

**MINUTES OF THE WHITEWATER COMMISSION**  
**Quarterly Meeting**  
**June 16, 2010**  
**1:30 p.m.**

Lieutenant Larry Case, Division of Natural Resources Law Enforcement, on behalf of Director Frank Jezioro, called the meeting of the Whitewater Commission to order. This meeting is being conducted at River Expeditions located in Fayette County, West Virginia.

**Whitewater Commission Members**

All members of the Whitewater Commission were in attendance with the exception of a representative from the Division of Tourism.

**Division of Natural Resources**

Lieutenant Larry Case, Law Enforcement, District Four  
Cindy Cooper, Law Enforcement, District Four (acting recording secretary)

**Others in Attendance**

Mark Lewis, West Virginia Professional River Outfitters  
Tom Dragan, New River Jet Boats  
Rick Johnson, River Expeditions. Mr. Johnson reminded everyone in attendance that today is Whitewater Wednesday and invited everyone to stay after the meeting for refreshments.

**Approval of Minutes**

Motion was made by Tim Barton and seconded by Brian Campbell to approve the Minutes of the March 17, 2010. The motion was unanimously approved.

**Request from Shenandoah River Outfitters for Funding from the Whitewater Study and Improvement Fund for Training**

Shenandoah River Outfitters requested \$2,500.00 funding from the Whitewater Study and Improvement Fund to conduct a Swift Water Rescue Instructor Course to be taught by Charlie Walbridge. This class will be conducted the week of June 22, 2010. At the completion of the course, participants will be ACA Swift water Rescue instructors.

In addition, Shenandoah River Outfitters requested \$1,500.00 in funding from the Whitewater Study Improvement Fund to conduct an American Heart Association First Aid and CPR Instructor Course taught by RESA VIII. The class will be conducted the week of July 9, 2010. At the completion of the course, participants will be American Heart Association First Aid and CPR Instructors. These courses are open to everyone, not just Shenandoah River Outfitters.

After some discussion, motion was made by Brian Campbell and seconded by Jerry Cook to approve the two requests made by Shenandoah Outfitters for the two training courses for a total of \$4,000.00. The motion was unanimously approved.

### **Discussion of Whitewater Commissioners Term of Office due to Expire**

Motion was made by Brian Campbell and seconded by Matt Knott to recommend that the Division of Natural Resources submit a letter of recommendation to Governor Manchin to reappoint Don Beyer and Tim Barton to the Whitewater Commission with their two year terms running from July 1, 2010 to June 30, 2012. The motion was unanimously approved.

There was discussion that here in the southern part of the state the Conservation Officers meet with the Outfitters on a regular basis performing training on how to properly fill out forms, but we need to hold similar trainings in the northern part of the state. In the past, we would rotate our meetings throughout the state; having one meeting in Charleston, one meeting in Summersville and a meeting in the northern part of the state so outfitters from various parts of the state can participate.

Motion was made by Brian Campbell and seconded by Tim Barton to continue the historical process of rotating the Quarterly Whitewater Commission meeting throughout the state. The motion was unanimously approved.

### **LAC and Regulations Committee Report**

Brian Campbell reported that the LAC and Regulations Committee met at 10:00 a.m. today to review the Vessel/Motorboat fatality reports from the past year. There seems to be a pattern where people will fall into the water and are rescued and appear to recover; then soon after they lose consciousness and die. The victim seems to have had a heart attack and not died from drowning. First of all, it's an issue that we don't actually understand what the definition of an autopsy is. Can a Medical Examiner say, here's the facts; make a ruling? Is that considered an autopsy vs. actually taking samples and doing some investigative work? It seems to be frustrating at every point; we are unable . . . even when an autopsy is requested by a DNR Law Enforcement Officer, an autopsy routinely does not get performed. So we are left with unanswered questions; are these people actually drowning or are they having heart attacks? Is there something about that phenomenon that we need to understand better. On behalf of the LAC and Regulations Committee we request the Whitewater Commission to ask the Division of Natural Resources to investigate the laws as to whether or not Conservation Officers have the right to request an autopsy and have that autopsy performed or is it solely up to the discretion of the Medical Examiner. We would also like to have the Whitewater Commission investigate the different levels of autopsy's. In one case the LAC and Regulations Committee reviewed inconsistent facts that were presented at various levels which lead to the determination that the victim drowned based upon false information. The Whitewater Commission has legitimate safety issues; we are not learning the facts that we need to learn because autopsy's are not be performed or very minimal investigations are being carried out based upon potentially incorrect facts. Clearly there are cases where someone has been submerged for a substantial portion of time and there

is no need for an intense investigation.

It was suggested that perhaps the next time the Commission meets in Charleston they could invite Medical Examiner to attend so that we could ask about the different policies. Lieutenant Case advised, we can certainly ask.

Mark Lewis reported he is working on trying to identify some experts in the field of drowning prevention and treatment of drowning victims. There is a national drowning prevention symposium held each year and there is a possibility that I may be able to attend next year. There is also a textbook, "The Drowning Handbook" that just came out of the Water Safety Summit. The important part for us is finding out exactly the physiological process of what lead to death; the only way to do this is with an autopsy. Mark advised he will bring data back to the table at the September 2010 meeting.

After a great deal of discussion, motion was made by Brian Campbell and seconded by Matt Knott to ask the Division of Natural Resources to investigate who has the authority to request an autopsy and also what circumstances need to occur before an officer can request an autopsy. We need to know protocol. The motion was unanimously approved.

Here in the southern part of the state the Officers meet with the Outfitters on a regular basis performing training on how to properly fill out forms, but we need to hold similar trainings in the northern part of the state. In the past, we would rotate our meetings throughout the state; having one meeting in Charleston, one meeting in Summersville and a meeting in the northern part of the state so outfitters from various parts of the state can participate.

Motion was made by Brian Campbell and seconded by Tim Barton to continue the historical process of rotating the Quarterly Whitewater Commission meeting throughout the state. The motion was unanimously approve.

The next meeting of the LAC/Regulations Meeting will be conducted prior to the December Whitewater Meeting at 10:00 a.m. to review accident reports.

### **Budget Report**

Matt Knott presented the Commission with the FY 2010 Expenditures and Revenue as follows:

#### **Whitewater Study and Improvement Fund July 1, 2009 through June 9, 2010**

#### **Revenue:**

WW Study & Improvement Fee

\$ 55,247.00

Investment Earnings	<u>165.00</u>
Subtotal	\$ 55,412.00
WW Study & Improvement Fee-Gauley River	<u>\$ 11,360.00</u>
Subtotal	\$ 11,360.00
<b>Total Revenue</b>	<b>\$ 66,772.00</b>
<b>Expenditures:</b>	
WW Study & Improvement –Gauley River	
Vehicle Rental	\$ 2,225.00
Farm Expense	<u>2,424.00</u>
Subtotal	\$ 4,649.00
<b>Operating Expense:</b>	
Salaries & Wages	\$ 33,824.00
Annual Increment	1,740.00
Social Security-Matching	2,590.00
Public Employees Insurance	5,523.00
Workers' Compensation	1,839.00
Pension & Retirement	3,912.00
WV OPEB Contribution	<u>1,257.00</u>
Subtotal	\$ 50,685.00
<b>Total Expenditures:</b>	<b>\$ 55,334.00</b>

Matt Knott presented a proposed budget for the Whitewater Study and Improvement Fund for FY 2012.

**Whitewater Study and Improvement Fund  
Proposed Budget for Fiscal Year 2012  
July 1, 2011 to June 30, 2012**

Beginning Account Balance (estimated) \$ 110,000.

6101 Revenue:

July 1, 2011 to June 30, 2012 \$57,705. @ .35 per  
(2012 estimated based on 2009 season @ 164,871 users)

6153 Gauley Stock Revenue:

July 1, 2011 to June 30, 2012 \$12,661. @ .35 per  
(2012 estimated based on 2009 season @ 36,173 users)

Investment Earnings	\$200.	
Sub-total Earnings		<u>\$ 70,566.</u>
<b>Total Available</b>		<b>\$ 180,566.</b>

Anticipated Disbursements:

DNR Personnel & Benefits	\$ 67,225.	
Annual Increment	\$ 1,740.	
Miscellaneous	\$ 00.	
Gauley Trout Stocking	\$ 12,661.	
Industry Continuing Education	\$ 10,000.	
Sub-total Expenses		\$ 91,626.
Miscellaneous (contingency fund)		\$ 88,940.
Total Estimated Expenditures for FY 2012		\$ 180,566.

Motion was made by Brian Campbell and seconded by Don Beyer to approve the Proposed Budget for FY 2012 as submitted. The motion was unanimously approved.

**Reporting Issue from Discussion at the March 2010 Meeting**

Brian Campbell reported that at the March 2010 meeting there was some discussion about sections on the rivers that need to be zoned. The Upper Gauley and the Lower Gauley should be two separate reports and paid as two different sections. We need to determine which sections are reportable and we need to determine which sections are payable. We need to develop a reporting system that reflects those decisions. There may be other reasons why the trip leader reports do not reflect the monthly numbers; but we won't know until we fix the reporting system.

After a great deal of discussion, motion was made by Brian Campbell and seconded by Matt Knott to appoint the LAC and Regulations Committee to review the laws and regulations with regard to which sections are reportable and which sections are payable with separate fees when we cover those sections in the same day; clearly if you are on a two day trip, it's a separate section for each day. The motion was unanimously approved.

Brian Campbell reported another issue that he would like to see the LAC and Regulations Committee review is the Trip Leader Reports. We need to review the database to see if modifications need to be made in order to properly reflect the results of our sectional reporting requirements.

After some discussion, motion was made by Brian Campbell and seconded by Matt Knott to approve the LAC and Regulations Committee to review the modifications needed to bring the trip leader database, the number reporting database and injury and accident report database up-to-date. The motion was unanimously approved.

Lieutenant Case advised he would also check with Charleston to see what the present status of the Whitewater Reporting System is.

**Recommended Appointment of LAC/Regulations Committee Members**

Motion was made by Jerry Cook and seconded by Brian Campbell to appoint Chris Ellis

and Don Beyer to the LAC and Regulations Committee. The motion was unanimously approved.

### **New Division of Natural Resources Whitewater Commission Email Address**

Lieutenant Case reported the new address for Division of Natural Resources Whitewater Commission River Use Reporting System page is [dnrwhitewater@wv.gov](mailto:dnrwhitewater@wv.gov)

### **Discussion of “Form” Stating a Customer is an Experienced Rafter.**

Brian Campbell reported that there is a need for a form to be made available for the outfitters to get information from the whitewater customer stating if they are an experienced whitewater rafter.

After some discussion about a process in which to keep the customers safer, it was asked of the LAC and Regulations Committee to review a form or an informational sheet that will give the outfitters some information about the experience or lack of experience, as a rafter, that a person has.

### **Discussion of Authority of National Park Service**

Doug Cooper presented correspondence that was sent to the National Park Service in reference to Commercial Outfitters; shouldn't they have contacted the Whitewater Commission instead of the National Park Service?

Frank Seller, with the National Park Service, reported they do not regulate Commercial Outfitters; this falls under state regulations.

After a brief discussion, Doug Cooper advised he would contact the person who sent correspondence to the National Park Service and inform them to direct their questions about Commercial Whitewater Outfitters to the Whitewater Commission.

### **Next Meeting of the Whitewater Commission**

Upon motion and a second, the next quarterly meeting of the Whitewater Commission will be held on Wednesday, September 15, 2010 in the Gauley River area at 1:00 p.m. with an exact location to be announced.

### **Adjournment**

With no further discussion, motion was made by Brian Campbell and seconded by Matt Knott to adjourn the quarterly meeting of the Whitewater Commission. By unanimous vote the meeting stood adjourned.