

July 31, 2019

Submission from the Turtle Lake Watershed Inc to the RM of Mervin regarding the four proposed developments presented on July 20, 2019 at Dexter Hall

Preface

1) Introduction the Turtle Lake Watershed Corporation

- a) The TLWI is a non-profit corporation mandated to advocate for the maintenance of the aquatic health of Turtle Lake so that the lake can be enjoyed and utilized by people in the future as it was in the past.
- b) The TLWI knows that Turtle Lake, presently an ecologically healthy lake, is experiencing increasing human usage, attracts increasing numbers of people for recreation, for rest, for relaxation, for spiritual renewal, for the opportunity to experience nature, and for some the opportunity of possible monetary reward and profit. t
- c) The TLWI believes that any human usage of Turtle Lake for whatever purpose has the potential to negatively impact the ecological health of the lake.
- d) The TLWI evaluates all human activities on or around of the lake, including further developments on or around Turtle Lake, as to their potential to maintain, enhance, or endanger the aquatic health of the lake.
- e) The TLWI understands that Turtle Lake has a maximum threshold to absorb and mitigate the effects of human and human activities. Once that threshold is reached, the lake will start a precipitous ecological decline. Such a decline would be very difficult to halt and even more difficult to remediate.
- f) The TLWI believes that any increase in the number of people living, visiting and utilizing Turtle Lake will require increased number rules and re1ulation in order to minimize the conflict between competing interests and to maintain the aquatic health of the lake.

2) GENERAL CONCERNS WITH ALL PROPOSALS FOR FUTURE DEVELOPMENTS OF TURTLE LAKE

- a) The TLWI has concerns about litigation arising from property development. Litigation resulting in court orders that can temporarily or permanently stop construction of developments before they are complete. The stoppage of construction of any development near the lake shore of Turtle Lake puts the ecological health of Turtle Lake at increased risk due to uncontrolled wind and water erosion of exposed soil, uncontrolled sediment deposits in the lake etc. The risk of litigation and construction stoppages could be minimized if **prior to the commencement by the owner or developer of any site preparation or construction**
- i) RM of Mervin has received and reviewed a geotechnical assessment by a qualified engineer attesting to the capability of the surface and subsurface soil structure to support the proposed development.
 - ii) The RM of Mervin has received and reviewed detailed topographical study detailing elevations by a signed qualified civil engineer that show the natural water drainage pattern prior to construction and the detailed plan for water drainage during and after construction.
 - iii) The RM of Mervin has received and reviewed an environmental report from a qualified professional report cataloging and detailing the flora and fauna that presently live on land or in the water near proposed area of development.
 - iv) The RM of Mervin has received and reviewed a report from a qualified archeologist detailing the presence or likely presence on native artifacts on or in the area of proposed development.¹
- b) The TLWI has concerns about the financial capability of the RM of Mervin, should it decide to authorize these developments, to secure and render harmless the assets of an authorized development that fails, due to the bankruptcy of its owner, either to complete construction or operate the development in a manner that protects the ecological health of Turtle Lake and those that use it. Most or all of the ownership of the proposed developments are corporate entities with their liabilities limited to the market value of its assets upon liquidation. The financial requirements to successfully secure and render harmless each of the four proposed developments vary from hundreds of thousands of dollars to many millions of dollars. If the RM of Mervin authorizes any or all of the proposed developments, due diligence requires that RM of Mervin recognize the risks of authorization and the necessity of taking actions to mitigate or minimize these risks.

¹ This issue was precipitated when road construction was halted in early June Of 2019 in the Saskatchewan RM of Winslow upon the discovery of native artifacts in the construction area. The resulting controversy revealed that continued construction would likely be in violation of International law, Canadian Law and the necessity of Saskatchewan law to be in compliance.

- c) The TLWI has concerns about the limited awareness displayed by the developers of the two studies of Turtle Lake commissioned the RM of Mervin and RM of Parkdale was surprising. These two studies should be mandatory reading before any developer can submit a proposal for development to the RM of Mervin.

3) GENERAL CONCERNS WITH FORMAT OF RM OF MERVIN ORGANIZED DEXTER HALL EVENT OF JULY 20, 2019 THAT OFFERED DEVELOPERS TO PRESENT THEIR PROSALS FOR DEVELOPMENT TO THE GENERAL PUBLIC

- a) The “Meet and Greet” format made it very difficult for any member of the general public to gain a clear understanding of what exactly the development proposal entailed. Each member of the public could ask the developer question regarding their proposal and the developer could choose to answer the question or not. The developer could, and some did, provide different answers to the same question from different questioners. If an interested party wanted to more fully understand the developers position one had to stand around each developers table and listen to all the questions and all of the responses.
- b) The developers were free to display, promote and answer questions without accountability. No official record of display, promotion or question and answers exists.
- c) The interested parties could question the developers but not the RM council. There was only one RM of Mervin councillor in attendance, but it was not clear when he was questioned whether spoke for the RM of Mervin or himself.

4) THE TLWI RESPONSE TO EACH OF THE FOUR PROPOSED DEVELOPMENTS

Submission #1, ALL SEASONS RESORT (SOUTH END)

The proposed area for development includes a relatively large wet land that had been separated from the lake body proper by a narrow but quite elevated ice push. This wet land in the past collected all or most of the run off from the quarter before allowing it to drain into the lake through a small breach in the ice push close to the southern edge of the property. During the winter of 2017-2018 the property owner, also the developer, first excavated the wet land to remove all organic material and then infilled the excavation with earth sourced from a borrow pit bordering SK-795 on the same quarter.

The owner / developer of the proposed development, when questioned, acknowledged at the July 20 Dexter that the wet land had been drained, excavated and backfilled without regulatory approval or permits. The owner asserted that neither regulatory approval nor permits were required as the land was zoned as agricultural and therefore the he, the farmer could legally alter the wetland at will. The owner/farmer/developer then went further adding emphatically that he would not remove the infill to facilitate restoration of the wet land.

The owner, claiming to be a farmer for purposes of draining, excavating and filling the wetland, now wants to assume the role of the developer of the area of the proposed including the infill. The exact size of the wetland excavated and infilled is unknown as the project was completed without regulatory approval or permits.

Upon questioning the owner acknowledged that before he can proceed with the proposed development the RM of Mervin must first rezone the area from agricultural to residential and recreational area. The owner (owner/farmer/developer) gave the impression that rezoning of the are from agricultural to residential recreational was a routine process.

The owner was questioned as to how the entire quarter was drained now that the wetland had been filled. His answer that a “swale” would collect the run off from the northern area (the largest portion) of the property and direct through a breach constructed in the ice push. The marina would collect and drain the run off from the smaller, southern portion of the property and release it to the lake.

The TLWI asks the RM of Mervin to deny the proposed development at All Seasons Resort for the following reasons.

- i) If in fact, owners of property zoned as agricultural, are allowed to modify or alter their property at will, one must assume is only for the purpose of maintaining or enhancing it capacity to produce food. If a property owner wishes to have their property rezoned for uses other than that allowed by its present designation, they are they required to apply to have their property rezoned prior to modifications or alterations prior to preforming the alterations or modifications. If the RM of Mervin rezones property after the owner has altered the property for uses other than allowed by the properties previous designated use the RM has effectively ceded its power to determine land to

- the property owners. During his Dexter presentation the owner never once mentioned the increased capacity of his property to graze sheep, goats or cows.
- ii) The past actions of the owner of draining, excavating and infilling of the wetland have already negatively impacted the ecological health of Turtle Lake. In the late winter and spring of 2018, the TLWI received reports of the drainage, excavation and infill the wetland and with the spring thaw the outflow of silt and debris into the lake. At the time the TLWI passed on this information to those bodies tasked with regulatory and enforcement powers on and around Turtle Lake.
 - iii) The TLWI recently has received information that the wetland that was drained, excavated and infilled has, during periods of high water, contained fish. The TLWI will forward this information to SaskWater Security, Saskatchewan Ministry of Environment, Fisheries and Oceans Canada, Sask Agriculture, Agriculture Canada, any and all relevant regulatory and enforcement bodies with jurisdiction on or about Turtle Lake. Should any or all of these regulatory agencies find the information credible litigation is the likely outcome.
 - iv) Authorization by the RM of Mervin of the proposed development at All Seasons Resort reward developers who “game the system”. Developers who think rules and regulations are “for others, for the stupid and the gullible, not those with nerve and guile, not those will toss the dice, those who will gamble and take the chance”. The owner clearly decided that opportunity for financial profit trumped the ecological health of Turtle Lake when he unilaterally drained, excavated and infilled the wet land. Authorization would encourage other developers to adopt the same attitude and practices as the owner of All Season Resort. If this were to happen the threat to the ecological health of Turtle Lake would be multiplied many times.
 - v) No authorization until
 - (1) RM of Mervin has received and reviewed a geotechnical assessment by a qualified engineer attesting to the capability of the surface and subsurface soil structure to support the proposed development.
 - (2) The RM of Mervin has received and reviewed detailed topographical study detailing elevations by a signed qualified civil engineer that show the natural water drainage pattern prior to construction and the detailed plan for water drainage during and after construction.
 - (3) The RM of Mervin has received and reviewed an environmental report from a qualified professional report detailing the flora and fauna that presently live on land or in the water near proposed area of development.
 - vi) The RM of Mervin has received and reviewed a report from a qualified archeologist detailing the presence or likely presence on native artifacts on or in the area of proposed development

SUBMISSION #2, NORTH OF POWM BEACH

The proposed development is for the creation of 8 waterfront lots and 7 back lots separated by a roadway. The owners of this proposed development have an existing residence on the property.

The TLWI suggests the RM of Mervin not authorize this proposed development for the following reasons

- (1) RM of Mervin has received and reviewed a geotechnical assessment by a qualified engineer attesting to the capability of the surface and subsurface soil structure to support the proposed development.
- (2) The RM of Mervin has received and reviewed detailed topographical study detailing elevations by a signed qualified civil engineer that show the natural water drainage pattern prior to construction and the detailed plan for water drainage during and after construction.
- (3) The RM of Mervin has received and reviewed an environmental report from a qualified professional report detailing the flora and fauna that presently live on land or in the water near proposed area of development.
- (4) The RM of Mervin has received and reviewed a report from a qualified archeologist detailing the presence or likely presence on native artifacts on or in the area of

SUBMISSION #3, NORTH AND SOUTH OF TURTLE COVE

- ii) The owners gave every evidence of listening carefully to questions and tried to answer questions honestly to the best of their ability. They acknowledged that they owned lake front cabins and residences but not at Turtle Lake. They also acknowledged it was not their intention to build or buy cabins or residences at Turtle Lake. The owners of this development proposal were primarily interested and attracted to Turtle Lake for profit.
- iii) The owners revealed that they only possessed a minimal knowledge of the property enclosed within the boundaries of their proposed development. For example
 - (1) They did not know that the northern area of their proposed development contained an active Bald Eagle Nesting site close to the shore line. A site that has been used continuously for nesting by Bald Eagles for decades.
 - (2) The owners did not know how surface water presently drained from the area of their proposed development. They were aware of the location of a small creek, now dry, that had once flowed through the property and emptied into the lake. The owners agreed that stream should now be flowing given that the area is experiencing a period of higher rainfall and rising water tables. The owners said they did not know why the stream no longer flowed nor how the area once drained by the creek is now drained.
 - (3) The developers did not indicate any plans or possible location for a boat launch.
 - (4) One walked away from this presentation thinking that the plan for this development was a map largely drawn on the back of an envelope.
 - (5) No authorization until
 - (a) RM of Mervin has received and reviewed a geotechnical assessment by a qualified engineer attesting to the capability of the surface and subsurface soil structure to support the proposed development.
 - (b) The RM of Mervin has received and reviewed detailed topographical study detailing elevations by a signed qualified civil engineer that show the natural water drainage pattern prior to construction and the detailed plan for water drainage during and after construction.
 - (c) The RM of Mervin has received and reviewed an environmental report from a qualified professional report detailing the flora and fauna that presently live on land or in the water near proposed area of development.
 - (d) The RM of Mervin has received and reviewed a report from a qualified archeologist detailing the presence or likely presence on native artifacts on or in the area of

SUBMISSION #4, “BREAKWATER”, BETWEEN TURTLE LAKE SOUTH BAY AND KOPP'S KOVE

This is the second proposal for the development of this property by this developer. The Breakwater presentation area was dominated by an impressively large, colourful, detailed computer-generated image of how this extensive, complex and obviously expensive development would appear if it were to be constructed as proposed.

Concerns about the proposed Breakwater development as presented.

iv) The proposed development as presented would be constructed on a property that slopes relatively steeply from west to east. The property at its greatest elevation is at least 20 metres above the water level of Turtle Lake. The project as presented require that virtually every square metre of the property would have to be stripped of vegetation and top soil before landscaping to begin. The area designated as a marina would require very extensive excavation of underlying glacial till and its transportation to the western edge of the property to create an earthen berm along the western edge of the property next to SK-795.

Due to the slope of the land, the nature of the subsoil, and lack of protective vegetation, the entire property would be extremely vulnerable to erosion from wind and water until protective vegetation was established. The Turtle Lake area regularly experiences summer thunderstorms and intensive rainfall.

(a) The Breakwater presenter acknowledged the fact that erosion from a sudden downpour was a concern but assured the questioners that a catch basin would be in place to keep the runoff from entering the lake. The presenter added that the planned catch basin was designed to contain the run off from a once in a hundred-year event of 1-inch sudden rainfall on the property. (A downpour of 25mm (1 inch) would generate approximately 18,100 m³ or 178,000 imperial gallons of runoff.) Many local residents have experienced sudden rainfalls of 3 inches or more rendering the size and capacity of the catch basin as being totally incapable of preventing the contaminated water from entering Turtle Lake. The presenter suggested that the marina once constructed could easily contain excessive runoff. That might possibly be true providing the marina was not connected directly to the lake which is the main feature of a marina.

- (2) The water supply requirements for the proposed development left many questions
- (a) The source of the water?
 - (b) The water supply and distribution plans for the proposed development in its entirety?
 - (c) Waste water collection and disposal system?

- (i) Waste water is usually collected and processed using gravity flow but the waste manage facilities in the proposed development were positioned on the western edge of the property at the highest elevation.
- (3) The proposed marina, due to its size and location elevation would require the excavation and transport to the western property border of many thousands of cubic metres of subsoil. The presenter, when questioned, hinted at the extent of construction planning to date
 - (a) the volume of earth to be excavated had not yet been calculated
 - (b) The property had not yet had a geo-technical study to
 - (i) determine its suitability for the construction, particularly of the marina, water feature.
 - (ii) the presence of aquifers that may be encountered during construction and excavation. Aquifers releasing water into the marina or water feature would be problematic.
 - (iii) The presence of contaminants from previous human usage
- (4) the proposed water feature generated more questions than answers
 - (a) was the water feature to be filled with treated or untreated water?
 - (b) How was it to be drained? Where was it to be drained? Would water drained from the water feature require treatment?

v) The TLWI asks that the RM of Mervin deny the proposed Breakwater Development for the following reasons

- (1) The proposed development is just a larger, more complete version of the owners 2018 development proposal that tries t overcome the properties lack of direct access to the shore of Turtle Lake by creation of an inland water feature complete with beach and an enlarged marina.
- (2) The developer used a year formally name the property, expand the size of the development, develop an impressively large graphic presentation, hire a presenter, but does not appear to have spent much time or money on additional engineering to develop solutions to the technical issues that their original plan proposed that put the ecological health of Turtle Lake at risk. It appears that the developers interpreted their failure to secure RM of Mervin approval last year to poor communication and sales rather than to the design and engineering problems identified in their 2018 development proposal.
- (3) The geo-technical studies by qualified civil engineers have not been done. Until and unless they are completed, and the results reviewed by the authorizing agencies it is not known if the proposed construction is possible on the property.
- (4) The increased size and complexity only intensify
 - (a) the problem of erosion control, runoff containment, adequate sewer and water containment of runoff more difficult and problematic. The failure of any of these systems would seriously endanger the ecological heath of Turtle Lake.

- (b) Increases the costs of development. Likely makes the financial feasibility of the proposed development more questionable and likely increase the risk of project abandonment prior to completion
- (5) The increased population resulting from the development completion would
 - (a) Increase boat traffic in the southern area of the lake
 - (i) The RM of Mervin's own research describes boat usage in this area already at or above maximum.
 - (ii) Increased fishing sport fishing pressure with the likely results of decreased lower daily fishing limits on the entire lake
 - (iii) Increased demand on public lake access areas in the neighbouring resort hamlets as the water feature offered is not likely to satisfy the demand for swimming, canoeing, water skiing etc. of the resident population in the Breakwater Development
- (6) Definitely authorization until
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 - (2) The RM of Mervin has received and reviewed detailed topographical study detailing elevations by a signed qualified civil engineer that show the natural water drainage pattern prior to construction and the detailed plan for water drainage during and after construction.
 - (3) The RM of Mervin has received and reviewed an environmental report from a qualified professional report detailing the flora and fauna that presently live on land or in the water near proposed area of development.
 - (4) The RM of Mervin has received and reviewed a report from a qualified archeologist detailing the presence or likely presence on native artifacts on or in the area of