

Road Ends

The Board of Friends of Clam Lake is opposed to Bills 4463 and 4464. We don't need Marinas at all Road ends.

Update July 1, 2007.

On June 27th, 2007, the House of Representatives passed House Bills 4463 and 4464. Please click the link below to view the verbage of the bills as passed by the House.



The 61 representatives voting FOR HB 4463:

The 48 representatives voting AGAINST HB 4463:

The vote for HB4464 was exactly the same as HB4463, EXCEPT:

Stakoe voted FOR HB4464

These bills have been referred to the Senate, Government Operations Committee, Mike Bishop, Chair.

House Bill 4463 -- seeking to establish marinas at public road ends - was discussed and had four amendments added to it before being voted successfully out of Committee and onto the House Floor. The Amendments dealt with: (1) insuring that fees charged for boat hoists at road ends would not exceed local fees charged by other local marinas (2) providing for an open lottery system to fairly decide who gets to have their boat and hoist out at the road end (3) survey guidelines for road ends to ensure no encroachments on adjacent riparian property and (4) recommendation that the fees collected from boat hoist fees be used to maintain the docks and provide for law enforcement, insurance, etc.

House Bill 4464 -- seeking to re-write the scope of the dedication of plats -- was discussed and had one amendment added before being voted successfully out of Committee and onto the House Floor. The amendment exempted state and DNR owned property, such as parks and public launches.

The DEQ testified at the Committee hearing on these two bills and totally opposed these bills as they are written. These two bills would **allow** local townships to issue marina permits, and would remove this power from the DEQ. There would be no uniformity or consistency, and the entire process would be subject to political pressure.

These two bills would add substantial costs to the

State, the Townships and the DEQ if passed - and need to be defeated.

Please continue to monitor our website for future developments.

Thank you. The Board of Friend of Clam Lake.

HOUSE BILL NO. 4463

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30106 (MCL 324.30106), as added by 1995 PA 59, and by adding section 30106a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 30106. (1) ~~The~~ Subject to subsection (2), the department shall issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. In passing upon an application, the department shall consider the possible effects of the proposed action upon the inland lake or stream and upon waters from which or into which its waters flow and the uses of all such waters, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry.

The department shall not grant a permit if the House Bill No. 4463 (H-2) as amended June 27, 2007 proposed project or structure will unlawfully impair or destroy any of the waters or other natural resources of the state. This part does not modify the rights and responsibilities of any riparian owner to the use of his or her riparian water. A permit shall specify that a project completed in accordance with this part shall not cause unlawful pollution as defined by part 31.(2) The department shall issue a permit under this part for a marina if all of the following conditions are met:(a) The applicant is a local unit of government and the location of the marina is a road end under the jurisdiction of the local unit of government that provides public access to an inland lake [that is larger than 2,500 acres in size] and to which the presumption in section 253(2) of the land division act, 1967 PA 288, MCL 560.253, applies.(b) The local unit of government is applying for the marina permit for the purpose of constructing, installing, or maintaining a

seasonal dock.

(c) The local unit of government has adopted an ordinance in compliance with section 30106a [and the proposed marina will otherwise be in compliance with all local ordinances].

Sec. 30106a. (1) A local unit of government may adopt an ordinance, subject to the permit requirement under section 30106, that authorizes a marina at a road end under the jurisdiction of the local unit of government.

(2) An ordinance adopted under subsection (1) shall provide for all of the following:

(a) Not more than 1 nonexclusive public dock shall be allowed at the [road end]. The local unit of government shall conduct a survey to determine the location of the dock to

House Bill No. 4463 (H-2) as amended June 27, 2007 ensure that the dock remains within the right-of-way of the road as extended into the waters of the inland lake or stream and does not encroach onto or over the riparian bottomland of adjacent property. [THE

SURVEY SHALL BE PERFORMED BY A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF MICHIGAN.]

If a survey was previously conducted at the road end and the survey stakes and drawing from that survey are identifiable, that survey may be used to make the determination under this subdivision.

(b) The dock shall not be installed prior to May 1 and shall be removed not later than September 30 of each year.

(c) The dock shall not exceed 250 feet in length.

(d) The dock shall be not more than 5 feet in width or the width required by state or federal law, whichever is greater.

(e) The dock shall be constructed to allow access for law enforcement or emergency personnel.

(f) The length of the dock shall not unreasonably interfere with the safety and navigability of the waters of the inland lake or stream.

(g) The augering or driving of any boat mooring post or the placement of any permanent or seasonal boat anchoring device, other than a permitted boat hoist, within the area of [the road end] as extended into the inland lake or stream shall be prohibited.

(h) The construction, installation, or maintenance of boat hoists on the road end and in the adjacent waters to establish seasonal overnight mooring or docking of unoccupied vessels, including, but not limited to, all of the following requirements:

(i) [Boat] hoists shall be placed in a uniform straight line running away from and parallel to the shoreline in House Bill No. 4463 (H-2) as amended June 27, 2007 such a manner as to assure that the hoist and associated moored watercraft remain within the right-of-way of the public road as extended into the waters of the inland lake or stream. The ordinance shall require that, when moored in its hoist, a watercraft shall not encroach onto or over the riparian bottomland of adjacent property.

(ii) [Boat] hoists shall be placed a minimum of 20 feet offshore and shall not unreasonably interfere with the ingress, egress, safety, and navigability of the waters of the inland lake or stream. A hoist shall not be located farther than 250 feet offshore.

(iii) Boat hoists shall not be placed in such a way as to impede access for law enforcement or emergency personnel.

(iv) Boat hoists shall not be installed prior to May 1 and shall be removed not later than September 30 of each year.

(i) A [road end] shall not be altered, improved, or maintained in any manner without first obtaining an appropriate land use permit for the desired activity. The provisions may require that additional permits be obtained from the county road commission or drain commission.

(j) Provisions for the use of a lottery to allocate the use of boat hoists and boat slips [] if the demand for the use of these facilities is greater than the supply.

(k) If fees are to be charged for the use of marina facilities, an itemization of the specific fees. Fees assessed House Bill No. 4463 (H-2) as amended June 27, 2007 shall be used by the local unit of government only to pay for the installation, removal, and maintenance of docks and boat hoists, for necessary surveys related to the marina or road end, and for law enforcement activities.

(l) Provisions for fees for use of boat slips and boat hoists at the marina that are equivalent to fees for similar services charged at other marinas on that inland lake or stream or at a comparable inland lake or stream.

(m) Provisions for violations consistent with subsection (4).

(3) An ordinance adopted under subsection (1) may allow for use of the waterfront within the boundaries of the road end for sunbathing and lounging activities. Any allowance of such activities shall be accompanied by rules specifying what uses are permitted and what uses are prohibited. Any allowance of such activities shall also be accompanied by rules specifying the hours of operation for these activities. The hours of operation for these activities shall not exceed sunrise to sunset.

(4) A person who violates an ordinance adopted under this section is responsible for a municipal infraction and may be ordered to pay a fine of not more than \$500.00 per violation.

(5) A marina operated by a local unit of government in compliance with this section shall not be found to be a public or private nuisance.

(6) As used in this section, "road end" means the end of a road, street, or alley that terminates at an inland lake or stream, or terminates at a common area, a right-of-way, or a public park that is contiguous to the shoreline of an inland lake or stream. [However, road end does not include a road, street, or alley, or a portion of a road, street, or alley, that runs laterally along an inland lake or stream.] Enacting section 1. This amendatory act does not

take effect unless House Bill No. 4464 of the 94th Legislature is enacted into law.

HOUSE BILL NO. 4464

A bill to amend 1967 PA 288, entitled "Land division act," by amending section 253 (MCL 560.253).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 253. (1) When a plat is certified, signed, acknowledged, and recorded as prescribed in this act, every dedication, gift, or grant to the public or to any person, society, or corporation marked or noted as such on the plat shall be ~~deemed~~ considered to be sufficient conveyance to vest the fee simple of all parcels of land so marked and noted ~~as a dedication, gift, or grant and shall be considered a general warranty against the donors, their heirs, and their assigns to the donees for their use for the purposes therein expressed in the dedication, gift, or grant and no other.~~

(2) Except as provided in subsection (3), the purposes of a dedication, gift, or grant under subsection (1) of a road, street, or alley terminating at a lake or stream, or terminating at a common area, a right-of-way, or a public park that is contiguous to the shoreline of a lake or stream, shall be presumed to include the seasonal mooring of boats, sunbathing, and lounging as otherwise authorized by law. This presumption is conclusive unless rebutted by competent evidence before the circuit court in the county in which the land is located, showing that the plat proprietor intended to prohibit the seasonal mooring of boats, sunbathing, and lounging at the end of the road, street, or alley.

(3) If the dedication, gift, or grant includes the language "for road use only" or substantially similar language, the presumption described in subsection (2) is not created.

(4) ~~(2)~~ The land intended for the streets, alleys, commons, parks, or other public uses as designated on the plat shall be held by the municipality in which the plat is situated in trust to and for ~~such~~ those uses and purposes.

(5) ~~(3)~~ A reservation or an ownership interest in mineral

rights or underground gas storage rights in land ~~shall~~ does not constitute the holding of title for the purpose of signing the proprietor's certificate.

(6) Subsection (2) does not apply to road ends that are owned by the state of Michigan or road ends that are immediately adjacent to properties that are owned by the state of Michigan