

Lake DeSmet Advisory Board Meeting  
September 29, 2021  
1:00 PM

Board Members Present: Mike Whitaker, Paul Mavrakis, Joe Kalus, Jim Fennema, Bob Rolston, Dave Belus

Operating Department Personnel Present: Cheryl Benner, Linda Greenough

Public in attendance: County Attorney Tucker Ruby, Deputy County Attorney Barry Crago, Dick Hall, Dennis Lawrence, Kevin Michelena, Nate Behrend, Dan Rogers, Jack and Kathy Landon,

The meeting was called to order at 1:03PM by Chairman Whitaker. Chairman Whitaker asked for a motion to approve the minutes of the September 8, 2021 meeting. Mr. Kalus moved and Mr. Mavrakis seconded that the minutes be approved as written. Motion carried.

Ms. Benner reported the following:

- Very little activity since last meeting
- Will take elevation and shut down all releases on September 30, 2021 as it is the end of the water year.

Chairman Whitaker explained the reason for the draft shoreline maintenance agreement was to allow specific activities below the 4620 in specific places that would improve the shoreline or protect private property, but it would not allow permanent structures. Deputy County Attorney Crago said the draft agreement was designed to be flexible. Weed spraying and mowing would be easy. Landscaping or erosion control would require surveying and engineering. Mr. Belus asked if the agreement was similar agreements at other lakes. Mr. Lawrence stated that Flathead Lake in Montana had similar regulations, but the landowner owned the property down to the high water line. Deputy County Attorney Crago stated that proposed plans could be in conflict with the shoreline regulations. Agreement allows for activities not allowed in the regulations, which will need minor alternations to reference the maintenance agreement. Mr. Belus asked if other landowners would be allowed to review and comment. Deputy County Attorney Crago explained there will be a 45-day comment period and a public hearing before the regulation changes are approved. County Attorney Ruby stated that many landowners had emailed with suggestions, and that's why the agreement is flexible.

Mr. Behrend asked if landowners would go to LDAB or the Commissioners for application for improvements. Chairman Whitaker explained that the first step would be to apply to the LDOD, and if it was a more complex application it would then go to the LDAB. If someone wants to appeal the decision it would then go to the Commissioners for review. Mr. Landon asked if the variation of the 4620 around the lake would be an issue. Chairman Whitaker explained there was funding to mark the 4620 and preparations are underway. The intent is to clarify the matter for the public and landowners. He also reminded the group that public access must be allowed below the 4620, which is Johnson County property. Chairman Whitaker advised the landowners in attendance to give thought to what they would like to do so their application is detailed and complete. He also reminded the group that the elevation of the lake could go to 4620 at some point and would put their shoreline modifications under water. Mr. Lawrence asked if the plan he had presented at the September 9 meeting would be discussed and it was explained that the regulations need to be revised and that any agreement needs to be reviewed by the attorneys and LDAB and approved by the Commissioners. Mr. Crago stated that anything that is done on Johnson County property below

the 4620 needs an agreement, including seeding and weed spraying. This allows the County oversight on what is happening on County property. It creates a record and is beneficial to everyone. County Attorney Ruby added that if the beneficial uses are regulated gives more teeth to manage the uses that are not beneficial. Chairman Whitaker reminded the group that one year ago the LDAB did not want anything allowed below the 4620, so progress is being made.

Mr. Belus moved to table the agreement until the next meeting to give the board time to review the agreement and time for the County Attorney's office to make necessary changes to the shoreline revisions. Mr. Fennema seconded the motion, which carried unanimously.

Commissioner Perry questioned the general decision-making practices of the board. Deputy County Attorney Crago reminded Commissioner Perry that the board's role is strictly advisory and all authority granted the advisory board is granted through the Commissioners. Mr. Rogers questioned why there were board members who reside in Sheridan County. Each member explained why they were on the board and how they were appointed.

Mr. Belus moved to go into executive session to discuss pending litigation. Mr. Kalus seconded the motion. Board went into executive session at 2:20PM.

Regular meeting resumed at 3:50PM. Next meeting was set for January 12 at 1PM at the Johnson County Commissioners chambers.

Mr. Belus moved and Mr. Mavrakis seconded to adjourn the meeting at 3:55PM. Motion carried.

  
Michael Whitaker, Chairman