

Minutes were approved by the Marine Board on October 26, 2011.



Meeting Minutes
Oregon State Marine Board Meeting
June 28, 2011
Sisters, Oregon

Vice Chair Tinker called the June 2011 meeting of the Oregon State Marine Board to order at 9:02 am.

Board Members present: George Tinker, Trey Carskadon, Brian Carroll, Jen Tonneson and Rick Allen

Staff Present included: Director Scott Brewen, Randy Henry, Marty Law, Wayne Shuyler, Janine Belleque, Ashley Massey, Chris Gorud and June LeTarte

Board Minutes Approval:

Vice Chair Tinker asked for review and approval of the Marine Board Meeting and Work Session minutes of April 20-21, 2011.

Vice Chair Tinker asked, in response to Board questions as reflected in the minutes, whether staff will be addressing wake history. Ms. Tonneson added staff was going to research and present information on why the wake rules are 100 or 200 feet; the historical perspective. Director Brewen responded that he will have Randy Henry report to the Board at the October meeting.

Mr. Carskadon motioned approval of minutes. Mr. Carroll seconded. Motion carried unanimously.

Unscheduled Testimony on Non-Agenda Items: None

Item A: Director's Report

Director Brewen announced a change in the agenda. Randy Henry is not present and with Board approval, he will present his agenda items later via telephone. Vice Chair Tinker approved.

Director Brewen distributed and discussed an US Coast Guard executive summary on 2010 Recreational Boating Statistics.

Vice Chair Tinker questioned the low numbers of operators receiving boating safety instruction. Director Brewen responded that not all states require mandatory education and Marty Law added that not all states have fully phased-in their programs.

This week, the Legislature will potentially end session. Director Brewen briefed the Board on agency bills as outlined within the Director's report.

Director Brewen announced that he recently attended the Western States Boating Administrators Association meeting. He met the Coast Guard contact for the Recreational Boat Testing and Factory Compliance Program. This program, run by PPG Marine, inspects manufactures for minimum federal standards. This database will be used when investigating accidents and also will assist in identifying secondary HIN numbers.

Director Brewen reported on the status of funding from the Sport Fish Restoration and Boating Trust Fund. As of yet, they don't have specific allocations but we do know that the trust fund is down.

Strategic action plans are being developed. There are four primary areas including law enforcement. Action planning teams, comprised of agency staff, will draft plans for presentation in October. Ms. Tonneson asked to participate. Director Brewen clarified that the staff teams are putting plans together to identify how stakeholders will address actual issues. Board Members may be better suited to participate within the stakeholder groups. Ms. Tonneson agreed.

Director Brewen announced that the *Underway Newsletter* was posted on-line versus being printed on paper and mailed. The on-line version offers the opportunity for a more in-depth newsletter with embedded videos and hyperlinks.

Vice Chair Tinker asked if the digital format was being emailed to registered boaters or just posted on-line. It is not being emailed. The registration system hasn't the ability to capture email information.

Ashley Massey highlighted other campaign and social media issues as outlined in the staff report.

Mr. Carskadon suggested that social media statistics be reported in the staff report. Ms. Tonneson suggested the agency collaborate with the Daughters of Neptune and link to their site.

Ms. Massey announced the agency has moved to a new web platform. Director Brewen added that the intention is to have all related information for a specific geographical location available to boaters. The next step would be to put this data, which would include marine events, services and hazards, etc., on a mobile application.

Ms. Tonneson requested that the agency keep updated on the ethanol issue and place it up-front on the web page. There also needs to be a place on the web site where boaters can immediately report dock issues. Boaters could post instant messages or photos to the Marine Board. Vice Chair Tinker reminded staff that rural Oregon doesn't have 100% cell coverage.

Mr. Carskadon suggested that the agency needs to link to the Columbia Water Trail. While the web site change is good, Mr. Carskadon commented that the agency is not getting the boating tourism message out to the counties. The agency needs to work with counties to promote more "boat-to-destinations" to boaters.

Mr. Carskadon commented on the boat manufacture inspections. The biggest complaint is not having a level playing field in Oregon. The larger manufactures are checked frequently, whereas, the smaller builders don't get checked and they may bypass ABYC standards, reducing their costs and the cost of their product. It's frustrating to larger manufactures.

Director Brewen responded that this is exactly the conversation he had with the inspector and they do plan on inspecting smaller manufactures for the minimum federal requirements. The ABYC standards are a higher standard than set by the federal government.

Item B: Registration Section Program Report

Director Brewen presented the staff report for the Registration Program. The registration numbers are down. Registration will have extended hours before the July 4th Holiday.

The agency met with three vendors in response to the Request for Proposal (RFP) for the new titling and registration database. The evaluation team will review the results and make a recommendation.

Item C: Business Services Program Report

Chris Grorud presented the Board with a budget document for review. The budgeting for this biennium will end June 30, 2011 and will formally close January 2012.

At the next Board meeting, staff will provide a 2011-13 biennium budget report. The Board was asked for suggestions on report format or if they required additional data. At the October work session, Mr. Grorud will be providing a more detail 2011-13 budget presentation.

There is on-going coordination between ODFW, OSP & OSMB on the Aquatic Invasive Species program. There are significant changes to the AIS program in the upcoming budget.

Director Brewen pointed out that the current biennium budget had the agency expending into the ending balance by \$3.2 million. Based on current revenues, the actual is more on track, better positioning the agency than previously budgeted. This was accomplished by eliminating Round Three Facility Grants and holding back expenditures in other areas.

Mr. Carskadon questioned whether the agency is holding with its forecasted 168,000 registrations by the end of the biennium. Mr. Grorud responded that he thought it was still a viable estimate but he may be wrong.

Mr. Carskadon stated that there has been a precipitous decline in new boat registrations. Larger boats are priced out of the market. This is a national trend and this decline is a huge red flag for industry. The future is in paddle boats. Lower registration numbers will affect dollars received from federal funding and gas tax. The agency needs to address how it will increase a law enforcement presence in downtown Portland without incoming revenue. Funding needs to be part of the strategic plan.

Ms. Tonneson questioned how the fuel tax was trending. Mr. Grorud replied that it was flat. Director Brewen expounded that the fuel tax is based on an OSU survey, so that the agency knows how much, ahead of time, it will be receiving. It's not based on actual usage and yes, fuel usage is trending down. The tax is currently 24¢ a gallon; it's going to 30¢ cents a gallon next year.

Director's Report (returned)

With regard to the next Board meeting, Director Brewen suggested that it not be held in conjunction with the Law Enforcement Conference. Mr. Allen concurred. The LE Conference is scheduled the first week of October 3-5, 2011 in Eugene. Instead, Director Brewen suggested the fall Board meeting be held in Salem as the Board meeting will include a rule hearing on the Outfitter and Guide rules. Staff suggested the Board meeting be held October 25 - 26 in Salem.

Mr. Allen requested that staff have more than one hearing on the Outfitter and Guide rules prior to coming to the Board. After discussion, Vice Chair Tinker requested the Board meeting be held in Eugene.

The Board asked for a yearly schedule. Vice Chair Tinker announced that the January meeting is always held in conjunction with the Portland Boat Show.

Item F: Consideration of Initiating Rulemaking for OAR Division 17 – Adopt-A-River Program

Marty Law requested that the Board approve opening and revising the current program rule language to outline how the Adopt-A-River program may participate, under certain circumstances, in removal of invasive species.

Mr. Carroll motioned approval. Mr. Allen seconded. Motion passed unanimously.

Item G: Consideration of Initiating Rulemaking on Boating Under the Influence OAR 250-010-0400 thru OAR 250-010-0470

Marty Law requested that the Board approve opening and revising the current program rule language to allow Oregon State Police (OSP) to maintain the technical services of the Marine Board's breath testing instruments.

Mr. Allen asked why an interagency service agreement with OSP is necessary to have considered as rulemaking.

Director Brewen responded that this rulemaking will remove identification of equipment by brand names. The rule will be more generic and won't specify a specific product.

Mr. Allen motioned approval. Mr. Carskadon seconded. Motion passed unanimously.

Item H: Boating Safety Program Report

Marty Law briefed the Board on issues as outlined in the staff report.

Vice Chair Tinker asked if the agency was going to make mandatory education a requirement for paddlers and what is staff exploring and recommending for non-motorized boaters.

Mr. Law responded that implementation would be difficult on many levels including identification, program standards, compliance and enforcement. Though, NASBLA has just passed standards for non-motorized education.

Director Brewen clarified that before any educational requirement for non-motorized users is mandated, the program course would be offered voluntarily. In conjunction with mandatory education, the agency needs to address the issue of non-motorized registration. A strategic plan discussion needs to take place prior to any action. Currently, boaters operating with less than 10hp are not required to have a mandatory education card; this would also need to be addressed.

Mr. Allen stated this matter needs to be more about education rather than licenses. Mr. Law added that no other states require mandatory education for non-motorized users.

Ms. Tonneson stated that education is important and she likes the concept of voluntary education to learn the "rules of the road". She recently received an alert from the Coast Guard on the escalating costs of non-motorized searches as a result of not having any type of identification on the boat. More outreach and dialogue with non-motorized user-groups is needed. Mr. Law said that over 70% of county marine patrol contacts are with non-motorized boats.

Mr. Carskadon voiced concern that this is a solution looking for a problem. Enthusiasts know the rules. It is just another hoop to jump through. Most of the fatalities are because of not wearing life jackets. That is what the message should continue to be.

Jean Quinsey, spoke from the audience, there is a big difference between urban, white water and rural paddlers. The urban paddlers need to understand what to expect from motorized craft in the same waters. In terms of educating urban paddlers, they could benefit from knowing the "rules of the road". These rules need to be posted on the web site and at launch sites.

Mr. Allen questioned who, at the agency, will have the responsibility to coordinator all these non-motorized activities. He doesn't want a haphazard approach - one staff member for licensing, another for education, another for grant applications, etc. Need one point-of-contact person. The agency shouldn't add staff with declining boat registrations but reassign duties around and make an appointment.

Director Brewen responded that Randy is the primary contact on this issue and has been talking with various clubs and groups. This will be part of the strategic planning process and, at this point, it is an unfunded program.

Ms. Quinsey added the agency needs to understand the groups and their levels of paddling expertise in order to outreach affectively. Frankly, her paddle group members would never contact the Marine Board to learn how to paddle.

Mr. Allen added, if the agency is serious, than it needs to identify one person for the program. Mr. Carroll agreed and stated that this staff person identification needs to happen sooner rather than later. It sends the right message, here's the person to talk with and not just get shuffled around.

Ms. Quincy stated that Randy Henry has done a fabulous job with outreach and he does recognize and understand the difference between the paddling groups. His name is known within the paddling community as a trusted contact.

Ms. Tonneson would like staff to report back in October on this non-motorized issue. Director Brewen responded that staff will be providing the action plan – for the strategic plan which will include the non-motorized issue. Mr. Allen asked how much time will be allowed for this discussion. He stated the topic will require the entire work session as ½ hour won't be adequate.

Vice Chair Tinker asked why the Clean Marina pledge number was so low. Mr. Law responded that there are 200 facilities and, in the case of the smaller facilities, cost and the reluctance to work with government are big factors. The maximum facilities certified will probably be approximately 100.

Ms. Tonneson would like to see information on electric shock drowning be part of the Clean Marina education.

Regarding the Aquatic Invasive Species Program, Mr. Allen asked if the BLM / Forest Service were briefed and are they cooperating with this program. The average non-motorized boater does not come in contact with state enforcement, rather federal enforcement. He went on to explain that when he was at the John Day River launch, he asked about the AIS program, and it was brushed off. At the take-out, there were three BLM rangers present, again they responded, it was not their issue.

Mr. Allen stated the agency is not getting much buy-in. The reality on the ground is – they don't even ask about the permit and if they don't, this program is not going to be successful.

Director Brewen commented that he didn't think federal rangers could enforce state laws. Mr. Allen responded that it's not even a matter of enforcement if they are not asking about the permit or talking about the program.

Mr. Carroll added that AIS is being discussed at upper levels of management in the federal agencies. It is an important issue. They can't enforce state law but couldn't there be an MOU, stating they are not going to allow a boat on their waters, unless it has an AIS permit. This is done all the time.

Vice Chair Tinker added that this is an educational issue for the AIS program. Mr. Allen agreed and said that at three of the launches he was at, there are kiosks available, with no posted information about the AIS program. Vice Chair Tinker clarified that there are signs out there. Mr. Allen replied; not in eastern Oregon. Mr. Carroll added that priorities may vary from forest to forest. The Willamette district is promoting the AIS program.

Mr. Carroll informed the agency that the US Army Corps of Engineers has changed their operational priorities and will no longer be sweeping debris from reservoirs for recreational use. If debris is threatening their spillways or actual facilities, they will sweep in that area alone. This was a major issue on Foster Reservoir this year. The debris was so severe, boats couldn't maneuver. The county swept

the reservoir. There are thirteen projects in the Willamette Valley and this may become a major safety issue in the spring. This debris may push power boaters into non-traditional use areas.

Ms. Tonneson would like staff to provide an update on Holgate Channel and report on what monitoring is taking place and its results. Within the channel, seeing a trend of boats being registered through a business and are now owners considered themselves commercial operators, exempt from the rules. Also seeing OR numbers being covered so their aggressive boating can't be reported.

Item I: Rulemaking Consideration on Maintenance Assistance Program OAR 250-014-0001 and OAR 250-014-0004

Wayne Shuyler requested Board's approval for opening and revising the current program Maintenance Assistance Program (MAP) grant rules.

Mr. Carskadon motioned approval. Mr. Carroll seconded. Motion passed unanimously.

Item J: Boating Facility Program Report

Mr. Shuyler reported on current 2009 biennium grant awards as outlined in staff report.

Vice Chair Tinker requested staff send individual letters to those legislators announcing where grants have been awarded.

Mr. Carroll added that this correspondence should include a grant overview of their entire district. Director Brewen stated, before session, he met with individual legislators and reported this information.

The state senators and representatives must be identified for each grant and Mr. Allen asked that Board Members also be cc'd on this correspondence.

Mr. Carskadon stated that the agency needs to have more regular contact with legislators.

Jen Tonneson questioned whether grant award information was being distributed through news releases. Ms. Massey affirmed.

Ms. Tonneson asked the outcome of the City of Rainier allowing commercial tie-up. Mr. Shuyler responded that the agency has not yet addressed this question with the US Fish & Wildlife Service.

With regard to the Riverplace in Portland, Ms. Tonneson questioned whether the City of Portland is going to stop charging boats to spend the night on the docks. Mr. Shuyler responded this is not really enforced and clarified that the federal funds rules allow for up to ten days; program rules that refer to 72-hours is for non-federally funded transient-tie ups.

Ms. Tonneson inquired if staff is going to address derelict vessels with the city. Mr. Shuyler responded, no, that's another subject. Discussion on the City of Portland renting dock space to Dragon boats followed. Ms. Quinsey voiced concern of removing the boats.

Item D and D1: Outfitter and Guide Program Rule Review and Staff Recommendation

Randy Henry reviewed the Advisory Committee process and requested the Board direct staff to initiate a rulemaking process to consider administrative rule changes for items listed within the staff report.

Vice Chair Tinker asked why this rulemaking doesn't address charter operators. Mr. Henry responded staff will be returning in October to open rulemaking for charter operators.

Mr. Henry clarified that any fee increases associated with Outfitters and Guides would need to be brought forward through the legislative process. Representative Krieger, Gold Beach, is supportive of this proposal.

Mr. Allen suggested more than one hearing of the topic. Mr. Henry responded there will be at least two hearings, on the coast and in-land, prior to the Board meeting. Mr. Allen asked that one of the meetings be on the east side. Mr. Henry responded he will have a hearing in Bend.

Mr. Carskadon motioned approval. Mr. Allen seconded. Motion passed unanimously.

Item E: Operation Policy & Planning Report

The Wilson River rule petition was neither accepted nor denied. Staff will continue to investigate and monitor.

A petition may be submitted regarding personal watercraft use on the Salmon River from the Siuslaw National Forest. It is a very small coastal estuary designated by the US Forest Service as a scenic research area. Staff will continue to research and monitor.

With regard to the previous item, Mr. Henry asked if the Board has any specific direction on mandatory boat licensing or the federal permit for guides who are operating motorized boats.

Mr. Carskadon commented that if the goal is to elevate the standards of the guides, the question is, how it would apply to raft guides with small motors. It is not a black-and-white issue – there could be variances for some operations. It's a legitimate recommendation for drift boat guides and all other guides who use motors. People are paying for a safe trip, by a professional, who knows what they are doing, and ascribes to some high conduct, ethic and service. This is consistent with the objective.

Mr. Henry said one option is requiring a Coast Guard license requirement for any guide operating a motor boat and the other is just requiring the guide to have an Oregon Boaters Education card.

Mr. Carroll suggested the option of a Coast Guard requirement if the boat creates a wake.

Mr. Henry stated that a requirement would require a legislative concept, which will be due February 2012. He will return and ask the Board to give final direction in October.

Mr. Allen stated it would help if the Board knows what is required of the Coast Guard license.

Vice Chair Tinker stated that the Coast Guide license would give the customer a high confidence level of the operator, which is a plus. On the down side, Coast Guard standards may change including having so many hours on the water and a re-certification process to maintain a six-pack license. More hoops on the federal level, we may not want. It would be out of our control, but certainly it needs to be more than an Oregon Boaters Education card. Maybe replicate some of the Coast Guard standards. A true Coast Guard license could have push back.

Item K: Election of Board Officers

Vice Chair Tinker called for nominations for Board officers for the upcoming year.

Mr. Carskadon nominated George Tinker for Marine Board Chair. Mr. Allen seconded. Motion passed unanimously.

Mr. Carroll nominated Rick Allen for Marine Board Vice Chair. Mr. Carskadon seconded. Motion passed unanimously.

Other Business:

Mr. Carskadon made some closing comments. He welcomed Ms. Tonneson and Ms. Quinsey to the Board.

The agency's forecast of 168,000 registered boats will probably be less. There is going to be some real funding challenges that this Board will have to deal with.

In the past eight years, he learned that Board members can have an agenda and are granted uncommon authority to pass rules that have the force of law. This charge is taken very seriously by the Board.

The agency has pooled resources and has cooperated with other agencies, i.e. ODFW and Tourism. The Board has the responsibility to provide oversight and vision to the agency but we have zero communications with the other commissions.

The Board serves several masters including the Governor's Office and the Legislature. Roles are changing in the economic community and tourism role. For the long term, the agency and Board need to promote more "boat-to-destinations" to boaters and collaborate with communities, other agencies and legislators on it.

Also, keep in mind – the microphone is always on. When making comments, think of how it will read in *The Oregonian*.

Mr. Carskadon likes the change the agency is making for more out-reach and more transparency. This is a talented Board and a model agency. This is the only agency of its kind in the country. Nationally, this agency is very highly thought of. The Board and agency needs to do a better job of getting that message out in state and make sure the legislators understand the value of this agency.

He is very grateful he had the opportunity to serve.

Vice Chair Tinker thanked Mr. Carskadon for his years of service, his guidance, and the vast knowledge he brought to the Board.

The meeting adjourned at 1:30 pm.

Respectfully submitted,

June LeTarte
Executive Assistant