



Summary of
Oregon State Marine Board Meeting
March 15, 2007

Chair Bob Montgomery called the March 2007 meeting of the Oregon State Marine Board to order at 9:00 am. Board members present: Bob Montgomery, Rick Allen, Trey Carskadon and George Tinker. Absent: Deborah McQueen

Present Staff Members included: Director Paul Donheffner, William Rydblom, Janine Belleque, Randy Henry, Ashley Massey, Glenn Dolphin and June LeTarte.

Guests: Larry Robison, Coos County; Mike McGuire, WBHOA; Dick Pickett, charterboat operator; James Hatcher, charterboat operator; Doug Walker, CRYA; John McCoy, US Power Squadrons; John Asher, OYCC; Doug Denning, OYCC; and Dan Kromer, Metro Parks.

Unscheduled Testimony

Chair Montgomery welcomed the audience and opened the floor to unscheduled testimony on non-agenda items.

Mike McGuire, Wood Bend Homeowners Association, addressed the Board and requested the elimination or reduction of wake erosion damage to the Willamette River made by wake boards. Beginning in 2001 and throughout the years, their association has made formal complaints to the Marine Board and the Clackamas County Sheriff, yet problems continue. Mr. McGuire voiced concern that there has been very little follow-through to eliminate the giant wakes that are eroding the shoreline. For the record, he is a boat owner and is not anti-wake boarding. Mr. McGuire also voiced complaint about the loud sound systems on some of the boats. Mr. McGuire recommended the Marine Board, in order to protect the riparian shore area, take the following immediate action: ban the use of all types of wake enhancing devices, i.e., fat sacks, ballasts, wedges, etc. eliminating the most damaging boats.

Director Donheffner responded. Randy Henry, Policy & Planning, chairs a working group of wake boarders and homeowners in Clackamas County addressing this issue. There is no simple answer. Boat manufactures are incorporating designs into the hulls themselves. There is the option of a "no wake zone" making everyone slow down, which in turn, would prohibit traditional forms of water skiing.

Mr. Carskadon volunteered to visit Mr. McGuire's area. Chair Montgomery requested Mr. Carskadon work together with Director Donheffner and Mr. Henry and report back at the next meeting.

Marine Board Meeting Minutes Review

Chair Montgomery asked for review and approval of the December 14, 2006 meeting minutes. Mr. Allen motioned to approve. Mr. Carskadon seconded. Motion carried unanimously.

Item A: Director's Report

Director Donheffner briefed the Board on Legislative issues. The agency's 2007-09 budget passed Ways & Means, as requested in the Governor's Recommended Budget. The Senate approved 21-5.

HB 2071, adjustment of the agent fee bill, had its first hearing. An amendment was added to automatically adjust the fees for cost of living.

HB 2072, repeal of the sunset of the outfitter guide program cleared the House and is pending action by the Senate.

Director Donheffner updated the Board on additional bills summarized in the Board package. The agency is monitoring, SB-551, which stipulates the mandatory requirement that passengers wear PFDs when crossing ocean bars.

The Coast Guard has advised that the bill, if passed, would likely be subject to federal preemption. Senator Prozanski, who is sponsoring the bill, together with Legislative Counsel will be meeting with the Coast Guard to discuss. A House bill has also been introduced on the same topic.

Mr. Allen asked what is OSMB position. Director Donheffner replied that he provided factual testimony only. He didn't testify in direct support of the bill but rather reaffirmed that OSMB supports efforts to enhance boating safety.

The broadness of the bill and its unintended consequences were discussed. OSMB supports the National Transportation Safety Board's recommendation to the Coast Guard that they amend their regulations to require that PFDs be worn when a hazardous bar warning is present.

Director Donheffner recapped the agency's financial status, through January, outlined in the Board package.

In addition, 44,000 Reminder Notices were mailed to boat owners whose registration decals have expired at the end of 2006. Active registered boats number 140,000. Registered guides number 895; 157 are charter boats.

Two additional staff members were hired in the Business section and two engineering positions remain vacant. Mr. Allen questioned whether contracting engineering services was a viable option. Director Donheffner responded that it is more cost effective to hire staff but due to recruitment and market issues, the agency may be forced to contract services.

Mr. Tinker asked about the nature of the refresher training for GI Joes. Director Donheffner clarified that the agency periodically visits and provides training to all agents throughout the state.

The Board discussed the scheduling of the next meeting. Director Donheffner suggested meeting on Tuesday, June 26, 2007 in Newport, using Monday as a travel day. The Board approved.

Item B: Outfitter/Guide and Ocean Charter Reciprocity Update

The Board adopted reciprocity rules last June but instructed the agency not to file until Washington finalized parallel rules for Oregon. Washington did not extend reciprocity to guides. HB 2072 was amended to give the agency the authority to waive the fee for Oregon resident guides.

Director Donheffner requested Board approval to adopt and file rules to issue a "no fee" charter boat license to guides operating on the Lower Columbia River in order to establish reciprocity with Washington.

Mr. Carskadon asked for clarification between charters and guides. There are two classes of business licenses. The charter boat license is a license on the boat, the vessel. The guide registration is the individual conducting the activity, similar to a personal business license.

Mr. Allen motioned to authorize rulemaking. Mr. Carskadon seconded. Motion passed unanimously.

Item C: Boater Education Rulemaking

Due to an issue with notice, Director Donheffner requested the Board to re-adopt boater education rules, Chapter 250, Division 018, previously authorized in December 2006.

Mr. Tinker motioned to adopt rules. Mr. Allen seconded. Motion passed unanimously.

Item D: Vessel Communication Equipment

William Rydblom, Law Enforcement Manager, addressed the Board. Following requests from charter boat operations, in September 2006, the Board instructed staff to research and forward a recommendation on whether satellite telephones could be used as a substitute for the single sideband radios required for vessels operating twenty miles from port. As detailed in the Board package, staff filed a Notice of Rulemaking, collected comments and surveyed users. There has been little modification to the rule in the last eighteen years.

While staff advocates a periodic review of federal requirements and evaluation of new technologies, they do not believe that there is justification to warrant modification or amendment to OAR 250-015-0033 at this time.

Mr. Tinker asked for clarification on whether inspected vessels are required to have sideband radios.

Mr. Rydblom responded that Oregon regulations require all charters, operating beyond twenty miles, to have sidebands. The Coast Guard requires inspected vessels operating beyond twenty miles to have a single sideband radio. It is not required of the un-inspected vessels (six-packs).

Director Donheffner clarified that the ocean charter boat rules were generated by the industry, itself.

Mr. Allen questioned how this request came to the attention of the Board.

Mr. Rydblom introduced James Hatcher, the petitioner. Mr. Hatcher addressed the Board and read the original petition, dated June 13, 2006, into the record (attached). Mr. Hatcher mentioned that many offshore mayday situations result in being dead in the water with no battery.

Mr. Dick Pickett addressed the Board. He encouraged reconsideration of staff's recommendation. The Coast Guard will "unofficially" tell you that the satellite telephone is a better option than the old single sideband technology. Sidebands are antiquated technology. There are newer, better and safer options. Once a raft is deployed in an emergency situation, when your boat goes down, you've lost communication. Most every operator on the coast has VHF and a hand-held satellite telephone to call 911 or direct dial to Winchester Bay or Depot Bay. Charters are required to have EPIRBs on board.

Mr. Allen questioned what other states require. Mr. Rydblom responded that there aren't many states which have charter boats regulations similar to Oregon. Persons operating in federal waters are required to follow Coast Guard regulations.

Extended discussion followed on the differences between transmission equipment, frequencies, reliability, blind spots, old versus new technology, and the fact that the rules were written prior to the availability of satellite telephones.

Mr. Allen stated that if satellite telephones are allowed at some point, there should be mandatory requirements to have a hard-mounted 12-volt charger on board.

Mr. Carskadon voiced his concern that allowing charters to operate 20-miles and beyond without a sideband radio would be opening a "Pandora's box" to potentially dangerous situations. He noted Milton Gudgell, a charter boat captain with greater than 30-years experience, is not in favor.

Chair Montgomery, stated while he does not usually like to go against staff recommendations, neither is he opposed to the use of new technology.

Director Donheffner offered the Board the suggestion of deferring the issue until the June meeting, to allow staff to gather additional information.

The Board stated they would require more facts prior to making a decision. Staff was instructed to clarify whether the Coast Guard conducts a mandatory inspection of un-inspected (six-pack) boats; define the Coast Guard's EPIRB requirement; define who inspects the boats for equipment compliance and report on these findings at the June Board meeting.

Mr. Allen made a motion to defer rulemaking to June. Mr. Carskadon seconded the motion with the caveat that enforcement/inspection compliance of equipment requirements be addressed in the rule. Motion passed unanimously.

Item E: Boating Facilities Program Report

Janine Belleque, Facilities Program, reported on the bi-annual Boating Facilities Grant Workshop held on January, 30, 2007. The Board was briefed on the status of program grants summarized in the Board package. No discussion.

Item F: Board Consideration of Boating Facility Grant Requests

Janine Belleque, Facilities Program, requested Board approval on grant requests outlined in the Board package:

Boat Facility Grant Requests

FG# 1291 – \$12,500 Port of Garibaldi, ramp repair and float replacement

Mr. Allen moved to approve the grant request. Mr. Carskadon seconded. Motion passed unanimously.

FG# 1267 – \$14,750 Oregon Department Parks & Recreation, Lake Billy Chinook, floating restroom

FG# 1270 – \$16,750 Oregon Department Parks & Recreation, Columbia River, floating restroom

Mr. Carskadon moved to approve the grant requests. Mr. Tinker seconded. Motion passed unanimously.

Round Three Grant Requests

FG# 1261 – Port of Newport \$84,247

Pete Dale, Director of Operations, presented the project fund request to the Board. The Port of Newport is requesting funds to assist in the purchase and installation of a four-stall flush restroom.

Chair Montgomery noted the dollar discrepancy in staff's recommendation. The amount was corrected to \$84,247.

Mr. Carskadon moved to approve the grant request. Mr. Allen seconded. Motion passed unanimously with noted correction.

FG# 1303 – Coos County \$198,000

Larry Robinson, Parks Director, presented the project fund request to the Board. This request will be used to redesign, pave, stripe, sign and light the existing gravel parking area for Tenmile Lake. The County will provide labor activities to the project including demolition, striping, installation of gates, etc., in lieu of cash match.

General discussion on the parking expansion ensued. Mr. Tinker expressed concern about the \$3.00 parking charge. Chair Montgomery questioned whether this charge would stop once the grant was approved. Mr. Robinson responded that there is a provision under OSMB regulation that allows a minimum fee. This fee will be collected at a self-pay station and will be primarily used to offset maintenance of the parking facilities.

Mr. Robinson invited the Board to the facility dedication scheduled in July.

Mr. Tinker moved to approve the grant request. Mr. Carskadon seconded. Motion passed unanimously.

FG# 1304 – Jackson County \$20,000

Staff presented fund recommendation to purchase and install security lighting at Klum Landing, Howard Prairie Lake.

Mr. Allen moved to approve the grant request. Mr. Tinker seconded. Motion passed unanimously.

FG# 1305 – Jackson County \$20,000

Staff presented fund recommendation to purchase and install security lighting at Klum Landing, Takelma Boat Launch, Rogue River.

Mr. Allen moved to approve the grant request. Mr. Tinker seconded. Motion passed unanimously.

FG# 1306 – METRO \$90,000

Staff presented fund recommendation to the Board. This fund request will be used to design and engineer the trash rack at M. James Gleason Boat Ramp. This is a long term project. Engineer design discussion followed.

Mr. Allen moved to approve the grant request. Mr. Carskadon seconded. Motion passed unanimously.

Round One Grant Request

FG# 1307 \$28,900 (Conditional Approval)

John Asher, Director, Oregon Youth Conservation Corps (OYCC), presented the project fund request to the Board. OYCC solicits requests for projects and employs at-risk youth crews for summer work.

Mr. Tinker moved to approve the grant request on the condition the OSMB budget is approved. Mr. Tinker seconded. Motion passed unanimously.

Item G: Policy and Planning Report

Willamette Falls Update

Mr. Henry updated the Board on the Willamette Falls boating deadline rulemaking activity. OSMB has met with ODFW to discuss concurrent fishing deadlines. Staff will have a public hearing on April 4 to garner comment. Two alternatives will be presented for discussion. Mr. Carskadon observed that from a public relations standpoint option B is more practical.

Illinois River Update

A work group of interested parties was established and a meeting has been scheduled for March 22. Staff has received a lot of positive comments on working together to address issues between jet boaters and other water users.

Mr. Carskadon noted that a recent article in the *River Jet* on this topic did not portray OSMB in a favorable light; as “forces of evil”. He stated that he called the magazine and put them on notice that users must conduct themselves properly.

Plat I Reservoir

Mr. Henry announced that there is a public meeting scheduled for April 11 in Roseburg.

Wake Working Group

In 2005, the Board received a proposal from a homeowner near Lake Oswego asking for a low wake zone, less than 12 inches, with no restrictions on actual boat operations. The Board directed staff to spend the next two years utilizing existing law enforcement together with outreach tools to address this issue and then report back with results and recommendations.

Mr. Henry reported that the group is in its second year and recently met in January. The group experienced some success last year, below the Falls, through good visible enforcement, outreach and direct mail. The message is one of responsibility and to play away from developed areas. The focus of the group this summer will be above the Falls though the use of signs, banners and working with law enforcement to address reckless behavior.

In the past five years, there has been a change in boat operation. Activities have moved from fishing and ski boats, which are relatively low impact, to wake broads. These types of boats, with a footprint equivalent to a 40-foot boat, are operated like a jet ski and are designed to make a large wake, along with having the capacity to carry many people. These are expensive boats and the users tend to be younger. Also, there is a new sport, wake-surfing. Extra weight on one corner of the boat will actually create a breaking wave, a 3-4 foot curl, to allow for surfing with no ropes attached.

Board discussion followed. Lake Oswego has a “no wake enhancement” rule but no real enforcement from Clackamas County.

Director Donheffner reiterated that there is no simple answer. It's simplistic to say that the problem will be eliminated with the banning of fat sacks as boats are now designed with wings to create the same effect. It would be problematic to police the craft itself. If a no wake zone is implemented then we have eliminated water skiing. Instead of banning wake entirely, the Wake Working Group is promoting safety and responsibility through education. Other problems such as loud noise and boom box speakers are out of the realm of OSMB's authority.

Mr. Henry reported that the Wake Working Group will continue with their education campaign and will make a formal presentation to the Board this fall.

Navigability

Mr. Henry reported staff is working with Department of State Lands and ODFW to develop a publication for boaters to clarify questions on anchoring and access.

Invasive Species

Mr. Henry updated the Board on Invasive Species summarized in the Board handout. Mr. Henry reviewed practices that California and Washington have implemented to safeguard against infestation. He reported first responders are being trained in Oregon to inspect boats for Quagga or Zebra mussels, along with continued outreach and training.

There are a number of bills concerning this issue before the Legislature. HB 3435 would require that boats be free of invasive species before launching in state waters. Staff believes the requirement would provide clarity to law enforcement and assist in prevention efforts.

Item H: Education and Information Program Report

Ashley Massey, Public Affairs Specialist, briefed the Board on the information presented in the Board package including results of the Life Jacket Gift Away at the Portland Boat Show, current educational campaigns and recreational accidents statistics.

Per the Board's direction in December, Ms. Massey reported that staff met with Nancy Perrydale from Four Paws Only. Ms. Perrydale had addressed the Board requesting product endorsement. While OAR 250-010-0160 prohibits OSMB for doing so, Ms. Perrydale was pleased with the alternative, that the dog safety program was encouraged by both Multnomah County River Patrol and OSMB.

Glenn Dolphin, Clean Marina program, addressed the Board. To date there are twelve certified Clean Marina Facilities and another six additional marinas close to completing their certification requirements.

Item I: Law Enforcement Program Report

William Rydblom, Law Enforcement Manager, updated the Board on the information presented in the Board package including the Pre-Season Training Conference scheduled this March, the Marine Academy scheduled for May and upcoming Boating/Alcohol Enforcement training. Seven boats have been ordered with delivery scheduled in June.

Discussion on the loss of timber money and its impact on marine patrol services followed. On average, in-kind match is approximately \$20,000. Chair Montgomery stated that waiving the match is not an option and should not be encouraged. Director Donheffner concurred.

Other Business

Doug Walker, Columbia River Yachting Association, queried the Board as to what the agency's position is on the shipping/transit of liquid natural gas on the Columbia. The Coast Guard is doing extensive studies on security and access. Some of these recommendations will impact recreational boating on the lower Columbia.

Mr. Henry responded that OSMB is aware of the situation and the agency does have the opportunity to comment. There could be a buffer zone designated around these vessels and recreational boaters would have to move out of the way well in advance.

Mr. Carskadon understood that this could indeed be an issue; Astoria is very concerned and Buoy 10 could be a mess.

Mr. Walker added that an exclusion zone of three hundred yards, in many places on the Columbia, is bank to bank. What will be the recommendations versus the practical application of enforcement. This matter is something to stay aware of.

Chair Montgomery announced the June 26 Board Meeting in Newport.

The meeting was adjourned at 11:55 am.

Respectfully Submitted,

June LeTarte