Minutes of the Lake Hopatcong Commission
November 20, 2006

A meeting of the Lake Hopatcong Commission was held on November 20, 2006 at the Roxbury Municipal Building, 1715 Route 46, Ledgewood, New Jersey. At 7:34 p.m., Chair Ondish called the meeting to order.

<u>Salute to the Flag</u>: Chair Ondish and all those in attendance joined in a salute to the flag.

<u>Moment of Silence</u>: Chair Ondish called for a moment of silence for our soldiers and their families.

<u>Roll Call:</u>

Present: Colleen DeStefano, Elizabeth Gantert, Eric Grove, Richard Hodson, Ken Klipstein, Charles Richman, Richard Zoschak, Robert Gruber (Mt. Arlington Alternate), Frank Hughes (Morris County Alternate) and Arthur Ondish

Absent: David Jarvis, Richard O'Connor

Alternates Present: Patricia Rector (DEP Alternate)

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

<u>Communications</u>

The Chair asked for any comments or questions regarding the Communications List. Mr. Klipstein mentioned the information about the Largemouth Bass Virus which was an agenda item. Chair Ondish stated he sent a letter to both counties about funding and has not received a response yet.

<u>Treasurer's Report/Payment of Bills</u>

Mr. Grove reported a register balance of $359,480.95 from the October 31, 2006 Reconciliation Summary. Mr. Zoschak made a motion to move the Treasurer's Report and Revised Bill List. Ms. Gantert seconded the motion. Mr. Zoschak questioned about the amount for the temporary personnel and was advised that it was for the temporary clerical position for Lori Dowhan and another individual that only worked for a couple days.

In response to an inquiry from Mr. Gruber, the Chair indicated the Commission received a $400K appropriation which was less than half of the requested budget.

ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	Zoschak	Yes
Grove	Yes	Gruber	Yes
Hodson	Yes	Hughes	Yes
Klipstein	Yes	Ondish	Yes

Motion carried 10-0-0.

Minutes of Meeting of October 16, 2006

The Chair requested a motion to move the meeting minutes. Mr. Grove made a motion to move the October 16, 2006 minutes. Ms. DeStefano seconded the motion. There being no comment, the Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	Richman	Abstained
Gantert	Yes	Zoschak	Yes
Grove	Yes	Gruber	Abstained
Hodson	Yes	Hughes	Abstained
Klipstein	Yes	Ondish	Yes

Motion carried 7-0-3 (three abstentions).

Public Comment

Chair Ondish stated that the first public comment is to address items on the agenda.

Tim Clancy, resident of Lake Hopatcong, stated he was there to speak about the Largemouth Bass Virus (LMBV) and joining him in the audience he introduced KDC Director/Past President Jim Salerno and Bass Federation President Tony Gulli. He stated the two groups are working together to determine the potential impact of the LMBV. The two groups will work with NJ Division of Fish and Wildlife to have a plan to address the LMBV before next season. Mr. Clancy reiterated some of the information on the LMBV that was provided by F&W and included in the Communications Package. Mr. Clancy discussed his data from 1995 through 2001 indicating the average weight was 5 lbs 8-1/2 oz. From 2001-2006 the body weight dropped about six ounces for a 20% decrease in body mass size.

Mr. Clancy stated that individuals in the various bass clubs reported that the number of bass had dropped off. While trying to determine the cause, some were thinking it was a result of weed harvesting. The bass fishery has an important impact on the economy. Working cooperatively, he suggested obtaining grant money to have a cleanout station before moving your boat to another body of water.

Ms. DeStefano stated she spoke with Dr. Lubnow about weed harvesting impact and based on the amount of weed harvesting being done it is not a contributory factor. Dr. Lubnow stated that the total amount of weeds harvested is small relative to the total area of available habitat. Dr. Lubnow concurred with Mr. Clancy's statement that if weed harvesting was having an impact there would be a decrease in all of the species over the years, but at this time it is largemouth bass that are showing the decline.

Mr. Klipstein added that Lisa Barno of F&W contacted him as soon as they had the details and F&W has a great relationship with the Knee Deep Club. Mr. Klipstein stated that F&W is very open to any coordination we may want to do with them on the LMBV issue.

Chair Ondish stated that there was a great deal of LMBV information provided which was included in the meeting package.

Chairman's Report

Chair Ondish stated he attended a meeting in East Hanover shortly after the last meeting. He referred to his email about Question #2 on the New Jersey Ballot and to use money from that source for funding the Commission. He stated that DEP Commissioner Jackson advised him that those funds were for capital projects, not operating funds.

He stated that Senator Bucco is still working on funding. He stated that the Senator did secure funding from the Questions #2 funds for the Landing seawall repair. He also discussed work being done by the Rotary Club to replace a Veterans Monument at the State Park site near Lake's End Marina.

Chair Ondish reported that on November 22 he will be going to Trenton with Mr. Zoschak, Mayor Hodson and Mayor Felter from Jefferson to meet with the Superintendent of the State Police to discuss the state police issue on Lake Hopatcong.

The Chair also reported that Dave Jarvis resigned from the Commission and asked to have a certificate of appreciation prepared for him.

Old Business

Field Staff Report

Ms. Macalle-Holly reported the staff completed harvesting in mid-October, cleaned and moved the equipment to the maintenance facility. The staff is out on shared services with Roxbury, Mount Arlington and Jefferson to do storm drain labeling, maintenance and cleaning. During the winter months, the staff will begin the equipment maintenance.

She stated that the staff completed another tributary monitoring sampling event today and still has one more stormwater monitoring sampling to do. In response to Mr. Zoschak's inquiry about why stormwater sampling was not done during the last storm, Ms. Macalle-Holly responded that 72 hours is needed in between storms to take SW samples and not enough time had lapsed in between storms.

Ms. Macalle-Holly stated former LHC Commissioner Bill Doran contacted the Commission about a potential spill near Bertrand's Island. The field staff in Mt. Arlington and the Marine Police responded to the call, but they could not determine the source. The State Police thought it was a discharge from a boat.

USGS Contract Agreement

The Chair requested a motion to table USGS contract agreement to the next meeting. Mr. Zoschak made the motion and Ms. DeStefano seconded. There being a unanimous "aye", the motion was carried.

<u>TMDL Semi-Annual Meeting</u>

Ms. Macalle-Holly stated that when this issue was discussed last month, it was agreed to change the date to December 6 from 2:00-4:00 and she is still waiting to hear back from some Commissioners. She stated that representatives from Hopatcong and Jefferson as well as Princeton Hydro and DEP plan to attend. Mr. Zoschak stated he would check with his township. If there is not representation from each of the four towns and two counties, it may be necessary to reschedule. Ms. Rector reported that she is looking into having representation from DOT to report on their projects within the watershed.

Princeton Hydro Report

Dr. Lubnow stated for the TMDL meeting he plans to have a 20 minutes presentation to summarize what has happened over the last six months.

He stated that PH submitted the bid specs and the plans for the 319 projects in the Borough of Hopatcong. Ms. Macalle-Holly stated that PH should email an electronic copy of the bid specs to her, it would be forwarded to Mayor Hodson for the Borough's comments. Dr. Lubnow stated that PH Engineer Mary Paist-Goldman hopes to have the plans done for the Jefferson 319 project in the next couple weeks. He stated the plan it to install the Hopatcong BMP in the early spring, but it will depend on the review of the plans and the bid specs and seek a contractor through the mandatory bid process. Ms. Macalle-Holly stated the Commission would have to authorize advertising for the bid at the December meeting and hopefully award the bid at January meeting to do the project installation in March.

Dr. Lubnow stated for the EPA Wetlands Grant a draft has been completed but certain sections need to be finalized. He stated he would email the maps and photos to the Commission. Ms. Macalle-Holly stated that the final report and grant financials are due to the EPA by December 30.

Dr. Lubnow discussed the study PH did for the Commission to determine how much phosphorus is in aquatic plants that are harvested. A one page summary of the study [available on file] was distributed to the Commissioners. He stated about 6% of the amount of phosphorus targeted for reduction in Lake Hopatcong is addressed through the mechanical weed harvesting. This amount is approximately 460 pounds of phosphorus or potentially equivalent to half a million pounds of wet algae. He stated PH is working on catch basin study.

Dr. Lubnow stated the Commission is still waiting to hear back from EPA on the TWG grant.

There was considerable discussion about banning phosphorus fertilizer statewide.

Dr. Lubnow stated that PH completed the QA/QC for the tributary document and he would provide that to Ms. Macalle-Holly to complete the project.

Dr. Lubnow stated he hopes to have the final water quality monitoring report for distribution in December. Ms. Macalle-Holly asked that the findings from the aquatic plant phosphorus study be included in the water quality report. Dr. Lubnow agreed to include it as an addendum.

Mr. Hodson inquired about a water level study the Commission did for wells. Ms. Macalle-Holly inquired if he was referring to USGS study from when the Commission first started. She stated that the USGS study was cut back significantly and only streams, not wells, were looked at in the study.

Sub-Committees

Bylaws

Mr. Hodson made a motion to move the Bylaws. Ms. DeStefano seconded. Although there was significant discussion about various sections of the Bylaws, no significant changes were made as a result of the discussion. It was agreed that the Bylaws would become effective upon adoption. The Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	Zoschak	Yes
Grove	Yes	Gruber	Yes
Hodson	Yes	Hughes	Yes
Klipstein	Yes	Ondish	Yes

Motion carried 10-0-0.

New Business

Resolution to Offer Long-Term Care Insurance to Employees

Ms. Macalle-Holly referred to information provided in the meeting package regarding Long-Term Care Insurance. The State is making this available to local government employers such as the LHC. It should be noted that the cost of this benefit would be incurred by the employee. She stated a standard resolution provided by the State was included in the meeting package which would require the Chair's signature. Chair Ondish stated that there would be a minor cost associated with the Administrator's time to handle payroll deductions and payment to the insurance provider. The Chair asked Ms. Macalle-Holly to assign a resolution number and to prepare a resolution for consideration at the next meeting. Ms. DeStefano asked for more information on the insurance program. Ms. Macalle-Holly stated she requested that information, but has not received it yet.

Resolution to Fund State Park Building Addition for LHC Office

Mr. Hodson stated that he spoke with Helen Maurella at the State Park about requesting funding from Question #2 for an addition to the Hopatcong State Park building for a Commission office and meeting space for the Park and Commission. Unlike other State Parks, Hopatcong does not have usable meeting space for various community functions. In response to the Chair's inquiry, Mr. Klipstein responded that he recommends having Park's support prior to moving forward. The Chair stated he wanted to table this to the next meeting. Since Mr. Hodson already spoke to Superintendent Maurella on this, he asked Mr. Hodson to put something together.

Largemouth Bass Virus

The Chair stated that in the interest of time, the Largemouth Bass Virus had already been discussed earlier in the meeting.

Freshwater Fisheries Forum at Hackettstown Fish Hatchery

The Chair stated if no one else could make the meeting, he would attend. Ms. Macalle-Holly stated the meeting was on Saturday, December 2 at 9:30. Mr. Hughes offered to attend with the Chair.

Jefferson Resolution to Ban Phosphorus-Based Fertilizers

The Chair stated banning phosphorus-based fertilizer was discussed earlier. He stated Mount Arlington Council was against the resolution, but he was still going to create the resolution to see what support he gets. Mr. Klipstein stated that DEP is exploring this issue, but there are exclusions for agricultures. He stated that the Chesapeake Bay Compact worked with fertilizer manufacturers such as Scotts to remove phosphorus over time from the fertilizer. He said that may be the route to go. He said it could go one of three ways by enforcing it through additional measures in the TMDL, working with the fertilizer companies or passing a state law. The Chair inquired as to the next steps on this issue. Counsel Weyl agreed to work with Ms. Macalle-Holly on a resolution.

FY 2008 Budget

The Chair requested a motion to put the budget on the table. Mr. Zoschak made the motion. Ms. DeStefano seconded. Mr. Grove reported that the Committee met on a couple of occasions. He stated that the proposed budget of $886,036 is slightly under the FY07 budget. He stated the budget request must be sent to the Office of Management and Budget by December 1. The Chair asked if Commissioners had an opportunity to review the budget.

Mr. Hodson stated that the Commission's annual funding is approximately $400K historically and questioned why the Commission would propose a budget that is double the funding level. He also stated that the budget is not setup in an accomplishment style to correspond back to the duties and responsibilities in the law.

Mr. Grove stated that funding for the Commission for the current year is still an issue. He discussed how the budget committee reduced the budget to its current level. The Chair stated the budget is bare bones and is basically salary and wages. Ms. DeStefano suggested that the Commission should look into providing documentation with the budget. Ms. Macalle-Holly stated that there is narrative submitted as part the budget request. Ms. Macalle-Holly responded to Mr. Zoschak's inquiry about funds for time reporting software which would be used to track staff time in support of the DEP and EPA grants. Mr. Zoschak stated the salary line should be changed to read field director. Mr. Klipstein stated he did not believe there was anyway to reduce the budget with the current staffing level. Ms. DeStefano stated that Commissioners do not request for any monetary reimbursement and put in a lot of hours. She suggested that the Commissioners itemize their time and quantify the value of their time. Mr. Gruber stated that he pays a large amount of property taxes and feels it is up to the towns to take a stronger stance in funding for the Lake. Mr. Gruber estimated that each town could contribute approximately

$100K towards funding the Commission budget. Chair Ondish stated that most tax revenues are earmarked for the schools. Mr. Richman stated his budget request to the Treasurer is 10% less than last year.

Mr. Zoschak stated the issue could be discussed all night and called for a vote. Chair Ondish stated that the State has to be accountable for what they own and somehow they need to find a way to do that. The Chair asked if there were any other direct questions relative to the budget numbers and not philosophical because the discussion could last all night.

ROLL CALL:

DeStefano	Yes	Richman	Abstained
Gantert	Yes	Zoschak	Yes
Grove	Yes	Gruber	Yes
Hodson	No	Hughes	Yes
Klipstein	Abstained	Ondish	Yes

Motion did not carry 7-1-2 (two abstentions)

Counsel Weyl stated he and Ms. DeStefano discussed the issue earlier and she pointed out there is one vacancy. He stated that Ms. Macalle-Holly advised him that Counsel Chudzik previously said that two-thirds of the full membership of the Commission is eight. He stated that although it is not necessarily clear one way or the other he would go along with and defer to DAG Chudzik that the word "full" suggests that it would be all potential memberships. Ms. DeStefano stated when she spoke earlier with Counsel Weyl he felt the opposite and questioned why Ms. Macalle-Holly thought it was necessary to go back to a three year old opinion.

In response to Mr. Richman's inquiry, Counsel Weyl indicated that the statute refers to any action to recommend or adopt a budget. Counsel referred the issue back to the Commissioners stating it is only a recommendation and other agencies are faced with cut backs. Counsel stated the statute supersedes Robert's Rules or the Bylaws.

Mr. Hodson stated that the Commission put itself into this position because it hired more employees. He stated he argued against that hiring. Counsel Weyl stated that abstentions are not affirmative votes. He stated that the Commission is entitled to have another meeting and give 48 hours notice. Mr. Hodson stated he does not feel that he could take the document and say with this budget the Commission is chartered with doing what it could in accordance with the law. Mr. Hodson stated the budget is almost double the Commission's annual appropriation. He stated that he tried to take the Commission's duties and responsibilities to determine what responsibilities it could at what cost.

Counsel Weyl asked if Mr. Hodson would be prepared to support the budget if there was a narrative to discuss accomplishments of the Commission and what has not been accomplished as well as including the volunteer time of all the Commissioners. Mr. Hodson stated he would like to see what he has asked for. Chair Ondish stated that the Commission does not have the ability to do that now because it would require such a detailed breakdown on each part of the operation. He stated it would be an enormous amount of time and the Commission does not have the staff to do that. Mr. Zoschak stated that the State employees on the Commission, as a Commissioner, should have the ability to vote on the budget. Mr. Klipstein stated he has always abstained on the budget partly because the Commission is "in but not of the DEP" and he takes a neutral position on the budget. Ms. DeStefano stated that would be acceptable if the Commission had a full membership, but that is not the case.

Chair Ondish stated that he does not see a change unless Commissioners are willing to vote yes, instead of abstaininh. He stated Mr. Hodson is not in favor of the budget. Mr. Zoschak stated that he is willing to cut budgets, but in reality, this is what the Commission spends based on the bill list each month. Mr. Klipstein stated he believes the budget is the right dollar amount whether the state funds it or not, but the Commission needs to look at other funding.

The alternative discussed was to have another meeting, possibly via conference call and notice the meeting. Counsel Weyl stated he would check with Counsel Chudzik about the legal opinion of the full membership. Counsel suggested that the budget be submitted explaining that by a vote of seven to one with two abstentions, it is not a resolution of the full Commission membership of the Commission, but there is one vacancy. Counsel cited the statute:

> *Any action to recommend or adopt an annual operating or capital budget shall require an affirmative vote of at least two-thirds vote of the full membership of the Commission.*

Ms. DeStefano stated that is what is debatable, what is the definition of the full membership.

Mr. Gruber questioned if it would be possible to formalize the state positions as non-voting on budgets. Mr. Klipstein stated he sits in the ex-officio position for his Commissioner and would have to consult with his Commissioner before he made an affirmative vote on the budget. Counsel Weyl stated that Mr. Gruber's suggestion requires a statutory amendment.

[Mr. Klipstein had to leave the meeting for another commitment.]

Ms. DeStefano offered a motion to submit the draft budget as proposed. Mr. Zoschak seconded. All those in favor signify by saying "aye" and those opposed by saying "no". There being a unanimous "aye", the motion carried.

<u>Public Comment</u>

Mr. Clancy, resident of Lake Hopatcong, stated he would not discourage people from voting their conscious. He was concerned that State officials feel they cannot vote. He stated that the State is not going to fully fund the Commission and recommended thinking outside-the-box to create another revenue stream. He suggested a $10 fee for every household within the watershed would raise another $100K. He stated that amongst the KDC members, 80% of them would be supportive of a user fee as long as it never leaves the Lake to go to Trenton.

Greg Somjen, resident of Succasunna, stated he appeared before the Commission previously looking for assistance with the Bryam Bay Cove issue. Chair Ondish stated a letter was sent to the Boating Regulation Commission asking if they could have a meeting here at Lake Hopatcong to address residents' issues. Chair Ondish responded that we have not heard back from that Commission. Chair Ondish read the 12/8 letter into the record. [A copy of the letter is available on file.] Chair Ondish stated when the Commission receives a letter back, he will report on it.

Mr. Fernandez, Jefferson Township resident, stated he mentioned previously about a petition to get support from the State to fund the Commission. The petition has about 1,100 signatures. He asked for guidance and assistance on how to send it. He offered to make copies of the petition for the Commission and offered his assistance to get more support for the Commission. Mr. Zoschak suggested that Mr. Fernandez can serve on the alternate funding committee and Mr. Fernandez said he could be available if needed. Ms. DeStefano suggested that the Commission send the petition to the Governor saying it was brought forth by a citizen. Mr. Zoschak suggested the petition also be sent to the Morris and Sussex County legislators. Chair Ondish requested that Mr. Fernandez provide a copy to Ms. Macalle-Holly and she will prepare a letter.

In response to an inquiry about meeting location, Chair Ondish stated he suggested one meeting location each quarter, but it was never agreed to. Mr. Hodson stated he would check the availability of the Hopatcong Civic Center.

Mr. Zoschak made a motion to adjourn the meeting. Ms. Gantert seconded the motion. All those in favor signify by saying “aye” and those opposed by saying “no”. There being a unanimous “aye”, the motion was carried and the meeting was adjourned at 10:00 p.m.

Submitted by: Donna Macalle-Holly.

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