



AUGUST 11, 2014 HIGHLAND POINTE BOARD MEETING GUEST SPEAKERS

August 11, 2014, Mr. Tom Woolsey of the Georgia Dept. of Natural Resources Safe Dams Division and William Higgins Division Director of the Cobb County Storm Water Management attended the monthly Highland Pointe Board of Directors (BOD) meeting to answer any questions and clear up any misinformation, which may be circulating regarding the lakes in our neighborhood, the North Lake in particular.

Notices of the meeting were put in the mailbox of every HP homeowner about three weeks beforehand. About 30 people attended, in addition to the BOD members. Here is a summary of the meeting:

BOD member, Paul Amoruso, opened the meeting by giving a presentation to clarify the present situation. In short, *the term "HPRA" (Highland Pointe Recreational Association) is the legal name on the plat(s) of land on which every home in HP is built and of the association created. Regardless of what each household has paid or signed, all homes built in this neighborhood are a part of HPRA.

* Within HPRA there are three types of members:

- Permanent Homeowners' Association members or "Social or Civic"
- Permanent Homeowner and Recreation members or "Full"
- Members who decide to be Voluntary Members

Mr. Amoruso then gave a brief outline of the history and current state of affairs regarding the parcel of HPRA known as the North Lake dam parcel.

Highland Pointe has 2 beautiful lakes within the neighborhood. The lakes are owned by the residents whose properties surround the lakes. The Dam parcel at the South Lake near the pool is part of the Highland Pointe Common Area. As you may be aware, there has been an issue regarding ownership of the North Lake Dam Parcel. When the developer of Highland Pointe, Larry Thompson, deeded over all common property to the HOA, the North Lake Dam parcel was not deeded over. There have been years of speculation and differing opinions as to why after it was discovered this did not happen. A member of the Highland Pointe Board of Directors filled out the paperwork with the State in 1993 and Highland Pointe was

approved as Operator of the North Lake Dam. Mr. Thompson stopped paying the taxes on this property and it was purchased on the courthouse steps by a Highland Pointe resident (Mr. Cunningham) who lived adjacent to the dam parcel. In 2010, Mr. Cunningham filed a Quit Claim Deed to transfer ownership of the Dam parcel to Highland Pointe. The Board refused the Quit Claim. According to Cobb County, the Dam parcel is owned by Mr. Cunningham, who lives out of state and who has not paid taxes on it since 2009, and Highland Pointe Recreation Association, Inc. is the Operator of the Dam. Highland Pointe maintains the dam by mowing and cleaning and receives the DNR inspection reports.

The following are some facts as Mr. Woosley presented them at the meeting:

Mr. Woolsey began by outlining the Georgia Safe Dams Act (SDA), which calls for dams to be categorized by size and potential downstream consequences and inspected based on their category. The NL dam is a Category 1 dam, which requires that it is to be inspected every two years by the Georgia State DNR for maintenance and safety issues.

The South Lake Dam is not large enough to fall under the Safe Dams regulatory umbrella. It is, however, subject to any consent orders issued by the DNR should repairs be needed. The SDA states that the owner/operator is who the DNR will consult with when inspecting a dam. The DNR makes no distinction between owner and operator: HPRA has been the licensed operator of the NL dam since 5/10/1994. He then opened the floor for questions from the attendees.

Below are a few of the questions asked:

Q. How can HPRA get its name removed from the operator's license?

A. Mr. Woolsey stated that to have HPRA removed as operator another entity capable of maintaining the dam must step forward and apply for an operator permit. He also stated that even so, he would need compelling reasons to consider such a request.

Q. Wasn't that done by another HP board a few years ago?

A. Mr. Woolsey said he has been told about this and seen copies of letters between attorneys for HP and his predecessor, but has never seen any official documentation.

Q. Why can't we just breach the dam and drain the lake?

A. Mr. Woolsey stated that the DNR is not in the business of breaching dams. There are considerable costs in doing this. The DNR would only take that type of action in an instance when there was imminent threat of loss of life and property. The DNR will only act to breach a dam in the case of an impending emergency. Mr. Woolsey also mentions that an owner/operator may decide to breach the dam on their own, independent of any direction from the state. He made all those in attendance aware

that any breach of the dam would have a detrimental effect on housing values and be very expensive.

Q. What exactly is the problem with the NL dam?

A. Mr. Woolsey stated that the NL dam is in really good shape. The issue is seepage on the downstream right side. He also said that seepage is common with most dams and may or may not indicate a problem.

Q. What is the DNR requiring to be done?

A. In 2006 the DNR issued a consent order that HPRA retain an engineer of record to monitor and or address the seepage.

Q. What happens if HPRA does not comply with a directive from the DNR?

A. Mr. Woolsey outlined the steps. An Administrative Order requiring the consent order be complied with would be issued. This could be appealed by HPRA. If the appeal is denied and HPRA still doesn't comply, the DNR would ask the Cobb County Superior Court for a court order to have the work done. Fines and/or jail time could be assessed at this time.

Mr. Woosley made it clear that he has many dams in his jurisdiction that are in worse shape than the NL dam. He and his staff are working their way through their list of dams with consent orders. The NL dam is not at the top of the list, which gives HPRA some time to plan and prepare. He did emphasize that the NL dam IS on the list and will be revisited in the future. He gave no time frame.

Q. Who is the owner of the NL dam?

A. Ms Robin gave the up-to-date information on the ownership issue. A former resident, Mr. Cunningham, who now lives out of state, currently holds the tax deed to the property. He has not paid taxes on the property since 2011. In January 2014, the BOD received a notice from Cobb County that the parcel was going to be sold at auction for back taxes in March 2014. Ms. Robin sent Cobb County documentation that the parcel was actually a dam. The parcel has now been reclassified as an outlot with taxes of \$6 per year and cannot be sold on the court house steps. Cobb County will waive all back taxes if HPRA accepts the deed to the parcel. Cobb County has no interest in owning the parcel.

Q. What is involved in maintaining the dam?

A. Mr. Woolsey and Mr. Higgins both said that keeping the dam mowed is the best way to maintain the dam's integrity. It is important to keep saplings and trees from growing on it and to keep the toe drains clear.

The floor was turned over to Mr. Higgins of the Cobb County Storm Water Management Agency. He outlined a program in which the County would pay to create extra storage capacity in the lake by lowering its level. Any funds left after paying for the work to lower the lake could then be used to pay for repairs and improvements such as dredging and adding access points and paths. He was very

careful to say that all the homeowners around the lake would have to agree to do this. Also, the money would not be paid until the work required to lower the water level was completed. Mr. Higgins showed a drainage map, which demonstrated the area in HP, which drains into the NL. Approximately half the neighborhood drains into the NL.

If you have any further questions, please contact Tom Woolsey at the DNR ([404-651-8488](tel:404-651-8488)) or William Higgins at the Cobb County Storm Management Office ([770-419-6434](tel:770-419-6434)).