

# Minutes of the Lake Hopatcong Commission

## April 16, 2007

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A meeting of the Lake Hopatcong Commission was held on April, 16, 2007 at the Jefferson Township Municipal Building, 1033 Weldon Road, Lake Hopatcong, 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 asked for prayers for Governor Corzine for his recovery. He requested a moment of silence for all the troops and their families and for the victims of the school tragedy today [in Virginia].

### **Roll Call:**

Present: Elizabeth Gantert, Eric Grove, Kenneth Klipstein, Daniel McCarthy, Richard O'Connor, Frank Hughes (Morris County), Robert Mitchko (Jefferson) and Arthur Ondish

Absent: Colleen DeStefano, David Jarvis, Charles Richman, Richard Zoschak

Alternates Present: Robert Gruber (Mount Arlington - 7:45), Patricia Rector (DEP), Joel Servoss (Hopatcong)

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

### **Communications**

Chair Ondish asked for any comments or questions regarding the Communications. The Chair stated there was information in the package on the EPA grant of which Ms. Macalle-Holly is keeping on top of.

Mr. Klipstein stated he had a piece of communication that was not in the package, but he was aware of it because it was sent to Senator Bucco from Commissioner Jackson. He stated he had copies to distribute and the letter was in response to the mail that was coming in to the DEP about Commission funding. Although it is addressed to Senator Bucco, it provides a response to all the requests for funding and lays out the Administration's position. Mr. Klipstein stated that he has been told that the way the Department would handle the massive amount of referrals that they received from the community, is to post the Commissioner's letter on the DEP website and would like to have it posted on the Commission website to advise the public of the status of funding. There was agreement

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from the Commissioners to post the letter on the website and Mr. Klipstein stated he would work with Ms. Macalle-Holly to get it on the website.

After reviewing the letter, Chair Ondish stated that Lake George gets funding from another source for their organization. Ms. Macalle-Holly stated Lake George Commission gets money from the State to address their weed issue. Chair Ondish stated he was not sure if there would be enough money for the LHC if the only source was boat fees. Chair Ondish stated the Commission would be in operations with some type of fee structure. The Chair directed Ms. Macalle-Holly to post the letter on the website and stated the letter was very positive. A copy of the letter was distributed to the public in attendance to review.

Ms. Macalle-Holly stated that in the package there were communications about William Clark receiving the EPA Environmental Quality Award. She stated that she and Mr. Klipstein will be attending the EPA awards ceremony and the Chair was unavailable to attend due to work commitments. She stated that three of Mr. Clark's daughter will also be attending the ceremony. The Chair stated it was a real honor for all the work that Mr. Clark did.

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

Mr. Grove stated a Revised Bill List for \$26,756.85 was distributed. The Reconciliation Summary for period ending March 31, 2007, the Valley National Bank account had a register balance of \$95,249.07. Chair Ondish requested a motion to approve the Revised Bill List. Mr. Hughes made a motion to approve and Mr. Mitchko seconded the motion. Mr. Klipstein inquired about the insurance. Ms. Macalle-Holly stated the insurance package is paid monthly and the worker's compensation is paid quarterly. [A copy of the Revised Bill List is available on file.]

### **ROLL CALL:**

Gantert	Yes	O'Connor	Yes
Grove	Yes	Hughes	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes

Motion carried 8 to 0.

### **Minutes of Meeting of February 20, 2007**

Chair Ondish stated the minutes of February 20<sup>th</sup> did not pass last time due to lack of votes and requested a motion to approve the minutes. Mr. O'Connor made the motion to move minutes and Mr. Mitchko seconded. He stated everyone agreed that the minutes were adequate, but there were not enough votes to approve. Chair Ondish requested a roll call vote.

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### ROLL CALL:

Gantert	Yes	O'Connor	Yes
Grove	Yes	Hughes	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes

Motion carried 8 to 0.

### **Minutes of Meeting of March 19, 2007**

Chair Ondish requested a motion to approve the March 19 minutes. Mr. O'Connor made the motion to move minutes and Mr. Mitchko seconded. Mr. McCarthy reference the statement from him on Page 5 of 9 which stated that, "...he is not again users' fees, because he wants the Commission to succeed." Mr. McCarthy stated he wants to make sure his position is understood. He is certain that he said this within the context that if all else fails, then the State should give up control of Lake Hopatcong and he would assume the two counties and four towns would assume control of the Lake. Mr. McCarthy stated that if there were a user's fee system he would be more comfortable if it is under local control because he feels the money would stay local and go where it is supposed to.

Mr. Grove stated on Page 2 of 9 in the Roll Call for the Payment of Bill he should not be listed since he was not in attendance. Ms. Macalle-Holly stated she would correct the roll call.

The Chair asked for a roll call to approve the revised minutes.

### ROLL CALL:

Gantert	Yes	O'Connor	Yes
Grove	Yes	Hughes	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes

Motion carried 8 to 0.

### **Public Comment**

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

Cliff Beebe, from Beebe's Marina on Lake Hopatcong, stated he does not like users' fees because the Lake is a public recreational facility. He suggested something be worked out with people that come in from outside to use it for pleasure, but some people have property rights on the Lake and they should be exempted. He stated that not only do people make a living from the Lake, but the towns and State benefit. He stated to make sure that funds to use Lake Hopatcong should go into a special fund and not the general budget for the State. Chair Ondish stated that the commitment he received from the DEP Deputy Commissioner and Governor that any money raised through a fee program would go back to the Lake. Mr. Beebe also discussed the taxes on lakefront property. Mr.

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Beebe asked if the Chair set up a meeting for him to meet with the legislators. The Chair responded that Mr. Beebe should be arranging the meeting, but they will discuss further.

Mr. Brunson, Hopatcong resident, suggested a funding mechanism to add surcharges to marine tickets and let it stay in the pot at Lake Hopatcong. He stated originally the boaters' license fees were supposed to stay in Lake, but that money was taken from the Lake. There was discussion on where existing marine fines go.

Councilman Richard Bunce, Borough of Hopatcong, stated that although he is against users' fees and he believes the general discussion in Hopatcong is against fees, he understands the reality situation that a user-based funding system is needed. He referenced the letter from Commissioner Jackson to Senator Bucco and responded to the Commissioner's comments when she toured that Lake last year that if you use the Lake you pay for it. He stated that the water from the Lake could be a source of funding to compensate people that are losing their land value from the Highlands Act. He stated he challenges the Governor and DEP to have the people that are using the water, to pay for it. He stated that if individuals that use the lake should have to pay for its use, then those that use the water from our aquifer should also have to pay for that.

### **Chairman's Report**

Chair Ondish stated he did not have a long report. He stated he spoke with the Governor briefly shortly before the Governor's accident and advised him that everything is moving along. The Chair stated Mr. Klipstein is working on the agreement.

The Chair reported that the State will be fixing the Landing seawall and work is nearing completion at the dam. He stated he visited the field staff at the maintenance facility and the staff will be working up to the last minute to get the harvesters in the water as soon as possible. He stated the field staff will not be doing shared services this spring as usual because of the funding issue which caused a delay in ordering material for equipment repairs.

He stated he suggested to LHC Foreman to do a video next year so everyone can see the repair work done during the winter. He commended the staff for their repair work.

He stated he has been fielding a lot of comments about users' fees. Although no one really wants them, most people realize that they are necessary as long as the fees come directly back to the Lake.

The Chair stated he placed a call to the State Police to follow-up on the meeting that was previously held. He stated Sheriff Rochford indicated he has six staff that would be participating in the State Police boating class to work with the State Police. The Chair stated he appreciated Sheriff Rochford's effort to assist with police coverage on the Lake. He stated he did not hear back from Sussex County on the issue.

**Old Business**

Commission Funding

The Chair asked Mr. Klipstein to discuss the status. Mr. Klipstein referred the Commissioners to the letter Ms. Macalle-Holly sent to Adam Zellner with the attached spreadsheet. He stated the near-term effort is to get the bridge funding in place. He has been working to determine what the funding level needed is. He stated all the funding over the next two years is broken down on the spreadsheet for FY07 and FY08. Mr. Klipstein reviewed the spreadsheet and the categories. He stated the State would be providing the bridge funding as a two-year watershed restoration fund totaling \$1,055,502. Mr. Klipstein stated the numbers are still being finalized for the request, but the top priority is to get a check by hopefully next week. The check will not be for the \$1,055,502, but it will be sufficient to cover salaries and other costs and have some carry forward. He stated in order to do this a Memorandum of Agreement (MOA) must be signed. Mr. Klipstein requested a motion to authorize the Chair to sign the MOA once it is finalized. He stated he planned to provide a copy of the MOA for legal review today, but he apologized that he was unable to do so due to personal issues and the weather.

Mr. Klipstein stated the MOA is fairly straightforward stating the funding level the State will provide if the Commission commits to working with the State to put a user-based program in place. The MOA does not get into specifics of the user-based program, but it does include requirements for the fiscal reporting and progress reports of the development of a user fee program. He stated there is a companion document that breaks out the scope of work for the watershed restoration work which includes weed harvesting. It will reimburse for expenditures back to the beginning of the fiscal year.

Mr. Klipstein stated that he thinks Deputy Commissioner Zellner would like to have something in the budget language for this fiscal year so fees could be in place by the next boating season. The legislative piece and how that works is with legislative staff and he is unsure how they will work out in enabling language.

Mr. McCarthy stated he did not hear anything about enforcement of the users' fee in the MOA. Chair Ondish stated he advised the Governor that the Commission does not have the administration and enforcement capabilities for the program. The Chair stated the Governor said he had people that would work with the Commission on enforcement. There was discussion that if an increase in boating registration or surcharges on marine fines were used, then enforcement would not be an issue. Mr. Klipstein stated he tried not to split hairs on details in the MOA because the priority is got get the Commission a check.

Mr. O'Connor made a motion to authorize the Chair to enter into a Memorandum of Agreement with the DEP for LHC Funding. Mr. Grove seconded.

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### ROLL CALL:

Gantert	Yes	O'Connor	Yes
Grove	Yes	Hughes	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes

Motion carried 8 to 0.

The Chair asked for any other questions for Mr. Klipstein. In response to one inquiry about the lake level, Mr. Klipstein stated he sent a letter to the DAG that is reviewing it asking if he needed anything else in order to render an opinion. The DAG response was that he did not, but just needed time to prepare his opinion. Mr. Klipstein stated there really is no excuse as to why he cannot get this opinion.

Ms. Macalle-Holly acknowledged the work that Mr. Klipstein and Ms. Rector have been doing and the time and effort that has gone into getting this far with the funding issue. Mr. Klipstein stated the sub-committee would meet once we get through the immediate funding issue.

Mr. McCarthy asked how someone could get the most recent version of the Lake Hopatcong Water Level Management Plan. Mr. Klipstein suggested that it should be scanned to an Adobe file and posted on the website. Ms. Macalle-Holly stated she checked with Hopatcong Superintendent Maurella and the document is not available electronically. Mr. McCarthy stated that the document would help answer many concerns about the Lake level and should be available to the public. Mr. Klipstein stated he would look into making the document available.

### **Princeton Hydro Report**

Ms. Macalle-Holly stated that Dr. Lubnow could not make tonight's meeting due to the weather issues and some of the other Commissioners are also having difficulties getting to the meeting. She stated that Commission staff would be meeting with Dr. Lubnow, Ms. Rector, a PH engineer and representatives from Hopatcong and Jefferson to visit prospective project sites for the Commission to consider submitting for the next round of 319 grant funding. That meeting is scheduled for Wed., April 18.

Mr. McCarthy stated he was hoping to ask Dr. Lubnow about something advertised in the Shoppers' Friend for \$73.96 per gallon that treats 8,000 sq. ft. to chase geese away. The claim is that it is not hazardous to fish or pets, etc. Ms. Macalle-Holly stated she would ask Dr. Lubnow to look into it.

### **Sub-Committee Reports**

Chair Ondish stated that Ms. Macalle-Holly updated the subcommittee list and copies were distributed. It will be revised again because the Aquatic Habitat committee created at the last meeting needs to be added to the list. Chair Ondish discussed the importance of reinforcing the lake-friendly fertilizer message to make people aware of how important

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it is to use non-phosphorus fertilizer regardless of where they live. Ms. Macalle-Holly reviewed the members of the Aquatic Habitat Committee: Gantert, McCarthy, Rector and Clancy. Chair Ondish stated he would like to have a business owner from around the Lake and appointed Mr. Ray Fernandez to the supplemental funding committee. Mr. Klipstein stated it would be good to have a marina owner represented on the committee.

### **New Business**

#### Weed Harvesting Review

The Chair stated that Mr. Jarvis contacted him to discuss the weed harvesting program. He has some ideals and wants to review the program. The Chair stated this discussion would be tabled to the next meeting when Mr. Jarvis is in attendance. Chair Ondish stated that Mr. Jarvis should speak with Mr. Calderio directly about the weed harvesting program.

#### Resolution 07-05 Approval of Professional Services for Princeton Hydro

Chair Ondish introduced Resolution 07-05. He stated that it is below the threshold for public bid, but Counsel had suggested that the Commission go out to bid. However, for this year, it is too late to bid for the services. Mr. Mitchko made a motion to move Resolution 07-05 and Mr. O'Connor seconded. Ms. Macalle-Holly stated the number on the Resolution was incorrect and it should be 07-05. There being no discussion, the Chair requested a roll call.

#### **ROLL CALL:**

Gantert	Yes	O'Connor	Yes
Grove	Yes	Hughes	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes

Motion carried 8 to 0.

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. Brunson, Hopatcong resident, discussed the website and inquired if the Governor has filled the Commission vacancy. Chair Ondish stated not yet, but they are working on it. He also discussed the website and commented that he did not see anything on it about flood state. Ms. Macalle-Holly stated that the link to USGS website shows that above 9.5, is when the high water level restrictions are in place. Ms. Macalle-Holly stated that the Commission does not have 24X7 access to the website and if the high water level recedes, there is no way for the Commission to take a high water level message off of the website. She stated it is the State Police responsibility, since they enforce it, to provide

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notification. Mr. Brunson stated he has a problem when he contacts the State Police and they cannot even tell him when the high water restrictions are in place. Chair Ondish stated he would discuss this at the next meeting with State Police.

Rob Gruber, Mount Arlington Alternate, asked if the \$1.055M included funding for office and maintenance facility. Mr. Klipstein stated that the \$1.055M is for watershed restoration and operating cost for weed harvesting. Chair Ondish stated that the offer from Deputy Commissioner Watson was that he would look into space at the State Park for the Commission. Mr. Gruber asked if someone on the Commission could work to follow-up on the offer for space at the State Park. Mr. Gruber asked about the economics of lake-friendly fertilizer. Ms. Macalle-Holly stated it is more expensive to buy lake-friendly fertilizer, but she was unsure if it was more expensive to make. Mr. Gruber suggested working with stores like Lowe's and Home Depot to put something in their advertising circulars for lake-friendly fertilizer and if they offered an economic incentive to purchase it. He offered to help out with the lake-friendly fertilizer outreach. Mr. Klipstein stated the State is working on the low phosphorous fertilizer and has been speaking with Scotts on the issue. He stated Scotts will be doing marketing on non-phosphorous fertilizer over the next three years. The Chair asked and Mr. Gruber agreed to serve on the lake-friendly outreach committee which is chaired by Mr. Hughes. The Chair asked Mr. Hughes to have the committee meet to discuss the non-phosphorous fertilizer outreach campaign.

Chair Ondish stated he had an offer from Mayor Felter to look into relocating the Commission office, at limited cost, to Camp Jefferson. He stated the building being considered is occupied by Chamber of Commerce and they use it only on occasion. Ms. Gantert said she is very familiar with Camp Jefferson and it would be a great asset for the Commission to be there. There was general consensus to look into this option.

Mr. Beebe of Beebe Marina stated that the Commission should get a copy of the Commissioner's Report of 1907 from the State Archives which would determine what should be done today. Also in 1921 or 1922 they erected the spillway and at that time they established the high water mark of 10-3/10" above the spillway. He stated people came along and assumed the high water mark was at the top of the spillway, but it actually is above the spillway. He stated the waters of Lake Hopatcong are in private ownership and the people downstream should pay for the use of the water. He stated a judge allowed the plant downstream to put the fountain at the park up to give them 7.5 MGD to use for processing and the Musconetcong Sewage Authority does not even use the water from the river. He stated the State only owns about 20% of the Lake. In response to an inquiry, Mr. Klipstein stated he checked with the DAG and he received a poor response, but he will continue to press for an opinion. He stated if the lake level had been up high, you would not have the influx of early weed growth. Mr. Beebe referred to the Water Quality Monitoring Report and stated that it was a good report and the overall water quality of the lake is good. The Chair stated that the Commission does not have the deep pocket to go after that battle with the State and it has been such a long time that the State has taken control. Mr. Beebe stated that the property owners around the Lake own the water not the State. Mr. McCarthy stated Mr. Beebe showed him a 1948 attorney

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general document which discussed ownership rights within the Lake and it is important to understand this for those that have deeded rights to the Lake. There is a question as to whether individuals should be taxed or whether the State can impose further restrictions on rights one already has. He stated as the Supplemental Funding Committee looks at user fees, this will be important.

Richard Bunce, Chairman of Hopatcong Sewer Committee, provided a brief report on the progress of the sewer installation in Hopatcong. He stated they are on their last sewer contract. As part of this last contract, they were able to add 12 gravity-feed system homes on the far side of Crescent Cove which he believes is one of the most polluted areas in the Lake. He stated now the entire Crescent Cove area from 12 houses beyond the Crescent Cove Beach Club around past River Styx Bridge, past Pavinci's to Sharpe's Rock is being sewered. The entire shoreline will be sewered by December 31, 2007. He stated there are approximately 2,900 connected homes out of approximately 2,975. They are sending an approximate average of 347,000 gallons of untreated sewage to the MSA and they have a 580,000 per day capacity. He stated approximately 60-65% of the septic systems that have been de-commissioned during the sewer project were totally and completely non-functioning. He would estimate that one-third to one-half of the remainder had a life expectancy of another two to three years. He stated the project will help the lake a lot. He stated a resident is paying \$1,210 annually. They are not paying connection fees or for their grinder pumps, but are paying from where the pipe or grinder pump is on their property to their homes. He stated a Phase 3 is very unlikely at this time because of the financial burden, but a number of people have coming looking for sewers. The last 12 homes were given the option to connect to the sewers and even knowing the costs, all 12 opted to connect.

Mr. Bunce also discussed Hopatcong's Water Resource Report which indicates that the aquifer that portions of Hopatcong sit on is very healthy. He stated that a balance of water coming in and out of the aquifer through the bottom of the lake is replenishing the aquifer to a certain degree.

Mr. Bunce stated it is hard to believe that the State could turn its back on the Commission. He stated the Commission made history and if a stable funding source is established, hopefully history will recognize everyone's hard work.

Ms. Macalle-Holly, Jefferson Township, stated she spoke with Jack Kelly who is working to keep Bill Clark's name alive. She stated that Jefferson will be dedicating the fishing pond to Bill's memory on Jefferson Township Day on July 14. She stated Mr. Kelly is accepting donations to put benches along the pond. Trout Unlimited and the Knee Deep Club are making donations toward the benches. If anyone wants to donate, they should contact the Jefferson Arts Committee or Mr. Kelly.

Phil Doyle, Jefferson Township Resident, has a client that has a device for washing machines to reduce the amount of detergents going into septic systems. He stated the company spokesperson could not be in attendance tonight to distribute information on the

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product. Instead Mr. Doyle requested contact information. Chair Ondish asked that the information be provided before the next meeting.

Mr. McCarthy suggested that the Commission keep its radar up for any grants to assist Hopatcong with sewers. Mr. Bunce stated that chances are that any further sewerage will only be done through grants. Chair Ondish applauded Hopatcong for its efforts on sewerage. Mr. Bunce stated the cost was \$60M.

There being no further business, Mr. Klipstein made a motion to adjourn at 9:25 and Mr. Hughes seconded the motion. There being a unanimous "aye" the motion was carried.

Submitted by: Donna Macalle-Holly