



State of New Hampshire

DEPARTMENT OF SAFETY

John J. Barthelmes, Commissioner of Safety

Division of State Police

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305



Colonel Robert L. Quinn
Director

September 3, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

RE: Boat Moorings – LAKE WINNIPESAUKEE – SEVEN MOORINGS

Requested Action

To **approve** the permit application of **Woodwinds Hill Beach Association** located on Lake Winnepesaukee in Laconia, NH as recommended by the Department of Safety, Division of State Police for a congregate mooring field of seven (7) moorings under the authority of RSA 270:67. **Woodwinds Hill Beach Association** is requesting three (3) additional moorings to be added to the currently established four (4) moorings for a total of seven (7) moorings. **It is recommended that the application be approved for seven (7) moorings.**

Explanation

The petitioner has presented sufficient proof to sustain the request for the addition of three moorings to the four moorings previously approved for a total of seven moorings, thereby creating a Congregate Mooring Field in concurrence with RSA 270:67 and New Hampshire Code of Administrative Rules Saf-C 408.

Public Hearing held June 12, 2014.

Enclosed are the Application, Map and Public Hearing Report.

Respectfully submitted,

Colonel Robert L. Quinn
Director of State Police

Enclosures

Application Number: _____

DECAL # _____

Permit Number: _____

Conditions: _____



OF MOORINGS APPROVED _____

FOR OFFICIAL USE ONLY

APPLICATION FOR A CONGREGATE MOORING FIELD PERMIT

Instructions: This application should be used for all non-public mooring fields consisting of five or more moorings. The application must be completed in its entirety with all the required documentation. Mail the completed application to:

Department of Safety – Division of State Police
Moorings Program
P. O. Box 1150, Belmont, NH 03220
Telephone: 603-267-6453

SAFETY SERVICES

SEP 30 2013

MOORINGS

Applicant's name: Woodwinds Hill Beach Association

Shorefront property location: Scenic Drive, Lake Winnepesaukee

Town/City: Laconia Phone #: (978) 764-5323

NOTE: The applicant must be the owner or leaseholder, such as the Association, Corporation, Camp, etc., of the shore front property accessing the mooring field.

Contact Person: Suzanne Sireen, Woodwinds Hill Beach Assoc., Secretary of Moorings Committee.

Mailing Address: 28 Bayberry Rd City: Westford State: MA Zip: 01886

Phone #: (978) 764-5323 Local Phone #: Brenda (603) 366-5980 Cell Phone #: (978)764-5323

The proposed mooring field is located on Lake: Winnepesaukee

The town/city tax lot number of the shore front property is: #110 block 234, lot 10

Number of moorings requested: 7 Applicant's shore frontage in feet: 305'

The approximate area (size) of the mooring field in square feet: 24,000

The distance from shore to the furthest proposed mooring in feet is: 232'

The number of docks at the property: 1 The number of boat slips: 0 Is there a swim line? no

Is there a swim raft at the property? no What is the square footage of the raft? n/a

Does the applicant have title ownership to the shore front property? yes

I, the applicant, certify that the petitioner shall indemnify and hold harmless the state, its officers and employees from all claims, liabilities or penalties resulting from the acts or omissions of the petitioner in maintaining, managing or operating the mooring field:

Suzanne Sereen
Authorized Signature

I, the applicant, certify that all abutters to the shore front property have been notified of this application by certified mail, (based on municipal tax data) return receipt requested, and have been provided copies of the application and grid map.

NOTE: Abutters: The record owner of land immediately adjacent to, and/or of any portion of land that is located within 300 feet of, the boundaries of the proposed mooring field, including properties adjacent to the water within 300 linear feet, such as in the case of coves.

Suzanne Sereen
Authorized Signature

The applicant hereby gives permission for the director or his agents to enter the property for the purpose of performing a field investigation to review this application:

Suzanne Sereen
Authorized Signature

NOTE: This application may require a public hearing. The applicant and abutters will be notified as to the date, place and time of the hearing. The Department of Safety, Division of State Police will submit a recommendation to the Governor and Council who will approve or deny the application. The applicant and abutters will be notified in writing of the recommendation prior to the scheduled Governor and Council meeting.

Do not send any fee with this application. If approved, by Governor and Council, notification will be sent requesting the decal fee. Your annual mooring decal(s) will be forwarded to you upon receipt of payment of the current decal fee. Decals must be renewed annually and must be attached to each mooring above the waterline prior to using the moorings. **Perimeter lighting, if required, must be installed prior to use.**

I hereby certify that all statements on this application and all documentation supplied with this application are true. Supplying false information on this application will result in revocation of any permit issued and is punishable by imprisonment. This application is signed under penalty of unsworn falsification pursuant to RSA 641:3.

Authorized Signature: Suzanne Sereen Date: 9/4/13



NEW HAMPSHIRE
Environmental Consultants
 LLC

January 9, 2012
 Revised 7-9-2013 - parking revision

- Notes**
1. Tax Map 110/234/11, Laconia, NH
 2. Owner of record:
Woodwinds Hill Beach Association
c/o Brenda Filbeckson
84 Hayes Road, Laconia, NH 03216
 3. Four moorings currently exist on the frontage. The locations shown are approximate from information provided by the Association.
 4. Three (3) additional moorings will be added to total seven (7) moorings.

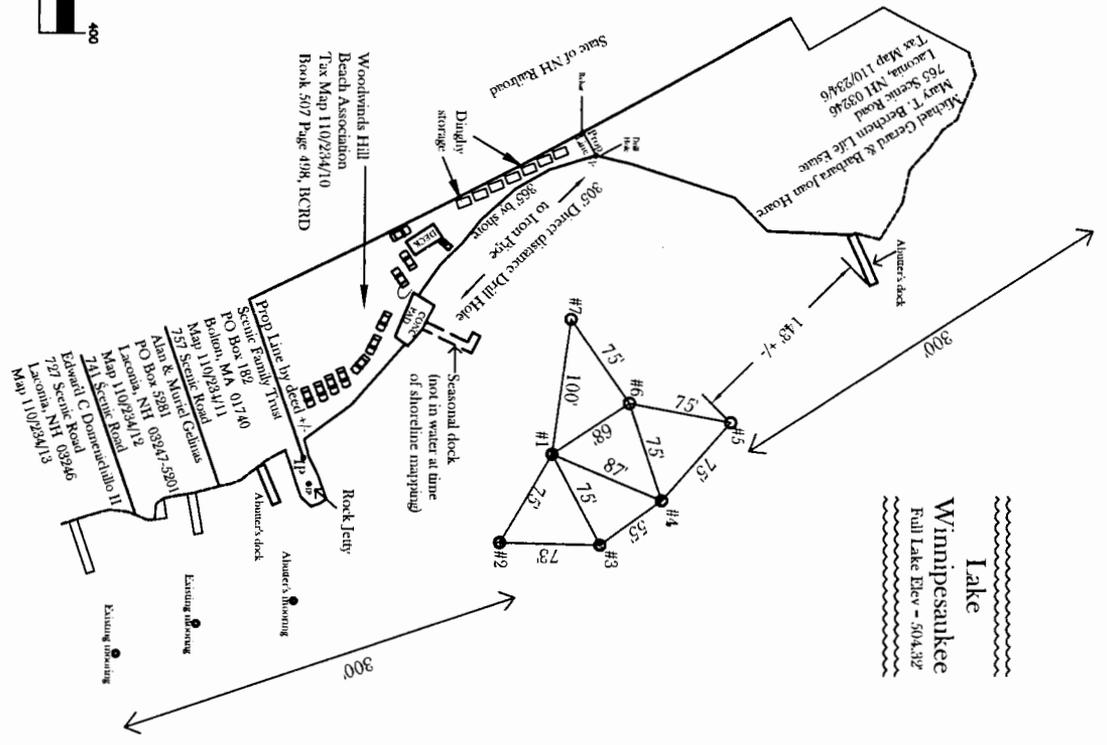
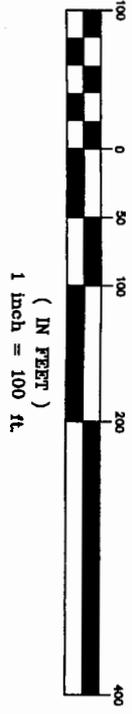
Moorings #	Distance from shore	Depth
1	137'	6'
2	180'	8'
3	213'	10'
4	219'	9'
5	252'	9'
6	159'	6'
7	100'	5'

Note: Distance from shore measured from northerly corner of concrete pad which exists along the frontage.

SAFETY SERVICES
 SEP 30 2013

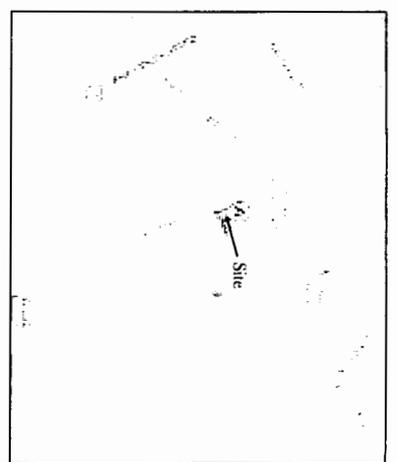
MOORINGS

GRAPHIC SCALE



Winnepesaukee Lake
 Full Lake Elev - 504.32'

Site Location Plan



- - Existing mooring
- - Proposed mooring



Congregate Mooring
Field Plan
 prepared for:
Woodwinds Hill Beach Association
 Tax Map 110/234/10
 Scenic Drive
 Laconia, NH



State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

Petition in the Matter of

Woodwinds Hill Beach Association
Lake Winnepesaukee, Laconia, N.H.
Congregate Mooring Field

HISTORY:

The Department of Safety received a petition from Suzanne Sireen, Secretary of the Moorings Committee on behalf of Woodwinds Hill Beach Association (Association) or (Petitioner). The petition requested that 3 additional moorings be approved and added to an existing field of 4 moorings. The Association represents the interests of Association property owners on Lake Winnepesaukee in Laconia, New Hampshire.

The Petitioner is requesting to add (3) moorings to an existing congregate mooring field of 4 moorings. The petition was filed with the Marine Patrol and forwarded to the Bureau of Hearings by cover letter dated May 8, 2014 and received by the Bureau of Hearings shortly thereafter. The petition offered the reasons for the requested moorings. The primary reason is to allow additional residents to have the ability to have boats on the water because the number of Association members with registered boats exceeds the existing 4 moorings. In fact, they have members who have been on the waiting list for moorings for many years.

Proof by the Petitioner of notification to all the abutters by certified mail was received by the Department of Safety, allowing the requested hearing to be scheduled.

Notification of the June 12, 2014 public hearing was published in a newspaper of statewide circulation, the Union Leader, on June 2, 2014. In addition, the notice was sent to the Laconia City Clerk by email dated May 28, 2014. The Notice of Hearing was placed on the Department of Safety web site on May 28, 2014 in accordance with RSA 270:12, III.

Pursuant to RSA 541-A, a public hearing was held on Thursday, June 12, 2014 at 1:00 p.m. at the New Hampshire Department of Safety, 33 Hazen Drive, Concord, New Hampshire. The scope of the hearing was to allow for and consider public comment in accordance with RSA 270:62,VI, RSA 270:67, RSA 270:68 and New Hampshire Code of Administrative Rules, Saf-C 408 (*et seq.*) on the Petitioner's request.

Hearings Examiner Christopher Casco, Esq., Administrator of Hearings as my designee, conducted the public hearing.

OPENING REMARKS:

Everyone present was informed of the following:

- the Notice of Hearing was read to the persons in attendance;
- the Petition and all supporting documents were available for review;
- the public hearing was recorded;
- the recording will be preserved for seventy-five (75) days along with an explanation of the procedure by which to receive a copy of the recording;
- their opportunity to sign the appropriate "sign-up sheet" to present comment on the petition;
- notification of the public hearing was published in the New Hampshire Union Leader on June 2, 2014 which is a newspaper of statewide circulation and a photocopy of the clipping from the newspaper was available;
- notification of the public hearing was emailed to the clerk of the City of Laconia;
- notification of the public hearing was posted on the Department of Safety web site on May 28, 2014;
- they could review the original petition and any other documents; and,
- how and where to submit written comment that must be received by the Department of Safety within ten (10) calendar days after the hearing.

STATISTICS:

- On June 12, 2014, 4 persons spoke at the public commentary hearing in favor of the petition. One person spoke against the petition. Within the ten days following, 4 letters or email comments were received in favor of the petition. One was received against the petition.
- On Monday, June 23, 2014, at the end of the business day, the hearing was closed to public comment. One comment letter received by email on June 23, 2014 at 5:15 p.m. was not accepted because it was submitted after the deadline, although a copy was retained for record purposes but not considered.

OFFICIAL NOTICE:

- The Association's petition for hearing, application and attached exhibits, received on or about September 30, 2013, at Safety Services for the Department of Safety requesting three (3) additional moorings be added to a congregate mooring field

- of 4 moorings for a total of 7. The attached diagram describes the area and marks the location of each of the proposed moorings;
- the Division of State Police, Bureau of Marine Patrol's report completed by Officer P. Carpenter on or about June 5, 2014 supporting approval;
 - notification of the June 12, 2014 public hearing was published in a newspaper of statewide circulation on June 12, 2014. In addition, it was sent to the City of Laconia for posting. The Notice of Hearing was placed on the Department of Safety web site in accordance with RSA 270:12, III; and, Marine Patrol notification to The New Hampshire Fish & Game Department and the New Hampshire Department of Environmental Services, Water Division; and
 - public commentary received in written or electronic form before the end of the business day on Monday, June 23, 2014; and the testimonials received at the hearing conducted on June 2, 2014. The mailing and email addresses were provided along with the Department of Safety internet web site address.

SYNOPSIS OF TESTIMONY:

Ms. Sharon Champagne, Moorings Supervisor, provided an overview of the proposed location of the requested 3 additional moorings and presented a synopsis of the investigation results. As part of the preliminary investigation, she notified NH Fish and Game, which department indicated that they did not feel that there is any significant impact as stipulated in RSA 270:64, I(c). She also notified the NH Department of Environmental Services and received no response.

Moreover, Officer P. Carpenter of Marine Patrol visited the site on June 5, 2014 to inspect the proposed location of the 3 additional moorings. He identified no problems with the additions to this mooring field based on the distances described in the mooring application. He did not find that the proposed moorings interfere with any abutter property.

Suzanne Sireen testified as the Association secretary of the moorings committee representing Woodwinds Hill Beach Association, (Petitioner). They would like additional opportunities for association members to be able to have boats near their property. They have a waiting list for moorings as they have more property owners with boats than they have available moorings. Many have been on the list for many years. Their dock is for drop off and pick-up only.

At the prior hearing to add moorings, there was concern expressed about the lack of restroom facilities but the mooring users are not staying in their boats. The area is too shallow for additional docks, and more docks would be costly as the water is too shallow. She submitted photographs of the area.

Attorney Regina Nadeau appeared on behalf of her clients, abutting property owners Michael and Barbara Hoare. She also appeared in objection to a petition for 4 additional moorings in this location in 2011. There are similar concerns as existed at that time. (Petition denied November, 2011; denial approved by Governor and Council 1/11/12-minutes item #95). She expressed concern over the quality of the plan, and

although this plan is better than the plan submitted in support of the first petition, it is still insufficient to warrant approval for 3 moorings.

She stated that the plan wasn't prepared by a professional surveyor, and therefore, did not contain the proper triangulation to take into account boat sway. As a result, the plan is not an accurate assessment of the impact on the Hoare's property as the moorings extend further towards the abutting property than the plan indicates. Also, there is no tie line for mooring 7 and without same, it cannot be determined if it would cross the property line if such were extended into the water. In order to be accurate, an additional 35 feet would have to be added to the plan. A 35 foot swing for a moored boat is the industry standard. This plan will present navigational and safety issues for the abutters.

Moreover, the added moorings would encroach on the Hoare's swimming area and the area where they could put another dock. She suggested that there is a better alternative to address the need to accommodate more boats by putting in 5 more boat slips. As a result, the petitioner failed to establish no viable alternatives to the moorings.

Also, using a nearby home as a restroom is insufficient and under the Department of Safety rules, sanitary facilities must be provided on site for mooring users. She also pointed out that property owners change, and that an owner after Ms. Sireen may not allow the use of their restroom. In sum, the proposed plan would result in the taking over of 30,000 square feet of shared space.

Larry Kenney spoke in favor of the petition. He said that the water between the mooring field and the Hoare property is not navigable due to rocks. He also said that the plan was prepared by a surveyor and was done to scale. There are adequate dimensions for more boats because the size limit per boat is 25 feet. He pointed out that Fish and Game and Marine Patrol have no problem with the moorings which supports approval. Also, the boats have bathrooms and it has not been the practice for people to stay in the boats while moored. The moorings are used as a point of departure only.

Wayne Gautreau spoke in favor of the petition. He has been an Association property owner since 1997. He works in the marina business and was a marina owner. Due to the water depth, rocks and shoals, docks are not possible.

Brenda Tillotson spoke in favor of the petition. She is the Association treasurer. They are trying to allow more residents to be able to have boats while keeping their operating costs low. They don't have a lot of funds to hire surveyors or attorneys. They do not intend to destroy their neighbors' enjoyment of their property or infringe on their rights, but want to allow more members to utilize the lake.

SYNOPSIS OF WRITTEN COMMENTARY: RECEIVED PRIOR TO OR AFTER THE HEARING

Four people, all property owners from the area, submitted written statements in support of the petition. The written comments present similar arguments as presented in testimony. One abutting property owner, through counsel, objected to the petition citing many reasons including that the moorings would infringe upon the abutters' property and that the plan was insufficient and that the petitioner's failed to sustain their burden of proof.

LEGAL ANALYSIS:

In gathering findings of fact, the following is given consideration:

RSA 270-D: 2 General Rules for Vessels Operating on Water.

" ...Vessels shall be operated at headway speed only, while passing under all bridges. VI. (a) To provide full visibility and control and to prevent their wake from being thrown into or causing excessive rocking to other boats, barges, water skiers, aquaplanes or other boats, rafts or floats, all vessels shall maintain headway speed when within 150 feet from: (1) Rafts, floats, swimmers; (2) Permitted swimming areas; (3) Shore; (4) Docks; (5) Mooring fields; (6) Other vessels. . . ."

RSA 270:60 Mooring of Boats on Public Waters

The general court finds that:

- (a) Water is a public resource held in trust by the state and that the state maintains jurisdiction to control the use of public waters for the greatest public benefit; and
 - (b) The public waters are a significant asset which enhance the well-being and lifestyle of the state's citizens, benefit the state's substantial tourist industry and the environment, and are a habitat for many fish and wildlife; and
 - (c) That undue proliferation of moorings is detrimental to the integrity of the state's waters and the public's enjoyment thereof.
- I. The general court intends to establish through this subdivision a means of regulating the usage of moorings on public waters. Existing moorings may be permitted in their existing locations, provided such moorings comply with the provisions of this subdivision.
 - II. The general court does not intend, by passage of this legislation, to convey to, create for, or recognize any rights of shorefront property owners.

RSA 270:64 Moorings Prohibited

- I. No mooring shall be located:

- (a) In such a manner that it constitutes a hazard to the public safety because it interferes with or impedes, or could potentially interfere with or impede, navigation; or
 - (b) In such proximity to other moorings as to constitute a hazard to public safety; or
 - (c) In such a manner that it presents an unreasonable adverse effect on the environment, including but not limited to water quality, wildlife habitats, or natural areas; or
 - (d) In such a manner that it unreasonably interferes with other recreational uses of the water and adjacent land.
- II. The director shall develop rules to carry out the purposes of this subdivision pursuant to RSA 270:71 and RSA 541-A.
- III. The director shall consult with the fish and game department, the department of environmental services, or the office of energy and planning to assist in the assessment required under subparagraph I(c).

RSA 270:67 Public and Congregate Mooring Fields; Permit Required.

I. Public Mooring Fields.

- (a) The division of state police shall identify suitable locations for public mooring fields and prioritize the need for the development of such sites. In determining said locations the division of state police shall recommend each location size and the configuration of each public mooring field. Further, it shall be determined by the division of state police that adequate access exists to serve the needs of the users of the public mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said site proposal may be conducted by the division of state police. The division of state police shall review all recommendations received and submit their final site proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.
- (b) The division shall issue a permit to any applicant for a mooring in a public mooring field who fulfills the mooring requirements in this subdivision subsequent to approval under subparagraph (a).
- (c) Each public mooring field applicant shall be assessed a fee of \$25 which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.
- (d) No mooring shall be sold or leased except as provided in this section.

II. Congregate Mooring Fields.

- (a) The division of state police may identify suitable locations for congregated mooring fields. In determining said locations the division of state police shall recommend each location size and the configuration of each congregated mooring field. Further, it shall be determined by the division of state police that adequate access exists to serve the needs of the users of the congregated mooring field. Said site proposal shall then be transmitted

to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said proposal may be conducted by the division of state police. The division of state police shall review all recommendations received and submit their final proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

- (b) Subsequent to approval by the governor and council, the division shall issue a permit to any applicant for a congregate mooring field who shows that:
 - (1) The location and size of the congregate mooring field meet the criteria established pursuant to RSA 270:71; and
 - (2) Adequate access exists to serve the needs of the users of the congregate mooring field; and
 - (3) The congregate mooring field will comply with the provisions of RSA 270:64; and
 - (4) No mooring shall be sold or leased except as provided in this section.
- (c) Each congregate mooring field permitted by the director shall be assessed an annual mooring fee of \$25 for each mooring installed in the congregate mooring field which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.
- (d) Operators in charge of maintaining congregate mooring fields may charge no more for the use of a mooring than an amount which reasonably covers the costs of mooring installations and maintenance. Said charges shall be reported to the division of state police who shall submit an annual report to the governor and council and the general court on all congregate mooring fields.

III. Notwithstanding RSA 270:61, III, small mooring sites may be established without the approval of governor and council, but subject to the approval of the division. Such sites shall be only for the use of motels, cottages, condominiums, other rental property, or homogeneous use group.

RSA 270:68 Mooring Areas; Designation

- I. The division shall determine the need and suitable locations, size, and configuration for mooring areas. The director shall designate appropriate mooring areas and assign mooring sites within such designated areas to individuals who meet all other requirements of this subdivision and can demonstrate a need for a site in such area. All designated mooring areas shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvements programs of the adjacent municipality.
- II. Any mooring which does not comply with the specifications of this section may be subject to removal at the owner's expense.

Selected Administrative Rules

- Saf-C 401.04** "Congregate mooring field" means a mooring field dedicated to homogeneous use groups, such as, but not limited to clubs, associations and youth camps.
- Saf-C 401.16** "Mooring field" as defined in RSA 270:59, VII includes congregate and public mooring fields.
- Saf-C 408.05** Mooring Permit Application.
- Saf-C 408.07** Congregate Mooring Permit Application.

Pursuant to RSA 270:61 through and including RSA 270:68 along with New Hampshire Code of Administrative Rules, Saf-C 408 (*et seq.*) defines and regulates the practice of mooring of boats. RSA 270:67 further delineates designation of locations and other specific criteria to consider.

LEGAL ANALYSIS ~ DISCUSSION:

The number of people in attendance at the hearing and the numbers of persons recorded for or against the proposed petition is given weight in determining findings; however, greater significance is given to the specific information submitted for review by testimony and the information within the petition, which includes a diagram of the proposed addition to the mooring field. The Association is asking for 3 additional moorings to be added to an existing congregate mooring field for its use.

In my evaluation, there was appropriate information in the application supplied by the petitioner on the topics specifically required under statute and rule when applying for 3 additional moorings for a congregate mooring field. The abutters and the public were notified in accordance with RSA 270:12. After the hearing and the ten days following, once all public commentary was received, I carefully weighed the request within the petition, all of the public commentary along with the Marine Patrol investigation and report in my determination of facts to consider. Comments included testimony from abutting property owners, through counsel, that objected to the plan as insufficient because it did not account for sufficient boat swing and that it was not prepared by a professional surveyor. The applicable law, however, does not require the plan to be prepared by a professional surveyor, and it does not have to provide for a 35 foot boat swing. In fact, as Petitioners limit the boats to 25 feet, requiring a plan with greater boat swing may not be accurate.

Also, Officer Carpenter of the Marine Patrol conducted a complete investigation of the site, reviewed the plan, and did not find any reason why the plan shouldn't be approved. His findings support that the added moorings will not impact abutting properties. While counsel argued that the plan was improper and didn't accurately reflect the impact on the Hoare property because there was no tie line for proposed mooring 7, and without same, it cannot be determined whether it would cross the property line if the property line was extended into the water, such does not require denial. The plan is accurate and contains proper distances. Also, it was professionally prepared by New Hampshire Environmental Consultants, LLC and contains accurate distances, and even if they are not a surveyor, there is no requirement that a plan be prepared by a surveyor. Therefore, it complies with Saf-C 408.09(a)(7). Moreover, a

lake front property owner, by statute, does not have any property interest in the water and the water is intended to be enjoyed by all members of the public. RSA 270:60. As such, it is irrelevant whether a boat from mooring 7 may extend over an imaginary property line in the water because the Hoare's property line does not extend into the water. Finally, the regulations do not require that a plan account for a 35 foot boat swing in order to be approved. Consequently, counsel's arguments, while well presented, are insufficient to warrant denial of the petition.

In addition, Fish and Game found no issues with the plan. These findings are entitled to significant weight as they come from experts in this subject matter area who were uniquely qualified to provide professional opinions. This plan is distinguishable from the plan submitted and denied in 2011 because this plan places the closest mooring to the Hoare property further away than did the 2011 plan. In addition, the plan in 2011 was not prepared by an industry professional, was hand-written, and evidence at the hearing revealed that it contained inaccurate distances. Unlike the 2011 insufficient plan, the plan presented at this hearing was prepared by an industry professional, New Hampshire Environmental Consultants LLC. and contained accurate distances referencing the town tax map.

Moreover, while restroom facilities are not present, a viable alternative was presented: utilizing homes near the mooring field as Ms. Sireen described. Also, in written comment, the Petitioner offered to provide facilities, and there was testimony that the mooring holders use their moorings as a point of departure only and that some of the boats have bathrooms onboard. Therefore, any concern over lack of restrooms has been adequately addressed. The additional moorings would not present a navigational hazard because the water between the mooring field and the Hoare property is not navigable due to rocks, and boats are unable to operate in that area. The abutters also suggested that the petitioners have an alternative to achieve their objective of allowing more members to house boats by adding boat slips. Boat slips, however, are not a reasonable alternative because the water is too shallow for docks and would require dredging in order to accommodate docks. If the Petitioner dredged to put in boat slips, such activity would likely have a negative impact on the environment and the abutting property owners. Also, it is speculative that 3 more moorings would interfere with the Hoares' use of their property because they already have a dock, a float, and a sufficient swimming area away from the mooring field.

In reaching a decision, the competing interests of people in this area must be balanced, and the above-mentioned legal authority applied. Moreover, in passing these laws, the legislature expressed a clear intent that shore front property owners do not have ownership rights in the water in front of their property and that it is the state's obligation to regulate such use in a way to benefit all users of the water and the public. RSA 270:60.

After balancing such interests, there is sufficient legal justification to approve the application submitted in this case. The Petitioner corrected the deficiencies in the previous plan, and requested one less mooring with this plan, and the additional

moorings are of a sufficient distance from the abutters. Consequently, they have satisfied the legal requirements and are entitled to 3 additional moorings.

After carefully considering the exhibits, testimony and public comment presented, Findings of Fact are issued (*Infra*).

FINDINGS OF FACT:

1. Pursuant to RSA 270:67, Woodwinds Hill Beach Association, (Petitioner) requested the Department of Safety to conduct a public hearing seeking approval of 3 additional moorings in an existing congregate mooring field of 4 moorings, for a total of 7.
2. Official notification to the public of the June 12, 2014 hearing was published in a newspaper of statewide circulation, the New Hampshire Union Leader on June 2, 2014. Notice of the hearing was sent to the Laconia City Clerk. Also, the Notice of Hearing was placed on the Department of Safety web site in accordance with RSA 270:12, III on May 28, 2014.
3. A public hearing was held on Thursday, June 12, 2014 at 11:00 AM on the issue and conducted pursuant to RSA 541; RSA 270:67; RSA 270:68 and Administrative Rule, Saf-C 408 at the Department of Safety, 33 Hazen Drive, Concord, New Hampshire.
4. The Petitioner seeks approval of 3 moorings in a congregate mooring field in front of its property on Lake Winnepesaukee, located in the city of Laconia, New Hampshire. The described area, shown on a diagram submitted by the Petitioner is specifically described as located on Laconia tax map #110 block 234, lot 10 with an approximate size of 24,000 square feet.
5. The diagram provides satisfactory placement and distances of the mooring field with added moorings.
6. The Petitioner has provided for proper restroom facilities as required. Facilities in nearby homes are sufficient. Moreover, the petitioner is willing to provide on-site facilities. Finally, some moored boats have restrooms on board.
7. The Department of Safety, Division of State Police, Marine Patrol Unit enforces the statutes and rules governing the water surrounding the mooring field on Lake Winnepesaukee in Laconia, New Hampshire and navigational laws are enforced by that agency. The Marine Patrol, through Officer Carpenter, conducted an investigation of the site and reviewed the plan, and identified no problems with placing 3 additional moorings in this field.
8. New Hampshire Fish and Game department has no objection to this request.
9. The mooring field will not unreasonably interfere with recreational uses of the water because the cove between the mooring field and the Hoare property is not navigable

due to rocks. Also, there is already a dock on the water in front of the Hoare property which evidences adequate recreational uses of the water exist and 3 more moorings will not unreasonable interfere with same.

10. The Petitioner has no other reasonable way to achieve their objective of allowing more residents to have boats on the water by installing additional docks. The water is too shallow for docks and installing docks would require costly dredging which would be disruptive to the environment and abutting property owners.

DISCUSSION - DISPOSITION:

The submitted information has been thoroughly taken into account within the Petitioner's application and testimony, along with public commentary received. I recommend granting the Petition based upon the Findings of Fact above-mentioned and that you reach the following Conclusion of Law.

CONCLUSION OF LAW:

The Petitioner has presented sufficient proof to sustain the request for adding 3 moorings to a congregate mooring field of 4 moorings in accordance with RSA 270:67, RSA 270:68 and New Hampshire Code of Administrative Rules, Saf-C 408.

RECOMMENDATION: New Hampshire Governor and Council

I respectfully recommend that this Petition submitted by Woodwinds Hill Beach Association be **GRANTED**. The evidence demonstrates that the Petition is in the public interest fulfilling the purpose of law. There is sufficient proof that the Petitioner has met the legal standard by a preponderance of the evidence pursuant to RSA 270:67, RSA 270:68 and Administrative Rule, Saf-C 408.

Very truly yours,



John J. Barthelmes, Commissioner
Department of Safety

Date: 8-28-14

cc: Suzanne Sireen, Association Secretary of Moorings Committee,
Petitioner

City of Laconia

Colonel Robert L. Quinn,
Division of State Police

Sharon Champagne, Moorings Supervisor

Attorney Regina A. Nadeau, Esq.

File