

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FISH AND BOAT COMMISSION**

**MINUTES FOR
THE BOATING ADVISORY BOARD MEETING**

**October 25, 2006
9:00 a.m.
Harrisburg, Pennsylvania**

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**John F. Simmons
Director
Bureau of Boating and Education**

**The Thirty-Second Meeting of the
Pennsylvania Fish and Boat Commission's Boating Advisory Board**

Members

Rex Beers
Steven Ketterer
Michael Lentine
G. Edwin Matheny
Thaddeus Piotrowski

Members Ex Officio

Dr. Douglas J. Austen, Executive Director
John F. Simmons, Secretary
David Barrett for Michael DiBerardinis, Secretary for the
Department of Conservation and Natural Resources

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I. Roll Call

The meeting was called to order at 9:00 a.m. Roll was called and all members of the Board were in attendance. Staff present included: Tom Kamerzel, Director of Law Enforcement; Jason Oyler, Assistant Chief Counsel, Brian Barner, Director Bureau of Administration, Gary Moore, Legislative Liaison, Dan Martin, Ted Walke, Richard Mulfinger, Scott Bollinger and Kelly Sharp.

II. Introduction of Guests

The following guests were present: Mr. and Mrs. Nagy, USCG Auxiliary; Charlie Johns, PA Boating Association/US Power Squadrons; Bill DeWar, Andy Anderson, Lake Watch Assistance on Lake Wallenpaupack; Lois Lentine and Melody Zullinger, Executive Director PFSC.

III. Approval of the March 28, 2006 Meeting Minutes

The minutes of the last meeting were approved.

IV. Public Comment

1. Lake Wallenpaupack Lake Watch.

Andy Anderson represented the Lake Watch Assistance Organization on Lake Wallenpaupack. This organization was formed to help promote safe boating and assist PFBC Law Enforcement. This organization feels that communications are lacking in cases of emergency and have been working on a communications project. They need \$5000 to finish the project and have come to the Board to request these funds.

Discussion:

Throughout the discussion that followed, it was argued that no plan was in place for the communication upgrade, and it was unclear what would be done once the communications were improved. It was determined that the PFBC had no Grant in place for a request of this nature. It was said that Lake Watch would continue but that the funds would enhance their operations. A final suggestion was offered to Mr. Anderson. The suggestion was to look to other Boating Organizations or perhaps County Offices that may be able to offer the money requested, and that personal contacts may help the success of obtaining this rather than simply sending letters of request.

Action:

It was determined that the PFBC could not help at this time.

2. Legislative update.

Gary Moore updated the Board on SB 1262 that passed through the House of Representatives the night of 10/24/06. The bill will now go to the Governor for signature and should become part of the law by the first of next year. This bill provides amendments to boating under the influence provisions in the Fish and Boat Code addressing the chemical

testing provisions used to determine amounts of alcohol or controlled substances and for operating watercraft while under the influence, and provides for aggravated assault by watercraft while operating under influence. The minimum allowable limit of blood alcohol will be lowered to .08. Additional amendments may be considered in November relative to the technical aspects of implementing BUI enforcement.

V. Old Business

A. Review of Proposed Changes to Chapter 105 of the Regulations

At the last meeting of the Boating Advisory Board, the Board discussed the need for expanding the current restrictions contained in Sections 105.3(1) and 105.3(9) for pontoon boats to include all motorboats. The proposed regulation would prohibit the operation of all motorboats at greater than slow no wake speed while any person is occupying a position on the boat not designated as a passenger area. Staff was directed to prepare regulatory language for the consideration of the Board.

Discussion:

Mr. Daniel Martin reviewed his study results. At this time staff did not have a clear proposal to change this regulation. Staff plans to look at what other states are doing and have already gotten some feedback. The regulations that were obtained from other states are very diversified and many are written very close to our own. The vast variety of different boat types makes it very hard to improve the regulations.

Action:

At the next meeting, staff will present the regulatory language for consideration.

B. Mandatory Wear of Life Jackets in Cold Weather Months

At its July meeting the Commission approved the publication of a notice of proposed rulemaking that would require persons in boat under 16 feet in length and all canoes and kayaks to wear personal flotation devices whenever the boat is underway. Comments were requested for two time periods – All year round or the cold weather months of October 1 thru May 31. The Board will review and discuss the comments received and make recommendation to the Commission for action upon consideration of the proposed restriction at its January meeting.

Discussion:

The PFBC received over 500 public comments on this issue. Mr. Simmons went over the public comment summary. At the time the summary was prepared, 484 comments were submitted. Out of these, 357 people opposed the wearing of PFDs without qualification, 14 were in favor of it, and a variety of the others opposed it for cold weather months or summer months and favored it for cold weather or summer months.

Mr. Beers commented that a percentage of the public comment emails came from out of state. Jason Oyler replied that the majority of the emails did come from Pennsylvania residents.

Mr. Ketterer asked if there will be any alternate plans to collect public feedback. Dr. Austen replied that the Commissioners could instruct staff to do so.

Mr. Lentine asked Mr. Barrett if State Parks were having any problems with this issue. Mr. Barrett replied that they do have problems but not boat related, usually fisherman falling through ice. They are not sure how to enforce.

Mr. Beers asked Mr. Kamerzel, if we did it for only the winter months, how easy or hard would it be to enforce. Mr. Kamerzel replied that during winter months, there is little justification to send WCOs out in patrol boats. There would be no enforcement unless it was with a citizen contact at an access area or during the occasional joint duck hunter patrols with Game Commission personnel.

Dr. Austen commented that it is unwise to pass a regulation and not enforce it. This would give the public room to criticize the PFBC. The public doesn't want to be regulated on this matter and regulation would lead to public pushback. He concluded that staff does not want to move forward with this.

Action:

Mr. Piotrowski moved that the Boating Advisory Board recommend that the Commission not adopt this proposed rulemaking upon final consideration. Mr. Methany seconded it. All were in favor.

C. Staff Report on Sugar Lake Petition for Changes to the Boating Regulations

The Commission has received a petition to amend the regulations to increase the horsepower limits on Sugar Lake from the current 6 horsepower to 10 horsepower. At its July 2006 meeting the Commission directed staff to prepare a report with recommendations concerning the merits of the petition. In accordance with the regulations this staff report must be considered and reviewed by the Boating Advisory Board and its comments incorporated in the report prior to submission to the Commission for consideration.

Discussion:

Mr. Martin informed the Board that staff held a public hearing on 8/26/06 in Cochran. 21 of the 28 attendees agreed with raising the horsepower limit on the lake. 7 attendees opposed.

The Board discussed public versus private lake, depth, and resident issues.

Action:

Mr. Ketterer made a motion to increase the horsepower limit to 10. Mr. Matheny seconded the motion. All were in favor.

New Business

A. Update on Boating Access Grant Program

Mr. Bollinger presented information on 31 projects that have been reviewed and approved, 3 of which were canceled. The three canceled projects were Penn Hills, Erie Port Authority, and Monroe Township. Of the remaining 28 projects, 27 applicants have signed and fully executed contracts. One contract has not been finalized but will be issued when matching funding issues are resolved.

In the 2007 grant cycle, there are a total of 42 applicants. Staff are currently reviewing applications. Staff is working with some applicants to revise their scope of work. Mr. Bollinger reported that 15 to 17 projects will be submitted to Dr. Austen for his review and approval. 7-9 projects may go to January Commission meeting for approval.

\$2.8 million has been given out in grant funds since this program started. The grant monies come from the fuels tax and Boating Fund. \$1.6 million is planned to cover the 2007 round of projects.

B. Review of Passenger for Hire Regulations and Initial Discussions on Possible Amendments to the regulations

Staff are preparing amendments to Chapter 115 of the Fishing and Boating regulations to reflect the latest needs identified by the National Transportation Board and Coast Guard findings in their investigation of the cause of the Lake George and Baltimore Harbor fatal capsizing of passenger for hire boats.

Ms. Sharp reviewed staff research and activities to date. Currently staff is considering the following changes:

- Require stability testing on all vessels.
- Change minimum coverage amounts from \$250k/\$500k to \$500k/1M.
- Charge a fee for annual safety inspections.
- Revise personnel requirements, i.e., require proof of CPR/First Aid.
- Increase fee for operator's license.
- Require drug testing and notification of prescription drug use.
- Devise standardized practicals for operators based on body of water (river/lake) and draft guidelines for pass/fail. Use consistently throughout the Commonwealth.
- Those passenger for hire vessels utilizing a permanent dock or mooring area shall maintain a dockside location which documents the number of crew and passengers who board on each scheduled use.

- Put into place a regulation that gives the Commission the authority to prevent a vessel from leaving the dock when the vessel has experienced any type of major mechanical problem which has crippled the vessel and required assistance getting to shore.
- For any incident that has left the vessel stranded, requiring assistance, the licensee shall notify the PFBC and submit a written report of the incident which shall contain detailed corrective action within 10 days.

Ms. Sharp has been in contact with many of the owners of boats that these changes would affect. With fewer than 10 operators of boats that these regulations would affect, communication is very easy. In addition to telephone and written communication, staff is considering conducting a meeting with the operators to get their input first hand. Staff is taking its time with this issue so that it is done right. Any changes would be in effect in 2008.

The Board raised several questions concerning the affect these changes would have on fishing charter boats, recreational boats and boats on federal waters. Staff indicated that the changes are to affect on the 12 boats that are currently registered under this program. Passenger for Hire regulations do not extend to recreational boats. These changes would not affect commercial boats on Federal waters. These boats are regulated by the U.S. Coast Guard. These changes would also not affect Fishing Charter Boats as these are regulated under a different section of the regulations

C. Review the Accident Statistics for 2006 Boating Accidents

Mr. Martin stated that we are at twice the fatalities we normally have. The overall number of recreational boating accidents is down. A summary of the fatalities to date was distributed and Mr. Martin discussed with the Board the causes of the accidents.

D. Update on Boat Registrations for 2006

Mr. Brian Barner, Director of the Bureau of Administration reported that staff tracks Boat Registrations on a bi-weekly basis and compares the amounts to 2005. Registrations are down about 2500 from last year continuing the trend of the past three registration years. Currently there are about 342,000 active registrations. Revenue generated from boat registrations and titles is currently about \$6.5 million.

E. Report on the Current and Projected Receipts and Expenditures for the Boat Fund

Mr. Barner presented graphs of Boat Fund balances and included Fish Fund charts. They show what will happen over time if the PFBC continues to operate as it currently is. According to the charts, the PFBC could be in financial trouble by 2011. Mr. Barner says that if the PFBC were to get into real financial trouble, grant programs could be stopped. The best way to prepare and move forward would be to increase revenue, cut costs or both.

Meeting was adjourned at 12:30 p.m.