

MARYLAND BOAT ACT ADVISORY COMMITTEE MEETING SUMMARY

February 4, 2020

Attendees:

Amy Craig, Russ Dwyer, Joe Hellner, Thornell Jones, Steve Kling, Coles Marsh, Robert Nickel (conference call), John Pepe, Jon Sheller, Richard Allen, Jacob Holtz, Michael Simonsen & Jeannine Moaney

Called to Order:

Amy Craig (Chair) called the meeting to order and asked the committee to introduce themselves. Mrs. Craig passed the order of business to Thornell Jones (new Chair). Mr. Jones thanked Mrs. Craig for doing great work on the committee the last couple of years.

Old Business:

Approval of Minutes for October, 21st, 28th and November 7th. Mr. Kling made a motion to dispense of reading the minutes. Mrs. Craig seconded the motion. The motion carried unanimously. Approval of Minutes for October 21 – Motion was made by Mr. Dwyer, and Mr. Pepe seconded; October 28 – Motion was made by Mrs. Craig and Mr. Dwyer seconded; November 7 – Motion was made by Mr. Sheller and Mr. Kling seconded. All of the minutes were approved as submitted.

New Business:

- A. Americans with Disabilities Act (ADA) – Richard Allen, Director of Equal Opportunity, gave an educational presentation on ADA. This Act became law in 1990 to prohibit discrimination against individuals with disabilities in all public and private places. It became law to make sure that people with disabilities have the same rights and opportunities as everyone else. Mr. Allen showed an audio-visual presentation of Unicorn Lake, which has a floating fishing pier. Funding was received for parks and marinas to accommodate people with disabilities. He mentioned Title II which states that state and local government should make their facilities ADA accessible. Section 504 of the Rehabilitation Act of 1973 is for public transportation to receive federal assistance to make accommodations and adjustments. Title III states that public accommodations for people with disabilities should be provided in privately-owned businesses. Title IV is for telecommunications. This is for people with hearing and speech disabilities. Mr. Hellner asked where do yacht clubs fall. Mr. Allen stated yacht clubs fall under Title III as a private business. Mr. Sheller asked if there were any grants or support opportunities for private industry who are required under ADA. Mr. Allen didn't have any knowledge of that but noted that he would find out. Mr. Simonsen stated that this act could benefit all recreational users. Mr. Allen said Mr. Bedell is an expert on the DNR Disabilities Council and Engineering & Construction as far as upgrades.
- B. Open Meetings Act – Jacob Holtz, Program Manager, Regulatory & Legislative Review Unit, gave a presentation on the Open Meetings Act. Some of the topics he covered were the definition of the act, when does it apply? what's a quorum? what's a meeting? And what is

advanced notice for a meeting? Mrs. Craig asked how in depth should public testimony be. Mr. Holtz stated that a tape recorder could be used to generate summary to capture the whole substance, as they record for their fishing hearings. Mr. Pepe said minutes could be questioned if they're called in. A professional contractor is needed. Mr. Sheller stated minutes are used to record decisions. Sufficient recordings are needed. Mr. Holtz said a summary of minutes needs to be provided by using a stenographer or audio recorder. The audio-visual aid becomes public. The Boat Act can do this and it won't become a public record. Mr. Hellner wanted to know if we were in compliance today. Mr. Holtz noted that we were, because Mrs. Moaney is taking the minutes. Mr. Kling stated that the committee needs to be careful regarding the use of transcripts. He went on to say that minutes are minutes and transcripts are transcripts. We can suggest recording public testimony. Minutes are the summary of what we do. Mr. Pepe agreed. He noted that down the road, we need to have records verbatim. Mr. Holtz mentioned that he had court transcribers in two board meetings. However, it had to end due to budget constraints. He discussed the approval of minutes process. The Act applies to the public body, quorum (body and/or telephone) and the meeting. The public body is the legal instrument. Advanced notice should be issued. Mr. Jones asked what is advance notice for a meeting. The response was two-four weeks and can be listed on the web site, in newspapers, emails, MD Register and public notice. Mr. Simonsen noted that in the private sector, people receive alerts. Mr. Holtz mentioned that there has been a potential violation of the act (lawsuit) with the Talbot County Council. Another issue was with the Town of Greensboro. Mr. Pepe asked could a volunteer Board be sued within DNR. Mr. Holtz stated the board is the public body. Mr. Pepe noted that he just wanted to know the liability. Some of the members are professional people and some are working people. Mr. Kling mentioned that all of this open meeting information isn't all that complicated. He reflected on the Talbot County issue. Mr. Holtz told the committee they could find more data on the Open Meetings Act on the Maryland Attorney General's website. Ms. Emily Vainieri (410-260-8352) is also available to answer any questions regarding this.

- C. Regulatory Requests for 2020 – Mike Simonsen, State Liaison, discussed the two requests.
1. Tilghman Island – To make the residential coves in upper Harris Creek east of Cummings Creek 6-knots at all times. Mr. Kling mentioned the request should have been broken down into two requests. It should have been more decisive and fine-tuned. Mr. Sheller agree and mentioned that it sounded like “I wanna”. The geographical references should have specified points. Mrs. Craig noted that it's too vague. Mr. Simonsen mentioned that it's his first process and he plans to meet with the petitioner to find out all of the details. Mr. Jones stated the form should be revised with all of this information.
 2. Naval Academy – All-time 6-knot speed limit restriction 220 yards from the Academy. Mr. Pepe asked, “What was the last request from the Academy?” Mr. Kling said he remembers it having something to do with the Annapolis Harbor that the Committee took upon themselves. Mr. Simonsen noted that based on the last paragraph, he'll talk to Hydro for a survey buoy. Mr. Sheller said this is a giant mixing bowl. This isn't going to get rid of the environmental problem. Mr. Dwyer suggested that Mr. Simonsen check with the Severn River area. Mr. Hellner recollected that there's already a speed zone. Mr. Jones stated that the Academy needs to know what the regulations are now. Mr. Pepe said a lot of that area is already 6-knots.
- D. 2019 Regulatory Decisions – Mr. Simonsen met with Mr. Anderson (Asst. Secretary, Aquatic Resources) regarding the Secretary's decision.

1. Little Annemessex River (Crisfield) – Implement a 6-knots all time speed zone from approximately marker “11” to “11A”. No change. However, the Secretary wants the meeting redone in the evening in Crisfield. Mrs. Riccio wants this redone because everyone didn’t get to come due to the meeting time. This should be advertised to the appropriate parties. All public testimony should be held in the evenings. Mr. Pepe asked does it matter when the decision was already made. Mr. Thornell wanted to know if the watermen complained about the meeting before it was filed. Mr. Simonsen stated even though the decision had been made, they still want a public testimony. Mr. Dwyer asked why did this come from Anderson and not from Jeannie. Mr. Simonsen said he didn’t know. For the record, we’re to hold another meeting. Mr. Kling stated this is a part of a major directive to hold meetings in the evenings. Mr. Hellner asked if we could announce this as an opportunity for people to come if they weren’t able to. Mr. Jones said no, but wanted to know where would that lead? Mr. Pepe suggested that we hold the decision until another meeting is held. Mr. Kling mentioned that we can say we’re re-opening the meeting. Mr. Pepe asked shouldn’t the decision be tabled? Mr. Kling said he thinks we’re being told to go back and make a decision. Mr. Thornell said the watermen don’t want the decision changed. Why go back? Mr. Pepe noted he didn’t know why there was a meeting without a quorum Mrs. Craig said the point here is we’re doing something specific. We’ve never done this before. We’re setting a precedence, moving forward. Mr. Nickel said this is opening a Pandora’s box. He agreed with Mrs. Craig. Mr. Sheller made a motion for the committee to have written instruction on the issue of a second meeting in Crisfield. He wants it in writing on how to execute it properly under the direction of the Assistant Secretary. Mrs. Craig seconded. Motion carried with one who abstained (Mr. Pepe). Mr. Dwyer said he’s against having to do this again. Mr. Kling said nobody knows what we do. We have always been in the political field.
2. Dixon Creek/Eastern Branch (Easton) – Implement a 6-knot all-time speed zone for the length of the western branch. It was agreed to change the current regulation to a 6 knot speed limit Saturdays, Sundays and state holidays during the boating season only. Mr. Simonsen hopes this will be implemented the first week of June.
3. Middle River – Implement a 6 knot all-time speed zone for all twin screw inboard vessels 36’ in length and larger from the entrance of Middle River at the Chesapeake Bay to Galloway Point. No change to current regulation.
4. Days Cove/Little Gunpowder Falls – Remove the current 6 knot all-time speed zone. Replace it with 6 knot sunset to sunrise and 35 knots sunrise to sunset. No change to current regulation. Mike Simonsen shared that a constituent in opposition of the proposed regulation request, mentioned they thought a sanctioned Largemouth Bass fishing tournament could workout with proper notification and understood that all users should be able to enjoy Days Cove. The Assistant Secretary being made aware of this fact, was intrigued and would like the BAAC to help explore more discussions with the paddlers and sport fishing members. Mr. Sheller wanted clarification. He asked if this was within the charter of BAAC to proactively have meetings with the public or would it be better to advertise that these various interest groups submit questions to the committee? Mr. Simonsen mentioned that was a good question. Mr. Marsh asked who suggested having a meeting? Mr. Simonsen mentioned the Assistant Secretary wants the two groups (sanctioned Largemouth Bass fishing tournament) to get together and would like BAAC to hold the meeting venue. Mr. Pepe asked would this fall under Jacob’s group— sportfishing. Mr. Sheller asked if this is part of our mission to bring constituents together or should it be done higher up? Mr. Simonsen stated that he would have to look into this.

Mr. Nickel noted that he's against this. Protocol should be followed. Mr. Kling said this is a positive request. It was done with the Severn River Management Plan. In the past, we worked with the stakeholders to figure out what was going on. We should come back with another recommendation. See as a positive. Mr. Jones stated they have Largemouth Bass fishing tournaments on the Chester River. It's worth looking into. Mr. Hellner agreed with the comments from Mr. Kling and Mr. Jones. He feels there is room to find a win-win solution. Mr. Thornell asked if it was appropriate to put together a marine event to find out what the restrictions are. Mr. Kling stated that this may come under the marine event purview. Mr. Jones said we need to find out who gives permits for tournaments. Mr. Dwyer noted the Coast Guard gets a permit yearly. Mrs. Craig mentioned DNR Fisheries. Mr. Jones stated a group of BAAC should meet with Fisheries to find out if they're on the same page. Mr. Kling added Scott Sewell. Mr. Simonsen added Joe Love. Mrs. Craig added Greg Ledwell. Mr. Hellner asked if they should include someone from Days Cove.

Committee Topics:

Mr. Sheller mentioned that he's been on the committee for a few years and sees a trend based on popular growth on the water. He said we're working our way further up the little creek. Restrict of waterway use to riparian landowners. They feel they own the waterfront in front of their home. It's pressing the virtual use of waterways. It's changing the demographics, pressing impact on the water. Mr. Hellner stated the population tends to increase. Waterways are busier. We all have to get along. We should just slow down. It should be shared by all.

Next Meeting: March 12, 10-2 p.m.

Adjourn: Meeting adjourned at 11:40 a.m.