

Yvonne Short

Lake Auman Boating Safety Issues

Yvonne Short Sun, Nov 3, 2019 at 2:43 PM

To: Bob Fewkes, Bert van Domselaar, Ryan Fox, lake-dam-director@7lakeswest.com, arc-infra-director@7lakeswest.com, treasurer@7lakeswest.com

Boating safety has become a huge problem on Lake Auman. Recent events have brought the attempt at a solution to the forefront, but this has been a growing problem for the past few seasons. I have been at Lake Auman since it's inception; before the dam or water. Every year, of late, boating safety has become more and more of concern. Without action this problem will only become worse. I am a very strong advocate for boating safety and boat operator courtesy for all residents that use our lake.

I have never been in favor of an all out ban of wake boats. Some of you may recall, as Commodore of Seven Lakes Sailing Club last year, I was asked by a member of the Lake Committee, on behalf of the Lake Committee, some very pointed questions in the form of a survey about wake boats. I was honest in my responses and actually came to their defense in some cases. That being said, I do question how many wake boats this lake can support, given the impact the current number of wake boats registered have on the other boats being used in the lake and the impact they have on the shoreline, as well as how such a small number of wake boats being used at any one time amplify those effects. Newer wake boats have larger ballast tanks and have features and accessories all of which are specifically designed to generate larger, more powerful wakes than previous models. The engine horsepower of the newer wake boats has increased to as much as 575 hp as compared to older wake boats in the 325-410 hp range. Lake Auman is simply not large enough to handle a larger population of those types of boats safely along with other users and residents of the lake due as much to the shape of the shoreline as the actual acreage. The shape of our shoreline with many coves, rather than one large open area, and the fact that nearly the entire shoreline is bulkheaded makes Lake Auman a much smaller lake

than the actual acreage would appear.

It is a sad situation that 1/3 of the lake committee was made up of wake boat operators, yet the wake boat operators have failed to offer ANY compromise or solution to sharing the lake with swimmers, kayaks, SUP's, fishermen, sail boats, other types of power boats, and residents, other than one person suggesting that he now should perhaps reduce the volume of his music. The amplitude of the wakes are FAR more damaging than the amplitude of the sound waves.

Those

who may claim to have taken safe boater education courses are not

demonstrating the skills taught in such classes.

A recent social media post and subsequent petition intentionally misled the community to believe the lake committee was trying to ban all use of wake boats and ultimately all power boats, which was a completely untrue statement (see the motions made to the Board by the Lake Committee in the meeting agenda Lake Committee Report dated 10-18-19.) Many of those who read it, believed the social media post and still do. Some individuals who knew this was incorrect information chose to support those false claims rather than attempt to dispel the hysteria it created. A petition was circulated that referenced a ban on wake boats which was not what was stated in the Lake Committee report. Were the signatures valid and relevant? How many people within one household signed

said petition? Were all signatures from actual owners of SLW property or of those who may be renting/leasing property who have no voice in the administration of community business? Since the petition was not circulated to ALL SLW property owners and only to selected persons, the petition is an invalid representation of the community as a whole. Were there signatures of more than one resident of any given address? If there is more than one signature per lot owned it should also be considered invalid. Even if the reported 520 signatures were vetted to be valid, that is less than 1/3 of the total number of SLW property owners; clearly not a majority. The above mentioned social media post, while not official community communication, was seen and responded to by many residents; myself included (where I attempted to disclose the falsehoods with actual facts). This community was misled by untrue and incomplete information with regard to banning boats and/or activities in that post.

Individuals chose to promote the information they knew was incorrect rather than make an attempt to dispel it. The more a statement is made, the more people believe it whether that information is true or not. The social media post and petition have gone a long way to further divide a community that apparently has polar opposite opinions of the use of the lake. The more the wedge of untrue statements gets driven in the more divided the community becomes.

Though there are several types of power boats registered at Lake Auman, wake boat operators are the most severe offenders on the lake in that the sheer force of the wakes generated by wake boats, especially when wake surfing, adversely affect **all** the other users and residents of the lake. Even when they obey the rules unique to Lake Auman, they are failing to obey the Rules of Navigation; though Rules of Navigation are considered part of the Lake Auman Rules. The operators see their wake as being merely the part they are surfing on and not the entire wake to it's end. They run the counterclockwise circle allowed for towing in Lake Auman with total disregard for the impact their wakes have on anyone else using the lake or their negative impact on the shorelines. The

counterclockwise rule has created a culture of 'connect the dots'; where the tow boat operators feel compelled to run buoy to buoy without changing course or considering the impact they have on other lake users, as well as "scalloping" outside the tow zone between buoys. They seem to demonstrate that they think it is their 'right' to run the buoy to buoy course irrespective of other boat traffic or the shore impact of their wakes; their apparent version of the definition of the term "right of way". I was told by a wake boat operator that she is not breaking any rules to run the buoys and allow their wake to slam the other boats and shoreline no matter how her wake affects other boats and the shore because the Lake Auman rules allow her tow in a counterclockwise direction....seriously? I'm still shaking my head at that one.

The "Rules of Navigation" hold all boat operators responsible for their entire wake because to yield right of way they must consider the impact of their wake in addition to the hull of the boat. The wake boat operators have demonstrated that they only consider the hull of their boats; not including their wake; but the courts have ruled that impact from the wake generated is considered the same as impact from the boat hull that generated it.

"Nowhere in the Inland Rules of Navigation will you find any mention of a duty for recreational vessels to control their wakes. Still, our two hypothetical vessels are not saved by the lack of an explicit rule.

Courts applying the General Maritime Law are entitled to interpret the rules of the road to reflect their understanding of the norms of maritime navigation. That means the rules are not necessarily what they say, but what courts think they mean. Courts have used at least two of the navigational rules to hold operators liable for the damage caused by their wakes.

First, courts have ruled that when a vessel's wake collides with another vessel and causes damage, Rule (6) of the Inland Rules applies. This rule provides that each vessel "shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision." The courts read the word "collision" to include both a collision with a vessel's hull and a collision with its wake. Applied to our motor yacht and sportfish, both failed to proceed at a safe enough speed to prevent their wake from colliding with the jon boat, so they are presumed negligent. The only defense available is for the operators to prove conclusively that their wakes did not cause the injuries to the jon boat passengers, an impossible burden.

Second, courts have used the catch-all rule, Rule 2(b) of the Inland rules, to hold operators liable for their wake. Rule 2(b) provides that "due regard shall be had to all dangers of navigation and collision and to any special circumstances ... which may make a departure from these Rules necessary to avoid immediate danger." As courts read this rule, an operator of a vessel is required to do anything and everything to prevent a collision (including a collision with a vessel's wake). "

<https://www.boatus.com/seaworthy/magazine/2015/october/boat-wake-damageliability.asp>

The wake boat operators in Lake Auman as a group, more so than wake boats on

any other lake we sail, disregard those rules. (Of note, we participate in regattas in a number of US East Coast inland waters). Here at Lake Auman, the wake boat operators speed up to cut right in front of slower moving vessels and end up slamming those vessels with their wakes. They could have just as easily reduced their speed or altered their course slightly to avoid that very thing. This demonstrates not only a disregard for the Rules of Navigation but a culture of complete discourtesy to their fellow vessel operators. I have witnessed a kayak being thrown into our boat lift and capsized by a wake boat's wake, all the while, the wake boat operator continued on, never paying attention to where the wake impact would occur; sailboats being capsized, swimmers having to get out of the water because of the large wakes crashing into the bulkheads, other residents not able to get their boats off their lifts or their boats being slammed back into the lift due to the large wakes; not to mention the number of residents that simply no longer use the lake due to the presence of wake boats. The failure to demonstrate courtesy and a lack of knowledge of the Rules of Navigation or the disregard of those rules has created a serious problem; a culture of bullying on our lake that is being passed by example to the next generation of boaters. The horsepower or size of their boat; the amount they paid for the boat, and their sense of entitlement give them no greater right to use of the lake than the smallest, least expensive kayak or SUP or any vessel in between; but that is not the behavior demonstrated. If you ask them or motion to them to move farther away from your vessel to give you right of way to which you are entitled or farther from shore the usual response is the middle finger and/or a string of expletives usually followed by retaliatory actions. THAT is not only rudeness; it is pure bullying, yet the wake boat operators want the community to welcome them with open arms.

The force of the impact of these wakes reportedly has negatively impacted the property along the waterfront. The force is great enough to move both a 2000 lb boat and the lift it is being stored on, wash away ~6" of lake bottom over the past few years with the potential to further undermine and damage bulkheads. The force of the wakes are amplified by the fact that our lake is almost entirely bulkheaded. A wake created along Lawrence Overlook travels across the cove in time to hit the bulkheads on the Butterfly Ct side of the cove when the wake boat that created it comes back up the cove on the Butterfly Ct side creating more wakes. Multiple wakes from a single wake boat making one course of the North Cove crash into the bulkheads and boats on the cove and any vessel operating in between, in rapid succession. Direct, frequent observation has shown that multiple wakes from a single boat crash over boats, docks and bulkheads. This effect is amplified when there are multiple wake boats operating on the lake at the same time. Registering more wake boats and wake boats of newer design in Lake Auman will only magnify these problems and do

nothing to protect our shorelines nor to protect all SLW residents' rights to all use the lake safely.

Wake boats are not the only wake issue we have in Lake Auman. There are numerous other boat operators that call themselves leisurely cruising around the lake that are pushing a significant wake a mere 20-30 ft (or less) off the bulkheads despite the 5 mph speed limit outside the tow area. These operators are dangerous in that the wake is being generated right at the edge of the docks and bulkheads where residents moor their boats and swim in the lake; though their wakes are not nearly as powerful and damaging as those produced by wake boats they are still dangerous. If you try to get them to slow down, they either think you are waving at them or they present you with the middle finger salute and language not suitable for children. This demonstrates a lack of knowledge of just what a wake is or is a demonstration of irresponsible operation of the vessel. They are wearing on the docks, bulkheads and moored vessels and a danger to residents swimming near their docks (of note, I am not referring to swimming in the open water).

A few personal impacts of the wake boat wakes:

Getting our boat into and out of it's lift or slip is often a challenge, sometimes impossible due to the presence of large wake boat generated wakes. This applies

to both our sailboat AND our power boat.

We no longer secure our sailboat to the dock to hoist the mainsail and rather choose a far less safe maneuver of hoisting the sail in the middle of the lake to avoid our boat being slammed against the dock while we hoist the sail which could result in serious injury to one or both of us and/or damage to our boat. We have lost ~6" of lake bottom at the bulkheads due to the wake boat wakes. Prevailing storms wash in the opposite, different direction. Our loss of lake bottom has occurred just in the recent few years. (We did not know we would need to collect specific data or we would have measured the lake bottom monthly since 1990 for supportive data presentation). The house stood there for 25 years prior with no apparent loss of lake bottom. This is a recent occurrence. Our 2000 lb sailboat on it's lift has been displaced by a succession of wake boat wakes slamming the boat and rebounding off the bulkhead. That clearly demonstrates the sheer force of these wakes. We raise our lift all the way to the top to minimize the exposure to wave action but still, the lift gets moved away from it's position by the dock even with 2000 lbs of sailboat sitting on it. I'm not talking about an empty lift being moved.

So the question is, should wake boats be banned entirely?....I say no, but the current wake boat operators need some changes made to the way they use the lake since they apparently choose not to take the responsibility to consider the impact they have on the lake themselves. I do think there should be a

moratorium on additional wake boat registration because of the impact the current number of wake boats (~25) is having on the users and residents of the lake. The number of registered wake boats appears to have grown exponentially in the past few seasons. Newer wake boats have features and accessories that intentionally generate larger more powerful wakes than previous models and the engine horsepower has increased to as much as 575 hp. Lake Auman is simply

not large enough to handle those types of boats safely along with the other users and residents of the lake due as much to the shape of the shoreline than the actual acreage. The shape of our shoreline and the fact that nearly the entire shoreline is bulkheaded make Lake Auman a much smaller lake than the actual acreage would appear.

There are other solutions.

1- Stop wake surfing and wake boarding in **all** coves. That includes, specifically the North Cove that is bound by Lawrence Overlook, Owens Circle, Simmons Dr. and Butterfly Ct., as to my knowledge this is the only Lake Auman cove where towing is currently allowed. Turn the wake boats at Buoys 12 and 18. (see attached Lake Auman Buoy Map. Some buoys have currently been renumbered or

moved. This map is provided for this discussion) Also do not allow wake boarding and surfing between Buoy #18 and Buoy #1 into the area approaching the No Wake Zone at the Marina. Move all the ski buoys further away from shore in all parts of the lake. WSIA recommends 200 ft but that is for non-bulkheaded lakes; further away from bulkheads may be prudent as it does not take a degree in geophysics to know that the bulkhead amplifies a wake rather than dissipate it, as natural shorelines may. Place an additional buoy between Buoy #17 and Buoy #18; Buoy #18 and Buoy #1 and an additional Buoy between #11 and #13, repositioning #12. Move Buoy #8 and Buoy #9 farther from shore, toward the center of the main lake.

Rather than a "5 mph speed limit" in the area outside the buoys, for clarity, that area should be designated and enforced simply as a No Wake Zone. (See attached

Lake Auman Buoy Map. Some current buoy numbers have been changed.) If the problem

continues, stop all towing down all the coves entirely.

2-Require that all power boat operators (>10hp) in Lake Auman pass a National Association of State Boating Law Administrators (NASBLA) approved Boater Education class in order to register their boat or renew their registration. This is for the safety of everyone that uses the lake. The classes are free and can be taken in a classroom or online. No one is able to drive a car without a license and the training required to obtain that license. Though there is a

small similarity between a car and a boat by the presence of a key and a steering wheel, nothing about possession of a driver's license prepares one for the ability to safely operate a boat. It would be of little value to "grandfather" existing boat operators in that many of them are the biggest offenders and need to be educated. Merely owning property in SLW and the financial ability to purchase a boat does not give one the right to operate a boat in an uninformed, unsafe, or discourteous fashion. Those who know and abide by the rules should be glad to present such a license. A 2 season period to obtain a license should be sufficient to obtain the license. The license should be required to be submitted at the beginning of the third season, 2022, in order to obtain a Lake Auman season sticker for their boat/boats. How to achieve this for multiple members of the household should be seriously considered as well. For example, I have witnessed

more than one case where the person that usually operates the boat and demonstrates some knowledge of the rules is the same person that is in the water being towed. Their unlicensed and/or inexperienced spouse or friend may be at the helm at that time and clearly demonstrate they do not know anything about safe boat operation. In a specific example, while in our boat we have approached at a safe distance a wake boat at idle in the lake that literally took off wake boarding right in front of our boat, barely avoiding a collision; the collision only avoided because we took evasive action. The person in the water, being towed, shouted at the operator for having made this dangerous maneuver, but it was too late. The operator gave me the middle finger salute and shouted obscenities at us for having been 'in the way'. At the time of this incident, we clearly had navigational right of way to proceed. I feel certain my experiences are not unique; others merely go unreported.

3-Most importantly, establish a meaningful means of enforcement. Without enforcement, all the rules that can be written and all the work the residents of the community have put into making Lake Auman safer are for nothing and anarchy will prevail.

The Volunteer Lake Patrol has done an admirable job this past season. It was well organized and their presence did indeed positively influence the lake environment. The problem is that they are not there at all times. It was unfortunate that some of the lake patrol volunteers were met with the type of behavior they experienced; specifically being gestured at and sworn at as directly witnessed from our dock (not just based on assumption or hearsay). It became obvious to me that operators were savvy of times when the patrol was not on the lake and at that time chose to operate in an unsafe fashion and break Lake Auman rules that they did not break when the patrol was on duty and/or operate unsafely; i.e. tandem wake boats surfing, wake boat surfing while another boat is paralleling with a video camera, towing while using no spotter, to

name only a few.

There currently is no real penalty for breaking the rules in Lake Auman. We need significant and measurable rules that are actually enforced. I personally reported 3 incidents this summer via the incident report form on the SLW website. Not one of them ever made it to the lake committee. We need citations to be issued and significant fines attached to the citation that increase if repeated, with a penalty of removing the vessel from the lake for a year with a 3rd offense. This should be managed by a designated lake patrol officer and the lake committee; not by a CAS office employee.

My opinion stated above, that behavior is worse on Lake Auman than some other lakes may be influenced by the fact that all those lakes are patrolled by their state's Wildlife Resources Officers, local sheriff's departments, Highway Patrol officers and/or the US Coast Guard. Those who follow the rules welcome their presence. The mere presence of law enforcement does have an influence. That's why law enforcement agencies park unmanned vehicles along highways where speeding is prevalent.

Another real concern with regard to enforcement is this; who on Lake Auman insures that users of the lake are not being subjected to operators under the influence of alcohol??? and how is that addressed or enforced? I have witnessed many operators consuming alcohol while operating their boat, (that is, unless CocaCola and PepsiCola Bottling Company are now bottling water and sodas in long-neck brown bottles.) That is a violation of state law. We all know what has already happened on our own lake when alcohol is involved in an accident. I do not

think we, as a community, wish to see another incident occur before we take action.

Residents of Seven Lakes West should not be expected to accept the recent decline in boating safety on Lake Auman as merely an indication of the growth of the community, nor should waterfront residents be expected to accept the increased potential for damage to their properties and a reduction in the ability to actually use the lake as merely a consequence of waterfront property ownership. It has not always been that way.

The decline of safety and increase in anarchy the recent few seasons is alarming. If the leadership of the Seven Lakes West Landowners Association fails to take measurable action to control the above mentioned issues now that these issues have been directly presented to them, there is a high possibility that there will be future significant events that could expose the entire community and SLWLA to liability. This should be of great concern for all the residents of SLW, the Insurance Committee, the Legal Affairs Committee, the Board of Directors and the Seven Lakes West Landowners Association.

Articles of interest attached in .pdf format:

Time to Wake Up About Wakes

Boat Wake Damage Liability

Wakes and Bad Tempers

Rules of the Road

North Carolina Boating Safety Course--free

Wake Responsibly videos at WSIA.net :

<http://www.wsia.net/the-wwa-promotes-wake-responsibly/>

<http://www.wsia.net/wwa-promoting-wake-responsibly-campaign/>

Thank you for your time to listen to my suggestions.

Yvonne Short

170 Simmons Dr, Lots 3131 and 7745

5 attachments

Lake Auman Buoy Map-2013.pdf

43K

Time To Wake Up About Wakes - Trailering - BoatUS Magazine.pdf

91K

Boat Wakes And Bad Tempers - BoatUS Magazine.pdf

81K

Rules of the Road : BoatUS Foundation.pdf

815K

Boat Wake Damage Liability - Seaworthy Magazine - BoatUS.pdf

564K