

**Deep Creek Lake Policy and Review Board**  
**Regular Quarterly Meeting**  
**Monday, Oct. 22, 2012 at 6:00 p.m.**  
**Deep Creek Lake State Park – Discovery Center**

In Attendance: David Myerberg, Chairman; John Stakem, Barbara Beelar, Bob Browning, Barry Weinberg, Commissioner Bob Gatto, Susan Fowler, Senator George Edwards and Delegate Wendell Beitzel and their alternates Steve Green and David Moe

Absent: Jamie Coyle

DNR Representatives: MD Park Service, Carolyn Mathews – Manager Deep Creek Lake Recreation Area; Eric Null – Natural Resource Planner for DCL; NRP – Sgt. Dave Marple; Assistant Attorney General Marianne Dise; Judd Vickers – Chief Real Estate Officer, DNR

27 members of the public in attendance including Commissioner Jim Raley

**MINUTES:** Chairman Myerberg called the meeting to order at 6:01 p.m. Minutes from the last meeting, dated July 12, 2012 were circulated to the board members prior to the meeting.

**MOTION:** July 12, 2012 minutes for approval – Barry Weinberg; Seconded by John Stakem; unanimously approved by board.

**OLD BUSINESS:**

**Conservation Easements:** Judd Vickers, Chief Real Estate Officer for Maryland Department of Natural Resources gave an overview of policy regarding conservation easements and current issues surrounding these policies as they relate to foreclosures and the buffer strip use permit issuance. The buffer strip use permit can only be issued to those who own or have legal access to the property adjacent to the buffer strip. Mr. Vickers gave an example of a recent foreclosure where the house and the lot it sat on were sold but the conservation easement property (buy down) was not included in the purchase leaving the conservation easement property in the prior ownership. There are several situations like this example that have occurred in recent years. This is especially a problem if the title company is not a local company- local companies know to look for two deeds for properties that adjoin the State property.

Questions:

1. Barbara Beelar asked for clarification if lakefront properties and the conservation easements adjacent should be one property. Answer: The “buy down” parcel is a separate parcel but is to be sold as one unit and titled the same as the house lot. The

- “buy down” parcel carries the conservation easement – the easement does not cover to any other adjacent private property so they cannot be merged into one.
2. Mr. Weinberg asked if people should be checking their titles to make sure their land and the buy-down property is conjoined. Answer – Yes it is a good idea. The more people who are aware to look for it, the less likely a separation of the parcels will happen as an oversight during a real estate transaction.

**“Buy down” offers have ended:** Judd reminded the board that the Department of General Services has completed the buy down project. The “Buy downs” were offered under a constitutional amendment process.

Questions:

1. An audience member asked if the original covenant surpasses any other documents. Answer – If the house changed ownership and the buy-down property did not, then there is a problem because the house is cutoff from lake access.

**Monuments:** Monuments mark the corners of property boundaries. Lake Manager Carolyn Mathews shared that a number of these monuments around the lake are broken and about 50 are destroyed. It is not the State’s responsibility to replace them, it is the responsibility of the property owners/neighbors to maintain and replace these monuments. Lake Management Staff will be sending out letters to approximately 100 property owners to advise them that they must replace missing or damaged monuments. Mr. Vickers reminded property owners that it is prohibited to move a monument placed by a surveyor.

Chairman Myerberg asked how much it costs to replace the monuments and is there a fine associated with the destruction and movement of surveyor markers. Senator Edwards and Delegate Beitzel explained there is a law that calls for a \$2,500 fine if a person willfully moves or destroys a surveyor monument. Morgan France, the local surveyor whose company set all of the concrete monuments around the lake, reported it costs between \$400 and \$500 per monument to survey, certify, and set a monument. That price includes the cost of the monument itself. If a property owner’s monument is beginning to lean or wear down, they may contact a surveyor to get them legally reset. Mr. France said you cannot just move a monument because you think it is in the way or unimportant - there are published coordinates for each monument.

**Boat Length:** Chairman Myerberg announced a letter had been sent to Secretary Griffin. He has a copy of that letter if anyone would like to see it. The Secretary is concerned that boats just keep getting bigger and the lake is not increasing in size.

Marianne Dise reported that once the Secretary approves the Board’s recommendation, the proposal will go to the Boat Act Advisory Committee (BAAC), a statutory body under the state boat act. If they approve it, the wording will go in as a proposed regulation in the Maryland Register.

Chairman Myerberg asked how long the process would take. Marianne Dise said the Advisory Committee meets every couple of months, so it would just depend on when the Secretary's recommendation would make it to the Committee.

Bob Browning suggested someone from the PRB attend and present the issue if it gets as far as the Boat Act Advisory Committee. No action was taken toward this request.

**Erosion Walls:** As requested by the Board, Chairman Myerberg sent a letter to Secretary Summers, but has not heard anything further in return. He has a copy of that letter if anyone would like to read through it.

Carolyn Mathews said her office had made progress on this issue over the summer. MDE engineers have studied the Rosetta Stone product. There are three applications coming into MDE for that specific type of stone. Because the MDE engineer has been involved in the development of the specifications for this product, the Lake Management office expects the MDE review and approval process to move along more quickly. Mathews is still also seeking a blanket permit for three different types of materials so approval for shoreline erosion work around Deep Creek Lake could be streamlined. We have also learned that beginning July 1, 2012 MDE adjusted its fee schedule. The \$750 fee remains the same for the first part of the application review process, but the second part of the MDE fee will depend on the number of feet that will be disturbed during wall construction. Lake Management feels this is a good change that should result in some permit holders being charged less than the former \$750 flat fee associated with the second part of the installation process. The fee schedule has already changed, but the Lake Management Office has not seen what the new charge will be since "wall season" is just starting.

Commissioner Bob Gatto said the County Commissioners are considering creating a fund which would be available to permit holders to offset the MDE permitting cost. He expects an announcement of the finalized details in the next few weeks.

**Phase 2 Sediment Study:** Chairman Myerberg circulated an email to the Board from Bruce Michael concerning core sampling that said results would be published by November 10<sup>th</sup> and will be available at the January PRB meeting. Chairman Myerberg expressed his gratitude to everyone who funded the project, including the County Commissioners, and the Property Owners Association.

#### **COMMITTEE UPDATES:**

**Water Level** – Jeff Long has submitted a Freedom of Information Act request to MDE requesting their data related to water levels at the dam.

Brookfield plans to draw the lake to the normal winter level – they do not need an additional draw down for work on the dam/power plant that they anticipate starting after the first of the new year.

**Revision of COMAR regulations for Deep Creek Lake:** Chairman Myerberg asked Assistant Attorney General Dise if there had been any interest in the project. She reported that she looked into alternative avenues for getting a binder put together of all the laws, regulations and policies that affect Deep Creek Lake. The Environmental Law Institute's estimate to do this work was much too high. She knows of no other source to investigate for work of this type to be done.

**SAV's** – Staff did sampling as scheduled. They may have something by the State of the Lake address on November 14<sup>th</sup> at 4 p.m.

**Canada Geese:** Susan Fowler and Barbara Beelar met to consider the goose issue. They reviewed the detailed information on the subject of nuisance animal control on the DNR Wildlife Service website and both decided the problem was too complex. The subcommittee recommends getting Clarissa Harris and Carolyn Mathews involved to discuss the options.

**Culverts and Drainage Into the Lake** – Bob Gatto reported that the County continues to look at equipment that could vacuum the culverts. No other report at this time.

**Update from County Commissioners** – Bob Gatto reported on several topics from the County.

- The Thayerville Water Project has started and will be ongoing until mid-summer 2013. The project includes a water treatment building near the Popcorn Factory. The project may have to totally close Glendale Road down in April during normal working hours.
  - Sue Fowler asked is the building cleaning water. No – it is treating water.
  - Will there be any odor problems? - No
- Funding Rebates for the retaining walls as discussed earlier.
- The Commissioners are still receiving comments on lake water levels and what is being done with the water appropriation permit. Looking to determine in the sediment study the value of each foot of water change in the lake.
- The State of the Lake presentation by DNR Secretary John Griffin is coming up. The facility will hold about 350 people and there will be time for questions.
- Commissioner Jim Raley has been in contact with someone from the state to identify a good spot on the lake for a limited use soft launch facility the county could build for kayaks.
- The Commissioners hosted Secretary Mobley of the State Highway Administration to discuss how the lake is affected by the current techniques of treating the roads in the winter.

### Questions/Comments

Barbara Beelar expressed concern about the amount of seating at the facility chosen for the State of the Lake address. She wrote Commissioner Raley about this issue. Others commented there is plenty of room at the publicized location.

**Application of Lakeside Commercial Properties for 15 commercial slips:** The POA wrote to the county and the county responded they are paying a lot more attention to textual changes in the zoned areas at the lake and how changes to the zoning regulations may affect use of the lake. The appeal to the zoning board was upheld. The case was appealed to the Circuit Court.

Commissioner Gatto announced there will now be increased notification to organizations. The organizations should circulate any such notifications to members so that those who may be interested in making comments on proposed changes to zoning regulations have an opportunity to do so.

### NEW BUSINESS

**Boating Services** – Chairman Myerberg shared the PRB received information that there is a new regulation coming through concerning wake surfing, ballast labeling, and distribution of weight in vessels. Dis shared it was published for proposal back in the summer and there was a public hearing in August. Once the proper time expired after the public hearing it went to the Maryland Register in final form with a few minor changes. It was published in early October and will be final near the beginning of November.

This regulation sets a buffer zone from certain structures in the water – piers, docks, marinas, anchored vessels or individuals in the water – from wakes from boats. The artificial ballast portion says that you have to have a manufacturer’s label affixed to portable ballast tank identifying the maximum capacity or weight in pounds.

Sue Fowler asked if there would be a map published of Deep Creek Lake outlining the boundaries. Carolyn Mathews said Lake Management will publish a map online with this information and would make a concerted effort to notify people at the boat ramps of the changes.

**Resignation** – Barry Weinberg is leaving his position on the POA board and therefore will be replaced on the PRB board. Chairman Myerberg commended and thanked Mr. Weinberg for all his years of work and dedication to the PRB board. Robert (Bob) Hoffmann will be taking the place of Mr. Weinberg on the PRB. Wendell Beitzel also thanked Mr. Weinberg for his service to the board, for being with the group from the beginning and applying his legal knowledge to deliberations and considerations.

Barbara Beelar attended the Association of Watershed and Storm Water Professionals conference in Baltimore. She invited attendees to a webinar at the UM Extension Office from 12 to 2 p.m. on Wednesday, October 24, 2012. She asked for effort to get the Finance and COMAR subcommittees to meet before the next meeting.

**Comments from the public:**

Carl Rebele – Distributed a handout on how you can be healthier by using bicycles more and encouraged support for trail development

Paul Weiler asked Bob Gatto what provisions are in place for emergency workers who need to utilize Glendale Road during its closure in the Spring 2013. Mr. Gatto assured him this matter would be addressed.

Chairman Myerberg shared he will be traveling to Annapolis and Baltimore to meet with those who influence the happenings at Deep Creek Lake, including key people at MDE and DNR. Deputy Secretary Joe Gill will be setting these meetings up. Please send Chairman Myerberg emails and notes letting him know what you want him to address during these meetings.

The next meeting date was set for Monday, January 28, 2013 at 6:00 p.m.

**MOTION:** Bob Browning made a motion to adjourn the meeting at 7:16 p.m. The motion was seconded by George Edwards and approved unanimously.

Respectfully submitted:

Debra Spurrier on behalf of Carolyn Mathews, DCL Manager

Cc: DNR Secretary John Griffin  
MPS Superintendent Nita Settina