

Lake DeSmet Advisory Board Meeting
September 8, 2021
4:00 PM

Board Members Present: Mike Whitaker, Paul Mavrakis, Joe Kalus, Jim Fennema via phone (Bob Rolston joined at 3:50PM, Nathan Lindsey joined via phone for executive session.)

Operating Department Personnel Present: Cheryl Benner,

Public in attendance: County Attorney Tucker Ruby, Clint Culliton, Dick Hall, Dennis Lawrence, Kevin Michelena, Dave Schroeder, Nate Behrend, Dan Rogers, Harry Washut

The meeting was called to order at 4:06PM by Chairman Whitaker. Chairman Whitaker asked for a motion to approve the minutes of the June 2, 2021 meeting. Mr. Kalus moved and Mr. Mavrakis seconded that the minutes be approved as written. Motion carried.

Ms. Benner reported the following:

- The elevation of the lake September 1 was 4610.98.
- On June 7 walked tunnel to check on status of leaking gate. Still leaking, though not as much as it was last fall.
- Closed tunnel and 4X4 gate 6/12/21. Elevation was 4612.90. All water at the diversion was spilling.
- June 24 monitored wells on east side. All within normal limits.
- August 2 monitored remainder of wells. Still have one to monitor. Permission to access was not received.
- Getting price from J.F. Brennan Co. to send divers to check butterfly valves. Once estimate has been received will work on funding.
- Received 1% funds to mark 4620 with marker posts. Hope to get majority completed this fall.
- Trespassing below 4620 continues to be an issue.
- MDU ran a gas line on Johnson County property on south dam. County Attorney will write a letter asking it be moved onto private property where it was supposed to go.

Dennis Lawrence, owner of North Shore PUD through Lake DeSmet Properties presented the board with an explanation of improvements made to the dry hydrant area on common property of the PUD.

He stated the following:

- Mr. Lawrence received a letter from LDOD regarding improvements done to the dry hydrant area. He broadened and extended ramp into lake with gravel but did not build anything new. He did not ask permission, apologized for the way it was done and accepts full responsibility.
- Mr. Lawrence purchased the property from Ken Reid, who was the developer. Mr. Lawrence presented the board with aerial photography of the area with the 4620' elevation. A surveyor flew the shoreline with a drone to determine the elevation.

- Only government intervention in the dry hydrant was when the PUD was approved and Lake DeSmet Properties was required to provide fire protection using Lake DeSmet as the primary water source. No formal agreement was ever reached with the LDCC.
- Dry hydrant was included in the final subdivision agreement and was referred to in Section II Phase I. Johnson County Fire District #1 Fire Chief at the time stated that direct that pumping from Lake DeSmet was the preferred water source. Subdivision agreement was signed by Johnson County Commissioners September 28, 2006. Mr. Lawrence anticipates very little use as a ramp but did state there are 25 properties that would have access.

Mr. Kalus asked if the public would have access to the ramp. Mr. Lawrence state they would not have access.

Mr. Mavrakis said that as the Wyoming Game and Fish representative on the board if everyone in the subdivision had permission to launch from the ramp, he would have issues from an Aquatic Invasive Species perspective. Mr. Lawrence stated that no promises have been made to current or future lot owners and no agreements have been reached.

County Attorney Ruby stated that Deputy County Attorney Barry Crago had been the attorney to attend most meetings and that Mr. Crago would likely contact Mr. Lawrence in the near future. Chairman Whitaker suggested continuing the discussion at the next meeting so there would be more members in attendance. The consensus of the group was to do so.

Mr. Lawrence then presented a diagram of his property at 3H Lane in the North Shores PUD. He stated he knows he can't do anything structurally below the 4620' mark, but was asking to do some landscaping, which would consist primarily of seeding, watering with a sprinkler system that would be installed on his property and mowing the area. He further stated that he would not plant any trees or move any rocks or dirt, but that he would like to complete this fall. Suggested a landscape agreement similar to what WYDOT does. He also stated that he would like to install a pergola below the 4630' and would be willing to sign a waiver such as the one Mr. Hall signed for his property.

Mr. Mavrakis asked if the Commissioners had approved the revised shoreline regulations and was advised they had not. County Attorney Ruby stated that he thought a maintenance agreement would be a good idea and could be added to the revisions to the shoreline regulations currently under review.

Mr. Hall, a property owner at the North Shores PUD asked if any attempt had been made to educate adjacent landowners. Ms. Benner stated that letters had been sent out at one point but that it had little effect on trespassing below 4620'.

County Attorney Ruby asked another adjacent landowner, Kevin Michelena, if he would be interested in a maintenance agreement. Mr. Michelena state that he would. Mr. Michelena stated he had witnessed pickups backed into the water in public areas.

Mr. Lawrence said that the covenants for the PUD would be amended to reflect any changes made to the shoreline regulations.

(Mr. Rolston joined the meeting at 3:50PM.)

Mr. Hall, chairman of the North Shore PUD HOA read a prepared statement. (Statement attached.) County Attorney Ruby stated his office could draft a maintenance agreement for the LDAB to review and possibly approve. The board requested that his office do so.

Mr. Lawrence stated that there are many real estate sales in the area and that he would like to see some guidance with some teeth to it.

Mr. Behrend stated he had spent significant amount of money to mitigate runoff on his property as his property is on a hill. He would really appreciate an agreement that stated what he can and can't do. He stated that people have driven onto his property and down to the shoreline. He asked for a realistic timeline to get a maintenance agreement completed.

Chairman Whitaker stated the board meets at least twice per year and as needed. He further stated that this will not be resolved in one meeting as the board needed input from the County Attorney's office. Mr. Behrend stated he felt it was an urgent matter. Chairman Whitaker stated the board will stay on top of it.

Mr. Mavrakis asked the landowners to help him understand what their expectations were when they purchased property that was adjacent to Lake DeSmet but went only to the 4620'. He felt like they were asking to go onto the neighbor's property. Mr. Lawrence stated that wasn't the intent at all.

Mr. Michelena said that he is well aware of where the 4620 is on his property as it was marked by the previous LDOD Operations Manager. He's not asking for anything more than to be able to use public property and some respect. Mr. Behrend stated he disagreed with Mr. Mavrakis' statement and that he felt that adjacent landowners have control to public property similar to control adjacent landowner have to state and federal lands. Mr. Mavrakis suggested forming a committee with LDAB members and adjacent landowners.

Mr. Rolston state that there were 3 people in attendance at the meeting (himself, Mr. Mavrakis, and Mr. Hall) that had been meeting with people requesting many things below the 4620'. He reminded the group that the Lake DeSmet Advisory Board only advised the Commissioners. Temporary boat docks have been approved, but there are still revisions and improvement to be made to the shoreline regulations. He asked for a little patience from the landowners and that the board was willing to hold more meetings and move forward. He also stated he does not have any objection to people beautifying the property below the 4620'.

Mr. Lawrence stated there was an urgency now because of all the activity. Mr. Culliton asked how far below the 4620' they would like to go? Mr. Lawrence said not below the typical high water mark.

Chairman Whitaker said that there will be further discussion at the next meeting, and the group would be notified of the date.

During public comment Mr. Behrend stated he had heard that 2 boats had hit rocks in the lake near his property typically referred to as Jesus Point. He said there was 1 buoy there now, but used to be 2. Mr. Mavrakis suggested the he contact the local game warden to discuss.

Board of Control District 2 Superintendent David Schroeder updated the board on the extension for beneficial use for the next 5 years that can be allowed per the Texaco clause in statute. The

extension has been granted for many years. When BOC staff reviewed the application for extension to fish spawning permits were included (6802E and 6802E). These permits had been stricken from the 2016 order and will be stricken from this order. Chairman Whitaker stated that the reservoir can only store water for which it has been permitted, so that action was appropriate. The water is mainly being used for irrigation and construction. Mr. Schroder further stated that the BOC is becoming tired of seeing extension requests, but the likelihood of anyone qualifying for abandonment is pretty low.

At 4:20PM the board went into executive session to discuss pending litigation.

Regular session was resumed at 5:25 PM. Mr. Lindsey joined the group by phone during executive session at 4:20PM. Mr. Crago joined executive session at 4:55 PM. No decisions were made during executive session.

The next meeting date was discussed. A draft maintenance agreement and an executive session to discuss pending litigation will be on the agenda. Meeting will be held on Wednesday, September 29, 2021 at 1PM at the Johnson County Commissioners meeting room.

As there was no further business to come before the board, the meeting was adjourned at 5:30 PM with a motion from Mr. Rolston and a second from Chairman Whitaker. Motion carried.


Michael Whitaker, Chairman