

Geneva Lake Guardian



GENEVA LAKE ASSOCIATION

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Fall 2010

The Association is dedicated to Conservation, Ecological Preservation and Education, and the General Welfare of the Geneva Lake Area.

QUARTERLY NEWSLETTER OF GENEVA LAKE ASSOCIATION, INC. • PROTECTING GENEVA LAKE SINCE 1935

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SHORELAND ZONING

This topic is of major importance to the Geneva Lake area. Between now and early 2012, Walworth County will amend its current shoreland zoning ordinance to address revised state standards. Madison Attorney Bill O'Connor recently briefed GLA members on the new state rules and some of the key issues facing Geneva Lake communities. The County Board of could adopt a narrow ordinance amendment that meets the bare minimum of new state requirements, or it could choose to pursue a broader agenda to increase shoreland protection in the future.

Presently Wisconsin law grants local governments, such as the City of Lake Geneva and Villages of Fontana and Williams Bay, the authority to enact and enforce zoning ordinances, along with specific authority to enact zoning regulations on shoreland located close to lakes and streams. Because Walworth County has a "general zoning ordinance" the Town of Linn does not have independent zoning authority.

Some of the significant issues advocates might want to consider as County officials set the course for future shoreland protection are:

1. Will the County conduct public hearings and informational meetings to gather comments before it begins to develop language for the shoreland zoning amendments? Or will the County wait to involve the public until its staff has already drafted an amendment for consideration by the zoning committee and County Board?
2. Presently, the County's shoreland zoning ordinance does not affect shorelands within lakeshore cities and villages. Will the County work with other local governments of Geneva Lake to establish coordinated shoreland development standards?
3. Beginning this year, all county zoning decisions must be consistent with an adopted comprehensive plan under the "Smart Growth" law. How will the amended shoreland ordinance address this requirement?
4. Revised NR 115 permits counties to authorize greater development rights in some cases, if the property owner agrees to implement a mitigation plan. Will the county use their variance or conditional use procedures as a template for review and approval of such plans? Will the county provide notice to affected neighbors and lake organizations, e.g. Geneva Lake Association, when mitigations plans are being proposed? Will the county provide a process for interested parties to review these plans before they are approved? Will the Land Use and Resource Management Committee (or

another county group) conduct a public hearing on the mitigation plan? What standards will be used will be used to determine whether proposed mitigation measures are "adequate to offset the impacts of the permitted" development etc. as required under the revised code. The revised state code requires that mitigation plans establish enforceable obligations of the current and future property owners to follow. How will these obligations be established? As "conservation easements" or "deed restrictions"? What will be recorded in the office of the Register of Deeds to evidence these obligations? Who will have legal authority to enforce mitigations plans? How will these enforcement rights be established?

Other issues that would involve development density are:

1. Will the County authorize the vertical expansion of legal nonconforming structures within the shore setback area? Or retain its general policy of prohibiting the expansion of legal nonconforming structures?
2. Will the County incorporate a consistent regulatory system for piers and similar riparian structures as part of its amended Shoreland Zoning Ordinance?
3. Revised NR 115 distinguishes between "repair" and "replacement" of legal nonconforming structures. Will the County distinguish extensive reconstruction of a building from its replacement? What standards will be used?
4. Does the County consider a 15% limit on impervious surfaces within 300 feet of The Ordinary High Water Mark, adequate to protect water quality and habitat (the OHWM is "... the location on the shore where the presence and action of surface water is... continuous..." See NR 115.03(6)). Or should impervious surfaces be limited to 10%, or a different level? Will the County permit property owners to exceed the impervious surface and allow greater development density under a mitigation plan? How will the county evaluate the adequacy of a mitigation plan to offset the impacts of greater impervious surface coverage? What County staff or committee will evaluate mitigation plans for impervious surface exceedance? What opportunities will be provided for public review and comment of proposed mitigation plans?
5. Will the revised ordinance change County standards for development of substandard lots? How will it address condominium



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CONTINUED ON PAGE 3

ANNUAL MEETING

Shoreland zoning was among the topics covered at the well attended July 31st meeting that was held at the Lake Geneva Country Club as the Geneva Lake Association celebrated its 75th anniversary.

Senator Neal Kedzie began with a cogent overview of new shoreline regulations, introducing specifications and possible ramifications of Bill NR 115 and its impact on shoreland issues as they relate to unincorporated or incorporate areas.

Tom Cashman moderated a panel of representatives from surrounding Geneva Lake municipalities.

- Ms. Nancy Welch, Walworth County Zoning Code Enforcement Officer, spoke of staff limitations for zoning enforcement within Walworth County, and also discussed issues specific to Linn Township.
- Ms. Mary Roth, member of the Williams Bay Zoning and Ordinance Committee, emphasized the effort Williams Bay is focusing on coordinating its policies with state and county guidelines.
- The Village of Fontana was represented by Planning Committee member, Ms. Micki O'Connell.
- City of Lake Geneva Administrator, Dennis Jordan participated in the discussion.

Panel members answered questions posed by attendees, and it appeared many aspects of NR115 are continuing to be debated. Attendees were assured that any and all issues are still subject to public hearings.

Another aspect of shoreland zoning that was addressed, especially during the question and answer portion of the meeting, was pier size requirements and registration concerns. In the summer of 2008, new legislation concerning the placement of piers on Wisconsin waterways updated existing regulations by establishing size requirements for piers to be exempt from Wisconsin DNR permitting. The 2008 legislation expanded the configuration options for piers to be exempt by the DNR, provided greater flexibility in the number of boat slips allowed for commercial and multifamily properties, and created a registrations system to grandfather piers placed before 2004 that no longer meet today's standards.

Most piers that are not exempt are eligible to be grandfathered through a onetime free registration process. To be eligible for registration piers must:

- Have been placed before February 6, 2004;

- Have a main stem that is a maximum 8-feet wide;
- Have a loading platform at the end of the pier that is a maximum of 200 square feet, or a maximum of 300 square feet if it's 10-feet wide or less;
- Not interfere with the rights of other riparian owners.

A DNR study showed that approximately 10% of all existing piers that are not exempt already meet the grandfather registration requirements, so most waterfront owners that do not have exempt piers will need to register.

Senator Kedzie, in response to a question related to registration of piers, suggested that registering piers may be prudent because it would offer protection to pier owners in the future. Current configuration and size of an approved, registered pier would be recorded and not subject to a violation citation after the 2012 deadline.

Other topics included:

Water Safety Patrol Director Ted Pankau, along with Bridgid Cashman and Robert Flannery, gave an overview of Geneva Lake safety issues. Due to the record breaking volume of boat traffic in 2010 the Patrol has decided to increase programs designed to address the 'on the water' education that is part of the Patrol's mission. Ms. Cashman emphasized the critical need for raising awareness of boaters, especially in view of State of Wisconsin new water craft driver regulations. An informational pamphlet is being prepared for all boat owners.

2010 Scholarship recipients were introduced. The Thomas E. Reynolds, Sr. scholars are Sarah Mack, Kelly Speare and James Oldeschulte. The Environmental Education Foundation awards were granted to Luke Lilla and Chris Pitassi. Joshua Moyer, Zachary Behrens, Grace Gillingham, Nick Dixon, Thomas Ferrini and Aleah Haworth received the Charlotte Peterson Scholarship. Ashley Hoef and Andrea Schneider received the Willard L. Gross Scholarship.

GLA friends had a warm welcome for Betty & Russ Hovde who served this organization for so many years. They live in Madison, WI now, so everyone appreciated and enjoyed their visit.

Copies of past Geneva Lake Guardian newsletters along with membership forms were available to attendees. An announcement was made reminding people that membership in the GLA is not limited to lakefront homeowners, and everyone interested in the GLA's mission is encouraged to join.

UPDATE ON PAINT CHIP POLLUTION

The spring edition of this newsletter included an article calling attention to the problem of pollution of Geneva Lake caused by paint chips and debris from residents' power washing and sanding piers before their annual painting. Concerned citizens have long requested that area agencies and municipalities investigate the situation and do whatever is necessary to prevent this pollution as soon as possible. The paint chips and debris obviously have had a negative impact on fish and wildlife habitat for the many years this practice has existed on Geneva Lake. While the paint currently in use may not contain lead, it is composed of many chemicals and presents a deterrent to residents and visitors enjoying water recreational activities.

With limited resources and no existing legal precedent to provide officials the authority to issue citations to prohibit these practices, there has been no action taken by any governmental body. The U. S. Environmental Protection Agency has no policy directly related to pier scraping, although there is a long-standing directive preventing power washing or sanding of boats on or near waterways. Methods such as nets must be used to catch debris while working on boats of any type, even if the paint does not contain lead. Unfortunately, piers are not specifically included in the directive, so this paint chip pollution cannot be prevented by current regulation.

Finally, after discussion at a Linn Township meeting, a draft of a proposal was prepared by the Town of Linn to be included in the Joint Uniform Lake Law Ordinance under Section V. Littering or Polluting which currently reads as follows:

- (a) No person shall deposit, place or throw any cans, bottles, debris, refuse, garbage, solid or liquid waste, sewage or effluent into the waters of the lake or upon the ice when formed or cause or permit same to be done by any agent or employee.

The words **paint chips** are added to the proposed ordinance revision. The proposed ordinance goes on to restrict the commercial or residential use of power washing equipment to remove paint chips from piers, docks, wharves, or platforms **while the same remain in the waters of Geneva Lake**. An important distinction exists here, which is: **such power washing is allowed on shore, as long as such chips are properly contained to avoid their being swept or blown into the lake**.

The ordinance also contains restrictions on power equipment being used to paint structures **while they remain in the waters of the lake**, and allows only latex or non-toxic water-based paint or stain to be used to paint said structures, and steps and **structures within 100 feet of the lakeshore, and prohibits dumping water used to clean brushes into the lake**.

The hope is that this ordinance is quickly passed and adopted by all governmental bodies around the lake. No one is denying property owners the right to paint their piers—painting on shore with appropriate protection, or in the water with proper equipment, is expected as long as the lake is protected. All recipients are asked to kindly contact their local Lake Geneva governmental bodies to urge passage of ordinances such as this for the entire Geneva Lake.

MEMBERSHIP FORM

All persons interested in the conservation, preservation, environmental education and general welfare in the Geneva Lake Region are invited to become members. The contributions requested from members are as follows:

Regular Membership - Annual Contribution \$30.00

Sustaining Membership - All Members who so elect, Annual Contribution \$50.00

Contributing Membership - All Members who so elect, Annual Contribution \$100.00

Donor Membership - All Members who so elect, Annual Contribution \$150.00

Benefactor Membership - All Members who so elect, Annual Contribution \$250.00 or more

Commercial Membership - Annual Contribution \$60.00

APPLICATION FOR MEMBERSHIP OR RENEWAL

(Please Print)

Name _____

Home Address _____

_____ Phone _____

Summer Address _____

Pier # _____ Phone _____

Business or Profession _____

Business Address _____

_____ Phone _____

Send Mail to: _____

- Regular Sustaining Contributing
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All Contributions Are Tax Deductible

Send Membership form to: GENEVA LAKE ASSOCIATION, INC. P.O. Box 412, Lake Geneva, WI 53147

NEW MEMBERS

Since our last newsletter, we have the following new members in the Association:

RESIDENTIAL

John Gallagher Williams Bay Muni

The Lindens Association

William B. Duncan

Patrick Byrnes Williams Bay Muni

Dan & Sandra Barker

Tom Sullivan

Colin Taheny

Leonard Bonnevier

William Hodge

Cheryl & Jim Warmley

Laurie & Bill Buss Harvard Club

John and Susan Presutti

Steve Buehler

Tricia Forbeck

Tom & Linda Scoville Harvard Club

Julie Ann Sullivan

Michelle Markowicz

Greg & Melissa Glyman Harvard Club

Tom & Helen Daly

Jim & Shelly D'Allesandro

Jeff & Susan Noll

R. Bradford & Charity A. Huss

Don & Marilee Holst

Herschel Herrendorf

Geneva Lake Museum

Richard & Patricia Daukus

COMMERCIAL

Sammy's on the Square Walworth

DME Access Kenosha

Welcome!

We intend to list all new members of the GLA in the newsletter. Membership automatically includes listing in the annual Directory issued in June each year. We also welcome back some long-time members who have brought their membership up-to-date. As a reminder, member who are current with their dues receive the directory. We can no longer send the directory to all recipients of the newsletter. Directories are supplied to local municipalities, law enforcement, fire and rescue organizations. Membership is open to all who share the GLA's mission.

The membership form includes a request to designate the address to which the directory is to be mailed. If the address does not include a Post Office Box number, and the resident has no mail receptacle, the directory is returned to the Lake Geneva post office at the expense of the GLA. Another aspect to consider is that the directory is issued in early June, so some members who spend "cooler" weather away from the Geneva Lake area may be in transit to the lake area, resulting in the directory being returned to us as above as undeliverable. Several dozen directories were returned to us this year, resulting in additional postage expense and delay in their ultimate delivery. The GLA newsletter the "Geneva Lake Guardian" is mailed to all people on our mailing list.

CONTINUED FROM COVER SHORELAND ZONING

developments? Will the County allow contiguous substandard shoreland lots held in common ownership to be treated as single zoning lots? Or will it permit the separate development of these lots with principal structures and uses?

6. How will the County implement NR 115.05(c)(1), which mandates regulation of removal of vegetation in shoreland areas, and NR 115(c)(2), which includes the mandate to "promote preservation and restoration of native vegetation" in

the "primary buffer area" extending 35-feet from the shore?

UPDATE: The Village of Fontana Plan Commission recently recommended, on a 5 to 1 vote, that the Village Board deny the plan of a resident to create a condominium including a waterfront lot and two off lake parcels. The project may not increase the number of piers or boat slips on the shoreland, but would extend lake rights to tracts across the street, which would then have riparian rights. Many area citizens are very concerned about development density.

PIER NUMBERS

The Geneva Lake Association introduced pier numbers to property owners around Geneva Lake a number of years ago. The pier numbers serve several purposes beyond a boat operator finding his or her correct landing site. Pier numbers help the lake police and Water Safety Patrol identify the location of accidents on the lake, which unfortunately do occur with some regularity on Wisconsin's most popular body of water. Pier numbers are listed in the annual GLA directory, allowing visitors and residents making a tour of the lake to identify the beautiful homes on Geneva Lake.

It is important for these and perhaps other reasons that the pier listings in the GLA directory be as accurate as possible. It has become apparent that the pier number listing in the 2010 directory contains some inaccuracies. There are many reasons for this, such as, oftentimes property has been sold and new residences built without the GLA obtaining the information to update the data base. As one can see from the directory, there are quite a few piers on the lake, making the updating of information difficult. A committee of GLA board members has been formed to address this problem, with a target date of spring 2011 in time for issuance of the directory in June.

It should also be noted that the GLA has been asked several times in the past year to assign a new pier number. This we will gladly do given sufficient property location information. This can also be accomplished by utilizing the email address on page 1 of the newsletter. Just last month, the City of Lake Geneva contacted us to inquire as to whether the GLA assigns pier numbers, since the city is contacted often by property owners

requesting information on pier number assignment.

This is an opportunity to remind readers that membership in the GLA is not limited to lakefront property homeowners, but open to "All persons interested in the conservation, preservation, environmental education and general welfare in the Lake Geneva area." GLA members are always encouraged to invite people to join the association.

Also, starting in 2010, there was a change in the policy of the GLA regarding distribution of the GLA directory. In the past, everyone listed in the directory received a copy. Due to increased printing costs, the directory is now sent to only those people who contribute to the Association. Directories are supplied to local municipalities, law enforcement, fire, rescue squads and similar organizations.

The membership form includes a request to designate the address to which the directory be mailed. If the address does not include a Post Office Box number, and the residence does not have a mailbox, the directory is returned to the post office at the expense of the GLA. Another thing to consider is that the directory is issued in early June, so some members who spend "cooler" weather away from the Geneva Lake area are in transit to the lake area, and the directory is returned to us as undeliverable. The two situations noted above resulted in several dozen directories being returned to the GLA this year, which delayed their ultimate delivery. The GLA newsletter, the "Geneva Lake Guardian" is mailed to all people on our mailing list, and is also available to any interested readers.

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