

DRAFT Minutes of the Lake Hopatcong Commission

January 18, 2005

A meeting of the Lake Hopatcong Commission was held on January 18, 2005 at the Hopatcong State Park Administration Building, Landing, New Jersey. At 7:33 p.m., Chairman Ondish called the meeting to order.

Salute to the Flag: Chairman Ondish and all those in attendance joined in a salute to the flag.

Roll Call:

Present: Eric Grove, Richard Hodson, Kenneth Klipstein, Herman Volk (8:04 p.m.), Robert Mitchko (Jefferson Alternate), Richard O'Connor (Mt. Arlington Alternate), Brandon Phillips (Roxbury Alternate), and Arthur Ondish

Absent: Colleen DeStefano, Elizabeth Gantert, Dave Jarvis, Walter Kerner, Wayne McCabe, Richard Zoschak

With seven members present at Roll Call, Chairman Ondish declared a quorum.

Also present were: Fred Lubnow - Princeton Hydro
Helene Chudzik – Commission Legal Counsel

Communications

There being no comment or questions on the communications, Chairman Ondish continued to the next agenda item.

Treasurer's Report/Payment of Bills

Mr. Grove stated the Bank of New York checking account had a cleared balance of \$25,000 as of December 31, 2004. Due to the large insurance payment in excess of \$62,000 at the last meeting, there are uncleared transactions of \$63,826.98 for a negative register balance of \$38,326.98 including the \$165,395.95 in JP Morgan account, with a total balance in both accounts of \$127,064.97. Chairman Ondish stated that Mr. Klipstein presented a check in the amount of \$386,808 which will be deposited into the Commission's fund. Chairman Ondish thanked Mr. Klipstein for bring the check and Acting Governor Codey for recognizing the importance of the Commission. He also thanked Senator Bucco for constantly battling for funding. Mr. Ondish indicated he would continue to fight for a line item in the State Budget which Senator Bucco is also working on. The Chairman stated that the Acting Governor would come to see the Lake this summer and he looks forward to giving a tour.

LHC 1/18/05 Meeting Minutes

Mr. Grove stated the Revised Bill List of \$11,196.53 was presented for approval. Chairman Ondish asked for any questions regarding the Revised Bill List. Mr. Hodson made a motion to approve the Bill List. Mr. Phillips seconded the motion. [A copy of the Bill List is available on file.]

ROLL CALL:

Grove	Yes	Mitchko	Yes
Hodson	Yes	O'Connor	Yes
Klipstein	Yes	Phillips	Yes
Volk	Yes	Ondish	Yes

Motion carried 8 to 0.

Minutes of Meeting of December 20, 2004

Chairman Ondish asked for any comments or questions regarding the December 20, 2004 meeting minutes. Ms. Macalle-Holly reported that Mr. Jarvis notified her of a correction where he was listed to move and second a motion and the correction was made. Chairman Ondish requested a motion to move the minutes. Mr. Mitchko made a motion to move the December minutes. Mr. Grove seconded the motion. There being no further comment, Chairman Ondish requested a roll call vote.

ROLL CALL:

Grove	Yes	Mitchko	Yes
Hodson	Abstained	O'Connor	Yes
Klipstein	Yes	Phillips	Yes
Volk	Yes	Ondish	Yes

Motion carried 7 to 1 (one abstention).

Public Comment

At this time, Chairman Ondish opened the meeting for public comment. He asked that members of the public state their name and address for the record.

Mr. Tim Clancy of Lake Hopatcong stated the Knee Deep Club (KDC) had a private meeting on January 5th with the Division of Fish and Wildlife (F&W) to present their case on the trout issue. He reported no resolution was reached. He stated that Fish & Game Council recently met which would have been another opportunity to address this issue, but no resolution was made. Mr. Clancy stated that the Division has received an enormous amount of negative public comment and are seeking new comment. He stated the next opportunity to address this issue in a public forum is the February 12th meeting at Pequest Hatchery at 10:00 a.m. and he asked Commissioners to attend. Mr. Clancy provided examples of discrepancies between the Division's data and study techniques compared to the Club's data, e.g., the Club's tagging study results were 14.5% in the first year compared to F&W 3% return. Other examples he discussed were the number of tagging stations identified on the Lake, lack of announcement to the public about the

LHC 1/18/05 Meeting Minutes

study as well as several other examples of discrepancy within their study techniques. He requested that the Commission form a committee to review the Club's documents. He also addressed the issue that the Division's study is hurting the values of the Lake's home. Mr. Clancy read from a letter from the Cliff Lundin of the LHRPB asking that the Division redo the study. He also read from a 1999 letter from the previous Director of Fish & Wildlife which stated that the results of the tagging study will not result in an independent decision by the Division to discontinue or reduce trout stocking at Lake Hopatcong. Mr. Clancy also stated he spoke with a Dr. Benke from the University of Colorado that was quoted in the paper today. He indicated Dr. Benke was misled by the questions he was asked. When Mr. Clancy explained to him how the tagging study was conducted, Dr. Benke stated it would be impossible to get catch rates with all the access points on the Lake and to only have that many tagging stations. He again asked the Commission to create a subcommittee to work with the Club on this issue. If the Division decides to stop stocking, he suggested the four lake communities and both counties should fund trout stocking and pursue legislation that would not require a trout stamp for Lake Hopatcong.

Chairman Ondish thanked Mr. Clancy for the time he is committing to this issue as well as other members of the Club. Chairman Ondish stated that there is time to address this issue. He stated that the Division will be speaking with the Morris County Freeholders and probably Sussex County Freeholders as well. The facts that Mr. Clancy has gathered need to be compiled in a positive way. The Chairman queried why this is such an issue when it only costs about \$20K. In response to the Chair's inquiry for feedback on forming a Committee, Mr. Klipstein stated that the Commission's consultant has valuable information as well as the fishing club that looks out for the fishery. The Commission should take advantage of their information. He suggested that the Commission prepare a report or white paper to deliver to the Commissioner and Director of Fish & Wildlife with the Commission's position. The Chairman asked the Commission to consider serving on a committee and will address this issue later on the agenda.

Lou Marcucci, resident of Mount Arlington, stated the Club believes this is an agenda-driven situation. He indicated a prime example of this was during 1998 when the Division wanted to reduce the trout in the Lake. One of the club's efforts was to address the economic impact of the lake businesses. He discussed the Division's efforts during this past spring to conduct a survey of the lake's businesses. One question asked was, "Is a significant portion of your business generated by trout fishing?" Mr. Marcucci said all the businesses in the area replied no which was a truthful answer. However, trout season in New Jersey is a two month affair in April and May and if any business had to depend on that to be a significant portion of their business they would no longer be in business. Mr. Marcucci believes the proper question should have been, "Is a significant portion of your business in April or May generated by trout?" He stated the answer would have been yes, but the Division wanted a no answer to the question. He stated the Fishery's chief is saying that the Division spoke to the businesses on the Lake and trout is not important to them. He reiterated that it is agenda-drive policy.

LHC 1/18/05 Meeting Minutes

Mr. Clancy also stated that he spoke with several business owners that were part of the survey and they had no knowledge that they were being interviewed. Instead they were told that an article was being written for the Fish and Wildlife digest. He spoke with 6 of the 18 interviewed and no one had any recollection of having this conversation. In response to Mr. Ondish's inquiry, Mr. Clancy stated the six tagging stations were located at Lakes End Marina, the State Park, Lee's County Park, Floraine's, and one in Woodport at Sportmen's Cove which was later moved to Brady Bridge and Dow's. When the Division conducted a tagging study at the Flatbrook River Study which is 28 miles long, they had over 60 tag stations.

Mr. Clark, resident of Lake Hopatcong and Director of Field Operations, discussed his participation in the Division's tagging study. Mr. Clark, along with Bill Weidman, former Commissioner Sam Hoagland and a former member who has since past away, volunteered to tag fish at the Pequest Hatchery. He stated the Division advertised 10-1/2" fish and there were hundreds of fish that were no more than 7". He also described the problems with the tags they used. Anglers were advised to return tags only for fish that were kept. If a fish was caught and released, anglers were not required to turn in the tags. Mr. Clark stated that for the Division to use this study for catch rates was totally ridiculous.

There being no further public comment, Chairman Ondish moved to the next item on the agenda.

Chairman's Report

The Chairman took the opportunity to review a few issues. He stated that email should be used as limited as possible and no business should be conducted via email due to the Open Public Meetings Act. Any business needs to be conducted at the meeting.

He also discussed the By-Laws and he stated a committee would be put together. He asked Mr. Hodson since he was involved with the by-laws to be on the committee as well as Counsel Chudzik and to get it done in a reasonable timeframe. He asked for any volunteers. Mr. Hodson indicated Mr. Zoschak had previously been on the Committee. Mr. Hodson also described the process of how the Commission was reviewing sections of the by-laws at the monthly meetings. He stated the by-laws were progressing with a series of committees. Mr. Hodson requested that a portion of the next meeting be used to discuss by-laws and the section of the by-laws that addressed commission structure. Chairman Ondish reported that he directed Ms. Macalle-Holly to request by-laws from the Lake George Commission, Meadowlands and Greenwood Lake Commission of which she received the first two. Mr. Hodson stated they were working off of the Delaware River by-laws. Chairman Ondish indicated it was too cumbersome to review the by-laws at the meeting and preferred to see a Committee prepare the by-laws for consideration by the full Commission. Chairman Ondish stated that it should not take this long to get the by-laws done and to get the by-laws done by June if not sooner.

LHC 1/18/05 Meeting Minutes

Mr. Klipstein stated Mr. Hodson worked very hard and there was a committee established and by-laws were written, but there were some problems. He stated that the delay in the last 13 months and the lack of a Chairman as well as Counsel advising that it would not be prudent to adopt by-laws until a Chair was appointed so as not to affect the Chairman's prerogative. Mr. Klipstein encouraged the Chair to actively participate to exercise his prerogative. Chairman Ondish agreed to participate on the committee. Mr. Hodson also discussed the issue of having an Executive Director and the responsibility of the sub-committees to get work done between the meetings. Mr. Hodson stated that Colleen DeStefano was also on the Committee. Chairman Ondish requested that the by-law committee meet to review the by-laws.

The Chair also stated that he has been following the trout issue and is trying to understand why this is happening over \$20K worth of fish. He stated he would report back on who he speaks to and what happens.

Old Business

Field Staff Report

Mr. Clark stated that since his last meeting, the Field Staff has been working on the equipment at the maintenance facility which is going very smoothly since it's the staff's third year. Mr. Clark also stated that any Commissioner that wants to visit the facility should let him know because he needs three days notice to arrange for a pass. He asked that Mr. Klipstein elaborate on the stormwater meeting the Commission held at the State Park on January 14th.

Mr. Clark also discussed the shared services agreements indicating that there are not agreements currently in place for 2005. He discussed the possibility of having the field staff members work with Sussex County, Jefferson, Mount Arlington and Hopatcong to help with their vacuum truck to clean out all the catch basins in the spring during April to mid-May. He would like to put this plan in place with towns around the Lake that have vacuum trucks and for the catch basins to get cleaned in the spring and again in the fall. Counsel Chudzik indicated that the agreements have to be voted on and that takes time. Mr. Clark discussed other alternative project the field staff could work on such as catch basin mapping or a storm drain stenciling project but no funds are budgeted for the latter so the preference would be a shared services arrangement.

Mr. Clark reported on Mr. Zoschak's request at last month meeting to check with Able Environmental Services, but they are not equipped to handle spills on the water. Mr. Clark referred back to his original memo and a list of vendors. Chairman Ondish stated that a vendor approached him that is interested in presenting at the next meeting to offer their services. Mr. Klipstein questioned if one emergency response firm was invited in, wouldn't all have to be invited. Chairman Ondish stated he would have the firm send a proposal instead. Mr. Klipstein stated that there were two firms on the list that Mr. Clark had prepared. Mr. Clark stated the main reason they were selected because they were local. Chairman Ondish stated this would be discussed again at the next meeting.

LHC 1/18/05 Meeting Minutes

Ms. Macalle-Holly stated that the Commission had not entered into shared services agreement with Hopatcong, Mount Arlington or Morris County. Chairman Ondish stated that Mount Arlington purchased a vacuum truck last year and he will look into it because Mount Arlington could use the help. Mr. Grove stated he would redo the County shared services agreement and modify it from last year. Mr. Grove described the work and training classes the Commission staff did with the County. In response to the Chairman's inquiry, Mr. Clark responded that the Commission tried to get a similar agreement with Morris County. He stated that he met with Ray Zabliach, Commissioner Jarvis and Ed Bennett several months ago to discuss the issues since many roads surrounding the Lake are county roads. Chairman Ondish asked for a copy of the shared services agreement and he would discuss it with Morris County and Mount Arlington.

Mr. Phillips asked how necessary it was to have the vendor if the Commission has pollution insurance. Mr. Clark stated that it does not cost anything until you call the company to respond. Ms. Macalle-Holly stated that the insurance company does not have a contractor and they would reimburse under the stipulation of the policy. Mr. Clark stated it would be beneficial to have a firm to call. Chairman Ondish stated an agreement will be put in place as soon as possible.

Division of Fish & Wildlife (F&W) Proposed Fishery Management Plan

Chairman Ondish asked for volunteers for a committee to work with the Knee Deep Club. Volunteers included Ken Klipstein, Robert Mitchko, Bill Clark and Tim Clancy. Mr. Hodson suggested that Dan McCarthy be asked to participate. Mr. Klipstein stated that he had a meeting and has another one scheduled on January 20th with F&W. Mr. Klipstein stated he would be representing DEP at the meeting, but he plans to bring the issues discussed by the Commission to the meeting. Mr. Phillips referred to the Commission's legislation which specifically states that the Division of Fish & Wildlife will consult with the Commission prior to doing fishery management activities. Mr. Klipstein suggested that if a committee is established, they should bring forward a recommendation. He did not think the Division would object to presenting their dog & pony show to the Commission. Mr. Klipstein discussed Princeton Hydro's involvement in this issue and discussed have their continued involvement. Mr. Ondish stated there was time to address this issue and agreed with Mr. Klipstein's approach to move forward with the committee. Mr. Ondish suggested that if Dan McCarthy did not want to chair the committee, perhaps Ken Klipstein would act as chair.

Mr. Hodson discussed the approach used by the Borough of Hopatcong to address this issue focusing on the economic impact. He questioned if the Commission should formally state its position on this issue. Chairman Ondish stated that the committee should discuss the issue, the Commission should meet with F&W and then move forward from there, but it was helpful for the municipalities to have resolutions. Mr. Grove stated that Sussex County's resolution was distributed at tonight's meeting. Sussex County recommended a 20 percent increase in trout stocking.

LHC 1/18/05 Meeting Minutes

Stormwater Update

Mr. Ondish stated he missed the stormwater meeting and asked Mr. Klipstein to provide an update. Mr. Klipstein stated it was an excellent meeting with all the towns and counties represented. Everyone provided an update of where they were and what their expectations were. Mr. Klipstein's focus was to look from the Commission's perspective to benefit the Lake and to share information from the TMDL which Dr. Lubnow presented, as well as discuss the optional mitigation plan and the required stormwater management plan due in April. Mr. Klipstein stated the information sharing put the Commission in a position where the staff can play a large role in stormwater mapping and monitoring the maintenance of stormwater upgrades. He would like to see the Commission be able to show the return through a monitoring program. Mr. Klipstein stated follow-up discussion with the towns would be necessary. Mr. Hodson briefly discussed Princeton Hydro's involvement with the Borough of Hopatcong.

Ms. Macalle-Holly reported that at the meeting there was general agreement that the group would meet in the July timeframe to discuss what progress was being made and to meet every six months.

Mr. Klipstein stated at the meeting Jefferson announced that the Council was planning to move forward with the septic management program which DEP has been pushing for Jefferson to either get the sewers going or a septic management plan. Ms. Macalle-Holly stated Jefferson Council is considering introducing the resolution.

Princeton Hydro Report

Dr. Lubnow addressed a few issues:

TMDL Report – He provided a copy to each Commissioner of all the data and documents for the restoration plan for Lake Hopatcong. Rutgers wants to have all the raw data included in a final report which will be provided later. He emphasized that the data within the report could be used by the municipalities for their stormwater management plan and their mitigation plan. Dr. Lubnow stated the Commission should meet with the municipalities twice a year regarding the TMDL, so it could effectively document and track the TMDL. During these meetings, a discussion of what projects have been completed by the municipalities and counties in order to assign phosphorous credits to the projects and track the status of water quality.

2004 Water Quality Report – Dr. Lubnow stated he would present the report next month.

EPA Wetland Grant – Dr. Lubnow reported that PH is still in the process of collecting the maps and data for the project. He stated an excel spreadsheet was emailed to Ms. Macalle-Holly to distribute to the Commissioners because it is necessary to record all in-kind contributions. Examples of in-kind contribution are when the grant is discussed at a meeting, when PH makes a request to a municipality for data and they provide the data or when a commissioner reviews a grant-related document. Ms. Macalle-Holly stated that

LHC 1/18/05 Meeting Minutes

PH is not doing the tracking for the grant, the Lake Hopatcong Commission is. Since it's the Commission's first time tracking a grant, it would be helpful if all Commissioners could complete these for quarterly report submission.

FY05 319 Grant – Dr. Lubnow stated Lake Hopatcong is still in the running for the grant. Prior to the holiday, PH provided additional information in response to DEP's request. DEP has since asked PH to expand the scope of the project from two to ten basins to focus on the hot spot areas within the watershed. Within the TMDL report, the hot spots were prioritized based on phosphorous loads. Dr. Lubnow suggested to DEP that instead of putting five basins in Hopatcong and five in Jefferson, why not put four in each and perhaps one in Roxbury and one in Mount Arlington to distribute the reduction of the load throughout each municipality. The latter two municipalities generate a smaller phosphorous load. DEP agreed this was an appropriate approach and PH is in the process of revising the proposal.

Dr. Lubnow emailed to Ms. Macalle-Holly a copy of PH's document entitled, What's That Stuff and offered to make any necessary revisions if the Commission wanted to use the document.

Dr. Lubnow also stated that he is looking into applying for a grant through the EPA which focuses on demonstration projects that can be transferred to other watersheds. Dr. Lubnow was considering a project to install low-cost retrofits to test how effective they are in terms of their pollutant removal capacity.

Mr. Klipstein inquired what steps are being taken to work with the municipalities to determine the specific locations for installing sand filters and finding the intakes. Dr. Lubnow responded that in terms of identifying the specific sites, he envisioned a cooperative action between the Commission field staff and the municipalities. Mr. Klipstein stated the sooner the Commission and municipalities identify specific sites, the more successful the Commission will be in receiving the grant. Dr. Lubnow stated he could submit the current revision with the protocol describing the approach and afterwards PH can work with the Commission, municipalities and the counties to better identify the sites so when the next revision is requested, this information can be included. Mr. Klipstein concurred with this approach. Dr. Lubnow stated that PH could send letters to the municipalities and counties to inquire about possible BMP installations within the priority areas.

Chairman Ondish stated the information PH sent Mount Arlington was very helpful and would be used as part of their plan. He thanked Dr. Lubnow for the good job.

LHC 1/18/05 Meeting Minutes

New Business

Resolution 05-01 Setting Time and Date for the 2005 Regular Meetings

Chairman Ondish inquired if the Commissioners reviewed the meeting schedule. Ms. Macalle-Holly stated that the February meeting was the Tuesday after the holiday and for the remainder of the year the meetings are scheduled for Monday. Mr. Hodson made a motion to move Resolution 05-01. Mr. Grove seconded the motion. All those in favor signified by saying "aye" and those opposed by saying "no." There being a unanimous "aye" the motion was carried. [A copy of Resolution 05-01 is available on file.]

Resolution 05-02 Designation of Official Newspapers

Chairman Ondish introduced the standard resolution. Mr. Mitchko made a motion to move Resolution 05-02. Mr. Phillips seconded the motion. All those in favor signified by saying "aye" and those opposed by saying "no." There being a unanimous "aye" the motion was carried. [A copy of Resolution 05-02 is available on file.]

NJ DEP Project to Evaluate Water Supply Infrastructure

Ms. Macalle-Holly stated that DEP its intents to conduct an 18 month project to evaluate the water supply infrastructure throughout the state. The study will review ways to mitigate trout emergencies and address measure to prevent a catastrophic loss of water due to disasters or terrorism. Since Lake Hopatcong is used as an emergency source of drinking water the Commission should watch the studies progress to see if there are any implications for Lake Hopatcong.

Public Comment

Chairman Ondish opened the meeting for the second round of public comment.

Lou Marcucci addressed the Commission again regarding the trout issue to request the Commission put something together to DEP to oppose the trout issue. He stated the four towns, counties and Morris County Park Commission have already done so. He emphasized that F&W should hear from the Commission and he requested that a resolution be put to vote at this point.

Mr. Clancy also addressed the Commission again stating that he believes the Commission is under the illusion that it has more time to deal with this issue and reality is that it does not because of the Fish & Game review process. A decision is made on this in August 2005. He also stated February 12th is the last opportunity the Commission will have to attend the public hearing at Pequest to present a copy of the resolution from the Commission as the governing body that manages the Lake.

LHC 1/18/05 Meeting Minutes

Chairman Ondish indicated he believes it is premature since F&W has not had the opportunity to speak with the Commission directly. He asked other Commissioners for their comments. Mr. Volk stated it would be appropriate for the Commission to pass a resolution to express their concern and indicate that the Commission is investigating the issue by establishing a sub-committee. He also suggested the resolution address the economic impact it will have on the region. Mr. Klipstein stated that he like Hopatcong Borough's proclamation to discuss the importance of trout stocking rather than a resolution opposed to proposal. He agreed with a resolution of concern and to include the steps the Commission is taking. Chairman Ondish agreed with this approach and asked that Counsel Chudzik draft a resolution.

Jim Salerno, resident of Hopatcong, questioned whether it would be appropriate to include a statement that the Commission has not had any communications from F&W regarding the Cold Water Fishery Management Plan.

Mr. Klipstein stated that there have not been any formal procedures established on how the DEP Divisions interact with the Commission. These procedures had been discussed previously, but not finalized. Chairman Ondish stated the Commissions needs to put together procedures so the Divisions understand they need to contact the Commission.

Counsel Chudzik read her draft of the Resolution of the Lake Hopatcong Commission to Express Concerns Regarding the Proposed Revisions to the Trout Management Plan for Lake Hopatcong. There was some brief discussion on the resolution. Mr. Volk made a motion to move the proposed resolution and Mr. Mitchko seconded. All those in favor signified by saying "aye" and those opposed by saying "no." There being a unanimous "aye" the motion was carried. [A copy of Resolution 05-03 is available on file.]

Mr. Clancy discussed the logistics of trout sub-committee meeting. Mr. Klipstein asked Ms. Macalle-Holly to coordinate the scheduling of the meeting. Mr. Klipstein inquired if there were funds available within PH consulting budget. Dr. Lubnow stated the bulk of the analysis has already been completed and someone from PH could participate in the meeting.

Mr. Grove made a motion to adjourn at 9:16 p.m. Mr. Phillips seconded the motion. All those in favor signified by saying "aye" and those opposed by saying "no." There being a unanimous "aye" the motion was carried.

Submitted by: Donna Macalle-Holly