

Deep Creek Lake Policy and Review Board
Regular Quarterly Meeting
Monday January 23, 2012 at: 6:00 pm
Deep Creek Lake State Park - Discovery Center

In Attendance: David Myerberg, Chairman; John Stakem, Susan Fowler, Commissioner Robert Gatto, Bob Browning, Barbara Beelar, Barry Weinberg, Senator's alternate Steve Green and the Delegate's alternate David Moe

Absent: Jamie Coyle, Senator George Edwards, Delegate Wendell Beitzel

DNR Representatives: MD Park Service, Carolyn Mathews - Manager Deep Creek Lake Recreation Area; Eric Null – Natural Resource Planner for DCL; Mark Spurrier – Assistant Manager, DCL; Major Cindy Ecker – Western Regional Manager; NRP-Sgt. Dave Marple, Sgt. Harry Cage, Assistant Attorney General Marianne Dize

13 members of the public in attendance

MINUTES

Chairman Myerberg called the meeting to order at 6:00 pm. Minutes from the last meeting dated Oct. 24, 2011, were circulated to the board prior to the meeting. One change suggested by Barry Weinberg in the 1st paragraph on page 2 under “Board Comments” “Dam Releases” & “Water Levels” was unanimously approved. Mr. Weinberg objected to the continuing flow of misinformation about the lake levels. He also recommended that the Policy and Review Board have a continuing dialog with people in the white water community so we can discuss concerns about the water levels and releases from the lake.

Motion: October 24, 2011 Minutes approved, with changes suggested

PROCEDURAL RULES FOR THE PRB MEETINGS

Chairman Myerberg stated that he consulted with counsel after discussion at the last meeting regarding procedural rules for the PRB meetings. He then wrote the proposed rules and circulated them to the PRB members prior to this meeting. The following are the rules voted on by the Board with changes suggested incorporated:

(1) Turn around on PRB Meeting Minutes

Minutes from the Regular PRB meetings will be transcribed as soon as practicable, with the goal that draft minutes will be distributed to the Board members and DNR staff for comments within 30 days after a Board meeting. Board members may review and comment on the minutes by email correspondence to the Chair within 5 business days. The Chair will ensure that Board members' comments are transmitted promptly to the DNR staff for final preparation of the minutes. The Board intends that approved minutes will be posted on the DNR web site within 10 days after DNR receives the Board members' comments/corrections.

Motion: approved

(2) Publication of the Agenda

For informational purposes, the Board will request that the preliminary agenda for the upcoming regular meeting of the PRB be posted on the DNR web site at least two weeks prior to the meeting. Major topics for the upcoming meeting will be listed on the website and provided to the newspapers. Unless the preliminary agenda is formally adopted at the PRB meeting, this agenda does not bind the Board as to detail or order of consideration of the listed matters.

Motion: approved

(3) Roles of formal and informal organizational representatives on the PRB

The PRB is composed of three members appointed by virtue of their elective office, three members appointed by virtue of their membership in listed organizations, and four members appointed in an unaffiliated capacity, as set forth in Code, Natural Resources Article 5-216(b). It is the policy of the Board that, with the exception of those members who serve on the PRB as representatives of statutorily listed organizations, Board members should refrain, during the conduct of Board business, from advocating on behalf of, or advancing the position of, organizations to which the member may belong in his or her individual capacity.

Motion: approved

(4) Handouts from Board members to the public at PRB meetings

It is the policy of the PRB that no individual Board member may distribute, or cause the distribution of, any document or written material of any kind to the public at the PRB meetings within the meeting room that houses the meeting. Any handouts to the public provided by organizations or individuals must be offered outside the meeting room.

Motion: approved

(5) PRB rules for audience participation at meetings

The PRB welcomes the comments and participation of the general public in attendance at Board meetings, as set forth in this policy. Prior to the meeting, the Board will provide to those in attendance a sign-up sheet so that those who wish to address the PRB may sign up, writing their name, watershed address, and email, if appropriate, on a numbered list. The PRB will attempt to hear from those on the list in numerical order as time permits, under the "Public Comment" part of the agenda. The Chairman may poll the audience regarding specific issues to determine subjects of common interest. Prior to the start of the public comment period, and in the interest of fair allocation of the remaining time, the Chair will announce the time limitation for each speaker. All speakers will be encouraged to speak-up so that comments may be properly recorded.

Motion: Approved

(6) Whether names of persons speaking from the audience should be in minutes

All persons addressing the PRB from the public shall give their name when called upon and their names will be noted in the minutes, if they wish. A brief summary of their comments will be included in the minutes.

Motion: Approved

WATER QUALITY WORK GROUP (WQWG).

The PRB representative at the meeting, Bob Browning, said that the water in DCL is of good quality. There is a 3-5 yr. study, ongoing. The water quality reports show that nothing is going awry and the state scientists are watching closely. The WQWG reviewed the draft 2012 monitoring plan and what places they are going to study, next. The Resource Assessment Service is going to keep working on it. There are 3 different portions of that study. It's practical to do 1 or 2. Mr. Browning believes that some of that can be reduced, if we have guidelines. If anyone is ever going to dredge any of DCL, we will have to have these answers. The last topic on the agenda was a review of the stream sampling work done by the (DNR) Maryland Stream Waders. Results show that a lot of the tributaries to the lake are poor quality but DNR doesn't seem to be very concerned. Various people will continue to meet to try and secure the funding for Phase II Sediment Study and continue to be in contact with Bruce Michael, Director of the DNR Resource Assessment Service.

Barbara Beelar attended the meeting and reviewed what she understood as ongoing work in Lake Management that includes problems that arise when property transfers, shoreline erosion concerns, and new information from MDE that there is a new additional fee of \$500.00 for shoreline improvements. She said that the WQWG reported seeing some increased turbidity, conductivity increasing too, which may come from run off of fertilizer, dissolved salts, septic systems leaking. Mr. Browning responded that conductivity is the measurement of (electrons) free ionization. (related to salt) Ms. Beelar stated MDE staff sampled their sites and found some sites with high chlorophyll A counts and low dissolved oxygen. She suggests that in 2012, MDE fund to continue this work.

Carolyn Mathews responded to Ms. Beelar's comment that she was unaware of the additional fee of \$500 until recently. She said it's a fee that is applied when an application is modified while it is under review in MDE. MDE began requiring fees for applications and permits in 2009. She is working towards a "blanket permit" for the lake but has not been successful, yet. Ms. Mathew's vision of a "blanket permit" would allow for 3 different styles of shoreline erosion control. 1. A nearly vertical rock structure for sites of extreme erosion; 2. Rip rap rock structure; or 3. Living Shoreline – plants, shrubs, or other vegetative environmental solutions. She has sent requests for support and assistance to encourage this "blanket permit" idea up her chain of command at DNR.

It is always a slow process. Phase II of the sediment plan was dependent on whether the \$180,000.00 was guaranteed from several sources. DNR and the County have promised \$130,000. Various people suggested reducing the scope of work but Phase II is an all or none. If we do the whole Project for \$180,000.00, we'll get a lot of answers to the questions people are asking.

Mr. Weinberg stated with regard to Phase II of the Sediment Study that the data is not there, and the study will provide the data. When questions come up, after examination of other parts of the lake, there will be some baseline to compare to. The County has asked several organizations to pitch in, including the Property Owners Association (POA). The POA has told the County it would be willing to contribute. The County is asking Brookfield Renewable Power Company to pitch in, so there may be some funding beyond what we know of so far.

OLD BUSINESS:

Mr. Weinberg: Water Level Sub-Committee has not met since the last quarterly meeting. MDE put the issues to rest. We're still interested in an open dialog with the leadership of Friendsville.

Chairman Myerberg commented about the concern whether there will be enough water with a lack of snowfall and adequate precipitation this winter. Apparently, the dam is generating power at the plant, 16 hours a day. The Lake water level is higher than other winters. Distributed with the agenda attachments was an email from DCL hydro plant manager Randy Garletts correcting his earlier email of the number of temperature enhancement releases during the summer of 2011. Based on his first email, we reported the incorrect number of temperature enhancement releases to the board and to the public.

Chairman Myerberg: Sub-committee on Finance & Programs met and is working towards getting the necessary \$180,000.00 to do the Phase II Sediment Study. We want to be sure the public is aware of the additional \$500.00 that can be charged by MDE for any modifications to shoreline erosion control applications. Also, we are looking into a report from the Legislative Services that there's a draw on the Lake Management special fund for \$74,638.00 that appears to have gone to another park. Ms. Mathews stated that the Maryland Park Service (MPS) is also researching that reported fund transfer as no one in the Park Service or from the DCL Management Office authorized that transfer. The MPS Fiscal Officer who oversees funds for the MPS observed that that amount of \$74,638.00 matches what is scheduled to be paid to DNR Resource Assessment Service this year for their part of the water quality study in 2012. The dollar amount matches. The money has not been transferred to another park but we have not had a response from Legislative Services on our observation and conclusions.

Chairman Myerberg: Sub-committee on rewriting the COMAR Regulations: There was no report from this group. Marianne Dise, Esq. stated that it takes 120 days to get a regulation finalized. It's very long process, and those 120 days are if everything clicks. She and Ms. Mathews will be working on these regulations and plan to meet with the rest of the committee.

Mr. Weinberg asked about the boat noise regulation change passing. Apparently, this was not

announced to Ms. Mathews. Mr. Weinberg wanted to be sure that there is time in the regulatory process for the PRB to be informed and make comments. Ms. Mathews stated that regarding the boat noise proposal, Boating Services attended a PRB meeting early last year to present their proposal, and this Board contributed comments. She also widely advertised the public comment period. She believes that something got snagged with the Elk River portion of the proposal and she wasn't advised about that delay. The regulation was finalized in November, 2011. The legal decibel level on Deep Creek Lake is now 88, down from 90.

Chairman: How should the PRB be involved in "Watershed Awards," if at all? It was previously discussed that perhaps the County Commissioner's Office might like to do that. Friends of Deep Creek gives such awards, and has done so for the last couple of years. Should the PRB encourage the County Commissioner's to do this or leave it with Friends of Deep Creek Lake? Ms. Beelar stated that she would like to see awards go to shoreline erosion control. We should recognize property owners who have done an exemplary job in shoreline protection by placing plaques and awards in their yards. Ms. Mathews stated that Lake Management has scheduled someone from the Office of Communications to come up early this summer to do videos to post on the website about positive things that adjacent permit holders are doing to be good stewards of the land and water. Ms. Beelar stated that the Friends of Deep Creek awards program recognizes volunteerism, public service, and agricultural stewardship. There followed a discussion about the amount of work that is required to select and recognize efforts of this nature. No action taken.

Documents attached to the agenda:

SAV

The 2010 Submerged Aquatic Vegetation (SAV) Survey Summary was finalized and published in February 2011. (Available for review on the Deep Creek Lake NRMA website.)

CULVERTS

Email from Ralph Schmidt of the Harbor Community Association about road culverts and storm water management by the County. The Chairman received an email from Mr. Schmidt in Nov. 2011, regarding what happened when he spoke with the County Roads crew about the culverts in his neighborhood. It wasn't all bad news. Ms. Beelar stated that a possible solution is that land needs to be acquired by the County nearby to problem drainage areas to contain stormwater/sediments so it doesn't run into the lake. Ms. Mathews stated that old established neighborhoods with culverts/drainage ditches are the problems. Property owners are not willing to give up their land for drainage. There are very few places of undeveloped land in the right location to provide that fix to the problem. There's no real good solution. Commissioner Gatto stated that road maintenance crews have suffered from position losses. 20 positions are no longer with County Roads. Since there is not much snow this winter, we're not using nearly as much abrasives. There are several groups who have expressed interest in water testing in order to establish a baseline before Marcellus Shale drilling begins in the county. Ms. Dise stated DNR is looking for baseline water testing. They don't have money to do that yet, but have been looking at the Maryland Geological Survey data. But for the surface water, they're looking to recruit volunteers to do that work. Commissioner Gatto stated that the County Commissioners

understand there are good and bad practices as far as cleaning ditches and culverts. The Commissioners are working with the County Roads staff to update understanding on how and why we want to do this.

MINOR SEWAGE ISSUE

Commissioner Gatto stated there was a failure at one of the sewage pumping stations on Lake Shore Drive. The float on a back up pump froze, but the alarm system worked the way it should and it's been repaired without any spill into the lake.

NEW BUSINESS:

Benthic Mats for SAV's

Ms. Mathews announced that Lake Management staff has developed a Special Permit specifically for benthic mats, how they are to be used and placed in the lake. It's a special specific application and permits for the mats. The purpose is to suppress the seasonal growth of submerged aquatic vegetation (SAV). There is a written description on what to do in order to install them. Because this permit is a management tool for SAV's, it's an annual permit. Permit holders have to re-apply each year. It's the regular \$70.00 fee for the permit. The benthic mats must be removed from the lake each year. The mats come in various sizes. The cost was \$340.00 for each mat that was used at test sites. It may not be the solution to everyone's problem, but it is an option that some may choose to try.

Canada Geese

Ms. Beelar asked what can we do about the Resident Canadian Geese? Ms. Mathews stated that we have had a winter with open water on the lake. The geese feed in the corn fields and fly to the lake for protection and rest. DCL NRMA (Natural Resource Management Area) is not designated as a waterfowl hunting area. The DNR Wildlife Service handles nuisance geese complaints. If the PRB wants to suggest a waterfowl hunting season on DCL, then DNR will work with the Wildlife staff to draft a proposal. We don't have a hunting season now because of concern about property damage from shot pellets. At the park we have a Federal permit to addle goose eggs, but it can only be done if we find a nest on State land. No action was taken.

Motion: To continue the meeting past 8:00 pm. Approved

Comments from the Public:

Morgan France: I wrote a computer program that grabs information on the water level of the lake. So far I have collected 5000 data points on the fluctuations of the lake since December 1st. The little dips are when the power plant goes on and turns off the lake comes back. It recharges itself and it "sloshes" from one end to the other. I'm working on developing the residence time of the water in the lake. This will be good information to work with when I have a bigger picture.

Next meeting date was set for April 23rd, 2012 at 6:00 pm

The meeting was adjourned at 8:23 pm.

Respectfully submitted,

Dana Mueller, Recording Secretary

Correspondence Received: November 18, 2011 letter from DNR Secretary Griffin