

LAKE COUNTY PLANNING BOARD
October 13, 2010
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Janet Camel, Sigurd Jensen, Steve Rosso (7:05)

STAFF PRESENT: Joel Nelson, Tiffany Lyden, LaDana Hintz, Lita Fonda

OTHERS PRESENT: Mike Wilson, Christi Buffington, John Snyder (7:25)

Bob Kormann called the meeting to order at 7:02 pm.

Motion by Janet Camel, and seconded by Sigurd Jensen, to approve the Sept. 8, 2010 meeting minutes. Motion carried, two in favor (Janet Camel, Sigurd Jensen) and 1 abstention (Bob Kormann).

Minutes of Sept. 15, 2010 were deferred for a time when Board members who were in attendance on 9/15 would be available to comment and vote on those.

LAKESHORE REGULATIONS UPDATE

This meeting covered marinas.

Tiffany Lyden presented the proposed section on marinas. (See attachments to minutes in the Oct 13, 2010 meeting file for the draft section.) She highlighted changes and rearrangements. She reminded that Lake County's jurisdiction in this would be those marinas outside of the reservation. She drew a diagram to illustrate the 100' side setback from riparian boundaries and 25' travel lanes between dock structures. She showed a wing dock, and pointed out the recommendation to increase the required length to 25', since boats are bigger now. There was no standard width for a boat. It would be limited by the standards of dock length. She mentioned there were a lot of creative configurations. A maximum amount of coverage over the water would exist, which would be standard for what was done for all docks. The current standard was you could cover 8 square feet per frontage foot. She asked what people thought of one boat ramp at a marina or common use dock may be constructed, per boat ramp standards, provided that the ramp area would include signage or a wash station to address the introduction of aquatic invasive species. She also suggested the ability to have a sewage pump-out station, provided it was in compliance with other regulations. Tribal and Flathead County regulations both had that language. Waterlines had come up as a potential concern where people wanted to wash boats in the water. She put something in the regulations where water connections would not be allowed on the actual docks, but a wash station area could be allowed up on the land as long as the water didn't drain directly into the lake. Soap in the water should be avoided. No lake-related rental services or retail sales would be allowed on site. That would be allowed in commercial marinas. She added that if a marina did have a boat ramp, none of the parking facilities would be located inside the lakeshore protection zone.

Tiffany clarified the no lake-related rental services or retail sales at Bob's request. This was in the current regulations. She thought boat or jet ski rentals would be considered in the

commercial category rather than private. For commercial, a larger frontage was required, which would provide a little more buffer.

Steve had questions on the reality of a property owner ability to design to meet the regulation. He suggested allowing docks with certain designs, where the boats were on the inside of the dock area so there was no boat activity in that zone between the dock and the riparian boundary, to have a lesser setback from the riparian areas to the sides. The group discussed that the frontage might be the limiting factor for properties with small frontages, and as the frontage increased, density might be the limiting factor for properties with larger frontages. Tiffany explained that the density was the same as before, and was based on frontage, as in 2.f. She had run a number of scenarios. With 250' of frontage, there would only be 50' left over for docks, and that would be the limiting factor. With an increase in frontage, for example with 500' of frontage, you would be allowed 25 boats based on frontage but you could probably fit 32 boats. At one point you're limited by frontage, and at another, you're limited by the density and being able to meet the standard.

Janet said the Tribes were concerned about density, and the effect of motors and noise on the lake. Her understanding of the Tribal shoreline regulations was they wouldn't look at a common use dock unless you had that 250' minimum of frontage. That was for a private or homeowners group. For a commercial common use dock, they wouldn't look at it until you got to 300' of frontage. She thought it was an initial criteria that you had to meet before they'd even permit. With the environmental concerns, she wasn't in favor of relaxing the criteria.

Tiffany thought the balance point between the allowable density and what you could fit was around 325' of frontage for the private marina standards, where what you were allowed and what you could fit were both around 16. For public ones, the number was more like 425'. Steve noted riparian boundaries run perpendicular to the shoreline, so those could be pie-shaped.

John Snyder mentioned he was on a board whose schedule has conflicted with previous meetings. He agreed with the concept of making the rules more the same between the 3 jurisdictions. He commented on boat slip length of 20' being difficult. Tiffany explained the 25' length discussed in previous meetings and given in 2.e. Bob asked where bigger/better stopped. John S touched on items discussed in other months. He felt people wanted living space on the water. In Flathead County, with an 8'-wide dock limitation, he said they told him a pontoon boat was the way to do that. Steve thought a marina operator had some responsibility to make sure the boat lengths worked with the travel lane. Customers would complain. In Somers, there were 3 docks with wings. The docks were differently spaced to allow sections that could accommodate longer boats in one area and shorter in another.

Bob asked if jet skis were classified as boats, and if these were put at docks. John S thought maybe 15% of people put something at their dock for a jet ski. Tiffany asked Bob as a jet ski user if those should be counted as boats. Bob thought they should. John S asked if the shore port was counted as dock square footage or a boat slip. Tiffany referred to the dock standards. It wouldn't apply to marinas. She counted these. In some places people were redoing docks and they were stuck because they had existing shore stations. They were over because of that. Jim Westerman at the Tribe had told her they look at total coverage over the water—ie what you

would see looking down from above. That would be the easiest. There would be people that are over. That standard was yet to come.

Bob asked about private, public, public commercial and common use docks as terminology. If private marinas and common use docks were the same thing, could one terminology be used? Two names seemed confusing. He would refer to his dock structure as a common use dock. Janet suggested private marina/common use dock. Tiffany noted this could be handled with clear definitions. Christi thought both terms should be kept, as with private marina/common use dock. Otherwise people would ask why the common use docks were under the marina section instead of the dock section.

The discussion moved on to commercial/public marinas. Tiffany noted that a higher density and a higher coverage over the water and land were allowed. Over land was 10 square feet per frontage foot and over water this was 12 square feet over the water. She reported a comment from Sue Laverty that since only removable docks were allowed on Lake Mary Ronan and Swan Lake to at least make reference in the marina section, that a marina on either of those lakes would have to also be a floating dock. Tiffany knew of one on Swan Lake.

Bob returned to the discussion to 2.1. He thought 'personal items' was ambiguous. Tiffany suggested: 'Except for the rental of water craft, any other rental services or retail sales need to be outside the lakeshore protection zone.'

Bob asked about boats filling gas tanks. Tiffany referred to the Utilities section. Not much was said about fuel lines in the current regulations, but she thought they should. Flathead County standards don't allow gas lines on docks unless it's a public/commercial marina. That should be referenced in the marina section if it were to be allowed. Steve asked about situations where a 500-gallon gas storage container was outside the lakeshore protection zone but had 100' of hose that they dragged out to the dock. Tiffany said that was okay. Her sense was that you didn't want to see fueling stations on individual docks. If it had some real limited [inaudible] for commercial kinds of things that might be okay. Bob pointed out that 3.1 didn't allow for boat fuel, oil or lubricants. Steve asked if the store selling an item was outside the lakeshore protection zone, but the item was kept in the lakeshore protection zone, how did that work as far as the regulations. Was the sale inside or outside the lakeshore protection zone? He thought someone pulling a gas hose out to a boat to fill it up would spill a lot less gas than someone taking 5 gallon cans out to the boat.

Tiffany read information from Flathead County regulations pertaining to fuel. Specifics could be worked out in the utility section, but if there was a potential to allow the sale of fuel, we wouldn't want to prohibit it by the wording here in 3.1. Christi thought the utilities section could be noted and referenced in the marina section. Bob thought 3.1 was still problematic. Mike thought the intent of 3.1 was to limit development within the lakeshore protection zone. It was already kind of limited by the impervious surface and the construction standards. Bob asked if he could take big commercial barbequer out there and start cooking hamburgers and deep frying French fries. Christi noted that products themselves, such as fuel, oil and lubricants were pollutants, as were sunscreen and other products. She thought the intent was not to develop impervious surfaces, and to try to get pollutants out of the lakeshore buffer. Steve pointed to

building maintenance and activities could also wash pollutants into the lake. Having the structure off the dock was important for many reasons. He thought there must have been a reference somewhere else once that no retail sales were allowed, except for water related. Janet suggested saying 'Except for the rental of water craft, retail sales shall be located outside the lakeshore protection zone.' Steve thought the rental function could be located outside the lakeshore protection zone, but having the rental boats themselves floating in the water would be okay. John S thought it would clarify to specifically address where the rental boats could be, given differences in interpretation that come up.

Christi asked for clarification on the comparison table for the marinas on the second page where it mentioned lake-related rental services and retail sales. Were they or were they not allowed? Tiffany thought the strange language has been the same for Lake County. Christi noted the Tribal version said these shall not be over water. Tiffany added that Missoula's regulations said not in the Lakeshore Protection Zone. The group returned to 'Except for the rental of water craft, retail sales and services shall not be allowed in the lakeshore protection zone.' Wash stations would be covered by adding 'services'. Christi added something was needed about items such as the fuel, oil and lubricants, but that might be a separate section. Steve asked about charter boats. Mike said the charter people usually do all their business on the boat.

Tiffany noted the Tribe had all marinas and common use docks go through a major variance, including an environmental analysis. Steve favored grouping the regulations into approved uses, conditional uses and unpermitted [prohibited] uses. Janet asked if this would cause the regulations to be structured quite differently than Flathead County or the Tribes. Part of the goal was to make it easier for people to find out what the regulations were across the board. Maybe if it made it clearer the others would follow suit. She didn't know. Steve thought public review for higher impact projects would be good.

Regarding water connections in 2.i, for boats people were on overnight, Steve asked if they would want RV hookups for water or power to the boats. John S said he'd never had a request for water hookups on the docks he's built. He had received electrical requests. People talked about wanting a place to dump sewage, and the common practice from what he's heard was that they dump it in the lake. It would be nice if something could be done so if you had a fuel station, you had to take sewage. Steve thought it was reasonable to require a commercial facility over a certain size had to have a sewage transfer station.

Steve asked about the impervious constructed surface located over the land in the commercial marina section, which was 10 square feet per foot. There was only 20 square feet per foot available, so this was half of the surface. He asked if this had been an issue. Tiffany said this might come into play where there was a sidewalk along the marina. Mike asked if you wanted to automatically give them that much more, or if they have to go through a variance request anyway, it could be determined if they got more than the standard residential standard. Steve gave some alternatives that might help mitigate, such as the square footage covered by the part that was 10' from the lake.

Mike asked if grandfathering was forever, or if a 25 year or 20 year limit could be put on it, so as it wore out and had to be rebuilt, it could be brought up to the newer standards rather than the

grandfathered ones. Tiffany said that it was grandfathered until it needed to be repaired to replacing over half of the size or value. If just a few repairs were being done, that was okay. Mike knew people who got around that, by repairing a portion at a time. He would like to see a time limit set on that. Tiffany thought there might be other alternatives to think about. Perhaps over time, it could be cumulative and added up, or within 5 years only so much could be done.

The group returned to discussion of impervious surface amounts over land and over water. Tiffany wanted to change the definition to 'constructed surfaces' over the water. 'Impervious' really clouded things. It referred to how much of the public water space under you was taken up. Christi noted 'constructed' might become a problem later with pervious pavement. Tiffany asked the group if they wanted to keep the allowable coverage where it was or make it more conservative. Mike said it would be higher use because it was commercial. You wouldn't want to automatically give them more pavement where there's an increased use. If they had to go through the variance process and requested more, then you could have them show they were doing more to mitigate it. Tiffany mentioned that they hadn't settled yet on requiring a variance for a new marina. It wasn't in right now. This could be added.

Steve asked if the regulations said it was okay to have half of the buffer paved, did it matter which half. Christi said it was difficult to demonstrate how much buffer was needed for water quality. There was benefit in having buffer adjacent to the shoreline. There's a connectivity too. In there, there's no connectivity between aquatic species and land species and then there's no buffer. There's grass. Anything that infiltrates in the soil is going into the lake, in addition to the runoff running across the surface. If there were deeply rooted and more complex rooted vegetation, and also some variety, that could trap some pollutants. The greatest thing that it did, too, is that it attenuated the water and lets the water come up more gradually over time. We might have a localized water quality improvement, such as less algal bloom. To require a buffer adjacent to the lake, and have some percentage of the constructed coverage away from the water-land interface would be recommended.

Steve was willing to let them have 10 square feet for every foot, as long as it was reasonably and clearly stated that it wasn't the 10 square feet next to the water. If it was directly adjacent to the water then maybe they could only have something like 5. Tiffany said she could work up some language about that, if the committee would like. Board members nodded. Janet suggested reducing the amount of constructed surface over the water to be the same as the Tribe's, at 8 square feet instead of 12. John S said that 12 was so high that other constraints came in first. He wasn't clear on what the square footage really meant. Tiffany gave an example. If you had 250 feet of frontage, that would give you 2000 square feet of coverage over the water, but what she could fit in the example was 720 feet of coverage. If she went up to 500 feet of frontage, 4000 was allowed but only 2800 would fit. In all the scenarios, she came out under what was allowed. John S agreed. It was a nonconstraining constraint. He'd never run into the limit. Mike and Tiffany noted that on Flathead Lake you do run into it. Steve said by having some of these rules, the design of the dock could be directed. For example, where a paved walk was not allowed on the edge of the water to connect the different dock wings, but enough square footage was allowed to allow connection over the water, like a sidewalk over the water, maybe that was okay. LaDana asked if this would turn it into more of a deck area, where more activity would begin happening out there.

Tiffany was concerned with problems that may be encountered if the number was dropped from 12 to 8. She knew of problems that were encountered with 8 for the single use docks, and a marina would have more coverage. She suggested dropping to 10. It wouldn't meet either the Tribe or Flathead County. Janet suggested checking with Jim Westerman about what he's run into, and Tiffany agreed. Janet asked if it could be changed to 8, pending discussion with Jim if no problems were found. Tiffany concurred.

For 2.g, Christi recommended looking into the recommendations of the AIS (Aquatic Invasive Species) work group for wash stations. She thought the wash stations were not recommended over the water. She thought having them in the ramp area in 2.g would lead to things washing into the lake, and Tiffany agreed. Christi thought signage should be mandatory. Tiffany suggested forgetting the wash station and have signage. Christi didn't envision private marinas having wash stations, but she hoped public/commercial marinas would offer that service. John S spoke about the Swan Lakers annual meeting. A biologist there explained they'd found 20 times or 100 times the amount allowed by the EPA of some petroleum derivative by the public beach in Whitefish. People would pull boats out, unscrew the drain and the drainage would pick up some fuel oil stuff. It ran down the boat ramp into the lake. They were trying to get a mini-treatment thing put in. Pollutants on boat ramps might be something to address in the future. Tiffany referred to discussion at an earlier meeting about severing that connection, so you don't have a straight shot from impervious surfaces. Christi said Northern Idaho had some examples where this had been done.

Mike said to mandate signage, there would need to be standards for the signage, as far as size, what it needed to say and so forth. Janet said there was a sign on the Tribe's boat ramp in Polson. She confirmed with Christi that the Lakers had done all the signs. Mike suggested Fish, Wildlife and Park might be another group to ask about what the sign should say. Christi suggested using vague language referring to applicable federal, state, tribal and local regulations, so if the regulations change elsewhere, it's still captured in the sign. She also suggested saying 'standard signage' so the lakeshore regulations would continue to hold as regulations elsewhere changed.

Regarding shoreside sewage facilities or transfer stations, Christi asked what those would be called. Tiffany read the Flathead County definition of a sewage pump-out facility. She would like to incorporate something about commercial marinas over a certain size requiring that.

Christi referred to 2.h on pg. 2 [editors note: section 2 had two subsection h's] and referred back to the earlier discussion regarding marinas and jet skis and also the boat washing. Boat washing was a retail issue. Would we allow that? Tiffany said boat washing would be allowed outside the lakeshore protection zone. Christi noted 2.h referred to the site. Did this need to be clarified or changed? With a private marina could jet skis be rented? Steve thought they shouldn't be. He thought if they had a boat wash facility near the boat ramp or common use dock, that it wouldn't be [inaudible]. The homeowners association would provide it for the private use. He didn't think there should be retail under the private/common use dock section. Christi described that the tricky thing was that one model to figure out what to do about AIS and to prevent AIS was to allow retail and to allow people to make money off of washing boats, and to go to private

marinas and people with personal docks and to have people follow rules. She thought we needed to allow for that, what other states are finding successful.

Steve asked what other retail uses like that might occur at a private marina, such as pump-out stations. The sewage would have to be pumped out. Someone would charge to come and pump out the tank. Would someone who had a wash station in the back of a pickup truck be allowed to operate? Christi thought the language would prevent both of those.

Bob spoke on the private marina/common use docks. One boat ramp was okay, which was consistent with the other agencies. Boat ramps were a bad deal. Did it make more sense for controlling invasive species to have one at the public areas where the boats were taken in and out, and this was where you did that. At his common use dock, there was no ramp. You took your boat to town to take it in (typically in the spring) or out (typically in the fall). If an out-of-town relative brought a boat, he'd just put it in at the common use dock if there were a ramp there otherwise. Christi noted Noxon Reservoir and milfoil. Bob thought it would be better to have no common boat ramps.

Janet voiced concern with heavy use at certain times of the year, where the parking lots are totally full. Would we be able to accommodate the demand? If boat ramps at common use docks were limited, would we create a problem at the public/commercial marinas? Is the capacity there? Bob highlighted the problem of the lake being taken over by an invasive species. Janet pointed to Memorial Day weekend and Labor Day weekend. She heard it had been an issue. She didn't want to see more ramps created. Maybe it could be a conditional use, and include a look at the number of homeowners were part of the common use dock. Bob said if someone charged \$5 to put a boat in, in Polson, but he could put his boat in for free at Steve's, the boat hadn't been checked or washed, but he'd probably go to Steve's. Steve thought the other argument they'd get it that a 20-lot subdivision might have 8 or 10 boat slips. The boat owners might keep their boat on a trailer, and put the boat in for the weekend.

Tiffany recalled from the boat ramp discussion that if a private boat ramp was proposed within 2 miles of a public boat ramp it wouldn't be allowed. Bob asked in a Shelter Bay example if Steve thought subdivision lots would not be sold if there wasn't a boat ramp. Steve didn't know. If they weren't allowed to have the boat ramp, he thought those property owners who kept their boats on trailers would be disappointed. He wasn't saying that justified the boat ramp. Bob said he went fishing over in Plains. There was a pull-off station with anyone going with a boat anywhere past that station to stop. They inspect it and give you the literature. Christi thought a good reason to have a conditional use for this entire section would be to educate people about AIS and encourage them not to have a boat ramp. Bob mentioned that his experience with boat people was that when they were on the way to boat, they didn't want to stop to do anything. They just wanted to get the boat in the water.

Tiffany explained that they didn't need to hammer out everything at these work session. Maybe she could look into the conditional use idea for boat ramps, and maybe they could come up with something to put some steps in there.

Christi referred to 3.e in the marina standards, and 'need'. She thought it might be clearer if it was a conditional use. What did 'need' mean, and how did one deal with that? Steve said there were restrictions based on the area in which they were allowed to put the dock. The clear passageways were the best way [inaudible]. Tiffany suggested adding minimum travel lanes of 25'. Steve thought a designer might want bigger wings but choose smaller due to space limitations. Sigurd thought earlier a 25' minimum was specified for marinas. John S suggested there be proportion between the wing and the travel lane, so 25' wings need 25' space between and 35' wings would need 35' space. Mike thought the designer could figure that out. Steve agreed. John S saw people trying to squeeze the maximum in. Christi returned to 2.e and that it seemed vague to her. Janet suggested that this be determined according to the frontage and travel lanes. More discussion ensued on wing docks and travel lanes and frontage. Tiffany offered to think about this as something like a conditional use that required some level of review, and this other could be left out. John S thought it should be left out. Christi said to keep the travel lanes. John S agreed that would be appropriate.

Christi referred to 3.i, which had a similar problem as discussed with 2.g with the boat ramp and wash station. Tiffany said she would make the same changes to the public/commercial marinas as were made with the private marinas.

Tiffany confirmed for Bob that lighting was addressed in a different section. Mike asked if under fuel, there were strict federal and/or state regulations that dealt with spill kits and containment systems etcetera. Tiffany could not recall. With Hidden Harbor marina, they did look at double containment, double walls. They had some sort of emergency spill kit. She showed where the pump-out station was and where the facility was located. Mike said if it was covered at federal or state level, then there was no need to say it again. Tiffany thought if not, it could be addressed when other utilities were addressed. Fuel lines and fuel dispensing systems would be addressed more in there.

John S asked if Lake County planned to limit private docks to an 8' width, as was done in Flathead County. Tiffany recapped from a previous month that something to allow for the corners, which she illustrated, was included in the discussion. Activity on a pontoon boat would probably be more contained than it would be on a dock. She thought it would be okay to do what the Tribe and Flathead County do, and go with 8' to avoid having decks over the water. John S drew an L-shaped deck. He drew the area he represented as taken from the community by an L-shaped dock. He felt a 12' dock allowed for both people to sit on the water and for kids to play. He hadn't seen people cook out there, or do harm to the lake, and he thought it was safer. He would rather see the maximum square footage per frontage foot change than have a dock width limit.

John S said Swan Lake was narrow. He was concerned about 50' docks on Swan Lake. He hoped something would be set up where the maximum would not automatically be given. He was concerned about what was left for traffic.

Bob agreed with the 10' versus the 8'. On the common use dock he used, people tended to get jammed up. Janet asked if there was a wave action issue or more potential for damage to occur with a wider dock. She thought it might be why the Tribes have a maximum width. That would

be another question for Jim. Tiffany said in researching across the country, a lot of places limit dock width to 6' and 8'. It's easy to limit decks over the water by keeping the maximum width at 8'. Steve asked if people could be allowed to design a dock based on total square footage restrictions, and have a rule limiting the activities that could take place, rather than hoping the design will restrict these activities. Tiffany noted some people had the frontage to build a 20' wide concourse; would that be okay? Janet said if there's ice in the winter, the end of the dock could break off and get into the lake. Were there issues with ice when there were big ice storms? John S thought there were not. John S referred to regulations to pulling out docks. He recommended a float that was solid and met certain puncture and break-resistance characteristics. Janet thought she recalled hearing about some winters on Flathead Lake where they lost a lot of dock. John S was more familiar with Swan Lake, where the docks were pulled up. He said docks went down the river when they weren't tied up, not because they weren't pulled out. He said owners made that decision based on economics. Tiffany reviewed what had been discussed at a prior meeting for the removal of docks from Swan Lake in the winter.

Christi mentioned the skaters and skiers on Swan Lake in the winter. She also reviewed the section on decks. The policy part [inaudible] extended human activities into the lakeshore protection zone and concentrated such activity and provided access to the lakeshore. For example, she had seen people with umbrellas on their decks, and on their docks. She'd seen people run out to their dock [inaudible] to get their umbrella, which already 5 times blown into the water over the course of the summer. The umbrella could have injured someone, and it affected the neighbors. Mike thought this was trying to visualize the visual impact. An 8' dock might be the same square footage as a square dock of the same size, but it had a lot less visual impact on the shoreline. If you had very many of those it would really disrupt the look of the natural shoreline, compared to a lot of 8' docks sticking out. John S disagreed, and gave examples from the docks he built in Flathead County. Mike pointed out that there was more impact on the shoreline from the wider docks. Instead of 8' against the shoreline, you would have a larger length against the shoreline, which was a lot more of a visual impact. With the 8' length, even though it comes out in an L, you still have the natural shoreline. The discussion continued. Christi pointed out the way the dock corners were handled in the previous discussion added to the 8' width previously discussed, and those corners were for safety and [inaudible]. Janet agreed that the corners helped meet that need.

Bob consulted the Board about whether or not to continue onto the Riprap section. The group decision was to continue at the next meeting. Tiffany asked for suggestions on how to make the meetings go more efficiently, and whether the Board would like people invited as additional resource. Janet suggested inviting Jim Westerman.

OTHER BUSINESS

None.

Motion made by Steve Rosso, and seconded by Sigurd Jensen, to adjourn. Motion carried, all in favor. Meeting adjourned at 9:26 pm.