



Quick Look:

- New Board Member
- Septic Tank Revitalization Program
- Goal Setting Review

Devils Lake Water Improvement District
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AGENDA
Regular Meeting
2010 February 4 at 6 pm. in the DLWID Office.

I.	Director Swearing In: Joe Barnes	6:00
II.	Minutes of the Previous Meeting	6:05
III.	Financial Report	6:10
IV.	Public Comment (Agenda Items, Please limit comments to 5 minutes per person)	6:15
V.	Unfinished Business (Agenda Support Item A)	6:30
	a. Boat House/Docks	
	b. Land-use Complaints	
	c. Lake Level	
	d. The Devils Lake Plan	
	i. DEQ 319 Grant	
	ii. Native Vegetation	
	iii. Whole Lake Circulation	
	iv. Septic Tank Revitalization Program (Seth Lenaerts & Bill Zekan)	
	v. Save our Shoreline Campaign (Seth Lenaerts)	
	e. Financial Oversight Committee Report (Randy Weldon)	
	f. Communications Committee Report (Jack Strayer)	
	g. Safety Report	
	h. Listserve ConstantContact (Seth Lenaerts)	
	i. Devils Lake Low Power Radio	
	j. Technology Needs	
VI.	New Business (Agenda Support Item B)	7:30
	a. PADL's Next Steps: John Lazier	
	b. Budget Committee	
	c. Goal Setting Review	
	d. Lake Steward Award	
	e. Vacation Request	
VII.	Non-agenda Items	7:50
VIII.	Public Comment (Non-agenda Items, Please limit comments to 5 minutes per person)	7:55
IX.	Board Comments & Announcements	
X.	Adjournment	8:00

I. Unfinished Business

- a. **Boat House/Docks:** Tabled Priority. Lincoln County recently hired a new planning director, who will start in February, 2010. She is from Tillamook County, so she has experience in small coastal communities. As the county has been without a Planning Director for approximately 6 months, I do not imagine that our priority will be as highly held as other countywide issues. However I will in the next month begin the conversation with the new director such that we can begin again to move forward.
- b. **Land-use Complaints:**
 - i. 11th and EDLR: I spoke with Mr. Bob Buckman, ODFW Newport about DSL's ruling on the Essential Salmon Habitat (ESH) of Devils Lake. He stated that undoubtedly native Coho salmon juveniles use the shores of Devils Lake while over wintering. This is something they have routinely seen while electro fishing Devils Lake's shores. It is the additional time in the freshwater (lake ecology) that provides for stronger returning spawners in years of poor ocean conditions as compared to fish in riverine systems such as the Siletz.

In detailing how DSL may have come to its ruling, I referenced a Lincoln County Map (<http://www.oregon.gov/DSL/PERMITS/docs/maps/lincoln.pdf>) on their website which does not include Devils Lake as ESH. It does however include the D River, Rock Creek and seemingly part of Thompson Creek. The watercourse between those points, Devils Lake, is not highlighted. We then looked at the Douglas County Map to investigate how Tahkenitch Lake might be listed. It is represented as a Tahkenitch Creek running from the ocean all the way up to its tributaries, and thus it is clearly listed as ESH. If the Lincoln County map is the link to how DSL reached its conclusion, this case seemingly would be closed, but the inaccuracy should be remedied.

The only other criterion I can read in their decision is language around hydrologically connected wetlands. DSL used such language in its most recent letter, stating that they were unable to determine if the wetlands met that criterion. Mr. Buckman relayed that effectively this would bring into question whether the wetland was really a place the fish could swim into, rather than just boggy soils. With the fill on top of the wetland already, seemingly this would be a difficult question to answer without close up before and after photos or accurate elevation data prior to the fill.

Mr. Buckman has agreed to help remedy DSL's mapped inaccuracy. He was to meet with two of his staff last Monday to discuss the situation. He also suggested though that as for this particular case it is not likely worth seeking to undo the DSL ruling, ("water under the bridge"), but to look forward to insure that the Essential Salmon Habitat criteria are being referred to in future cases. This is my primary concern too as I have reflected previously, and would caution against singling out an individual property owner who has had official notice from the regulatory agency in question.

Recent Update----Email From ODFW:

Paul,

I was asked to address a question you had regarding Devils Lake and Essential Salmon Habitat. ODFW does consider all of Devils Lake and main tributaries ESH and we have consistently commented on DSL permit applications and fill/removal violations highlighting this designation. From my understanding, DSL also considers Devils Lake and its main tributaries ESH. ODFW supplies this type of information to DSL usually on an annual basis as new data becomes available, i.e. upper extent of coho in headwater areas. If there is an area in question for

ESH designation, there is a process to make a determination and submit new GIS data to ODFW. I would be happy to discuss this with you at any time.

I believe your question stems from a past DSL fill violation along Devils Lake where a landowner had some fill material placed into a wetland adjacent to the shore line. From my understanding, the initial review was that this fill was within ESH, i.e. below the ordinary high waterline, and penalties were warranted. However, I believe DSL did make a final determination that the fill was not actually within / below the OHW line therefore not considered to be in ESH, nor was the amount of fill over 50 cubic yards.

I hope I have provided some clarification for you. If not, I would suggest talking with Carrie for more details on this particular incident.

Thank you,

Derek Wilson
ODFW – Newport
(541) 265-8306 ext 236

Staff Recommendation: Effectively I would recommend that we only follow up on the future of ESH rulings to insure Devils Lake is consistent with other salmon bearing ecosystems in the state.

- ii. Seid Creek: No reply from NOAA since March 2009, even with repeated emails and phone calls.
- c. **Lake Level:** Lake has been rising and falling with rainfall and is not being controlled at this time. No instances of emergency dredging have occurred since November 2009. The District should devote time to assessing the potential operation of the dam for the upcoming season. Our lake contractor who has maintained the dam since its inception in 1997 will be retiring and thus a considerable reinvestment of time and resources needs to be considered.
- d. **The Devils Lake Plan**
 - i. **DEQ 319 Grant:** Upon review of state and federal procurement policy we recently obtained from DEQ, it is clear that we will need to get 3 estimates for the database formulation and use of the \$15,000, and not just go with Dr. Ford from OSU as DEQ sees her role as a subcontractor not as a joint applicant. This will require the expedient creation of a scope of work which we can then solicit estimates. I hope to have a document prepared for our next meeting for this purpose. We have through September 2010 for this aspect of the deliverables, but nonetheless we need to be ready to move on this once the first deliverables are done, due March 1st, 2010. The rest of the items are presented below:

REPORTING

1. Recipient will submit a draft QAPP to DEQ for review and comment no later than March 1, 2010.
2. Recipient will submit the final QAPP to DEQ within 45 days of receiving DEQ's comments on the Draft QAPP.
3. Recipient will prepare an Interim Data Report summarizing all data collected, validated and compiled into the database through December 31, 2009 to DEQ by April 30, 2010.
4. Recipient will prepare a draft Data Quality Compliance Report for water quality data evaluated for inclusion into the database. The Report will address compliance with completion targets for the collection of data that meets precision and accuracy targets listed in the QAPP (or the applicable contract lab's QA/QC plan) by April 30, 2010.
5. Recipient must submit an Annual Performance Report no later than June 30, 2010.
6. Recipient will submit the database (developed under Task 2) of all data evaluated for data quality, and data collected and managed according to the Recipient's DEQ-approved QAPP, to DEQ no later than October 29, 2010.
7. Recipient must submit a Final Performance Report including the final Data Report, a Data Quality Compliance Report, and a preliminary lake water quality assessment report to DEQ no later than March 31, 2011.
 - ii. **Native Vegetation:** Dr. Toni Pennington of Tetra Tech, Inc. will be in remote New Mexico during our meeting, so I have asked to reschedule her presentation until March 4, 2010. She said that if she can get an internet connection she will send along the most recent draft. She reported that they have received most of the permissions for photos to be used in the publication free of charge. She also mentioned the Oregon Flora Project has recently come back online, so she has been cross checking resources through that as well as through Vanessa Howard at PSU (a graduate student who has been actively working on coastal lakes). I have also contacted OSU extension service in an attempt to put Dr. Pennington in contact with a Master Gardener who is also familiar with native and non-native plants. His review should be of use to the polished document. Of last note, formatting changes have allowed for the use of 11"x14" paper in a booklet form. This fits our own printer capacity, should we choose or need to print a few copies on demand. The final product should be available by mid February and thus be available for download through our website soon after.
 - iii. Whole Lake Circulation: No Update
 - iv. Septic Tank Revitalization Program (Seth Lenaerts) See the next five pages of this report.

Septic Tank Revitalization: Seth Lenaerts

The Septic Tank Revitalization program had two focuses for the month of January. The first was finishing the GIS database of properties within 250 feet of the lake. That was being done by reviewing files at the Lincoln County Onsite Waste Management Department.

Septic System Database

Staff has continued to do research on septic systems that are within 250 feet of the lake. I have made multiple trips to the County to look through septic system files.

I created a septic system database with an accompanying GIS shape file with the following fields:

- Type of Septic System
- # of bedrooms
- Material the tank is made of
- Size of tank in gallons
- "Last Action" (last action that occurred that required a notice to the County)
- Variance
- Special notes

Results:

There are a total of 387 systems that have been reviewed thus far. Of those 266 had County files that were reviewed. There are an additional 121 developed lots with septic systems that I was not able to find a record for. The District has been working with private DEQ certified septic system pumpers and installers in the area to determine if they have information on the systems that staff was not able to find at the County office. Preliminary discussions show that we should be able to get a pump out date, tank size and tank material from private businesses.

As of Thursday, January 28, staff has had the chance to review 266 developed properties that use a septic system. Keep in mind that 121 properties are still at large. The 266 properties that do have files yield the following information:

Type of Septic System:

- 148 Standard Systems (56%)
- 36 Sand Filters (13%)
- 13 Advanced Treatment Technologies (ATT) (5%)
- 69 unknown (26%)

Tank Material:

- 102 Concrete Tanks (38%)
- 62 Steel Tanks (23%)
- 5 Fiberglass Tanks (2%)
- 4 Plastic Tanks (1.5%)
- 93 Unknown (35%)

Tank Size:

- Four, 500 Gallon Tanks (1.5%)
- 14, 750 Gallon Tanks (5%)
- 180, 1000 Gallon Tanks (67%)
- 30, 1500 Gallon Tanks (11.2%)
- 38, Unknown (14.2%)

Age of system is an important variable when assessing functionality of a system. The lifespan of a septic system can vary greatly. It is dependant on many localized conditions such as: environment, geology, water use and frequency, tank materials and what is being put into the tank. As for the material of the tank, general estimates state that steel tanks have a maximum lifespan of about 20 years and can break down in seven years. A high quality concrete tank can last considerably longer, upwards of 40 years. The lifespan of the tank is not equal to the effectiveness of the system. As previously stated there are many variables that determine the lifespan and efficiency of a septic system.

The following table is a summary of “last actions”. Last actions refer to any change to a septic system that required a County permit. In general “repairs” refer to replacing the septic system. An “Alteration” most often refers to moving the system or part of a system from it current spot to a different location. An “Authorization” permit is required when an existing house adds an addition that will increase water quantity to the septic system. An authorization states that the existing system can handle the increased flow. “Site Evaluation” is typically an inspection.

Summary of “Last Action” Regarding Septic Systems within 250 Feet of Devils Lake									
Year of Last Known Action:	New Construction Permit	Repair Permit	Alteration	Authorization	Site Evaluation	Complaint against property	Permit Renewal	Unknown	Total
>1970		1							1
1970-1974	8	3			1			1	13
1975-1979	8	1						2	11
1980-1984	3	6			1			1	11
1985-1989	10	18		2	3			1	34
1990-1994	10	37	1	1	4	1		2	56
1995-1999	13	33	6		1	1		1	55
2000-2004	13	30			2		1	3	49
2005-2009	4	23		2	3		1	3	36
Total	69	152	7	5	15	2	2	14	266

Table 2 is simply a summary of the material that septic tanks are made out of and the year it was installed.

Septic tank material and year of installation							
	Concrete	Steel	Fiberglass	Plastic	Unknown	ATT	Total
>1970					1		1
1970-1974	1	5			7		13
1975-1979		4			7		11
1980-1984	2	1			8		11
1985-1989	3	8		1	22		34
1990-1994	20	14	1	1	20		56
1995-1999	30	17		1	7		55
2000-2004	27	12		1	9		49
2005-2009	19	1	4		10	2	36
Total	102	62	5	4	91	2	266

Conclusion:

The most striking finding of this research has been the missing information. Although, we should be able to find out more information from local businesses at this point, 31% or almost 1 in 3 systems are not documented by the County. Of those documented at the County, many are missing file information. For example, there is no data on 35% of tank materials and no data on 14% of tank size.¹ This lack of information is one more reason to move ahead with a septic inspection ordinance.

Septic System Ordinance:

The Second focus for the month was continuing on the ordinance aspect of the Septic System Revitalization Program. I have completed a brief summary of official actions that have taken place in the last month. At the Thursday, January 7 meeting:

1. Discussed how the Septic Tank Revitalization program fits in with the District's mission, goals and objectives
2. Staff gave a presentation tracking the evolution of the Septic Tank Revitalization Program since 1993.
3. City Manager David Hawker explained the City's reasoning and discussed his memo "*Preliminary position paper on a possible program to regulate septic tanks tributary to Devils Lake*". Mr. Hawker also answered audience and board member questions.
4. The board discussed the City proposal and specifically focused on the water shut-off, enforcement mechanism.
5. Lastly, the board passed the following resolution:

The Board of Directors of Devils Lake Water Improvement District supports the efforts of the city of Lincoln City to enact an ordinance requiring that properties that abut the lake or its tributaries have an inspection of their septic systems in order to ensure that such systems function properly in accordance with their original design, and that any penalty for noncompliance should not include termination of water service."

At the City Council meeting on January 11th, the City Council was introduced to the City Manager's memo. After completing his presentation and explanation of the memo, he advised council to table the issue until it had the support the full support of the Devils Lake Water Improvement District, including the enforcement mechanism.

- City Council was introduced to the City Manager's memo "*Preliminary position paper on a possible program to regulate septic tanks tributary to Devils Lake*".
- City manager advises tabling the issue until the DLWID is willing to support the water shut off as an enforcement mechanism. The City Manager explained that the tiered water billing approach suggested by DLWID would not work since a tiered water approach is not a legal possibility for the City.
- At Mr. Hawker's request DLWID staff provided some input regarding sampling which Council had inquired about.
- City Council provided comments to be shared with DLWID's board which centered on acting on the board's mission statement and goals. Councilors also made statements regarding the lake being listed by EPA as an impaired water body.
- Finally, City Council asked the District Board to re-view this issue and report back at the February 11, City Council meeting.
- The DLWID board chair Brian Green gave public comment stating that the board will re-address this issue at the next meeting and evaluate the previous resolution.

Staff has completed a form that summarizes the position that the City Manager has taken on each of six most pressing issues. Staff has provided the Board with those forms as tool to lead discussion on this issue.

¹ Percentages are based on the properties that do have a County file (266), not on all properties (387).
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Septic Recommendation Topics

1. Proximity-properties to be inspected

City Manager Preliminary Recommendation: Only inspect properties that border the lake

“Require all properties that receive water from the City that border the lake or its tributaries or connected water bodies (other than the ocean) to have an inspection...”

- City’s recommendation is satisfactory
- Properties within 500 feet
- Other: _____
- Properties within 250 feet
- All properties in the watershed

2. Duration of ordinance

City Manager Preliminary Recommendation: Ordinance will be in effect for five years. All systems must have an inspection within those five years.

“Require all properties that receive water from the City that border the lake or its tributaries...to have an inspection of conventional systems within five years, with one fifth being completed each of the next five years.

- City’s recommendation is satisfactory
- Five years is too short (allow more time)
- Five years is too long (require compliance in less amount of time)
- Other: _____

3. Sunsetting of the Ordinance:

City Manager Preliminary Recommendation: Ordinance will be in effect for five years. Once all the inspections are made the ordinance will “sunset”.

“The regulation would end after the initial five years, and presumably be followed by one strongly influenced by the results of the inspections and the follow up actions...It could resume with periodic rotation, or be replaced by one that looks at a larger parameter...If the results show that most of the systems were working properly, it might not be replaced at all”

- City’s recommendation is satisfactory
- Other: _____
- Ordinance should not sunset. It should be on continuous five year cycle

4. Septic System Age and Material

City Manager Preliminary Recommendation: Require all properties that use a septic system that is over five years old to be inspected

“Properties that have had a new septic system installed and approved by Lincoln County within the last five years would be exempt from this requirement”

- City’s recommendation is satisfactory
- Target properties that use older systems
- Other: _____
- Target properties with steel septic tanks
- Target properties based on age and septic tank material

5. Inspector

City Manager Preliminary Recommendation: Initially, the County would be responsible for all inspections

“The inspections would be done by the County for their normal fee paid for by the property owner. The City would retain the right to designate other capable inspectors should the County not be able to handle the workload, or meet our requirements.”

- City’s recommendation is satisfactory
- Allow DEQ certified companies to administer inspections
- Other: _____

6. VRD: Vacation Rental Dwellings

City Manager Preliminary Recommendation:

“No new VRD’s anywhere on city water that is not connected to our sewer system. Existing VRD’s on septic to meet current standards for a septic system adequate to handle a projected peak use.

- City’s recommendation is satisfactory
- Do not include VRD’s in the proposal
- Allow VRD’s but with set periodic inspections
- Other: _____

OLD Business: Devils Lake Plan Continued

v. Save our Shoreline Campaign (Seth Lenaerts)

January Tasks:

- Develop sample garden plot designs
- Work more closely with OSU's Master Gardener Program
- Continue to look for funding

I have made contact with the local rep of OSU's Master Gardener Program. I have also contacted a local landscaping company called Coyote Landscaping who has a lot of experience in restoration landscaping. I intend on using volunteer labor for the projects, however, it will be beneficial to have a professional there to oversee the workers. I have also submitted a proposal to have them help with the end of March early April sample restoration projects.

February Tasks:

- Work with Coyote Landscaping and local nurseries to source vegetation and come up with plot designs

- e. Financial Oversight Committee Report (Randy Weldon): We have received a draft copy of the audit which I hope to review and return to the auditor in the next week. We must also complete a 3-5 page managerial report as part of the document.
- f. Communications Committee Report (Jack Strayer)
- g. Safety Report: No issues reported.
- h. Listserve ConstantContact: (Seth Lenaerts) The listserv is just about ready to go. The join our mailing list link should be on the website in the next week. When you join you will get a welcome email confirming that you have signed up. The details of the first newsletter are yet to be determined.
- i. Devils Lake Low Power Radio: I have received an access key to the area where the device has been located. This will allow simple access to the device without additional coordination. Final steps of the installation are readied. I have been in contact with Mr. Jack Woods a volunteer with Hatfield Marine Science Center (HMSC). He was instrumental in the operation of the device when it was stationed in Newport. He has agreed to help tune the device, but has recently had a family emergency, so we will anticipate hearing from him at his earliest convenience. Once operational, ideally a phone line would be installed to allow for the direct editing of the recorded message.
- j. Technology Needs:

Computer: Still waiting on our Dell Desktop Computer. The company lost our order apparently, and thus we are to expect delivery in early February now.

Color Printer: Purchased a Canon MF 8350 CDN (Color Laser Printer) for \$598.49 inclusive of S&H. Not only is the machine a significant upgrade from our previous machine's functionality at a competitive price, it is a large step forward in GREEN technology. Not only does it have an auto duplexer to save paper, but it also is RoHS compliant, a European Standard regulating heavy metal and other containments. One issue with the machine is how it handles faxes however. Our old machine was able to only answer a double ring associated with our 541-994-6040 number, and thus far we have been unable to find such a setting on the new machine. The issue that has developed is that it will recognize if it is a fax or not, send the phone calls to the handset, but because the signal has been interrupted voice mail gets circumvented. The fax will eventually assume after a number of rings that

it was a fax, and tone out accordingly. The result is that we are unable to get a message when we are away. The only current solution we have is to insure the fax is off, when we are away, and thus focus on receiving voicemail over the few faxes we get. Once we get the new computer, I will look further into this seeking a software fix.

RoHS Explained: “These Regulations implement EU Directive 2002/95 which bans the placing on the EU market of new electrical and electronic equipment containing more than agreed levels of lead, cadmium, mercury, hexavalent chromium, polybrominated biphenyl (PBB) and polybrominated diphenyl ether (PBDE) flame retardants.” (<http://www.rohs.gov.uk/>). These metals and chemicals are widely recognized as carcinogens, mutagens, and/or toxicants that can bioaccumulate in biological tissue providing significant health risk and even death.

BW Laser Printer: We ordered a surplus, second hand printer from a company in Portland who resells such office equipment at significant discount. David Skirvin who personally has purchased equipment through GenTech recommended the specific item and the company. We bought at an 80% discount a HP workhorse, B/W only laser printer for 79.95. David has agreed to save the District the S/H costs by picking up the machine for us.

Procurement Policy: As a government particularly dedicated to water quality and the environment I feel it is important that we consider environmental factors when making capitol investments. This has already been happening, but creating a sustainable procurement policy would make evaluating future investments easier and more objective. The District’s environmental position is evident in the history of DLWID simply by looking at the letterhead in the 1980’s which was clearly printed on recycled paper. Similarly, we have been purchasing recycled paper and paper products recently. We recycle not only in the office, but in the lab. We have purchase Energy Star Rate equipment. Another sustainable practice we have undertaken is requesting that all packaging materials of items we are shipped are made of easily recycled products (e.g. no Styrofoam peanuts). In order to insure that these things happen in the future, it is staff’s recommendation that a formalized policy be developed in the next year.

II. New Business

Agenda Support Item B

- a. **PADL's Next Steps:** John Lazier
- b. **Budget Committee:** It has recently come to our attention that the criteria for being a budget committee member are more restrictive than a board member. Specifically Oregon Revised Statutes states that a budget committee member must be an elector of the local government. In order to be an elector, one would have to be a registered voter in Lincoln County and live in the District. This is not the case for at least two of our current members. I have consulted Special Districts Association of Oregon for input. Their reply is below as well as an excerpt from [ORS 294.336 available online.](#)

From: Luanne Richey [mailto:lrichey@sdao.com]

Sent: Monday, January 25, 2010 1:51 PM

To: paul@dlwid.org

Subject: FW: Budget Committee

Hello Paul, ORS 294.336 requires that a budget committee member **must** be electors of the local government; qualified voters of the local government who have a right to vote on the adoption of any measure. Since ORS is law, it would be my opinion that an ineligible member would need to be removed from the budget committee once it is determined that they no longer qualify. Let me know if you have questions. Luanne Richey

ORS 294.336 Budget committee. “(1) Except as provided in ORS 294.341, the governing body of each municipal corporation shall establish a budget committee in accordance with the provisions of this section.

“(2) The budget committee shall consist of the members of the governing body and a number, equal to the number of members of the governing body, of electors of the municipal corporation appointed by the governing body; if there are electors fewer than the number required, the governing body and the electors who are willing to serve shall be the budget committee; and if there are no electors willing to serve, the governing body shall be the budget committee.”

Staff Recommendation: While it has been difficult to get people to serve as a budget committee member in recent years, which has led to the reappointment of all the current members at one time or another, it is staff's recommendation that we follow Luanne Richey of SDAO opinion and remove any ineligible members ahead of this next budget cycle. This will affect at least two individuals, leaving 3 vacancies as one position remained open from last year. Both of these individuals have served the District well, and regardless I will thank them and apologize that we did not become aware of this earlier, but still I feel it is in the best interest of the District to remedy this immediately. I suggest we hold open the Budget Committee Appointment process through February 28 2010, and fill the vacancies at our March meeting or on a rolling basis until we have a full contingent or the Budget Hearing date has come.

- c. **Goal Setting Review:** I have sent the summary document previously to the board, along with staff time estimates for the upcoming year. It is my hopes that we can develop some specific language from the brainstorming and the existing Devils Lake Plan for priorities for the upcoming year.
- d. **Lake Steward Award:** The annual award is given out each year at the Community Days Banquet in April. Last year's recipient was PADL's longtime secretary and lake advocate, Raylene Erickson. The District is soliciting nominations for this next year. Please provide the name and justification for your nomination to lake.manager@dlwid.org by Feb 28, 2010 for consideration.
- e. **Vacation Request:** Six days, March 19, 22-26, 2010. Currently available 11 days left in 2009-2010.