

Deep Creek Lake Policy and Review Board Meeting Minutes

Meeting Date: July 29, 2024

Time: 6:00PM

Location: Garrett College, PAC Conference Center

Board Members in Attendance:

- Chairman Bob Browning
- Bob Sutton (Property Owners Association representative)
- Patty Manown Mash (Chamber of Commerce representative)
- Delegate Jim Hinebaugh
- Senator Mike McKay
- Bob Hoffman (representing Senator McKay)
- Jim Iden (Maryland Bass Federation representative)
- Wendell Beitzel (online)
- Garrett County Commissioner Ryan Savage

Other Attendees:

- Department of Natural Resources (DNR): Eric Null, Julia Vache, Sarah Milbourne, Paul Peditto, Mike Friend
- Emily Vainieri (Office of the Attorney General for DNR)
- Bruce Michael (representing the Garrett County Commissioners)
- Members of the Public

Call to Order: Chairman Browning called the meeting to order and proposed revising the agenda to move the new business pertaining to residential dock slip rentals to the beginning of the meeting.

May 6, 2024 Minutes: The May 6, 2024 minutes were approved and posted online on July 11, 2024.

New Business: Residential Dock Slip Rentals

- **Letter to Secretary Josh Kurtz:**
 - Chairman Browning read a letter aloud from Chairman Browning, on behalf of the Policy and Review Board, to DNR Secretary Josh Kurtz. The letter was in response to public comments from DNR's Paul Peditto that the Deep Creek Lake regulations did not prohibit residential dock slip rentals. The letter disagreed with this interpretation of the regulations and requested that the prohibition against residential dock slip rentals not be changed, particularly without the Policy and Review Board's consultation. The letter noted that lake carrying capacity would be negatively affected by such a change. Bob Sutton made a motion to approve the letter, Patty Manown-Mash seconded the motion, and the motion passed unanimously.

Board Discussion:

- Chairman Browning discussed Penelec's ownership of the Lake and Penelec's policies against residential dock slip rentals. He stated that after the State purchased the Lake from Penelec, the intent was for the State to maintain a "status quo" management strategy, including prohibiting residential dock slip rentals.
- Bob Sutton shared legal opinions he obtained indicating that dock rentals are currently not legal.
- Paul Peditto, Assistant Secretary for Land Resources at DNR, noted that the Department was looking across all public lands to ensure that the Department was being consistent with law and regulation, communicating effectively to the public, and ensuring that the lands were safe, accessible, and operable to the public, and pursuing enforcement appropriately. The topic of residential dock slip rentals was just one topic that was being reviewed by an internal Deep Creek Lake Natural Resources Management Area Workgroup. Peditto was under the impression that the Workgroup's efforts had been previously communicated and apologized that they had not.

Public Comments: The Chairman opened the floor to public comments. Key concerns included:

- **Lack of Clarity in the Regulations:** Attendees sought detailed explanations of current residential dock slip rental regulations. Questions were raised about the specific language in the regulations that govern dock slip rentals (e.g., "non-profit use"), with some members expressing frustration over the perceived lack of clarity in the regulations. Some asked why the regulations were being reconsidered, noting that they were unaware of any changes to the existing policies.
- **Opposition to and Support for Residential Dock Slip Rentals:** Many commenters expressed opposition to DNR allowing residential dock slip rentals, while others expressed support.
- **Concerns About Carrying Capacity:** Multiple members were concerned about the potential increase in boat numbers due to additional dock slip rentals, expressing worries that this could lead to overcrowding on the lake and compromise safety and accessibility for recreational users.
- **Safety Issues:** Concerns were mentioned about how increased boat traffic could lead to accidents or safety issues, especially during peak usage times. Some attendees suggested that the lake already reaches or exceeds carrying capacity on busy days.
- **Historical Context and Enforcement:** Attendees referenced previous successful citations against illegal dock slip rentals, arguing for the need to adhere to existing enforcement practices. They expressed frustration over what they viewed as inconsistencies in how dock slip rental regulations have been applied in the past.
- **Financial Implications:** Attendees expressed concern that prohibiting dock slip rentals could negatively impact property values and the local economy. They noted the potential financial benefits that dock slip rentals could bring to lakefront property owners and the community.

- **Interpretation of “Non-Profit”:** Attendees and members addressed the term “non-profit”, what this term means, and how that term impacts lake owners who have invested in their docks. This led to further discussions about the definitions and implications for financial arrangements related to dock rentals.

Suggestions and Requests Included:

- Create a clarifying regulation that disallows dock rentals.
- Create a clarifying regulation that would allow dock rentals under certain conditions.
- Address county zoning laws and taxation issues related to rental docks and commercial operations.
- Have the Department communicate more clearly to keep the public informed, including, but not limited to, Deep Creek Lake related emergencies and updates.
- Have the Department educate more rigorously about the final determination concerning residential dock slip rentals.

Further Board Discussion & DNR Responses:

- Paul Peditto (DNR) noted that the prohibition on renting residential dock slips is a policy. Based on legal advice from the Office of the Attorney General, the Department has discovered that nothing in the regulations or law prohibited residential dock slip rentals. This lack of clarity hinders clear and consistent enforcement. Peditto further stated that the Department is not advocating for or against residential dock slip rentals. He said that the Department’s responsibility is to clarify regulations, ensure that they are enforceable, and communicate guidance based on those regulations. He also stated that there is a process in place to modify the regulations and that that process includes public input.
- Bob Sutton referenced COMAR 08.08.05.03, which provides that a buffer strip use permittee may make non-profit use of the buffer strip.
- Patty Manown Mash indicated that the County government and County laws should also be considered in this discussion.
- Sen. McKay stated that he supported the public on this issue and his job was to ensure that the public’s voices were heard. He stated that the Department asked the Office of the Attorney General if the regulations were clear enough and they believe they are not clear enough for enforcement purposes. He suggested that the Policy and Review Board work with the Department to ensure that this issue gets addressed as soon as possible. He assured the attendees that the issue would not get swept under the rug. Sen. McKay further recommended that education be prioritized.
- Emily Vainieri (Office of the Attorney General for DNR) explained that the Department requested legal advice on residential dock slip rentals. Her advice to the Department was that nothing existed in law or regulation explicitly prohibiting individuals from renting a dock slip. She confirmed that the Department has the authority to change the historical interpretation either by policy or by regulation. Vainieri emphasized that she did not provide any recommendation to the Department on which option to pursue; she only provided the complete list of options for the Department to consider.

Next Steps:

- Chairman Browning proposed a motion to refer the issue of residential dock slip rentals to the regulation committee to work with the Department to clarify this issue. The motion was made by Sen. McKay and seconded by Bob Sutton. The motion passed unanimously.
- The regulation committee will convene at the Deep Creek Lake Management Office to work towards a clear regulatory framework regarding residential dock slip rentals and then report back to the Board for any official action.
- Sen. McKay, the Board, and the Department agreed to work together to ensure there will be a clear message about residential dock slip rentals, emphasizing public engagement and education.

Old Business

Budget Update (Eric Null and Sen. Mike McKay)

- **Current Status:** The budget for the upcoming year is solid, with planned expenditures for larger purchases.
- **State Lakes Protection and Restoration Fund:** There is funding available this year in the Fund. Senator Mike McKay highlighted ongoing legislative efforts to secure an extension for the Fund, which has been signed by all Maryland senators representing lake districts.

Draft Regulation Concerning the Date Docks May be Placed in the Lake (Eric Null)

- One final wording change was required to be made to the draft regulation concerning when docks may be placed in the Lake. This regulation proposes to allow docks to be placed in the Lake as early as March 15 at the discretion of the Lake Manager. With the final wording change, the proposed regulation is ready to be published in the Maryland Register.

Water Quality Monitoring Program (Eric Null, on behalf of Tom Parham (DNR))

- Six continuous monitors have been established, supported by Deep Creek Lake Watershed Foundation and the Deep Creek Lake Property Owners' Association.
- Monthly seasonal mainstem sampling has begun and will continue to the Fall and the data is posted on "Eyes on Deep Creek Lake" website.
- An SAV (Submerged Aquatic Vegetation) control workshop is planned to develop methods for managing native SAV species.
- The Department is continuing hydrilla control efforts, with the next treatment scheduled for July 30, 2024.

Lake Water Level / Draw-Down (Chairman Browning and Sen. McKay)

- Ongoing talks are continuing to take place regarding Lake water levels.

10 in 10 Reforestation Program (Eric Null)

- The 10 in 10 program was successful this year, completing all expected plantings and distributions.
- The plantings at Ski Harbor were completed for this season, which included several hundred native plants.

Permit Applications (Eric Null)

- The Department has been updating the permit application process. Applicants now may complete and send permit applications to the Department entirely electronically, if they choose to.
- The Department is also updating all other Deep Creek Lake documents online to enhance public accessibility.

Arrowhead Cove Dredging (Bruce Michael)

- The Maryland Department of the Environment has provided the final sign-off on the upland restoration work. BYCO Enterprises is more than 90% complete with its work.
- Over 1,000 native SAV plants were planted by DNR staff in 14 sites, using seeds harvested from DCL during last year's flowering season.
- DNR conducted pre- and post-dredging construction water quality monitoring, and a final dredging report is being prepared.

Adjournment at 7:45PM.

The next meeting will be held at Garrett College in the PAC Conference Center building on October 28, 2024.