

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 9, 2019 1 PM in **LOB Room 307**

Minutes

- I. Call to order:
 - a. Mark McConkey, Chair
 - b. 1:05 PM
- II. Introductions:
 - a. Members and guests
 - b. Present: Mark McConkey, Kelly Buchanan, Rob Wichland, Paul Goodwin, Don Ware, Tom Quarles, Captain Dunleavy, Darlene Forst, Representative Renzullo
 - c. Guests: Mary Ann Tilton (Administrator, NHDES Water Division), Tom O'Donovan (NHDES Water Division Director), Joel Anderson
- III. Approval of last meeting's minutes (8/12/19)
 - a. Mark McConkey, Chair
 - b. Revisions:
 - i. 2nd page, section 6 a. "many dock decisions" should be "docking requests"
 - ii. 4th page, "reintroducing OR dock program" should be "OR dock concept"
 - c. Representative Renzullo made a motion to approve the minutes with the two revisions. Paul seconded the motion. The minutes were approved as revised unanimously.
- IV. Legislative Update:
 - a. Representative Renzullo stated timelines for legislation need to be considered for the upcoming session. The commission would need a place holder LSR by 9/20. November 1st is the last day to sign off LSRs.

- b. HB645, establishing a dock registration procedure, was vetoed by the Governor. The veto sessions will be on 9/18 and 9/19. Representative Renzullo anticipates the Governor's veto to be sustained. Representative Renzullo filed an LSR to mimic this bill as a placeholder for 2020 legislation. He requests the commission's input on any changes or suggestions for that language and would like to fully discuss the subject at the next meeting.
 - i. Tom said his legal intern wrote a memo on HB645 explaining his legal concerns. Tom will share this with Darlene and stated he may share the document with the entire group.
 - ii. Joel let the commission know that study commissions receive special dispensation to file legislation after they file final reports, which means we may be able to surpass the normal deadlines. However, the report we have due in November is our interim report.

V. Policy Discussion Topics (All):

- a. Darlene, alternative permitting process explained in wetlands rules revision process was held back for this commission to examine. Explaining handout "single family docks" and that all numbers are negotiable. What does this look like design-wise?
- b. Paul Goodwin's discussion on referencing the Oregon dock regulations permitting a certain size envelope for the use of docks and any water structures (canopies, finger docks, etc.)
 - i. Paul explained:
 - 1. The proposed system would set widths and lengths to apply within the usable area for actual dock surface.
 - 2. Impounded water is space in the water that you are using for private purposes, which is the combined square footage of combined canopy and lifts.

- ii. Several commission members asked should we abandon slips requirements?
 - 1. Paul responded if we're dealing with the big lake, then the number of slips matters dramatically. On smaller lakes, property owners are frustrated by slip requirements because they only need one side of dock or only need the dock for social/swimming purposes. Creating freedom of design at smaller lakes is important while retaining safety on bigger lakes for bigger boats.
- iii. Paul explained:
 - 1. If a property has 50 feet of frontage, then you only have 10 feet of water to use. How should the commission preserve usable space? Paul estimates most properties have about 17% of useable frontage space.
 - 2. If we abandon slip count, then impounded space is more important. What space is truly isolated from public use?
 - 3. A 4 foot wide minimum and 8 foot wide maximum design is currently proposed to reduce obnoxious docks. However, specific design elements are left to the homeowner to decide for their desired uses in a simpler permit system.
- iv. Paul explained that currently NH docks are recorded in the registry of deeds, which needs written description. However, registering with NHDES would require plans and would reduce any uncertainty regarding the dock's nature.
- v. Don inquired if NH abandons boat slips could impact more lake/environment and become a free for all? Paul and Darlene explained that no, boat parking isn't currently regulated.
- vi. Paul explained setbacks are extensions of property lines. Some states use extensions at 90 degrees, but NH uses perpendicular lines.

- vii. Mark asked why does the proposed system categorize single family homes? He opined the single family home category could also include associations or small businesses. Darlene said that is possible unless the area is an aquatic bed.
- viii. Rob asked how should we deal with setback challenges associated with extensions out? Paul stated averaging the normal is the nationwide standard that averages angles.
 - 1. Tom O'Donovan suggested we use abutter agreement because calculated angles is complicated, challenging, and creates conflict. Commission members explained that abutter agreement is a source of issues already.
- ix. Mark asked do we have issues with past cases using litigation to get what they want now? Tom stated no, if it's not a retroactive policy.
- c. Broadly, the commission discussed boat slips and how people use them safely or unsafely and asked if NH should regulate boat crowding.
 - i. Don asked if should jet skis, kayaks/canoes, and motor boats be regulated differently. He suggested a possible option would be to limit boats based on frontage.
 - ii. Mark asked the commission members to do homework, review Paul's design document, and draw up some ideas and be prepared to discuss them at the next meeting.
 - iii. Rob inquired if are current problem structures going to be grandfathered. Captain Dunleavy explained seasonal structures are more problematic because people don't want to put them in the center of their property every year. Permanent structures aren't the problem.
 - iv. Renting boat slips
 - 1. Is currently legal and popular, as are condominiumized boat slips

2. The commission discussed whether or not boat slips should be retained and enforced to minimize overcrowding issues.
3. The commission expressed strong hesitation at regulating boating, renting boat slips, and the presence of individual boats at a slip.

VI. Public Input

- a. None was received.

VII. Future Meeting Schedule

- a. The next meeting of the commission is on Monday, September 30th at 1 PM in LOB 305.

VIII. Adjourn

- a. Paul made a motion to adjourn the meeting at 2:54 PM. Tom seconded that motion. The meeting was adjourned unanimously.