

WIXOM LAKE ASSOCIATION

BOARD OF DIRECTORS MEETING

September 12, 2020

The meeting was called to order at 10:02 AM. Due to Covid-19 restrictions, the meeting was held outdoors at the Billings Township Community Park on Lakeshore Drive.

Board members present were: Larry Woodard-President, Rick McGibbon-Vice President, Susi Najmowicz-Secretary and Directors Bob Beltz, Bill Faust, Doug Hill, Jim Lambert, Len Pytlak, Dave Rothman and Don Zakett. Director Gary Oliver was excused and Mark Mudge-Treasurer is hospitalized possibly with Covid-19. There were approximately 25 people in the audience.

Everyone rose for the recitation of the Pledge of Allegiance.

Larry proposed additions to the agenda under New Business regarding a member donation and release of money previously approved for the Billings Twp. Fishing Tournament. A motion was made, seconded and passed to accept the agenda as amended.

The board reviewed the minutes from the July 11, 2020 meeting. A motion was made, seconded and passed to accept the minutes as presented.

Since Mark is currently in the hospital, there was no Treasurer's Report available.

The secretary reported we currently have 674 members for 2020.

Jerry Rhodes, from the Membership/Social Committee, announced a golf outing will be held in 2 weeks. The committee hopes to raise about \$15,000 at the outing. They are also planning to sponsor a corn-hole tournament at the Eagles in October.

Dave then presented the following Four Lakes Task Force Update.

Gaining control of the dams

- Condemnation proceedings underway
- If Boyce does not contest the reasons for taking the dams and lakes by September 15, FLTF will have control of the property
- If Boyce contests, that lawsuit drags on
- Boyce has placed 2 operating LLCs in bankruptcy, but not the LLCs that own property
- FLTF is seeking money from bankruptcy court to pay for flood recovery work Boyce should be doing but is not, including erosion control, debris removal and dam stabilization

Erosion control

- Approximately 400 property owners have reported erosion damage due to the flood
- Some of these properties are at imminent risk of structure damage
- Boyce was ordered by FERC to help, but doing nothing
- FLTF is working with the NRCS to prevent structure damage due to erosion
 - o FLTF collecting erosion reports from all four lakes
 - o FRCS engineers inspecting properties, determining eligibility for grant to pay 75% of erosion control costs
 - o FLTF securing money from State of Michigan to help pay for what NRCS will not

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- Currently submitted 10 projects affecting 140 property owners

Debris removal

- NRCS also helping here
- First project- debris removal at Sanford Dam-\$450,000
 - NRCS pays 75%
 - FLTF pays the rest
- Other projects
 - Debris removal from eligible private property
 - Debris removal from other dams
 - Debris removal from lake bottoms- possible National Guard training exercise

Dam stabilization

- Needed at Edenville
 - Edenville- State considers an emergency- \$9 million, NRCS pays 75%, State of Michigan pays the rest
 - Current plan, partially demolish Tobacco spillways, return Tobacco River to its historic channel
 - Demolish powerhouse and spillways on Tittabawassee side, return Tittabawassee River to its original course
- Needed at Sanford
 - Sanford- stabilize the eroded earth embankment
 - Not an emergency

Weeds and trees in lake bottoms

- Growing since mid-July
- Cottonwoods and willows at 1' – 7'+ tall
 - Nobody expected this
- EGLE has promised to give FLTF direction of dealing with weeds

Rebuilding the dams

- First, FLTF needs control
- Counties, state and Federal support
- Inspect dams, stabilize for winter and spring runoff
- Plan repairs to Secord and Smallwood- target 2023 completion
- Plan rebuilding Edenville and Sanford- target 2025 completion
- USDA is willing to loan FLTF the money at a low interest rate
- Task Force is looking for grants from state and federal sources
- Lake community property owners are the funders of last resort

The following information is the result of questions from the audience:

*If the Tobacco dam is taken down, the river goes back to its historic channel. Wells will go dry.

*Both sides of the spillway washed out. Rocks were put in place to help stabilize, but there are already cracks and another flood could cause another failure and release of water.

*The State of Michigan has 2 dam engineers working for it—Luke Trumbull and Dan Devone.

*There are projects that involve multiple property owners. The FLTF is talking with property owners to try to get all those involved to participate now, while help is available. A lien can be put on the property if the owners refuse to get into the project.

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*The Corp of Engineers cannot justify doing repair work currently. They work on flood control dam projects and we do not have flood control reservoirs in our dam system.

*The 2 & 1/2 million dollars from the senate is not limited to debris clean up. Money is needed for erosion control and stabilization work at the Sanford dam. Secord and Smallwood dams also need stabilization.

*The estimated cost to stabilize the Tobacco dam is 9 million dollars. The state evaluated 4 options and thinks the best one is to partially demolish the spillways.

Don reported that EGLE has regulatory control of both the Edenville and Tobacco dams and have stated they are unsafe. The FLTF had no voice in this decision. The State of Michigan will bear the majority of the cost involved. The state is regulating the safety of Wixom Lake and can make repairs when an emergency exists. There was a dam in Marquette that washed out in 2003. The DNR and DEQ were involved in its restoration. Our situation is different from that one. The original thought was to stabilize the lakebed by seeding a cover crop. What was originally all sand and rocks is now covered by green plant growth and cottonwood (not aspen) trees. Many shallow bays and cuts have a lot of muck. If the trees are allowed to grow unchecked, they could be 30' tall in 3 years. They talked with someone from the lower peninsula familiar with this problem that thought some kind of aerial treatment might be possible. However, problems arise with houses and trees so close to the shoreline. They have also contacted the DNR and aquatic weed companies to see what program they recommend. If the trees are left unchecked, when the water comes back people won't be able to use it. Cottonwoods can be controlled up to 2 years old—we have until next year. They are also concerned with the amount of "dead stuff" allowed to lay on the lake bottom, which would affect the weed control programs. Currently there are no conversations about controlling terrestrial weeds.

Even though Bob Beltz is not involved in the current lawsuits, he knows two law firms that are and spoke to address audience concerns. Boyce has offered \$3 million to anyone involved who signs a release. The lawsuits are looking at (1) liability, (2) damages and (3) collectability. The third is our issue. There are 15 LLCs involved in the dams whose purpose is to hold people harmless and only allow access to the assets—which are worthless. The lawyers have to get through the LLC to the Boyce Trust—which has assets. The people in the trust turned everything over to Mueller who did as he pleased. No one knows where the money went. "Piercing the corporate veil" will get to the people behind the LLC, but it will be a fight to get through it. Though he didn't like the FLTF's earlier focus, he's now found they are working very hard to get money. Liability questions still have to be answered. The FLTF might have responsibility if it regulated water levels—probably not. Townships and the State of Michigan are immune to lawsuits. Two people responsible for Secord and Smallwood were never mentioned. Boyce is stonewalling everything.

Dave talked about the FLTF timeline shown at their meeting regarding rebuilding the dams. Current information shows Secord and Smallwood dams targeted to be rebuilt by 2023 and Edenville and Sanford dams by 2025. The USDA will loan the FLTF \$338 million for the repair and rebuild of the dams. Property owners are the funders of last resort. The Special Assessment District (SAD) is composed of people with lakefront property and people with lake access. Per state law Part 307, the DNR is assessed for their boat launches. Property taxes will change next year. This area has been granted millions of dollars by the State. There won't be any assessment put on taxes this year. They are probably a year away from calculating the actual cost. Any numbers quoted now are rough estimates.

Larry reminded board members of the sympathy card for the family of Carl Malott, who was a board member for many years.

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Greg Heilman, of Jet Filter System, did a brief explanation/demonstration of his company's product. The jet filter is a mechanical product to drain water through a seawall. Our seawalls are now more retaining walls. He had a sample of the product, which is composed of 2 parts—a geo-textile fabric filter inside a metal form. The filter has to be cleaned/changed every 3-5 years depending on the soil behind your seawall. Some seawall contractors in the area will install them, or you can opt to install them yourself. He made himself available to anyone interested after the meeting.

Our Constitution requires a yearly review of our dues. They have always been \$25/year. Any possible change wouldn't take effect until 2022. The Sanford Lake Association charges \$140/year. Since our Treasurer, Mark, was absent a motion was made and seconded to table this discussion. The motion was carried. Anyone having thoughts/suggestions were encouraged to send them via e-mail.

Dick announced the Tobacco Twp. Board will not be collecting money this year for their weed treatment program. Larry, who is a member-at-large of the WLIB, announced the chairman and treasurer are leaving in 2021. Money from 2019 is in the bank while no money will be collected in 2020 and no decision has been made yet regarding 2021. EGLE is preparing guidelines for the lakes that have been drained, hopefully they will be published in several months.

Doug Hill brought the PA system for today's meeting. Ron Sherman donated the other system also being used.

A discussion began regarding sharing our e-mail list with the Social Committee. Currently social committee information can be found on Facebook. Laura has an 8,000-name list of people from all four lakes and another list of e-mail addresses for 614 members. The larger list came from the county and she would have to check for any restrictions governing its use. The social committee would have to follow these guidelines: all newsletters should be approved by the board, the lake association can sponsor events held on public property, any events on private property can only be announced on Facebook, Dick McGibbon will be the board contact, Dick will arrange to work with Mark (later), all activities have to comply with State rules/restrictions and proposed newsletters will be sent to Dick and Larry for approval.

Larry explained we used to donate \$15/meeting for the use of the Billings Twp. hall and also made donations to the Eagles. Since people usually make a donation for using the park facilities, he proposed we consider also making a donation. After a brief discussion, a motion was made, seconded and carried to donate \$50/meeting.

Larry announced Dee Batista held a Pampered Chef party on Facebook and has donated the \$149 profit to the WLA. Larry also reviewed our prior proposal to donate to the Billings Twp. Fishing Tournament—which wasn't held and won't be for a while. He proposed we donate that money instead to the township park project. A motion was made, seconded and approved to donate those funds to the park.

During Public Comments the following points were discussed:

*All cost estimates regarding rebuilding the dams are without hydroelectric power production capability. The dams previously grossed about \$2 million annually. You would have to look at the cost for a hydro rebuild and dealing with all the federal regulations involved. Midland and Gladwin Counties will own the dams—not the FLTF.

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*Gladwin County had the drain commissioner thrown out of office. The FLTF is a “department” of Midland and Gladwin Counties. Gladwin County doesn’t have money in the their budget to fund what the FLTF can’t.

*In the past, hydroelectric power was profitable—not so much now. FLTF met with Consumer Powers years ago and more recently with other power companies regarding their purchasing the dams—no one was interested.

*These dams were built in the 1920’s. Other dams Consumer Powers own are “solid core”. The area on the Tittabawassee would have to be rebuilt to “solid core” standards.

*The Midland County Treasurer’s office oversees the FLTF financial transactions/decisions.

*Financial quotes being put out assume we are bearing the brunt of the costs and don’t include grants, etc. Politically connected people in Midland are working tirelessly on securing grants.

Doug Hill, who worked for 36 years at Consumer Energy, reiterated it’s hard to make money in hydroelectric production with these lakes.

Larry thanked Laura Hackett—our WLA webmaster. He reminded people to check our website for the latest information regarding our next meeting on October 10th.

A motion was made, seconded and approved to adjourn.

The meeting ended at 12:21 PM.