Phase II – Legislative Concept Advisory Committee Meeting Non-Motorized Boating Project

October 01, 2015 Meeting Minutes

9:00 am - 4:00 pm OSMB, Board Room, Salem OR

Agenda Items		*Requestor/ Presenter*	*Time Req.*
1.	Briefing on Board Meeting - **Deliverable:** Present updates to Committee Members	Scott Brewen	15 min.
2.	Legislative Process - **Deliverable:** Explain the legislative process to Committee members	Scott Brewen	30 min.
3.	Briefing on Approved Program - **Deliverable:** Present the parameters of the approved program	MariAnn McKenzie	1 hr.
4.	Phase II Process – Legislative Concept - **Deliverable:** Present the draft framework of the legislative concept	Scott Brewen	45 min.
5.	Advisory Committee Recommendation Discussion - **Deliverable:** Begin modifying the draft of the legislative concept of a non-motorized program	All	3.5 hrs.
	NEXT MEETING: October 30, 2015		

Team Member &* Advisory Committee *Attendees:

- ☒ MariAnn McKenzie - Project Lead/Education Coordinator
- ☒ Scott Brewen - Project Sponsor/Director
- ☒ Glenn Dolphin – AIS Coordinator
- ☒ Deputy Jon Bock – Lane County – Marine Patrol Officer
- ☒ Sam Drevo – eNRG Kayaking
- ☒ Laura Jackson – Portland Kayak & Canoe Team
- ☒ Steve Lambert – Jackson County Parks
- ☒ Patrick McCullough – Rafter
- ☒ Tom Murphy – Sea Kayaker

Visitors:

Rachel Graham – Policy & Environmental Program Manager – attended the meeting during the Advisory Committee recommendation discussion

Ashley Massey – OSMB – Note taker

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Action Items	*Assigned to*	*Due/Status*
Re-analyze the Revenues and Expenditures based on the permit costing $10, $15, or $20 per year; write a narrative with each line item of what expenditure will provide	MariAnn	10/26/2015
Provide the average cost of launch ramps, boat slides, etc. for non-motorized access	MariAnn	10/26/2015
Complete meeting minutes; post to web and email to NMBAC and all interested parties	MariAnn	10/12/2015 Completed 10/20/2015

Meeting began at 9:10 am

Facilitated by: MariAnn McKenzie, Non-Motorized Project Manager

Agenda Items #1 & #2 – Briefing on Board Meeting & Legislative Process

- Director Brewen updated the Committee on the Board Meeting on June 24, 2015. Staff recommend to the Board, on behalf of the Non-Motorized Boating Advisory Committee to approve development of a Legislative concept for the 2017-2019 biennium. The motion passed unanimously by the Board.
- This group will be team to advise us of how the program will look in statute; we need to make sure we get the authority (statute) we need to have a robust program. We don't write legislation, but we'll do the framework for Legislative Council. Director Brewen told the group, "As we go into building the skeleton, we'll build the rest of the body with this group. Think about whether the wording in the concept. Is this going to do what we want it to do."
- Director Brewen stated Legislative Council will look at what we tell them we want, what we think it should look like and then they do their best to draft a concept. They in turn send it back to us for review and we will see if it does what we intended. We may go back and forth a few times during the process. Once completed by both parties, then we go to the Governor's office to see if they'll allow it to move forward through the process.
- Director Brewen stated that the fee increase passed for motorized boaters in 2015. In the process of discussions with the legislature and given the large amount of increase, they decided to go with the fee increase, but lower than what we originally wanted. They recognized the growth and impacts to facilities, law enforcement by non-motorized. Significant push back from legislators and wanting to register non-motorized this session. This gave us the chance to educate them about the non-motorized advisory committee and the process we began 2 years ago. However, they did put a budget note into our budget to bring a non-motorized program to them in 2017. We are glad we started this process because the Legislature may have taken this issue on, without OSMB or the non-motorized community involvement. This way, we still own the process. Director Brewen also stated we are not the only state in this position and many are wrestling with non-motorized issues. We're underscoring the importance of engagement and building relationships with non-motorized communities to other states.
- Timeline: We need to have what we're going to do to the Board in April, 2016. In May, 2016 we will submit the Legislative Concept to Legislative Council. During the summer we will be going back and forth with the Concept. Then it goes to the Governor's office. They decide whether to let the Legislative Concept moves forward into a bill.
- Director Brewen also stated that next year is a special election year and many things could change. It could be business as usual or we start over with new leadership.

Action Item(s):

- N/A

Agenda Item #3 – Briefing on Approved Program

MariAnn updated the committee on the parameters of the program; we need to stick to what was presented at the public meetings and what was approved by the Advisory Committee and by the Board. There are many questions that need to be answered and decided on; however we cannot add anything that was not presented or approved. The following is what was presented to the boating public, approved by the Advisory Committee and the Board:

Complete a 6-year Plan addressing non-motorized boating and the following:

Access:

- Identify Public vs. private right-of-way and access
  - Examples: safe parking, security, access at bridge abutments, and private property access
- Develop access to minimize user conflict
  - Examples: staging areas and ramps
- Ensure funding for maintenance of facilities
  - Example: garbage cans and restrooms
- Increase water access in urban area
- Assist in creating whitewater parks
- Promote partnerships with federal & state agencies, municipalities, cities, etc.
  - Waterway management partnerships
  - Early involvement in facility development on waterways such as fish ladders and dams to advocate for portage or float through opportunities
  - Establish relationships with and support to existing clubs/organizations (including national non-governmental organizations)

Develop and implement an educational phase-in program and outreach programs to reach and inform casual recreationists, regarding the following:

Education:

- Build a voluntary education program
- Provide an education incentive program ($ off of permit cost)
- Develop education program based on environment of activity
  - Include, but not limited to:
    - Navigation rules, OR Law, etiquette, environmental stewardship, safety, waterway access (landowner rights), what to know about specific conditions (i.e. river, downtown, experience levels, etc.)
- Offer and promote: classroom, on-line, and local club/stores hands-on courses
- Create a grant program for non-profits to provide education
- Outreach and partner with liveries

  - Create a paddler safety checklist similar to the watercraft safety checklist for liveries
- Create signage at various locations regarding regulatory, safety and interpretive information

Safety:

- Fund and train Marine Patrol for non-motorized boating
- Determine high use areas, trends, issues and target outreach for proactive management and facilities
- Change the 'Boat' definition for safety reasons:
  - Current definition: "means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes."
  - Committee changes: "means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water and not in a designated swim area, but does not include boathouses and floating homes." DELETE: air mattresses, beach and water toys or single inner tubes.
- Incorporate the following safety issues into the 6-year Plan: high use areas, water hazards, public vs. private land, facilities, etc.

User-Pay/User-Benefit Program:

- Offer a Permit for boats
- Tie in with Aquatic Invasive Species (AIS) Permit Program
- Permit all lengths of boats
- Transferable from boat to boat
- Create permit options
- Create permits for liveries (similar to AIS permit fee structure-bulk permits)
- Create permits for Outfitters & Guides (following new guidelines)
- Include Exemptions for certain groups and waterways
- By the end of the meeting, the Committee decided on three possible scenario's and recommended that the Marine Board complete a cost/benefit (scenarios of what revenue would buy) to the following possible fee structures:
  - $10 - $12 - $15 biannually, or
  - $10 - $15 - $20 biannually (without incentives starting out on #1 & #2), or
  - Have the administration come up with another scenario that would allow the Marine Board to successfully implement its 25 year plan; whatever fee structure is decided upon, it would be a biannual fee.
  - The Committee wants to make sure the fee is not too low that it just supports administrative costs and doesn't want the fee to be too much that people can't afford. It's important to the Committee to do it right.

Glenn Dolphin, the AIS Coordinator gave some background information regarding the AIS Program. Glenn stated the AIS history is different than the history of this project. Glenn stated the Bill didn't come from us in 2009–other agencies asked for General Fund money to combat AIS. A bill was drafted by the legislature after Idaho's program (that's where the 10 ft. came from and it wasn't thought out) and that's how we got involved. There are issues, because neither we nor the Dept. of Fish and Wildlife were ready.

Glenn also stated the one great thing about the AIS Program is it has a dedicated fund, and can only be used for administration, and program implementation. Glenn shared the following information:

- Categories of permits sold, the revenues, and how the program is implemented. ODFW is a partner administrator and also sells permits via their Point of Sales vendors like a fishing license.
- Tyvek tags are pre-printed with associated costs.
- Program also covers mailing; do not charge a processing or mailing fee.
- Permits are transferrable and only required on boats 10' long and longer.
- Right now, ODFW doesn't charge for admin with OSMB, but there's a bill that passed that changes this. ODFW is working on figuring out how much this would mean for other NR agencies.
- The program itself is working smoothly. Need to consider how the permits should be offered: one year, two year, etc. This works for AIS.
- Need to iron out transferability and length (to include all boats).
- Compliance: depends on area and LE presence. Lower in remote areas. Problem is with out-of-state boaters. Most have no idea. Many NM participants don't consider themselves boaters or understand the equipment requirements.
- Inspection stations: all boats are required to stop, regardless of propulsion or length. 10' has caused confusion. LE focus IS education. 60% of revenue goes to ODFW to implement the inspection stations.
    - The current statute is restrictive. ODFW, Dept. of Agriculture, and ODFW can do inspections/decontamination. It shouldn't all fall on the shoulders of LE. Facility providers should be able to help. We can make this a mandatory **requirement for marine event permits** to have **boats cleaned** before a race/event, and this doesn't need to be in statute.

MariAnn shared a very rough draft, baseline of revenue and expenditures of a non-motorized program. It is only to help start the discussion of funding needs and where and how much to allocate to line items to benefit the boaters. It was decided to table the fee discussion. The Committee would like more information (see action items below).

Action Item(s):

- **Re-analyze the Revenues and Expenditures based on the permit costing $10, $15, or $20 per year; write a narrative with each line item of what expenditure will provide**

- **Provide the average cost of launch ramps, boat slides, etc. for non-motorized access**

Agenda Items #4 & #5 – Phase II Process – Legislative Concept and Advisory Committee Recommendation Discussion

Scott read the draft baseline Legislative Concept to the group, which was also handed out to each member to follow along and review. Many discussions branched from the baseline concept:

- Definition of a Boat: Concerns about deviating from federal definitions, but we can have discussions to include others, etc. SUP's are already a boat. What about Sailboats? There's potential conflict. Do we leave them where they are? Sailboats without motors over 12' are by definition, Non-Motorized (NM). Those under 12' – there are quite a few of them.
    - What's the easiest and clearest? You're either motorized or NM. Remove sailboat reference from registration requirement. Any motor needs to be registered. Motors come and go. If they use a motor at any point, they need to be titled and registered.
    - Committee agreed to change statute definition to remove reference to sailboats. Sailboats –definition that they are considered NM boats if not propelled by mechanical propulsion.
    - OSMB needs to take jurisdiction over float toys and inflatables in the Boat definition. There's a huge gap with equipment requirements, and the floaters know it. Want to see this huge issue fixed.
    - Definition of a Boat conversation: Inflatables/inner tubes when being used for transportation should be the same as SUP's.
        - Options:
            - Classify inner tubes, pool toys as a non-motorized "craft" - inclusive of non-motorized boats or other "craft" that float and do not use machinery.
            - Non-motorized craft would be dealt with differently than a non-motorized boat. –But wouldn't they use the services that non-motorized boaters pay for? Currently, we have the same issue between motorized and non-motorized. Motorized are paying and the non-motorized do not for access, facilities, law enforcement, etc.
        - Idea was brought forward to remove the exemptions in the existing "Boat" definition. However, we should not touch the current "Boat," definition, but add a new definition.
            - CREATE A NEW Definition for non-motorized (NM) craft (toys)…."on moving water." What applies? (E.g. Equipment, transportation, outside a swim area). *This group is giving OSMB the authority to regulate for NM Craft (toys), and have OAR for local and special rules.

- Proximity to shore? Establish "NM craft" in statute, and in rule, specify proximity, moving water, equipment requirements. Have proximity concurrent with existing proximities.
- Removes the confusion between air chambers and what's a boat and who needs to carry PFD/whistle.
- What are we going to require of NM craft -& where?
    - Statute to carry equipment & determine fee. Keep it broad. Include in rule, "moving water," PFD & whistle, proximity rule from shore.
    - NM Craft –not charged a fee in the program initially. If it becomes an issue, then change? Gives OSMB a chance to get analytics from LE to justify the need to charge a fee.
- Sailboards and kite boards?
    - Do their statutes need to be changed? Sailboards and kite boards not exempted as a boat (definition) in statute and by USCG, just PFD requirements. These users want some of the NM funding if the program gets adopted. They want to participate and be included in the program.
    - Exempt surfboards. Clarify if operating in the ocean surf zone, they are exempt.

- Discussions ensued with regards of how to issue the permit and the fee.
    - Having a name would be easier for us to track. Would it remove the flexibility/transferability between NM boats? No -Applies same standard as motorized. The statute doesn't need to identify a name, just that they're carrying a permit. Have the language mirror AIS.
    - Have a club-owned permit option? Club registers like a livery…This would address OSU and Eugene Yacht Club / organized sports. Have a mechanism for clubs. Clubs can't get discounts for AIS. If they become required to be registered with us, then we could track. Define in statute, "Club."
    - Transferability becomes a problem if a person gets a discount for NM Permit by taking an education course.
    - People like incentives, and getting anyone educated is good. How do you validate permit-to-permit? The only thing the borrower is getting away with is a discounted permit. Won't have the education piece.
    - Incentive: Only give a discount for a person and prevents transferability? We need to keep discussing potential issues. How would it apply to clubs?
    - We don't want to create rules and impede people from boating. Incentivizing and transferability is key to keeping existing boaters boating, and grow the recreation. Doesn't need to be a big monetary incentive.
    - Buy 1 under a name at a discounted rate, and can also purchase more at full price.
    - Everyone educated should get a discount and encouraged to keep participating. Most people won't go through the effort to save a buck or two for all it takes to take a safety class.
    - Possible language:

        - Permit required. (2) A person who obtains a NM boat permit may use the permit on any NM boat the person (or their designee) operates on the waters of this state.
    - Need something that says the person needs to show their NM permit when approached by LE.
    - Only offer a two-year permit.
    - Transferability…
    - Committee and public liked 1 week option. Want to respect what was approved by the NM External Advisory Committee.
- The committee asked questions with regards to Washington's Discovery Pass, Snow Park passes, Boater Passes for Wild and Scenic. After researching the costs of each and discussions about what the passes give the person, the committee directed staff to conduct another analysis on $10, $15, or $20 fee biannually. Several points were brought up:
    - Want to not negatively impact participation, but not spend all of the $ on admin.
    - Need to consider cost of living and other increased expenses to the agency. Need to make sure the permit fee is less than motorized registration fee.
    - Replacement permits…difficult to administer.
    - An online permit form would be good and something people can have on their mobile device.
- The other committee wanted to see an analysis. They didn't have these figures. Can we skip the haggling, and wait for the next meeting –and deal with the language for now? Crunch the numbers on variables. Haggle next meeting? All agree

Action Item(s):

- See action items in agenda item #3

Meeting adjourned at 3:30 pm.

Meeting minutes respectfully submitted by Ashley Massey and edited by MariAnn McKenzie and Director Scott Brewen.