

Minutes of the Lake Hopatcong Commission

May 15, 2006

A meeting of the Lake Hopatcong Commission was held on May 15, 2006 at the Jefferson Municipal Building, 1033 Weldon Road, Lake Hopatcong, New Jersey. At 7:35 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 to silence for our soldiers and their families. He also asked those present to keep in mind Bill Clark's condition and for his return.

Roll Call:

Present: Colleen DeStefano, Elizabeth Gantert, David Jarvis, Kenneth Klipstein, Richard O'Connor, Charles Richman, Richard Zoschak, Daniel McCarthy (Hopatcong Alternate), John Risko (Sussex County Alternate) and Arthur Ondish

Absent: Eric Grove, Richard Hodson, Wayne McCabe

Alternates Present: Robert Gruber (Mt. Arlington), Frank Hughes (Morris County), Robert Mitchko (Jefferson), Patricia Rector (DEP)

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

Also present were: Dr. Fred Lubnow – Princeton Hydro
Lewin Weyl – Commission Legal Counsel

Communications

Chair Ondish asked for comments on the communications package. Chair Ondish referred to the two letters from the Counties supporting the Commission funding indicating that it was recommended to have letters sent instead of resolution. He stated Senator Bucco also sent a letter to DEP Commissioner Jackson reaffirming his questions from the budget hearing. He stated there was a letter from Jefferson's Mayor Felter to reduce the flow from the dam.

Treasurer's Report/Payment of Bills

In Mr. Grove's absence, Ms. Macalle-Holly reviewed the Reconciliation Summary, as of April 28, 2006. She reported an ending register balance of \$317,968.40 in the VNB account. She stated a Revised Bill List of \$19,142.43 was distributed for approval. Mr. Zoschak made a motion to move the Revised Bill List. Mr. Risko seconded. Mr. Zoschak asked about Rickly Hydrological Co. Ms. Macalle-Holly stated it was equipment needed for tributary monitoring. The Commission will be working with Princeton Hydro to begin the monitoring project. Ms. Gantert asked about Check #3190 and #3187 both made out to Lakeside Realty, LLC. Ms. Macalle-Holly stated that the property owner indicated that the Commission rent was not paid in February 2005 so the one check for \$1,956.57 was for the February rent payment.

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ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	Zoschak	Yes
Jarvis	Yes	McCarthy	Yes
Klipstein	Yes	Risko	Yes
O'Connor	Yes	Ondish	Yes

Motion carried 10-0-0.

Minutes of Meeting of April 17, 2006

Chair Ondish requested a motion for the minutes. Ms. Macalle-Holly asked that the approval of the minutes be held off until next month, because it was brought to her attention that not all Commissioners received the minutes for review. Chair Ondish stated he would prefer not to do that because they should be available on the website. He asked if all Commissioners had a chance to review the minutes. Mr. Zoschak made a motion to move the April minutes. Ms. DeStefano seconded the motion. There being no comment, the Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	Zoschak	Yes
Jarvis	Yes	McCarthy	Yes
Klipstein	Yes	Risko	Abstained
O'Connor	Yes	Ondish	Yes

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

Public Comment

Chair Ondish stated that the first public comment period is for items on the agenda. The second public comment at the end of the meeting is when other items can be discussed. He stated the meeting would be open to the public for items on the agenda.

John Kurzman, resident of Lake Hopatcong, stated his comments were about the water level. He stated the levels are one to two feet below the levels in 2002, 2004 and 2005. He discussed his review of the water level history. He referenced a statement made in 1998 by Robert Mancini, Section Chief of Bureau Water Allocation of the Water Resources Division that few industries and sewage treatment plant divert water from the river downstream of Lake Hopatcong. If the lake were closed up completely there would be no adverse impact on the public or industrial water supply down stream according to Mancini. Mr. Kurzman stated that the ideal time to get this corrected is before there is a drought while others have water downstream. He stated on May 1, 2002 the water level was just five inches below the top of the dam, but two months earlier, it was 27 inches down. On March 15, 2002, the DEP implemented a request to reduce the amount of water from the dam's gate from 7.5 MGD to 4.5 MGD. He stated it is common that the correction could have very big impact. He also discussed concern about the fish because as the water level goes down and the lake is weed choked, the fish were cut up by props. He stated that if you do not reduce the flow, the upstream fish are being hurt. He also addressed the legality issue and referenced the lake level management plan and statute 13:12-5. He wanted to pass the input of his review and the lake level to the Commission. Ms. DeStefano asked Mr. Kurzman to provide copies to the Commission.

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Mr. Zoschak stated that the Commission does not have the legal authority to raise or lower the lake.

There being no further public comment, the Chair moved to the next item on the agenda.

Chairman's Report

Chair Ondish stated he is very concerned about Mr. Clark's condition and hopes for his safe return. In the interim, Mike Calderio has stepped up with leading the crew. He stated he had nothing further to add for his Chairman's report.

Old Business

Field Staff Report

Ms. Macalle-Holly stated she included a brief update in the Communication Package cover letter about the status on hiring field staff. She stated employment offers were made and accepted. She is moving forward with the background checks and medical exams prior to bringing staff on board. She stated that a different approach was being used this year to cover when staff is out on vacation. One of the seasonal positions will be a fill-in when an employee is out. Chair Ondish stated it was important to get staff on board for safety purposes and training.

Ms. Macalle-Holly stated that during the site visit to the maintenance facility it was suggested that a similar visit be arranged for the summer to see the harvesting operations. She suggested a Saturday in June before vacations begin. The Chair stated this would be discussed. If the visit is scheduled for a Saturday morning, it would have to be early before the park fills up.

Lake Hopatcong Water Level

Chair Ondish stated that the Commission does not have the authority to control any aspect of the lake water level, but the Commission can make recommendations about it. He stated the water level comes down to rain. The State is looking into reducing the flow. He thanked Mr. Kurzman for the information.

Mr. Klipstein stated he has spent a lot of time on this issue reviewing the statutes and the Morris Canal and Banking Commission and legislation, which includes language to control a number of water bodies including Lake Hopatcong. He is meeting tomorrow is with DEP Chief of Operations and lawyers to see what the authority is to change the flow. He coordinates with the Michelle Putman, the Director of Water Supply, on downstream issues. He stated the Musconetcong Sewage Authority's (MSA) permit is based of 7.5 MGD. He stated that 3 MGD is the bottom level that is set in the water level management plan. He stated that the other number discussed is the 5.3 MGD which is the aquatic habitat number needed for trout and trout stocking according to Fish and Wildlife (F&W). Mr. Klipstein stated that everything supports reducing the flow, but having said that, you do not want to go below a number that is protective of aquatic habitat downstream. He stated a reduction of approximately 2.0 MGD going down to 5.3 MGD was being considered. He reported that he spoke with Dr. Lubnow and Mr. Cliff Lundin about the issue. The Lake Hopatcong Water Level Management Plan includes a 25-year hydrograph, which shows how the lake responds to drawdown. The only two years besides the 2002 year where the lake was at the current level is 1985 and 1988 and both were major drought years. Mr. Klipstein stated he agreed with Ms. DeStefano and Mr. Kurzman to hold onto the water. He

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stated that is why he is speaking with the lawyers to determine the clear authority. It is unusual to have a winter drought coming into the spring. He stated the Governor's Order was issued on March 4, 2002 that authorized the DEP Commissioner to reduce the flow to 4.4 MGD during the drought emergency. Mr. Klipstein stated we should be able to be responsive early on to have the lake as full as possible. He stated that when you look at the calculations of 2 MGD reduction a day from 7.5 to 5.5, it only translates to an inch increase in water level in thirty days. Mr. Klipstein stated that the Morris Canal Commission still exist and the authority there is being sorted through. Mr. Zoschak questioned why that Commission still exists. Mr. Klipstein stated that Bart Wallin, who controlled the dam for 20 some years and Greg Marshall, Director of Parks and Forestry are no longer around to gain their institutional knowledge. He stated it appears that the Director of Parks and Forestry is the person who is charged with control, but they are unsure what he can do on his own. Ms. Macalle-Holly stated that the State Park keeps daily records of the water level as well as the data that is available through USGS website. Mr. McCarthy stated that someone locally should be given the authority to reduce the flow as soon as possible.

Ms. Macalle-Holly stated she had the current water level data available and wanted to review it for the record since it is a great concern to the residents. As of April 15, 2006 the lake level was at 7.0 feet. She stated the average level for this time of year is between 9.0-9.5 feet. Since April 15, the lake level has risen to 7.9 feet. When reviewing the precipitation data, available through the USGS website, which is funded by the LHC and the NJ DEP, from April 15 through today, there has been about 4-1/4 inches. With that amount of precipitation, the lake has come up about one foot in a month's time. Mr. Kurzman stated that Bart Wallin was quoted in the article indicating that for every inch of rain, the lake will come up three inches.

Ms. Macalle-Holly stated she contacted some marina owners today to understand the potential implication from a boating perspective. The owners she spoke with stated it is not affecting their financial situation yet because people pay for their dock slips upfront. She stated that they estimated the amount of boaters using their dock slips is down 50-70% compared to the same time in previous years. One marina owner did say that with the lake rising over the last couple of days, more boaters are putting their boats in.

Mr. Klipstein volunteered to work with Ms. Macalle-Holly to make a recommendation in the near-term and longer term for the water level management plan. Mr. Klipstein stated the water level management plan is a good document and based on firm data, but it does need clarification on the authority. Mr. Klipstein stated that 13:12-5 ends with "natural elements permitting" and it is natural elements that we are dealing with so it is not explicit. Chair Ondish thanked Mr. Klipstein for doing this.

Princeton Hydro Report

Dr. Lubnow stated for the 319 grant, the Quality Assurance Protection Plan (QAPP) was submitted and is providing more comments prior to final approval. A pre-application meeting with DEP is scheduled for one of the 319 sites on May 24 to discuss permitting issues before initiating design work. He stated for the US EPA grant, Ms. Macalle-Holly is working on providing additional information to Dr. Lubnow so he can address EPA's additional questions by the end of the week as well as finish the revisions to the EPA QAPP. Dr. Lubnow stated he will be providing information on the US EPA Wetland Grant to the municipalities at the upcoming TMDL Implementation meeting. Dr. Lubnow will be asking the municipalities to provide sites in need of remediation to be included in the wetland restoration plan. Dr. Lubnow said that potential sites should be for wetland protection or stream bank stabilization. Princeton Hydro

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will then prioritize the projects for future funding. He stated that at the TMDL Implementation meeting on May 17, PH would review all the projects PH is working on including the 319 and EPA grants and will look to the municipalities to provide information to help document the removal of phosphorus in the watershed. At the meeting, PH will provide an update on the TMDL and the efforts of Commission to reduce the phosphorus load. He stated that PH would begin the annual water quality-monitoring program of Lake Hopatcong this month.

At Ms. Macalle-Holly's request, Dr. Lubnow provided further details on the tributary monitoring program to train the staff. He stated that Mr. Clark had identified some locations to initiate this program, which will become a long-term monitoring program that the Commission staff can implement. He stated that PH would be combining the 1-1/2 day training for the tributary monitoring with the training program for the 319 grant. The training will include class work and field training and PH will provide a training manual. He clarified that the tributary monitoring focuses on baseline, non-storm event conditions and the 319 training focuses on storm events.

Sub-Committees

Chair Ondish stated the Bylaws Committee met prior to tonight's meeting. He stated that the committee hopes to be able to present Bylaws to the Commission by July.

Ms. Macalle-Holly discussed the efforts by the lake-friendly fertilizer committee to work with the municipalities to get the message about lake-friendly fertilizer included in the municipal calendars. Currently Mt. Arlington includes a message in their calendar and Hopatcong includes a message in their newsletter, but we missed the cutoff to include a message in Jefferson and Roxbury 2005 calendar. Chair Ondish stated he includes this in his article in Mt. Arlington's newsletter as well. Mr. Hughes stated that the Mt. Arlington Board of Education and Public Works Department include in their contracts to use non-phosphorus fertilizer.

Mr. Klipstein asked about the status of the survey to lake businesses. Ms. Macalle-Holly stated it had been discussed to distribute the survey to businesses and request that they be returned by Memorial Day. She stated that she spoke with the Chair about holding off on the survey because its might not be appropriate at this time due to the issue of the lake level.

New Business

Chair Ondish directed Commissioners to contact Ms. Macalle-Holly to include items for new business on the agenda prior to its distribution by the Friday before the meeting.

Mr. Zoschak asked for more details on volunteers needed for the upcoming Riparian Buffer project. Ms. Macalle-Holly stated the project is scheduled for tomorrow at 8:00 a.m. and if the project is not finished or if it rains, it will be done on Friday, May 19. Grace Messinger of the North Jersey RC&D is coordinating the project with the Jefferson Township. The project will be located at the corner of Ripplewood Drive and Espanong Road in Jefferson. Ms. Macalle-Holly stated that Commission Field Staff would be assisting Jefferson Recreation Department with the plantings.

Chair Ondish stated that Sal Cottone advised that a U.S. Coast Guard Auxiliary Boater Safety Course would be held on July 22 at 8:00 a.m. in Jefferson Township Fire Company #2 in Lake Hopatcong for a \$50 fee. They will also offer a boating test only to test-out on Friday, June 30 at the firehouse for \$25.

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Public Comment

Pat Andersen, 18 Oakdale Avenue, Andover, asked how she could get the lake quality data from Princeton Hydro. Dr. Lubnow stated after PH collects the data, it is sent to Ms. Macalle-Holly and she includes the monitoring data on the Commission website.

Chair Ondish stated that during this public comment, any topic can be discussed and it does not have to pertain to agenda items.

Dr. Benjamin Natelson, 5 Alpine Drive, Lake Hopatcong discussed a drainage issue from a County and Municipal road which is filling in a part in the Lake. He stated he spoke with Mr. Clark about the issue. According to Mr. Natelson, Mr. Clark agreed to act as an agent to apply to the DEP for a one-time dredging of this area that is filling in which he understands will be solved if the plan in 2008 to have the separators installed is completed. He asked if the Commission could do anything about this issue. Mr. Zoschak discussed the specifics of the dredging project completed in Roxbury over a two-year period. He suggested Mr. Natelson's town could get the permit and provided Rick Blood in Roxbury as a point of contact. He stated that he spoke with Mr. Leach and understood that the Commission would be applying for a one-time permit for dredging in all municipalities. In response to the Chair's inquiry, Ms. Macalle-Holly stated Mr. Clark was in discussion with Mr. Klipstein about this issue. It was not necessarily that the Commission would apply for permits on behalf of the township, but perhaps work towards a solution to help the Township to be able to dredge. Mr. Klipstein stated that DEP wants to coordinate. He stated that permits last five years and each permit has to be characterized individually and the sediment disposed of. As the Commission moves further along with the retrofit work, dredging is a remedial measure that has to happen, but funding is an issue. Ms. Macalle-Holly clarified that it is not lake-wide dredging, but dredging of certain deltas within the lake. Mr. Klipstein stated that the township should take the lead on dredging and should coordinate with the Commission and DEP. Mr. Natelson indicated that Mr. Leach said the Township would do the dredging, but the issue has been to get the permit to do it. Mr. Natelson stated he would contact Mr. Leach to discuss the issue further.

John Kurzman, resident of Lake Hopatcong, discussed the same topic. He discussed the specifics of this particular storm drain, which he spoke to the Commission about previously. He stated that the information from this vortechnic unit makes it into all grant projects because this was an example of a new and improved method, but there is a problem at the end of the line down from the vortechnic unit. Mr. Kurzman stated that as more storm drains that run into the lake, the more velocity they have, causing a scouring affect. He suggested that there must be an easier way for homeowners to remove sediment caused by storm drains. Mr. Kurzman requested that if other agencies approach the Commission for guidance in storm drain planning, that the Commission should look into baffling techniques.

Mr. McCarthy addressed Mr. Natelson's concern about implementing the dredging efforts lake wide. He volunteered to serve on a committee to look into this. The Chair stated that this type of effort could fall under the Project Planning Committee. Mr. McCarthy agreed to Chair the Project Planning Committee. Mr. McCarthy and Mr. Jarvis discussed the previous accomplishments of the Task Force Committee. Mr. Ondish stated that the committee should meet and discuss this issue. Ms. Macalle-Holly stated that the project-planning meeting would also need to discuss projects relative to FY08 when the next sixty-inch draw down is scheduled.

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Ray Fernandez, resident of 89 Brady Road, Lake Hopatcong addressed the water level issue. He is a local resident and business owner of Bridge Marina and discussed the implication of the water level on his business and hiring of employees for his business. He stated that the Commission was reactive on this issue instead of proactive. He stated that he hopes something could be done in the future about this because it should have been a lesson learned. He referenced a New York Times article from July 1988, which is a repeat of the current situation. He addressed Mr. Klipstein's remark that a reduction would mean one-inch increase in water level with 30 days. He stated that the outflow is roughly 12 cubic feet a second, which in 8-1/3 day adds an inch of water to Lake Hopatcong. He stated this issue was discussed by the Commission over a month ago, and if the outflow had been changed, he business could be up by 50% and he could hire five to six more people. He stated if the outflow is cut down to zero, the lake rises one inch in eight days. Mr. Zoschak stated again that the Commission does not control the lake level. Mr. Fernandez stressed the importance of the lake level and asked that the Commission put forth the effort to make a change. Mr. Zoschak stated that the Commission would have to have its legislation changed to give it more authority.

A member of the public commented that it was her first meeting and the comment she has been hearing is that, I can't or we don't do that. She stated she was impressed with Mr. McCarthy for his offer to assist the other resident. She stated that even though the Commission does not have the authority it should at least address the public concerns by that offering to see what it can do. Chair Ondish stated that the Commission's makes use of its contact when it tries to get the ball rolling. He discussed his frustration about the lack of authority the Commission has. Mr. McCarthy discussed the volunteer efforts of the Commissioners and their frustrations over the years and encouraged the resident to be an advocate for the Commission. Mr. Zoschak discussed the dredging project that took years to complete.

Ms. Macalle-Holly reiterated that the Commission has been working very closely with the DEP to review the historical data and has been coordinating with DEP to address the water level issue. She stated it is necessary to determine if there is authority to reduce the flow less than 7.5 MGD when the State is not in a drought emergency.

Mr. Ondish thanked Mr. Calderio and Mr. Cottone and the rest of the staff for rallying in this time of need and he thanked Mr. Calderio while he is filling in for Bill.

He stated that at this time the Commission would move to executive session to address personnel issues. There being a unanimous "aye", the meeting adjourned to executive session.

Chair Ondish stated that the Commission is back in open session. He stated that he was glad Mr. Calderio was there and requested a motion. He asked Mr. Calderio if he was okay with everything in his current capacity. Mr. Calderio responded that he has a lot of help from Ms. Macalle-Holly. Chair Ondish stated it was decided, if Mr. Calderio was okay with it, that they would want to make him Acting Director for a three-month period or if Mr. Clark returns before then. He again asked Mr. Calderio if he was okay with that. Chair Ondish stated it would come with the differential in pay and Mr. Calderio would be Acting Director. Mr. Calderio responded to the Chair that he was putting him on the spot. In response to the Chair's inquiry, Mr. Calderio asked for some time to think about it. Mr. Zoschak stated that they want Mr. Calderio to get compensated for the position, that is why they are considering the motion. The Chair stated if Mr. Calderio is taking on the extra work, he should be compensated for it and have the full authority. Counsel Weyl asked what Mr. Calderio would be expected to do that he is not doing right now. Ms. DeStefano stated that Mr. Calderio would be in charge rather than assist the field

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staff. Ms. Macalle-Holly stated that there was much more to Mr. Clark's job other than managing the field staff that Mr. Calderio is not familiar with. Mr. Calderio concurred. Ms. Macalle-Holly stated Mr. Calderio is handling the field aspect, but she is handling a large component of Mr. Clark's position. She discussed the extent of the purchasing aspects of Mr. Clark's position. The Chair stated that they need someone to do the job even if it is just learning it. Chair Ondish suggested Mr. Calderio could spend more time in the office to learn what goes on. Ms. Macalle-Holly stated that many of Mr. Clark's responsibilities would be handled by her since Mr. Calderio would be out in the field. Chair Ondish stated that Mr. Calderio would not be operating a harvesting, but doing the things that Mr. Clark does. Ms. DeStefano stated that if Mr. Calderio could not do one or two of the things that Mr. Clark did, it does not mean he is not qualified to take the lead position while Mr. Clark is under this condition. She stated the issue of Ms. Macalle-Holly's salary could be discussed at another time. She stated there is a need to fill the position and keep the Commission operating with some leadership. Mr. Calderio stated he could do the Director position in the field but in the office, he would have to learn it.

Mr. Klipstein asked when the next meeting of the personnel committee would meet. There was further discussion on this emergency issue. Counsel Weyl asked the Chair if he wanted to return to executive session. Mr. Klipstein asked about the new hires and was advised that individuals were selected based on previous discussions with Mr. Clark. Mr. Zoschak asked if he should enter a motion for the temporary Director position. Chair Ondish responded that as long as Mr. Calderio knows what is expected of him. Mr. Zoschak stated that Mr. Calderio could learn as Mr. Clark and Ms. Macalle-Holly did. Mr. Calderio responded that Ms. Macalle-Holly does everything in the office. Mr. Klipstein asked if the issue was the compensation level, explaining that Mr. Calderio would have to get the acting title to have the authority to manage the crew. Ms. DeStefano stated that whatever assistance Mr. Calderio would need from the Administrator or the office he would get and if he ran into a problem, he could contact the Chair. Mr. Richman inquired about the job descriptions. He suggested that what Mr. Clark was doing may logically need to be split between two people with different expertise, and then the Committee should meet to determine how to divide that responsibility. Mr. Klipstein questioned if a motion could be made to give the authority to the personnel committee. Counsel stated that was an alternative as was a special meeting open to the public. The Chair directed Ms. Macalle-Holly to schedule a meeting for the personnel committee as soon as possible. Chair Ondish stated a motion would be needed to authorize the personnel committee to meet to determine the responsibilities of the position in Mr. Clark's absence between Mr. Calderio and Ms. Macalle-Holly and to determine fair compensation. Mr. Zoschak made the motion. The motion was seconded by Ms. Gantert.

ROLL CALL:

DeStefano	Yes	Richman	Yes
Gantert	Yes	Zoschak	Yes
Jarvis	Yes	McCarthy	Yes
Klipstein	Yes	Risko	Yes
O'Connor	Yes	Ondish	Yes

Motion carried 10-0-0.

Chair Ondish thanked Mr. Calderio for stepping up unofficially and thanked Ms. Macalle-Holly. Mr. Zoschak made a motion to adjourn. All those in favor signified by saying "aye" and those opposed by saying "no." There being a unanimous "aye", the motion was carried and the meeting adjourned.

Submitted by: Donna Macalle-Holly