



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

**COUNCIL CHAMBERS, CITY HALL, 3rd Floor
May 9, 2013
6:00 P.M.**

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

ABSENT: None

AUDIENCE: Mark Christie, Don Sell, Dana and Mitchell Moore, Doug Pirie and Miles Schlessinger

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

MEDIA: None

Skirvin called the regular DLWID Board of Directors meeting to order at 6:00 P.M. A change to the Minutes from April was requested by Skirvin. One of the public comments participants should be changed to Pat Dooling.

Skirvin moved to approve the April Minutes with the requested change and Green seconded the motion. Vote: Unanimous. Motion carried.

Robertson noted a change in the Financial Report. The Board had previously approved a \$1,000 donation to the Tigersharks. Per their request, the check's payee will be the Taft Boosters, with whom they are working.

Skirvin moved to approve the financial report with the requested change. Walker seconded the motion. Vote: Unanimous. Motion carried.

Public Comment

Mitchell Moore: On behalf of the lake residents, Mitchell Moore presented a beautiful floral arrangement to Linda Burt, recording secretary, and thanked her for her seven years of service, since she has resigned as of the end of her current contract of June 30. Moore discussed an email in which he encouraged residents to vote in the upcoming board election. In the same email he referenced a *News Guard* article that was inadvertently misconstrued regarding the East Devils Lake Road issue. Moore apologized for his mistake.

Mark Christie. He also thanked Linda Burt for her past service and encouraged the board to continue with the written minutes by a recording secretary, as he feels written minutes are very valuable as an easier snapshot of what takes place at the DLWID meetings, even though the video is available.

Mariellen Rich. She advocated monitoring the lake level on a daily basis and presented to the board a template that she urged them to utilize on a regular basis to preserve a written document of lake levels. A copy of her written statement is attached to these Minutes. Green asked her to e-mail the template to the board.

Unfinished Business

The Devils Lake Plan

Septic Tank Revitalization Program

Lenaerts said that over the last month, he has continued to work with the city staff in an effort to compile a complete list of reasonable items that will be part of an inspection and from there it can go through the adjustment process. City Manager David Hawker said he intends to bring this issue back to the city council in June. If that happens at their June 10 meeting, the DLWID Board could see a copy of an outline for discussion at the June board meeting. Lenaerts said that they are leaning toward a private inspector doing the work; however, the county would be the entity who has enforcement power. In the inspection form there will be an issue that triggers the county inspector to follow up. At issue is what will trigger the county to take action.

Discussion ensued regarding the inspection form criteria.

Lenaerts said that the county staff feels that they cannot be the ones to do the inspections; there will have to be a private inspector since Tony is departing his job. They will then follow up on failing systems.

Lenaerts said there is an area at Sand Point of about 15 homes where the ages of the homes and systems will be considered and they could then be categorized into three separate classifications for inspections.

Green suggested that it might be a good idea to incorporate into the inspection ordinance some kind of time frame giving people sufficient time to form an LID vs. having to replace or engage in a major repair of their systems. The city is pretty familiar with how to form an LID and future LID's should be handled more efficiently. He said if a specific area is included in the criteria for inspections and everybody there learns at the same time that their systems are failing and the cost of installing a new septic system vs. a sewer LID, it would be

pretty easy to sell support for the LID to the majority. We should push the city to incorporate this in the first criteria.

Robertson agreed that money can be saved by clustering the inspections.

Save our Shoreline (SOS)

Lenaerts said Regatta Park maintenance is needed and it should be taken care of immediately in order to stay ahead of the challenge. He said the most effective way is to have a landscaping maintenance company do the work. He obtained two bids for the work. Staff can continue to water the site; however, the weeds are growing beyond what staff can handle. Lenaerts recommended Barry's Lawn Service for the maintenance on the site through the end of this fiscal year for an estimated \$585. He recommended Wand Landscapes to rebuild the upland slope that erodes every time weeds are pulled off the slope.

Barry's Lawn service will charge \$385 for the initial cleanup, then \$100 per month for maintenance. Lenaerts would like to have them do a little bit of maintenance at East Devils Lake Park as well.

The cost would be \$685 for the initial cleanup of both areas through July 1, and then the wall can be built up for \$275.

Discussion about how long the District is responsible to maintain the rain gardens.

East Devils Lake obligation will end this growing season in October, said Lenaerts; however, Regatta Park is the District's responsibility indefinitely.

Discussion ensued about talking to Gary Newman at the City about the possibility of their taking over the maintenance of Regatta Park. Green said if the maintenance is current, the City might be more willing to assume maintenance in the future.

Green moved to authorized Lenaerts to spend \$485 for initial cleanup of both areas, and \$275 to rebuild the upland slope at Regatta Park. Ward seconded the motion.

Vote: Unanimous. Motion carried.

Vegetation Management

No updates at this time. Robertson said he received a call from David Gomberg's office stating that he will write a letter in support of the grass carp application and will testify on behalf of the District if the District can be placed on the calendar in Newport on October 4. Gomberg is a local person who has first-hand knowledge of the lake situation without the grass carp.

Sewer

Green said the City Council approved on April 22 the project of sewerage and paving roads on the west side of the lake, north of Regatta Grounds. The LID was initiated by a petition signed by the majority of the owners of 58 lots in that area. The LID is now legally binding and Green said he is hopeful that this will be a blueprint for other areas of sewerage around the lake. The beauty of this is that the LID was created because of the support of the majority of the property owners, and none of the cost will be borne by anyone except those within the LID. He said he wants people to understand that the major point of this project is that all the systems around the lake, with the exception of those who have invested in replacing their systems, are in excess of 20 years old and the life of these systems, according to literature, is 20 to 30 years. Under this LID, property owners will have 15 years to hook

up; there will be people who will wait the maximum amount of time and by then their systems will be 40 years old or more. The installation of the line in the road will be \$6500 over 15 years at 4% interest, from Oregon Coast Bank. If the cost is as expected, and it could be slightly less, it will be \$49 per month over 15 years. It's about property value and what they can do with their property with the availability of sewer vs. what they could do without sewer. Of the 58 lots in the LID, 44 will have sewer line extended to the property line and paved road in front of their houses for \$6500 per lot, which is the financed amount. Thirteen lots already have pavement and they will pay \$3400, so their payments will be less. For the future, it might be a good idea for DLWID to consider offering some financial incentive for people to hook up sooner. We now have 58 lots, but you are looking at maybe only 10 hooking up in the first year with one or two new homes and people with existing problems; after that, maybe three or four a year. The city is really warming up to the idea of doing this progressively around the lake. They sent two employees up to Puget Sound to look at large developments that have this type of system and they came back with glowing reports. It is beautiful for water basins with descending slopes. They are looking at details for the system and different ownership structures. The city is very engaged.

Communications Report

Robertson will be speaking on Tuesday at 7:30 on KBCH; he and Lenaerts alternate every third Tuesday of the month.

There is currently live internet streaming of the meetings and they are posted on the city's website as well as Channel 4.

The Grass Carp questionnaire was placed on the Districts Facebook page to engage residents in the Grass Carp project and to rally support and to provide educational information about the grass carp in general. Staff regularly updates Facebook and Twitter.

Lake Steward awards were presented at the Community Days dinner to Joanne Daschel and Paul Katen.

Robertson referred to *1859*, a magazine in which Devils Lake was featured with other Oregon lakes, including Crater Lake. It is free exposure and is on newsstands.

Lenaerts spoke about the Devils Lake Revival that will be held on Saturday, July 20 from 10:00 AM to 2:00 PM at Regatta Grounds. The water polo team will be returning.

Lenaerts is submitting a grant request to the local Visitor and Convention Bureau's VCC to see if they will provide a \$3,500 grant. Total budgeted expense is \$4,000.

Lenaerts is requesting approval to purchase a tent or a canopy for the booth to be used at this and for other events. Joanne Daschel from the Farmer's Market suggested the caravan 10 x 10 that has three side walls with weights and comes in blue. The material is polyester.

Discussion continued about which tent to purchase.

Skirvin offered his 10 x 10 tent that can be used for the Devils Lake Dash for next Saturday and Sunday.

Skirvin asked Lenaerts to present options and recommendations for purchase of a custom tent at the June board meeting.

Lenaerts showed a 1:06-minute action video that was created to promote the Devils Lake Revival that will play on Facebook and Channel 4. It can also be linked to the Lincoln City Chamber website and the City website.

Safety Report

No incidents.

MidCoast TMDL

No meetings since the previous one reported on; there is a meeting scheduled for May 15. Stakeholder meetings are on Wednesdays; this one will be in Newport at the rec center; all meetings are open to the public.

East Devils Lake Road

Robertson said that 1998 was a big year for Oregon Coast landslides and that sludge material continues to creep down the hill; the road is a barrier and is backing it up.

Robertson said that Salmon Drift Creek Watershed Council submitted their OWEB (Oregon Watershed Enhancement Board) grant application on April 24. The District sent a letter of support. They should be notified in October. It is a long process; the review is pretty extensive. This is the smaller grant; the other one was to USDA aka US Forest service for 4.5 million. The County also submitted an application for a grant of approximately \$4 million.

RARE Program

Robertson submitted a pre-application in time for the April 15 deadline and the phone interview is scheduled for next week; Robertson has not heard whether the District has been accepted.

He presented to the board five tasks, breaking them down by percentages of time to be allocated.

Discussion ensued about the RARE program, including the cost benefit, whether or not the applicant/intern would possess the diverse experience or ability to perform the duties as they are described, and whether or not staff would be devoting more time than feasible in training the individual.

Projects proposed for the RARE person are:

- Devils Lake is Half the Fun—this idea is to bring events to Devils Lake. The leg work would be quite extensive.
- Website development. The probability of the technical skill required for this project being within the realm of the RARE program person would be questionable.
- Devils Lake Revival. Coordination of this event is very intensive.
- Water quality. Fifteen percent of the RARE participant's time would be devoted to this program.
- Additional outreach and education would be accomplished through the RARE program at approximately 15 percent of the total time.

Skirvin said these skills would be difficult to find in one person.

Robertson agreed that it is a very diverse set of skills.

Lenaerts said that the RARE participants often are community planners, economic planners and people with natural resources background. Most of them have some sort of planning degree; outreach issues would be more suited for them.

Walker said he agrees with Skirvin.

Discussion ensued about the division of payment and support for the individual.

Ward said he is concerned that Robertson would be spending too much of his time teaching and holding someone's hand.

Robertson agreed that this was one of his concerns. The program does require a lot of interaction. He said, on the other hand, he would be working very closely with a web designer as well.

Green said he would favor contracting out the website development; Devils Lake Revival is being handled efficiently by Lenaerts; water quality can be done by an intern, who is less expensive than a RARE participant. He is not sure how valuable this program would be. He said regarding the Devils Lake is Half the Fun, he suggested looking to the VCC and the Chamber for some assistance.

Robertson said he can see them as possible partners.

Weldon said he wonders how someone could be proficient in all the projects listed.

Robertson said by June 3, the application must be submitted and commitment is final, so a decision must be made at this time.

Ward moved to drop the District's pursuit of the RARE program. Walker seconded the motion. Vote: Unanimous. Motion carried.

Policy Updates

Robertson presented a link to the State of Oregon website with information from the DHS about mandatory reporting. This policy states that all citizens have a responsibility to protect those who cannot protect themselves. Members of the general public may report suspected abuse and neglect if they choose. However, Oregon state law mandates certain workers in some professions to make reports if they have reasonable cause to suspect abuse or neglect. These people are called mandatory reporters and they are a crucial link in the system to Protect Oregon's vulnerable citizens.

For the current list of mandatory reporters and for the definition of child abuse, you can access the Oregon Child Abuse Reporting Law at ORS 419B.005 to 419B.050.

Robertson urged every board member and interested parties to check out the website at http://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx

There is also a 25-minute video <http://www.youtube.com> which you can view by searching for "mandatory reporting."

The Oregon mandatory reporting language was recently changed to include as mandatory reporters all public and private entities that provide activities for people under 18, which would include the Devils Lake Revival, meetings with school groups and any other activities where children are present.

Special Districts has recommended that the board and staff of DLWID establish a policy of becoming mandatory reporters to comply with ORS 419B.005. The video covers the details of the issue of child abuse in Oregon and answers any questions that people might have.

Board members can view the video as time permits.

Skirvin read and signed Resolution 2013-02 whereby the board would adopt the policy for Mandatory Reporting of Suspected child Abuse pursuant to ORS 419.B.005.

Green moved to adopt the policy and Ward seconded the motion.

Vote: Unanimous. Motion carried.

New Business

Recorder

Robertson noted that Linda Burt was resigning as of the end of her contract for the current fiscal year. He said that the Board could elect not to continue with written board minutes and just utilize the video and audio of the meetings; however, he said, there is value to having a written form. Robertson presented a draft of a contract describing the position that he would advertise if the Board so wishes.

Skirvin believes the minutes should be written; Green agreed that it is easier to read written minutes; Walker agreed. Weldon noted that it is an independent contractor position. Discussion ensued about whether or not the city prepares written minutes.

Green moved to authorize Robertson to advertise the recorder position according to the draft he had prepared; Skirvin seconded the motion.

Vote: Unanimous. Motion carried.

Non-Agenda Items

Skirvin referenced back to the public comment about the lake being below summer levels prior to before June 1. The policy last year was to put the dam in on the 15th and to place it in earlier, prior to the 15th if it goes below 9 feet. The board was asked that if the lake goes below the drawdown level before June 1, to consider putting in the dam with the center section out to permit fish passage and to reduce the flow.

Robertson said the height now is slightly below 9 feet. Lake level is recorded daily by Bill Sexton, who is more informed about daily levels—he sends a report every week. At last report it was at 9 feet or 8.98.

The lake does not drop too far below this range; he does not expect that it will get to the minimum—Rock Creek and Thompson Creek are still flowing in. Getting down to 8.6 by June 1 is possible, but not probable. We could get back into some rain. June is usually fairly wet and May is usually wetter than it is right now.

Walker said he believes we are looking at a warm and dry summer.

Robertson said it's difficult to say—weather is unpredictable.

Walker asked if there was any downside to putting the boards back in earlier.

Robertson said fish passage, basically. Fish passage peak is late May and it extends all through July. The big hump is late May. By putting it in now, you are putting it in front of fish that are still trying to go out to sea.

Skirvin asked about the drawdown through the end of August.

Robertson said 3/10's and by September, an additional 2/10's. 9.0 to 8.7 through the end of August; .05 in a two-month period.

Walker: How many sections are there?

Robertson said 8 or 10.

Discussion ensued about fish passage, lake level and installing sections of the dam. Further discussion about the fish finding an 8-foot section of the dam opening. Walker said although water is too shallow at his place, he feels it is best to keep the 8-foot opening in the dam.

Green said that keeping it at 9 feet is going to get us into some pulsing of the dam, but not too much of a change.

Robertson said a couple of hundredths per day is what you will gain through May 31, and then you are back to the regular impoundment schedule. If it comes up to 9 feet, we would keep it there until June 15, then impound. He is working on developing a design with Sexton where the opening could be moved from 8 feet to 6 feet to 4 feet to two feet, and then maybe one foot, and it might then be possible to maintain the 9-foot level all through the summer and you are not limiting yourself to the minimum. Further discussions on various issues of the dam.

Walker moved to create an 8.9 safety net whereby if the level falls below that level prior to June 1, the dam will be installed minus the center eight-foot section so that it reduces the water draw but still permits fish passage. Green seconded the motion.

Discussion on whether this would permit the fish to pass through sufficiently.

Ward questioned whether or not the dam was created as an experiment and has now become a right. He said he doesn't like to think that every experiment becomes a policy and/or a right, because if an experiment does not work and it has to be eliminated, then we have angry people because we are taking away their right. But, he said, the dam may well be a tool to deal with the times that we do need to impound water.

Green said we want to do what's best to meet the most people's concerns on both sides. Until the next meeting, this seems a reasonable approach.

Vote: Unanimous. Motion carried.

Public Comment

Mark Christie: Referenced *The News Guard* article of Jeremy Ruark entitled, "Devils Lake Water District Candidates Speak Out." He said while all candidates are passionate about the lake, there was misinformation within the individual statements of current board members. Christie said he felt it was misleading to categorize David Skirvin as being a local person when his primary residence is in Beaverton. He noted that anyone with property within the District can run for a board position. He encouraged residents to vote by May 21.

Noel Walker spoke for Miles Schlessinger who wanted to discuss the possibility of creating a fishing derby. Walker referred to a fishing derby where a fish was marked and an insurance company covered it for a million dollars and if someone caught the fish, they would get the million dollars. He said Lincoln City featured fishing derbies in the past; however, the VCB seems to have lost interest in these derbies. The lake is a big draw. It's one more reason to come to the beach. It should be twice the fun.

Larry Rich: Presented a two-page statement regarding the upcoming board election and lake level. (Comments attached.)

Discussion ensued regarding issues brought up in the public comments.

Noel Walker: To address a pertinent issue in a public comment he has been a member of the Board twice in the past, so obviously has attended many meetings. He said he has not supported anybody publicly because as a member of a board elected by the public, he does

not feel he should tell the public who to vote for. It's a nonpartisan position. He does not want to promote an "us vs. them" environment. He said he personally would like to see the lake level higher; however, he wants the lake to be in the best shape it can be.

Kip Ward: To address a pertinent issue in a public comment, local control of the lake would be lost if Strayer and Christie were both elected. Currently, four out of five board members are local and we have local control of the lake. If both current members are re-elected, we will still have local control of the lake. Should Strayer and Christie be elected and one of the upcoming three positions goes to a person residing outside the area, we would lose local control of the lake. He also feels that a sign on his building promoting candidates is his personal opinion and he obtained a permit to place the sign. He agreed that anyone can run for a position on the DLWID board.

Brian Green: To address pertinent issues presented in public comments, he said he hopes there will be an end to the "us vs. them" division once the election is over. He said regarding the issue of raising the lake level responsibly, the natural summer lake level is 8.5 feet. The board voted to raise the lake level to 9 feet last June as a compromise to the 9.5 feet maximum lake level. He said a higher lake level causes erosion. A higher lake level brings more water in contact with the drain fields, causing leaching of septic drain fields. If you bring more water into the wetlands they are inundated and cannot dry out in the summertime. He encouraged people to go to the District website www.dlwid.org where they will find scientific information about lake level issues. He added that if you want input in the issues affecting the lake, you must attend the board meetings, not just read the minutes.

Chair Skirvin adjourned the meeting at 8: 22 P.M.

The next regularly scheduled Board meeting will be June 13, 2013 at 6:00 P.M.

Respectfully submitted,
Linda Burt

Mariellen Rich
4590 NE Loop Drive
Otis, Oregon

DLWID Board Meeting
May 9, 2013

RAISE SUMMER LAKE LEVELS RESPONSIBLY

I am here tonight to discuss some of the communications being promoted by the District related to raising the lake to responsible levels.

The Water Board has assumed a responsibility this summer to raise the lake level responsibly. In order to achieve this, the lake level must be managed.

Devils Lake is currently below 9 feet. With a little more rain and installation of the D River Dam on May 15th the Board has a chance to maintain summer lake levels responsibly at 9 feet.

Doing nothing is not responsible management. The lake level must be monitored daily to assure that a stable level is maintained. Our beautiful lake is a gift for all Oregonians not just for local residents who pay property taxes. However, those who pay property taxes deserve a dialog and feedback with and from the Water Board on Devils Lake issues, including erosion, algae blooms, summer lake levels, salmon runs, grass carp, dam installation and removal, water right relinquishment, weed eradication options, water quality improvement options, shoreline restoration, water recreation opportunities and the effects of Water Board decisions on property values.

To assist the Devils Lake management team in maintaining summer lake levels responsibly, I offer this checklist spreadsheet template. Please feel free to use it this spring and summer:

Devils Lake Water Improvement District

Checklist to Maintain Devils Lake Summer Lake Levels at 9 feet

| Key: YES, Lake Level is less than 9 feet - install the dam NO, Lake Level is equal to 9 feet – do not install the dam NO, Lake Level is greater than 9 feet – do not install the dam | | | |
|---|--------------------|-----------------|--------------------------------|
| Date | Lake Level in Feet | Install Dam Y/N | Notified Bill Sexton Y/N |
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DLWID Water Board
Public Comment
May 9, 2013
Larry Rich
4590 NE Loop Drive
Otis, OR 97368

I don't even know where to begin; so many things have been said or implied by Water Board members that are either totally false or misleading.

First, a Water Board member puts a big sign on his business that says: "Re-elect David Skirvin and Brian Green, Keep local control of Devils Lake. Then, he writes a letter to the News Guard published yesterday that makes the whole election all about local control of Devils Lake. By David's own admission, and according to the voter's pamphlet, he's an out-of-towner who lives and is registered to vote in Beaverton.

Then, another Water Board member writes a letter printed in the News Guard on May 1st that states, "There is a small group of wealthy, mostly out-of-town lake front property owners who promote their own special interests." Speaking of special interests, this board member is a water skier who favors a lower lake level so the shoreline bounce back waves are smaller, his words, not mine, it's clearly documented in the DLWID minutes from 2009.

Several days ago I was going door to door, soliciting votes for Mark Christie and Jack Strayer. I would knock on the door and then ask the resident if they were registered to vote in Lincoln County. If they said yes I would share my views on the upcoming DLWID election. At one house, the gentleman cut me off saying, "I'm going to vote for Brian Green because he wants a higher lake level." I asked him why he thought that, and he went back in his house and came out with a flyer he had received in the mail. He pointed out, where in bold print, it said, "RAISE THE SUMMER LAKE LEVELS RESPONSIBLY." I then

explained to him that Brian Green, along with most of the Water Board, has consistently voted for a lower lake level and that they nearly gave up our water right last year. Thankfully, he then understood how the wording had misled him into believing that Brian Green supports a higher lake level. But how about the hundreds and hundreds of voters who received this mailer and mistakenly believe that Brian Green supports a higher lake level. Then, in yesterday's News Guard, there it was again in big bold letters, "RAISE THE SUMMER LAKE LEVEL RESPONSIVELY" in a half-page ad for Brian Green and David Skirvin. Where is the water going to come from during the summer that would even allow you to raise the lake level if you chose to? Using the words "raise the summer lake level" in the mailer and then in the newspaper is disingenuous. Think of all the votes intended for Mark Christie and Jack Strayer you two are going to receive which could very likely result in your re-election to the Water Board. Is purposely misleading the voters a fair, forthright, and honest way to win this election?

I have lived on the lake for four years. I have spoken before the Water Board on several occasions. I don't want to be at odds with the Water Board. Please, just show me some scientific proof that a lower lake level makes for a healthier lake. I'm not talking about another hour long slide presentation. I'm talking about hard, scientific facts that prove a lower lake level makes for a healthier lake. We need a Water Board where common sense prevails, without dishonesty and deception. The current lake level is about 8.9 with no dam and little rain in the forecast. Unless the dam goes in immediately, there is no "raise the summer lake level responsibly" even possible.

I'm just a guy living on a lake that wants to float his boat, or, wants scientific proof why he can't.