

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

**MINUTES FOR  
THE BOATING ADVISORY BOARD MEETING**

**June 9, 2009  
10:30 a.m.  
Harrisburg, Pennsylvania**

.....

**Daniel G. Martin  
Director  
Bureau of Boating and Access**

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

**Members**

Loren Lustig  
Mary Gibson  
Damian Zampogna  
Andrew Talento  
Michael LeMole

**Members Ex Officio**

Dr. Douglas J. Austen, Executive Director  
Daniel G. Martin, 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 10:30 a.m. Roll was called and all Members of the Board were in attendance. A quorum was present.

Commissioner, Steven M. Ketterer, was present in addition to staff which included Laurie Shepler, Chief Counsel; Jason Oyler, Assistant Counsel; Tom Kamerzel, Director of Law Enforcement; Daniel Leonard, Director of Engineering & Property Services; Tim Schaeffer, Director of Policy, Planning & Communications and Carl R. Richardson, Education and Outreach Section Manager; Jackie Kramer, Statewide Public Access & Conservation Lands Coordinator; Scott Bollinger, Boating Facilities Program Coordinator; Kelly Sharp, Waterways Programs Manager; Ryan Walt, Southeast Region Aquatic Resource Program Specialist; Robert Lyons, a Commission volunteer.

**II. Introduction of Guests**

Ms. Gail Kulp, Education Director of the National Association of State Boating Law Administrators.

**III. Approval of the October 21, 2008 Meeting Minutes**

The minutes of the last meeting were approved.

**IV. Public Comment**

There were no comments.

**V. Updates**

**a. Boating Facilities Grant Program.**

Scott Bollinger provided an update of the 2009 round of the Boating Facility Grant Program. Fourteen projects were approved totaling approximately \$1,060,500. Ten of them were under \$100,000 and were approved by Dr. Austen. The four projects over \$100,000 were approved by the Commission at the April meeting. Staff informed the Board that the applicants must complete the project and have it inspected by the Commission before they may be reimbursed for the project. Grant funds may only be used for boating access improvements and the facilities must remain open to the public for 25 years. Most of the projects approved during the first three rounds of the program should be completed by December. Some applicants were granted extensions beyond the standard two year time frame to construct facilities. The next round of grants will open in July and have a deadline of the end of September. Additional updates will continue to be delivered by staff.

**b. Boating Facilities.**

Daniel Leonard, Director, Engineering & Property Services updated the Board on access related projects in which the Commission has been involved. At North East Marina, concrete work and dredging including demolition to prepare for paving work, refurbishment of E-dock and replacement of the launch ramp were all completed. Major traffic flow reconfiguration to eliminate troublesome congestion during peak driving hours and repair to an access ramp was done at Walnut Creek. Leonard stated that they have also been able to do a lot of access work in other areas; to name a few: Harmony Lake, Mifflin- town, Muddy Creek. Work on handicap accesses at the Hyner Access and Gravel Lick Canoe Access was done. A number of other projects are on the agenda for Clinton, Clarion, Wayne and Washington counties, scheduled for the upcoming fiscal year.

**c. Access Plan.**

Jackie Kramer gave the Board a strategy update on fishing and boating access. She explained that at the program's inception, six stakeholders' meetings were held to gauge community perception, access quality and quantity. More than 600 specific sites across the Commonwealth were addressed. The stakeholders decided that the Boating Facilities Grant Program should encompass land trusts, conservancies and watershed associations as direct eligible applicants. Stakeholders expressed their overall satisfaction with powered boat access, but felt there was a need for additional unpowered boat and fishing access areas. A cooperative agreement between DCNR and the Commission was developed and signed by Dr. Austen and former DCNR Secretary Mike DiBerardinis to facilitate boating and fishing access improvements on state parks and forest lands. Currently, a draft of the external plan has been developed. The draft will be circulated to Commission staff in the next few weeks and then to the DCNR. An internal companion document will also be developed with much greater detail on specific access prioritization.

**d. Boat Accidents.**

Dan Martin gave a short report stating that it has been a good year in regards to boating accidents with just three fatalities investigated and documented. He pointed out that normally there is large number of accidents in May. Tom Kamerzel of Law Enforcement agreed that to date it has been very light boating season. Martin informed the Board that registrations are in line with other years, but fishing licenses are up a bit.

**e. Lake Erie Marinas.**

Kelly Sharp in her report to the Board stated that both the Walnut Creek and North East Marinas are below capacity this year. North East slip occupancy is down by 15%, Walnut Creek has six available slips remaining, resulting in a significant loss of revenue so far this year. The majority of individuals on Walnut Creek's waiting list decided to remain on the list but declined to rent a slip this year for personal financial reasons. Transient slips are available and are becoming increasingly popular and lucrative, with the income from 2008 doubling 2007's figure. This year we expect to double the 2008 figure. The problem with congestion at Walnut Creek has been greatly improved by the rearrangement of the traffic flow pattern. This has considerably eased the congestion entering the facility during peak flow hours. Internet-based, remotely-accessible security cameras were installed at the Walnut Creek because of issues that have been arising between user groups. The cameras will allow Law Enforcement personnel and marina management the ability to address potential problem areas before they can become serious issues. They also provide security for staff leaving work late at night. Staff removed and refurbished all of E-dock (16 sections/32 fingers) and replaced the launch ramp. The project was completed well under the proposed budget. It is expected that this project will significantly extend the life of these particular docks at North East.

## VI. New Business – Dan Martin

### A. Proposed Rulemaking

#### **Amendment to §111.56 (Somerset County):**

A recent review of PFBC regulations shows that section 111.56, subsection (c) relating to the following bodies of water in Somerset County were inadvertently omitted in the Commission's boating regulations in 1994 and therefore not a part of the final rulemaking package. This is a clean-up measure.

**Lake Somerset.** – The operation of boats powered by internal combustion motors is prohibited.

**High Point Lake.** – The operation of boats powered by internal combustion motors is prohibited.

**Cranberry Glade Lake.** – The operation of boats powered by internal combustion motors is prohibited.

Staff therefore proposes that §111.56. be amended to add these overlooked subsections.

**Action:** Andrew Talento moved to accept staff recommendations in this regard. Damian Zampogna seconded the motion. All present were in favor of this proposed action. The motion carried.

## VII. Old Business – Dan Martin

### A. Final Rulemaking

#### **1. Amendment to §53.8 (Boats) and §97.1 (Personal Flotation Devices).**

Section 97.1(f) of the Commission's regulations follows the Code of Federal Regulations that excludes racing shells, rowing sculls and racing kayaks from the requirements for personal flotation devices (PFDs). This subsection, however, does not apply on Commission and State Park owned or controlled boating waters. Section 53.8 of the Commission's regulations similarly requires occupants of the aforementioned vessels to carry or wear Coast Guard approved PFDs on Commission property. Section 91.7 also provides detailed information on what type of PFDs must be carried by the safety boat accompanying these vessels. However, section 97.1(f) does not and may not (because of federal regulations); require that there be a safety boat present. This makes no sense to stipulate requirements for safety boats when they are not even required to be on the scene. Also this section states that safety boats carry a sufficient number of Type I, II, III, V PFDs for the occupants of racing boats they accompany. This also does not make sense since any PFDs required to be carried should be the type that can be easily thrown such as a Type IV throwable PFD. Staff is proposing that these requirements be removed from the regulations.

**Action:** Mary Gibson moved to accept staff's recommendation. Damian Zampogna seconded the motion. Since there was no further discussion and all were in favor of this action, the motion was carried.

#### **2. Amendment to §91.5 (Parental and boat owner responsibility)**

The Commission's current regulations do not include a provision making it unlawful for a boat owner to knowingly allow someone to operate his boat without a boating safety education certificate onboard when that person would be required to have one. Law

Enforcement staff is requesting that this requirement be added. Accordingly, the Commission is proposing amendments to this section.

**Action:** Andrew Talento moved to accept staff's recommendation. Michael LeMole seconded the motion. All were in agreement and the motion was carried.

### **3. Amendments to §101.5 (Confidentiality of Boating Accident Reports).**

The Commission receives requests for certified abstracts for boating accidents. This is the only information that can be released from the Boating Accident Report. The confidentiality of boating accident reports is covered in detail in section 5503 of the Fish and Boat Code, 30 Pa. C.S. §5503, and in §101.5 of the Commission's regulations. Accordingly, the Commission proposes that requests for certified abstracts always be in writing and that language be added to support this standard practice and clarify this matter to the inquiring public.

**Action:** Michael LeMole moved to accept staff's recommendation. Damian Zampogna seconded the motion. All were in agreement and the motion was carried.

### **4. Amendment to §105.3 (Unacceptable Boating Practices).**

The existing regulation concerning pontoon boats allows passengers to ride outside the normal passenger carrying area when the boat is travelling at slow, no wake speeds. This is an unsafe practice since a passenger can very easily fall overboard even at this reduced speed. And because of the nature of the hull design of a pontoon boat, slow no wake speed can be faster than on a single hull boat such as a runabout. In addition, if the passenger is riding in the hull of the pontoon boat and falls overboard he will most likely be struck by the boat's propeller.

The Commission proposes that the "Slow No Wake" phrase be removed from the language of this regulation.

**Action:** Andrew Talento moved to accept the Commission's recommendation. Michael LeMole seconded the motion. All were in agreement, the motion carried.

### **5. Amendment to §109.1 (Air Boats).**

Section 109.1 of the Commission's regulations provides detailed standards for the construction of air boats. There is no known example of this regulation being enforced in any part by Commission officers. There are very few airboats operating at present in Pennsylvania and our law enforcement staff have had few issues with operators of these unusual boats.

Accordingly, the Commission proposes removing this regulation.

**Action:** Mary Gibson moved to accept the Commission's recommendation to remove this regulation. Andrew Talento seconded this motion. All were in agreement. The motion carried.

## **6. Amendment to §109.6 (Special Marine Events).**

Section 109.6(b) (5) of the Commission's regulations requires written permission from the Bureau of Parks, DCNR, for the Commission to issue anyone a special activities permit for a marine event in a State Park. The Commission, however, issues permits for events occurring in State Forests, not just in State Parks. The regulation further states that for a marine event held on waters under the ownership or control of Federal or State agencies, the Commission will require evidence that the applicant has the permission of the controlling agency.

The aim of this proposal is to simplify this issue by revising the regulation to require the permission of the entity that owns or controls the waters on which the marine event will occur. This is a clean-up to the regulation.

**Action:** Andrew Talento moved to accept staff's recommendation. Damian Zampogna seconded the motion. The motion carried.

## **7. Amendment to §111.17 (Clearfield County).**

Curwensville Lake is a U.S. Army Corps of Engineers (USACOE), Baltimore District, impoundment of the West Branch of the Susquehanna River in central Clearfield County. The lake narrows severely in its upper reaches to less than 200 feet in width. This area of the lake has been posted and enforced as a slow, no-wake area but never defined by a regulation. Use of this area is popular but not conducive to unrestricted horsepower boating. Giving clear and legal definition of this slow, no wake area is of joint interest of the agencies. The USACOE has requested that the slow, no-wake area be marked in the area upriver of the cliff at Ferguson and the area between the old viaduct pillars.

The Commission proposes an amendment to clearly designate this area of the lake.

**Action:** Andrew Talento moved to accept this recommendation. Mary Gibson seconded this motion. The motion carried.

## **8. Amendment to §111.20 (Crawford County).**

Pymatuning Lake is part of Pymatuning State Park; therefore, the horsepower limit is regulated by DCNR at 20. The Commission has previously removed all references to horsepower limits on DCNR waterways from Chapter 111 of the Commission's regulations, but Pymatuning Lake was not included. The Commission proposes to also delete this regulation for Pymatuning Lake. This will complete the process.

**Action:** Michael LeMole moved to accept staff's recommendation. Andrew Talento seconded the motion. The motion carried.

## VIII. Discussion Items.

### A. Liveries (Boat rental business) – Commercial use of boat access – Mary Gibson.

The Board brainstormed on different ways to acquire livery contact information which could then be compiled into a database so they could be registered with the State. Dan felt that since liveries provide a valuable service to the public through water safety education and are a good source for recreational purposes, the updated listing could then be published on PFBC's website. Mary Liskow suggested we make the letter (handout) the policy and table this as an item for future business. Laurie Shepler pointed out that the letter was designed from the actual policy. The Board proposed that staff look at this proposal, make the necessary changes to the policy in order to make it some kind of working regulation.

**Action:** Mary Gibson made the motion for this proposal. Damian Zampogna seconded the motion. The motion was carried.

### B. Mandatory Boating Education – Gail Kulp, Education Director – National Association of State boating Law Administrators (NASBLA)

Ms. Gail Kulp, in her presentation to the Board, stressed the importance of NASBLA's goal, which is to reduce boating accidents, save lives and make boating an enjoyable experience. One of the ways this is accomplished is through their boating safety course and testing procedures. Test compilation and standards are tailored to each state. An approved test is good for three years – expiring on December 31st. For a Boating Safety Certificate (card) to be valid as NASBLA approved, it must have their logo displayed somewhere on the card. Pennsylvania will accept a boating safety certificate from another state as long as the NASBLA logo is present. It has been proven over the years that an educated boater is a safer boater. Dan Martin pointed out that mandatory education in PA targets the wrong boaters, the larger horsepower boats; because it is thought that most fatal accidents are collisions. In fact, most fatal boating accidents involve unpowered boats that have either capsized or swamped. [Boating exams are at least 50 questions long with typically 25 state specific questions.] There are three different types of courses: video, classroom and on-line. The older style challenge type on-line course has about a 30% pass rate with the timed module at 85-90%. In the timed module the student has to spend at least three hours on-line studying and is quizzed at certain intervals. The classroom course has an 80-85% pass rate, since students having the advantage of the teacher being present to address any problems or questions. Gail stated that NASBLA is here to serve and welcomes ongoing input to continually improve and perfect its service to the states that it serves. No action was taken.

The motion was made to adjourn the meeting by Mary Gibson. The motion was seconded by Andrew Talento. The motion to adjourn was carried.

## IX. Kayak Demonstration – Parking Lot – Blue Mountain Canoe