

Deep Creek Lake Policy and Review Board

Quarterly Meeting Minutes

Monday October 28, 2019

In Attendance: Chairman Bob Browning, Robert Kelly, Senator George Edwards, Patty Manown-Mash, Dr. Jim George, Marta Schroyer, Larry Iden, Commissioner Paul Edwards, Delegate Wendell Beitzel DNR: Eric Null, Julie Bortz, Bruce Michael, Emily Vainieri, Sgt. Mike Friend

**Action Agenda**

Mr. Null stated that the Board successfully approved the minutes via email and that the minutes were posted over one month before the October meeting.

**Canada Geese**

Chairman Browning asked Mr. Null for a report on the Canada goose program. Mr. Null stated that the goose hunt will be held on the same days as previous years, the three days prior to Thanksgiving. He stated that he will continue to work with Wildlife and Heritage to expand hunting opportunities for geese on Deep Creek Lake.

**Lake Management Budget**

Chairman Browning asked Mr. Null for a budget update. Mr. Null stated that the final budget for the fiscal year was reported. The NRMA did not receive any Forest and Park general funds but since the State Lakes Fund paid for two hydrilla treatments the Lake Management budget will still have a surplus. Mr. Null stated that the office just upgraded their remote field system at a cost of \$6000. Mr. Kelly and Chairman Browning asked Mr. Null if he could have a brief statement of proposed expenditures for the remainder of the fiscal year. Mr. Null stated that he would have that report for the next meeting.

**Sky Valley Minimum Wake Zone Request**

Mr. Steve Green gave a report on the findings of the committee for the review of the Sky Valley Minimum Wake Zone proposal. Mr. Green stated that a new proposal for the location of the proposed minimum wake zone was drafted by the committee due to public comment and commercial use of the original area. He stated that the new area would allow the passage of commercial and recreational traffic while encompassing the original concept of the petition. Mr. Green requested that the Board grant more time for the committee to gather public comment on the newly proposed area for the minimum wake zone. Chairman Browning asked for a motion to allow the committee to gather public

comment on the new configuration of the Sky Valley Proposal. All were in favor, the motion passed unanimously.

Mr. Null introduced the new proposal for Deep Creek Cove as a minimum wake zone, he asked the Chairman and Board how they would like to proceed with this review. Chairman Browning stated that he had no objection to reviewing the request with the preliminary BAAC criteria, if Deep Creek Cove passed the initial review of the criteria, then the Board would begin the full review after the Sky Valley proposal was decided.

### **Water Quality Monitoring Update**

Chairman Browning asked Mr. Bruce Michael for an update on the water quality monitoring efforts. Mr. Michael stated that they had just finished the second year of zebra mussel monitoring that had been funded by Brookfield and the Watershed Foundation. He stated that they will continue their mainstem and near shore water quality monitoring program in 2020 and also continue hydrilla treatment. Chairman Browning asked if any preliminary results from the shallow water monitoring are available. Mr. Michael stated they have seen impacts in turbidity due to boat traffic on busy periods due to the water level being above the upper rule band for an extended period of time. Mr. Michael stated that USGS issued a report stating the Chesapeake Bay had more inflow this water year (Oct 2018-Sept 2019) than has ever been recorded.

### **Brookfield Water Allocation Permit**

Dr. George stated that MDE and Brookfield were discussing the rewriting of the upper rule band excursion in the permit language. The previous permit allowed for a 21 day excursion of the upper rule band. This year concern was voiced about the high water levels causing more shoreline erosion and property damage. The proposal is to decrease the 21 days to 10 days excursion in the new permit to help with controlling shoreline erosion.

Chairman Browning asked if there was a time set for the completion of the permit. Mr. Michael stated December 2019. Delegate Beitzel asked if they could summarize the temperature enhancement release request. Mr. Michael stated that fisheries have been recording data on temperature since the establishment of the TER protocol. They found that there were temperature excursions above 25 degrees Celsius in September due to warmer weather patterns. Currently the temperature protocol ends August 31<sup>st</sup>, fisheries is asking to extend the protocol to September 15. Delegate Beitzel asked if they were asking for any extension of the spring period, Mr. Michael stated no. Delegate Beitzel stated since Brookfield already discharges large amounts of water in the fall, wouldn't that be acceptable for the TER. Mr. Michael stated that the TER would only be initiated if Brookfield was not discharging.

Chairman Browning stated that there was another proposed change, the TER protocols are currently initiated at river flows below 150cfs. The new request is to initiate TER protocol at 180cfs of river flow. Delegate Beitzel stated that this request could have a large impact by extending TER protocols. He asked if anyone has looked at that impact. Mr. Null stated that VERSAR Inc. had studied the impacts of the

request. Mr. Michael stated that the results of the projections were a very insignificant impact to lake level.

Mr. Michael stated that there was another meeting scheduled for the TER work group to discuss the changes to the TER protocols. He stated that the meeting will be December 4, 2019 at Mt. Airy, MD.

Senator Edwards asked Chairman Browning why the TER meeting was being held in the Hagerstown area. Mr. Michael stated that MDE schedules the meetings. Senator Edwards asked Dr. George why MDE would schedule a Deep Creek Lake meeting far away from Deep Creek Lake, in a place that would be a far drive for the Deep Creek Lake stakeholder to attend. The Senator suggested that Deep Creek Lake Meetings should be held in Garrett County. He stated that when there are meetings concerning the Bay they are not held in Garrett County they are held around the Bay area, so why are Deep Creek meetings not held in the Deep Creek area. Chairman Browning asked if the Board should take a position on this matter. Senator Edwards stated that he thought it would be appropriate for the Board to take a position and inform the Secretary of its position. The Board agreed to send a letter to the MDE Secretary stating that meetings involving Deep Creek Lake issues should be held in the Deep Creek Lake area.

### **Wake Boats**

Chairman Browning asked for a wake boat update. Mr. Null stated that he received no complaints on wake vessels. Mr. Gary Aronhalt informed the Board that the County had been contacted by the University of Maryland looking for a possible capstone project for their master's degree students. He stated that the administrative council discussed the request and decided that the wake boat topic would be beneficial to study. He stated that the university agreed to research other states regulations on wake boats and possible environmental impacts caused by wake boats. The university will compile a report on the research that can be used by Deep Creek Lake as a possible reference for any future wake boat management.

### **County Commissioner Update**

Commissioner Paul Edwards stated that there were two things to report from the County. The first was more informational. The County Commissioners wrote a letter to the Governor requesting one million dollars in general funds for dredging Deep Creek Lake. The other item is the County has been working with DNR to find sediment mitigation projects that can be implemented using the Waterways Improvement Funding that the County has received. Mr. Michael stated that the Department, through Senator Edwards work with the legislature has designated \$250,000 for sediment mitigation. Working with the County it was decided to focus the funding on sediment mitigation efforts in Arrowhead Cove, particularly shoreline erosion control. He stated that a stakeholder meeting was held and the stakeholders and County chose a project for the funds. DNR will aide in the scope of work amendment and the County will hire the contractor to install the revetment. Chairman Browning stated that he attended the meeting and believes that it is the right decision to prevent sediment input, so when dredging occurs there is less likelihood of the area filling back in.

## **DNR Correspondence**

Assistant Attorney General Emily Vainieri reported as a follow up to the previous meeting concerning the Open Meetings Act, she distributed a handout to the Board of an informational presentation that the Board can use to guide them through the Open Meetings Act process. She stated that the goal of the Open Meetings Act is that public business be conducted openly and publicly. She stated that when the Open Meetings Act applies there are three things that are needed; a public body, a quorum, and a meeting. A public body is created by a statute, the statute sets the quorum, and a meeting occurs whenever the public body's quorum convenes to discuss public business. She stated that there three functions that are not subject to the act. Ms. Vainieri distributed a compliance checklist to the Board showing all the responsibilities of a Board under the Open Meetings Act. She also gave an example of a violation of the act, using the Talbot County Council's decision by e-mail on their position on two legislative bills. She stated that the Open Meeting Compliance Board determined that this was a violation since the number of messages sent by the Council over a two day period on the subject, was discussing public business. Ms. Vainieri also supplied the Board with another example of an Open Meetings Act complaint that happened in with the Town Council of Greensboro. The Council and Mayor changed their policy for how the public would testify at a public meeting. The policy change was sent to the Council by the town manager and the Council replied individually to the town manager with their response. The Compliance Board found that this was not a violation of the act since there was not a formal meeting but cautioned the Council about using electronic communication to perform business.

Senator Edwards asked if a Board member is not present but joins the meeting on a call in line, is that member considered present? Ms. Vainieri stated that decision would have to be up to the rules of the public body. If the public body's rules allow the call in then the member can be considered present. Senator Edwards asked if the Board has ever done a call in for a Board member. Chairman Browning stated that the Board has always had a quorum present so it has no rule on member call in. Senator Edwards suggested adding to the bylaws that if a quorum is not present a member may call in to make the quorum.

## **Publicizing Positive News about Deep Creek Lake**

Chairman Browning stated that he has been aggravated with some of the news stories that depict Deep Creek Lake as being degraded. He stated if you attend these meetings you hear DNR report the scientific findings that indicate Deep Creek Lake is healthy and vibrant. He stated the with all the work that DNR is doing on the lake there should be more good news stories about how healthy the lake is and all the good work DNR is doing for the lake. He stated that he is not sure how the Board can counter the bad press but wanted to open discussion on the topic. Mr. Null stated that the Chamber and POA have representatives on the Board that could help with positive media. Mr. Browning stated that possibly the minutes could contain a report card on the good work that is being done. Ms. Schroyer asked if the POA and Chamber representatives give a report at their meetings. Chairman Browning stated that the representatives do give a report of Board business at their meetings.

Mr. Null stated that he would like to thank Ms. Vainieri for attending the meetings; she has helped the Board and Lake Management with some complex issues and is a valuable resource to the lake.

## **Public Comment**

Mr. Logan Marks informed the Board that he has been hired by the Deep Creek Lake Watershed Foundation to produce a video series for the Foundation's website for the purpose of educating the public on important topics at Deep Creek Lake. Mr. Marks also stated that he was concerned about the Sky Valley Minimum Wake Zone proposal because the only individuals that would benefit from the regulation are people that lived in Sky Valley.

Mr. Eric Profetti agreed with Mr. Marks about the Sky Valley Minimum Wake Zone Proposal. He expressed that Deep Creek Lake is a State waterway and should be open to all users and not restricted.

Mr. Bob Sutton stated that the Sky Valley petition had 128 signatures in support of the minimum wake zone. He expressed his concern for the other users of the cove, kayakers, swimmers, and the amount of property damage caused by boat traffic.

Mr. Brian O'Brien stated that he is on the board of the Watershed Foundation and that the foundation is working hard to benefit the lake. He also stated that a minimum wake zone in Sky Valley is a bad idea, because it would set a precedent on the lake.

Mr. Morgan France stated that the TER protocol and proposed extension should be investigated more to determine, with more accuracy the amount of water that is actually lost during the releases. He also suggested eliminating the sediment build up around docks to drop the lake to the lower rule band during winter so spring runoff can flush the sediment to the deeper channels where it will not impact dock use.

Chairman Browning asked for a motion to adjourn the meeting. Ms. Manown-Mask made the motion, Ms. Schroyer second, all were in favor. The meeting was adjourned at 7:25pm

Respectfully Submitted,

Eric Null

Lake Manager

DCL NRMA