

Lake DeSmet Advisory Board Meeting
September 30, 2020
3:00 PM

Board Members Present: Mike Whitaker, Jim Fennema, Dave Belus, Paul Mavrakis, Joe Kalus, Bert Jellison

Operating Department Personnel Present: Commissioner Linda Greenough, Harvey Crowe Cheryl Benner

Public in attendance: Commissioner Bill Novotny, County Attorney Tucker Ruby, Deputy County Attorney Barry Crago, Dick Hall, Scott Pehringer, Scott Packard, Brett Nikont, Jim Seeman, Gerald Fink

The meeting was called to order at 3:00PM by Chairman Whitaker. Chairman Whitaker asked for a motion to approve the minutes of the August 19, 2020 meeting. Mr. Belus moved and Mr. Kalus seconded that the minutes be approved as written. Motion carried.

The special meeting was called to discuss shoreline regulations and specifically the “grandfather” clause in the current shoreline regulations. Chairman Whitaker asked Ms. Benner to explain the sequence of events that had occurred at the old Texaco Lodge property. Ms. Benner explained that the property had recently sold, then new owner had contacted the Lake DeSmet Operating Department by email on July 29, 2020 and was interested in making several changes to the shoreline. In the email the new owner stated that “it is the opinion of our counsel, previous owners and public opinion that some of the intended improvement (including related work and changes to the property) may not need formal approval with respect to the property located at 284 Lake DeSmet Road, Buffalo, WY (formally T Cross T), including because of the private nature of its ownership and being grandfathered in, we felt it was in good faith to work with the Lake DeSmet Operating department, Board and County Commissioners as we improve the property.” Deputy County Attorney Barry Crago responded to the email with a letter that said “any attempted improvement to the shoreline will be considered a trespass upon County property.” and stated the county’s willingness to meet and discuss the matter. A meeting on August 21, 2020 was scheduled and Mr. Moreland, Commission Chairman Bill Novotny, County Attorney Tucker Ruby, Deputy County Attorney Barry Crago, and Ms. Benner were in attendance. It was very clearly stated to Mr. Moreland at that meeting that the only allowable activity below the 4620 was maintenance to the boat dock and pumping system. Any other activity needed permission from Johnson County. It was also explained that the public had access to the shoreline up to the 4620 elevation and any permitted improvements made below that mark would have public access. LDOD personnel inspected the shoreline below the lodge property on August 31, September 21 and September 29. Construction of a concrete boat ramp was witnessed on September 21 and September 29.

Mr. Belus suggested that the section of the regulations regarding the grandfather clause be read aloud and proceeded to do so upon Chairman Whitaker’s request. Mr. Belus stated he felt there were gray areas. Chairman Whitaker explained that the intent was that anything other than maintenance to existing facilities would require permission or a new permit.

The board then requested the County Attorney’s opinion. County Attorney Ruby clarified that anything that exists is grandfathered in. Anything additional need permission. He felt that the activity that had taken place was in violation of the grandfather clause. He reiterated that Mr.

Moreland was made aware at the August 21 meeting that any additions to existing structures needed permission from the county.

Chairman Whitaker stated that he felt the violation needed to be addressed or the board would be derelict in their duties. Mr. Mavrakis noted that he's been involved with drafting shoreline regulations for 14 years, and the residents of Johnson County have always been vehemently opposed to any permanent structures on the shoreline.

Mr. Moreland's plan was reviewed by the board. Mr. Kalus stated that the structures grandfathered in were the ones that existed at the time of the transfer of Lake DeSmet from Texaco to the LDCC. Mr. Jellison questioned whether the letter that was sent in 2010 to T Cross T, who then owned the lodge property, was a legal document. Deputy County Attorney Crago stated that the letter is not legally binding but does accurately represent the agreement. He further stated that the current regulations need to be revised to ensure that everyone is treated equally, and that the LDAB needed to decide what, if any, development would look like. Mr. Jellison stated he felt that nothing permanent should be placed as it may discourage public use. Mr. Kalus stated that no structures should be constructed on the shoreline unless it was discussed by the LDAB to help ensure the quality of the shoreline. Mr. Mavrakis stated that anybody that wanted to do improvements should be able to prove that it would be of benefit to the public.

County Attorney Ruby reiterated that Mr. Moreland's boat ramp violated the grandfather clause. He also reiterated that he was advised prior to the action that any improvements needed the county's permission.

Mr. Jellison moved that the Lake DeSmet Advisory Board deny permission for the concrete structure built at the lodge property and recommend that the Johnson County Commissioners move ahead with rectifying the situation as they desire. Mr. Fennema seconded the motion. Mr. Belus recused himself from the vote. Motion carried unanimously with Mr. Belus recusing himself.

The next meeting will be held on November 18 at 3PM at the Johnson County Road and Bridge meeting room.

As there was no further business to come before the board, the meeting was adjourned at 4:15 PM with a motion from Mr. Belus and a second from Mr. Kalus. Motion carried.


Michael Whitaker, Chairman