

**Owners each giving buck toward flood cleanup**

# Lake district reduces special assessment fee

By James Debilzen  
Union staff writer

Property owners in the Rock-Koshkonong Lake District voted in favor of a special assessment reduction when they met for the district's annual meeting Saturday morning.

Flooding and an ongoing legal dispute with the Wisconsin Department of Natural Resources over water level regulations were other items that topped the agenda for the gathering, held at Fort Atkinson High School.

Members approved a reduction of \$4, from \$45 to \$41 per parcel, for the 2009 special assessment. The original proposal was to lower the assessment to \$40, but attendees OK'd a resolution to have \$1 from each property owner go toward reimbursing volunteers

for some of their expenses incurred during flood cleanup efforts.

There are approximately 8,000 total residents with more than 4,000 parcels within the district, meaning that approximately \$4,000 will go toward the flood cleanup.

Also approved with the budget was a resolution to establish a lake restoration fund, which will set aside money in a segregated account to pursue dredging, island creation and breakwalls as a means to limit shoreline erosion, promote navigation and enhance wildlife and fish habitat.

"By state law, we're not allowed to build up a slush fund," district Chairperson Brian Christianson said. "We have to have a budget for that unless we have another segregated account. This is sim-

ilar to the segregated fund we have for the Indianford Dam."

Christianson said the fund will allow the board to incrementally build up savings for pursuing the dredging and island project, although he predicted it might be 10 years or so before the lake district has the necessary funds.

Another budget item Christianson mentioned was that the district still had not received a bill for the emergency reinforcement of the Indianford Dam during the peak of June's record flooding. Large amounts of rock were brought in to reinforce the sides of the dam after floodwaters began to saturate the area.

Christianson estimated the bill probably to be about \$40,000, but he said he expects the district might receive some reimburse-

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# Lake district annual meeting

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ment through the Federal Emergency Management Agency.

"We do have the money for such an emergency," Christianson said. "We are working with FEMA and we should receive some compensation."

The \$4 reduction also included the continuing legal argument against the DNR in the Lake Koshkonong water level dispute.

The district's legal team provided pro bono representation during the Rock County Circuit Court proceedings, which concluded in May. As a result, a rollover balance for water level proceedings is included in the 2009 budget.

Debate over the water levels on Lake Koshkonong has been going on for many years.

The lake district itself originally was created in 1999 as a means of giving lakefront property owners a voice in decisions on lake issues, including lake levels and repairs on the Indianford Dam, which the district owns.

However, the latest case began in early 2003 when the district petitioned the DNR for a change of its operating orders for the Indianford Dam that would eliminate a winter drawdown and increase the summer maximum water level by 7.2 inches.

Several consultants were hired to prove the benefits of raising the water levels and results of those studies reportedly indicated that the increased water levels would not infringe upon anyone's land and would not harm

the environment.

Documentation of those studies was submitted to the DNR in 2004 and the agency's environmental assessment was released in January 2005. The formal order was issued in April 2005, rejecting the district's proposed increase and maintaining the winter drawdown restriction on the lake which runs from Nov. 1 to April 30 instead of accepting the lake district's level be maintained throughout the year.

With a joint order, local lake associations such as the Rock River-Koshkonong Association and the Lake Koshkonong Recreation Association joined the lake district in requesting that the DNR hold a contested case hearing on the proposed order.

A hearing was granted before the state Department of Administration Division of Hearings and Appeals. Hearings were held over several days in March and April 2006 as Administrative Law Judge William Coleman heard testimony from numerous witnesses, including district residents and experts from all parties involved in the case.

Coleman denied the district's request in his final order released in December 2006.

The Rock-Koshkonong Lake District subsequently appealed the decision to Rock County Circuit Court, ultimately leading to a decision reached in May by Judge Daniel Dillon.

The judge upheld Coleman's ruling.

Within weeks of the ruling, the Rock-Koshkonong Lake District Board of Commissioners unanimously voted to continue its fight for amended lake levels it says will improve safety, navigation, fishing and wetland restoration on Lake Koshkonong and the Rock River.

Bill O'Connor of Wheeler Van Sickle & Anderson S.C. said at the meeting Saturday that the lake district's case will set a precedent that is expected to be felt statewide on similar issues, regardless of the ruling.

The attorney said the issue dates back to 1917, when the

state Legislature set regulations for lake levels to protect property. The problem, O'Connor said, is how the DNR interprets those regulations.

"What this case really focuses on is, 'What the heck do those words mean?'" O'Connor said. "Was the 1917 Legislature thinking that protecting property meant (protecting wetlands)? In 1917, the Legislature was more inclined to drain swamps than it was to protect the wetlands."

O'Connor said that it will be months before the district hears the appellate court's ruling on the issue. If the court rules in favor of the DNR, the district will have to decide if it wants to appeal to the Wisconsin Supreme Court.

In other action at the meeting, the emergency management directors for Rock and Jefferson counties updated attendees on the flooding situation and where they can go for assistance.

Donna Haugom, the Jefferson County emergency management director, also said she anticipates that the buyout process for the homes that were severely damaged will take a few years.

Simply put, if a home in a floodway has damage worth 50 percent of the building's pre-flood appraised value, it will need to be torn down. Haugom cautioned, however, that she cannot purchase a home through the federal flood-mitigation program if it already has been razed.

The emergency management director asked neighbors of flood-damaged property to be patient while the buyout process is ongoing.

"This will be a multi-year process for me," she said.

Even with a combination of federal and state dollars, the county will likely foot 12.5 percent of the bill for the buyout process.

"We're talking about millions of dollars here," Haugom said. "Twelve-and-a-half percent of millions of dollars is still a lot of money."

After being questioned by a resident from Blackhawk Island



**ANNUAL MEETING** — The Rock-Koshkonong Lake District held its annual meeting at Fort Atkinson High School Saturday morning, and the district's members voted for a \$4 decrease in the special assessment charge for 2009. Pictured are some speakers at the annual meeting, who talked about the impacts of the June floods, the district's budget and an ongoing legal dispute with the Wisconsin Department of Natural Resources. Pictured above, from left to right, are hydrologist Steve Hjort, attorney Bill O'Connor of Wheller Van Sickle & Anderson S.C., district Chairperson Brian Christianson and hydrologist Rob Montgomery of Montgomery Associates. Pictured below are, left to right, Art Harrington of Godfrey & Kahn, and Jefferson County emergency management director Donna Haugom and Rock County emergency management director Shirley Connors. A related story appears on page 1. — James Debilzen photos.



west of Fort Atkinson, Haugom confirmed that the homes will be purchased at their pre-flood appraised value.

Shirley Connors, the Rock County emergency management director, advised those affected by the flood to contact FEMA and stressed the importance of returning loan applications from the Small Business Administration.

"This year when you're registering with FEMA, it's important that you return your SBA loan application," Connors said. "You don't need to take out that loan, but you can go back in six months and ask for it if it's needed. If you don't fill it out, you're kicked out of the system."

Regarding the flooding, hydrologist Rob Montgomery of Montgomery Associates said the situation facing Lake Koshk-

onong is a peculiar one, noting that out of the eight worst floods since 1987, four have occurred since the lake district's last annual meeting in 2007.

"There wasn't just the big flood in June," Montgomery told those gathered. "There were four big floods since the last annual meeting ... The extraordinary situation that you have encountered has prompted the question, 'What's going on here?'"

The hydrologist said climate change, not necessarily global warming, is occurring. He added that this is not a conclusion based on models, but, rather, on actual data that has been collected for years.

For instance, five of the last 10 heaviest rainfalls on record in Milwaukee and Madison, which goes back 130 to 140 years, have occurred since 2000, Montgomery

said.

The area is now receiving 10- to 15 percent more precipitation than it did 60 years ago.

"Are we accurately defining what the 100-year flood event is? Maybe not," he said.

But what does the change mean for the future?

"The truth is, we don't know what's going to happen," he concluded.

In other action, voters re-elected Jeff Folk and Frank Micale to the board of commissioners with 120 and 76 votes, respectively.

Challenger Steve Proud received 59 votes after telling voters that while he appreciates the work Micale has done for the district, he felt Micale was stretched too far with his work in other lake-related organizations to be effective on the lake district board.