

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, July 1, 2019 1 PM in **LOB Room 301**

**Minutes**

- I. Call to order:
  - a. Mark McConkey, Chair
  - b. 1:05 PM
- II. Introductions:
  - a. Members and guests
  - b. In attendance: Rene Pelletier, Diane Hanley, Rob Wichland, Tom Quarles, Captain Dunleavy, Rep. Renzullo, Mark McConkey, Kelly Buchanan, Darlene Forst
  - c. Guests: Joel Anderson (House staff), Jaron Castranio (NHDES legal intern), John Mullen (former representative, sponsor of HB1810), Sara Yuhas-Kirn (NHDES), Kaytlynn Jacobs-Brett (Lobbyist for NH Marine Trades Association)
- III. Summary of the commission's work to date
  - a. Tom discussed the possibility of allowing by right one boat lift per already permitted boat slip in relation to HB645. Tom also expressed a canopy permit should be retained because it could block or interfere with abutters.
    - i. Darlene in response: This would take a legislative change. It has been in unsuccessful legislation before – a PBN for boat lifts. DES would like the commission's opinions on canopies because it is regulating aesthetics.
    - ii. Rene in response: Some boat lifts require pilings and motorization. These are not seasonal devices and would be considered permanent structures.
    - iii. Tom: Do people permit their seasonal boat lifts?
      1. Darlene: Yes, about 80% permit their seasonal boat lifts, however, the PWC lifts rarely have permits.
  - b. Tom: What are towns doing in the regulation of boats and watercraft? Towns shouldn't do anything regarding public waters. Example: aquatherm registration. The state is better equipped to regulate and follow up on these items. Towns may also regulate some on-water conduct. These things should all be taken away from towns and given to the state to regulate.

- i. Darlene in response: Aquatherms are the outlier for town-regulated items. These things are mostly regulated by the state. Fish and Game typically handles on-ice problems, but Marine Patrol usually gets the call.
- ii. Tom: People putting aquatherms on seasonal docks should be fined. We should address this with legislation.
- iii. Rob: Why can't we do an online registration for aquatherms? Just like they permit fires now. Series of questions to ensure the permits go out correctly.
  1. Darlene: This is why the department would like to go to a dock registration program to make records publically available and more streamlined.

IV. Approval of last meeting's minutes (6/3/19)

- a. Mark McConkey, Chair
- b. Rep. Renzullo made a motion to approve the minutes as written, Rene seconded the motion. Minutes were unanimously approved as written.

V. Legislative Update:

- a. Representative Renzullo:
  - i. HB645 passed both bodies and now needs the Governor's signature. Representative Renzullo mentioned this may not occur until September due to concerns with the budget.
  - ii. HB228 became law and extends the commission to 2020 and reduces the quorum to 8 members.

VI. Discussion Topics:

- a. Do we have a thorough understanding of DES and Marine Patrol's current concerns for freshwater docking and the placement of structures in non-tidal public waterways?
  - i. Darlene asked commission members to raise their hand if they felt they had a thorough understanding. Kelly was the only one to raise her hand.
- b. List possible action items identified to date:
  - i. Discuss canopies and future policies/permitting on these additions.
  - ii. Discuss the importance of value judgements and aesthetic judgements by weighing the rights of an abutter and property owner.
  - iii. Dock length and depth of slip
  - iv. Dug in boathouses vs. boathouses over the water
  - v. Dredging for vegetative management (providing clear, open water in front of property owners)

- vi. Is it possible to have a dock and only use one side of that dock? (Small shorefront and abutter setback).
- vii. Submerged power lines for islands
- viii. Common value judgements that are unclear to permitting staff in general
- ix. Rep. Renzullo: What is the goal of working on these items?
  - 1. Rene: We are hoping for legislative changes, including suggested drafted legislation.
  - 2. Darlene: We don't expect a perfect solution, but we're hoping for a clearer policy road map to prevent an individual staff person making these decisions. How do we make these judgement calls? How do we incorporate DOS or NHF&G on some decisions relevant to their work?
- x. Darlene: There is a group that wants to build a lighthouse on Winnepesaukee.
  - 1. Captain Dunleavy: There is a private citizen who has approached Marine Patrol about building a lighthouse on the Witches, a rocky bottomed area of the lake. DES, as the manager of the public water, must file the appropriate permits to construct it. This would be an aid to navigation and has risen to the DOS Commissioner's level. The private citizen is willing to go after millions in fundraising.
  - 2. Who has a right to build this if there is no land? Who is liable for this "tourist attraction" and "navigational" aid. Will this actually help public safety?
  - 3. Tom: This seems way off line and too circumstantial to address.
- xi. Moorings, swim rafts, swim lines
  - 1. What is a justifiable need for a mooring?
- c. Public outreach & Jaron Castranio's suggested survey
  - i. The survey is designed to understand the public's knowledge and to improve outreach efforts
  - ii. Jaron's last day is the 2<sup>nd</sup> of August, so NHDES will finish what he starts
  - iii. Mark, based on our action items, this is appropriate. We will address this again next month.
  - iv. Captain Dunleavy: Is this an online survey or paper? I would be happy to slide the info into Safe Boater Guides.
  - v. Darlene: We should add a question asking if the public knows how to contact state agencies with questions.

VII. Set goals for our next meeting:

- a. We will discuss:
  - i. Length of docks
  - ii. Frontage and slips
  - iii. Setbacks

VIII. Public Input

- a. Sara Yuhas-Kirn, Land Resource Management Program, introduced herself.

IX. Adjourn

- a. Rene made a motion to adjourn at 2:24 PM. Mark seconded the motion to adjourn. The meeting was unanimously adjourned.