across it. The problem is that the lake is higher than the road and the District doesn't have the money to fix it. She talked about the early days when frogs were in abundance and she said that in the 1920s the duck hunters planted weeds for better hunting.

**David Martin:** He wanted to voice his support for removing the dam and not re-installing it. This would be beneficial to the Coho salmon and mitigate some of the issues with the septic systems. He would like to see the people trying to move forward on the issue of septic systems inspections and removal of invasive species with the same enthusiasm that they have expressed on the issue of installing the dam.

**Jim Aasum:** Jim has been around the lake for more than 50 years. He said he agrees with most of the testimonies. He said before the dam, the lake was a total mess from weeds. By August, people could walk across the lake on weeds with bird feathers on top. The lake is now the best he has ever seen it and the Board can be complimented for the dam. He encourages the Board to keep the lake level at the current level. He asked the Board to consider changing its vernacular from cyanobacteria to blue-green algae.

**Patty Sorensen:** She lives near Brian Green and is impatiently waiting to hook up to the sewer. Her home is on a cliff, so there is erosion and deterioration of clay. She would like to see the lake level maintained at the existing level. She is a newer home owner; however she has been using the lake with relatives who live here since she was small. She remembers when it was a beautiful lake full of swans because of the weeds. She is concerned with safety. She is supportive of the fish and completely supports what Fran Recht said. She said in order for her to use the lake, they would have to build a dock 75 feet long. They do not have enough water depth now to use a canoe in front of their dock. She encouraged the

Board to have a plan to ensure the public that they have the water levels that they are used to. Many people cannot look at the website to see what is going on. She said if the Board decides to lower the lake, they should take precautionary steps to ensure that home owners will not be harmed by their decision.

**Bill Riverman:** He and his wife, Lois, live where the egress of the canal is 100 feet from where the dam is located. He asks why they would want to lower the canal? The Tribe is going to eliminate their nutrient feed from the watershed and they will use a certain amount of water to water the golf course. Also, he wanted to know if it was true that Devils Lake State Park authorities wanted to lower the lake because some of their campsites are flooded in the spring. He said he rarely sees any grass carp in the canal now and the milfoil is growing out of control. He said he has never seen it this thick this early. With the sunlight lighting up the bottom of the canal, there is more synthesis. We are in danger of losing the canal and there will be no kayaking or canoeing. He said he can sit on his deck and talk to people as they paddle by. He has lived there 12 years; now there are few lots available for building sites. We pay property taxes the same as they do who live on the lake. We have the same concerns and goals as the people who live on the lake—livability.

#### **That concluded the public comment session of the meeting.**

Director Kip Ward: As a new director, he is attempting to get up to speed on all the history of the lake. He said the Board does not wish to be anyone's enemy. He said he takes home pages of history and has read thousands of pages. He said the Board does not make decisions lightly, but carefully considers each and every one. This duty is not a fun one, but it can be rewarding. He encourages everyone to remain good spirited; we are all neighbors and friends. He urges everyone to remain respectful and show consideration and the process will go a lot better.

Skirvin: At the next meeting, June 7, there will be an opportunity for those who did not get to speak this time to do so.

Robertson asked for clarification on how the Board wishes to proceed. He asked if they wished to hold off on replacing the dam since there will be another hearing on June 7.

Skirvin: In the past, we have not closed the impoundment structure prior to the first of June.

Robertson: Our policy was if it went below 9.3 or 9.0, we closed it.

Green asked if it had been closed and Skirvin replied that it had not.

Weldon said that it was currently at 9.56 or 9.6, which is the lowest in seven or eight weeks.

Walker said he would like to see the structure placed back in the dam. He sees no point in waiting.

It can always be removed if that is the decision that the Board makes.

Green said that it would not hurt to wait. He is concerned about the salmon run for the few days in May.

Robertson said the salmon are trying to make their way out from now until the mid July.

When the dam is installed, there is a notch in the wood structure about 8 inches across.

Green said the Board has a major decision to make at the June meeting. Doing something

now is committing to a decision that might be reversed at the June meeting. He said the

Board should make the ultimate decision at that meeting. This will be a difficult decision. He

said there are good reasons to lower the lake level, but hearing these people talk about their issues gives him pause on the other side. He thinks they should have another month to consider it. He asked the public to feel free to continue providing information to the board on their concerns.

Ward said the public hearing is a two-part issue and he would like to hear the second part. He feels the Board owes it to the entire process. If someone did not attend this meeting and came to the next one expecting to be heard, there might be difficulties.

Weldon said that in looking at the public comment, Mark Christie said that April 15 through October 15 is when the lake activity is highest. Weldon said it is more accurately mid-June through mid-September when the primary activity is on the lake. We have not hit 9 feet until June 15.

Skirvin said that he would suggest working with the contractor to ensure that he is prepared to do whatever the Board decides to do on June 8.

**Green moved to hold off placing the boards in the dam until after the June 7 Board meeting. Ward seconded the motion. Voting Yes: Skirvin, Green, Weldon and Ward. Voting No: Walker. Motion carried.**

(The Board's decision about Water Right Certificate #69267 and Permits 52672 and R-11968 will be made at that time.)

## **Unfinished Business**

### **The Devils Lake Plan**

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

No update. Still moving forward in working with DEQ and the County and City.

#### **SOS--Save our Shoreline Campaign (Lenaerts)**

Lenaerts has been talking with Cody Cha, a local video film maker, about creating a video and what the goals of the video would be. We could include information on the benefits of designing and planting, plant information and permitting requirements. Regarding a series of videos on lakeside living, some ideas were septic maintenance and increasing the lifespan of a system, rain garden/storm water management, controlling invasives and preventing erosion. We can move forward on this as the Board wishes. Lenaerts presented three options. Option 2 would put the information together in a DVD format, including a cover design. Option 3 would be seven minutes longer—10 to 15 minutes, include additional locations and another day of production with unique footage.

Lenaerts recommended Option 2 with perhaps a few issues from Option 3. He said it would be \$4,000 for the creation of four videos with \$500 for production of DVD's.

Skirvin said they did not mean to create DVD's to be mailed out. He thought just posting one on Channel 4 and to the website would be sufficient. He does not see the value in mailing them—it is too expensive. Walker agreed.

Lenaerts said that some of the property owners have not yet caught on to the value of the program. Direct mailers are a good venue for information; some people expressed appreciation for previous mailers.

Green asked if the video could be aired on public access and replicated as well.

Lenaerts said that Option 2 would be in DVD format and could be replicated for about \$1 each.

Skirvin asked when the filming would begin.

Lenaerts said he would like to have them completed by fall, but they could start work right away.

Weldon said he would like to see one SOS video completed and placed on the website. If more were warranted, then they could do additional ones in other areas. Green agreed that the replication could be done later.

**Walker moved to allocate up to \$1,100 for an SOS video in DVD format that can be placed on the website and Channel 4. Green seconded the motion. Vote: Unanimous. Motion carried.**

### **Vegetation Management**

Robertson met with the consultant, MaxDepth Aquatics and ODFW Fish Biologist Bob Buckman from Newport. They went through the archives and reviewed existing data at the field office in Newport. There are additional materials to be reviewed. He said they did not find a high level of information. They will do more scanning and pass it on to the consultant. They took a watershed tour, including Rock Creek and Thompson Creek.

Regarding an aquatic vegetation survey, Robertson has been in contact with PSU Center for Lakes and Reservoirs regarding an intern study of Devils Lake. This would be a Masters program collecting and identifying vegetation in the lake to help as we go forth with the grass carp application. Based on the timing, it might be difficult to get someone this summer, but he could work on the groundwork if the District wishes to fund it. If it's inexpensive enough, he can work with Dr. Sytsma. Robertson has had a discussion with Vanessa Howard, a graduate student with PSU. The project would be a paid internship offering from the District in partnership with PSU through some sort of tuition remission. Vanessa is researching how the internship at Lake Oswego is set up and would model that for one, potentially, here. One issue is getting one for this summer. We could develop a relationship for new students to integrate more seamlessly year to year. If we do start this program, a botanist can tell us what plants we have from a leaf—whether it's an invasive or a native. This is information we need to know.

Robertson said he had placed \$25,000 in the budget for this project; probably much more than is required. He is hopeful it can be closer to \$5,000 if it can be within a Masters program and is of value to a student; it would be something that someone would want to do. Green asked if Vanessa would have any information by June; and, how close Eilers is to finalizing his information.

Robertson said not by July 1. The original time was June 30, which is our budgetary requirement; however, that timeline was pretty tight.

Green said that what he is hearing is that we will not have any vegetation survey until next summer.

**Video presentation on the Diver Assisted Suction harvesting (DASH) will be postponed until next month.**

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

Green said he has received a 33-page report (including boundaries, zoning and methods of assessment) from Dave Camp, city engineer. It is positive. He has made a recommendation along the lines that was requested by the Board. The purpose of this sewer is to protect the Devils Lake water quality. There are three levels of assessment. Some properties will be sewer and paved; others sewer and others paved. The pressurized system is necessary around lakes. He recommends pavement be 16-feet wide; this means that we can maintain current natural and organic storm drainage methods. He proposed that the city finance not only the cost of the LID (line in road), but also the cost of the system development charges and that owners be allowed to pay their LID and system development charges over 15 to 20 years. This would keep the payments lower as we had represented to the folks when we obtained their agreeing to sign-up for the program. Another issue is when the hookup would be required. He came around to our position of no mandatory hookup—the owners decide whether to connect to the system unless their systems fail or they build a larger home. When properties connect, we are paying the monthly assessment anyway which provides sufficient impetus for connecting to the system. They would comply with present DEQ requirements. He thinks the opportunity to finance should be provided whether you hook up right away or not. The city manager has been supportive of this, as he sees its value to Devils Lake, so, hopefully, he will come around to financing of the SDC. LID and paving costs are \$6,000 per lot financed over 20 years, or about \$49 per month. Next is the hearing before the city council.

### **Riparian and Wetland Protection**

No update on this.

### **Communications Report**

May 23 is the date of the class at Oregon Coast Community College that Robertson will be conducting. He invited people to come and support the District and learn more about water quality. The course is entitled, “Understanding Local Water Quality: Be Part of the Solution.”

Robertson might be on the radio again next Tuesday morning.

The Devils Lake Revival will be on August 4 from 10:00 A.M. to 2:00 P.M.

### **Safety Report**

No accidents.

### **MidCoast TMDL**

There is additional and background information on the Total Maximum Daily Load on the District’s website under the Projects page. Biggest highlight is that DEQ listed Devils Lake for an additional metric for algae and weeds. EPA recommended that they list Devils Lake for temperature. Typically, a natural lake would not be listed for temperature, however during the time of the data collection the lake is in fact a reservoir which would allow for listing as the system is not natural at that time. Now that they know more about the system, they are rethinking it and might not list us. They are looking at this from 10,000 feet. It’s

difficult to do all this across the nation. They might err on the side of caution and not list us. As a result of not having done enough digging into this lake in particular, Robertson expects that they will not list us. He is part of the bacteria technical working group that will meet in Newport on Tuesday, plus three more times.

### **Internship- Summer 2012**

Robertson said he had hoped to secure someone for this position by now; he still has not confirmed an individual. He has a candidate that is very unique and talented and is actually a local individual. This person is enrolled in a program in Chicago, and has done a lot of work at PSU in the Physics department. Since this is this person's home, there would not be the issue of relocating expense. The Board expressed some concern about whether the individual is a minor and asked Robertson to take this into consideration. Robertson will select a candidate prior to the next meeting.

### **New Business**

#### **Non-Agenda Items**

**Walker:** He has been approached by individuals who are concerned with the sand build-up near the Regatta Grounds area where the city disburses sand every year. The sand then drifts over to the shorelines of homeowners.

Discussion ensued regarding 50 cubic yards of sand that is not contiguous to the lake, but is 10.4 feet above sea level.

Robertson said that in the past, it has been possible to secure some provisions to fix the curbs where the area was flooded with water that washed the sand down.

Skirvin asked Robertson to check with the city and determine if anything could be done to mitigate this issue.

**Green moved to change the DLWID regular Board meetings to the second Thursday of every month, beginning with the July meeting. Ward seconded the motion.**

**Vote: Unanimous. Motion carried.**

### **Public Comment**

**Henry Marlow:** He said in his past, he has worked for one corporation and owned two businesses. He has also taught at UC-Berkley as well as at community college level. He has run for public office and knows how to deal with issues that were unsuccessful. He said the Board needs to address the real challenge that folks are not discussing.

He said the surface of the lake is becoming the bottom of the lake. During July, August and September, there is orange mold growing. He said the depth is diminishing and he is concerned about the lake dying. Studies usually show whatever you wish them to show.

There is enough truth in studies to make an argument seem plausible. He would like to see the Board divorce itself from its partnership with the city on the septic system issue.

He has a sand filter with two pumps. The problem with it is that the people who demanded that he install this system said that the contractor couldn't use beach sand, which is what it

requires, so they used something like pea gravel. By regulation you have more failed regulation. It worked great in the lab, but his septic caved in. A licensed contractor came out and said if you pump it out, it would cave in. He said his tank is full and if he pumps it out it will cave in. So he had to do it in two separate pumps. The problem with these types of issues is that in-depth research is lacking. Well-intentioned people have limited experiences on which to base decisions. He advised the Board to divorce itself from the City of Lincoln City that has many credibility issues.

In November, he met a couple of divers who came over from Salem to dive in the lake and take photos. The photos are like a moonscape.

We need to stop the flow of sediment into the lake. Dig sediment pits, perhaps 20 feet deep and 40 foot wide. We need to embark on a 20-year program to slow down the sediment. Start dredging. Take it back down to 20 feet. In the 1930's they did dredging. You represent not just the lake people, you represent the entire District. It's all watershed. Your job is to save the lake. Campaign. We need to revitalize the lake. Give serious thought to saving the lake. No more superficial programs. We need some real programs. More studies are not going to solve the problem.

**Mark Highland:** Fran Recht mentioned the fact that she was hoping that folks had as much concern about the fish and wildlife as they have about lake level. Many of us come from generations that lived on the lake. Mark said his dad and Al Rice built the first wood duck houses. He and his family sit on their deck and enjoy the eagles that perch on huge trees across the way; natural wildlife is amazing. His concern is that the impoundment permit calls for and it is imperative for DLWID to provide for fish movement and to handle the flow of fish. He wants to be sure that it is noted that there is a concern for the fish. Regarding Sherrel Smith's comment that before the dam was installed there was no water going over East Devils Lake Road, he remembers water going over the road when he was 15. Bud Depweg also said that was nonsense. The problem is that it gets plugged up. He said he does respect nature and is a caring person. He also water skis.

### **Board Comments**

Tomorrow at 10:00 AM is the DLWID Budget Committee Meeting.

### **Adjournment**

The meeting adjourned at 10:00 P.M.

The next regularly scheduled Board meeting will be June 7, 2012 at 6:00 P.M.

Respectfully submitted,  
Linda Burt

[Kerry Richards]

**11. Why Now - Why are we considering this now? a. Claims this was brought forward by members of the public expressing concern over erosion**

In April of 2009 I presented to the DLWID after a mere “22 concerned” residents had approached the Board about the possibility of lowering the lake level. Communication was virtually non-existent at that time between the elected DLWID Board officials or Lake Manager representing the approximate 500 lake front property owners and close to 9000 total residents in the water district. In April 2009 after a grass roots communication campaign where this flyer was distributed around the lake, approximately 70 residents attending a similar meeting to say that this is NOT what the majority wanted for the lake and we had thought – silly of us really – that further time, money and resources would not be spent on this endeavor.

In case you have forgotten the - The mission statement for the DLWID includes the following statements;

- Improve recreational opportunities
- Improve and maintain safe and efficient navigation
- Increase public access to Devils Lake

As elected officials representing your constituents –you need to ask yourselves if by your vote on this issue – you are meeting the mission statement you are responsible to defend and support.

**There are Codes of Ethics, whether for municipal officials, civil society organizations, the media or professional associations, that must be included in your daily endeavors. These should be comprise (but need not be restricted to) the following**

- Impartiality, objectivity, discrimination
- Confidentiality
- Due diligence/duty of care
- Fidelity to professional responsibilities
- Avoiding potential or apparent conflict of interest
- Legality (respect for the rule of law)
- Integrity and honesty
- Transparency and openness;
- Efficiency;
- Equality;
- Justice; and
- Responsibility, i.e., maintaining one’s reputation and responsibility for faults.

As a local elected official, you wield considerable power over a number of important community matters. With this power comes the expectation that you will hold yourself to the highest ethical standards. This means exercising your power in the *public’s* interests, as opposed to personal self-interest or other narrow, private interests. There are a number of sources of guidance on your ethical obligations as a local elected official.

One is the law. The law, however, merely sets a minimum standard for ethical conduct. Just because an action is *legal* doesn’t mean that it is *ethical*. For example, it may be legal for you to vote on your best friend’s project application. However, if everyone in the community knows how close the two of you are, will you be able to put aside your personal loyalties and assess the merits of the project objectively? Will the community believe that you have done so?

At some point in your service as a local elected official, you will likely face two common types of ethical dilemmas. The first involves situations in which doing the right thing will come at a significant personal cost to you or your public agency. In these situations, the answer is relatively simple. *The bottom line is that being ethical means doing the right thing for the entire community regardless of personal costs.* The second type of ethical dilemma involves those situations in which there are two conflicting sets of “right” values. In these instances, drawing the ethical bottom line is more difficult. If you find yourself faced with a “*right versus right*” decision, the following questions may help you come to an answer:

- Which ethical values are in conflict (for example, trustworthiness, compassion, loyalty, responsibility fairness, or respect)?
- What are the facts? What are the benefits to be achieved or the harm to be avoided by a particular decision? Is there a decision that does more good than harm?
- What are your options? Is there a course of action that would be consistent with both sets of values?
- Is one course of action more consistent with a value that is particularly important to you (for example, promise-keeping or trustworthiness)?
- What decision best reflects your responsibility as an officeholder to serve the interests of the community as a whole?
- What decision will best promote public confidence in the agency and you’re Leadership?

As you hear the testimony and opinions of the “public” tonight I sincerely hope and expect as a taxpayer that you keep these ethical standards and criteria in the forefront of your mind.

Thank you your considerations.

Kerry Richards

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**[Dana Moore]**

DLWID Board Members

Tonight I will present to the Board a petition that contains the signatures of 200 individuals who wish to express their opinions. Attached is an advanced copy of the petition for your review. In total, there were 209 signatures collected, containing 3 duplicates and 6 from out of the country, that were disqualified. Several signatures came from out of state but generally came with companion comment that indicated that they visit Devils Lake on some kind of regular basis. Along with their signatures 27 provided a comment as to why they signed the petition. The message these 200 petitioners want to send to the board is that the district should keep the current policy related to lake level and install the dam on the D-River as soon as possible maintaining a lake level of 9.53 feet.

Please listen to these voices and make the right decision tonight.

Dana Moore

**Note: Hard copy of Petitioners is attached in binder in DLWID Offices.**

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[Mark Christie]

To: The DLWID Board of Directors  
David Skirvin  
Brian Green

5/10/2012

Noel Walker  
Kip Ward  
Randy Weldon  
Lake Manager, Paul Robertson

From: Mark R. Christie  
Lake address: 3184 NE Loop Drive

Subject: Public Hearing comments on lake level

Please enter this oral testimony along with the written information provided into the written record available to the public in the on-line minute's section of your web-site.

I first want to thank Linda Burt for her great work over the years recording the minutes of these meetings. It was so valuable in putting this information together.

Looking back just a few short years to 2007 and 2008 there was wide spread support among the lake manager and board members, Jack, Smokey, David, Otis and Brian for a lake level over the current impoundment level of 9.53.

#### **July 5<sup>th</sup> 2007**

Robertson stated that the dam has been in existence since 1994. Last year, the lake was its highest in ten years. He said that he has received quite a few positive phone calls from landowners about the lake level.

Robertson said it would be his recommendation to not alter the lake level, but look at other issues.

#### **February 7<sup>th</sup> 2008**

Robertson is concerned about precious water rights and the weak enforcement clause—how will it be shown that the golf course's usage does not have an impact on water levels?

It was agreed that 500 gallons a minute seemed somewhat excessive.

#### **July 3<sup>rd</sup> 2008**

Robertson: Going to a 9.6 level is not a detriment, since the primary goal is to float boats.

#### **September 4<sup>th</sup> 2008**

Green asked about the factors for the decision to maintain the lake level at closer to ten feet. Robertson said the District applied for water rights for two additional feet. This would put the lake up to 10.4. The District has been attempting to maintain a constant level with the dam. There have been about 15 phone calls informing Robertson that they appreciated a higher level of the lake. The recreational water right was to provide longer recreational use for lakefront property owners.

#### **October 2<sup>nd</sup> 2008**

Strayer said if anyone proposed taking out the dam, there would be public outcry. Green reminded them that removing the dam would bring the lake level down to seven feet. He said the level of the lake is 8 feet above sea level and there would be a whole lot of lake level lost.

Robertson presented a letter from property owners in Leisure Bay. They wanted the Board to know that they don't feel that there is a problem with lake levels. They trust the judgment of the Board and appreciate a higher lake level and hope the Board will consider all facets of the lake before altering lake levels.

**Board Member Randy Weldon has had this to say over the years about why he supports a much lower lake level and why he wanted to be a Board Member:**

**January 8<sup>th</sup> 2009:**

Weldon stated that he and his friends are attempting to lower the lake level because of the water quality and their sport skiing.

He asked if it would be possible for the lake level to be lowered to a 9-foot level during the summer on a temporary basis.

**March 5<sup>th</sup> 2009**

Randy Weldon suggested that 9.0 feet would be perfect, in response to Green's query about their petition.

Weldon said that at 9 feet, the beaches begin to appear. He said he and his friends prefer a calm lake.

**July 2<sup>nd</sup> 2009**

David Skirvin is sworn in as a new Board member and fellow waterskiing partner of Randy Weldon.

Randy Weldon: He said he noticed that the wash-back action isn't as bad this year. As far as the water skier perspective, it is better.

**August 6<sup>th</sup> 2009**

Randy Weldon was interviewed for an open Board position and states.

He realizes that this Board has a great deal of influence in what happens with the lake.

Randy is appointed to the Board in September 2009.

**April 2009 and June 10<sup>th</sup> 2010**

Specific to lake level, this month had the highest attendance (audience) on record: 38 and 26 respectively, next to the SolarBees attendance of 48 in June of 2009.

In that April board meeting Board member Aschenbrenner said during his seven or eight years on the Board, there have never been more than four or five people at the meetings.

Looks like that has changed!

18 people testified in April 2009 and 14 in June 2010 specific to maintaining a higher lake level

Bill Pigott: He is opposed to irrigation of the golf course with lake water and the 300-plus water structures they cannot maintain. DLWID should oppose this lopsided deal. Re lake levels, he signed the petition Weldon brought around; however, with new information, he is no longer in favor of lowering the lake. He believes the Board should look at the larger picture and not make any decisions because of anybody's personal agenda.

Larry Brown: Said he was one of the signers of Weldon's petition a year ago. He feels that if we set the starting level at 9, we could have problems. The people he knows around the lake do not want the lake lowered. Set a level on the high side at 9.53 or 9.25. There are a significant number of people on the lake who have problems if it's lower.

**More recently:**

**June 2<sup>nd</sup> 2011**

Barnes said four people had contacted him because they could not access their boats/lifts with the lake at 9.06. Weldon said it is low.

**May 2012:**

Over the last few weeks you have received over 200 signatures (a record) from many people who have a vested interest in keeping D. Lake a great place for all people to enjoy. They have specifically requested you maintain the current lake impoundment of 9.53.

You have hit the bees nest with a stick gentleman!

Make the correct decision and maintain the current lake impoundment of 9.53 and end this 6 year battle once and for all.

Sincerely,

Mark R. Christie

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MY NAME IS **PAT DOOLING** AND WE HAVE A SECOND HOME ON THE NORTHEAST CORNER OF THE LAKE AT 4799 N.E. EAST DEVIL'S LAKE ROAD, OTIS, OREGON.

LAKE LEVEL

THE DLWID WEBSITE LISTS UNDER MISSION:

- IMPROVE AND MAINTAIN THE QUALITY OF DEVIL'S LAKE
- IMPROVE THE ENVIRONMENT FOR FISH, WILDLIFE AND HUMANS
- IMPROVE AND MAINTAIN SAFE AND, EFFICIENT NAVIGATION
- INCREASE PUBLIC ACCESS TO DEVIL'S LAKE
- IMPROVE THE ECONOMY OF NORTH LINCOLN COUNTY THROUGH THE RESTORATION AND MAINTENANCE OF DEVIL'S LAKE
- INCREASE PUBLIC AWARENESS AND PUBLIC EDUCATION OF DEVIL'S LAKE

LOWERING THE LAKE LEVEL CLEARLY DOES NOT CONTRIBUTE TO ANY OF THESE GOALS AND, IN FACT, IS A STRONG DETERRENT TO ACCOMPLISHING THESE GOALS.

MANY HAVE TESTIFIED IN THE PAST AND OVER 200 NOW HAVE SIGNED A PETITION TO NOT LOWER THE LAKE LEVEL. THERE ARE KNOWLEDGEABLE COMMENTS REGARDING LOWER FISH STOCKS, EXPOSING BOATERS TO INCREASED HAZARDS FOR NAVIGATION OF POWER AND SAIL BOATS, AND LIMITING AREAS FOR KAYAKING DUE TO DECREASED ACCESSIBILITY TO TRADITIONAL WATERWAYS. FURTHER, SCORES OF HOME OWNERS WILL NOT HAVE ACCESS TO BOAT HOUSES AND HIGHER DOCKS WILL PROVIDE

HAZARDS FOR EXIT AND ENTRY INTO BOATS. THIS WILL AFFECT PROPERTY VALUES AND THAT WILL AFFECT TAX REVENUE. THIS BOARD'S ACTIONS FRIGHTEN POTENTIAL PROPERTY OWNERS WHO READ ABOUT OUR ONGOING CONTROVERSY

WHY DO WE HAVE THIS PROBLEM?

AFTER THE LAST CONTROVERSIAL PUBLIC HEARING WHEREIN SCORES OF PEOPLE VOICED COMMON CONCERNS ABOUT LOWER LAKE LEVELS, THE BOARD CONDUCTED AN EROSION STUDY AT OUR EXPENSE. DID THAT STUDY SUGGEST THAT EROSION WOULD BE CURTAILED BY LOWERING THE LAKE LEVEL? NO! AND NEITHER DID A REQUESTED SECOND LOOK AND REVISION.

THEN WHY, WHEN THE MAJORITY OF LAKESIDE HOMEOWNERS ARE AGAINST THIS PROPOSED LAKE LOWERING ACTION DOES THIS BOARD AGAIN BRING IT UP FOR A VOTE?

LET'S STOP IGNORING THE ELEPHANTS IN THE LIVING ROOM-RANDY WELDON AND DAVID SKIRVIN. THESE TWO BOARD MEMBERS HAVE A PERSONAL AGENDA TO LOWER THE LAKE LEVEL IN ORDER TO ENHANCE THEIR WATERSKIING EXPERIENCES.

THE MINUTES OF THE JANUARY 8, 2009 DLWID MEETING RECORDED PUBLIC COMMENT AS FOLLOWS "WELDON STATED THAT HE AND HIS FRIENDS ARE ATTEMPTING TO LOWER THE LAKE BECAUSE OF THE WATER QUALITY AND THEIR SPORT SKIING...HE ASKED IF IT WOULD BE POSSIBLE FOR THE LAKE LEVEL TO BE LOWERED TO A 9 FOOT LEVEL DURING THE SUMMER ON A TEMPORARY BASIS" IN THE MARCH 5, 2009 MEETING HE TESTIFIED THAT AT 9 FEET, BEACHES BEGIN TO APPEAR. HE SAID THAT "HE AND HIS FRIENDS PREFER A CALM LAKE." THERE IS MORE BUT I AM NOT GOING TO BORE YOU WITH IT.

BOARD MEMBER, DAVID SKIRVIN, IS ONE OF RANDY WELDON'S WATERSKIING FRIENDS. THEY WATER-SKI PAST OUR HOME FREQUENTLY IN THE MORNINGS DURING THE SUMMER.

DAVID SKIRVIN IS THE BOARD MEMBER WHO CONDUCTED HIS OWN PERSONAL SELF SERVING "SURVEY" OF PROPORTED WATER DEPTHS AROUND THE LAKEFRONT HOMES; AND, BASED ON THE STUDY, HIS "FINDINGS" CONCLUDED THAT "NAVIGABILITY" IS NOT AN ISSUE FOR THE MAJORITY OF WATERFRONT PROPERTIES.

HIS METHODOLOGY WAS TO TAKE A SINGLE DEPTH AT THE END OF HOMEOWNERS' DOCKS, HIS ASSUMPTION, I GUESS, WAS THAT THE DEPTH REMAINED AS DEEP TO THE SHORELINE. ANY MEANINGFUL SURVEY

WOULD TAKE AT LEAST ONE MORE SOUNDING-A BOAT LENGTH INTO THE SHORELINE. HIS BOAT INFORMATION SHOWED A 23 FOOT LENGTH SO THAT WOULD BE AN IDEAL NUMBER TO USE. HE ALSO USED A TYPICAL DRAFT OF 18" FOR A 23' BAYLINER – BUT THAT IS WITH THE OUTDRIVE UP. THAT SAME BOAT DRAWS 36" WITH THE OUTDRIVE IN THE DOWN POSITION. MANY HOMES ON THE LAKE NEED TO TIE UP THEIR BOATS "BOW OUT" TO PREVENT SWAMPING OVER THE TRANSOME DURING TURBULENT WATERS. A LOWER LAKE LEVEL WOULD PREVENT MANY OF THEM FROM LOWERING THEIR OUT DRIVES TO POWER OUT.

WE ARE LOCATED UP AT THE NORTHEAST END OF THE LAKE AT THE MOUTH OF HORSESHOE BAY. WE HAVE BUILT A NEW BOAT HOUSE, WHICH COST US OVER \$25,000.00 AND JUST RECEIVED FINAL APPROVAL IN JANUARY. IT WAS DESIGNED FOR THE LAKE DEPTH AT 9.53 FEET. BECAUSE OUR LAKEFRONT WATER IS SHALLOW FOR ABOUT 50 FEET BEFORE IT DROPS OFF, WE RECEIVED PERMISSION FROM STATE DIVISION OF LANDS AND FISH & WILDLIFE TO EXTEND OUR DOCK OUT 75' FROM THE SHORELINE AND THE BOAT HOUSE EXTENDS 24' OUT FROM THE SHORELINE. WE THEN INSTALLED A 36' RAMP WHICH IS BARELY LONG ENOUGH BUT STATE DIVISION OF LANDS DID NOT WANT SUPPORTS EXTENDING DOWN INTO THE WATER SO THE RAMP NEEDED TO BE A CONTINUOUS SPAN. OUR BOAT IS ON THE SMALLER SIDE, A 17' SEA RAY. HOWEVER, IT ALSO DRAWS AS MUCH AS THE 23' BAYLINER WITH THE OUTDRIVE DOWN, 36". ANY LOWER LAKE LEVEL WILL MAKE IT IMPOSSIBLE TO USE OUR BOAT HOUSE. NOT SHOWING A BOAT DRAFT WITH THE OUTDRIVE DOWN IS A LACK OF DUE DILIGENCE AND CERTAINLY LACKING ENOUGH JUSTIFICATION FOR HIS CONCLUSION.

THE PROPOSED ACTION TO LOWER THE LAKE LEVEL IS UNWARRANTED, UNNECESSARY AND ALSO NOT SUPPORTED BY THE RECENT BOARD INITIATED EROSION STUDY. IN ADDITION OVER 200 PEOPLE HAVE SIGNED THE PETITION TO NOT LOWER THE LAKE LEVEL. WE ASK THE BOARD TO ACT ON THIS PUBLIC PLEA TO CONTINUE THE POLICY IN PLACE AND NOT CAUSE CHAOS FOR LAKE USERS, LAKESIDE HOMEOWNERS AND THE COMMUNITY.

#### CONFLICT OF INTEREST

A CONFLICT OF INTEREST IS A PERSONAL INTEREST THAT MIGHT IMPAIR OR REASONABLY APPEAR TO IMPAIR A BOARD MEMBER'S INDEPENDENT, UNBIASED JUDGMENT IN THE DISCHARGE OF HIS OR HER RESPONSIBILITIES TO THE INSTITUTION. IT'S AGAINST STATE LAW EVEN IF A GOVERNMENTAL UNIT HAS NOT ENACTED A POLICY OF ITS OWN. IF A PUBLIC OFFICIAL FINDS HIM OR HERSELF IN A PERSONAL OF FINANCIAL CONFLICT OF INTEREST HE OR SHE IS EXPECTED TO REMOVE HIM OR HERSELF FROM ANY VOTE OR DECISION IN ADVANCE. THIS IS

CALLED RECUSAL.

THE APPLICATION OF THE “FRONT-PAGE TEST” IS OFTEN HELPFUL IN DETERMINING WHETHER CONFLICT-REAL OR PERCEIVED-EXISTS: IF AN ACTIVITY WERE ACCURATELY DESCRIBED ON THE FRONT PAGE OF THE LOCAL NEWSPAPER, WOULD AN INDIVIDUAL ON THE BOARD APPEAR TO BE IN CONFLICT? THAT IS, WOULD HE OR SHE APPEAR TO HAVE GIVEN PREFERENCE TO SELF-INTEREST RATHER THAN TO THE INTEREST OF THE INSTITUTION?

USING THIS SAME “FRONT-PAGE TEST,” WOULD THE BOARD BE SATISFIED WITH THE WAY IT HANDLED THE CONFLICT? COULD THE INSTITUTION’S REPUTATION BE HARMED IF THE CONFLICT WERE MADE PUBLIC? I CAN TELL YOU THAT THIS IS SERIOUS BUSINESS, I SERVED AS AN ELECTED BOARD MEMBER ON THE MULTNOMAH EDUCATION SERVICE DISTRICT FOR TEN YEARS. IT IS A MUCH LARGER PUBLIC BODY AND HAS ITS OWN STAFF ATTORNEY, WHO ASSISTS BOARD MEMBERS ON LEGALITIES. THERE CAN EVEN BE A POSSIBILITY OF PERSONAL LIABILITY FOR DECISION MAKING THAT IS NOT IN THE PUBLIC INTEREST. THIS BOARD NEEDS TO ADOPT A CODE OF ETHICS WHICH INCLUDES A SECTION ON CONFLICT OF INTEREST, IF IT ALREADY DOES NOT. RANDY AND DAVID CLEARLY HAVE A CONFLICT OF INTEREST AND SHOULD RECUSE THEMSELVES ON THIS LAKE LEVEL ISSUE. THANK YOU.

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**Presentation at the 5/10/2012 DLWID board meeting by Jack Strayer**

My name is Jack Strayer I am a former DLWID Director serving for nearly five years and have been a Devils Lake resident 30 years.

As a Director I sought out the public’s opinion and points of view, mixed it with sound science and developed issues based on the greatest good for the lake and its users.

I am presenting this testimony because I believe that the DLWID data gathering and policy formation is flawed to the point that it threatens to make the DLWID Board and its staff dysfunctional and irrelevant.

A good test for any policy is if you can look a concerned citizen in the eye, shake his or her hand, and describe the board policy as being necessary and fitting into the greater good.

The Board commissioned the Shoreline Erosion Study [SES] to settle the heated issue the Board faced by a small group that wanted the lake lowered and the lake manager’s desire to eliminate the 18” wood board water regulating structure – called the Dam.

Every policy should be developed based on sound science and facts. The Board commissions and the District staff developed a paper called a FAQ:

Devils Lake Level and the D River Dam. to summarize the information in the SES and add additional truths and so the public could understand the issues and support the board's policy.

Based on my read of the FAQ and nearly 40 years of analytical experience in private and governmental organizations, the FAQ inaccurately summarizes the SES report, does not present both sides of the issue and presents half truths and scientific jargon as Facts. The public is being misled by the Board and its Staff. The Board should have required that the FAQ summarized the SES accurately and fairly presented both sides to the "Lake Level Issue."

So the people in this room are here to get the board up to speed on what the SES really concludes, identify inaccurate or misleading passages in the FAQ and add additional FACTS that should be considered in developing the "lake level policy."

The lake is formed by water cut off from its free flow to the ocean. By lowering the lake 18" releases 330,000,000 gallons impounded to maintain summer levels [April – October], this release will have real and substantial impact on Devils Lake and the DLWID Mission.

This 330M gallons will increase the lakes summer temperature and increase the length and severity of the toxic nerve agents in the cyanobacteria blooms – threatening pets and young children.

Young Salmon need cool temps to survive – the resulting low water will increase the lake summer temperature which currently can reach the mid-70F's. A temp of 75F is toxic to salmon and trout; and lower water will at best increase the young salmon's distress and at worst increase mortality. About 27 acres of wet land will be lost which is the high quality, shallow canals and small bays that the kayakers currently enjoy around Devils Lake.

Many hazards to navigation will appear around the lake because of lower lake levels.

Public boat ramps – many that are already in disrepair will be totally useless without substantial augmentation to deal with the low water. This will limit the public's access and ability to enjoy the lake.

The SES report states that waves cause erosion. The saturated soils may contribute to erosion at the current level. At a reduced level they would also contribute to erosion. The Board will not stop summer boat waves or winter water surges and giant storm waves.

Most of the 450 docks and boathouses on the lake were built when the lake level was about 10.0' msl. This was lowered by the water master to 9.53' msl. Lowering the lake 18"+ as proposed would serve to make most structures severely impaired if not unusable. Docks, boathouses and lifts most would need about \$10k to \$50k to rehabilitate. To restore their usefulness lake wide would amount to about \$10M to \$20M or more.

There are many other issues that others have addressed or will address. The SES and science in other documents does not support that the lake level can control or positively impact shoreline erosion. If the staff and board that believe that science is on their side, I believe, they are at best misreading the report and at worst are misleading the public.

Now for the personal note: my wife has a chronic pain issues that make it difficult for her to navigate from the dock into the boat at current lake levels. If the lake level were lowered it would be impossible for her to enjoy the simple pleasure of a boat ride. I estimate that her experience could be multiplied – in various forms 100s of times – across the lake.

Which, brings me back to my original point on developing lake policy. I challenge each board member to look my wife in the eye, shake her hand, and describe the board's lake reduction policy as being necessary and fitting into the greater good and that her need to ride in a boat doesn't matter.

Thank you for your time.

Jack Strayer, Former Director DLWID

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I am Douglas Pirie and for 10 years I have enjoyed my lake side parcel on the county side of Devils Lake on 10<sup>th</sup> Street. 15 years ago I retired from my profession as a Coastal Engineer with an emphasis on coastal harbor design and maintenance as well as shoreline protection structures. Mostly you will now see me out sailing one of my Hobie Catamarans on our lake.

My comments on the DLWID's report from Tetra Tech are presented after a second reading of the entire revised report and are not to be taken as a diminishing of my regard for the firm or the quality of the Tetra Tech professional staff. However, I do believe that the non-conclusions presented and extensive use of semi-empirical information utilized in the wind wave and boat wake presentations do not make a solid case for lowering the level of the recreational season lake pool.

Page 2 of the Executive Summary states the obvious:

*Due to variability in factors that affect wave energy that impact the shoreline, the vertical zone over which that energy is focused, and the ability of the resulting waves to cause erosion, local quantification of this process can only be done through site specific analyses. This analysis should consider the specific nearshore bathymetry of the lake, the alignment of the shoreline with respect to the predominant wind direction and angle of impact of boat waves, as well as topography, soils, vegetation, and the presence of man-made structures at and above the shoreline.*

In other words – Here are some generalities and a partial list of parameters that we did not consider and you will need more specific studies to be sure of any conclusions for specific sites – or for the matter at hand, the elevation of the summer recreational pool level.

The time sequence of water elevation events relative to available wave energy is not even considered in the Summary or in the report. What happens when a low summer level wave hits a shallow marsh face? The result is an undercutting of the toe of the marsh face and a radical change in the nearshore bottom topography to try to come into equilibrium with the wind wave and boat wake energy present from June to Sept. The following winter, the ocean deposits sand in the inner bar structure found eastward of the 101 bridge and dam site and the high winter still water level allows the marsh face to be attacked by winter storm wind waves with no limited protection from a summer nearshore depth profile. What I am saying here is that not only is the instant wave energy analysis necessary to determine erosion characteristics, but – and sometimes more importantly – it is necessary to know the time history of past events to forecast the potential future.

Consider this. At a reduced summer lake elevation of – let us say - 8', the incoming wave train approaches shore and really starts feeling the lake bottom. What happens? The wave feels an increased bottom effect which slows the wave and which shortens the distance between wave peaks (known as the wavelength). Since the wavelength has been shortened, where does the energy in the wave field go? It goes into increasing the wave HEIGHT of the waves. How does this affect the erosional characteristics of the waves? Well, the energy impacting the shore is a function of the SQUARE of the value of the wave height. Conclusion considering the pool elevations being discussed here, if the wave has not broken - and this is the usual case – more concentrated ENERGY hits shore with a low or non-dam situation in summer than with a high recreational lake pool level. This increase in the energy concentrated in the wave peak area of a shallow depth wave train also explains why during the high water levels associated with winter storm waters trapped behind the entrance sand bar structure, the high frequency wave chop is easily adsorbed by the marsh face and marsh vegetation and does minimal damage.

On Page 38 we find:

*It could be hypothesized that artificially raising the lake level during the recreation period above the typical winter levels could increase shoreline erosion by later exposing saturated soils during the winter when the strongest storm-driven winds occur. Conversely, if natural hydrology was allowed, where the highest water levels occurred during the winter, then boat-driven waves could increase shoreline erosion in the summer by impacting saturated soils in which vegetation growth is inhibited by short growth season and winter inundation. Confounding this assessment is the fact that while the lake level analysis indicates typical levels are only slightly higher during the recreational period compared to the non-recreational period (Figure 17), the regime would be reversed without current operational controls.*

What did they say??? The marsh soils are always saturated. Keeping a high pool level allows for overtopping of the marsh face and adsorption of wave energy on the vegetated surface. Arguments have also been presented suggesting that high pool levels lead to erosion of sand beaches around the lake. Unfortunately, the sand owners often have obtained the sand without regard to the grain size, angularity and size distribution. This would end up with a beach about as stable as a road made out of pea gravel that would not and could not withstand the traffic expected.

On page 42 we find:

*Because of the variability of the lake bottom topography in the near-shore region, the characteristics of both the armored and non-armored shoreline, and the variability in shoreline alignment with respect to the typical wave directions, more specific conclusions regarding the effects lake levels and waves on shoreline erosion cannot be made without a site-specific evaluation. The information presented here, however, identifies the locations around the lake where the erosional stresses are highest, provides information on the relative effects of boat- and wind-driven waves, and identifies the key factors that will affect erosion. This information, thus, provides a starting point for the site specific analyses.*

Again – What did they really say? Here are some generalities based on winds from somewhere else, over a variable lake bottom with no knowledge of the shoreline shallow water areas and some factors that affect erosion. Also we did not get real information on how wake boats are operated on the lake, whether they stay offshore of docks and structures over 100' and which parts of the lake they primarily utilize. I could go on and on about shallow water wind wave re-suspension of bottom sediments, shoreline bathymetry and angles of repose, inadequacy in filter material behind most structures, natural wave armoring of nearshore bottoms and hydraulic pressures behind structures but these discussions are better left to another time and another environment.

Finally, I don't want to get into a line by line argument over the errors and inadequacies of the Erosion Study handout at this time but I would be happy to discuss the topic with interested commission members and interested district taxpayers when I would not be putting most of the audience asleep.

#### **The Bottom Line---**

The Lake Manager has presented material tonight on the relationship between lake bathymetry and its influence on erosive wave energy that is simply incorrect or misleading.

**In my opinion the best option is to maintain the summer recreation pool level at as high a level as possible. Optimal just short of 10 feet.**

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## Dam Removal Counterpoint *By Mariellen Rich*

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In the past discussions related to lowering the lake level have been generally limited to a roughly 6" span between 9.53' and 9.0'. It appears now that the decision for the May meeting is whether to construct the dam, and the future of the District's water permits. The text from the meeting announcement states;

*The purpose of the public hearing will be for the board to take public input on the lake level and the District's Water Right Certificate 69267, Permit to Appropriate the Public Waters #52672 and Permit to Store the Public Waters #R-11968. Board discussion and decisions regarding the use and continuance of the water permits and certificate will follow the close of the public hearing.*

A careful reading of the re-released erosion study reveals that the study failed to draw a conclusion or make a specific recommendation related to lake level. It does not contain a specific recommendation for an ideal lake level, nor does it recommend lowering the lake level.

It is difficult to understand how the District has made the leap from a consideration of a 6" movement in the lake level to the complete removal of the dam as it appears is the case from the public hearing notice which suggests abandonment or modification of the District's water right. A specific written recommendation has not surfaced, yet all of the material that has been published by the District in the past few months indicates that discontinuing the use of the dam is under consideration.

The FAQ discussion and presentation of the lake manager include mention of the entire 18 inch height of the structure; suggesting it is in play. There is quite a description of a robust recreational use of the lake before the

dam. One can only derive from the material that the suggestion is complete removal of the dam. This would be devastating to all who use the lake during the summer.

Water quality management options were addressed by Seattle Parks and Recreation (Green Lake Integrated Phosphorus Management Plan published October 2003). Green Lake, a shallow 259 acre lake with no natural inflowing streams, supports non-motorized boating, fishing and swimming near Seattle Washington, with similar water quality management challenges as our lake. They tried pumping water from Lake Washington into Green Lake (too expensive) and adding city drinking water (too expensive and not enough available when most needed), but noted that the addition or retention, if possible, of lake water was a cost-effective and environmentally feasible solution to managing lake water phosphorus levels and toxic blue-green bacterium outbreaks. When summer lake levels are low, phosphorus levels increase and promote blue-green bacteria blooms. Retention of lake levels at 9.53 feet, according to existing policy, maximizes recreational and aesthetic uses of the lake, reduces the likelihood of toxic blue-green bacterium outbreaks and discourages milfoil (lake grass) growth.

I must ask the District if you have ever considered why the dam was originally put in place. Why did good well-meaning citizens apply for a water impoundment permit? Because there were real usability issues with the lake, that included problems with navigation and access to the lake. The District became involved because the majority of the DLWID mission is related to the use of the lake specifically; to improve recreational opportunities, to improve safe and efficient navigation, and to increase public access and improve the local economy.

All of these goals were accomplished by the pursuit of the water right in 1991 and the installation of the dam in 1997. The structure should remain and the lake level should be maintained at 9.53 feet according to the District's existing policy. It is the correct action in the best interest of Devils Lake.

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### *Emphasis on Summer Illustrates Bias of DLWID Staff **By Mark Richards***

The presentations, FAQ's, rhetoric and therefore decisions of the DLWID are the result of extracting information from the erosion study with a focus on only the summer months. Implied in this approach is that the District has chosen to ignore the seven months of the year when the erosive power of wind driven waves is greatest and mother nature is completely in charge.

The District has directed its attention to this narrow window is because the premise of the study was to determine if changes in the lake level associated with the operation of the impoundment structure cause erosion and the structure is only operated in the summer. The report however contains a plethora of information about the non-operational period that was almost completely ignored in the staff report as well as the presentation we saw tonight. These important elements will therefore not be under consideration by the board on this issue. Examples of this prejudice include a focus on the 16% of the shoreline that is primarily undeveloped, not armored, and exposed to summer wind waves. The report characterizes the energy received at any point along the shore using a normalized scoring method. Normalized values that are less than 1.00 indicate less than average and values greater than 1.00 indicate greater than average wind energy. Staff has chosen to concentrate on summer time wind wave exposures despite the fact that the vast majority of this area receives normalized wave energy levels below 0.80. The discussion almost completely ignores the majority, or 84% of protected shoreline areas that must endure winter wind waves. These areas while protected receive normalized wave energy from winter wind waves ranging from 1.00 to 5.13.

These walls have been constructed to protect against these more powerful winter waves play an important role on the lake and without them, this might be a significant issue. The District all but ignores the statements in the study that discuss the undercutting of armament structures that would very likely increase with lower levels nearing 8.3'

In an attempt to further, drive the focus toward summertime activities the District directed the study's authors to exaggerate the impact on the lake contributed by boat wakes. By using an arbitrary multiplier, the District invalidated the results of a respected and often-cited scientific study on boat wakes in order to deemphasize the intense impact the winter season should have on the discussions.

The District states "boat waves are now 5 times greater than the original study"; this was called a major finding in staffs presentation. This was accomplished by taking the Glamore study and multiplying it by 2.5 an utterly arbitrary number. In order to reach the even more exaggerated final figure; that waves are 5 time greater then originally thought, some funny mathematics were employed. This was accomplished by beginning with the

Glamore measurement taken 70 feet from the boat and comparing to the embellished measurement, (2.5 times) the estimated height 10 feet from the boat. While not actually comparable, the wave is now it is 5 time greater. This calculus generated the outrageous result suggesting that wakes generated by boats nearly equal (95% of) the total wave energy generated by the wind waves combined for the full year. Anyone who has spent any time around the lake knows that to be ludicrous, by comparison the scientific measurements from Glamore estimate the total percentage of boats wave to all wavers to be more like 22 percent.

By affixing 100 percent of the fault to the summer time period of water level management the District implies that all the lakes problems can be resolved from the removal of lake level controls. In the mean time, you have not quantified the problem you state exists, you have no estimate as to the rate of erosion, nor have you estimated the extent that your proposal would prevent it. Let me suggest an easier proposal to implement. I can guarantee a 500% reduction in boat wakes size and a 78% reduction in the total erosive power of waves on the shoreline. It quite simple really, quit using funny mathematics and stick to the science as written and a majority of your problems will simply disappear.

In closing, I would like to request that the District install dam on the D-River as soon as possible and maintain a lake level of 9.53 feet according to its existing policy.

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#### Comment on Reverse Hydrology

My name is **Mark Highland** and I have been fortunate to have enjoyed everything Devil's Lake has to offer for over 40 years now. I am troubled however that we find ourselves once again having to take serious issue with the action, or should I say, non-action of the current DLWID Board and its lake manager. The non-action is very simply that the District has failed to follow through with the placement of the water impoundment boards in the D-River Dam. That's why I'm here, but not what I want to talk about.

In his presentation, the Lake Manager has devoted several slides to making the point that the impoundment of water has changed the natural hydrology of Devils Lake. He has provided a chart indicating the hydrology of Devils Lake has been reversed because the average lake level is .2 of a foot higher in the summer months than it is during the winter months.

You will get no argument about that from anyone in this room. It seems to me it would be quite impossible to construct a dam across the outlet of any body of water without altering its natural hydrology. I would agree that generally water levels in the winter are lower than in the summer except when there is a rain event or the ocean blocks the D-River with sand and debris. That is the nature of Devils Lake

During his explanation of these charts in the April board meeting the lake manager explained the significance of this phenomenon. He explained at length that the soils that would otherwise be dry in the summer would be saturated because the lake is .2 of a foot higher on average in summer then winter. He stated that the shoreline would be more vulnerable to erosion as a result.

A review of the erosion study finds no such mention of an increase in erosion caused by reversing the hydrology of the lake. Indeed, it does not mention making the lake un-natural or reversed. This section of the report as described by the lake manager has been miss-characterized. Its purpose was to illustrate the difference in variability of the lake level between winter where levels are highly variable and summer where they are not. It was not written to describe the theory of reverse hydrology.

The argument forwarded by the lake manager is a theory that is unsupported by any observation or measurement in the real world. This theory was outlined to Tetra Tech in the December board meeting; they refused to document it in the study because it has never been studied nor was it part of the fieldwork associated with the study. The board should dismiss these statements as unsupported. The natural hydrology of the lake has been undeniably changed, as it is whenever man attempts to control water flow. In this case, the benefits of this control outweigh the detriments and the District should continue its current policy as it provides the greatest good for the entire community.

In closing, I would like to request that the District install the dam on the D-River as soon as possible and maintain a lake level of 9.53 feet according to its existing policy.

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#### Boat Wave Review

I am a person [**Greg Whitaker**] that regularly boats on Devils Lake. I was interested in the boat wave analysis of the study. I was surprised at the data given to the consultants from which they were to base their report. Though I have not done a study on boat traffic on the lake and can be frustrated by a busy lake on a sunny Saturday afternoon (there was probably three or four of them last summer) I am certain there is not an average

of 30 water ski/wake board boats operating on a typical day. I have often commented on the fact that we boat on a lake at the coast & are able to enjoy being on the water because the weather is typically just not that great for water sports and thus keep the boat traffic down. Often during the middle of the week in the middle of the day I see NO boat traffic for extended periods of time. The fact that most of the boats on the lake are water sport boats is also incorrect. There are wave runners, kayaks, fishing boats, etc that produce negligible waves. The data that was given to the consultants seems grossly exaggerated.

When revising the study the District has gone out of its way to increase the scale of boat wakes on Devils Lake. The original study estimated that 18% of the total wave energy came from boats (which is from exaggerated information provided to the consultants). The amount of “wave creating” boats could easily be ½ of what the study was based on resulting in less than 10% of the wave energy. The revised study performed a “sensitivity analysis”, which yields a figure of 49% which is much greater. That apparently was not impressive enough so the District compares the measurement taken 70 feet from the boat with the revised wave height 10 feet from the boat and claims waves are 5 times greater. Much more impressive.

When the original study was presented in the December board meeting one of the board members protested that the wave heights contained in the study were not high enough. He even brought sticks measured and marked to make his point. Another board member questioned how they derived the number and mix of boats on the lake. The answer provided by Dr Pennington to the first question was that the heights were based on study done in 2008 by William Glamore on the comparative height of boat wakes. The answer to the second question was that the figures were provided by the District and somewhat arbitrary.

More compelling because it stood to increase the influence of boat wakes was to challenge the wave heights contained in the study. What the District did here was so outrageous that it calls into question the entire study. Based on comments from reviewers of the initial draft of the report, Tetra Tech attempted to locate information supporting larger boat wakes and could not find direct data that could be used to provide more refined estimates of the wave characteristics. That is when someone dreamed up the sensitivity analysis which assumed maximum wave heights of 1 foot, 1.5 feet and 2.0 feet at the same 70 foot distance from the boat as the Glamore study. This in affect applied a multiplier of 2.5 to wave height measured in the study. To enhance the impact of this the table in the revised version the District added estimated wave heights at 40 feet and 10 feet from the boat. This created the astonishing figure of a nearly 4 foot wave behind a boat, nearly 5 time greater than the original study. Despite the purely made up nature of these figures the District has taken to using the largest figures in its presentations instead of those supported by science.

So who’s science is it that the District has challenged as being inadequate? The study cited in the report was authored by William Glamore entitled Field Investigation and Comparative Analysis of Boat Wash Waves. Dr Glamore is a Senior Research Engineer in the Water Research Laboratory at the University of New South Wales, Australia. He has received international recognition for work on in developing a standardized wave measurement criterion. His modeling work is also referenced in the erosion study. Dr Glamore created a decision support tool for assessing the impact of boat wake waves on inland waterways. This tool is based on standardized field measurements of boat wake waves, which have been specifically developed for this field of study including local wind wave energy calculations, and an assessment of the soil’s erosion potential. The board should review the report as it explains the very sophisticated science that was employed to develop the DST computer model that is used by governments worldwide to manage waterways.

The bottom line here is that the treatment of this element in the erosion study spotlights an inherent bias to selectively use data that supports pre-determined desire to lower the lake. Not only did the District purposely exaggerate wave heights and wave producing boat traffic they have selectively chosen to exclusively use the largest figure representing wave energy in their presentation. In the end the only supportable wave data is that originally supplied directly from the Glamore study. This data combined with the wind wave data indicate that the largest impact on the shoreline is from wind wave with a minor contribution from boat wakes. Which lead to the conclusion that whether waves are generated by boats or wind, the highly erodible nature of the soils, the presence or absence of sufficient bank stabilization, and the bathymetric slope are more influential on shoreline conditions than relatively small changes in lake elevations.

In closing, I would like to request that the District install dam on the D-River as soon as possible and maintain a lake level of 9.53 feet according to its existing policy.

Greg Whitaker

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Good evening, My Name is Mitchell Moore  
My address is 2929 NE Loop Drive

I am here once again to comment on lake level. It's hard to believe that this issue was debated during many board meetings in 2009, and many more in 2010. In 2011 the debate morphed into the erosion study which resulted in low lake levels beyond the 4<sup>th</sup> of July holiday. Tonight by my count 61 people have come to your meeting to share their opinions with you. Many have spoken before me.

You have been presented a petition that was signed by 200 citizens requesting you to leave the current policy in place.

You were given some advice as a local elected official; that you wield considerable power. This means exercising your power in the public's interests, as opposed to personal self-interest or other narrow, private interests.

One of the speakers expressed concerns that the District has created an environment in their meetings where meaningful dialogue between attendees and the board are almost nonexistent.

You were provided a detailed record from minutes of District board meetings that illustrate that there has been a long history of advocacy by David Skirvin and Randy Weldon for lowering the lake to 9.0 feet. Their advocacy has delay placement of the dam for three years, cost the district \$28,000 and untold man-hours on an erosion study and packed the room with concerned citizens in several board meetings over a four year period.

You were told about a problematic survey of docks performed by these board members in an attempt to illustrate that claims of shallow water around docks were unfounded. It was stated that this involvement was troubling for an elected official.

We had a Coastal Engineer who designs shoreline protection structures explained wave theory and suggest that the Lake Manager has presented material tonight on erosive wave energy that is simply incorrect or misleading.

A canal front homeowner explained the situation at his property confused how this board can make such an arbitrary decision that would result in lower property values. He made it clear that should this occur he would expect the district to compensate him for the loss.

A former board member brought you the experience of 30 years on the lake and 5 years on this very board. He asked you to consider if you can look a concerned citizen in the eye, shake his or her hand, and describe the board policy as being necessary and fitting into the greater good.

A homeowner with a chemistry background discussed how 330 million gallons of water would dilute nutrients in the lake describing a program in Seattle which infuses water into Green Lake to dilute phosphorus levels that has had some success.

One shoreline resident examined the historical images released in the erosion study and noticed the shoreline did not seem to change over a 30 year period. He presented images showing a shoreline virtually unchanged between 1977 and 2007.

We heard the lake managers theory of reversed hydrology rebuffed a as mischaracterization of a description in the erosion study of differences in the variability of the lake level between winter where levels are highly variable and summer where less variant.

We were told that the presentations, FAQ's, rhetoric and therefore decisions of the District are the result of extracting information from the erosion study with a focus on only the summer months, ignoring the time of year when the erosive power of wind driven waves is greatest.

We learned that the District had dismissed a highly respected study on boat wakes preferring to apply a multiplier of 2.5 to the wave height measured in the study. The District claims wakes are nearly 5 time greater than the original study which can only be derived using creative mathematics.

The fact that I was able to so accurately predict the comments made tonight should indicate to you that the public has acted together; collaborating to bring you our message. Please do not ignore that this consequence of your recent actions. Public confidence in the District is at an all time low as a result. It will take some time for this to rectify itself.

We are all in agreement as to what your first step should be toward re-establishing public support of the District. You should make motion to install the dam on the D-River as soon as possible and maintain a lake level of 9.53 feet according to your existing policy.

Thank you for the opportunity to express our concerns.