



LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program

New Hampshire Department of Environmental Services
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LMAC MEETING MINUTES
March 30, 2016
NHDES Conference Room 208C
29 Hazen Drive, Concord, NH
9:00 am – 11:30 am

Members present

David Packard, Chair
Susan Slack, Vice Chair
Shane Bradt
Linda Brownson
Fred Clews
Bob Compton
John Cooley
Ed Crawford
Eric Feldbaum
Garrett Grasskamp
Kim Hallquist
Mark Hemmerlein
Frank Lemay
Mary Truell
Martha Twombly

Representing

NH Lakes Association
Director, Office of Energy & Planning
Scientific Community, UNH
State Conservation Committee
Fish & Game Commission
Planning Boards
Conservation Community
Marine Dealers Association
Commissioner, DRED
Executive Director, F&G
Municipal Officials
Commissioner, DOT
NH Business and Industry Association
NH Association of Realtors
NH Assn. of Conservation Commissions

Term

August 1, 2018 V
Indefinite NV
August 22, 2016 V
August 1, 2018 V
August 22, 2018 V
August 1, 2017 V
September 19, 2016 V
August 22, 2017 V
Indefinite NV
Indefinite NV
August 1, 2018 V
Indefinite NV
July 8, 2016 V
June 27, 2017 V
August 22, 2016 V

Members not present

Capt. Tim Dunleavy
Jim Morash
Dick Smith
Bob Wolff/David Rousseau

Commissioner, DOS
Tourism Industry
Fishing Interests
Commissioner, Dept. of Agr., Markets & Food

Indefinite NV
August 1, 2016 V
November 17, 2016 V
Indefinite NV

Staff Present

Darlene Forst Shoreland Program
Carolyn Guerdet Water Division Administration
Steve Landry Watershed Assistance Section
Tracie Sales Rivers and Lakes Programs
David Rosengarten Watershed Management Bureau

The Meeting Was Called to Order

Chair Packard called the meeting to order at 9:00 p.m. and welcomed all present.

I. Introductions/Minutes/Committee Business

1) Welcome, Introductions and Brief Announcements

Tracie Sales was attending the Senate hearing for HB 1595, the Rivers Program bill, returning to the meeting about 10:15 AM. Attendees introduced themselves.

2) Acceptance of January 28, 2016 LMAC Meeting Minutes

- ***Martha Twombly made a motion to accept the minutes of January 28, 2016, second by Kimberly Hallquist. Motion passed unanimously.***

3) Acceptance of January 28, 2016 Joint LMAC/RMAC Meeting Minutes

- ***Fred Clews made a motion to accept the January 28, 2016 Joint LMAC/RMAC meeting minutes, second by Mary Truell. Motion passed unanimously.***

II. Shoreland & Dock Rule Proposed Changes

Darlene Forst, Shoreland Section Supervisor in the NHDES Land Resource Management Programs, introduced the proposed changes to the shoreland, and dock and shoreline structures, rules, the latter of which are being propagated along with the updates to the Wetland rules. She clarified that docks, beaches and bank stabilization are not part of Shoreland, they are part of Wetlands, though staff may review proposed projects for both programs. The goal with the rule revisions is to have the shoreline structures (docks) rules consistent with the Shoreland rules. The existing sets of rules do not agree.

Shoreland Rules: Shoreland rules need to be re-adopted in July. The rules will primarily be a re-adoption of the existing rules, with housekeeping changes to bring them into compliance with statute changes that have happened since 2008 and a couple of substantive changes. One of the substantive changes is an increase in Shoreland's accessory structure allowance, which will resolve the conflict of the up to 900 sq. ft. of beach (beaches are accessory structures) allowed under wetlands with the limit of 1.5 sq. ft. of accessory structure per linear foot of frontage within 50 ft. of the water allowed under Shoreland. Existing structures will be grandfathered. Currently both are allowed, but going forward beach size will be limited by Shoreland accessory structure rules, and the 1.5 sq. ft. per linear foot of frontage will be increased to accommodate the average 250 sq. ft. beach for a single family home. This will also allow for combined permitting.

A second change is to allow a deck in lieu of a beach. Currently, decks are difficult to get permitted under wetlands, but decks usually have less impact. Fewer beaches are expected with this change, largely because beaches are expensive to build and maintain. Stormwater and nutrient attenuation is expected to be about the same for a deck as for a beach, and there will be limits relative to steep slopes. Permits will be required, but less impact to the shoreline is the goal.

Docks: The existing minimum, minor, and major impact permit structure will be maintained, where major projects (e.g. 20+ cu. yds. of dredge) need to go through Governor and Council approval. All 3 permit types require the same fee and application. Changes include a simpler permit for dock repairs, eliminating rules on the number of slips allowed, limiting the square footage of a dock based on the amount of shoreline frontage, and limiting the length of a single family home dock to 50 ft., though exceptions will be possible.

Discussion was held regarding aquatic life below the dock, the increasing prevalence of permit applications for docks in wetland areas, boardwalks (a dock over a wetland, which requires a wetland scientist), canopies in areas with small frontages, boat lifts, patios, and the potential for new docks given how fully built NH's lakes already are. The square footage limits will be the same for seasonal and permanent docks.

A draft of the Wetlands rules concepts should be released in July for public comment, but these may not yet include the permitting process, or be written in rule format. Later a formal draft will be released (on line) in conjunction with a public hearing phase. The hope is to use a Survey Monkey type of setup to take comments electronically. Dave noted that online commenting is available to more people than public hearings.

III. Joint RMAC/LMAC Subcommittees

- 1) Shoreland Subcommittee – No report
- 2) Instream Flow Subcommittee – No report

Neither subcommittee has met yet. Ken Kimball, chair of the Instream Flow Subcommittee, is waiting on the passage of the ISF bill, HB 1461, before convening the subcommittee. Michele L. Tremblay, chair of the Shoreland Subcommittee, has asked RMAC members, especially those on the Shoreland Subcommittee, to review the final SAC report in preparation for meeting. LMAC members did not have any immediate suggestions on what lake interests should be specifically addressed by the subcommittees.

IV. Member Comments and Updates

- 1) Member Comments/Updates – See comments in Section VII below.

- 2) WQSAC

Next WQSAC meeting is April 14th at 1:30 at DES. They have been working on the water quality standards rule revision (Env-Wq 1700), which has been submitted to legal. The official draft will be published by May 5th, though some changes to the draft are expected. NH is working on how to incorporate EPA's new standards for the human health criteria on 94 toxics, most of which have to do with chemicals from wastewater treatment plants. Dissolved Oxygen standards will also be discussed.

Shane noted there is now a draft EPA standard for cyanobacteria toxins for both recreation and drinking water. States handle cyanobacteria blooms differently, with many state standards based on cell counts but EPA's standard is on toxin levels. Sonya Carlson and Amy Smagula are watching this for NH.

V. LMPP Program Updates

- 1) LMAC Membership Update

Frank Lemay's membership expires in July, while memberships for Jim Morash, Shane Bradt, and Martha Twombly expire in August.

- 2) Status of Lakes Program Staff

Tracie is the new Rivers and Lakes Programs Manager. She will probably start officially 4/15, once the paperwork is processed. The programs need to hire a new Watershed Planner, with the hope of making that position full time starting July 2017. We hope to have the new planner on board by the end of May. An LMAC member may join the interview team if desired.

VI. Lake-related Legislation

- HB 1595 – Tracie reported that the Senate Energy and Natural Resources hearing went smoothly, but the committee did not go to executive session on the bill. Mary reported that Ted Diers spoke with the Realtors Association, who now support the bill. Tracie asked the group if, given the LMAC's support of the watershed approach for surface water management with the joint work on shoreland issues and the instream flow program, if the LMAC wished to retain its "Track" position on HB 1595.

➤ ***Mary Truell made a motion to change the LMAC's position on HB 1595 to support, second by Bob Compton. Motion passed unanimously.***

Tracie will draft a letter of testimony in support of HB 1595.

- HB 1461 – The LMAC's recommended amendment is now incorporated in the amended bill. The Senate hearing date has not been set. The RMAC is amenable to joint letter. LMAC members agreed to sending a joint letter of testimony with the RMAC on HB 1461 to the Senate Energy and Natural Resources Committee.

- HB 1589 – Dave reported that the amended bill passed the House with no opposition, and is expected to go through the Senate.
- SB 440 – The bill on Shoreland permit fees went through the House hearing smoothly.

Bob asked if we use the term 'public trust' in our letters of testimony. Tracie agreed to use this term going forward.

Tracie clarified that the legislation that authorized the Instream Flow Pilot Program expired in December. The changes to RSA 483 will help the program move forward as recommended last fall by the legislative study committee and incorporate some of the lessons learned in the Pilot. Additional funding for the program will have to wait until the next budget cycle. Wayne Ives hopes to hire one new person for his program in July 2017, with a second new staff person in 2019.

VII. New Business and Action Item Review

1) Other Business/Member Comments

- Shane is a member of the New England Region Cyanobacteria Monitoring Workgroup coordinated by EPA and NEIWPC. They are creating a new public website to help people get involved with cyanobacteria monitoring, providing information for new monitors and tools for existing monitors. It will include a BloomWatch application allowing people on lakes to submit information. Shane will let the committee know when the site is ready. Sonya Carlson is also a member of the larger group.
- Of the two priorities for the Rivers and Lakes Programs Manager, one is revitalizing the Lakes program, trying to get it back on track and more active. Tracie asked if there were any ideas or issues for the LMAC to address, including cyanobacteria, work with the RMAC on watershed management, and a more pro-active approach to state lands, and surplus land disposals. Dave noted that the LMAC could become involved in lake-related NHDES initiatives. There has been initial discussion of Tracie, Dave, Tom O'Brien, and others getting together to talk about the overall status of lakes in NH, and what should be done next for lakes management.
- Fred Clews noted that Tom O'Brien did a presentation on HB 1589 recently for the Fish & Game Commission that went over well.
- John Cooley reported the first NH loon death due to malaria, on Lake Umbagog.

2) Action Item Review

- Ask that draft Shoreland, Wetland and Shoreline Structure rules are posted online with an online commenting option. Tracie will follow up with Darlene.
- Draft letter of support for HB 1589 and a joint letter of support for HB 1461 - Tracie
- Follow up on EPA's cyanobacteria standards, Larry Sunderland also interested.
- Shane will follow up with Bob Craycraft and Jim Haney regarding lake issues around the state that the LMAC should learn more about during a lake visit.

3) Next LMAC and/or Joint LMAC/RMAC meeting

- LMAC Meeting – Tracie will Doodle Poll for a date in June/July for a lake visit. John offered LPC's conference room in Moultonborough for a Lake Winnepesaukee area meeting.
- Joint Meeting – October or November, Tracie will coordinate with the RMAC as well.

4) Agenda Items for Future Meetings Cyanobacteria

Meeting adjourned at 11:27 a.m.