

Deep Creek Lake Policy and Review Board
Regular Quarterly Meeting
Monday, July 23, 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, POA representative; Commissioner Bob Gatto, Senator George Edwards and Delegate Wendell Beitzel and their alternates Steve Green and David Moe

Absent: Susan Fowler and Jamie Coyle

DNR Representatives and other Officials: MD Park Service, Carolyn Mathews – Manager Deep Creek Lake Recreation Area; Eric Null – Natural Resource Planner for DCL; Mark Spurrier – Assistant Manager, DCL RA; Maj. Cindy Ecker – Western Regional Manager; NRP – Sgt. Dave Marple; Assistant Attorney General Marianne Dise; Bruce Michael - Director Resource Assessment Service; Commissioner James Raley- Chairman of the Board of County Commissioners

27 members of the public in attendance

MINUTES: Chairman Myerberg called the meeting to order at 6:01 p.m. Minutes from the last meeting, dated April 30, 2012 were circulated to the board members prior to the meeting.

MOTION: April 30, 2012 minutes for approval by Barbara Beelar – Seconded by John Stakem and Approved unanimously.

OLD BUSINESS:

Review of Last 18 Months: Chairman Myerberg presented what has transpired over the last 18 months, including continuing to address water level and sediment issues and hosting Secretary Griffin’s first-ever State of the Lake address. The Chairman thanked the County Commissioners for funding support with sediment studies, the Lake Manager Carolyn Mathews and her team for their long-view approach to lake issues; and congratulated the POA on its role in protecting the lake. He mentioned challenges including the lack of say by the DNR and the PRB in water releases. He would like to see an employee of the Maryland Department of the Environment (MDE) regularly attend and participate in DCL PRB meetings.

Boat length discussion: Karen Myers requested the board revisit a recommendation to be made to the Secretary of DNR that was approved by the PRB in 2006, but never followed up on.

January 23, 2006 PRB minutes reflect a motion was passed to make the following regulation change request to the Secretary: An individual may not have a vessel on the lake over 26 feet in length except for a boat with a molded platform. Such boat may not exceed 27 feet in length.

MOTION: Promptly send this request on to John Griffin, Secretary of DNR in the form of a letter by Barry Weinberg – Seconded by Barbara Beelar and Approved unanimously.

Discussion: The Lake Manager was asked how her staff measures the boat length. Carolyn Mathews replied NRP officers use the boat registration. Assistant Attorney General Marianne Dise read the Coast Guard description of Length Overall (LOA):

“length must be measured from end to end over the deck, excluding sheer” means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel measured parallel to the centerline. Bowsprits, bumpkins and rudders, outboard motor rudders, outboard motor brackets and similar fittings or attachments are not to be included in the measurement. Length must be stated in feet and inches.

Phase II Sediment Study Preliminary Information Presentation – Bruce Michael, Director of DNR Resource Assessment Service

Portions of the sampling are complete. There is approximately 45% more of the study to do including to identify locations for the core samples, continue to collect historical data and in October, collect the cores.

This presentation can be found at

<http://www.dnr.maryland.gov/publiclands/western/deepcreeknrma.asp>

Discussion: Barbara Beelar asked how core sampling will be conducted in October when there may be places you cannot get a boat into at that time. Bruce Michael said there are only 18 cores to be taken and they will be taken by boat or foot.

Submerged Aquatic Vegetation (SAV) in 2012 Preliminary Information Presentation – Bruce Michael, Director of DNR Resource Assessment Service

There is species zonation in all parts of the lake. EWM (Eurasian Water Milfoil) is not observed as a problem at this point in the survey. Resource Assessment Service will make recommendations to the PRB and DCL Management at the end of the season.

This presentation can be found at

<http://www.dnr.maryland.gov/publiclands/western/deepcreeknrma.asp>

Discussion: Barbara Beelar asked if the survey covered Back Bay Cove because it is solid with growth. Bruce Michael said that it was surveyed and his team had no problem with navigation anywhere in the entire lake.

COMMITTEE UPDATES:

Water Level –Barry Weinberg shared the history of what has been done working with the power company trying to get the company to anticipate when the lake level would be low and to run their business in a way to preserve lake usage. That has not happened yet.

In 2010, the PRB wrote to secretaries of DNR and MDE asking that the water appropriation permit be examined. It has a triennial review but is allowed to be reviewed at anytime. The PRB Water Level Subcommittee submitted a report to John Grace of MDE, including over 1500 signatures collected by Save Deep Creek Lake of people concerned about the maintenance of the water level of the lake. MDE began to study the water level elevation in relation to the releases. In 2011, PRB representatives participated in several stakeholders meetings. MDE was analyzing data including, whitewater releases, weather, and temperature enhancement releases for trout. A letter was received from MDE on the day of the April 2011 PRB meeting saying they would not change any releases scheduled under the 2007 water appropriation permit. However, MDE decided that the upper rule band level could be extended through July, a condition was put on the power company to get the wicket gates fixed that are not closing tightly, and water releases for white water recreation and temperature enhancement were to be merged.

Someone asked if the wicket gates had been worked on and Carolyn Mathews replied that Brookfield had an outage in late May to look at and plan for work that would be done this fall. MDE felt that the biggest problem is the warm, dry weather which cannot be controlled. Chairman Myerberg said this June the power company eliminated two releases on at least one weekend (June 29th) because the water level had dropped below the lower rule band. Mathews announced that there is a scheduled 6-hr release for this coming Saturday (July 28) for a special event in Friendsville. She had called John Grace to ask if it was still a go, and he said as long as the water is above the lower rule band they will release.

Revision of COMAR regulations for Deep Creek Lake: Chairman Myerberg said the subcommittee is following up on the suggestion that there is a need for a compiled manual of all the COMAR laws that govern the lake, as well as background material and influences on the current policy. Assistant AG Dise has made contact with several sources to investigate how to get the project started.

Canada Geese: The Canada goose sub-committee of Susan Fowler and Barbara Beelar met recently and Beelar reported that both decided the problem was too complex. The subcommittee recommends getting Clarissa Harris and Carolyn Mathews involved to discuss options.

Culverts and Drainage Into the Lake – College students Heather Fisher and Chris Haesler provided a powerpoint synopsis of their work assessing road culverts that empty into Deep Creek Lake. The work was funded by Friends of Deep Creek Lake which received a grant from

Constellation Energy through its EcoStar program. In six miles of Rt. 219 there are 53 culverts. The State Highway Administration is very interested in the findings of this study.

Discussion: Chairman Myerberg asked if the next steps of this project are funded through the Constellation Energy Grant. Answer was yes. Commissioner Gatto said that some people in the county offices had looked at the report and were engaged in discussions.

Update from County Commissioners - Commissioner Bob Gatto thanked Bruce Michael and Pete Versteegen for their work on the sediment study. He shared that the county commissioners are no longer looking into zoning the rest of the county at this time. There continues to be much discussion on windmills and the recent zoning amendment that now allows boat rentals and boat tours at non-marina establishments is being challenged. The Commissioners have also been dealing with speeding issues on smaller, secondary roads which resulted in the highway department painting fresh white lines on State Park Road. Commissioner Gatto said they continue to work with stakeholder concerns about the water level of the lake and have released the Thayerville water project on bid; and are working to address public access to the lake. Commissioner Railey said they submitted to DNR a proposal for a “cartop launch” site and requested a \$10,000 Waterways Improvement Grant to stabilize the parking area. It would require match money. It would be for an area off of Mayhew Inn Road, on land owned by DNR, that has been looked at in the past. The entire project would cost approximately \$250,000.

Application by the Yacht Club for a change in course location proposed for 2012: Lake Manager Carolyn Mathews said the change was approved and she has had no comments or complaints. DNR is monitoring it. People sailing the course are appreciative of the improved safety that the course change provides.

Application of Lakeside Commercial Properties for 15 commercial slips: Chairman Myerberg said the board reviewed the application for the additional slips at the last PRB meeting for information purposes. The application was in review process in April and not approved by the Lake Manager at that time as the application did not have the sign off of the GC Planning office. Since then, Commissioners passed an amendment to the zoning laws and there is now an appeal against the decision.

Barry Weinberg said the POA Board of Directors had a conference call Thursday evening to discuss the speed at which the decision to change the zoning regulation was made. There is concern as to if the impact to the lake was considered enough in the process. The POA will get together with parties involved to discuss how the future of zoning decisions that relate directly to DCL could be improved with more conversation between the zoning office and the Lake Management office.

Chairman Myerberg explained the board received an email from the Lake Manager laying out just how she approached the application. It was a very good explanation. The special permit was reasonably restrictive. The permit is a public document.

Barbara Beelar said there needs to be a conversation when land use abutts the buffer strip and directly impacts the lake. She feels she was excluded from the decision and stated that she feels the area exceeds carrying capacity for more watercraft.

Chairman Myerberg disagreed, reminding the board that this issue was brought to the boards' attention and was an agenda item brought up by Lake Manager Carolyn Mathews at the April PRB meeting. He asked for comment at that time and no board member offered anything to say.

DC Lake Manager Mathews said this permit is for personal watercraft rental and because there are already restrictions on when people can use them on the lake, would not be considered as an impact on the carrying capacity.

Bob Browning added that the county administrator sends out a letter to adjoining property owners on all zoning issues. There is communication.

Marcellus Shale Presentation – Bruce Michael, Director of DNR Resource Assessment Service

The powerpoint presentation can be found at

<http://www.dnr.state.md.us/publiclands/western/deepcreeknrma.asp>

Discussion:

Q: Are you looking at current wells?

A: We looked at 12 sites that had permit requests with MDE last year.

Q: Have you looked at sites near I-68 where they are using tons of salt in the winter?

A: This was not targeted specifically at that activity. Maryland Biological Stream Survey does gather information at these sites.

Q: Are you going to request the same amount or more money from the legislature this year since there is now a fee on drilling properties?

A: We have gotten a lot of support from Ducks Unlimited to fund this project.

Q: Can you send this board the results of the two live sites you are monitoring?

A: Yes. We will provide that data soon and it will be on a website for the public to view.

NEW BUSINESS

Senator Edwards received correspondence from a permit holder concerning shoreline erosion control walls and a previously submitted application that has been under review for an extremely long period of time and asked the Board to send a letter to MDE to look into the

Rosetta Stone issue and make a decision quickly. He also suggested MDE look at other potential new building materials that would be good for this use. Mathews said the Lake Management office is pushing the regional engineer to move this project forward.

MOTION: Send a letter to MDE asking them to make a decision on Rosetta Stone promptly by Bob Browning – Seconded by Barry Weinberg and Approved unanimously.

Comments from the public:

Phil St. Maritz – Concerned with decision of County Commissioners on the zoning ordinance for Lakeside Properties, LLC. He feels it is too close to other commercial operations and causes traffic and congestion. He believes we do not need mini- marinas all around Deep Creek Lake.

Bob Nichol – Opposed to decision of County Commissions on the zoning ordinance for Lakeside Properties and how it was handled. He asked for clarification on whether a jet ski is a personal watercraft or a recreational vehicle – is it defined differently from the perspective of use on the lake and use of the land? Assistant Attorney General Marianne Dise said the DNR Lake Permit speaks as to the commercial use of the buffer strip.

Carol Jacobs – Feels she was discriminated against when she applied for her permit to rent jet skis. She was only able to have a certain number each year and that number could only be increased the next year, while Lakeside Properties was granted 15 slips immediately. DCL Manager Mathews clarified that at the time Ms. Jacobs applied for her special permit, there was a different formula for allocating slips in order to balance the large number of annual requests. The lake shore is largely developed and new slip requests have been static for several years. Applications are now evaluated based upon the eligibility requirements in COMAR.

Parker Jacobs – In relation to the Lakeside Properties jetski rental enterprise, Mr. Jacobs believes gas is being carried across the buffer strip and asked what the business' future plans are for fueling the machines? Lake Manager Mathews replied that the special permit specifically prohibits gasoline from being carried across the buffer strip and no additional plans or proposals have been submitted to the Lake Management office for consideration to amend the permit.

MOTION: At 8:00 p.m., Chairman Myerberg requested a motion to extend the meeting. Motioned by Bob Browning. Seconded by John Stakem and Approved unanimously.

Richard Matlick – As a property owner in Green Glade, he wanted to let the board know things are getting worse in the cove. He said we need to shift from study to action. In relation to the power plant, he asked if the board could put pressure on the power plant, through public relations, to fix the wicket gates properly. Mathews replied that she understands that any work

they do will begin in late fall – after Autumn Glory. Chairman Myerberg will call John Grace about the gate issue tomorrow.

Shirley Sorensen - Representing North Glade Cove, she is concerned that in-flow is not even close to keeping up with outflow of water in the lake.

Don Rittler – Concerned that the PRB advises the agency that cannot do something about sediment problems and the biggest concerns of the lake. I encourage you to do something at the legislative level.

Bob Hoffman – Discussed inflow and outflow of water into the lake. Average rainfall in Garrett County is 45 inches. Right now we are 8 inches behind. He has tracked 12 white water releases in excess of 3 hours totaling 3.5 extra hours of release. He said MDE permit is a water appropriation permit and MDE offers very little management and no allowance for climatic conditions. We need to get MDE in a management mode.

Morgan France – Believes a scientific model can be made to predict groundwater contribution to lake level and rainfall is predictable when you look at a 15 year period. MDE should be appropriating and DNR regulating with support from the geological survey creating a model to make mathematical predictions on how much water is going in and going out.

David Moe – Asked Bruce Michael about monitoring on present wells. He asked if any results on the Marcellus Shale research have shown things that are harmful to human or animal health. Mr. Michael said nothing unusual has been recorded.

The next meeting date was set for Monday, October 22, 2012 at 6:00 p.m.

MOTION: a motion to adjourn the meeting was made at 8:32 p.m. by Bob Browning –
Seconded by John Stakem and Approved unanimously.

Respectfully submitted:

Debra Spurrier on behalf of Carolyn Mathews, DCL Manager

Cc: DNR Secretary John Griffin
MPS Superintendent Nita Settina