

Commission to Study the Effectiveness of the Current Statutes Related to Management of Non-tidal Public Waterways and the Construction or Placement of Structures Within Them

Minutes of September 21, 2020 Webinar Meeting

Chair McConkey called the meeting to order at 2:00 pm.

Present: Mark McConkey (Fish and Game), Thomas Quarles (PWAAB), Rep. Renzullo (NH House), Nick Robbins (NH Camps), Diane Hanley (Waterfront community), Tom O'Brien (NH LAKES), Tim Dunleavy (Dept. of Safety/Marine Patrol), Darlene Forst (DES), Tony Giunta (Waterfront property owner), Rene Pelletier (DES), Cindy Balcius (NH Association of Natural Resource Scientists)

Guests: Kathy Urffer, Thomas Taggart

Minutes: Rep. Renzullo made a motion to accept the minutes of the August 24 meeting held by webinar. Diane Hanley seconded the motion. The chair called the roll to approve minutes. All concurred except Nick Robbins and Capt. Dunleavy who abstained.

Legislative update: Rep. Renzullo explained that filing new legislation can happen between November 4 and 20 and Reps. Renzullo and Smith will submit the legislation which amends the dock registration process which has become law as a result of HB1245. The commission reviewed the draft which Rep. Smith submitted to the Commission. Darlene Forst stated that when the dock registration process became law, there was an error which was not corrected and which Rep. Smith did not address. Page 1 of draft, lines 17-22 should not have been struck out in HB1245 so any bill filed needs to address that. Members agreed that Rep. Smith should correct this before the next meeting.

E-Z Dock Permit Criteria 9-18-20 revision – Tom Quarles explained the revisions which he and Paul Goodwin made to the Commission.

2. "The setback is measured using the new radius method." This is new and has been discussed by members.

5. and 6. Pertains to frontages, sizes of docks and boat lifts as well as jet ski lifts. Both PWC lifts and boat lifts cannot violate 20 foot setback. This will be amended for clarity.

EZ Dock Permit Docking Structures Allowances – Discussion of allowances. 300 foot plus with a total use allowed limited to 2,000 square feet is less than on previous sheet because >2,000 would require approval by Army Corps.

Darlene explained this is the EZ process and is optional. Numbers on this chart are similar to what is already approved by DES. Changes from current practices are 75' frontage < 150' is max dock surface of 500 and previously this was 300. Allowed maximum standard dock length now is 40 feet but with a lot of waivers issued because of shallow water. Under the EZ process 50' is maximum and no waiver permitted. If they don't have depth at 50', they need to do the regular process if they want to go further out than 50.'

EZ dock is a patented name so we need to come up with a better name for this.

Tom Quarles reminded members that these criteria are not the rules, but what DES rule makers will use to write the rules.

Further discussion needs to be had regarding impounding water inside a dock and other ways that dock owners might wall off more public water than reasonable.

Can/should this criteria apply to permanent docks? Discussion ensued. Tom O'Brien states that permanent docks limit public access to the water, such as when bubblers keep the water open. Cindy stated that she has concerns about permanent docks related to the environment. Darlene suggested that we start with seasonal docks only—keep it to a quantitative process—adding permanent docks to the EZ Permit process will make the seasonal docks only more complicated and controversial. Most members believe this section should be omitted on the next draft.

No electronic copy of Paul Goodwin's "E-Z Dock Permit" Application Requirements was available for review.

By current law, seasonal docks cannot be in wetlands. Natural Heritage Bureau and Fish and Game review is needed presently. Darlene suggests that if you have an NHB hit, that you would not qualify for this E-Z Dock Permit. Legislature will make the policy decision, but might want NHB to review prior to finalizing what we are doing.

Final topic is whether all application material will be on the DES website. DES plan is to have registration number with tax map information and visual depiction of structure on the website. Not necessarily the person's name as that gets into privacy issues. DES plans to have online application system but option to do it by hand for those who do not have internet access.

Discussion of whether these permits would be recorded with the Register of Deeds. DES cannot permanently convey a permanent right to anything on the water. Even with a dock permit, if it is found that the dock is interfering with navigation or there is another big problem, the permit could be revoked.

Tom Quarles would like to assure that we resolve this E-Z Dock Permit by next meeting.

Tim Dunleavy – Public trust – Potential dimensions that we are discussing, are we protecting the public trust by allowing 5 fingers – IE if you have a lot of frontage, you can take what you want regardless of whether you need it or not. Are we keeping the public trust in mind?

Darlene: We need to have multiple people sit down with this and review what the worst case scenario would be. What might a new neighbor try to do? Is 2000 feet too much total square footage regardless of how much property you own? Tom O'Brien expressed concern that many people will try to get as much as they can. He also stated that people lease their docks out.

Tom Q. What kind of qualifiers can we add which will limit abuse of the public trust?

Should we adjust maximum lake or total use area on different frontages?

Mark: exclusion no more than \_\_\_ fingers 00 other exclusions.

Mark suggests Change E-Z to Streamline dock Permit...

Are we increasing or decreasing the amount of public trust area...

Diane suggests a subcommittee to test limits of what can be done with the numbers in the allowances. Diane, Cindy, and Tom O'Brien will work on this.

Biggest difficulty in dock enforcement especially when it comes to small ponds is lack of staff. Neither DES nor Marine Patrol has it. Darlene says it has to be a carrot-based system.

Next meeting will be October 19 at 2 pm.

Motion to adjourn was made by Diane Hanley and seconded by Rep. Renzullo. All concurred and the meeting was adjourned at 4 pm.

Rep. Suzanne Smith, Acting Clerk