

Minutes of the Lake Hopatcong Commission

March 19, 2007

A meeting of the Lake Hopatcong Commission was held on March 19, 2007 at the Roxbury Municipal Building, 1715 Route 46, Ledgewood, 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.

Roll Call:

Present: Kenneth Klipstein, Daniel McCarthy, Richard O'Connor, Richard Zoschak, Frank Hughes (Morris County), John Risko (Sussex County) and Arthur Ondish

Absent: Colleen DeStefano, Elizabeth Gantert, Eric Grove, David Jarvis, Charles Richman

Alternates Present: Nicholas DePalma (Roxbury), Robert Gruber (Mount Arlington), Patricia Rector (DEP), Joel Servoss (Hopatcong)

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

Also present were: Lewin Weyl – Legal Counsel and Fred Lubnow - Princeton Hydro

Communications

Chair Ondish asked for any comments or questions regarding the Communications. In response to an inquiry, Mr. Zoschak was advised that the USGS agreement was shown in the same categories as in the past. There was discussion on the letter in the packet about the necessary action to take if Commissioners were served with subpoenas.

Ms. Macalle-Holly stated in the communication package there were donations letters and she wanted to acknowledge the individuals from the East Shore Property Owners Associations that have made contributions: Mr. & Mrs. Reynolds, Mr. Michael Seymour, James of Schuyler Automotive, Mr. & Mrs. Richard Fund, Mr. & Mrs. John Sinclair, Mr. & Mrs. Earle Kimble and Mr. Gary Stifter. She also stated that Mr. Clancy took the initiative to reach out to individuals in the Lake Hopatcong Antique & Classic Boat Society as well as other residents for donations to help with the Commission funding issues. Because of Mr. Clancy's efforts, twenty donations amounting to over \$1,100 were received over the last two days. They were Mr. James Salerno, Mr. Stephen VanNess, Ed Wendloehner, Mr. & Mrs. Tim Clancy, Mr. & Mrs. Merrill Stern, Mr. & Mrs. Lewis Wefferling, Mr. & Mrs. Brian Gagnon, Mr. & Mrs. Craig Jones, Mr. Joe

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Tekula, Ms. Lynne Scanlon, Mr. & Mrs. John Schaaf, Mr. & Mrs. Michael Smith, Mr. Paul Avenius, Mr. & Mrs. William Wiedeman, Mr. Samuel McCaulley, Mr. William Wiedeman, Jr., Mr. & Mrs. Craig Bradley, Mr. & Mrs. Gil Peter, Mr. & Mrs. John Deermount, Mr. Robert Sumner and Mr. and Mrs. Richard Giessuebel. Ms. Macalle-Holly stated the donations were accompanied by notes of appreciation and she read the note from Mr. and Mrs. Schaaf of North Oaks, Minnesota. She thanked everyone for their donations and Mr. Clancy for his efforts. It was suggested to put a section on the website to acknowledge donations.

Treasurer's Report/Payment of Bills

In Mr. Grove's absence, Mr. Risko stated a new Bill List for \$31,010.66 was distributed. The Reconciliation Summary for period ending February 28, 2007, the Valley National Bank account had a register balance of \$161,793.79. Chair Ondish requested a motion to approve the Bill List. Mr. Hughes made a motion to approve and Mr. Zoschak seconded the motion. [A copy of the Bill List is available on file.]

ROLL CALL:

Klipstein	Yes	Hughes	Yes
McCarthy	Yes	Risko	Yes
O'Connor	Yes	Ondish	Yes
Zoschak	Yes		

Motion carried 7 to 0.

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Chair Ondish stated he was not at the last meeting and educated himself on what went on at the last meeting. The Chair requested a motion to approve the minutes. Mr. Hughes made the motion to move minutes and Mr. O'Connor seconded. There being no further comment, Chair Ondish requested a roll call vote.

ROLL CALL:

Klipstein	Yes	Hughes	Yes
McCarthy	Yes	Risko	Abstained
O'Connor	Yes	Ondish	Yes
Zoschak	Abstained		

Motion did not carry 5 – 0 – 2 (two abstentions).

The Chair stated that since the minutes were not approved, they would not be posted on the website for another month. Counsel Weyl stated that someone that was not here and read them, can rely on the other Commissioners to say that this is an accurate assessment, but if they do not want to, they do not have to. Chair stated the minutes would be held to the next meeting.

Public Comment

At this time, Chair Ondish opened the meeting for public comment to address items on the agenda only and indicated there is a two minute limit per speaker.

Tim Clancy of Lake Hopatcong stated he came up with the ideal for the donations when he spoke with a lake group and he explained the dire consequences of the funding situation. He stated the individuals that sent the generous donations wanted to show their support for the work the staff does and their concern about the lake, but their donations are not an indication that the donors support a user fee.

The Chair asked the public that wanted to address the funding issue to hold their comments until after he provided his report which he would cover at that time.

Ms. Macalle-Holly stated she should have mentioned this when the Bill List was discussed because it should be noted in the minutes. On the Bill List it was noted for Princeton Hydro that \$14, 229 was for reimbursement from the 319(h) Grant Account for Quarter 5 for period August 22 through November 21, 2006.

Chairman's Report

Chair Ondish began his report by thanking everyone for sending letter and signing petitions. He stated Wharton, Randolph, Hopatcong, Mt. Arlington, Jefferson, Sussex and Morris Counties sent resolutions to support Commission funding.

The Chair stated he was able to secure a meeting with the Governor which occurred on March 15 and Ms. Macalle-Holly also attended. He stated he explained to the Governor what goes on at the Lake and that the lake region brings in \$200M into the State which includes the fishing and registration fees and taxes. He stated the Governor felt the same way as Commissioner Jackson did when she visited the Lake that the people that use the lake should pay for it. He stated the goods news is that the Commission is secure and will not shut down because bridge funding for this year's budget from now through the end of June as well as funding for next year's operating budget will be provided. The Commission must work on supplemental funding to put together users' fees.

The Chair stated he has had many calls and people complaining about users' fees, but he stated this is the way it will have to be. He stated how the users fee will be crafted must be worked out. He stated the next step will be that DEP Deputy Commissioner Adam Zellner is going to send an agreement in about a month.

The Chair discussed his concern with the administration and enforcement of a user fee program since the Commission does not have the staff. The Chair reported that the Governor stated the Adam Zellner had people that could help with that. The Chair indicated that he hopes the agreement will have some kind of wording on how the State will help the Commission do reach the goal.

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He stated the other issue discussed with the Governor is that the Commission is not set up to charge fees through our initial legislation. The Chair stated the budget supersedes legislation so in the budget they can include means and bounds of where fees can be collected. He stated the next step would be to wait to see what the State puts together and then the Commission's Supplement Funding Committee will come up with ways of charging fees and how it will be done.

The Chair stated he discussed with the Governor the taxes and sewer fees residents already pay to protect the lake. The Chair stated whatever users' fees come in, it was his understanding that the State would bridge the amount of the fees collected to our budget. He stated the Governor referred to it as a partnership and he did not want to see the Commission stop operating. The Chair stated one of his biggest concerns was the employees and their continued employment. He stated Ms. Macalle-Holly would provide a bridge number to Mr. Zellner to get through July and the Commission will begin to work on user fees within a month or so.

In response to Mr. Zoschak's inquiry about logistics on how the money would be collected or imposed, the Chair stated that hopefully Adam Zellner will spell that out in the information. The Chair stated he told the Governor the Commission does not have the ability to administer or enforce the program. He stated he does not have any further information until the Commission receives the agreement. The Chair stated he is not a big fan of fees, but unfortunately the State's position is that if anyone is going to use something of the State's, they will have to pay for it.

The Chair stated the numbers Mr. Zellner had for collecting user fees seemed high. Mr. McCarthy discussed the layer of bureaucracy for users' fee program and how residents already pay taxes. Ms. Macalle-Holly reiterated that during the meeting with the Governor there was final agreement on the details for the funding mechanism. She stated during the meeting, it was agreed that the State would provide the infrastructure to work through the funding issue. The Chair stated the Commission would work with the DEP on the funding issue.

Mr. Klipstein stated we know the Commission cannot meet its whole budget with boaters' fees. There is only so much the users can bear and the broader the base, the less the pain. He stated it must be looked at as supplemental and stable funding, but the Commission needs to look at grant opportunities and other types of funding. Chair Ondish stated he reviewed the grants the Commission received with the Governor and that Ms. Macalle-Holly reviewed photographs of the Lake and the Commission's work with the Governor.

Chair Ondish took time to answer some residents' inquiry from the February meeting since he was not in attendance. He told Mr. Bebbe he was unsure about using gasoline tax to fund the Commission. He advised Mr. Kurzman that the money from the public question was only for capital projects and not operating budgets. The Chair stated that Mr. Zellner and DEP Deputy Commissioner John Watson stated that they might be able to help the Commission get a building at the State Park.

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In response to Mr. Gruber's inquiry, Mr. Klipstein stated he would meet with Mr. Zellner to structure a Memorandum of Agreement (MOA) with the Commission on bridge funding and the timetable for establishing any fees. The Chair stated establishing a fee program will not happen overnight. Mr. Klipstein clarified that it is his understanding the target is to have a fee-based program by the start July 1, 2008. Mr. Gruber acknowledged the Chair's effort to get this done.

Mr. Kurzman of Lake Hopatcong discussed why other residents throughout the State do not pay for use of their State facilities in the area. Mr. Klipstein stated there is not enough money to fund everything around the State and there has always been a shortage. Mr. Klipstein stated his understanding of the Governor's intent was if the Commission wants stable funding, this is the best way to do it or the Commission will be subjected to the annual appropriation process that he does not have that much control over. Mr. Kurzman stated the ideal scenario would be if there is a supplement to go with the users' fee. Mr. Kurzman discussed the registration fees for his boat and his trailers. Mr. Kurzman suggested that the number of registered boats and some other metrics are needed to run various scenarios.

In response to Mr. Clancy's inquiry, the Chair stated funds from the program would not be going to Trenton, but if it does, Mr. Zellner assured the Chair that they would get a check. Mr. Clancy asked the Commission to review his land-based model he presented at the last meeting. He suggested that the Commission gather data on its own.

Mr. Gruber discussed his thoughts on how the program should be structure by using the boating registration. He suggested classes of registration stickers devised by use such as Lake Hopatcong only or State in-land waterways to increase the registration fee. On enforcement, the State Park should expand its scope to include the lake and the land.

Mr. Brunson of Hopatcong thanked the Chair for his work on the funding issue. He addressed the current fees such as licensing and registration, he elaborated on this and questioned why the money is not going into the boating fund. He stated he has no problem with users' fees as long as it stays a user fee.

Chair Ondish stated he was taking public comment on his report only and the agenda item for public comment would be coming up.

Mr. McCarthy questioned what documents the Commission would be receive from the State. He stated he is not against users' fees, because he wants the Commission to succeed; however, if users' fees are implemented, the State should give up control of Lake Hopatcong and the two counties and four towns should assume control of the Lake to ensure the money would stay local and go where it is supposed to. Mr. McCarthy stated that whatever is agreed to between the State and Commission should be written down and documented. The Chair reiterated again that the Governor stated this would work as a partnership.

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Ms. Macalle-Holly referred to Mr. McCarthy's remark that the DEP would work with the Commission and that is how everyone left the meeting with the Governor. The DEP agreed to work with the Commission to establish a dedicated source of funding in partnership. The fine details of the partnership have not been worked out and it will be a process. The key is that DEP will work with the Commission so we can stay in existence because they value what the Commission does.

Old Business

EPA Grant Funding

Ms. Macalle-Holly stated that at the last meeting the Commission authorized the Chair to enter into the EPA grant agreement in the event the Commission received the agreement back before this month's meeting. That did not happen. The Commission was notified by the EPA today that a letter from DEP is needed stating that the Commission will be able to complete the grant. She stated that in speaking with Counsel and Mr. Klipstein they have indicated we would work together to get something to the EPA.

Commission Funding

The Chair stated that this agenda item has been addressed.

Princeton Hydro Report

Dr. Lubnow stated Ms. Macalle-Holly indicated she needed the annual Water Quality Monitoring report to be one document which includes all the data, graph and text to post the document on the website which has been done.

Dr. Lubnow stated he had hoped to have the Jefferson plans and permit application for the 319 grant, but the engineers should be sending them out by the end of the week. He stated PH is waiting on the review of the bid specs for the 319 projects in Hopatcong.

Dr. Lubnow stated he sent a letter to DEP expressing Princeton Hydro's number one concern about the Commission and funding as well as offering their support and assistance.

Sub-Committee Reports

Chair Ondish asked if there were any sub-committee reports. Without any, he moved to the next agenda item. Mr. McCarthy asked if there was a current list of subcommittee members.

New Business

The Chair asked if there was any new business. There was an inquiry if the Commission would be meeting in Hopatcong. Ms. Macalle-Holly stated that the Commission would

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be meeting in Jefferson from April through June, then in Hopatcong from July through September. The end of the year the meetings would be in Mt. Arlington. She stated the Commission was going to try to meet in Hopatcong and see how it works out.

There being no further new business, the Chair moved to public comment.

Public Comment

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

Mr. Clancy, representative of the Knee Deep Club (KDC), stated the Club would be stocking roughly 3,000 trout on April 1. He also discussed the Largemouth Bass Virus (LMBV) which was found in Lake Hopatcong and Viral Hemorrhagic Septicemia (VHS) which is coming down from the Great Lakes area. Since the funding issues have been resolved, Mr. Clancy suggested a committee be established to work through public education issues on these and other pathogens. VHS causes mortality in several fish species and not much is known about it. He asked Mr. Klipstein or Dr. Lubnow if there is a temperature that could be used in steam cleaning that might kill all the pathogens. He stated NJ F&W has recommended that one ounce of bleach per gallon to treat boats before and after using the lake. The Chair suggested that the Commission discuss putting together a committee at the next meeting. Ms. Macalle-Holly stated that Ms. Rector and Ms. Gantert had volunteered to serve on the Committee. Mr. Clancy stated some other fishing organization have expressed interest in participating. Mr. McCarthy suggested that someone from F&W should be involved. Mr. Clancy stated that a F&W biologist from South Jersey volunteered to participate in an ad hoc group and someone from Greenwood Lake should also be involved. Chair Ondish suggested the committee be formed and called the Aquatic Habitat Committee. He directed the Committee to appoint a Chair, schedule meetings and report back to the Commission.

Mr. Kurzman asked about the lake water level issue. Mr. Klipstein and Counsel Weyl stated they would check with legal counsel that is reviewing the issue. Mr. Kurzman suggested that the Supplemental Funding Committee meet prior to receiving the package from the State, but the Chair stated the Committee should wait to see what the State is proposing. Mr. Klipstein stated the questioned being research for a legal opinion regarding the water level is whether the passing flow can be reduced at certain times based on the old statutes that are still in effect.

Mr. Beebe addressed the water level of the lake and referred to the law which governs this as well as addressing the lake property owners' rights. He stated that the Commission is not a partner with the State. He also discussed how the State has money and it is the State's duty to take care of the lake. He stated that if the lake was kept at the high water mark they would not be repairing the spillway. The Chair suggested that Mr. Beebe contact Senator Bucco and Senator Littell about the lake level issue.

Mr. Woygen of Hopatcong stated he addressed the Commission late last year about the Byram Cove issue. He attended the Boating Regulation Commission meeting in Sea Girt

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and they remembered the Commission's letter. Mr. Woygen reported that the Boating Commission would be willing to meet with the Lake Hopatcong Commission off season. Chair Ondish offered to meet with the Boating Regulation Commission at their location. He stated that the Boating Commission indicated rafting is appropriate and it happens all the time. Mr. Woygen questioned who governs the lake and how does a lake impose additional criteria for their lake. The Chair stated the State governs the Lake. Mr. Woygen stated the Boating Commission's position is that there is a governing body that could make recommendations to their Commission for new regulations for the lake. The Chair did confirm for Mr. Woygen that the Boating Commission governs Lake Hopatcong. Ms. Macalle-Holly stated that the Commission's legislation does not address boating regulations and that is what Mr. Woygen is trying to get answers on. Chair Ondish stated that the Hopatcong State Park and NJ Parks and Forestry govern the Lake. Mr. Kurzman discussed his prior interactions with the Boating Regulation Commission. New rules would have to be approved by the Boating Regulation Commission by January. After further discussion, the Chair suggested that the Commission should contact the Boating Regulation Commission and asked them to attend an LHC meeting in the October. Mr. Woygen suggested copying Mitch Brown, a State Police liaison to Boating Regulation Commission Chair.

Ray Fernandez of Jefferson Township congratulated the Commission on receiving funding. He stated that the lake level should not be taken lightly because people depend on the lake to make a living. He stating waiting for the State to get back to the Commission does not make much sense. He volunteered to hire an attorney. He also volunteered to be on the Supplemental Funding Committee. The Chair stated a Committee has been established, but he would look at the membership. Mr. Zoschak stated the users' fee program would be discussed in public and there would be time to provide comment on it. Mr. Fernandez stated he hears about the users' fees everyday. Mr. Zoschak stated members of the Commission should be speaking to Mr. Fernandez to understand the public's feeling. Chair Ondish stated that regardless of how the public feels about users' fees, this is the way he has to be.

Mr. Gruber, Mt. Arlington Alternate, stated he had some suggestions for how to get more biomass out of the lake. The Chair asked that he speak to him directly about it when Michael Calderio can join the discussion.

Mr. Brunson of Hopatcong asked for an update on police coverage on Lake Hopatcong. Chair Ondish described again the dots coverage approach the State Police use which is not 24-7. He stated that a follow-up meeting is being scheduled. Mr. Brunson discussed the concern of documentation between the State Police and local enforcement. The Chair stated the State Police were looking into equipment, boats, training and other issues before the next meeting is scheduled. The Chair stated he would give a call to the State Police to follow up.

The Chair asked Counsel Weyl about the majority on the voting issue for the budget and whether Mr. Klipstein and Mr. Richman could vote on the budget. Mr. McCarthy read the passage from the Commission's legislation. Counsel Weyl stated for the budget to

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pass, eight out of eleven votes are required. Counsel stated he had another Commission that has the same requirements so it is not unusual. Chair Ondish asked about the vacant Commission position. Ms. Macalle-Holly stated when she checked on this a couple of months ago, she was advised that the Governor's office is aware of the vacancy and they are working to fill it.

There being no further business, the requested a motion to adjourn. Mr. Risko made a motion to adjourn at 9:35 and Mr. Zoschak seconded the motion. There being a unanimous "aye" the motion was carried.

Submitted by: Donna Macalle-Holly