

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, December 16, 2019 1 PM in LOB Room 305

Agenda

- I. Call to order:
 - a. Mark McConkey, Chair
 - b. 3:05 PM
- II. Introductions:
 - a. Members: Don Ware, Tony Guinta, Darlene Forst, Kelly Buchanan, Mark McConkey, Representative Smith, Representative Renzullo, Captain Dunleavy, Tom Quarles, Paul Goodwin, Diane Hanley, Rene Pelletier
 - b. Guests: Senator Rosenwald, George Hickey and Maida Latvis
- III. Approval of last meeting's minutes (11/18/19, Mark)
 - a. Tom made a motion to approve the minutes as written. Captain Dunleavy seconded.
Approved with one abstention due to absence (Representative Smith).
- IV. Other business:
 - a. Tony stated his interest in preserving the use of small lots with docks and property values in Franklin. He doesn't want people to lose their historic docks.
 - b. Mark gave an overview on the discussion at the last meeting (11/18/19) regarding small lots. Perhaps, we should allow lots created by 1978 a temporary dock, no wider than 4 feet, placed in middle of the lot?
 - c. Rene clarified this would only affect new development projects.
 - d. Senator Rosenwald stated she is flexible to amend her LSR/bill regarding "allowing the commissioner of the department of environmental services to waive certain requirements for seasonal docks" at the advice of the commission.

- e. Darlene clarified that small lots cannot occur in the future. State statute requires 150 feet of frontage for a new lot today.
- f. Tom explained the commission disagreed on whether 25 ft. was enough for safe docking.
- g. Darlene asked for clarification on the layout of small lots of Webster Lake in Franklin. Tony clarified it was many small lots next to each other across the road from home developments with larger lots. Darlene stated maybe we need specific rules for specific places, like Spindle Point. Representative Smith expressed concern that this would cause an “us vs. them” problem and stymie progress. Captain Dunleavy clarified that the provision to analyze the findings critically is key in the petition process. Public majority may not necessarily have bearing and the process could avoid “us vs. them” problems.

V. The commission voted on:

- a. Should the commission support legislation to allow docks on legally existing lots with at least 25’ of shorefront?

- i. Roll Call Vote:

- 1. Don Ware - yes
 - 2. Tony Guinta - yes
 - 3. Rene Pelletier - no
 - 4. Kelly Buchanan- no
 - 5. Mark McConkey -yes
 - 6. Representative Smith- no
 - 7. Representative Renzullo- no
 - 8. Captain Dunleavy - no
 - 9. Tom Quarles - yes
 - 10. Paul Goodwin - yes
 - 11. Diane Hanley - no

- ii. The vote failed with 5 members voting "yes" and 6 voting "no". The commission did not agree to support legislation to allow docks on legally existing lots with at least 25’ of shorefront.

- b. Should the commission support legislation to replace the current “imaginary extension of the property lines into the water” with a 20’ setback radius from property lines as the minimum side setback for docking structures?
 - i. The commission members voted unanimously “yes”.

VI. Legislative Update (Representative Smith and Representative Renzullo)

- a. The dock registration process (HB645 from 2019) was submitted by Senator Bradley for 2020.
- b. HB1609, relative to seasonal platforms on public waters of the state, sponsored by Representative MacDonald:
 - i. Captain Dunleavy’s only concern with the bill is regarding the view provision – what is it that they’re attempting to regulate specifically?
 - ii. Tom isn’t sure how it is supposed to work because there is no reference to a permit, but the state has authority. Tom isn’t sure about the view provision because it may be undefinable or unattainable. Tom was also concerned regarding the visual difference between an inflatable many feet above/across the water vs. a traditional, small platform.
 - iii. Rene stated the real question is how many rights do shorefront property owners actually have to use the public waters?
 - iv. Darlene stated the new rules require all wetlands applications to be addressed in the same manner. This system may be awkward for docks because of different considerations and environmental variables. Maybe we should break out wetlands from surface water.
 - v. Darlene stated the 645 dock registration process will fix a lot of things right now. However, the rest of the process will take time. Shoreland beaches/structures will need wetlands permits still. Shoreland rules are now very quantitative, which is essential.

vi. Paul, do we need to extend this commission again to get these goals accomplished? Tom expressed we should utilize outside time and work the next couple of months to see where we get. If we need to extend, we can tack it to the dock registration bill.

c. The commission expressed great interest in addressing the permitting challenges between the shoreland and wetlands departments at NHDES (breaking some sections of permitting out of wetlands while retaining others).

VII. Adjourn

a. Our next meeting is on Monday, January 6th at 1:30 PM in LOB 305. We will discuss the dock registration bill and the proposed permitting methodologies for shoreland and wetlands projects.