

LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program



New Hampshire Department of Environmental Services
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MEETING MINUTES
January 8, 2010
DES Conference Rooms
9:00 a.m. – 12:00 p.m.

Members present:

Phil O'Brien, Ph.D., Chair
Wendell Berry
Jennifer Czysz
Mark Gallagher
Jim Haney, Ph.D.
Diane Hanley
Eric Orff
Fred Murphy
Dennis Pavlicek
Bo Quackenbos
Johanna Lyons
Larry Sunderland, Vice Chair

Representing:

NH Lakes Association
NH Business and Industry Assn
Director Rep, Office of Energy & Planning
Commissioner Rep, DOS
Scientific Community, UNH
Conservation Commissions
NH Fish & Game Commission
Planning Boards
Municipal Officials
NH Association of Realtors
Commissioner Rep, DRED
Conservation Community

Term:

August 1, 2012
July 8, 2010
Indefinite
Indefinite
August 22, 2010
August 22, 2010
August 22, 2012
August 1, 2011
August 1, 2012
June 27, 2011
Indefinite
September 19, 2010

Members not present:

Mark Hemmerlein
Ken P. Wilson
Vacant
Vacant
Vacant
Vacant

Commissioner Rep, DOT
NH Marine Dealers Association
Ex. Dir. Rep, F & G
Tourism Industry
Commissioner, Dept. of Agr., Markets & Food
State Conservation Committee

Indefinite
August 22, 2011
Indefinite
Expired
Indefinite
Expired

Staff Present

Jacquie Colburn
Carolyn Guerdet

Lakes Coordinator, Watershed Management Bureau (WMB)
Admin. Asst., Water Division

I. Opening

Chairman O'Brien called the meeting to order at 9:13 a.m.

Minutes

- ***Bo Quackenbos made a motion to accept the November 6, 2009 minutes as written, second by Diane Hanley. Motion passed unanimously.***
- ***Eric Orff made a motion to accept the December 3, 2009 minutes as written, second by Bo Quackenbos. Motion passed unanimously.***

Status of Committee Membership

The Fish and Game Department should be sending a representative in the near future. The plan is for Jim Morash to be re-appointed this spring representing the Tourism Industry.

Other Committee Business

Jacquie distributed the 2010 meeting dates again and reviewed the calendar. This is also available on the Lakes Program webpage. The next meeting is Friday, March 12, 2010.

II. Key Discussion Issues

Proposed Revision to RSA 483-A – (NH Lakes Management & Protection Program)

The purpose of the meeting held in December was to discuss the proposed revisions to the Lakes Program statute, RSA 483-A. Senator Amanda Merrill has agreed to be the bill sponsor. The revisions were incorporated into the LSR; a bill has not yet been produced. Jacquie and the committee reviewed and discussed the reasons why the amendments are being proposed:

- 1) Allowing the LMAC to deposit any donations, gifts, grants, etc. into an existing non-lapsing fund – the Rivers Management Protection Fund.
- 2) Housekeeping changes were made to the Statement of Policy to keep things more consistent.
- 3) Inserting a new paragraph with a definition for ‘carrying capacity’.
- 4) Inserting a new paragraph with a definition for ‘valued characteristics’.
- 5) Establishing an appropriate method for determining carrying capacity and adopting rules relative to establishing that methodology.
- 6) Updating committee membership.
- 7) Requiring that a biennial report of the program be developed and submitted to state agencies and the general court.
- 8) Removing the requirement for public hearings pertaining to the Guidelines document because the document has been produced and the hearings have been held.

The committee then spent time discussing the carrying capacity of lakes, an issue which it has discussed since the committee first met. Chairman O'Brien asked Jim Haney if he could give a presentation regarding the state database on our lakes and the categories they fall into. Jacquie offered to share at a future meeting, a proposed lake classification system which the committee has discussed several years ago and a summary of the Vermont lake classification system.

2010 Proposed Lake-Related Legislation

The committee reviewed and discussed the following proposed bills; however, given that the legislative session had just gotten underway language for many of the bills had not been produced at the time of the LMAC meeting.

- HB 1451 – requesting an exemption for the LMAC, RMAC and the LACs from the sunset provision of HB 2
- HB 1295 – establishing a committee to study the effects of milfoil
- HB 1298 – establishing a state-wide septic system commission
- HB 1299 – establishing a committee to study enacting a moratorium on the sale and use of fertilizers using phosphorus
- HB 1305 – relative to designated uses of surface waters
- HB 1348 – relative to the enforcement of surface water classifications
- HB 1462 – establishing a shoreland advisory council
- HB 1322 – relative to the dam management review committee
- HB 1234 – relative to disclosure of property rights & responsibilities of shore front property at time of sale
- HB 1478 – establish a permitting process for dock designers
- HB 1266 – relative to the notification requirements for the lowering the water level of a lake or pond
- HB 1221 – requires DES to give notice to abutters concerning excavating & dredging permits & to a person against whom complaints have been filed for violations.
- HB 1222 – relative to the authority of the Commissioner when granting permits under the CSPA
- HB 1148 – establishing a great ponds study commission
- HB 1669 – repealing certain tax & fee increases pertaining to boating and fishing

Jacquie added that there is also an LSR submitted by the NH Lakes Association to correct the language added to statute last year relative to how the monies are going to be used for the management of the exotic species programs. Given that the LMAC will not meet again until March, Jacquie proposed forming a legislative subcommittee to review House and Senate bills for the LMAC. This subcommittee would meet via conference call and would discuss and determine LMAC positions on lake-related legislation. Jacquie will send the LMAC a legislative tracking spread sheet with built-in links to the bills.

Committee Assessment Form

In an effort to better determine which committees, commissions, etc., should be sunset as per the provision of HB 2, the legislature asked all agencies and committees to fill out and return a Committee Assessment Form. Prior to the meeting, Chairman O'Brien requested that the Committee Assessment Form be circulated to all members and at the meeting, Chairman O'Brien asked for ideas and suggestions from the

committee in response to the questions included on the form. Jacquie will take care of the first 4 questions. She also shared the responses that Joe Farrelly (former LMAC member) submitted in response to the Assessment Form. The discussion included:

#5 – We “advise”; State agencies and interest groups are represented on this committee: instrumental in driving studies i.e. – sustainability initiative; members not only advise but also do the work; workshops.

#6 – The work wouldn’t get done without this committee. Public trust is a state responsibility. The agencies need a better understanding of how public trust is actually implemented. LMAC has an obligation to the public at large to help protect the public trust.

#7 – RMAC and Public Waters Access Advisory Board are complimentary committees, but agendas and functions wouldn’t combine well. Each committee has its unique charge; the reasons why separate committees were created still apply, these committees should not be merged.

#8 - Special interests that are represented on this committee wouldn’t have the ability to weigh in. They have a voice through the LMAC. Items listed under #5 would cease to exist.

Amount of time donated is substantial. Jacquie calculated that as of a few years ago, approximately 14,000 hours of volunteer time that has been donated to the State as a result of the membership of the non-state agency members to the LMAC.

#12 – Overwhelming support by the committee to retain the LMAC. Effectiveness, importance of purpose, organizations represented, diversity of membership, and 75% of the time there is a quorum present.

- ***Diane Hanley made a motion, seconded by Dennis Pavlicek, to recommend retention as a committee due to the effectiveness, importance of purpose and diversity of membership. Motion passed unanimously.***

Proposed Changes to the SW Quality Regulations Env-Wq 1700 – Bob Estabrook

Jacquie told the LMAC that the Water Quality Standards Advisory Committee (WQSAC) was established in 2000 to assist the department in drafting revised water quality regulations and that Bud Berry has been serving as the LMAC representative to WQSAC. She handed out two memos pertaining to the proposed rule changes to Env-Wq 1700, the surface water quality regulations. Bob Estabrook of the DES Watershed Management Bureau has worked with the WQSAC and using the memos as guides, he explained the proposed changes and why the changes were being recommended.

The existing rules did not allow the transfer of water. It was decided that there are times a water transfer is desirable and the rules should allow for that. These rule changes would pertain to new transfers, not existing. The term “as naturally occurs” has been removed from narrative criteria for the following parameters: Benthic deposits; Oil and grease; color; Turbidity, Temperature, Nitrogen, Phosphorus, and pH. The proposed rule changes would make narrative criteria for these parameters the same for class A and class B waters. A provision has been added that “activities affecting Class A waters that the department determines would result in degradation of water quality shall be considered significant for the purposes of antidegradation review.” This provision is intended to provide comparable protection to class A waters to the “as naturally occurs” language that has been removed. The section on “Demonstration of Economic or Social Development” has been reworked and expanded. The section now includes lists of factors that the department is to consider, and specific criteria for allowing degradation that include: “no feasible alternative exists to degradation, the proposed degradation is the minimum necessary to carry out the project or activity, and the social and economic benefits of the proposed project or activity outweigh the environmental harm that could be caused by the lower water quality.”

Bob noted that the proposed rule changes are out of WQSAC, and are now on the January agenda of the Water Council. If the Water Council approves the proposed rule changes they will then be presented to the Joint Legislative Committee on Administrative Rules (JLCAR) who will hold a public hearing to get more input regarding the proposed rules. Bob said that it will probably be another 4-5 months, at best, before they are approved.

EPA National Lakes Assessment

Jacquie explained that in 2007, EPA conducted a national lakes assessment to determine if the water quality of U.S. lakes is getting better or worse. Nationwide, 1000 lakes were randomly selected to be surveyed including 15 lakes in New Hampshire. Bob Estabrook was one of the DES staff that participated in the survey. EPA recently produced a report regarding the results and findings of the national survey. Bob said that he considered the key finding of the report to be that the most important stressor affecting the biological condition of the nation's lakes was poor shoreline habitat, with the second most important stressor being nutrients.

Sustainability Initiative

Jacquie reported briefly on the document that the LMAC & RMAC produced. The data subcommittee was formed to address item #1 of the 8 significant issues identified in the document. Jenn Rowden provides staff assistance for this subcommittee. The subcommittee met in January and what was deemed most helpful was to conduct a brief survey of the public to find out what data and related information they want to know. Jenn developed a mock survey which is being reviewed by the subcommittee members right now. It is made up of 6 basic questions with sub-questions. Due to a shortage of time at this meeting, the survey will be sent to the LMAC for their feedback. The data subcommittee will meet again in early February. Fred asked for a status report of the 8 issues that were identified in the Sustainability Initiative document. Jacquie said that she would ask Jenn to do this at a future meeting.

Member Updates and Future Agenda Items

Jacquie reminded the members to please feel free to share items of interest from their representative groups with the full committee, and to not hesitate to call or email her ahead of time so it can be included on the agenda.

- 1) A regional Cyanobacteria Workshop, sponsored by NEIWPC will be held Wednesday, January 13th in Chelmsford, MA. Jim Haney and Sonya Carlson are both presenting at the Workshop.
- 2) The Ossipee Lake Alliance (OLA) asked Jim Haney to write an article regarding the mussels that exist in Ossipee Lake. A copy of the article was distributed to the committee. Jim said that that Long Sand Beach area is unique because of the sand and the extensive littoral region. The OLA wanted to see if there were impacts by the public on these populations and to draw attention to the importance of the mussel population. They filter a lot of water in the lake and are an important resource for keeping the lake clean.
- 3) The NH Lakes Association is working with DES on a new integrated exotic weed control program with an option for grants available to municipalities. Jacquie will send out the link to this program.
- 4) A request was received from a real estate office to have a presentation on cyanobacteria. Jacquie is wondering if it would be more efficient to make presentations to the 14 real estate boards throughout the state as opposed to one office at a time. She will discuss with Bo Quackenbos.
- 5) The legislative subcommittee volunteers were: Fred Murphy, Dennis Pavlicek, Phil O'Brien, Larry Sunderland and Bud Berry. Initially, phone calls will be held possibly once a week and then as needed. Jacquie will distribute the spreadsheets with the built in links to the bills to the full committee.
- 6) Jacquie explained that the Lakes Region Planning Commission had received a 319 grant from DES to develop a management plan for Lake Winnepesaukee and that the work to date has focusing on 3 bays – Paugus, Sanders, and Meredith Bay. The working group is reviewing the water quality trends for the bays and is trying to determine what the phosphorus limits should be.
- 7) Captain Gallagher shared the results of the first year of the test of a speed limit on Lake Winnepesaukee. He said that lake use was down generally so it was not a good year to draw conclusions. Some radar was done but few citations were written. The warnings were recorded and all information is available on the website.

- **Bo Quackenbos made a motion to adjourn, second by Larry Sunderland. Motion passed unanimously.**

The meeting adjourned at 12:15 p.m.