

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, September 30, 2019 1 PM in LOB Room 305

Minutes

- I. Call to order:
 - a. Suzanne Smith, 1:05 PM
 - b. Mark was running a few minutes late and asked the commission to begin without him.
- II. Introductions:
 - a. Members: Representative Smith, Representative Renzullo, Tom Quarles, Rob Wichland, Darlene Forst, Paul Goodwin, Cindy Balcius, Diane Hanley, Don Ware, Tony Giunta, Rene Pelletier, Kelly Buchanan
 - b. Guests: Joel Anderson
- III. Approval of last meeting's minutes (9/9/19)
 - a. Mark McConkey, Chair
 - b. Tom Quarles gave two corrections:
 - i. Bottom of page 4, 2nd to last page, section 3 c. rob inquired if current problem structures are going to be...
 - ii. "Condominiumized"
 - c. Tom made a motion to approve the minutes as revised. The minutes were approved as revised.
 - d. Representative Smith, Cindy and Diane abstained due to absence.
- IV. Legislative Update:
 - a. Representative Smith and Representative Renzullo:
 - i. Representative Renzullo filed LSR for dock registration bill. Is seeking the input of the commission on any changes before the sign off date.
 1. Tom distributed a memo from his summer intern critiquing the dock registration bill. He expressed 645 might not be relevant if we're going for the proposed new system of permitting.
 - ii. Rep. Smith: SB162, exempting commercial vessels from rafting rules. Commercial vessels aren't structures, but this group could tackle this sort of item because this specific bill deals with vessels anchoring by spuds (metal "feet" driven into the lake bottom to create a stable structure over the water).

1. Tom expressed because this happens on public waters, the commission should comment.
2. Rep. Smith said the Resources, Recreation and Development Committee will likely recommend the bill be found inexpedient to legislate.
3. Tom then expressed the proponent of this bill has the burden of proof to advocate for it. This isn't worth the commission's time unless it becomes a significant issue.

V. Policy Discussion Topics (All):

- a. Darlene summarized the proposed permitting system changes based roughly on the Oregon dock regulations.
 - i. Square foot maximums based on frontage amount. Accommodating needs of those on smaller ponds (docks not based on boat slips). We perhaps need two different standards (small vs. large lakes) because of different use needs.
 - ii. Paul summarized that people could still use the old permit system, but this new system would be quicker and more flexible for design. Bigger projects or oddballs would go through the standard/old process. Paul also mentioned the use of impounded area (canopy, u-shaped dock, pilings, etc.). The numbers (maximums) are still being discussed. Some lakes, including the bigger Squam lake, people are more focused on passive recreation, which doesn't require boat slips. These people should be able to create a dock that suits their needs in a unique shape, that doesn't require boat slips, and isn't environmentally impactful. Maximum lengths and widths and maximums on certain elements ensure things don't get out of hand.
 - iii. Mark stated we're also discussing the direction of a property line out over the water and possible changes to the way that is determined. Are we the only state that has this standard? Straight edge vs. with property line.
 - iv. Mark asked if Tom wanted to discuss 645 memo. He responded no because the Goodwin/Darlene proposal seems to supersede. 18 lakes are over 1,000 acres in NH (according to All Sites from the OSI). Provided the commission with a list.
 - v. Darlene, the real question at hand is "Do we want to develop an alternative permit process for a dock?". The square footage specifics don't need to be in statute and could be submitted to DES as a recommendation instead. Maybe set a maximum square foot for alternative process for statute. Seasonal vs. permanent. Is alternative, opt-in process acceptable?

- vi. Mark, doesn't want to dive into dock registration completely. Mark agrees with most of what Darlene said – the most number of people to get docks for their properties, which is a different process than what we have today. Mark thinks we should spend time looking at specific numbers because it is new to NH.
 - vii. Rep. Smith, agrees with Darlene that we're looking for an alternative process. Once we decide on the outline, then we get into the specific numbers. If we start discussion with square feet, then we're getting into the weeds too quickly.
 - viii. Don, agrees with simple permitting, but got thrown off by 2500 square feet max as first stated by Paul. We should focus on broad guidelines, simple process, and if people want to leave that then they should go through original. Rivers need different consideration.
 - ix. Paul wanted to express this system isn't his original idea. It is sourced from OR's program. The registration process (or other named process) to allow this is necessary. We need to discuss procedure. Seasonal dock notification is a burden right now.
- b. Continuation of the discussion regarding the proposed new dock permitting system (based on a certain size envelope for the use of docks and any water structures (canopies, finger docks, etc.)).
- i. Paul summarized the simple docking structure allowances handout.
 - ii. Tom asked about the accessory structure allowances. Paul and Darlene explained this system allows for max flexibility (floating PWC docks, 2nd docks, as long as under total). Minimum and maximum sizes weed out unreasonable or unsafe docks.
 - iii. Darlene stated we need to define area of use/impounded area for NH if the commission wants to use that method.
 - iv. Paul drew the fill in for corners in a u-shaped dock that help with safety. The new system would account for this in area of use and allow for it.
 - v. If you add a canopy over a u-shape, then you do not double count area of use.
 - vi. You need at least 150' frontage for a u-shape structure.
 - vii. Don wanted to clarify that the t-shape dock doesn't impound additional water according this method. However, if you use PWC lifts behind the t-shape and close to the shore, then you impound. What is exclusive use? We need to better define that term.

- viii. Rene stated that this system would dramatically change the right to a public resource by changing the right to wharf.
 - 1. Darlene stated this right to wharf was established for ice harvesting when population and use was much different.
 - ix. Diane asked if this new system is going to get 80% of people to rein in what they're building.? Paul, stated he believed it would constrain unreasonable plans. Diane stated this system creates a menu of options. Diane also asked if this system precludes a "party platform"? Darlene and Paul answered yes, it does preclude a party platform.
 - x. Paul stated to Rene that this could give people less used space to preserve public use, especially with small lots.
 - xi. This system eliminates boat parking spot/boat slip arguments during permitting.
 - xii. Mark asked if this system eliminates the use of property lines extending over the water. Darlene answered no and that everyone still needs a setback.
 - xiii. Tom stated setbacks at 20 feet to start are necessary to preserve safety and reasonableness.
- c. Mark shared many drawings of docks on Spindle Point on Ossipee Lake, adjusting for different setbacks.
- i. Mark stated we should recommend an appeals or variance process for reducing setbacks.
 - ii. Mark summarized his drawings and suggested offsets for narrower lots or parking a boat on only one permitted side of a dock.
 - iii. Mark stated not having a dock on a small property diminishes the value.
 - iv. Darlene stated if there's a variance/appeal, then the legislative process MUST be clear. This decision cannot go to a single person.
 - v. Rene stated setbacks went from 10 to 20' to ensure public safety after problems. Due to high winds, many boaters take an arch to get into docks for bow out parking, Rene stated the agency would never support variance/appeals process for reducing setback requirements. This would not be enforceable.
 - vi. Tom stated an appeals/variance process would force neighbors to "put up or shut up". Furthermore, a variance/appeals process would not have the original jurisdiction of the permit issuer.

- vii. Rene stated an appeals/variance method caters to the “haves and have not” because people can outspend each other. People walk away because they can’t afford the process of appeals.
- viii. Don stated preexisting lots would benefit from the appeals process and new lots would not be affected. However, this process would open a door to over-development.
- ix. Paul stated setbacks follow the property lines, but when does the imaginary extension end? It is not defined.
- x. Mark asked if some states define property lines differently. Darlene answered yes, it depends on the place.
- xi. Representative Smith asked, are we issuing docks for a specific use per the property owner? She stated this could become problematic if a property changes owners (and desired uses).
- xii. Mark inquired, how do we deal with the 20% of abnormal dock permits? We should better define waivers and council process.
- xiii. Tom asked, why do people use canopies? Paul explained protection from pine pitch is the single biggest reason, as well as sun and weather protection.
- xiv. Tom asked, where did these numbers come from? Paul stated, they were formed on Darlene’s advice and as a starting place to discuss further.
- xv. Commission members expressed interest in defining PWC lift vs. boat lifts and determining use densities.
- xvi. Paul stated the OR program doesn’t count “ramp” section of dock on lawn/land.
- xvii. Paul stated he will create examples of docks under this system for 75 and 150 feet of frontage.
- xviii. Rene stated we could create an “envelope” for docking.
- xix. Andy inquired, is there value in HB645? The commission expressed they would discuss that at the next meeting.
- xx. Tom stated we need to address grandfathering.
- xxi. Rene stated HB645 would accommodate historical structures and not be retroactive or arguing about legality.
- xxii. Representative Smith stated we should discuss floats/inflatable play structures at the next meeting.
- xxiii. The commission expressed interested in discussing moorings at next meeting.

VI. Public Input

- a. None was received.

VII. Adjourn

- a. Paul made a motion to adjourn. Representative Smith seconded. The meeting was unanimously adjourned at 3:15 PM.