

# **Minutes of the Lake Hopatcong Commission**

## **November 19, 2007**

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A meeting of the Lake Hopatcong Commission was held on November 19, 2007 at the Mount Arlington Municipal Building, 419 Howard Boulevard, Mount Arlington, New Jersey. At 7:35 p.m., Chair Ondish called the meeting to order and stated that the meeting was being held in accordance with "Open Public Meetings Act."

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

**Moment of Silence:** Chair Ondish requested a moment of silence for all the troops and their families.

### **Roll Call:**

Chair Ondish stated that Ms. DeStefano resigned and the new member will be Russell Felter, Mayor of Jefferson, but he has not arrived yet.

Present: Elizabeth Gantert, Eric Grove, David Jarvis, Daniel McCarthy (8:45), Richard O'Connor, Benjamin Spinelli, Nicholas DePalma (Roxbury Alternate), Patricia Rector (NJ DEP Alternate), Joel Servoss (Hopatcong Alternate), Arthur Ondish (Chair)

Absent: Russell Felter, Ken Klipstein, Richard Zoschak

Alternates Present:

Others Present: Dr. Fred Lubnow, Princeton Hydro  
Lewin Weyl, Commission Counsel

With nine members present at Roll Call, Chair Ondish declared a quorum.

### **Communications**

Chair Ondish asked for any questions or comments on the communications. Chair Ondish asked if anyone could attend the Fish and Wildlife meeting on December 1 in Hackettstown. He will try to attend.

### **Treasurer's Report/Payment of Bills**

Mr. Grove stated the Reconciliation Summary was distributed. The register balance as of 10/31/2007 was \$427,411.21 which includes the \$400K appropriation check from FY08 which was hand delivered previously by Mr. Klipstein. Mr. Grove stated the Revised Bill List for \$23,805.68 was distributed. Ms. Gantert made the motion to approve the Bill List and Mr. O'Connor seconded. Ms. Macalle-Holly stated there were two items on the Revised Bill List for reimbursement for Princeton Hydro from the DEP 319 checking

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account for \$1,111 and the other for Princeton Hydro from the EPA TWG grant account for \$2,905. statement. [A copy of the Bill List is available on file.] The Chair requested a roll call vote.

### **ROLL CALL:**

Gantert	Yes	DePalma	Yes
Grove	Yes	Rector	Yes
Jarvis	Yes	Servoss	Yes
O'Connor	Yes	Ondish	Yes
Spinelli	Yes		

Motion carried 9 to 0.

### **Minutes of Meeting of October 15, 2007**

The Chair stated he was not at the last meeting and requested a motion to approve the minutes. Mr. O'Connor made the motion to move minutes and Ms. Rector seconded. At the Chair's request, Ms. Macalle-Holly provided clarification on the portion of the minutes regarding the personnel issue stating it was relative to one employee which was the general consensus of the Commissioners. The minutes were adjusted by Counsel to be specific to the one employee incident. The Chair requested a roll call vote.

### **ROLL CALL:**

Gantert	Yes	DePalma	Yes
Grove	Yes	Rector	Yes
Jarvis	Yes	Servoss	Yes
O'Connor	Yes	Ondish	Yes
Spinelli	Yes		

Motion carried 9 to 0.

### **Public Comment**

At this time, Chair Ondish opened the meeting for public comment to address items on the agenda only. There being no public comment, the Chair moved to the Chairman's Report.

### **Chairman's Report**

The Chair stated he missed the last meeting due to another commitment. He thanked Mr. Klipstein for acting as Chair at the meeting. He stated there was a Funding Committee meeting on September 24 and a Personnel Committee meeting on September 25. On September 17 he toured the Lake with the representatives from the Boating Regulations Commission. He stated he also attended the Funding Committee meeting on September 17 prior to the Commission meeting.

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The Chair also reported that on the September 30 a Water Summit meeting with the MUA and the DEP was held in Mount Arlington. He stated at the Summit Meeting, the Scrubs Oaks Mine Project was discussed which will take water from Lake Hopatcong at the high stage or when it is lowered in the fall, pump it into the Rockaway River and then pump the water into the Scrubs Oaks Mine as a water storage similar to a reservoir. He stated there may be some way this could work in the Commission's favor. He discussed the MUA water shortage and how this project could be a potential solution. The Chair stated he would try to obtain the presentation on the mine project or invite the MUA to a Commission meeting.

He stated on November 8 there was a Personnel/Budget Committee meeting. Last week the Chair attended the League of Municipalities Conference and spoke with Governor Corzine about the Lake. He also spoke with Commissioner Jackson about a hydro-electric generation at the dam.

The Chair inquired about the new regulations impacting C-1 categories and now instead of the 25' buffer around Lake Hopatcong, there is 150' buffer. He stated that each Commissioner representing a town should speak with their Land Use staff. Dr. Lubnow stated he was aware about the changes to the permit process, but he was not familiar with any changes about the buffer. Ms. Rector and Dr. Lubnow stated they would look into this and report back.

### **Old Business**

#### Field Staff Report

Ms. Macalle-Holly stated she reported last month that the field staff had finished the harvesting and moved the equipment to the maintenance facility. Two employees are currently working on shared services in Mount Arlington and the other two employees are in Jefferson. They will continue shared services through the end of the year or prior to taking vacation time during Christmas week. In the New Year they will begin with the refurbishing of the equipment at the maintenance facility.

Chair Ondish had one other item for his report. He stated he spoke with State Police Superintendent Fuentes and thanked him for working to have patrols on the Lake and working with Morris County. According to the Chair, the County is concerned about the amount of money spent on overtime and he was unsure what would happen. He stated some of the police boats are being retired and they are thinking about giving one to the County.

The Chair stated that the Boating Regulation Commission representatives did not think that they could do a lot to address the issue in Byram Bay. Mr. O'Connor stated that the Boating Regulation Commission representatives cautioned the LHC on changing the regulations because it would affect a lot of people. Ms. Macalle-Holly stated that Counsel Weyl did provide a copy of the boating regulations which can be reviewed to see what the boating regulations are for other areas.

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### User Fees

The Chair stated Mr. Klipstein was not in attendance to discuss what occurred at the last Funding Committee meeting. Ms. Macalle-Holly stated this issue was discussed at the last Commission meeting. She stated that Mr. Klipstein thought it would be best to include the funding issues in the letter sent to OMB with the FY09 budget submission. A letter will be drafted to accompany the budget and sent to Commissioners for review.

Ms. Gantert inquired if the funding issues will change the Commission legislation in the future relative to the Commission being a line item in the budget. Ms. Rector stated that Mr. Klipstein had discussion with legislative liaison and that would be worked out to change the legislation.

Chair Ondish stated perhaps there could be a state-wide referendum similar to the last one for open space to have a statewide tax for state lakes instead of just taxing the local area. Chair Ondish reiterated what Mr. Zellner (NJ DEP) previously said that the bigger net you can cast, the less it has to be.

Ms. Gantert stated she had difficulty relieving the State of its responsibility to New Jersey's largest lake. She stated the Commission should think about not just today, but what position it will be in a few years from now. Chair Ondish stated that the Corzine Administration's way of thinking is to have user fees, but this could change and another administration may not want to charge fees.

Counsel Weyl responded that the change in the Commission legislation is up to the assembly and senate representatives that introduce the legislation. He stated that he does not think the legislation Mr. Zellner is thinking about precludes the State from giving or granting the LHC funds. The intent of the legislation is to authorize the Commission to collect fees as an additional source.

Chair Ondish stated he would speak with Mr. Zellner as well as some other legislatures about the state-wide lake tax.

### **Princeton Hydro Report**

Dr. Lubnow stated he distributed a memo [available on file] about some of the issues he will be reporting on. He reported that the Commission received authorization from NJ DEP for the purchase of the Aqua-Filters for the BMP project to be installed in Hopatcong. He will be working with the Commission and DEP to schedule the pre-bid meeting.

Princeton Hydro is in the process of revising the LURP form and associated permit application for the Castle Rock Road BMP Aquafilter project in Jefferson.

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In response to the Chair's inquiry, Dr. Lubnow stated that many states in the mid-west have a state lake tax. Some counties in New York have a small tax at the county level and they make grants available.

Dr. Lubnow stated that the EPA TWG grant is underway. A letter was sent to each municipality requesting data to initiate the hydrologic and engineering calculations. He stated Roxbury will be sending the data by early December. Ms. Macalle-Holly stated Jefferson will be sending the requested data within the next two weeks and Mt. Arlington will have their preliminary plans for PH to review by next week. PH will be doing the wetlands delineation associated with those projects in the next two weeks provided the ground is not covered with snow.

Dr. Lubnow stated he will be submitting a draft letter to the Commission to submit to the US EPA to request some small changes in the scope of work for the TWG. One change would be to use automated samples for the stormwater collection. The other change is with the lawn monitoring program. The use of phosphorous and non-phosphorous fertilizers would be done in one growing season instead of two.

Dr. Lubnow stated on November 9 a meeting was held with the Jefferson Day Care facility where the alternative septic system will be installed. The goal is to replace their existing system with an alternative system that is better at removing phosphorous as part of the EPA TWG. Ms. Macalle-Holly and Dr. Lubnow described the public outreach components of the EPA TWG to educate the layperson on what the Commission is doing, why it is doing it and what the specific projects are.

Dr. Lubnow stated that he was discussing ideas with Ms. Macalle-Holly for a grant application to submit to US EPA for environmental education by December 20. Since there is not ample time to get the approvals from schools to do a curriculum-based program, the grant application will focus on educating the homeowners on other types of home projects they could do such as shoreline stabilization, rain gardens and small projects to reduce the phosphorus load into the lake.

Dr. Lubnow stated the monitoring annual report should be available at the next meeting.

### **Sub-Committee Reports**

Chair Ondish asked if there were any sub-committee reports. Ms. Macalle-Holly stated there was a vacancy on the by-laws. She stated the budget committee met and prepared the FY09 budget issues and some staffing issues.

### New Business

#### Lake Hopatcong TMDL Meeting

Ms. Macalle-Holly stated that Commission holds these meetings semi-annually, but that has not been done yet. She described the purpose of the meeting and the members that attend. The tentative meeting date is December 7 or 14 from 1:30-3:30 usually at the Hopatcong State Park. Based on availability of Commissioners, a meeting notice email will be sent to attendees. Mr. Grove stated he and Mr. Risko had a commitment on the 7<sup>th</sup>, but he could send a representative. As long as there is representation from both counties and all four towns Ms. Macalle-Holly will go forward with the meeting on the 7<sup>th</sup> or 14<sup>th</sup>.

#### EPA Targeted Watershed Conference, January 29-February 1, 2009, Corpus Christi, TX

Chair Ondish stated he attended this conference two years ago with Ms. Macalle-Holly and Ms. Rector in Albuquerque and it was very educational. Ms. Rector suggested that the Commission submit a talk on the TMDL meeting held. Ms. Macalle-Holly stated she would double check, but she believes the deadline for submission had past. Ms. Macalle-Holly described the funding available for the conference through the EPA grant and Commission budget to send a couple representatives from the Commission. Dr. Lubnow expressed interest in attending 2009 to present a presentation. It was agreed that Chair Ondish would accompany Ms. Macalle-Holly and Ms. Rector if he could adjust his schedule.

#### Personnel/Staffing – Executive Director Position

Mr. Grove outlined the discussion at the Budget Committee Meeting in light of budget constraints and staffing issues. The Committee recommended combining the responsibilities for the Executive Director and Field Operations Director positions. The committee realizes it may be a difficult position to fill. The Committee also agreed to limit the number of full-time staff positions from eight previously to six staff positions which would include the newly created position, the administrator and four field staff. More seasonal staff would be used during the season.

Chair Ondish stated this was agreed to unanimously by the committee members. He stated Mr. Klipstein, as the DEP representative, would have a feel for what would be supported and what the Commission may have problems with. The Chair stated it sounds like this is something the Commission has support to do. Chair Ondish stated the Commission would need to develop a job description and revise the bylaws. Ms. Macalle-Holly stated the FY08 budget does not include an Executive Operations Director, but there are currently unfilled positions. Chair Ondish stated that he had considered not accepting reappointment as Chair because of all the time he spends on Commission activities, but he would be able to stay on if this position is filled because it would take a lot off his plate. Mr. Grove discussed the diverse skills that would be

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needed for the Executive Operations Director position. Mr. Grove stated the FY09 budget would include six full-time positions with three seasonal employees and a fourth seasonal employee that could be used throughout the year as staffing needs arise. Mr. DePalma discussed his concerns about the long list of job responsibilities for the position. Ms. Rector stated that the ability to understand grants and that type of work would be more valuable than the heavy technical and limnology background because the Commission has the best lake management consulting firm in the country.

Based on Mr. Servoss' concern that there was appropriate funds budgeted for the five staff, Ms. Macalle-Holly described how the salary budget was derived using the projected salaries for existing staff from the Commission approved salary guideline provided by Mr. Grove.

### FY09 Budget Request

Ms. Macalle-Holly reviewed the FY09 budget request of \$874,820 as submitted by the Budget Committee. The budget is for six employees and seasonal employees. In response to an inquiry about benefits, Ms. Macalle-Holly stated there was no increase in the cost of health benefits, but the pension cost will increase. She stated if there was a change in the budget from the previously year, she tried to make the appropriate notation. She stated the project planning committee had made a recommendation to only include the shoreline cleanup project during the five foot drawdown in the budget although other projects were considered. Many budget line items remained flat. She stated that the insurance increase was estimated at 10%, but based on the insurance company estimate it may only increase by 5%. It was agreed to leave insurance costs as budgeted. The technical services include the USGS gages, monitoring, supplemental monitoring and consulting from Princeton Hydro, the latter which has not increased since the Commission started.

The Shoreline Cleanup has a \$8K budget and \$5K was budgeted for the 2003 cleanup. The bulk of the cleanup money goes towards disposing of tires. During the last cleanup, Mr. Clark obtained grant funds from the MUA to dispose of some of tires, but it is her understanding that grant money is no longer available. She stated during the last 5' drawdown, the municipalities brought dumpsters in for their residents to dispose of any trash and hopefully will agree to do this again. Maintenance of equipment costs are relatively the same. The rent has a slight annual increase of \$1K and the lease expires next August. Ms. Macalle-Holly stated that last year's budget was \$886,036.

In response to an inquiry from Ms. Rector relative to the pension cost, Ms. Macalle-Holly stated that the FY08, \$13K is budgeted for pension and the actual cost is near \$20K. Since the Commission has vacant positions, unused funds from other benefits categories will cover the increased pension cost for FY08.

Mr. McCarthy stated that there sounds like enough money is budgeted for shoreline cleanup and hopes cooperative agreements can be reached with the towns to do a good job on the cleanup next fall. Ms. Macalle-Holly discussed her plans for this cleanup to

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try to model Lake Musconetcong's community cleanup day. This would be done with each of the four municipalities to get more residential support since we do not have as many staff members for this cleanup. Chair Ondish stated that insurance issues should be looked into relative to a residential cleanup.

Ms. Gantert made a motion to move the budget forward. Mr. Grove seconded.

### **ROLL CALL:**

Gantert	Yes	DePalma	Yes
Grove	Yes	Rector	Abstained
Jarvis	Yes	Servoss McCarthy	Yes
O'Connor	Yes	Ondish	Yes
Spinelli	Yes		

Mr. McCarthy stated he did speak with his alternate, Mr. Servoss, since he participated in the majority of the budget discussion and he was okay with the budget.

Motion carried 9-0-1 (one abstention).

Mr. McCarthy discussed educational outreach and getting into the schools. Dr. Lubnow discussed the efforts again for the EPA TWG outreach initiatives for schools. Mr. McCarthy stated he would speak with school administrators in Hopatcong about this.

### **Public Comment**

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

Estelle Klein, Hopatcong Council Member, requested the next time the budget be distributed to the audience. She also asked about the office at the State Park which was part of the Commission's legislation. She was advised that there was not enough space at the existing park facility and plans to expand the park office were put on hold when funds were not allocated. Ms. Klein stated that the rent the Commission was paying was high and offered to look for other space within the watershed.

John Kurzman, resident of Lake Hopatcong, discussed the Commission's responsibilities, the lake level and discharge from the lake. He addressed some of his concerns about the mine storage project. He also discussed how the State's priority can change and any changes to the Commission legislation should be good changes in any climate. He also stated how funding is available for other state assets. His other topic was educational outreach. He stated how a no-phosphorous fertilizer law in Florida prompted residents to travel to other locations to buy phosphorous fertilizer because their perception was that if it was illegal it was better. This was an example of how some laws backfire. He suggested putting the old LHRPB curriculum online. He also asked that one additional meeting package or appropriate sections be made available for distribution to the public at the meeting. He asked that Mayor Felter be advised that a Jefferson resident is a

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regular attendee at the LHC meetings. He also asked about ways to reduce the insurance coverage.

Cliff Beebe, Beebe Marina, distributed copies of N.J.S.A. 54:-3.55 [available on file]. He stated according to this law, pleasure boats cannot be taxed. He discussed his concern with the lake level and the rights of property owners. He discussed how the MUA does not use water from the Musconetcong River. Waterloo Village and the other plant downstream are not using water. Mr. Beebe stated the waters of Lake Hopatcong are in private ownership. He also stated the State has money to fund the Commission. He wants to see the lake full and pristine. Mr. Beebe asked Counsel how the State could violate the law. Counsel Weyl discussed the case Mr. Beebe brought before Judge Stanton stated that Mr. Beebe was advised to go through the administrative process.

Laurence Orlans, resident of Hopatcong, asked if the TMDL meeting is open to the public. The public could attend if interested. Ms. Macalle-Holly stated the TMDL document is available on the Commission and DEP websites. At the TMDL meeting, projects underway to meet the TMDL are discussed. Mr. Orlans also asked about the time table to make user fees known to the public. Chair Ondish stated there is no time table at this time. The Commission is working with the DEP and it is not a fast process.

Councilman Richard Bunce of Hopatcong requested that the Commission's Sussex County representative make a full report to County Freeholders, State Senator-Elect, Assemblywoman and Assemblyman-elect regarding the plan to send water to the MUA. He discussed his concerns about the project and the impacts on drawing water from the lake. He also asked that he be copied on the report from Mr. Grove. He stated that Hopatcong's water resource report indicates the aquifer is being recharged by the lake and if this proposed project would have any affect on it. He discussed other ordinances relative to the water supply in Hopatcong. He stated that there will be more interest from the public once the user fees are being established.

Chair Ondish stated as Mayor of Mount Arlington he was appointed to the Executive Board of the League of Municipalities.

There being no further business, at 9:55 p.m. Mr. DePalma made a motion to adjourn and Ms. Rector seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly