

LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program



New Hampshire Department of Environmental Services
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MEETING MINUTES
March 28, 2008
DES Conference Room
9:00 a.m. - 12:00 p.m.

Members present:

Wendell Berry
Mark Hemmerlein
Mitchell E. Kalter
Bob Spoerl for Shari Colby
Jen Czysz
Ken Jordan
Mark Gallagher

Representing:

NH Business and Industry Assn
Commissioner, DOT
NH Fish & Game Commission
Commissioner, DRED
Director, Office of Energy & Planning
NH Association of Realtors
Commissioner, DOS

Term:

July 8, 2010
Indefinite
August 22, 2009
Indefinite
Indefinite
June 27, 2008
Indefinite

Members present via phone:

Phil O'Brien, Ph.D., Chair	NH Lakes Association	August 1, 2009
Larry Sunderland, Vice Chair	Conservation Community	September 19, 2010
Diane Hanley	Conservation Commissions	August 22, 2010

Members not present:

Jim Haney, Ph.D.	Scientific Community, UNH	August 22, 2010
Fred Murphy	Planning Board	August 1, 2008
Steve Perry	Director, Fish & Game Dept.	Indefinite
Michele L. Tremblay	State Conservation Committee	August 1, 2009
Ken P. Wilson	NH Marine Dealers Association	August 22, 2008
Vacant	Tourism Industry	Expired
Vacant	Elected Municipal Official	Expired
Vacant	Commissioner, Dept. of Agr., Markets & Food	Indefinite

Staff Present

Jacquie Colburn	Lakes Coordinator, Watershed Management Bureau (WMB)
Jenn Rowden	PT Asst, Planner, WMB
Darlene Forst	Shoreland Program Coordinator, Wetlands Bureau
Carolyn Guerdet	Admin. Asst., Water Division

Guest via phone:

Derek Durbin	NH Lakes Association
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I. Opening

Chairman O'Brien called the meeting to order at 9:07 am. It was decided to address the items on the agenda that need a vote first.

Minutes

- ***Mitch Kalter made a motion to approve the February 22, 2008 minutes, second by Bud Berry. Vote was unanimous.***

II. Key Discussion Issues

1) CORD SLR 08- 005: Laconia – Jenn Rowden, Jacquie Colburn

Jenn reported that Lakeport Landing Marina located on Paugus Bay in Laconia has submitted a request to DOT to rectify a long-standing encroachment on the State-owned railroad property. The lease area is .05 acres in size, it is land-locked and the marina plans to continue to use the area for boat storage. Jenn

applied the LMPP checklist to the proposed lease area and that exercise revealed that there was no impact on the lake or related resources.

- ***Ken Jordan made a motion to recommend disposal of the proposed lease area as presented in the CORD memo, second by Mitch Kalter. Vote was unanimous.***

2) **Sustainability Initiative (S.I.)**

Jenn reported that at the last RMAC meeting there was a request to add issue #7 *Consumptive Uses of Surface and Groundwater; Related Issues: Determine and Implement Instream Flow Protection and Groundwater Withdrawal* to the list of initial issues to be addressed in the Sustainability Initiative.

- ***Mitch Kalter made a motion to accept the addition of item #7, Consumptive Uses of Surface and Groundwater, second by Ken Jordan. Vote was unanimous.***

The RMAC is also asking the LMAC for its assistance with proposed legislation for the upcoming 2009 Legislative session, to collect additional fees on permit applications that occur within a designated river watershed corridor. This would raise funds to help possibly pay for an additional staff person and interns. It would also be used for instream flow studies. A proposed \$50 fee would be added to applications and could raise \$200,000 - \$600,000 annually.

3) **Lake-Related Legislation**

SB 384 – An act relative to the repair of septic systems prior to the sale of waterfront property.

Derek Durbin reported that this bill: 1) will require the site assessment be sent on to the local health officer and DES if there is a failing system; 2) will extend the site assessment requirement to 4th order and larger rivers covered under the Shoreland Protection Act but delays the implementation date on the 4th order for 2 years, until 01/01/11; and 3) will define the term 'failure'.

- ***Mitch Kalter made a motion to submit a letter of support for this bill, second by Larry Sunderland. Vote was unanimous.***

Jacque asked Ken Jordan if the realtors are comfortable with what has been proposed on SB 384. He has spoken with their legislative liaison and the state executive director and although they are not 'comfortable', they are not going to be in opposition to it. He shared his thoughts that when you deal with lakefront, it is not as often the primary home. But adding the 2,400 miles of river front you are talking about primary residences and additional studies that can delay or defeat the sale of private homes. He believes more study needs to be done.

SB 358 – An act relative to mooring permits.

Derek shared that this bill on moorings was put forward by the NH Lakes Association. It has a hearing scheduled for April 2, 2008.

- ***Mitch Kalter made a motion to submit a letter of support for this bill, second by Bud Berry. Vote was unanimous.***

Mark Gallagher reported the Dept. of Safety has no position on this. Six lakes now have moorings rules with a permit requirement. Derek said this proposed legislation would extend that permit to all lakes.

SB 380 – An act relative to petitions for boating rules.

Derek reported that this was tabled by the Senate.

HB 1581 – An act relative to the formation of stormwater utility districts.

Jacque reported that the bill was voted "ought to pass" by the House in March. The minority report indicated that since DES did not have standards, the bill should not move forward at this time. The LMAC had submitted a letter of support for the bill as it was initially introduced. Now it has an amendment but no hearing date has been scheduled for the Senate.

- ***Bud Berry made a motion to table for now and track, second by Larry Sunderland. Vote was unanimous.***

HB 1254 – An act relative to the ability of municipalities to regulate the storage of deicing chemicals.

Mark Hemmerlein reported that DOT is neutral on this bill. The LMAC will continue to track this bill.

HB 1295 – An act establishing a commission to study issues relating to stormwater.

The LMAC did submit a letter of testimony when this bill was initially introduced in the House. It is now in the Senate, a hearing was held and the vote was “ought to pass with an amendment.” Derek said the amendment was to add additional parties to the Commission.

HB 1151 – An act relative to the reporting dates of the instream flow pilot project.

This bill has had an amendment added relative to the effective date of the 2007 amendments to the Shoreland Protection Act. The amendment changes the effective date from April 1, 2008 to July 1, 2008, with a possibility of it even moving to October 1, 2008.

Darlene Forst joined the meeting and reported that a floor amendment was offered late yesterday in the Senate Energy, Environment and Economic Development Committee to move away from a proposed effective date of July 1, 2008 and repeal everything back to October 1, 2008. Rulemaking authority to adopt the new rules package would be directly tied to the effective date of the statute changes. Since the amendment was offered in the Senate to a House bill, it will have to go to conference committee and some compromise made. Darlene said that the department has an application form ready to be released if the law takes effect April 1st and the Administrative Rules are being adopted by the department as of April 1st. DES feels the only thing that needs to be rolled back to give people a comfort level on the application process is 483 B:5 A, which is the permit requirement. The permit requirement was an after-thought of the 2006 SPA Commission and they did not request a permit. It is not directly tied to any of the other standards. DES would choose to enact the standards, delay the permit, as permits are not to be issued that violates those standards. The SPA Commission recommended funding for 6 positions. Permit fees would pay for the program. The rest of the standards have no tie to the permit at all.

There is no action that can be taken at this point as the bill is going to conference committee for resolution.

4) Ossipee Lake Natural Area

Jacquie reported that DRED convened a state working group in early March. The working group is made up of Jacquie from DES, Dick Boisvert from Cultural Resources, Capt. Gallagher from Safety, and several DRED staff, including Don Kent and Bob Spoerl. The group is discussing/assessing existing characteristics of the Natural Area and of the lake itself, and has talked about potential alternatives or strategies that might be brought forward to the public. DRED has also been working with the Ossipee Lake Alliance and other groups up in that area on how to best bring a potential management plan process and the plan itself forward to the public in the next few months. Johanna Lyons (DRED) has identified 40 interested parties in this area. The goal is to have all parties represented and their interests heard and addressed, if possible.

Chairman O'Brien requested that the next time this group meets he would like a response to the DES/LMAC/NHLakes letter that was sent to DRED in January. Bud Berry also inquired if the idea of an independent facilitator was on the table. Jacquie said that didn't believe that level of detail had been addressed yet by DRED and/or the state working group. Bud then asked how could we help DRED with their responsibility for planning for the real estate and at the same time reaching the population that uses the general area in a manner that they can really buy-in, in terms of the behavior change needed. An example of a successful behavioral change is Candlewood Lake in Connecticut by the Candlewood Lake Authority.

5) HB710 Commission

Mitch Kalter reported that the Commission met on Tuesday, March 25th and took public testimony from Steven Nix, lobbyist/attorney for the 18 Mile Point Realty Trust. In his testimony, Mr. Nix stated that he thought the \$25/linear foot lease fee charged by DOT is consistent with the market value that is being paid by boaters to use slips at marinas.

Mitch continued that the Commission then discussed the need to establish subcommittees, similar to what had been proposed in the LMAC/RMAC document. The 710 Commission did establish three

subcommittees, they are: 1) Lease Pricing (Chair Maynard Goldman), 2) Existing and Future Lease Policies (Chair Jared Teutsch), and 3) Public Access and Water Quality (Chair Jacquie Colburn). Mitch also noted a general consensus of the Commission in regards to existing leases is that no one is looking to reverse those leases at this time. Most people are comfortable with a grandfathering type of arrangement.

Captain Gallagher believes there is a value of this land to the state. There are fewer and fewer places where people who don't own lake property can anchor. Leasing the undeveloped stretches of land reduces that area to anchor. The value is lost to the state when it is leased and the lost value should be weighed against the income generated.

Jacquie shared an old OSP "Lakes and Great Ponds Report" from 1984/85. The report was compiled by CORD and submitted to Governor Sununu. The report was a response to a request from Governor Sununu to CORD to investigate several growth related problems which were affecting the future on New Hampshire's lakes. The first recommendation included in the report pertains to the leasing of state owned land. "It is recommended that land owned by the State of New Hampshire be leased only for purposes which proved public benefit... particularly those adjacent to Great Ponds."

6) Carrying Capacity

Jacquie pointed to Issue #5 in the Sustainability Initiative justification paper:

Determine Carrying Capacity; Related Issue: Provide Adequate Public Access.

She explained that LMPP/RMPP staff would like to start working on this issue and would like to suggest that a subcommittee of the LMAC and RMAC meet to get this underway. Those present at the meeting concurred and volunteers from the LMAC include Mitch Kalter, Mark Gallagher, Bob Spoerl (or Shari Colby) from DRED, and Phil O'Brien. Chairman O'Brien suggested having Chris Devine from the Squam Lakes Association (SLA) talk to the LMAC about the work that SLA has done to determine boating carrying capacity on Big and Little Squam Lakes.

III. Other Business

Chairman O'Brien said that Jim Haney has offered to give other lake vignettes at future meetings.

Jacquie explained that one of the statutory requirements of the Lakes Program and the committee is to write and produce the *NH Guidelines for Coordinated Lake Management and Shoreland Protection Plans*, per RSA 483-A:7. The document has been drafted and Laura will present it at the next meeting. According to the statute, when the document is approved by this body, a public hearing must be held in each of the five executive councilor districts. The Comprehensive Lake Inventory (CLI) is a section of this document. Jacquie offered to send the draft Guidelines document to the committee on CD and to post it on the Bureau's FTP site.

Chairman O'Brien noted the NH Lakes Association will be having a Lake Fest and Congress in Meredith on June 25th and 26th.

- ***Motion to adjourn made by Ken Jordan and second by Bud Berry. Meeting was adjourned at 10:45 a.m.***