

Who is responsible?

by Jeb Barzen, Ferry Bluff Eagle Council

On November 6, 2006 the Village of Prairie du Sac Plan Commission approved the Specific Implementation Plan (SIP) for the development along Water Street proposed by Mr. Ken Nonn. As part of this process, Ferry Bluff Eagle Council (FBEC) provided comment on the language of a covenants being drafted that restricts actions by owners of the condominiums. Some of the language of these covenants pertains to actions that condominium owners must take to decrease disturbance of eagles.

Before FBEC could comment on specific language of this covenants, however, we felt it was important to clarify three important points: 1) Who would monitor eagle use of Eagle Island to see if the actions taken by condominium residents actually worked?; 2) Who was responsible to mitigate (i.e. fix) a situation whereby eagles actually abandoned use of Eagle Island after the proposed condominiums and restaurant were occupied?; 3) If the actions to be taken by condominium owners fail to protect eagles who is responsible for changing the language of the covenants and how would it be changed?

FBEC has consistently stated, and provided data to support, our contention that the proposed development, as it currently stands, will likely cause eagles to decrease their use of Eagle Island. Reducing eagle use of the island, the main point from which a majority of eagle watchers view eagles, will reduce the annual \$1.2 million income generated from eagle-related tourism.

In response to our assessment, the Prairie du Sac Village Board and Village Plan Commission declared that they do not feel that eagles would be harmed by this development or that they are not convinced that our data demonstrated an impact would occur to eagles. No significant data was provided by any village board or plan commission member to support their claim though FBEC was assured that our information was carefully considered. Board and plan commission members did, however, say that they do not want eagles to abandon use of Eagle Island. Mr. Nonn and FBEC agree with this desire.

Answers to FBEC's letter regarding the covenant language, therefore, becomes important. Who monitors, who is responsible, and what can be done afterwards should eagles abandon Eagle Island? The Village of Prairie du Sac responded to FBEC's points as follows:

“As with every program, development or municipal activity, every effort is made to exercise oversight and due diligence in the approval and implementation. However in no case will any municipality guarantee the outcome of a municipal operation, whether it is the impact of a development or the result of snow plowing operations. When there is a direct impact of a development or operation that can be clearly identified as to the cause and result, to the extent that it is possible, outside of negligence or deliberate omission(s), the developers agreement will contain performance measures that must be adhered to and ordinances, and law shall be enforced.”

From this response it appears that the Village of Prairie du Sac does not believe that it is responsible if eagles abandon use of Eagle Island. Further, this response suggests that they believe the developer may be responsible, if cause and effect can be shown, but there are no performance measures that refer to eagles using Eagle Island and there is no monitoring of eagle use for the island contemplated in any document that FBEC has seen. Nor has the developer suggested that he is willing to take responsibility should eagles stop using Eagle Island after the Nonn development is completed.

With no one willing to take responsibility should eagles do what the Village Board and the developer say they will not do, people in the community of Prairie du Sac, and people of all the other communities that benefit from 'our eagles', will thus become responsible by default. Is this what you want?