

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, November 18, 2019 1 PM in LOB Room 305

Minutes

- I. Call to order:
 - a. Mark McConkey, Chair
 - b. 1:09 PM
- II. Introductions:
 - a. Members: Mark McConkey, Don Ware, Paul Goodwin, Darlene Forst, Tom Quarles, Captain Dunleavy, Representative Renzullo, Rene Pelletier
 - b. Guests: Joel Anderson, Sarah Yuhas-Kirn, Representative MacDonald
- III. Representative MacDonald, regarding LSR on floating docks, seasonal platforms, inflatable platforms, etc.
 - a. Working with Captain Dunleavy and stakeholders to fine tune tools for Marine Patrol to work with to regulate these seasonal floats. Protect the environment while allowing for private property rights.
 - b. Paul, add in the term “swim raft” because that is what most people call it. Captain, the rules for swim raft exists but the legislature removed the empowering statute, so the rules are not enforced.
 - c. Darlene, would this accidentally prohibit loon protection rafts? Rep. MacDonald, no, he did not think it would.
 - d. Tom, should be placed clearly in front of frontage and within enough depth for safe jumping into water. Rene stated if you the bill does that it should prescribe a maximum distance from shore. Darlene stated use the word “unreasonable” to allow flexibility for Marine Patrol to determine what is reasonable obstruction in rule.

- e. Captain Dunleavy stated we've left this open to balance needs (safe navigation, safe swimming). We didn't speak to specific distance or water depth because it will be situational.
 - f. Tom inquired, what about distance from shore up to 8 feet of water or 75ft from the reference line (whichever comes first)?
 - g. Rene stated we should also consider hazards to night navigation.
 - h. Paul stated we need to define appropriate uses. Private recreational use, but not for tying up boats.
 - i. Tom stated we need to address these floats on rivers as well. Recommendations by the commission were made to limit these to great ponds and impoundments.
- IV. Approval of last meeting's minutes (10/21/19, Mark)
- a. Tom made a motion to accept the minutes as distributed. Representative Renzullo seconded. The minutes were approved as written.
 - b. Don Ware abstained due to absence.
- V. Representative Webber called Representative Smith with a question regarding authority on the Connecticut River for docks and moorings. Darlene stated NH has authority to low water line on the VT side, which means VT residents may need an NH permit.
- VI. Senator Rosenwald's LSR on dock setback requirements for 25' of shorefront
- a. No one has seen the language, but Darlene received a phone call from OLS regarding the placement of the language.
 - b. Tom has another set of recommendations. See handouts. The blank left for a date is to accommodate lots grandfathered before for the subdivision requirement of 150' of shorefront in the first version of the Shoreland Water Quality Protection Act.
 - c. Darlene stated we could move this to the setback section of statute. In IV-a, you could delete frontage requirement and add "meets setback section" to clarify language.
 - d. The 25' minimum allows for 10' passage on each side of the docking structure.

- e. Should this only apply to Spindle Point only? Captain Dunleavy stated changing the setback requirements would increase risks to boater safety. There would realistically only be 3ft between boats in this proposed situation. Any wind, wake or current action could pose major impacts to safety in such tight quarters – not accounting for poor boating skills.

VII. Policy Discussions:

- a. Discuss 20' protective radius from property lines as it pertains to docking structures (All)
 - i. Paul explained his handouts. He asked if we should combine this to the suggestions from Tom proposed earlier this meeting.
 - ii. No part of the dock could be within the radius. This proposal removes the “imaginary extension into infinity”. The radial point is where shoreline intersects the shoreline.
 - iii. Rene stated this doesn't give the agency “heartburn”. However, there are many old subdivisions with small lots. The setback proposal from Tom Quarles for small lots would be problematic.
 - iv. Darlene stated problems typically begin when old lots are sold because people expect to have a boat, even if there hasn't been a place for a boat historically.
- b. Waiver process:
 - i. Mark asked does the department have a preference on how setbacks are reduced? Rene stated this should be in statute, not a waiver that is up to staff to decide.
 - ii. Captain Dunleavy stated a waiver would be nightmare to administrate. This would increase the fiscal note too.
 - iii. Rene stated this would increase the wetlands council appeals work load if setback waivers were a staff decision.

- iv. The radius should be a separate piece of legislation so each issue can be separate.
Paul agrees with Rene on the setback reduction issue – that it would be unsafe and difficult to administer.
- v. Diane asked should this only apply to certain historic areas?
- vi. Tom stated you could do that through special legislation.
- vii. Darlene asked should this be like ski craft restrictions? Petition process?
- viii. Mark stated would DES oppose legislation for a specific area? i.e. Spindle Point?
Rene will ask the commissioner.
- ix. Mark will provide a document proposal for next meeting for the committee to vote on.
- x. Tom, should we vote today? Most members expressed we should not because everyone should have the chance to participate.
- xi. Representative Renzullo is opposed to both proposals. He stated he supports Rene on keeping 20' setback.

VIII. Darlene stated NHDES is hosting a “how to file a dock application” under the new rules. Tuesday, December 10th. Darlene will send an invite.

IX. Public Input

- a. None was received.

X. Adjourn

- a. 3:07 PM. Unanimously adjourned.