

# **Minutes of the Lake Hopatcong Commission**

## **December 18, 2006**

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A meeting of the Lake Hopatcong Commission was held on December 18, 2006 at the Jefferson Municipal Building, 1033 Weldon Road, Lake Hopatcong, New Jersey. At 6:45 p.m., Chair Ondish called the meeting to order.

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

**Moment of Silence:** Chair Ondish called for a moment of silence for our soldiers and their families.

**Roll Call:**

Present: Colleen DeStefano, Elizabeth Gantert, Eric Grove, Richard Hodson, Ken Klipstein, Charles Richman, Nicholas DePalma (Roxbury Alternate), Robert Gruber (Mt. Arlington Alternate), Frank Hughes (7:15 p.m. - Morris County Alternate) and Arthur Ondish

Absent: David Jarvis, Richard O'Connor, Richard Zoschak

Alternates Present: Daniel McCarthy (Hopatcong), Robert Mitchko (Jefferson), Patricia Rector (DEP)

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

The Chair indicated the meeting was starting early this evening to hold an executive session and requested a motion to adjourn to do so. Mr. Richman made the motion and Ms. DeStefano seconded. There being a unanimous "aye", the motion was carried.

At 7:35 p.m. the Chair stated the regular meeting was back in session and indicated during executive session salary issues were discussed.

**Communications**

The Chair asked for any comments or questions regarding the Communications List. Ms. Gantert addressed the site plan review in Jefferson Township for Sharon and Steve Leek for proposed new mobile homes. She stated she visited the site today and stated that the existing mobile homes are sitting less than two feet from the water. She questioned what type of septic system the homes would have. Chair Ondish stated he attended a meeting there for homeowners that were upset the plan, but the current plan is different from when he attended the homeowners meeting. At that time it was for boat storage. He stated that Dr. Souza was contacted by the homeowners in the area opposed to the plan and indicated that DEP would have to be involved because of permitting issues for the marina. Ms. Macalle-Holly stated she lives in the area and advised Ms. Gantert that there is a sewer treatment system. Ms. Gantert and Chair Ondish discussed their concerns about the proposed plan and Ms. DeStefano stated she would look into the issue.

Chair Ondish discussed the letter from the Heritage Conservancy to preserve water and the Conservancy's survey. Ms. Macalle-Holly stated that any municipal representative should complete the survey.

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

Mr. Grove reported a register balance of \$316,122.19 from the November 30, 2006 Reconciliation Summary. He stated there was a Revised Bill List of \$11,787.24 for consideration. Ms. Gantert made a motion to move the Revised Bill List. Mr. DePalma seconded the motion. Counsel Weyl asked- about the Commission's spending and Mr. Grove indicated that \$68K was the monthly average, but within the last few months the Commission has been under that. He stated right now the Commission is at the low side of the average.

ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	DePalma	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. Richman made a motion to move the October 16, 2006 minutes. Mr. Gruber seconded the motion. There being no comment, the Chair requested a roll call vote.

ROLL CALL:

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

Motion carried 9-0-1.

**Public Comment**

Chair Ondish stated the first public comment is to address items on the agenda. There being no public comment, the Chair moved to the next agenda item.

**Chairman's Report**

Chair Ondish stated he had a couple items to report on. He stated on November 22, Mayor Hodson, Councilman Zoschak, Mayor Felter and he, along with Senator Bucco and his Chief of Staff Barbara Kinback, had a meeting with Superintendent Fuentes in Trenton along with some of his top marine bureau staff who are controlling the State Police presence on Lake Hopatcong. They discussed their concerns about the coverage on the Lake. He stated that all the rumors about coverage on the Lake are not exactly true and there is coverage on the Lake although it is not 24-7.

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He stated they received a tour of the new, state-of-the-art regional command center. He stated they were assured that the lake is covered in the event of an emergency. Chair Ondish stated in the event of a major emergency, a helicopter could be here in eight minutes, but it would typically be a forty minute drive. Mr. Hodson stated he looks forward to the outcome of the next meeting which will serve as an indication of their sincerity. Chair Ondish stated the next meeting is scheduled for January 8 and will include the four police and fire chiefs around the Lake, park and county police and sheriffs. Chair Ondish stated the State Police are using their resources wisely. He explained how the State Police are tracking calls to determine when the problem times are during the year to determine staffing levels.

Chair Ondish discussed the circumstances surrounding a recent call to the Commission office about a resident reporting a spill on the Lake and the level of response including the State Police, Sussex Sheriff, DEP, etc. He stated that the spill was from a hydraulic lift in a boat house and Lt. Reed reported to the Chair that there was approximately one gallon of hydraulic oil in the Lake, but the boat did sink so he was unsure what came from the boat. Chair Ondish stated that he would report back about the outcome of the next meeting.

The Chair stated he reported at the last meeting that Mr. Jarvis was resigning. Mr. Jarvis had some issues with his schedule, but was able to address them and can continue to serve on the Commission.

Chair Ondish apologized because he was unable to attend the Freshwater Fisheries Forum at Hackettstown Hatchery due to illness. He stated that Frank Hughes was also not able to attend. The Chair stated he would try to speak with someone from the Knee Deep Club for update about the Forum and an update on the Largemouth Bass Virus.

Chair Ondish stated on December 12 he attended a forum in Woodbridge and briefly spoke with Governor Corzine about the Commission. Chair Ondish stated he will follow up with a personal letter he prepared to the Governor and have Ms. Macalle-Holly include a copy in the meeting package. He stated he spoke with Speaker Roberts at the forum about funding. Counsel Weyl suggested copying Commissioner Jackson on the letter, but the Chair indicated it was a personal letter to the Governor.

The Chair also discussed the location for future Commission meetings. Ms. Macalle-Holly indicated Mr. Hodson responded that the Hopatcong Civic Center was available and she would try to work out the schedule around the municipalities in January once the municipal calendars are complete and include the civic center. The Chair asked if Commissioners agreed to meet at one location quarterly and suggested beginning with Roxbury. It was agreed to meet quarterly at each town and would depend on the towns being able to accommodate the Commission.

Mr. Ondish stated that the Roxbury Image asked the Commission to provide an article for the newsletter. Ms. Macalle-Holly stated Mr. Zoschak provided a copy of the newsletter. The Chair encouraged everyone to get something in their municipal newsletter to address the lake.

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**Old Business**

Field Staff Report

Ms. Macalle-Holly reported the staff was still working on shared services. They will wrap up and in the beginning of the year the staff will be starting the equipment maintenance. The Chair stated Foreman Calderio does call him regularly to report in.

USGS Contract Agreement

Ms. Macalle-Holly stated that this has been tabled for three months and she recently received a call from USGS inquiring about the status of the contract. She stated she advised USGS that the contract had been tabled to this month's meeting. The Chair inquired if the Commission should move forward with the contract. After considerable discussion relating to the contract and the issue of Commission funding, it was agreed that Counsel Weyl would work with Ms. Macalle-Holly to include language in the contract that it would be subject to the availability of funds. Counsel Weyl suggested language stating the Commission would incur the obligation on a monthly basis and has an option to drop it by July 30. Ms. Macalle-Holly stated the contract begins in October and the Commission will incur costs for nine months in July. Ms. DeStefano made a motion to authorize the Chair to execute the contract to include an revision as prepared by Counsel. Mr. DePalma seconded.

ROLL CALL:

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

Motion carried 10-0-0.

TMDL Semi-Annual Meeting

Chair Ondish stated the TMDL Semi-Annual meeting was held on December 6 and he attended. Ms. Macalle-Holly reported that there was a good turnout at the meeting with representation from the Commission, Princeton Hydro, DEP as well as all four municipalities and both counties. She distributed copies of the presentations from the meetings. She stated that Dr. Lubnow provided a status report on the various grants and Ms. Rector discussed a new system that DEP is working with to track the TMDL. She stated there was a round-table discussion about issues regarding stormwater management. Chair Ondish stated he was particularly pleased with the information provided about the sediment removed from storm drain cleanouts through Shared Services to determine the amount of phosphorus removed.

Resolution 06-07 Offer the State Long-Term Care Insurance Plan

The Chair requested a motion to put the resolution on the table. Mr. Richman moved Resolution 06-07 and Mr. Klipstein seconded. The Chair asked for comments and stated it had been previously discussed that there was no cost to the Commission because the cost would be incurred by employees. In response to Mr. Gruber's inquiry, Ms. Macalle-Holly stated that an

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employee has the option to do payroll deductions and processing is similar to what is done when an employee participates in Deferred Compensation Plan. Ms. Macalle-Holly responded that it was important to give employees the opportunity to have this coverage and for the amount of time it would take, it would not be too burdensome. In response to Ms. DeStefano's inquiry, Mr. Richman stated the State Plan is run through Prudential and the plan is between the employee and Prudential. Ms. Macalle-Holly stated payment would be made directly to Prudential and is not administered through the Division of Pensions and Benefits. Ms. DeStefano stated that employees would pay for the plan, but hopes employees do not stretch themselves to thin to get involved in the plan. Ms. Macalle-Holly stated the plan is optional and employees would receive an enrollment package. She stated it is the same as the Deferred Compensation Plan which some employees choose to participate in and other do not. The Chair requested roll call.

[A copy of Resolution 06-07 to Offer the State Long-Term Care Insurance Plan is available on file.]

ROLL CALL:

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

Motion carried 9-0-1.

Resolution 06-08 Banning Phosphorus-Based Fertilizers

Chair Ondish requested a motion for Resolution 06-08 Banning Phosphorus-Based Fertilizers which was included in the meeting package. Chair Ondish stated that there were other versions of the resolution distributed by Mr. Hodson this evening. Ms. DeStefano offered the motion and Mr. Hodson seconded. Mr. Hodson stated what he did not find out is how essential phosphorous is to agricultural use. Ms. Macalle-Holly stated the resolution, as it is proposed, stated the ban is on the use, not the sale, of phosphorus-based fertilizer and includes exceptions for some agricultural uses. In response to Ms. DeStefano's inquiry about Jefferson's recommendation, Ms. Macalle-Holly stated Jefferson resolution was to ban the use. Mr. Gruber stated that in one version of the resolution, there is reference to banning the sale and suggested be included, but the resolution only resolves to ban the use. The amendment to the resolution was approved. The Chair directed Mr. Hodson to make the change and provide the revised resolution to Ms. Macalle-Holly.

ROLL CALL:

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

Motion carried 9-0-1.

[A copy of Resolution 06-08 Banning Phosphorus-Based Fertilizers is available on file.]

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Resolution 06-10 Fund State Park Construction for LHC

Chair Ondish stated that Mr. Hodson initially recommending seeking funding for office space through an addition at the State Park Building. Chair Ondish stated he believe the Commission should look for funding for a storage building at the State Park since it is needed. Mr. Hodson stated the original thinking was if the State Park could sign on to an addition, but the Park is not part of the storage facility. Chair Ondish stated the resolution is based on Ballot Question #2 which was approved this year to take money from Corporate Business Tax to fund capital projects at State Park facilities. Chair Ondish stated the Commissions' current storage facility may not be available at some point. He indicated that perhaps the Park and Lake Musconetcong could use the storage facility for equipment and their harvester.

Mr. Klipstein stated that the Commission agreed to at least have resolution for Commissioners to agree on, but he was not sure that the next logical step was to send the resolution to Trenton and expect someone to react to it. He stated it would be a process to speak with Commissioner Jackson and Director of Parks and Forestry to indicate that the Commission would like to begin to work again on discussing their needs and how to get capital funding in the queue. Chair Ondish stated Mr. Hodson drafted a letter to accompany the resolution. Mr. Grove suggested the resolution include a statement similar to the one in the letter which states "...for an addition to Hopatcong State Park Office Building, and construction of building to store and maintain large equipment also at the Park." It was agreed to amend the resolution. Ms. Macalle-Holly clarified that the Commissioner agreed on using Draft Version 2 of Resolution 06-10 for funds for office space and maintenance facility. Mr. Hodson stated he would make the revision and send to Ms. Macalle-Holly. The Chair requested a motion to move Resolution 06-10 (version 2) with revisions. Mr. Hodson made the motion and Mr. Hughes seconded.

ROLL CALL:

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

Motion carried 9-0-1.

[A copy of Resolution 06-10 Fund State Park Construction for LHC is available on file.]

FY08 Budget

Ms. Macalle-Holly stated the FY08 budget was submitted and OMB inquired about the Commission's revenue stream and how much funds would be remaining. The Commission responded that we do not anticipate that our funds will make it through the year.

**Princeton Hydro Report**

Dr. Lubnow stated he provided Ms. Macalle-Holly with a copy of the finalized Tributary Monitoring Plan and the accompanying approved QAPP. He stated he provided a draft of the Wetlands EPA report and although the report is complete, there are some formatting issues that need to be addressed. He stated the appendices are an important part for the Commission because

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specific locations based on municipal and county recommendations on potential sites are included for stabilization, wetland enhancement and fishery protection. Dr. Lubnow suggested the Commissioners may want to review the proposed sites in this report. Dr. Lubnow stated the report would be completed in time for submission to the EPA by the end of the year.

Dr. Lubnow stated Mary Paist-Goldman is still putting together the plans for the Jefferson BMP. If they are available prior to the next meeting, he will submit them to Ms. Macalle-Holly to provide summary of the information to the Commission. He stated that DEP and Borough of Hopatcong are reviewing the bid specs and PH will address any questions before finalizing the bid specs.

Dr. Lubnow stated the TMDL meeting was a huge success based on the number of attendees. He stated he provided information on project updates and information on soft management measure being implemented specifically how much phosphorus is being removed from weed harvesting and catch basin cleanup.

Dr. Lubnow stated he is trying to speak with Mr. Leach in Jefferson about the 604b plan for a septic management plan for the Lake Shawnee community. The plan is to have the project up and running by the beginning of the year and he will report on it to the Commission.

Dr. Lubnow was not sure if the Commission had heard anything about the EPA TWG. Ms. Macalle-Holly stated the EPA had some questions on sole sourcing, but advised they are getting close.

Mr. Hodson asked if Dr. Lubnow was following the Highlands Regional Master Plan and stated he thought he saw something about 300' buffers near any open body of water and not just in the preservation area. Mr. Hodson said most towns have a 50' buffer around the lake and there are not many lots 300' deep. Dr. Lubnow responded that the Highlands Act was the reason the direction of EPA Wetlands Grant was changed. The original plan was to prioritize wetlands in terms of their value. Once the Highlands Act was passed, it was decided to focus more on restoration projects. Dr. Lubnow stated he did not hear anything about including 300' buffer in the entire Highlands area.

### **New Business**

#### **Resolution 06-09 Approving 2007 Consulting Services for Princeton Hydro**

The Chair requested a motion for Resolution 06-09. Mr. DePalma made the motion and Mr. Hughes seconded. Ms. Macalle-Holly stated the revised Resolution 06-09 was distributed tonight for consulting services through July 2007 at half the cost of the initial contract based on Counsel's recommendation.

Counsel Weyl stated his recommendation is not based on fiscal issues, but the DAG's opinion that the Commission needs to see if there are other interested consultants. He stated Princeton Hydro is a professional consulting firm and the Commission ought to solicit other possible interested parties. Counsel stated professional services do not need to be awarded to the lowest bidder if there is some reason not to award it to the lowest bidder. He stated he consulted with Counsel Chudzik on the issue and agreed six month was appropriate since it is such a small amount and is through to the end of the fiscal year. He stated the Commission would have to see

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if there are any other professionals interested in the lake monitoring. Counsel Weyl stated a reference to compliance with Executive Order #134 which is about political contributions was added to the resolution. Ms. Macalle-Holly stated, regarding the monitoring work, the Commission would have to do that relatively quickly because in the event the Commission does select another firm to do the monitoring, a Quality Assurance Protection Plan needs to be completed and approved by DEP before starting the monitoring in May. Counsel Weyl suggested that Mr. Klipstein prepare specifications and ask Princeton Hydro for their input. Chair Ondish recommended approving the six month consulting contract tonight. Ms. Macalle-Holly stated the Commission would have to move forward with putting a document together for the monitoring.

ROLL CALL:

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

Motion carried 10-0-0.

[A copy of Resolution 06-09 Approving 2007 Consulting Services for Princeton Hydro is available on file.]

Insurance Package Renewal for 2007

Ms. Macalle-Holly stated the information from Fairview Insurance was distributed tonight. It includes a quote from Selective Insurance which is the one company that provided a quote. The total cost for package renewal, excluding the terrorism coverage, is \$56,661. Cathy Savage from Fairview stated the agent worked closely to keep the cost in line and the quote is to renew the insurance package for automobile, general liability, marine, property and umbrella coverage as listed on the quote provided. There are funds for this in the fiscal year budget.

Mr. Richman asked why the Commission needs coverage separate of the State government. Ms. DeStefano stated that Counsel Chudzik previously advised the Commission that whatever insurance the Commission could get, it should because the State can pick and choose who they want to represent. Mr. Klipstein stated he met with Treasury management to get clear direction on this and Treasury recommended the Commission get insurance. Ms. DeStefano said she asked Henry Paterson from New Jersey Water Supply Authority, because they are in, but not of also, and he indicated they must have their own insurance. Mr. Richman agreed to look into the issue again with Treasury. Mr. Klipstein stated that the Treasury Risk Management staff err on the side of getting more insurance, but he believes what is needed is actually a legal opinion on this. Mr. Klipstein stated he spoke with Jose Fernandez, Director of Parks and Forestry, who deals with this all the time with volunteer groups and together they were going to seek a legal opinion on this. Ms. DeStefano stated that Counsel Chudzik previously recommended the Commission get as much insurance as possible.

Chair Ondish suggested that the Commission move forward to approve the insurance policy and stated Mr. Richman would look into the issue as well. Mr. DePalma made a motion to approve the insurance renewal package. Mr. Hughes seconded.

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ROLL CALL:

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

Motion carried 10-0-0.

Bid Specification for the 319(h) Grant BMPS for Borough of Hopatcong

Ms. Macalle-Holly stated that Commission Counsel and Hopatcong are reviewing the bid specs. She stated that in speaking with Counsel Chudzik earlier today, Counsel advised that boards typically do not take action or make a motion to advertise for the bid specifications. After legal review and working with Princeton Hydro, the Commission staff could advertise and the Commission could take action when it is time to award the contract. The Chair stated there was no action to be taken by the Commission at this time relative to the bid specification.

Resolution 06-11 Adoption of 2007 Employee Compensation Plan

The Chair reported that this issue was discussed in Executive Session. He requested a motion to approve Resolution 06-11. Ms. DeStefano offered the motion and Mr. Grove seconded.

ROLL CALL:

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

Motion carried 10-0-1.

**Public Comment**

Dr. Lubnow stated if someone may be submitting a bid for services for 2007. He stated that in addition to a Quality Assurance Protection Plan, the consultant should be certified for in-situ monitoring. He also stated he hopes the Commission will take into account the experience and knowledge on the Lake as well as general knowledge of engineering and environmental scientists. He stated he hopes the Commission will take into account the quality of service relative to cost.

Mr. Kurzman, resident of Lake Hopatcong, addressed a couple of issue. He stated that Resolution 06-10 there was talk about a storage facility, but he recalls earlier decisions that the Commission really needs a maintenance facility. The Chair clarified that it was a storage and maintenance facility. Mr. Kurzman reminded the Commission that architectural work on a maintenance facility has been done and suggested that plans are available to strengthen the request. Ms. Macalle-Holly stated the plans were done in 2002. He also stated that there is a company on Route 15 that specializes in renting vacuum trucks to clean storm drains and the Commission should consider renting this equipment. He also addressed the issue of the State

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Police coverage and it was clarified by the Chair that there will be coverage year round but not always 24x7. Mr. Kurzman also asked about the control to lower the dam. Counsel Weyl and Mr. Klipstein provided commented on this. He also asked about alternate funding. Chair Ondish stated that are looking at other supplemental funding options including letters which went to the counties.

Michael Bronson raised concerns about the State Police and with the Chair's report about the confusion when reporting to the State Police. He stated he believes the State Police are reactive instead of proactive. He stated the State Police core function is not Lake Hopatcong, but the State Park Police core function is the protection of our park which Lake Hopatcong is. He suggested the Chair explore this at the meeting. Mr. Bronson indicated there was discussion in the minutes about the Byram Cove issue relative to boats anchoring there and asked if the Commission contacted the Boating Regulation Commission. He was advised a letter was sent, but no response has been received.

The Chair requested a motion to adjourn the last Commission meeting of 2006. Ms. DeStefano made a motion and Mr. Richman seconded. 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 9:25.

Submitted by: Donna Macalle-Holly.