



Lake Views

The newsletter of the Yahara Lakes Association

Fall • 2004

Legal Piers Have No Fears

As the leaves are falling and days get shorter, many YLA members have taken or are getting ready to take their piers out of the water. We have found that many of the questions YLA members ask pertain to piers. How long can a pier be? How many boats can I keep on my pier? Can I have a bench? A slide? So, in planning ahead for the next "pier season," we hope this is helpful:

Pier law or rules are found in five places: Chapter 30 of the Wisconsin Statutes, Chapter NR 326 of the Wisconsin Administrative Code, municipal ordinances, a DNR publication called the "Pier Planner" and case law developed by the Wisconsin Supreme Court and Court of Appeals. There are other regulations, usually for large installations, but this article will focus on residential piers.

Chapter 30.12(1) requires a permit to place any structure upon the bed of any navigable water. But a recent amendment to 30.12 establishes a "safe harbor" (no pun intended) from DNR enforcement for "ordinary" piers if they meet the following: (1) don't interfere with riparian rights of other riparian owners, (2) are no wider than 6 feet (making decks that exceed 6 feet in any direction "illegal"), (3) are no longer than the 3 foot water depth, or where there is adequate depth for mooring or using a boat hoist, whichever is closer to the shore, (4) have no more than two boat slips for the first 50 feet of shoreline footage and one for each additional 50 feet. Piers that don't meet this standard may be entitled to a DNR permit, but the permit fee is \$300 for new piers or \$600 for existing piers and a permit is not guaranteed. Piers that don't meet this standard may still be "legal" under 30.13 if they don't (1) interfere with public rights in navigable waters, (2) interfere with rights of other riparian proprietors, (3) violate any municipal ordinances and (4) interfere with the free movement of water under the pier and don't cause the formation of land on the bed of the waterway. But it can take a successful contested

case hearing before the Department of Hearings and Appeals, or a successful defense of a citation or abatement action to establish legality under 30.13. These are difficult and usually costly.

The present Chapter NR 326 (significant amendments are in the process of being adopted if passed by the DNR board and the legislature) also regulates piers. NR 326.04 may conflict with 30.12 in some respects because it was enacted before 30.12, and so may be invalid in those respects. 326.04 limits pier length to the length of the boat using the pier unless the riparian can demonstrate boats using the pier require a greater depth of water. Sailboat depth is measured with centerboards or dagger boards raised. Piers cannot totally enclose any portion of a navigable waterway. Boat shelters (hoists) may not be visually intrusive as viewed against the shoreline, and may

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No Pier Fear

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accommodate only one watercraft each. They may not exceed 24 feet in length and 14 feet in width. They must be connected to the shore by a pier. Boat shelters may have roofs but not sides, and roofs must be pitched not less than 1 foot or more than 2.5 feet. NR 326.06 requires the DNR to investigate complaints about piers, boat shelters, swim rafts or related structures. NR 326.07 provides for the DNR to hear and settle neighbor and other disputes about piers.

Municipal ordinances are unique to each municipality. For instance, the City of Monona requires that a pier be set back 7 feet from the side yard lot line, but permits neighbors to put a joint pier within the setback area. Marinas are prohibited in single or two family districts. Piers on rivers may not be longer than 6 feet. Other municipalities may regulate in other ways.

The "Pier Planner" is a DNR document which is not a statute or a rule, but by court decree has been given authority as a "starting place" to determine riparian matters. Some pier planner requirements are more permissive than 30.12, and are therefore invalid. The pier planner requires piers to be in an owner's "riparian zone," an area formed by extending side yard lot lines into the water. Only a riparian property owner can place a pier or wharf. Persons wading the shoreline may "portage" around a pier by the shortest route practicable on private property. Finger piers (L's or T's) are permitted to provide mooring slips or for stabilization.

Larger decks or platforms are prohibited. Roofs, canopies, decks, water slides and other construction not essential for mooring watercraft are prohibited. A bench not exceeding 6 feet long and boarding ladders are permitted. Swimming rafts of modest size are permitted within 200 feet of shore. Mooring buoys are permitted within 150 feet of shore.

Several stakeholder meetings have been held in recent months regarding NR326, the state administrative rules for piers, wharves and rafts. A variety of changes have been discussed and recommended. An open house and public hearing, hosted by the Wisconsin DNR, will be held Wednesday, November 10, 2004 at the GEF II state office building, 101 South Webster St., Room 27, Madison, WI. The open house will be held from 10:30 - noon. The public hearing begins at noon.

REPORT FROM LAKES & WATERSHED COMMISSION

By Mark Pernitz, YLA Representative

Changing of the Guard

Several recent events have resulted in a number of changes in Commission membership and leadership. Shary Bisgard, a charter Commission member and longtime chair, was not reappointed by the Mayor's office. Apparently Shary maxed out on an unwritten rule regarding term limits. Shary was generally recognized as the glue that held the Commission together and will be deeply missed. YLA recognized Shary in 2000 as our Public Official Of The Year.

Longtime supervisor and another charter Commission member Lyman Anderson retired from the county board this spring after serving for more than 27 years on the county board and 16 years on LWC. Lyman's background as a farmer and an outdoorsman together with his extensive understanding of county government provided the commission with great insight on a number of complex issues. YLA recognized Lyman in June as our 2003 Public Official Of The Year.

Supervisor Andy Olson did not seek reappointment to LWC because of employment constraints. Andy provided strong leadership and was instrumental in the county's phosphorous fertilizer ordinance. YLA awarded Andy a Certificate of Appreciation for his efforts.

Don Eggert and Jerry Jensen are the new supervisor members of LWC. Jim Lorman, a professor at Edgewood College, was appointed by the Mayor's office. John Volker, the Mayor of Verona, filled a vacancy representing cities and villages outside of Madison. We look forward to significant contribution from each of them.

On August 18, Supervisor Brett Hulsey was elected chair of LWC in a contested election. This marks the first time that a politician has served as chair of LWC. Previously, the chair has always been a citizen member.

County Budget

During the last several budget cycles, county departments have been ordered to cut budgets. As a result, no budget requests have been presented to LWC. Consequently, LWC has had to take the initiative and make recommendations where additional expenditures are warranted.

LWC has again recommended that the county purchase and replace one of the sheriff's 5 regular patrol boats. These

boats are on a replacement schedule which, if followed annually, results in a \$0 net cost to the county for each new boat.

LWC has also recommended purchasing 3 new stainless steel barges to replace the obsolete 40-year-old barges used in the lake weed harvesting program. In July of this year, one of these old harvesters sank in Fish Lake. This aging equipment needs to be replaced before someone is seriously hurt and so that the county does not spend money for repairs instead of operating the harvesters.

LWC also recommended that the county purchase 2 additional harvesters to increase the county's fleet from 7 to 9 harvesters. We believe that this purchase will save the county money in the long run because of increased efficiency in the weed harvesting program.

LWC also recommended that the county establish a clean water program within the capital improvement plan for approximately \$4 million over 5 years. We proposed that \$100,000 be added to the capital budget in 2005 to initiate this program with the specific focus being urban catchment basins on public properties and stream bank protection and habitat improvement. Matching funds are available from state and federal sources which would increase the total value of this program.

LWC's recommendations have been forwarded to the County Executive. Ms. Falk will have presented her budget to the county board on approximately October 1. We will keep you updated on the budget process.

Consolidation Committee

Last year's budget directed that county administration explore further consolidation of county departments. This committee has proposed moving LWC from the County Executive's office into a merged parks and land conservation department. While this proposal is not final, the fear is that the proposed reorganization will reduce the visibility of LWC and also reduce the staff available to carry out its mission. LWC is already very short staffed and this has had a major impact on LWC's ability to improve our lakes. YLA members should contact their county supervisors and emphasize the importance of maintaining the visibility of LWC and making sure that it is provided with adequate staff and resources.

Calling All Friends of Dane County Waters and Watersheds!

Voice of Our Waters

A participatory workshop hosted by the Dane County Lakes and Watershed Commission
Saturday, November 6, 2004
UW-Madison Arboretum Visitor Center, 1207 Seminole Highway, Madison WI
9:00 a.m. – 1:00 p.m.

Network with friends and make new contacts from across the county and take home:

- Tips from conservation groups and individual citizens who successfully influence programs or policies to protect our waters.
- Tips from municipal staff and elected officials on how citizens' groups can work most effectively with them.
- A post-workshop strategy to bring our voices into Dane County and municipal planning processes over the coming year.

To register:

Make checks payable to "Dane County Treasurer." Send name, address, phone number and a check for \$15 to:
Voices of Our Waters
c/o Dane County Land Conservation Department
One Fen Oak Court, Room 208
Madison WI 53718-8812

Contact Marcia Hartwig, 224-3746 or hartwig@co.dane.wi.us with questions.

Water Level Update

May 2004 was a very wet month with a new record of 10.8 inches of rainfall. While this left our lake levels above summer target maximums, we have since moved over 30,000 ac. ft. of water (over and above base flow) out of the Yahara River lake system. For a visual reference, this volume is roughly equivalent to 3 ft. on Lake Mendota or 9 ft. on Lake Monona. We still have 2,500 ac. ft. to remove from Lakes Monona and Waubesa to get within target levels.

The lock and dam system at Babcock Park continues to remain open. The structures at both Tenney and Lafollette Park are maintaining water levels within target levels.

The Dane County Parks Department cut weeds on three separate occasions in the Yahara River in order to maintain flow in the system. As winter approaches (where did the summer go?) we will be lowering the lakes to their winter minimum levels. Weed cutting will continue during this time to maintain flow.

Please check the <http://www.co.dane.wi.us/waters/> web page for information on current lake levels and other water resource related activities. We will be maintaining lake levels near summer minimum until the end of October. Lake levels will then be lowered further, to prevent shoreline damage during the winter

Welcome New Members The Following People Joined The Yahara Lakes Association in 2004

Dick Adler	James Justinger
James C. Alexander	Brett Kaskowski
Don Anderson	Don & Joan Kelleher
Richard Bachli	Mark & Renee Kennedy
James & Joy Baker	Randall & Karen Kessenich
John & Virginia Balen	Billy & Karen Knipfer
Ned & Jeanne Boston	Kevin Lemke
David Bruce	Andrew & Cyndi McCormick
Peter Carstensen	Joseph D. McCormick
Bill & Amy Dixon	Al & Dorothy Meske
David Doll	Stacy Montague
Philip & Janet Doll	Jeff Moore
Jo Esland	Jim & Chris Pogodzinski
Neil & Judy Eysers	Mary Schneider
Brian Farrey	Gary & Susan Shadof
James & Nancy Gerry	Robert Sutherland
David Gillette	Todd & Ellen Utter
Vicky & Daniel Hanko	Patrick & Nancy Welch
Ken Herrmann	Doug Wynn
Keven & Kim Horwath	Paul & Emily Zimbrich
Margaret Howell	Marykay & Tom Zimbrick

SHERIFF'S PATROL BOAT NAMED IN HONOR OF LYMAN ANDERSON, LONGTIME COUNTY SUPERVISOR

By Mark Pernitz



Dane County Sheriff Gary Hamblin looks on as retiring Dane County Supervisor Lyman Anderson christens a patrol boat named in his honor.

On July 14, 2004, the Sheriff's 27-foot Boston Whaler was officially christened the "Lyman F. Anderson" in a ceremony at the Tenney Park Locks. Lakes & Watershed Commission Chair, Shary Bisgard, and Lyman were both charter members of LWC. "Lyman served for more than 16 years on the Lakes & Watershed Commission," noted Ms. Bisgard. "His knowledge of water and environmental issues, as a farmer and as an outdoorsman, and his extensive understanding of County government, were of great benefit in helping us work through some very complex issues."

Dane County Sheriff Gary Hamblin thanked Lyman for his role in supporting the patrol boat replacement schedule. "Lyman was instrumental in advocating for the smart and cost-effective patrol boat replacement schedule that saves the County money and provides a safer, more modern equipment for the Sheriff's water patrols," Sheriff Hamblin noted. "His leadership on this issue makes it especially appropriate that we name one of the patrol boats in his honor."

The Yahara Lakes Association was pleased to recognize Lyman Anderson in June as our Public Official Of The Year.

What We Do with Our Own Lake Frontage Matters: Here's a Source for Information

If you own waterfront property, you have a special opportunity and responsibility.

Many waterfront dwellers wonder how a single alteration to their property could make a difference to the health of a lake, stream or river. Unfortunately, the cumulative harm from single shoreline alterations by many property owners affects the quality of the swimming, fishing and wildlife watching — the very attributes that brought many to purchase the property in the first place.

Several programs within the Department of Natural Resources (DNR) manage and protect Wisconsin's shorelines. The DNR website provides a page dedicated to waterfront property owner issues. The page, www.dnr.state.wi.us/org/water/fhp/waterfront.htm provides many helpful links that include offices within the Department of Natural Resources (DNR) which manage and protect Wisconsin's shorelines, lists of DNR and county staff who can help answer your questions about waterfront property ownership and publications available to assist waterfront property owners. You can also learn more about human influence on Wisconsin's shores by viewing the online presentation, Margin of Error.

These publications are available on the web site and are great resources:

- The Shoreland Friends Guidebook: Environmental Education for Owners of Shoreland Property
- Shoreline Stewardship Fact Sheets
- The Water's Edge: Helping Fish and Wildlife on Your Waterfront Property

Call for Board Nominations

If you know of someone (including yourself) who might be interested in serving on the Yahara Lakes Association Board of Directors, let us know! In a few weeks we will mail all members a ballot for open positions, so we need to hear from you soon if you have a nomination to make. Mail or email (yla@mailbag.com) information about your nominee by November 10, 2004.

Association's Annual Meeting Well Attended

Mariners Inn Plays Host to YLA

The Yahara Lakes Association annual meeting was held on June 22nd at the Mariners Inn and attended by more than 90 members. After enjoying heaps of great appetizers, a delicious dinner included steak and lobster.

Following dinner, Wisconsin Assembly Speaker John Gard gave a spirited presentation on water issues from the perspective of state government, both legislative and regulatory.



Wisconsin Assembly Speaker, John Gard was the featured speaker at YLA's 2004 Annual Meeting

Awards given this year included:

- **Citizen of the Year** - Brian Howell, Editor of Madison Magazine who passed away earlier this year, for his outstanding support of our lakes.
- **Public Official of the Year** - Lyman Anderson, retiring Dane County Supervisor for his years of service on the County Board and the Lakes and Watershed Commission.

Certificates of Appreciation went to:

- Shari Bisgard, for many years of service on the Lakes and Watershed Commission and tireless efforts in advocating for the protection of our lakes.
- Andy Olson, for his leadership in initiating and leading the effort to pass the phosphorous ordinance.
- Brett Hulsey, for his leadership and advocacy in seeking environment safeguards in the cogeneration plant negotiations.
- Russ Mittelstadt, for his many years of service on the YLA Board of Directors.
- Pleasant Rowland and the Pleasant Rowland Foundation for generous contributions to the community.
- Steve Morton, for his many years of service on the YLA Board of Directors.
- Daryl Severson -City of Sun Prairie, for all of the improvement in storm water and sediment control and the costs of green space and new urbanism in Sun Prairie.



Part of the large crowd attending the Annual Meeting.



Lyman Anderson (left) accepts his Public Official of the Year Award from YLA President, Dan Hartwig.

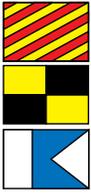
A Special Thanks to . . .

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Annual Meeting Committee: Joe Tisserand, Dan Schultz and Bill von Rutenberg.

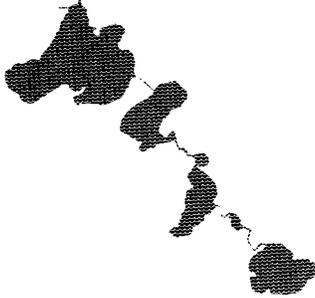
Thanks also to von Rutenberg Enterprises for providing a perfect location, terrific food and wonderful weather!



NEWSLETTER

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Yahara Lakes Association, Ltd. is a non-profit organization of over 700 members dedicated to protecting and representing lake property owners and improving the environment of Lakes Mendota, Monona, Waubesa, Kegonsa and the Yahara watershed.

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COMMITTEES

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Lake Quality Committee
Legislation and Legal Committee
Membership Committee
Water Safety Committee

Call 848-1450 if you would like to become involved in any of the above-listed committees, or if you have concerns you would like a committee to address.