

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

**MINUTES FOR
THE BOATING ADVISORY BOARD MEETING**

Tuesday, June 23, 2020

1:00 p.m.

Webex Virtual Meeting

Members

Chair Loren Lustig

Vice Chair Mary Gibson

Scott Ballantyne

John Mahn

Michael Murray

Members Ex Officio

Timothy D. Schaeffer, Executive Director

Colonel Corey L. Britcher, Secretary

Ryan J. Dysinger for Cindy Adams Dunn, Secretary for the
Department of Conservation and Natural Resources

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I. Roll Call

The meeting was called to order by Secretary Corey Britcher at 1:00 p.m. Chair Loren Lustig and members Scott Ballantyne, John Mahn, and Michael Murray were present. Executive Director Timothy Schaeffer, Colonel Corey Britcher, and Ryan Dysinger were also present.

In addition to the members of the Board, the following Commission staff were present: Commissioner Richard Lewis; Commissioner Charles Charlesworth; Wayne Melnick, Chief Counsel; Chad Whitaker, Executive Secretary; Kelly Zoppa, Administrative Officer, Law Enforcement; Sean Gimbel, Strategic Initiatives and Special Projects Coordinator.

II. Introduction of Guests and Public Comment

No guests were present. No public comment was received.

III. Approval of the January 8, 2019 and June 27, 2019 Meeting Minutes

A motion was made by Loren Lustig and seconded by John Mahn to approve the January 8, 2019, and June 27, 2019, minutes. After a roll call vote by Wayne Melnick, the motion carried.

IV. Election

Corey Britcher opened the floor for nominations for Chair. A nomination was made by John Mahn to re-elect Loren Lustig for a third term. Hearing no other nominations, Corey Britcher called for a motion to close nominations. A motion was made by John Mahn and seconded by Scott Ballantyne to close nominations for Chair. After a roll call vote by Wayne Melnick, the motion carried.

Corey Britcher opened the floor for nominations for Vice Chair. A nomination was made by Loren Lustig to re-elect Mary Gibson for a third term. Hearing no other nominations, Corey Britcher called for a motion to close nominations. A motion was made by Loren Lustig and seconded by Scott Ballantyne to close nominations for Vice Chair. After a roll call vote by Wayne Melnick, the motion carried.

V. Old Business

A. Review of Final Rulemaking from 2019

Secretary Britcher reported the Boating Advisory Board took up two amendments to Title 58 and both were passed by the Commissioners and are now in effect.

The first amendment was to §111.2(c), Allegheny County. In response to a request by several local groups, the Commission extended the No Wake Zone on the Allegheny River approximately ¼ mile upstream to the Veterans Bridge. Additionally, the timeframe for the zone was extended through November 1 each year.

The second amendment was to §119.8, Motorboat Noise Control. This section had not been updated since 1994 when it was first implemented. The Commission made housekeeping changes to this section by adding the word motorboat in place of vessel to match the rest of Title 58. The amendment also specified that the Fish and Boat Commission could train officers in the use of sound meters and updated sound levels to comply with the most recent Society of Automotive Engineers requirements.

VI. New Business

A. Amendment to Section 111.6 (Berks County).

Commentary:

Blue Marsh Lake is a 1,148-acre flood control project managed by the U.S. Army Corps of Engineers (USACE) in Berks County. This busy boating destination is regulated by Title 58 PA Code, specifically § 111.6(a) (relating to Blue Marsh Lake), which contains three specific regulations that deviate from the statewide recreational boating regulations when it comes to exhausts, no wake zones, and water-skiers. Specifically, subsection (3) states that “a boat may not tow more than one water-skier.” This limitation deviates from the standard utilized throughout the Commonwealth where the number of skiers is determined by the boat’s persons capacity.

Recently USACE leadership has changed their local policy/regulation adopting the standard skiing regulation. They have petitioned the PFBC to make the same change in Title 58 so that Waterways Conservation Officers can continue to assist in enforcement.

Staff propose the following change to § 111.6:

§ 111.6. Berks County.

(a) *Blue Marsh Lake*.—The following special regulations apply to Blue Marsh Lake:

* * *

[(3) A boat may not tow more than one water-skier.]

* * *

Briefer:

Corey Britcher, Director, Bureau of Law Enforcement

Action:

A motion was made by Scott Ballantyne and seconded by Loren Lustig to recommend this amendment to the Commission. After a roll call vote by Wayne Melnick, the motion carried.

B. Amendment to Section 111.43 (Mercer County).

Commentary:

Shenango River Lake is a 3,560-acre flood control project managed by the U.S. Army Corps of Engineers (USACE) in Mercer County. This busy boating destination is regulated by Title 58 PA Code, specifically § 111.43(a) (relating to Shenango River Lake) which contains several specific regulations that deviate from the statewide recreational boating regulations when boating on USACE waters. Specifically, subsection (1) states that “the use of motors in excess of 10 horsepower is prohibited in the area west of the Penn Central Railroad (Levittsburg) causeway to the Ohio line.”

Recently USACE leadership has changed their local policy/regulation adopting a 20-horsepower restriction west of the causeway. They have petitioned the PFBC to make the same change in Title 58 so that Waterways Conservation Officers can continue to assist in enforcement.

Staff propose the following change to § 111.43:

§ 111.43. Mercer County.

(a) *Shenango River Lake.*

(1) The use of motors in excess of [10] **20** horsepower is prohibited in the area west of the Penn Central Railroad (Levittsburg) causeway to the Ohio line.

* * *

Briefer:

Corey Britcher, Director, Bureau of Law Enforcement

Action:

A motion was made by John Mahn and seconded by Michael Murray to recommend this amendment to the Commission. After a roll call vote by Wayne Melnick, the motion carried.

VII. Discussion Items

A. Legislative Update – Timothy Schaeffer

Executive Director Schaeffer spoke on three bills that are poised to run in the Senate today.

The first one is House Bill 1003, sponsored by Representative Gillespie, which already passed in the House. It is scheduled to run for a third consideration for final passage in the Senate today and will then be off to the Governor. This bill deals with public safety around low head or run-of-the-river dams. Right now, the Commission must go through a cumbersome civil process if dam owners do not have their dams marked. This bill would shift enforcement so the Commission could issue criminal penalties and our WCOs could issue citations directly to the owner from \$250 up to \$5,000. The bill also updates the definition of run-of-the-river dams so it aligns with National Dam Safety professional standards.

There are two other House Bills that have been amended and need to get final passage in the Senate today and will go back to the House for a concurrence vote that could happen as early as tomorrow.

The first is House Bill 1185 which is a comprehensive update to Title 30 that deals with boater safety. It provides consistency for DUI language (in the Vehicle Code) and BUIs specifically allowing Accelerated Rehabilitative Disposition (ARD) and penalties for minors on board the watercraft. It also provides consistency with the Vehicle Code by creating a category of Aggravated Assault by Watercraft. The bill would also allow the Commission to collect restitution for damage to our property and gives us consistency with the Crimes Code on disposal of discarded items. Additionally, this bill contains a customer service provision relating to a lesser penalty for not carrying a boating safety education certificate on your person (only for those who have already obtained a certificate). The last piece of this bill is something that was amended in the Senate and it removes the “in ink” provision from Title 30. Right now, a fishing license must be signed in ink for it to be valid. Earlier this year the Board voted to remove the license display requirement. Officers have been instructed not to enforce this provision. With this amendment, the Bill would need to go back to the House for concurrence after it receives final passage in the Senate.

The second House Bill that has been three sessions in the making is House Bill 808 or Senate Bill 1168, which gives the Commission the authority to set our own fees. There was an amendment offered and passed unanimously in the Appropriations Committee yesterday that would change the effective date of the authority for the agency from 2019 to 2021. This means we could not start the process for putting a new license increase in place until next summer which would not take effect until the 2022 license year. The amendment also extended the “sunset provision” which means we would have this authority through 2024. This would allow the Board to set the fees through a public comment process. The Bill also allows the Commission to set boating-related fees, to include boat registration fees. This is scheduled to receive final passage in the Senate this afternoon.

Executive Director Schaeffer also suggested to be on the lookout for lots of videos coming out from our office in the next several days. Throughout the day yesterday and today, our Legislative Liaison Julie Carraghan and Communications Director Mike Parker are on the steps of the Capital doing safe boating interviews and public service announcements with legislators.

B. Strategic Plan Update – Sean Gimbel

Sean provided an overview of the next strategic plan for the Commission, with particular attention to the goals created for the recreational boating strategic priority that is in the plan. Beginning April 2019, Commission staff began the planning process by conducting online surveys of Commissioners, staff, stakeholders, and the public, and used the input from those surveys to help set the stage for creating this plan. A facilitator from outside the Commission facilitated eight workgroup meetings for staff between May 2019 and January 2020. In between those meetings, Sean conducted additional staff meetings to further hone those ideas to get to where we are today. Along the way, staff kept the Commissioners abreast of progress and met with the Boating Advisory Board on January 13, 2020, to talk about what was envisioned. In the spring, the pandemic caused us to put a pause on sharing the plan with the public. Likewise, several other state agencies that had been involved in the strategic planning process have also hit the pause button on their plans.

The strategic plan was intended to begin January 1, 2020, and cover the next three fiscal years, ending June 30, 2023. The plan contains a revised vision statement which is more succinct and provides a clearer notion of what we are striving to be as an agency. We are looking forward to becoming a premiere destination for fishing and boating and be a national leader in aquatic resources and management. The Commission's mission statement is staying the same as what it has been for quite a long time: "to protect, conserve, and enhance the Commonwealth's aquatic resources and provide fishing and boating opportunities." Staff identified five values that are basically the house rules: collaboration, community, excellence, respect, and responsiveness. In the past plan, our guiding principles were merged with the values but this time we decided to call out the guiding principles in a separate category. It is our job to make sure that employees take these things to heart and use these guiding principles as they make decisions for the agency moving forward. The guiding principles deal with Commission culture, safety, asset stewardship, resource first, access, R3 (recruitment, retention, and reactivation of anglers and boaters), resilience, and relevance.

Finally, the plan has six strategic priorities: sport fish management; non-game species, aquatic resources and habitat conservation; recreational boating; employee investments and agency operations; communications and marketing; and an infrastructure and equipment. The plan contains a high degree of detail and has goals and sub-goals. The recreational boating priority was established to provide safe and enjoyable boating opportunities for users of both powered and non-powered boats. The goals recognize the burgeoning and expanding market and interest for non-powered boating. Within the recreational boating priority, there are three headings: boating safety, water rescue, and boating promotion.

Within the boating safety heading, a goal was developed to address the tremendous growth in non-powered boating and the challenges that are coming with the influx of people with limited experience on the water. Sub-goals in this section address education and outreach programming and developing online material and information to get into the hands of retailers selling those boats and those who will be using them. There is also a goal to work with the National Association of State Boating Law Administrators (NASBLA) on boat operation and enforcement training.

Moving into the water rescue heading, there is a goal to maintain our status as a national leader in water rescue. We have three sub-goals within water rescue. One is to continue training for first responders, WCOs, and the PA- Helicopter Aquatic Rescue Team (HART) and Swiftwater Emergency Response Team (SWERT). This goal addresses training for Commission staff and partners (such as volunteer fire departments, etc.) who conduct water rescues and who pursue advanced training for specialized rescue teams. Second, we will continue doing quarterly exercises to ensure readiness and response in coordination with other agency partners. Finally, we will continue to implement best practices for volunteer recognition, auditing, and recertification for swiftwater rescue teams.

Under the boating promotion heading, we have some extremely ambitious goals. First, we commit to being involved more with the Pennsylvania water trails program. Second, we will revive the Pennsylvania Fishing and Boating Access Strategy which is now about ten years old. Third, we will continue to implement the recently-renewed Boating Facilities Grant program, change the boat registration expiration date to coincide with the calendar year, issue temporary

launch permits for unpowered boats, and work with other state agencies to encourage uniform launch permit regulations. Currently, regulations might be a little bit different at a Fish and Boat Commission facility than they are at a Game Commission facility, so we want to make it more consistent. Last, we will be evaluating all our Fish and Boat Commission properties to identify ways to improve the boating experience for all boaters.

Executive Director Schaeffer added that we recently got another large amount of funding from the Governor's Office to fix ten of our high-hazard dams. Those projects will be commencing throughout the duration of the plan. We also have several facilities that are in construction currently that will be completed and brought back online for boaters. We are also going to redouble our efforts to block invasive species and explore where we can have cleaning stations at some of our facilities to prevent the spread into and out of those facilities for different aquatic invasive species. Those are a couple examples of boating-related goals that are connected into other parts of the plan. BAB member John Mahn and Commissioner Richard Lewis were part of the strategic planning process. The Board of Commissioners will be voting on the plan to finalize it at their July 2020 Commission meeting.

VIII. Other Business

No other business.

IX. Adjournment

A motion was made by Loren Lustig and seconded by Scott Ballantyne to adjourn the meeting. The motion carried and the meeting adjourned at 1:56 p.m.