



Meeting Minutes

Meeting date: Wednesday, October 21st, 2015

The fourth 2015 meeting of the Polk County Association of Lakes and Rivers (PCALR) was held Wednesday, October 21st, 2015 at 7pm at the Polk County Justice Center in Balsam Lake.

Attending

Wayne Wolsey, Bone Lake; Rod Preble, Balsam Lake; Gordon Kill, Big Round Lake; Ray Sloss, Balsam Lake; Mary Pardee, UW-Extension; Larry Bresina, Pipe Lakes; Jim Peterson, Loveless Lake; Jackie Crosby, Loveless Lake; Jim Maxwell, Big Blake Lake; Karen Engelbretson, Bone Lake; Katelin Holm, Polk County LWRD; Mark Edlund, St. Croix Watershed Research Station

Welcome and Introductions

Approval of August Minutes

Treasurer Report

The balance was \$1,600 at the beginning of 2015 and \$2,376 on October 21st.

Membership Report

The 2015 membership year began on May 1st. Twenty-five members are needed to maintain the status of a Qualified Lake Association and the ability to apply for Wisconsin DNR grants. Currently the organization has 32 members (12 individual members and 20 lake organizational members). Thanks you to everyone who is a member!

To renew online visit: <http://pcalr.org/join-pcalr/> or download a membership form at: <https://gallery.mailchimp.com/3f5302496138f82f3ffe31976/files/PCALRBrochure.pdf>

Website Update

There are no new website updates to report at this time.

Old Business

Qualified Lake Association Application

PCALR received a letter from Jane Malischke, WDNR, notifying us that our bylaws meet the statute requirements necessary for the association to become a “Qualified Lake Association.” As such, the association is eligible for funding through the WDNR Surface Water Grant Program.

Senate Bill 307 in Response to Act 55

Senate Bill 307 is a legal effort to rescind Act 55 resulting from an effort spearheaded by John Richter with the Plum Lake Association. The Association raised over \$50,000 and hired a lawyer and lobbyist to pursue their goals. The bill was introduced last Thursday and will be voted on in the October session. Karen will ask John for talking points regarding the new Senate Bill.

Dick gave an update on the Citizen Advisory Committee for the rewrite of the land use ordinances, which he served on as a representative of PCALR. The County Board adopted the Land Use Ordinance at the September meeting and approved a resolution to oppose Act 55.

The Senate Bill, along with a press release on the topic and information from John Richter can be found following the minutes.

Pollinator Resolution

The Pollinator Resolution mentioned at the August meeting was passed around to the membership. The Big, Round, and Church Pine Lake District signed onto this resolution when they implemented their Healthy Lakes Project. If interested in more specific information on this resolution, contact Mike Reiter with the Big, Round, and Church Pine Lake District. A copy of the resolution can be found in the August meeting minutes.

New Business

Zebra Mussels in Forest Lake

Minnesota recently put out a press release regarding the established zebra mussel population in Forest Lake. Since the population is well established no treatment is planned.

Polk County AIS Strategic Plan

The Polk County AIS Strategic Plan that many members assisted with has been approved by the Polk County Board and WDNR. Thanks to everyone who helped with the planning process!

WDNR Grant Deadlines

The WDNR Lake Management Planning Grants, Lake Protection Grants (Lake Classification and Ordinance Development Program), Aquatic Invasive Species Grants (Education, Prevention, and Planning Program and Clean Boats, Clean Water Program), and River Protection Grants are due December 10th, 2015. Remaining Lake Protection Grant programs, Aquatic Invasive Species Grant programs, and River Protection Grant Programs are due February 1st, 2016.

Lake Maps with AIS Messaging

Big Round Lake is ready to reprint lake maps with AIS messaging for their lake. If you are ready for a reprint, please let Karen know. The more maps that are printed, the cheaper the per map printing cost becomes. If you are interested in having a map designed for your lake, at a cost of \$250, please let Karen know.

Printing + shipping costs for 2014 were: 200 maps: \$283; 500 maps: \$470.50; and 2000 maps: \$1413

Special Presentation: Dr. Mark Edlund, Senior Scientist at the St. Croix Watershed Research Station

Mark's presentation focused on algae and covered four main topics: what are algae, when they are good, when they are bad, and how his research can help us understand and manage our lakes.

Algae are a non-natural group (like bugs) that are found everywhere. Most are native to Wisconsin and there is an incredible amount of species diversity in this group. Common major groups of algae include: blue-greens, greens, stoneworts, and diatoms. Algae are important as primary producers in aquatic food webs, have potential as biofuel sources, and account for 50% of global primary production. To put this into perspective, you can thank algae for producing every other breathe of oxygen you take.

Algae affect water clarity and can cause problems when too many nutrients are available in the water column and light and temperature conditions are favorable. Nuisance algae blooms can be defined as visible growth/blooms or accumulations that impact recreation, enjoyment, and property values.

A recent study found that users are willing to travel 56 minutes farther for every 1 meter increase in water clarity, which amounts to about \$22 in travel costs. Another study done on Tainter Lake and Lake Menomin indicated that improved water clarity could result in an increase of \$36.6 million annually to the local economy. Part of the increase is attributed to the fact that 3,000 students from UW-Stout might stay for the summer with improved water clarity.

Nuisance blooms of blue-green algae (cyanobacteria) can produce toxins. Typically blooms occur in shallow mesotrophic and eutrophic lakes in summer/fall. Blue-green algae can control their buoyancy (move through the water column), fix nitrogen from the air, and are unpalatable to zooplankton. All these factors make blue-green algae a successful competitor. There are many types of blue-green algae, some of which produce toxins and some of which produce blooms. Some types produce toxins even without the visible presence of a bloom.

One factor that puts lakes at increased risk for algae blooms is the presence of curly-leaf pondweed, which dies off mid-summer and releases phosphorus into the water column. Additionally, when the plant decays it sinks to the bottom of the lake and can cause the bottom waters to become anoxic (no oxygen) and in turn cause lake bottom sediment to release phosphorus into the water column. Other lake characteristics that increase risks include mid depth lakes (30-35 feet) that set up an early thermocline and become anoxic in the summer (and release phosphorus into the water column with the loss of their thermocline).

There are also types of algae that do not produce toxins but that form accumulations that float on the surface of the water or are suspended within the water column. Another group of algae, the

diatoms, are capable of producing golden brown accumulations of algae that can be free-floating or attached to rocks. One type of diatom, didymo (or rock snot) can be especially problematic and has invaded waters on the global scale.

Another new invasive algae that Mark mentioned was starry stonewort. This species has been found in Wisconsin, Minnesota, and Michigan. The invasive algae produces small bulbils which can spread starry stonewort to new locations. *The Polk County Land and Water Resources Department has a preserved vial of the bulbils and copies of the new WDNR Watch Card.*

Six major factors are causing changes to our waterbodies: development, eutrophication, climate, land use, exotics, and recreation. Fresh waters are often phosphorus limited and the input of nutrients can promote algae growth and change the species composition of algae to favor nuisance species.

One way to plan for the future and learn from the past is through the collection of sediment cores. Mark and his lab have collected sediment cores in partnership with the Land and Water Resources Department and Lake Districts on numerous Polk County Lakes including: Horse Lake, Lotus Lake, Big Blake Lake, Bone Lake, Cedar Lake, and North Pipe Lake. Lake sediments are environmental archives that can be used to establish baseline water/habitat quality information at specific dates in time 10's to 1,000's of years ago. Sediment cores can be used to identify the timing and magnitude of environmental changes in a lake.

A video of the core that was pulled on North Pipe Lake can be found on the PCALR website: <http://pcalr.org/library/> under Lake Science, Paleolimnology-Sediment Core Collection Video or at: <https://www.youtube.com/watch?v=tK2lbD-3fa4&feature=youtu.be>

2016 Meeting Schedule

All meetings start at 7pm at the Polk County Justice Center in Balsam Lake.

April 20th: *Audit, budget, and input on programming and goals for 2016*

June 15th: *Annual Meeting*

August 17th

October 19th

Adjourn

Minutes respectively submitted by
Katelin Holm, Secretary
Polk County Association of Lakes and Rivers
October 2015



2015 SENATE BILL 307

October 9, 2015 – Introduced by Senators BEWLEY, MILLER, VINEHOUT, LASSA, RISSER, RINGHAND, ERPENBACH, WIRCH and C. LARSON, cosponsored by Representatives HEBL, MEYERS, MILROY, C. TAYLOR, SHANKLAND, SUBECK, HESSELBEIN, RIEMER, SINICKI, MASON, SARGENT, SPREITZER, POPE, CONSIDINE, GOYKE, OHNSTAD, ZAMARRIPA, BERCEAU, STUCK, KOLSTE and KAHL. Referred to Committee on Natural Resources and Energy.

1 **AN ACT to repeal** 59.692 (1) (e), 59.692 (1d), 59.692 (1f), 59.692 (1k) and 59.692
2 (5m); **to renumber** 59.692 (1c); **to amend** 59.692 (1) (bn), 59.692 (4) (b), 61.353
3 (3) (intro.) and 62.233 (3) (intro.); **to repeal and recreate** 59.692 (2m) and
4 281.31 (2m); and **to create** 59.692 (1t), 61.353 (3) (cm), 61.353 (3) (dm), 62.233
5 (3) (cm) and 62.233 (3) (dm) of the statutes; **relating to:** standards and
6 ordinances regulating shoreland zoning.

Analysis by the Legislative Reference Bureau

This bill eliminates the changes to the laws regulating shoreland zoning that were made under the 2015–17 biennial budget act, 2015 Wisconsin Act 55 (Act 55).

Current law requires a county to enact shoreland zoning ordinances for all shorelands in its unincorporated area and requires those ordinances to meet shoreland zoning standards established by the Department of Natural Resources (DNR) by rule. Current law generally defines a shoreland to be an area within a specified distance from the edge of a navigable water.

Act 55 made various changes to the laws regulating shoreland zoning including the following:

1. Prohibiting a county shoreland zoning ordinance from regulating a matter more restrictively than the matter is regulated by a shoreland zoning standard promulgated by DNR.

SENATE BILL 307

2. Prohibiting a shoreland zoning ordinance from requiring a person to establish a vegetative buffer zone on previously developed land or expand an existing buffer zone.

3. Requiring a shoreland zoning ordinance to allow a vegetative buffer zone to contain a viewing corridor of at least 35 feet wide for every 100 feet of shoreline frontage and to allow the corridor to run contiguously for the entire maximum allowable width.

4. Prohibiting DNR from establishing shoreland zoning standards and prohibiting counties from enacting shoreland zoning ordinances that regulate certain outdoor lighting, that regulate certain construction activities with respect to nonconforming structures, and that impose certain standards for impervious surfaces.

5. Allowing certain maintenance and repair of nonconforming structures in shorelands that are accessory structures such as garages, sheds, sidewalks, and patios.

6. Generally requiring city and village shoreland zoning ordinances that apply to certain shorelands that were annexed or incorporated by the city or village to be consistent with the requirements and limitations applicable to county shoreland zoning ordinances.

7. Prohibits DNR from appealing a decision of a county to grant or deny a variance to a law regulating county shoreland zoning.

This bill eliminates the changes to the law made by Act 55 so that the law is consistent with pre-Act 55 law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.692 (1) (bn) of the statutes, as affected by 2015 Wisconsin Act
2 55, is amended to read:

3 59.692 (1) (bn) “Shoreland setback area” means an area in a shoreland that is
4 within a certain distance of the ordinary high-water mark in which the construction
5 or placement of buildings or structures has been limited or prohibited under an
6 ordinance enacted under this section.

7 **SECTION 2.** 59.692 (1) (e) of the statutes, as created by 2015 Wisconsin Act 55,
8 is repealed.

SENATE BILL 307

1 **SECTION 3.** 59.692 (1c) of the statutes, as affected by 2015 Wisconsin Act 55, is
2 renumbered 59.692 (1m).

3 **SECTION 4.** 59.692 (1d) of the statutes, as created by 2015 Wisconsin Act 55, is
4 repealed.

5 **SECTION 5.** 59.692 (1f) of the statutes, as created by 2015 Wisconsin Act 55, is
6 repealed.

7 **SECTION 6.** 59.692 (1k) of the statutes, as created by 2015 Wisconsin Act 55, is
8 repealed.

9 **SECTION 7.** 59.692 (1t) of the statutes is created to read:

10 59.692 (1t) (a) Restrictions that are applicable to damaged or destroyed
11 nonconforming structures and that are contained in an ordinance enacted under this
12 section may not prohibit the restoration of a nonconforming structure if the structure
13 will be restored to the size, subject to par. (b), location and use that it had
14 immediately before the damage or destruction occurred or impose any limits on the
15 costs of the repair, reconstruction or improvement if all of the following apply:

16 1. The nonconforming structure was damaged or destroyed after October 14,
17 1997.

18 2. The damage or destruction was caused by violent wind, vandalism, fire,
19 flood, ice, snow, mold, or infestation.

20 (b) An ordinance enacted under this section to which par. (a) applies shall allow
21 for the size of a structure to be larger than the size it was immediately before the
22 damage or destruction if necessary for the structure to comply with applicable state
23 or federal requirements.

24 **SECTION 8.** 59.692 (2m) of the statutes, as affected by 2015 Wisconsin Act 55,
25 is repealed and recreated to read:

SENATE BILL 307**SECTION 8**

1 59.692 (2m) (a) In this subsection:

2 1. "Development regulations" means the part of a shoreland zoning ordinance
3 enacted under this section that applies to elements including setback, height, lot
4 coverage, and side yard.

5 2. "Nonconforming structure" means a dwelling or other building that existed
6 lawfully before the current zoning ordinance was enacted or amended, but that does
7 not conform with one or more of the development regulations in the current
8 shoreland zoning ordinance.

9 (b) A county may not enact, and a county, city, or village may not enforce, a
10 provision in a county shoreland zoning ordinance that does any of the following:

11 1. Regulates the location, maintenance, expansion, replacement, repair, or
12 relocation of a nonconforming structure if that provision is more restrictive than the
13 shoreland zoning standards for nonconforming structures promulgated by the
14 department under this section.

15 2. Regulates the construction of a structure or building on a substandard lot
16 if that provision is more restrictive than the shoreland zoning standards for
17 substandard lots promulgated by the department under this section.

18 **SECTION 9.** 59.692 (4) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

20 59.692 (4) (b) Variances and appeals regarding shorelands within a county are
21 for the board of adjustment for that county under s. 59.694, and the procedures of
22 that section apply. ~~Notwithstanding s. 59.694 (4), the department may not appeal~~
23 ~~a decision of the county to grant or deny a variance under this section but may, upon~~
24 ~~the request of a county board of adjustment, issue an opinion on whether a variance~~
25 ~~should be granted or denied.~~

SENATE BILL 307

1 **SECTION 10.** 59.692 (5m) of the statutes, as created by 2015 Wisconsin Act 55,
2 is repealed.

3 **SECTION 11.** 61.353 (3) (intro.) of the statutes, as affected by 2015 Wisconsin
4 Act 55, is amended to read:

5 61.353 (3) (intro.) A village ordinance enacted under this section shall accord
6 and be consistent with the requirements and limitations under s. 59.692 (1d), (1f),
7 and (1k) and shall include at least all of the following provisions:

8 **SECTION 12.** 61.353 (3) (cm) of the statutes is created to read:

9 61.353 (3) (cm) 1. A provision requiring a person who owns shoreland property
10 that contains vegetation to maintain that vegetation in a vegetative buffer zone
11 along the entire shoreline of the property and extending 35 feet inland from the
12 ordinary high-water mark of the navigable water, except as provided in subd. 2.

13 2. If the vegetation in a vegetative buffer zone contains invasive species or dead
14 or diseased vegetation, the owner of the shoreland property may remove the
15 vegetation, except that if the owner removes all of the vegetation in the vegetative
16 buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

17 **SECTION 13.** 61.353 (3) (dm) of the statutes is created to read:

18 61.353 (3) (dm) A provision allowing a person who is required to maintain or
19 establish a vegetative buffer zone under par. (cm) to remove all of the vegetation in
20 a part of that zone in order to establish a viewing or access corridor that is no greater
21 than 30 feet wide for every 100 feet of shoreline frontage and that extends no more
22 than 35 feet inland from the ordinary high-water mark.

23 **SECTION 14.** 62.233 (3) (intro.) of the statutes, as affected by 2015 Wisconsin
24 Act 55, is amended to read:

SENATE BILL 307**SECTION 14**

1 62.233 (3) (intro.) A city ordinance enacted under this section shall ~~accord and~~
2 ~~be consistent with the requirements and limitations under s. 59.692 (1d), (1f), and~~
3 ~~(1k) and shall~~ include at least all of the following provisions:

4 **SECTION 15.** 62.233 (3) (cm) of the statutes is created to read:

5 62.233 (3) (cm) 1. A provision requiring a person who owns shoreland property
6 that contains vegetation to maintain that vegetation in a vegetative buffer zone
7 along the entire shoreline of the property and extending 35 feet inland from the
8 ordinary high-water mark of the navigable water, except as provided in subd. 2.

9 2. If the vegetation in a vegetative buffer zone contains invasive species or dead
10 or diseased vegetation, the owner of the shoreland property may remove the
11 vegetation, except that if the owner removes all of the vegetation in the vegetative
12 buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

13 **SECTION 16.** 62.233 (3) (dm) of the statutes is created to read:

14 62.233 (3) (dm) A provision allowing a person who is required to maintain or
15 establish a vegetative buffer zone under par. (cm) to remove all of the vegetation in
16 a part of that zone in order to establish a viewing or access corridor that is no greater
17 than 30 feet wide for every 100 feet of shoreline frontage and that extends no more
18 than 35 feet inland from the ordinary high-water mark.

19 **SECTION 17.** 281.31 (2m) of the statutes, as affected by 2015 Wisconsin Act 55,
20 is repealed and recreated to read:

21 281.31 (2m) Notwithstanding any other provision of law or administrative
22 rule, a shoreland zoning ordinance required under s. 59.692, a construction site
23 erosion control and storm water management zoning ordinance authorized under s.
24 59.693, 60.627, 61.354 or 62.234 or a wetland zoning ordinance required under s.



PRESS RELEASES

Sen. Bewley: Weekly Democratic radio address: "Restore local control"
10/15/2015

Contact: Sen. Janet Bewley (D-Delta) 608-266-3510

MADISON – Senator Janet Bewley (D-Delta) offered the Democratic weekly radio address today. In her radio message, Sen. Bewley urged legislative leaders to take up Senate Bill 307, which would restore important local control policies that were repealed in the 2015-17 state budget.

"As the elected representative of one of the most sparsely populated areas of the state, I find myself saying 'one size does not fit all.' It's time to go back, restore previous law and local control, and allow interested stakeholders to have input in our shoreland zoning standards." - Sen. Bewley

The audio file of this week's address can be found here:

<http://media2.legis.wisconsin.gov/multimedia/Sen24/senbewleyradio10.22.15.mp3>

A written transcript of the address is below:

"Hi, I'm State Senator Janet Bewley with this week's Democratic radio address. Today I want to talk about pre-empting local control and threats to our waterways. Late in the budget process, without any opportunity for public input, one of my Republican colleagues was able to add a provision that takes away local control over shoreland development. Over 30 counties across the state, from Ashland and Barron in Northwestern Wisconsin to Crawford and Dodge in the South and over to Marinette and Sheboygan in Northeast, all would all see their carefully crafted shoreland zoning ordinances pre-empted by state law minimums.

"First and foremost, these types of changes have no place inserted into the state budget at the last minute. The public deserves the chance to evaluate and make suggestions on any proposal that pre-empts local control. People that elected us should be able to trust us to seek their input, not sneak changes into the state budget with no opportunity for public input.

"And just as important is the fact that these changes take us in the wrong direction. Preventing local communities from setting zoning standards that are appropriate for their circumstances will negatively affect not just waterways. It will result in threats to property values, recreation opportunities and economic development. As the elected representative of one of the most sparsely populated areas of the state, I find myself saying 'one size does not fit all.' It's time to go back, restore previous law and local control, and allow interested stakeholders to have input in our shoreland zoning standards."

October 9, 2015

To: All Wisconsin Lake Associations

From: John Richter

In mid-August, Plum Lake Association began a legal and legislative effort to restore local authority over shoreland development. We hired two professionals to lead this effort and gave them two charges: First, to find a way to prevent shoreland from being subdivided into small parcels, a key feature of shoreland regulation. Second, to develop legislation to restore as much local authority over shoreland zoning as politically possible. It is important to note, these two tracts are closely related. We hired an experienced lake lawyer, Bill O'Connor and an experienced lobbyist, Mary Panzer to pursue these goals.

We are very pleased with the preliminary results of our team's work.

On the legal side, Bill and his colleague Attorney Jessica Shrestha undertook research and legal analysis. They found some areas in the State Budget Bill (Act 55) that open the door to continued county shoreland regulation in key areas. First, they concluded that Act 55 did not affect the broad authority of counties and towns to regulate lot size under a different state law (Ch. 236). Their work in this area was presented and discussed with DNR and the Wisconsin Counties Association in meetings and in writing. We were very pleased to have a constructive working dialogue with DNR and to find a strong working partner in the WCA. An October 1st Guidance Memo issued to counties by Wisconsin DNR recognized that significant county authority continued following Act 55. Perhaps more importantly, the Wisconsin Counties Association reached the same conclusion as our attorneys and today issued guidance to all Wisconsin counties concluding that counties may enforce existing land division ordinances setting minimum lot width, area and size requirements or enact new ordinances to accomplish this objective. The Counties Association and our legal team also concurred that counties can temporarily prohibit land division for a period of time by enacting a moratorium while they consider adoption or amendment of land division regulations. We were also pleased that DNR's Guidance Memo recognizes that Act 55 retains county authority to set more restrictive shoreland standards in areas not regulated by NR-115.05.

While this effort proceeds, we are also doing research and gathering support for follow-up legislation led by our lobbyist, Mary Panzer. Initial support has been strong and a draft bill is expected soon. Through our efforts and from contacts

by Mary, we are discovering a deep interest and commitment for protection of local control of our lakes across the state. They indicate the depth of bipartisan support for this effort.

We will be working to refine this legislation and build support through lobbying efforts over the next weeks with the goal of getting it to the Legislature during the Fall Session. While that is happening, we will also begin to expand the governance of this organization, "The Wisconsin Shoreland Initiative." We will be reporting on both of these efforts in the upcoming weeks.

You have been part of an historic effort – a lake association that sought out its sibling associations to join together to defend their lakes. We have all demonstrated that we are, indeed, the last line of defense for our lakes. In a few short weeks, we found each other, organized, raised over \$50,000 and mounted a commendable effort.

The future for "The Wisconsin Shoreland Initiative" now demands that we band together in defense of these efforts -- so that our lake associations can go back to what we are chartered to do-- taking care of our lakes. It is now a new day for our lake associations and I hope you will join us in this new effort. I deeply appreciate your patience and trust as we continue to work through a difficult assignment in an unsettled political environment. We are very pleased with the results and hopeful for the future. We are very grateful for our partnership with you. We could not have done this without your support.

For Plum Lake Association and "The Wisconsin Shoreland Initiative"

John Richter