Minutes of the Lake Hopatcong Commission
October 15, 2007

A meeting of the Lake Hopatcong Commission was held on October 15, 2007 at the Mount Arlington Municipal Building, 419 Howard Boulevard, Mount Arlington, New Jersey. At 7:34 p.m., Acting Chair Klipstein called the meeting to order and stated that the meeting was being held in accordance with "Open Public Meetings Act."

Salute to the Flag: Acting Chair Klipstein and all those in attendance joined in a salute to the flag.

Roll Call:

Present:	Colleen DeStefano, Elizabeth Gantert, Daniel McCarthy, Richard O'Connor, Benjamin Spinelli (7:40 p.m.), Richard Zoschak, Frank Hughes (Morris County Alternate), Ken Klipstein (Acting Chair)
Absent:	Eric Grove, David Jarvis, Arthur Ondish (Chair)
Alternates Present:	Nicholas DePalma (Roxbury), Robert Mitchko (Jefferson), Patricia Rector (NJ DEP) and Joel Servoss (Hopatcong)
Others Present:	Dr. Fred Lubnow, Princeton Hydro Lewin Weyl, Commission Counsel Roger Brown, Chair, NJ Boating Regulation Commission Ed Harrison, NJ Boating Regulation Commission Lieutenant Splinski, Station Commander, Newark Bay/Lake Hopatcong, NJ State Police

With seven members present at Roll Call, Acting Chair Klipstein declared a quorum. Acting Chair Klipstein stated Chair Ondish had another commitment so he was asked to step-in, although the Chair may show up later.

Communications

Acting Chair Klipstein asked for any questions or comments on the communications. Mr. Zoschak asked about the USGS contract inquiring if the cost was lower and was told the increase was less than in the past.

Treasurer's Report/Payment of Bills

In Mr. Grove's absence, Ms. Macalle-Holly stated there were still some issues with the payroll company to reconcile the account for September. The balance provided from the Valley National Bank Statement dated September 28, 2007 was $80,988.85. It should be noted for the record, that in early October, Acting Chair Klipstein hand delivered the annual appropriation check for the $400K which will be reflected in the October statement. A Bill List for $32,434.52 was included in the meeting package. She stated for the record that there are Princeton Hydro bills for reimbursement from the 319(h) grant checking account for the eighth quarter for $5,280.50 and the other PH reimbursement is from the EPA TWG account for $9,452.50 for work from June 1 through August 31, 2007 which is the first reimbursement being requested from the EPA TWG. Mr. Zoschak made a motion to move the Bill List. Ms. Gantert seconded the motion. [A copy of the Bill List is available on file.] The Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	Zoschak	Yes
Gantert	Yes	Hughes	Yes
McCarthy	Yes	Klipstein	Yes
O'Connor	Yes		

Motion carried 7 to 0.

Minutes of Meeting of September 17, 2007

The Acting Chair requested a motion to approve the minutes. Mr. Zoschak made the motion to move minutes and Mr. O'Connor seconded. Ms. DeStefano stated on Page 8 regarding the authorization on personnel matters, that it was her understanding that the Commission was addressing the issue at hand and not making a general revision or accepting one paragraph or another in the By-laws due to the contradiction in the By-laws which needs to be addressed. Ms. DeStefano asked the other Commissioners about there understanding of the intent and they agreed with her understanding that the motion was to address that particular issue. Ms. Gantert indicated that this issue was going to be looked into by the By-Laws committee. Counsel Weyl indicated it was his understanding that the resolution was more case specific. Acting Chair Klipstein asked Counsel to provide language to clarify the intent. Mr. Zoschak included the change in his motion and Mr. O'Connor seconded. There being no further changes, the Chair requested a roll call vote with the change.

ROLL CALL:

DeStefano	Yes	Spinelli	Yes
Gantert	Yes	Zoschak	Yes
McCarthy	Yes	Hughes	Abstained
O'Connor	Yes	Klipstein	Yes

Motion carried 7-0-1 (one abstention).

Public Comment

At this time, Acting Chair Klipstein opened the meeting for public comment to address items on the agenda only.

Mr. John Kurzman, resident of Lake Hopatcong, discussed issues relative to the Boating Regulation Commission agenda item. He asked if there was a representative on the

Boating Commission from the area or someone to represents lakes. He also questioned the process for modifications to the existing boating regulations and adding new ones. He asked if a Boating Commission meeting could be held up north. He stated it was difficult to find the administrative statutes for the boating regulations on the Internet. He also asked about the possible means for the Boating Commission to implement issuing a certificate to boat on Lake Hopatcong to raise money.

Lt. Bob Splinski, Newark Bay Station Commander-Lake Hopatcong Sub-station, presented the 2006 year end report and apologized for its tardiness. He stated he would stay for the meeting because items on the agenda which may be affected by State Police legislation.

Mayor Richard Hodson of Hopatcong stated he wrote to the Boating Regulation Commission and never received a response. He reminded the Boating Commission representatives of the problem with rafting which he addressed in his letter and he hopes they will take that issue seriously. He also asked about the water level issue. He questioned about the vote on the minutes and the perceived conflict and inquired if the minutes adequately reflected what took place. Ms. DeStefano stated the consensus of the Commission was that the minutes did not adequately reflect the motion. Acting Chair Klipstein stated that according to Counsel Weyl, Mr. Covino is working on the water level issue.

NJ Boating Regulation Commission – Roger Brown, Chair

Acting Chair Klipstein stated the Commission was pleased and honored to have Roger Brown and Ed Harrison from New Jersey Boating Regulation Commission. He stated that both individuals had visited Byram Cove this afternoon. The Byram Cove issue has come up at the LHC meetings a number of times and other questions that relate to the Boating Regulation Commission's responsibility and how the LHC can coordinate these issues.

Chair Brown thanked the LHC for inviting them up. He stated they did have a beautiful ride on the lake today and looked at the cove in question. Chair Brown asked for questions. Acting Chair Klipstein asked about the rules, how to amend them and the timing for amendments. Chair Brown stated any changes have to be submitted in a month or two and no changes are made during the summer. Any changes that will be done will be discussed at their next meeting in November.

Mr. Zoschak asked how to get a regulation on the books to address rafting. Chair Brown stated there is a regulation for anchoring. Counsel Weyl stated if they provide the citation he will forward the regulations to Ms. Macalle-Holly. Counsel Weyl agreed to check with the Boating Commission's counsel Bill Hopkins. Mr. Harrison stated the Boating Commission has a meeting to decide if a regulation is needed and the Attorney General publishes it and then there is a public comment period. Realistically it takes several months because the Boating Commission meets every other month.

There was discussion on buoys placement and Lt. Splinski stated that any requests to place a buoy are made to Aids to Navigation and it is forwarded to the appropriate State Police facility. If for Lake Hopatcong, he would assign a trooper to conduct a survey of that area during various times of the year and make a recommendation which Lt. Splinski would concur with or deny and forward to the Attorney Generals office who would approve it and send to Aids to Navigation to put it on their list to place a buoy. Mr. Zoschak discussed the buoy placement problem in the Landing area. Lt. Splinski stated they would take a look at it in the spring.

Mr. McCarthy inquired about how many stops there were for each particular regulation such as speed limit, etc and if there was charged violations versus actual conviction. Lt. Splinski stated he could be more specific about the violations if needed. Lt. Splinski estimated there were between 15-25 summonses issued for 2006 and he estimates that for 2007 the end of year statistics will be at least doubled from the previous year because more summonses were issued.

Ms. DeStefano stated that if LHC Counsel reviewed the anchorage regulation and there is nothing specific to address the rafting issue, then it would be necessary for Commission to draft a regulation for consideration by the Board. She was concerned about the timing issue or the deadline to introduce a new regulation. Chair Brown stated he did not believe the Boating Commission could have any control over rafting if it is not interfering with a channel. Chair Brown suggested that the Commission make a rule on the lake stating that no more then a certain number of boats can be tied up together. There was discussion on how prior regulations specific to Lake Hopatcong were adopted.

Mr. Harrison stated earlier today there was discussion about not being able to anchor within 200' of shoreline to allow boaters to get in or out of the cove regardless of where the rafting issue on the lake occurs. Mr. Harrison stated it is possible the Boating Commission would support this regulation. Mr. McCarthy addressed his concern on how this would affect anchoring for fishing and suggested a time limit. Mr. Harrison stated the Commission would have to think about how everyone is affected. He advised caution in wording regulations and how it will affect the various groups.

Mr. Harrison addressed the noise issue and recommended a decibel maximum from the shoreline during certain times. Lt. Splinski stated the State Police do not enforce local ordinances, but the County Officers can enforce those. He cautioned on how to enforce noise ordinances.

Further questions from the public were also addressed. Acting Chair Klipstein stated the frustration is who has jurisdiction and how do you enact regulation because it is not part of this Commission's charter to do that since it has no regulatory power. Mr. Brown suggested the LHC should send a letter outlining what the regulations should reflect to be addressed by the Boating Commission.

There was discussion on how to enact laws and how to have the State Police enforce them. Mr. McCarthy stated that last time the changes in legislation were drafted locally and submitted to the Boating Commission. In response to an inquiry, Mr. Brown indicated that as far as he knew no other lake in the State had regulations in place to address the rafting issue. Chair Brown stated if the issue could be addressed at the local ordinance, it could get done more quickly than a new regulation. Lt. Splinski stated he is willing to work with local departments, but recommended that the Commission send something to the Boating Commission for a regulation.

Mr. Brown stated there were no meetings held in the north because there was no public participation at those meeting and most of their members live further south. Mr. Harris stated the procedure to get someone from this area on the Boating Commission would be to get a State Senator to nominate someone from this area. There was a suggestion that boating regulations be available on the Boating Regulation Commission website.

John Kurzman, resident of Lake Hopatcong, discussed his previous dealings with the Boating Regulations Commission and the deadline for submission of new regulations as well as having the Boating Commission issue a certificate to charge for boating on Lake Hopatcong.

Mr. Brown stated there is a way to get emergency regulations in, but generally regulations have to be proposed by December 31.

Mr. Bunce, Councilman from Hopatcong, suggested the Commission address the rafting issue very cautiously because the majority of the people that use the lake do not participate in the rafting in large numbers.

Margaret Vollmut discussed the loud noise coming from some boats on the lake.

Mr. Brown reiterated that some of the problems should be handled on the local level such as the noise issues and other could be handled by the Boating Regulation Commission with help by the Lake Hopatcong Commission.

Acting Chair Klipstein thanked Chair Brown and Mr. Harrison for their participation. He stated that if the Commission proceeds with any type of recommendation, it should be done with caution and should be explored fully through Counsel Weyl to make sure the coordination happens and there is an understanding of the jurisdictional differences. Chair Brown suggested having someone assigned to the Boating Regulation Commission.

Old Business

Field Staff Report

Ms. Macalle-Holly stated harvesting has finished removing about 1600 tons of weeds which surpassed last year's amount. The field staff is removing the equipment from the lake, cleaning it and transporting it to the maintenance facility. She stated shared services will be done with Mount Arlington and Jefferson. At this point three full-time staff members will be going out on shared services in November.

She also reported that the farmer was unable to get his trailer fixed to take any of the weeds this year, but hopefully that will be done in the spring.

In response to an inquiry, she stated the agreement for space at the maintenance facility was renewed through next May as previously reported by Chair Ondish.

User Fees

The Acting Chair stated the user fees discussion would take place under sub-committees.

US EPA Visit to Lake Hopatcong

Acting Chair Klipstein stated the EPA visited the lake on a beautiful day a couple weeks ago [September 26]. He stated the EPA visitors were given a great tour, heard about many of the activities of the Commission and he believes they were quite impressed. They discussed not only the weed harvesting program, but the stormwater management projects, septic management program in Lake Shawnee and their phosphorus load contribution to Lake Hopatcong took place. The visit really was the kickoff for the long awaited EPA grant and now the Commission is working on that.

Ms. Macalle-Holly thanked Mr. O'Connor for taking the visitors out on his pontoon boat, Dr. Lubnow for doing a presentation on the Commission activities and Acting Chair Klipstein for providing an overview. The EPA visitors also saw the weed harvesting operation at work.

Ms. Macalle-Holly stated the grant from the EPA is for $745K and the match from the Commission, counties, four municipalities and the state is about $226K which amounts to a lot of staff hours.

Princeton Hydro Report

Dr. Lubnow reported on the 319(h) grant stating the bid specs were completed and copies of the plan were sent to the Commission. The mandatory pre-bid meeting has been postponed because the Commission sent a letter to request an advance payment to allow the Commission to purchase the structures first. If the Commission purchases the structures first, it will not go through a contractor where there may be a markup involved. When the Commission gets word that advance payment is in the works and the structures are ordered, staff will move forward with the pre-bid meeting. He reviewed the 319(h) projects in Hopatcong to remove phosphorus and solids from the stormwater.

Regarding the EPA TWG, Dr. Lubnow reported on the EPA tour. He also discussed the status and removal rates for phosphorus associated with the iron oxide project that was reported on at the last meeting. PH is currently looking for a media or fabric to hold the iron oxide in place. Dr. Lubnow stated that on October 12 PH provided additional training on the stormwater sampling for the EPA TWG BMP sites for the Commission staff. A prototype of the sampler that will be used to collect surface runoff from lawns was also provided and discussed at the training.

Dr. Lubnow stated in the next few months as part of the TWG, PH will be giving a presentation to staff and commissioners so they can give the presentation to other organizations around the lake.

Dr. Lubnow provided an update on the 604b grant with Jefferson Township to develop a septic management plan and on-site wastewater treatment systems.

He reported that PH is giving three presentations on Lake Hopatcong at the upcoming NALMS conference. Dr. Lubnow will be presenting on the weed harvesting program, Dr. Souza will present on the Wetlands and Watershed project completed early in 2006 and a voluntary monitoring presentation on Lake Shawnee.

Ms. Rector discussed the large turnout for the Septic Management program held in Jefferson. Ms. Rector asked that Dr. Lubnow document what worked and did not work for the iron oxide project. Dr. Lubnow stated that will be done and is in the process of being done for the three different ways of collecting lawn surface runoff for the final report.

Dr. Lubnow stated that for the EPA TWG two draft versions of presentations have been developed and submitted to DEP for review. One is the overall view of Lake Hopatcong and its ecology and the other one focusing on the projects being implemented. A talk is targeted for children. Ms. Macalle-Holly stated when she met with the towns about the EPA TWG projects, the issue with making presentations to children was discussed and the plan is to shoot for the April timeframe as part of Earth Day programs.

<u>Sub-Committee Reports</u>

Acting Chair Klipstein asked if there were any sub-committee reports. Ms. Gantert stated the Bylaws Committee is tentatively scheduled to meet on October 18 or 24. Ms. Gantert asked members to communicate with her by phone instead of email to provide availability for a meeting.

Acting Chair Klipstein stated the Funding Committee met a couple times and made good progress, but needs to keep the pressure on to come up with good recommendations. It is clear that with the State looking at a $3B shortfall in the new fiscal year, the sooner the Commission can be self-sufficient, the better position the Commission will be in to do the right thing for the lake.

He described the process the committee went through to discuss as many of the alternatives that made sense and to narrow it to bring to the full Commission to get a motion for the Chair to put something forward to the State on which alternatives are the strongest possibilities to explore. He stated nothing is perfect when you get into all the details.

Those being considered are:

1. Decals for the boat or boat operator
2. Hopatcong State Park carload surcharge– State currently charges per carload and State would not consider changing that because of safety concerns on how you count people in cars
3. Watershed assessment – which would spread the base as far and wide as possible
4. Statewide user fee to benefits lakes in general – concern is that Lake Hopatcong could pay out more than it would possibly get back.

Ms. Macalle-Holly stated that the Commission is expecting documentation from Mr. Zellner and the Commission would have another special meeting, but in the mean time the committee is trying to work through these four issues to make a written recommendation.

Mr. McCarthy stated during the subcommittee meeting the issue of the business plan was discussed. He stated it was the consensus of the Funding Committee that the business plan issue is beyond the Committee's scope because other committees such as the project planning committee would need to provide their input to developing a business plan.

Acting Chair Klipstein stated that the consensus of the Committee was that it would need to be a combination of things to have a broader base. Acting Chair Klipstein stated that the Committee would like to have the full commission authorize the Chair to send a letter stating that these types of funding scenarios should be investigated fully and there should not be reliance on a single one. Ms. DeStefano stated that the letter should also discuss the value of implementation of State initiatives such as the TMDL and that the Commission is a value-added and extension of the State to accomplish its goals.

Acting Chair Klipstein stated that he wants everyone to recognize that since the Commission was created in 2001, the State has provided about an average of $1M a year. He also stated that the Committee discussed some other fundraising type functions that the Committee could share.

There was general agreement with the Commissioners to go with the approach to have a letter prepared for the Chair's signature to outline the alternatives discussed and to email the letter to commissioners for review.

Mr. O'Connor suggested that at least one program should be implemented to get some funding in place. Acting Chair Klipstein stated that the reality is it will probably happen one at a time realistically to get legislative changes for all four alternatives may be difficult.

Mr. McCarthy stated it should be a whole picture approach if possible and the Commission has responsibility to do it right.

Acting Chair Klipstein cautioned the Commission to watch its money very carefully and have some carry forward to get through this fiscal year and the next.

USGS Water Resources Investigation Agreement Renewal for 10/1/07-9/30/08

Acting Chair Klipstein stated the annual renewal was included in the package. Ms. Macalle-Holly stated the cost for the current year is $19,860 and the bill must be paid by December. The cost for the agreement being considered went up a little to $20,440.

She stated that last year the Commission took a long time to approve the agreement, but in this year's cover letter indicated that the USGS has a change in their requirement and a response is needed by November 2. Last year Commission Counsel provided language to be included in the agreement that if the Commission did not receive funding, written notice would be provided to terminate the agreement and USGS would receive reimbursement for expense up to the time of the receipt of the notice of termination. She stated the language was not included in the current agreement being considered.

Ms. DeStefano questioned if the Commission really needed this. Vice Chair Klipstein stated the State still uses the staff gage, but it does provide a benefit to the boating public to see where the lake level. Ms. Macalle-Holly stated the Commission uses the USGS data from the gage at the Musconetcong River which has a rain gage. That is used to determine when the stormwater monitoring can be done. There was discussion about getting downstream users to help pay the bill.

Mr. Zoschak stated the language should be included if the Commission moves forward with the agreement. Vice Chair Klipstein stated a motion is need to authorize the Chair to sign the agreement and if it should be amended with the changed language.

Mr. Zoschak made a motion to move the agreement with the added language. Mr. Hughes seconded.

ROLL CALL:

DeStefano	Yes	Spinelli	Yes
Gantert	Yes	Zoschak	Yes
McCarthy	Yes	Hughes	Yes
O'Connor	Yes	Klipstein	Yes

Motion carried 8-0.

New Business

North American Lake Management Conference

Ms. Macalle-Holly stated that she recently was advised that the EPA TWG conference had been scheduled for late January and she would recommend attending that conference instead of the NALMS conference.

She stated that she did ask Dr. Lubnow to attend the presentation on Lake Lure funding model at the NALMS conference. Ms. Macalle-Holly stated she would send the information out in next month's package.

MOA Between LHC and Princeton Hydro, LLC for SYF 2005 319(h) Grant

Ms. Macalle-Holly stated this is related to the way the bid specs were written which Counsel Chudzik had prepared for the Commission. In the bid specs the Commission would have to authorize changes to the plans. Because Princeton Hydro is the certified engineers and their name is on the plans, PH wanted assurance that the Commission would not authorize any changes with the contractors without going through Princeton Hydro first. The contract will be between the Commission and the contractor and not Princeton Hydro which is why Counsel said that Princeton Hydro should not have the authority to approve changes.

Mr. Zoschak made a motion to approve the MOA and Mr. O'Connor seconded.

ROLL CALL:

DeStefano	Yes	Spinelli	Yes
Gantert	Yes	Zoschak	Yes
McCarthy	Yes	Hughes	Yes
O'Connor	Yes	Klipstein	Yes

Motion carried 8-0.

Agreement between LHC and US EPA Targeted Watershed Grant (TWG) County and Municipal Partners

Acting Chair Klipstein introduced the agreement. Ms. Macalle-Holly stated the attachment to the agreement would be the EPA TWG work statement from the grant application. She stated that as mentioned previously the match for the grant is substantial and this is a safeguard in case there is any change in the municipalities or counties to have them be required as part of the grant to contribute their commitment. This was discussed with the partnerspreviously when the application was submitted and when the Administrator had the individual kickoff meetings with the partners. The purpose of the agreement is to formalize it and put it in writing.

Ms. Macalle-Holly stated that in discussion with Counsel because the commitment is so large and there is nothing in writing. Ms. DeStefano stated that it is for the Commission's protection. Ms. Macalle-Holly stated that it is a safeguard for them to do the work they agreed to and to report their match and track their time. The agreement is going to the Commission first before it is sent to the municipalities and counties. Acting Chair Klipstein stated as part of the application there were letters of commitment.

Mr. O'Connor made a motion to move the agreement. Mr. McCarthy seconded.

ROLL CALL:

DeStefano	Yes	Spinelli	Yes
Gantert	Yes	Zoschak	Yes
McCarthy	Yes	Hughes	Yes
O'Connor	Yes	Klipstein	Yes

Motion carried 8-0.

Acting Chair Klipstein questioned why he would need to sign for the Commission. Ms. Macalle-Holly stated that the Chair would need to sign as Mayor of Mount Arlington and Counsel agreed that Mr. Klipstein could sign since the Chair could not sign for both.

Public Comment

Acting Chair Klipstein opened the meeting for the second round of public comment and asked to limit the comment to two minutes.

Lisa Watts from King Cove Association questioned the stormwater projects associated with the EPA grant. Ms. Macalle-Holly reviewed the two grant projects that would address King Cove. Ms. Watts also questioned if the legislation was done that would allow for all money raised by the Commission to be used for the lake. Acting Chair Klipstein stated that it has been agreed to and it would be a dedicated fund which would be appropriated in advance based on projected revenue.

Cliff Beebe, Beebe Marina, read into the record N.J.S.A 58:4B-13 regarding startup and annual appropriations for the Commission through the DEP to the Department of Treasury. He stated this did not give the Commission the right to go out and collect taxes on the lake. Mr. Beebe discussed the outrageous taxes currently being charged and those being put in place. He discussed how some homeowners own the bottom of the lake. He stated there are ways to cut back.

There being no further business, at 9:50 p.m. Mr. Zoschak made a motion to adjourn and Mr. McCarthy seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly