

**Town of Nokomis**  
**Special Meeting**  
**Monday, July 9, 2018**  
**3:00 p.m.**  
**Nokomis Town Hall**  
**2541 Lake Nokomis Road**

Board Members Present: John Bowman –

Bette Stillman – Supervisor

Brian Schmidt – Supervisor

WDNR Representatives: Keith Petrick (Field Supervisor) and James Yach

Complainant Present: Dave Mercier. In addition, Mark Mercier was patched in via phone.

Citizens Present: 16 members of the Swamp Lake Lake Association, including President Steve (Fuzzy) Moran

(I did not copy the sign-in sheet – so I’m going by memory (hopefully))

1. Meeting was called to order;
2. Pledge of Allegiance;
3. Motion to approve agenda; 2<sup>nd</sup> by Bette
4. John Bowman advised there are 2 issues at stake here:
  1. The water level of Swamp Lake
  2. The dam issue at Swamp Lake

Complainant, Dave Mercier presented pictures taken in 2016 depicting water in his boathouse. He advised that he hired REI Engineering to check the lake level and was told that the dam’s top stop board is above the permitted level of 94.6. He wants the top board removed and the lake level back to its original permitted level.

5. WDNR Rep “Petrick” advised that the dam water level was set in 1963 and should be 94.6. The current water level exceeds 94.6. WDNR located 2 benchmarks. The present stop log is about 5” – 6” above where the original permit calls for it to be.

The Town of Nokomis is the operator and holder of the license for the dam on Swamp Lake. Records from the ‘70s and ‘80s the water level was in the 94ish range. Would need 100% of the lake landowners to agree to keep the current water level. If no agreement can be made; then the Town of Nokomis would be the one to make the decision to file Prospective Rights (you may want to check with John B. as I’m not sure if this is the exact term WDNR used) and hire an

attorney. The DNR would no longer be involved. Petrick advised that the stop log is higher than the original permit. The WDNR had granted a 30 day extension or until July 21<sup>st</sup> and James Yach advised he would only grant another extension if the Township seeks to pursue a plan of action.

1. Get 100% of land owners to agree to change the level; or
2. Town of Nokomis to file for Prospective Rights; or
3. Remove the top stop log and level goes back to original permit of 94.6.

Dave Welbus, Swamp Lake land owner, advised that he was present in 1964 and that lake levels were set to what they thought was a good level for excess rains. Swamp Lake has had heavy rains the last 5 years. He has records showing the lake level and where it has been for the past 5 years and also that the lake has been at the current level for at least 28 years. The Town of Nokomis owns the dam; however, the land owners back in 1964 paid for the dam.

Fuzzy Moran, Dave Welbus and many other Swamp Lake landowners are concerned that if the lake is lowered, that there very well may be fish kill come wintertime, as the current oxygen level at the bottom is below the acceptable level for fish to survive in the winter if the ice pushes them down further than they currently are.

John Bowman has been trying to find the original bench mark. The brass cap benchmark has settled a few inches over the years. The present stop log is about 5" -6" above where the original permit calls for it to be.

John Bowman and Bette Stillman never knew about or saw the dam until this year. The Board has 30 days to either go to the original lake elevation or change the permit to a different elevation. Need to find the original benchmark. When the dam was built by private contractors, they did not get any rights to get access to the dam. It is private land on both sides of the dam. There is no "right-of-way" or public access to get to the dam. Town of Nokomis has no rights to the land that the dam is on. The brass cap was established around 1964; has a very specific elevation on it and indicates that the stop log is 5" to 6" too high. The Board has to make the decision to drop the elevation of the lake 5 ½" or do we try to get a permit for a higher elevation?

Swamp Lake drains into Swamp Creek and Swamp Creek drains into Prairie Rapids.

Keith Petrick stated that Swamp Lake is a Zone A Flood Plain.

WDNR recommended that the top stop log be taken out. If the Town does not agree with that then the Town would have to go to court to get a permit, which would involve hiring an attorney. Bette Stillman advised that she would not want to spend money on an attorney as the Town did not have the money. 100% of all property owners would have to be on board to get the level changed without legal action.

John Bowman suggests getting aerial photos that can show the elevation of the stop log; which takes time to accomplish.

Adverse Possession affects private property; not public property.

Fuzzy Moran advised that the dam currently needs repair ASAP: when it was built, clay core was not put in the dam; silt was used.

1. Water is seeping out of the bottom of the stop logs; thereby, the lake is losing water. New Boards need to be place ASAP.
2. WDNR advised that Jennifer Jefferson of the WDNR needs to be out when the dam is being repaired. Keith Petrick advised there are grants on the DNR website to possibly help with costs to repair the dam. Jennifer can also tell if there is possibly a liner to put on the stop logs.
3. Could possibly take 3" off the top stop log.
4. WDNR may possibly consider an additional extension if there is an ecological problem.

Bette Stillman asked if there is a middle ground level that all parties can agree on? Dave Mercier (brother to Mark Mercier – original complainant); advised that he will go back to his family and see if there is somewhat of a compromise that can be made. Bette suggested perhaps 3" removed, not the 5" -6".

John Bowman will inspect the dam in the next few days and get back to the board and see what the costs associated are with repairing the dam. He will contact Jennifer Jefferson to have her take a look at it also. Depending on what he finds, if there is a defect in the dam, from there, he will call a special board meeting to see where we from here. He will check on the costs to study aerial photos to see the lake levels.

John Bowman thanked the WDNR reps Petrick and Yach for attending.

MEETING ADJOURNED AT 4:45 P.M.

Minutes recorded and prepared by Helen Marchbank  
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