

COMMISSION TO STUDY THE EFFECTIVENESS OF THE CURRENT STATUTES RELATED TO
MANAGEMENT OF NON-TIDAL PUBLIC WATERWAYS AND THE CONSTRUCTION OR
PLACEMENT OF STRUCTURES WITHIN THEM (RSA 482-A:35)

Monday, January 27th, 2020 **1:30 PM** in LOB Room 305

Minutes

- I. Call to order:
 - a. Mark McConkey, Chair, called the meeting to order at 1:35 PM.
- II. Introductions:
 - a. Members: Mark McConkey, Kelly Buchanan, Rene Pelletier, Don Ware, Cindy Balcius, Captain Dunleavy, Rob Wichland, Darlene Forst, Tom Quarles, Representative Renzullo, Representative Smith, Nick Robbins
 - b. Guests: Seth Prescott from DNCR, Division of Parks
- III. Approval of last meeting's minutes (1/6/2020)
 - a. Representative Renzullo made a motion to approve the minutes as written. Tom Quarles seconded the motion. The minutes were approved unanimously.
- IV. Legislative Update
 - a. **HB1609**, *relative to seasonal platforms on public waters of the state*: Captain Dunleavy provided an update that the bill will be heard later in February. Captain expressed concerns with the "obstruction of view" provision within the bill. The bill's sponsor, Representative MacDonald, stated that this provision was intended to keep the platform within the shorefront of the owner's property lines as they extend over the water. Representative MacDonald plans to delete the view section of the bill via an amendment.
 - i. Discussion ensued regarding communicating an amendment to the Resources, Recreation & Development Committee at the bill's public hearing to address the new property setback (20' radius) the commission supports. The radius system may not work for platforms because they are further from shore to ensure safe

diving. The majority of placements of platforms would be addressed with the current language of the bill, per Captain Dunleavy.

- ii. Tom expressed interest in limiting people to one platform only. Rene expressed interest in a limit on platforms based on linear feet of frontage. Darlene expressed that she is not sure we can translate wetlands rules regarding setbacks to platforms. Rene expressed the public trust should protect the public's use of the surface water and limit the placement of platforms because it is a shared resource. Rob mentioned that some people purposely crowd the surface water near the property with platforms, moorings, etc. Darlene asked, how do we govern reasonable and what is the reasonable number of platforms? Nick stated that most camps have much more frontage than the average home owners. Nick also expressed the limit to platforms would severely restrict their business. Tom stated we could exempt businesses or non-profits. Tom also stated that the 100' per platform would be reasonable. Tom stated we should avoid unintended consequences by using the bill as is (minus the view provision).
- iii. Representative Smith stated the public hearing is on February 12th for this bill. Cindy agrees that the bill should be kept general and allow for basic enforcement.
- iv. Tom thinks we should prohibit a non-property owner from putting a platform in. Rob expressed interest in delineating permanent (or long-term) from temporary and short-term (day use). Captain Dunleavy says temporary use does not occur. Darlene says this would encourage negative behavior because people don't realize they have a right to use public waters that way. Darlene state bob houses are an analogous situation. The commission expressed disinterest in regulating bob houses because they are not currently or dramatically problematic.
- v. Tom clarified that the bill already includes a requirement to own shorefront property to place a platform in the water.

- vi. The commission informally agreed to support an amendment only to remove the two sections of the bill on the view provision and to support the bill in general otherwise.
 - b. Seth Prescott from DNCR, Division of Parks introduced himself. The Division of Parks uses platforms.
- V. Mark discussed his handout. Mark expressed a question regarding the use of a common dock agreement vs. needing to permit a smaller 4'x24' dock on the smaller frontage. The owner with 61' of frontage wants a 6''x40' instead of the allowable 4'x24'. The neighbor with 99' agrees to this situation. This would be possible with a common dock agreement and would require a standard dredge and fill permit.
- VI. Draft changes of the dock registration bill, SB627 (Darlene Forst)
 - a. Refer to Darlene's handout titled, "Language that might be used to add certain project types currently processed under the Permit by Notification process...".
 - b. Darlene did not address the fees for registration in this handout. Current PBNs cost \$400.
 - c. Concrete anchor pads would be difficult to include in these recommendations because they also require a shoreland permit.
 - d. The new PBN rules require conservation commission signatures. If no conservation commission exists, then the selectmen must sign. This was a compromise for the 5-day turnaround for the permit within the wetlands rules revision process.
 - e. This proposed process would avoid abutter notification, Natural Heritage Bureau review, stormwater management review, etc. because they are not issuing permit or license. Instead, you get registration. The registration is exempting people from permitting. This wouldn't necessarily require conservation commission approval. Registration would require property owners to follow rules to remain qualified.
 - f. Mark asked, what is the difference between a pier and a dock? Darlene stated a dock is a general term. A pier is perpendicular to shore or another wharf. A wharf is parallel to

shore. These are all forms of a docking structures. They must have 3 feet of water for boat slips right now.

- g. Tom thought we would discuss square footage. That is coming before the commission at our next meeting.
- h. Registration would apply to normal temporary seasonal docks with no more than two boat slips.
- i. Mark asked, would this harm our square foot plan and removing boat slip definitions in the future? Darlene stated no, this is dealing with separate issues with the PBN process and how they could be streamlined into registration.
- j. Rene stated the registration is made to eliminate feuds between neighbors. This PBN document changes the whole permitting system. SB627 would not be changed to include all these recommendations this session. Including these changes would require a larger fee to cover costs and a more detailed conversation.
- k. Don is concerned about adding river docks into the lake process because the rivers placement is much more complicated and dangerous.
- l. Darlene stated this document will help us understand the current process of permitting in order to understand the square footage process later. Darlene also noted that SB627 had a requested amendment to add in item “(4)” to address Tom’s past concerns about civil action. Tom also expressed concerns with 2 IV-a. Darlene stated this section only applies to temporary seasonal docks (new docks). Tom and Darlene agreed on changes, to be distributed to the commission by Darlene. Tom expressed that he is now comfortable with SB627-FN.
- m. Mark stated he needed clarifications on concrete anchor pad requirements. Darlene responded that total impacts may be 10 linear feet along the bank. Pads may be 4’ long and 7’ wide.

- n. Right now, the exemption for shoreland permits exists because it gets a wetland permit. If this registration process goes forward, you wouldn't get a permit, so you are not exempted by the wetlands permit and must get a shorelands permit.
- o. Nick asked, how do we determine impact to water quality, aquatic vegetation, wildlife, etc.? Darlene responded this is the way that the wetlands rules work. It depends and would be addressed in various other programs if violations occurred. Nick is also concerned with the subjectivity of "affecting an abutter". Darlene explained this provision could be reviewed by the commission.
- p. Don asked, would there be BMPs available for new projects? Guidance documents? Darlene stated this is just a suggestion and not in law today. If we carried this forward as legislation, we would need to identify which rules and provisions to include going forward. Darlene stated they would provide educational documents, BMPs, etc. as well.

VII. Swim platforms

- a. Tom expressed mooring boats to swim rafts shouldn't be allowed. He also asked, should these platforms be banned on rivers?
 - i. Captain Dunleavy said the mooring issue is moot because other statutes regulate that.
 - ii. Don stated that rafts would be a large safety hazard in some cases for rivers and perfectly acceptable in others. Captain Dunleavy stated that these platforms are used in slower, larger areas of rivers. Darlene stated emergency responders need to comment on this regarding flooding and hazard management. Captain Dunleavy stated that it doesn't matter to Marine Patrol if platforms are denied on rivers, but it would cause upset in the community (Merrimack, Connecticut Rivers). Tom mentioned that this bill contains provisions for rulemaking that could help address this problem. Don stated that we could set a date for grandfathering platforms on rivers if people could document it existed before.

Don expressed rivers advocates have objections to banning platforms on rivers.

Representative Renzullo and Representative Smith recuse themselves on this issue.

VIII. Discuss next steps and other business that may come before the commission (All)

- a. Our next meeting is on February 24th at 1:30 PM, during which we will discuss the square foot proposal.

IX. Public Input

- a. None was received.

X. Adjourn

- a. Representative Renzullo made a motion to adjourn. Rene seconded the motion. The meeting was adjourned unanimously at 3:20 PM.