



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

**LINCOLN CITY COUNCIL CHAMBERS
June 12, 2014
6:00 P.M.**

PRESENT: Brian Green, chairman
David Skirvin
Kip Ward
Randy Weldon
Kent Norris

ABSENT: None

PUBLIC SPEAKERS: Pat Dooling
Kim Arbuckle
John Flory
Dean Klaus
Joe Barnes
Mitchell Moore (written comments submitted)
John Peterson
Harold Washington
Angie Wright
Helen Voigt
Colin Teem
Mark Christie
Jim Hoover
Kerry Thompson
Dee Esser
Greg Davis
Bill Sexton

STAFF: Paul Robertson, Lake Manager

Chairman Brian Green convened the meeting at 6:05 p.m.

I. ROLL CALL

All five directors present.

II. CONSENT AGENDA

Green moved to approve the consent agenda (including the minutes of the May 2014 meeting and the financial report). Randy Weldon seconded. Unanimous vote in favor.

III. Budget Hearing FY 2014-2015

a. Budget presentation

Lake Manager and Budget Officer Paul Robertson summarized the budget proposal as recommended by the Budget Committee.

(See Budget Recommendation: http://www.dlwid.org/Financials/2014-2015/Budget_2014-2015_BC-Merged.pdf

and Presentation 1: http://www.dlwid.org/Meetings/FY_2013-2014/Presentation_2014-06-12_Budget_Hearing.pdf)

The budget presentation summarized the district's mission, goals, programs, budget history, current assets, and long-range forecast. The presentation summarized expectations for the upcoming year.

The Budget Officer noted that a News Guard reader reported an error in Summary LB-1. That error has been corrected.

The Budget Officer noted that the loan reserve fund appears much larger than it actually is because of an accounting requirement to account for a potential loan of \$400,000 for HABs management. That amount is speculative and subject to board decisions. The actual amount in the Improvement Fund is around \$360,000.

b. Board questions and comments

None

c. Public comment on budget

None

d. Board discussion

None

e. Budget adoption

Green moved to adopt the budget as presented by the Budget Officer and recommended by the Budget Committee. David Skirvin seconded. Unanimous vote in favor.

LAKE CONDITIONS

Green and Robertson summarized the lake conditions as of today. Water temperature was 64°. Lake height was 8.9 feet. No boards are in place at the dam. Water flushing has been good, helping to maintain water clarity. Robertson noted that algal blooms have been forming in the lake and water clarity has been reduced lately.

IV. COMMENTS from CITIZENS on NON-AGENDA ITEMS

(0:18)

Green outlined the public comment policy. Several people were signed in to speak. Comments were limited to 4 minutes apiece.

Pat Dooling, 4799 NE East Devils Lake Road, Otis. Please raise the lake level to 9.53'; float everyone's boat (figuratively and literally); cover the mud; most of all, build community support. Number of new active members in Devils Lake Neighborhood Association is growing. DLNA is reaching out and unanimously asking you to raise the lake level. Let's work together to build the Lincoln City community as a magnet for the state of Oregon. We could all accomplish more if we like each other a little more.

[Green noted that the time used by the audience to clap and cheer will now be included in the next speaker's allotted 4-minute comment period.]

Kim Arbuckle, 4494 NE 42nd Street, Neotsu. District mission statement has 7 bullet points, but only 2 deal with water quality. Others have to do with recreation, access, and the local economy. Since intentional lowering of water level, water quality has been worse. To lose option of raising the water level is irresponsible. Homeowners are losing value in their property.

John Flory, 4676 NE Loop Drive, Otis. Wants to reserve options to protect lake health. Has masters degree with focus on ecosystems. Is a professional at managing risk. We don't know what we don't know; we need to keep our options open. Important to keep option of raising water. Making sure we keep our water right is key. Sometime soon, we have to go to full 9.5' lake level.

Dean Klaus, 3520 Yacht Street, Lincoln City. Big issue is lake level. Protect his shoreline, Bank at his property not stable if lake too low.

Joe Barnes, 1727 East Devils Lake Road, Otis. Great turnout at DLNA meeting. Talked about energy at DLNA. Sees a disconnect between the neighborhood association and the DLWID board. DLNA energy could be used to better the lake or to fight the board. Everyone hear wants to raise their kids on the same kind of lake he was raised on.

Mitch Moore, 2929 NE Loop Drive, Otis. On May 31, DLNA hosted an overflow crowd at annual meeting; lake level was main concern. Requested that lake be impounded to the maximum by installing dam boards by April 15 each year through October 15. Recognize DLNA. Change message on septic systems to move toward voluntary inspection. Based on good

will, will gain support of DLNA, which would be motivated to help district. Otherwise, impossible for board to make progress. District's current position questionable. No direct correlation between lake level and erosion, or effect on septic systems or wetlands. No one has requested a lower lake. Makes little sense to drain lake, since entering drought period. Exercise maximum impoundment from April 15 to October 15 each year. Spend energy on more productive endeavors rather than be embroiled in a lake level debate.

John Peterson, 3870 NE Johns Court, Neotsu. New to this; watched May meeting from home; has become more involved. The thought of lowering lake and possibly losing dam rights seems wrong. Recommend that you maintain the lake level at 9.53.

Harold Washington, 3440 NE 40th Court, Neotsu. Lived on lake 12 years. Why weren't we notified? Why wait until 11th hour? Concerned about issues that can devalue my home. I didn't buy a house by a meadow. Who is going to pay for lowering of the docks? Not just personal, but docks for city and state. Who is going to make up the difference to all the businesses that support the lake? A chemist and biologist told him "dilution is the solution for pollution." Lowering lake does not create more dilution. Are you going to notify the assessor to come by and lower my property value or should I, because just talking about this has lowered my property value. Also, how do you get on this board?

Angie Wright, 4763 NE East Devils Lake Road, Otis. Agreed with raising the lake to float the boats, cover the mud, help kids stay closer to shore. There's algae all year long. No one thinks you're going to drain the lake. The scaremongering that has been going on is idiotic. She does not represent DLNA. There are more people that assume you're going to do the right thing than people who have threatened you. Don't make the decision based on threats.

Helen Voigt, 1012 NE Lake Drive, Lincoln City. Read the DLWID mission statement, which was presented to the Lincoln County commissioners in 1984. Future restoration of Devils Lake intended to support property values. The lake is used by many people, not just residents but by tourists. I wish the board would be more responsive to the people giving testimony. It shouldn't be us against you. Raise the lake.

Colin Teem, 520 SE Pettinger, Depoe Bay. Has used lake for last 8 years. Used to be 2-3 times a week until lake was lowered last year, but can no longer use dock. Can't launch from shore. Erosion on lake has caused huge potholes; can't back trailer in. You're affecting future generations. When you decide to lower lake, you're keeping his son from using the lake.

Mark Christie, 3184 NE Loop Drive, Otis. You've seen great passion from a cross-section of people. I think you're going to take the right action tonight and raise the lake level to 9.53. Wants to hear board members explain their views on the water right. Lower level damages recreational use.

Jim Hoover, 3150 NE East Devils Lake Road, Otis. Encourage people watching meeting to go on website and actually read the budget. One item mentioned at great length is sewerage the lake. Has been asking district board to tell him what contributing factor sewers are to the health of the lake, or would putting in sewers be detrimental by encouraging development? Regarding the

proposed Urban Growth Management Agreement between the city and county, how do you have sensible growth that protects the lake from development?

Kerry Thompson, Lincoln County Commissioner. Getting concerned about property values. If you destroy Devils Lake or reduce property values, it affects the entire county. Need to maintain lake at height it is and work to solve pollution problems.

Dee Esser, 4786 NE Loop Drive, Otis. Where she lives, it's not a meadow, it's a swamp. It's horrible. Hasn't been able to use her boat since 2005. Solid mud in front of house. Stinks to high heaven. Afraid to let grandchildren in back yard. It's not a meadow; it's really disgusting.

Graydon Davis, 5044 NE Neotsu Drive, Neotsu. Property owner 30 years. Has some erosion problems. As lake level goes down, sandstone dries and gets crumbly and washes away. Haven't been able to use boat for a couple of weeks.

Bill Sexton (lake contractor). Listen to the people. Raise the water. Be happy.

V. UNFINISHED BUSINESS

(1:02)

a. The Devils Lake Plan

ROBERTSON: Reviewed plan to date as outlined in staff report.

i. Septic/Sewer

SEE STAFF REPORT re: city approval of reimbursement district allowing property owner at north end of the lake to put in a sewer on his street and recoup costs from neighbors who hook up in the future.

GREEN: Reported on status of Voyage LID: delays due to growing pains, new sewer technology; property owners invited in May to workshop. Issues included need for clear right-of-way, easements; equity and fairness of assessment methods. City has approved reimbursement district. Some large lots could be developed into many lots. Reimbursement district authorizes city to assess property owner in future as houses are developed. Concern about standards for paving gravel roads; afraid to set precedent by building stormwater system that shoots water straight into lake. Better to have grassy swales to filter water. Question about whether city should own and maintain sewage pump stations.

ii. Save our Shoreline (SOS)

SEE STAFF REPORT re: status; no current interest from any property owners.

iii. Vegetation Management

SEE STAFF REPORT re: dead carp given to ODFW for testing.

b. Communications Report

SEE STAFF REPORT re: strategies for public outreach (Internet, Channel 4, social media, radio interviews, e-newsletter)

Quarter page ad placed in News Guard, focused on history of lake degradation over decades, including weeds, use of carp, HABs, increasing nutrients and deposition. City VCB created heritage tour of Devils Lake.

GREEN: Will try periodic column in News Guard – “Know Your Lake.”

c. Safety Report

SEE STAFF REPORT: no accidents reported.

d. MidCoast TMDL

SEE STAFF REPORT re: Total Maximum Daily Load, no update.

ROBERTSON: To explain TMDL, an impaired water body like Devils Lake has negative factors such as HABs, weeds if carp go away, inflow of pollution from creeks. TMDL sets strategy for removing lake from the list of water bodies with harmful factors.

e. East Devils Lake Road

SEE STAFF REPORT re: county looking at raising the Rock Creek bridges. Must determine if extra weight can be supported. Also looking at ditch clearing. Road was built across the wetlands in the 1930s; used to be part of the coast highway.

f. Policy Updates

Tabled until July.

g. Harmful Algal Blooms

(1:25)

SEE STAFF REPORT re: strategy for monitoring to collect data needed to prepare for possible aeration and other strategies. Sampling lake and tributaries and D River. No more data needed to prepare Request for Proposal for monitoring. But to determine baseline for aeration, one summer not enough. Need to get through another rainy period, at least. A year would be good. If change not severe, then could rely on older data as well. Bulk of understanding comes from Joe Eilers.

GREEN: Need good enough model to know how to size aeration system. Need to know that you're treating more nitrogen and phosphorus than is being loaded. Also, would like to start aeration in March of any year, well ahead of the HAB season, so process can start working earlier. March 2015 would be difficult; might as well continue monitoring and data collection until March 2016.

Asked Lake Manager to spend more time developing RFP for monitoring than doing his own monitoring. Manager expects to have RFP by next meeting.

VI. NEW BUSINESS

(1:36)

a. Lake level and water right certificate

SEE STAFF REPORT re: history of water right discussion.

SEE PRESENTATION: http://dlwid.org/Meetings/FY_2013-2014/Presentation_2014-06-12_Lake_Level_Final.pdf

GREEN: Not on table to remove water right certificate at this meeting. Not on table to remove dam at this meeting.

ROBERTSON: Reviewed presentation and staff report.

NORRIS: Have we seen increased vegetation in erosion areas since the 9.0' level went in effect in 2012?

ROBERTSON: At D River, you can see where we had impounded at nearly 10 feet. Now you can see the line at 10' and at 9.5' and now 9.0'. Within a few years, you can see increase in vegetation.

WARD: Very clear that wetland coming back.

ROBERTSON: Spoke to reducing water residence time (more residence time allows for more algae growth). Normally 8 feet of rain in a year should be enough to flush the lake, but increased nutrients are countering normal rainfall. Discussed temperature issues, levels of nutrients.

Reviewed possible long-term and short-term solutions. The way to reduce algae is not by raising the lake, but by flushing the lake. Increase circulation via aeration. Reduce nutrients. Add sewers. Let grass carp die; let weeds come back. Noted unusual HAB in January 2014 despite high lake level and cool temperatures. Bloom probably occurred because of unusual amount of winter sunlight.

(2:10)

GREEN: After extensive staff reports and personal research, and listening to 8 hours of public comment. Most important points re summer lake level: many septic fields have exceeded their useful life; raising lake in summer increases contact with septic drain fields; keeping lake at maximum level in the summer keeps water in contact with drain fields when they're used the most, also keeps wetlands inundated; healthy plants need time to dry out and grow during the summer; we underestimate importance of wetlands and shoreline plants to filtering streams and stormwater runoff; raising lake level in summer increases shoreline erosion and increases unwanted nutrient loading; also apparent that lake is calmer when raised a little less for boaters, skiers, wakeboarders; not raising lake may require some docks to be extended or have stepdowns, but this factor not as important as minimizing septic drainfield contact or allowing wetland plants to be healthier or reducing erosion; Oregon Marine Board expressed concern about removing dam; removing dam is not under consideration; continue policy of raising level to 9.0' as allowed by permit;

lakefront owners who have complained about not having as much water under their dock or at their retaining wall have said lower lake increases water temperature, which increases algal bloom, but Lake Manager's presentation countered that: there is no evidence showing relation between lower lake and increased algae, but increasing the lake level increases water residence time and gives algae time to grow. Report from Washington Department of Ecology shows no link between temperature and HABs. There is no evidence for a link between lower lake level and increased temperature or increased algae. Public comments are based on a myth that a summer lake level below the maximum increases algal blooms, but eventually truth overcomes fiction. In order to avoid complete loss of credibility, people should evaluate each issue facing lake separately.

WARD: About a year and a half ago, we looked at whether to remove the dam and achieve natural lake level. We compromised at 9.0', which I didn't support. Absolutely in favor of a natural level for the lake. [Pause to address hecklers.] If we throw out the 9.0' compromise, then we're back 5' to Square One. Then we should consider removing the dam altogether.

WELDON: We don't get paid enough for this. Bothered because some of the information that gets floated around is not accurate. Lots of us navigate year-round, even below 9 feet. No dam in 1990. Recreated on lake then; still do. Never hit bottom or a sandbar. The lake is not going to turn into a marsh or a meadow. That's just hyperbole. There's areas where you can operate within 30 feet of shore and be in 12 feet of water. Most people stay farther away from shore, and you'll not have a problem even with the lake level at 8.5'. Navigation not an issue. Our docks, boatlifts, property on lake is personal property; state grants us leases. Docks are our personal property and we have responsibility. Someone who has had a dock that's been there for 30 years shouldn't be complaining because the lake is higher today. 90% of docks on the lake were built before first dam. Built his dock in 1995 when there was no dam. People have two-level docks: higher for winter, lower for summer. Regarding "dilution is solution to pollution," increasing lake level would add only 6% to water volume and would have only a minimal effect. Two years ago, when we compromised at 9.0', audience applauded; everyone was happy. At last two meetings when people were calling to put the dam boards in, the lake was already higher than the boards. There is no reason to install boards in April and May. Recreation is down then, and the water is already high. When you heckle, you disrespect the process.

SKIRVIN: At his first term on board in 2007, dam was rebuilt, held back extra water, made different parts of lake accessible. But state park was flooded a third of the state park couldn't be used. State Parks and Recreation asked watermaster to see what was going on, and that was a catalyst for lowering lake level. Campers need access also. Chunks of grass and islands of vegetation were moving through lake. Part of that was dictated by watermaster, who said we had to reduce the impoundment because we were over maximum; that started us on road to better understand impoundment. Areas of lake will dry up or have mudflats when water drops. There are 17 acres of shoreline we can control by backing up water. It benefits some; some it doesn't. Concerned about salmon passage in the spring. We haven't had dam at maximum in April and May since 2008. Spring is an important time for wetlands to grow. No matter where we fix the lake level, the shoreline is going to be affected the most at that level. Important to vary the level in order to vary the impact on the shore. Looking for

a balance point between recreation needs and some semblance of natural fluctuation. Can't make everyone 100% happy. Do not want to have water right pulled for lack of exercising it. That's a five-year process. Three seats on board available next spring. Welcome fresh minds, fresh ideas. Hope we can all agree to take advantage of not impounding the maximum if vegetation and salmon can be helped. Apologize for not reacting sooner; people were coming to meetings asking for higher level. We should understand the benefit of varying the lake to nature and wildlife.

NORRIS: He and wife moved over 2 years ago and fulltime a year. Understand concern about property values, reduction of recreation with lower water. Perception that there's something wrong with the lake because of HABs. The 6" difference in water level matters little to the algae. HABs controlled by nitrates, phosphates. Whether we impound maximum or minimum, we're still going to have HABs. We had a huge bloom, this winter that brought us all together because everyone is concerned for lake. Don't want to lose 9.53' water right. Most people attending are being heard. Everyone on board wants to make the right decision for lake. We all have different opinions. Think we should impound maximum, likely to have same impact on septic drain fields.

(2:48)

Green moved to maintain current policy for this year, keeping the summer lake level at 9.0' beginning June 1 under the terms of our existing permits. Weldon seconded. Call for discussion.

NORRIS: Would like to see impound at 9.53' for some time period. Asked about time or impoundment needed to maintain water right.

ROBERTSON: Just need to maintain it one time, could be one day. Have to actually impound the water, not merely put the boards in.

GREEN: That could be subject of another motion. At 9.0', we get a lot of the characteristics of natural hydrology without paying the price.

Call for vote. Two ayes (Green, Weldon); three nays. Motion failed.

Ward moved to remove the dam and return the water right. No one seconded.

WARD: Important that everyone knows where we all stand.

Norris moved to maintain the full water right at 9.53' for the rest of this year. Skirvin seconded.

SKIRVIN: I realize that 9.53' is what a lot of people want. Whether it's best for the watershed, a lot of people want that and it's worth talking about. It's important to exercise the maximum impoundment so we don't lose the water right.

GREEN: Could do that by raising the water for one day.

NORRIS: There's a slot too be said for assuaging constituents. Difference between 9.0' and 9.53' is negligible. Goes a long way for the perception and value of people who participated in process.

GREEN: I value input of people in room but we have 11,000 constituents. At the end of the day, you win hearts and minds by doing the right thing. Right thing is not to leave the lake at maximum level for the summer. We go a longer way toward creating a positive perception by doing the right thing, and that will in the long run bring everyone together.

WARD: Thorn in our foot for two years; I thought it was resolved till about 6 months ago. We need to get past this and move on.

NORRIS: If we impound to 9.53', whether we have algae blooms or not, people will feel that they've been heard and have been part of the process.

WARD: People were part of the process when we agreed to compromise at 9.0'.

GREEN: Have yet to hear anything to justify higher lake level.

NORRIS: Overall perception is that if we impound to the maximum, then recreation and property values improve.

GREEN: Owns 4 lakefront properties; what's best for the lake is best for property values.

(3:00)

Call for vote. Two ayes (Skirvin, Norris); three nays. Motion failed.

Skirvin moved to structure the dam with an initial impoundment at 9.53' in order to fully impound the water right and also configure the dam with old weir to let the lake level fluctuate as it drops from 9.53' to 9.0'. Norris seconded.

SKIRVIN: Let the lake fluctuate. Last year, we put a structure in the dam trying to maintain a solid 9.0'.

ROBERTSON: Explained dam board structure designed to let water flow while maintaining specified lake levels.

SKIRVIN: If we let the lake fluctuate and not manage to a solid 9.0', we allow the wave energy to dissipate at different areas of shoreline. People ran into issues with their lifts when level was at 9.0', not at 9.5'.

BILL SEXTON (Lake Contractor): The new weir is an effective tool to manage lake level. You can shut the whole flow off. Never had it closed off entirely last summer. Is there any time we can restrict it more than 1 foot?

SKIRVIN: Mechanically, we would install the structure at 9.53', hold it at 9.53' for a couple of days, then allow water to spill over top of dam until it hits equilibrium in August, then begin our drawdown without trying to keep it at 9.0'. That would allow a little bit of differentiation at the shoreline.

Board, Lake Manager, and Lake Contractor continued discussion on specifics of managing the dam and the timing of impoundment levels.

(3:20)

Skirvin amended motion, moving to install dam at 9.53' and to allow the lake level to come up to 9.53' to maintain water right, and at discretion of Paul and Bill after meeting the requirement, stay at 9.53' for a week or whatever the watermaster requires, and then begin the drawdown.

Board and Lake Manager discussed impact of higher level on the state parks. Lake Manager will alert the Parks Department.

Norris seconded motion on table. Call for vote. Motion carried with four ayes; one nay (Ward).

[Meeting recess]

(3:33)

b. CONTRACT RENEWAL

SEE STAFF REPORT for summary of proposed contract changes.

Skirvin moved to approve the Lake manager contract. Green seconded Unanimous vote in favor.

Green moved to approve the Payroll Specialist contract as submitted, but if Theresa does not agree to a proposed change, then the contract would revert to the previous terms. Skirvin seconded. Unanimous vote in favor.

Green moved to approve the contract for Legal Services. Skirvin seconded. Unanimous vote in favor.

Skirvin moved to approve the Lake Contractor contract. Green seconded. Unanimous vote in favor.

Green moved to approve the contract for minute recording. Skirvin seconded. Unanimous vote in favor.

c. CHAMBER ELECTION

Skirvin moved to abstain. Norris seconded. Unanimous vote in favor.

VII. NON-AGENDA ITEMS

None.

VIII. ADDITIONAL COMMENTS from CITIZENS on NON-AGENDA ITEMS (3:42)

Comments were limited to 5 minutes.

Jim Hoover. Regarding septic tank inspections, the only way septic inspection systems happen is if the DLWID jumps on board with city and uses the bullying techniques city used on Roads End. If you don't agree to septic inspection, we'll shut your water off. Objected to a sign he saw warning about HABs that said eating fish exposed to harmful algae blooms can cause exposure to unknown diseases. That's a way to scare the public. Discussed lake level as it relates to shoreline erosion and wakeboarding. Questioned idea that raising the lake level would inundate septic fields.

Mark Christie. Thanks for raising the lake. Optimism still there. Reason there was applause two years for the 9.0' compromise was that there had been talk about removing the dam altogether.

Mitch Moore. Wanted to clear up one misconception. Devils Lake Neighborhood Association's recommendation was not a demand that we get our way or we won't support you. Wanted to get past the contentious issue of lake level so we can support you on other issues. We have people interested in SOS projects, others working on phosphorus abatement material so that program could get going free of charge. Another party working on erosion control in a natural way. Working with state of Oregon on septic inspection on other side of lake, working with realtors about having inspections done during sales. Also have some fun things in mind, such as a 4th of July Boat Parade. Still asking board to recognize DLNA formally.

IX. BOARD COMMENTS AND ANNOUNCEMENTS (3:55)

WELDON: Asked whether permits are needed for shoreline vegetation projects in a riparian zone.

ROBERTSON: Seth had worked on that. No. You do not need a permit for native plantings.

WELDON: If people are interested in adding vegetation, I have a healthy patch of cattails; they spread easily and create an awesome root network. They do not do well with constant immersion in a few inches of water, but they like really wet soil.

X. ADJOURNMENT

Green adjourned the meeting at 10:05 p.m.

The next regularly scheduled Board meeting will be July 10, 2014, at 6:00 p.m.

| Respectfully submitted,
Rick Mark