



LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program

New Hampshire Department of Environmental Services
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FINAL
LMAC MEETING MINUTES
February 22, 2018
NHDES, Conference Room 208
9:00 am – 11:45 am

Members Present

David Packard, Chair
Bruce Allen
Mark Borrin
Shane Bradt
Fred Clews
Ed Crawford
Capt. Tim Dunleavy
Eric Feldbaum
Jennifer Gilbert
Tiffany Grade
Kim Hallquist
Michael Hodder
David Rousseau
Mary Truell

Representing

NH Lakes Association
NH Assn. of Conservation Commissions
NH Travel Council
Scientific Community, UNH
Fish & Game Commission
Marine Dealers Association
Commissioner, DOS
Commissioner, DNCR
Director, Office of Strategic Initiatives
Conservation Commission
Municipal Officials
Planning Boards
Commiss., Dept. of Agr., Markets & Food
NH Association of Realtors

Term

August 1, 2018 V
August 22, 2019 V
August 1, 2019 V
August 22, 2019 V
August 22, 2018 V
August 22, 2017 V
Indefinite NV
Indefinite NV
Indefinite NV
September 19, 2019 V
August 1, 2018 V
August 1, 2020 V
Indefinite NV
June 27, 2020 V

Members Absent

Linda Brownson
Garrett Graaskamp
Mark Hemmerlein
Frank Lemay
Dick Smith

State Conservation Committee
Executive Director, F&G
Commissioner, DOT
NH Business and Industry Association
Fishing Interests

August 1, 2018 V
Indefinite NV
Indefinite NV
July 8, 2019 V
November 17, 2019 V

Staff Present

Darlene Forst Shoreland Program
Dave Neils Jody Connor Limnology Lab/Biomonitoring Program
Kirsten Nelson Biomonitoring Program
Tracie Sales Rivers and Lakes Programs

Guests

Kelly Buchanan New Hampshire Lakes Association
Michelle Hebert

The Meeting Was Called to Order

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

I. Introductions/Minutes/Committee Business

1) Welcome, Introductions and Brief Announcements

Tracie welcomed Darlene Forst from the NHDES Shoreland Program who summarized the proposed changes to the wetlands rules relative to docks, decks, and beaches. Darlene explained that wetland

rules apply for shoreline structures including docks, patios, and beaches located within 20 feet of the water. The proposed wetlands rules will bring wetland program requirements related to beaches and docks into compliance with existing shoreland rules, though a change will be required in the shoreland rules relative to the allowed size of an accessory structure relative to the linear feet of property frontage (refer to table below). Once the wetlands rules are finalized, work will begin on revising the shoreland rules. One major proposed change is that decks, which are not currently allowed to be built on the shoreline, will be allowed separately or in conjunction with a beach under the proposed rules. Also, the proposed private dock rules allow more flexibility with dock configuration. Please refer to the table below for a comparison of current wetlands rules and proposed wetlands rules related to beaches, decks, docks, accessory structures, and boathouses. Tim Dunleavy asked if the proposed wetlands rules address dock lighting and Darlene responded that they do not. Tim explained that LED accessory lights are being used more frequently on docks and may be mistaken as vessel lighting.

Wetlands Rules Table		
Topic	Current Rules	Proposed Rules
Beaches and Decks	<p>Env-Wt 303-304 Does not allow decks on shoreline.</p> <p>Env-Wq 1405.04 (shoreland rules) requires accessory structure setbacks of at least 20 feet</p>	<p>Env-Wt 511 Allows for construction of beach, deck, or any combination. Referred to as B/D structure.</p> <p>B/D structures can be built within 10 feet of property boundary</p> <p>New beaches cannot be constructed if they will likely contribute sand to the waterbody.</p>
Beaches and Decks	<p>Env-Wt 303.04 Single residence beach shall not exceed 900 square feet.</p> <p>Env-Wq 1405.03 (shoreland rules) Accessory structure size limits no larger than 1.5 square feet per linear foot of shoreline have not been applied to beaches.</p>	<p>Env-Wt 511.04 (h) B/D structure is an accessory structure and the 1.5:1 ratio will need to be increased to something more like 6:1 or 7:1.</p> <p>Maximum beach size reduced as a result.</p>
Private Docking Structures	<p>Env-Wt 304.10, 401 The amount of shoreline frontage dictates the number of boat slips allowed.</p> <p>For Permanent Docks: Maximum dock length 30 feet Maximum dock width of 6 feet</p> <p>Specific dock configurations</p> <p>Additional permit is required to add an accessory boat structure such as a boat canopy, dolphin, watercraft lift, ice cluster.</p>	<p>Env-Wt 513 The amount of shoreline frontage dictates the amount allowable dock area, not to exceed 2,000 square feet.</p> <p>Maximum dock length of 60 feet Maximum dock width of 8 feet Minimum dock width of 4 feet</p> <p>Flexible dock configurations</p> <p>The total dock area includes accessory docking structures (see definition on next page) such as a boat canopy.</p>
Continued on next page		

Existing Dock Rules Shoreland Frontage Requirements Example: <ul style="list-style-type: none"> • Less than 75 feet of shoreline frontage allows a single slip consisting of a 4 foot by 24 foot dock with a 20-foot set-back. • 75 feet to 149 feet of shoreline frontage allows for 2 slips. 		
Proposed Private Dock Rules Shoreland Frontage Requirements Example: <ul style="list-style-type: none"> • 50 feet (0-49 feet) shoreline frontage yields a maximum of 200 square feet of dock area. • 51 to 100 feet of shoreline yields a maximum of 400 square feet of dock area. 		
Topic	Current Rules	Proposed Rules
Accessory Docking Structures	Term not defined in current rules.	Env-Wt 515 Structure that is supplemental to a docking structure that assists in securing watercraft or protecting the docking structure or watercraft, such as, a canopy, dolphin, ice cluster, personal watercraft lift, anchor pad for seasonal dock, tie-off piling, or watercraft lift. Does not apply to swim rafts, moorings, aquatherms, circulators, other devices to prevent the formation ice, diving boards, slides, ladders, and other devices attached to sides or surfaces of docking structures for the purpose of securing lines such as cleats, whips or tie-posts.
Commercial Docking and Public Docking Structures at Marinas	Env-Wt 402.16 One slip for every 25 feet of shoreline.	Env-Wt 514 Allows a waiver for more than one boat slip per 25 feet of frontage. If one slip per 25 feet of frontage poses a navigational hazard, then the department shall authorize fewer slips. The primary pier must be 10 feet wide to allow passage of people carrying bulky items such as coolers.
Accessory Structure Dug-in Basin and Boathouse	Env-Wt 402.09 Boathouses located in or over surface waters of the state shall not be approved. Allowed over dredged inlet within the property line.	Env-Wt 519 Dug-in boathouse requires a minimum of 300 feet of frontage. Storage within the boathouse may not exceed 150 square feet of floor space located at the landward edge of the structure.

2) Consent Agenda

- **Mike Hodder made a motion to accept the Consent Agenda, consisting of: 1) November 6, 2017 LMAC Meeting Minutes; 2) January 19, 2018 LMAC Meeting Minutes; and 3) January 19, 2018 LMAC/RMAC Joint Meeting Minutes. Second by Bruce Allen. Motion passed unanimously.**

II. LMAC Business and LMPP Program Updates

1) Elect LMAC Chair

Statute dictates that the LMAC elect the Chair and Vice Chair positions every three years. Dave Packard

was elected July 25, 2013 and the election for chair is therefore overdue.

- ***Mike Hodder made a motion to nominate Dave Packard as Chair of the LMAC. Second by Kim Hallquist. Motion passed unanimously.***

2) Elect LMAC Vice Chair

Linda Brownson offered to step in as an interim Vice Chair for the LMAC until a new one could be elected. Tracie thanked her for her help with the meeting agenda.

- ***Dave Packard made a motion to nominate Mike Hodder as Vice Chair of the LMAC. Second by Bruce Allen. Motion passed with Mike Hodder abstaining.***

3) LMAC and Subcommittee Membership Update

Tracie noted that there were no changes to LMAC membership since the last meeting. Four members have terms which expire in August: David Packard, Linda Brownson, Kim Hallquist, and Fred Clews. Tracie will send a reminder to these members including the documentation needed for renewal.

Tracie reviewed the LMAC subcommittee membership and reminded the group that water from lakes is often used to supplement river instream flow and encouraged participation on the subcommittee. The ISF subcommittee will be meeting soon to discuss the proposed revisions to the Instream Flow rules and to participate in the decision making process for choosing the next set of designated rivers on which to apply instream flows.

Michele L. Tremblay, Chair of the RMAC and Dave Packard met with NHDES Commissioner Robert Scott to discuss the potential of the RMAC and LMAC assisting in an advisory capacity for the Shoreland Program. The Piscataqua Region Estuaries Partnership will also have representation on this subcommittee. Additionally, the Shoreland rules will be updated soon and the Joint Shoreland subcommittee will take an active role in this process.

III. Nippo Lake Management and Restoration

Kirsten Nelson, Biologist in the Watershed Management Bureau at NHDES, spoke about water quality issues in Nippo Lake. Due to a cyanobacteria bloom in 2010, the Nippo Lake Association began working with NHDES, UNH's Lakes Lay Monitoring Program (LLMP), and the Nippo Lake Golf Club to improve lake water quality. Nippo Lake is a natural 85-acre lake located in Barrington. The lake has been monitored since 1986 by LLMP. Additionally, NHDES conducted two trophic surveys in 1982 and 2004 that identified the lake as mesotrophic. The lake is listed as impaired on the 303(d) list for primary recreation due to the cyanobacteria blooms. Golf Course Way, an improperly graded gravel road at the north end of the lake, was a point of focus due to its straight downhill trajectory that turns sharply to the left leaving only a small strip of lawn between the road and the lake. During rain events, muddy turbid water flows directly into the lake. An investigation of historic data found that epilimnetic phosphorus values have significantly increased since the mid-1980s, hypolimnetic phosphorus values were very high, and water transparency was declining. In 2016, NHDES worked with UNH to collect more lake samples to better understand water quality and identified major land use categories in the watershed. In 2017, the Nippo Lake Association conducted a septic survey that identified older (≥ 40 years) systems. The combination of this information allowed NHDES to run a lake loading response model that determined sources of phosphorus to the lake. NHDES' model revealed that approximately 44 percent of the total phosphorus load to lake was coming from the watershed, of which 13 percent was coming from the northern subwatershed that contained Golf Course Way. Secondly, 34 percent of total phosphorus was already within the lake. Septic systems accounted for seven percent of the phosphorus load, and the remaining 15 percent was divided between atmospheric inputs and waterfowl. In 2017, the Nippo Lake Association secured a 319 grant to help fix Golf Course Way. Next steps for the group include initiating fixes to Golf Course Way, applying for additional 319 funds to address old septic systems,

and identifying other potential BMPs within the watershed. The lake association will continue to work with its partners and NHDES to address the sources of phosphorus in the system.

IV. Lake-related Legislation

1) LMAC Positions on 2018 Legislation

Members discussed the list of recommended bill positions developed by the Policy and Legislation subcommittee.

- Mary Truell asked if it would help if the LMAC supported SB445 to designate the Warner River as a protected river. Tracie explained that lakes are often included in river designations due to the nature of how they flow into or out of rivers. The LMAC currently supports the Instream Flow Program so the bill is relevant to lakes. **Mary Truell made a motion to support SB445. Second by Bruce Allen. Motion passed unanimously.** Shane Bradt asked if there was any resistance to the Instream Flow Program and Tracie responded that the ski industry is the most concerned because of potential restrictions on drawing water for snow making, but they are not opposed to it.
- HB486 the buffer bill from last year is still in interim study. **Dave Packard made a motion change the policy position for HB486 to support. Second by Bruce Allen. Motion passed unanimously.**
- Members discussed SB119, which proposes to extend length of docks without a permit. This bill was created to address the drought. NHDES hopes this bill will be killed in support of HB1810 which proposes to study docks. Ed Crawford added that the Marine Trade Association supports HB1810. **Mike Hodder made a motion to oppose SB119. Second by Bruce Allen. Motion passed unanimously.**
- The LMAC discussed HB1233, preempting local regulation of fertilizer and seeds. Mary does not think the position of oppose is appropriate because it does not appear to affect the LMAC. As the bill is written, it limits a municipality's ability to limit fertilizer use on lakes. The group decided to maintain the standing position of oppose so that locals will be allowed to control impacts to a lake.
- Tim Dunleavy explained that SB410, the registration fee for canoes and kayaks, was amended to a study group to look at creating a Boat Safe Card, similar to the Hike Safe Card.
- HB1706, the Lake Sunapee boat ramp bill, was discussed. The bill will likely be voted inexpedient to legislate because of March 1st the Governor's Committee report is due and local police and fire chiefs feel the location is too dangerous. The Marine Trades Association supports tourism but wants to stay out of local politics. Due to the multiple conflicting opinions, the LMAC proposed changing its position from oppose to track.
- HB1745, the invasive species bill, was proposed as a track position because of the way it was written where the money can't be spent in time frame. Mary suggested the LMAC support the bill and request to amend the time frame. **Bruce Allen made a motion to change the bill position on HB1745 to support with the request to amend the time frame in the funding section of the bill. Second by Mary Truell. Motion passed unanimously.**
- NHDES requested that the LMAC support HB1810 to form a committee to study docks. Mary encouraged the group to support the bill. Mike shared that he believes that the scope of work is too large for a large study group to make progress. Dave noted that the RMAC and LMAC are already advising on docks and third committee may not be necessary. The group decided that a study group will collect more data, which could help in decision making related to docks. **Mary Truell made a motion to support HB1810. Second by Mike Hodder. Motion passed unanimously.**
- Dave asked why NHDES was supporting SB450 to study NHDES taking over the NPDES permitting done by EPA. Tracie responded that the bill gives NHDES money for five new positions to study how to take on delegation in a financially sustainable manner.

- **Mary Truell made a motion to accept the positions proposed by the Policy and Legislation subcommittee with amendments proposed during discussion by the full LMAC. Second by Bruce Allen. Motion passed unanimously.**

2) LMAC Policy and Legislation Procedures

Tracie presented the proposed changes to the Policy and Procedure for the LMAC Policy and Legislation Subcommittee document including adding the phrase “access to public waters” to the introduction, clarifying the number of voting members allowed on the subcommittee, eliminating unintentional voting via email, and allowing the P&L subcommittee to develop a list of standing positions. The list will be approved by LMAC and voted on annually, allowing the LMAC to respond quickly with a letter of testimony to certain predefined situations without the need for a meeting to take action.

- ***Mike Hodder made a motion to accept the proposed changes to the LMAC Policy and Procedure for the LMAC Policy and Legislation Subcommittee document. Second by Bruce Allen. Motion passed unanimously.***

V. Surplus Land Review in Alton

DOT proposes to sell a 220 foot section of right-of-way along Route 11 in Alton adjacent to Lake Winnepesaukee to an abutter who is already encroaching. The parcel is a 13,000 square foot former railroad corridor with buildings from the 1950s and 1960s located in right of way. The new owner of the adjacent properties discovered that this piece of land was owned by the state and wants to resolve this issue.

- ***Bruce Allen made a motion that the LMAC’s response to the SLR state that the LMAC has no objection to the sale of the DOT property in Alton. Second by Mike Hodder. Motion passed unanimously.***

VI. Wetlands Rules Initial Proposal

Tracie announced that NHDES is hosting five public input sessions to provide information on the proposed changes to the Wetlands rules. NHDES wants input from the LMAC and RMAC and encourages members to attend the public input meetings, although NHDES declined the request to present this information to both groups prior to the public meetings. Tracie responded to a question on when proposed rules will be implemented, saying that they are planning on three months for public input and hope to have an initial proposal out by the end of the summer. However, Tracie is not sure they will be able to finish the proposal in that timeframe. The proposed rules are difficult to understand so NHDES will need to provide guidance for the public to understand the changes. The LMAC discussed having the P&L subcommittee review the proposed rules and submit official comments, but the group decided to wait until the initial proposal is released later this year.

VII. Subcommittee Updates and Member Comments

- 1) WQSAC – None
- 2) Member Comments – None

VIII. New Business and Action Item Review

- 1) New Business – None
- 2) Action Item Review
 - Staff will post the revised Policy and Procedure for the LMAC Policy and Legislation Subcommittee document on the LMAC forum.
 - Develop a draft list of standing legislative positions.
- 3) Next LMAC Meeting – Doodle poll will be sent in early summer, proposed location Lake Winnepesaukee.
- 4) Agenda Items for Future Meetings: Presentation on 604(b) and 319 grants.

Meeting Adjourned at 11:00 am