

# Minutes of the Lake Hopatcong Commission

## July 16, 2007

---

A meeting of the Lake Hopatcong Commission was held on July 16, 2007 at the Hopatcong Civic Center, 32 Lakeside Boulevard, Hopatcong, New Jersey. At 7:30 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 requested a moment of silence for all the troops and their families.

### **Roll Call:**

Present: Elizabeth Gantert, Eric Grove, David Jarvis, Daniel McCarthy, Charles Richman, Nicholas DePalma (Roxbury Alternate), Robert Gruber (Mt. Arlington Alternate), Robert Mitchko (Jefferson Alternate), Patricia Rector (DEP Alternate), and Arthur Ondish

Absent: Colleen DeStefano, Kenneth Klipstein, Richard O'Connor, Richard Zoschak

Alternates Present: Joel Servoss (Hopatcong)

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

Mr. McCarthy welcomed the Commission to the Hopatcong Civic Center on behalf of the Borough of Hopatcong. He provided an historical overview of the building's location. The Chair thanked him for his overview and for the use of the facility. He stated the monthly meetings would be at this location for the next two months.

### **Communications**

The Chair asked for questions or comments on the Communications. Mr. McCarthy thanked the Chair for sending the letter to the Principal of the Durham School regarding the fundraiser efforts. In response to an inquiry from Mr. McCarthy, Ms. Macalle-Holly stated she spoke to State Trooper Brown. The Trooper received a copy of the letter the Commission sent to the Chairman of the Boating Regulation Commission and Trooper Brown indicated the issue was discussed at their meeting held last Wednesday [July 11, 2007]. The Boating Regulation Commission Chair did seem interested in attending the LHC meeting, but nothing was finalized. She stated Mayor Hodson also sent a letter to the Boating Regulation Commission.

There being no further comment on the Communication, Chair Ondish moved to the Treasurer's Report.

## LHC 7/16/07 Meeting Minutes

---

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

Mr. Grove stated the Reconciliation Summary for period ending June 29, 2007 in the Valley National Bank account had a register balance of \$273,295.38. A Revised Bill List for \$58,863.58 was distributed. Ms. Gantert made a motion to approve the Revised Bill List. Mr. McCarthy seconded the motion. [A copy of the Revised Bill List is available on file.]

The Chair asked for comments or questions relative to the Revised Bill List. Ms. Macalle-Holly stated that as a matter of record she had two comments regarding the Revised Bill List. The Princeton Hydro amount of \$20,091 is for reimbursement for the 319H grant for Quarters 6 and 7 and it does not come from the Commission's general operating funds. She also stated that that the Commission only received one bid to renew the Public Officials Insurance from Fairview Insurance Associates and the renewal information was included in the Communication package. The Chair requested a roll call vote.

#### **ROLL CALL:**

Gantert	Yes	DePalma	Yes
Grove	Yes	Gruber	Yes
Jarvis	Yes	Mitchko	Yes
McCarthy	Yes	Rector	Yes
Richman	Yes	Ondish	Yes

Motion carried 10 to 0.

### **Minutes of Meeting of June 18, 2007**

The Chair asked for any changes to the minutes. Mr. McCarthy stated Ms. DeStefano's comments on page 7 should be corrected to read "she did not have a packet" and there were two other minor typographical errors on pages 8 and 10. The Chair asked if the Commissioners were okay with the content of the minutes. There being no further comment, the Chair requested a motion to approve the minutes. Mr. Mitchko made the motion to move minutes with the changes and Mr. McCarthy seconded.

#### **ROLL CALL:**

Gantert	Yes	DePalma	Abstain
Grove	Yes	Gruber	Yes
Jarvis	Yes	Mitchko	Yes
McCarthy	Yes	Rector	Yes
Richman	Abstain	Ondish	Yes

Motion carried 8-0-2 (two abstentions).

## **LHC 7/16/07 Meeting Minutes**

---

### **Public Comment**

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

Mr. Michael Brunson, resident of Hopatcong, stated a technical error on the approved May 21 minutes needed to be corrected. He stated there is no such thing as the Morris County Police as mentioned numerous times on page 4. It should be changed to the Morris County Sheriff's Department.

Mr. Laurence Orlans, resident of Hopatcong, stated it would be appreciated if the minutes were published on the website in a timelier manner. He stated the most recent minutes are from May. The Chair stated the minutes are a month behind because the minutes have to be approved at the next meeting. Ms. Macalle-Holly stated the minutes are posted to the website during the week they are approved. Mr. Orlans stated there were times when the minutes were three months behind. Counsel Weyl stated there have been instances when the Commission did not approve the minutes until a subsequent meeting. Mr. Orlans inquired about posting the minutes in draft form. The Chair stated the approved minutes would be posted on the website as soon as possible.

Mayor Hodson of Hopatcong discussed the Boating Regulation Commission meeting on July 11 in Toms Rivers and stated he was unable to attend that meeting. Mayor Hodson stated if some of the Boating Regulation members could attend a meeting, it would be great to discuss the boating regulation problems with them.

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

### **Chairman's Report**

Chair Ondish stated that he contacted Adam Zellner's office to let him know the July 24 meeting would be a workshop meeting so all the Commissioners could speak with him. The meeting will be advertised. Mr. McCarthy stated the meeting would be in Mt. Arlington and open to the public. Ms. Macalle-Holly stated that meeting will be a workshop session open to the public, but the public will not be afforded an opportunity to speak because it is a workshop session and no action will be taken. The Chair stated the purpose of the meeting is for the Commissioners to ask Mr. Zellner questions about implementing user fees. Mr. Zellner will only be available for an hour.

There was also discussion on the role of the Alternate Commissioners at workshop meetings according to the Bylaws. The Chair stated there are certain areas in the Bylaws where the Alternates are excluded and he is in disagreement with that. Ms. Gantert stated this is an issue the Bylaws committee will look into. Chair Ondish stated it was not in the Bylaws, but rather it was policy, that the Alternates could not attend closed session meetings. Ms. Macalle-Holly read the role of the Alternates from the Bylaws.

## **LHC 7/16/07 Meeting Minutes**

---

Chair Ondish stated that only the Commissioners would be able to ask questions to Mr. Zellner since it would be an initial meeting and will only last one hour. Mr. McCarthy stated he hopes it is the first of many meetings with Mr. Zellner.

Chair Ondish asked that the Commissioners all agree to abide by Roberts' Rules. The Chair would recognize someone to speak and no one should interrupt when someone else is speaking. This would help for transcription purposes and for the order of the meeting. The Commissioners present all agreed to this approach.

The Chair stated he was anxiously waiting for the Tuesday meeting with Mr. Zellner to hear what he has to say and to get the fees moving forward so the Commission will not be dependent on Trenton to fund the Commission's budget anymore.

### **Old Business**

#### **Field Staff Report**

The Chair asked Ms. Macalle-Holly to provide the field staff report. She stated that Mr. Calderio asked for the following information to be reported. For this year, 1,396 cubic yards or 628 tons of weeds have been removed compared to last year when the Commission removed approximately 2,900 cubic yard or 1,300 tons.

Ms. Macalle-Holly stated the staffing issue was addressed at the last meeting. She stated she contacted the municipalities to inquire if they had anyone that could assist with the Commission's weed harvesting operation. Mt. Arlington was unable to assist because they were short-staffed. She stated she spoke with Mayor Hodson for Hopatcong and Mr. Rath from Roxbury about the issue. Ms. DeStefano was going to contact Jefferson directly. She stated the classified ad for drivers were placed in the Daily Record and there were responses coming in on the ad. She stated the Commission is looking to fill two vacancies.

She described the problem with residents dropping off weeds on the weekends where the conveyor is located at the Prospect Point section in Jefferson. She stated Mr. Calderio will be placing a yellow tape across the conveyor and post a sign to ask residents not to dispose of weeds during the weekend.

Ms. Macalle-Holly discussed the situation with a resident that had an issue with her water line to her home being cut and the Commission is waiting for the police report on that. Chair Ondish stated that the resident is concerned that their pump line was cut by the harvester. He stated there may be an expense to that and the Commission needs to receive the police report and pictures before discuss further at a meeting.

Ms. Macalle-Holly introduced Alex Adams and Nancy Haslam from Oak Shade Farm in Mount Olive Township. She stated Alex contacted the Commission to inquire about an arrangement for them to take some of the weeds by using their trailer and he will provide proof of insurance for the trailer. She stated Mr. Calderio requested a visual inspection of

## **LHC 7/16/07 Meeting Minutes**

---

the trailer before moving forward. The Commission would load the weeds on the trailer and they would be picked up within 24 hours. Ms. Macalle-Holly stated some issues are being looked into with NJ DEP such as permits to haul vegetative waste and if we can dispose of the weeds at the farm.

The Chair thanked them for coming and stated he thought it would be a win-win situation. Ms. Haslam and Mr. Adams addressed the Commission. They are hoping to start an organic vegetable farm and the weeds would be helpful. Mr. Adams discussed the logistics of hauling the weeds on his trailer. He stated the farm has stony, sandy soil and in order to run an organic farm, they need to compost. He stated that he would take loads on his trailer, but asked the Commissioners to consider having truckloads brought to the farm which is only five more miles than the MUA. Ms. Macalle-Holly stated that when the drivers are not running the loads, they are operating harvesters and Mr. Calderio was concerned about the increase in the amount of time to transport the weeds to the farm, Ms. Macalle-Holly thought this could be considered when there was sufficient staff.

Mr. Adams stated he has taken the DEP Compost Operator training course. Ms. Rector stated she spoke with DEP Solid Waste group and has been told, not officially, that they do not have jurisdiction over that. She is also checking with the Department of Agriculture.

Ms. Macalle-Holly confirmed that she would work with them to move this issue forward. Chair Ondish stated he would like to get a story in the newspaper if it could be worked out.

### **Princeton Hydro Report**

Dr. Lubnow stated that for the 319 grant, he is still waiting to get the bid specification from the Commission attorney for the Hopatcong stormwater structures.

He stated for the US EPA TWG grant, with Ms. Macalle-Holly's assistance, they put together some letters for Roxbury and Jefferson for the information needed from their engineers to move forward with the projects. Memos will be prepared for Hopatcong and Mount Arlington as well. He discussed the importance of the townships tracking their time towards the in-kind match for the grant. Dr. Lubnow stated the Quality Assurance Protection Plan (QAPP) revisions were made and submitted to the US EPA. As soon as the Commission receives authorization from the EPA, the monitoring associated with the grant can begin. He stated PH initiated their educational components of the grant and will be submitting draft material to Ms. Macalle-Holly. He stated that Commissioners and LHC staff will be trained to give presentations on phosphorus in the Lake Hopatcong watershed and the specific EPA grant goals to reduce phosphorus. He stated PH is putting together a prototype of the lawn sampling device to determine the reduction in phosphorus by using non-phosphorus fertilizer.

## **LHC 7/16/07 Meeting Minutes**

---

He stated that in Lakeline, a NALMS publication, an article stated that since Minnesota passed a law to ban phosphorus fertilizer two years ago, they see a 12%-16% decrease in the phosphorus exported over lawns as well as a reduction in the amount of phosphorous fertilizers available for sale in stores. There is an 82% reduction in the availability of phosphorous fertilizers in the State.

Dr. Lubnow stated the EPA TWG lawn sampling project would determine how much phosphorus is coming from the lawns. As part of the project, four lawns throughout the watershed will be needed to collect samples from during the growing season when phosphorus fertilizers are added and the subsequent growing season when the properties are using non-phosphorous fertilizers. This will determine the reduction of phosphorous when shifting from phosphorous to non-phosphorous fertilizer. If anyone is interested in volunteering for the project, Dr. Lubnow encouraged them to contact Ms. Macalle-Holly.

Dr. Lubnow stated he will be conducting the lake monitoring with the Commission staff next Monday [July 23] and before the next meeting he will submit the mid-year monitoring report.

Dr. Lubnow stated he had a brief discussion with Ms. Macalle-Holly about the new round of 319 funding and are working on the identifying specific projects to reduce the phosphorus and solid loads going into the lake.

Dr. Lubnow stated there is EPA Wetlands grant funding available. Although there are not many wetlands projects in the watershed, he recommended one he thought would be an excellent one which is the wetland basin that is infested with Purple Loosestrife, an invasive species, in the Borough of Hopatcong in the River Styx drainage area. Dr. Lubnow thinks the Commission could receive funding from the EPA to remove the invasive species, plant some native and acceptable species to enhance the wildlife and to help contribute to removing additional phosphorus and solids, by removing material and regrading the basin. Dr. Lubnow stated PH could put together that proposal for the Commission which is due in early August. Dr. Lubnow stated he believes the maximum grant amount could be either \$100K or \$125K. The Chair stated the project makes sense to him.

Ms. Rector stated the upcoming 319 grant RFP should be on the DEP's website within the next week or two.

### **Sub-Committee Reports**

Chair Ondish asked if there were any sub-committee reports. The Chairs of the Aquatic Habitat Committee and Bylaws committee said they would be calling meetings in the near future. The Chair stated the Personnel Committee did not have anything to report.

Mr. McCarthy reviewed the efforts of the former Taskforce Committee chaired by Mr. Jarvis to propose projects for the full-time staff. He stated the Taskforce came up with a huge list of projects that have to be done in the watershed and described the level of

## LHC 7/16/07 Meeting Minutes

---

detail for some projects. He stated there are plenty of projects for the staff to do, it is just that is no money, no staff and no time. The Chair stated at the last meeting, there was discussion about filling a full-time vacancy with a seasonal employee rather than filling the position with a full time, regular employee. He stated one of the reasons was that the staff did not have enough to do and there was no reason to have them on year round. The Chair stated Mr. McCarthy indicated that they did have plenty of projects for the staff to do all year round. The Chair stated the debate of having full time or seasonal people has been ongoing.

Ms. Macalle-Holly stated at this time of year the Project Planning Committee begins meeting to discuss projects to be included in the FY09 budget. Mr. McCarthy agreed to continue to Chair the Project Planning Committee.

There being no further committee reports, the Chair moved to New Business.

### **New Business**

#### **Camp Jefferson Site Visit**

The Chair asked Ms. Macalle-Holly to give an update on the site visit. She stated Mayor Felter extended an offer to the Commission to use a cabin at Camp Jefferson for the Commission office that is currently occupied by the Jefferson Chamber of Commerce because the Chamber does not use it during regular business hours. The Mayor felt this could be a way for the Commission to save some money. Camp Jefferson is handicapped accessible, has a small lake and other facilities for public outreach including a TV studio. She stated that Ms. DeStefano, Ms. Gantert and she met with Mayor Felter to see the cabin. Ms. Macalle-Holly stated that initially she was very optimistic and appreciative of the offer to relocate the Commission office, but felt that the cabin was too small and too much equipment would have to be moved to storage. Another issue was that the restroom facilities were not in the same building. The building is set back in the woods and during the winter there are not day-to-day activities in the area around the cabin. Ms. Macalle-Holly stated she was not comfortable with sitting in a cabin in the wood alone. She stated she did not recommend it as a viable option for the Commission at this time.

The Chair stated he spoke with Mr. Valiante and Mr. Valiante will keep the office space listed for rent, but will remove the office space available sign hanging on the building. The Chair asked Ms. Gantert for her input on Camp Jefferson. Ms. Gantert stated the cabin is really not suitable for offices, but she stated \$1,900 monthly for rent is a lot and the Commission should continue to look and perhaps one of the towns would offer space to the Commission. She agreed that it was a kind offer from Mayor Felter, but a renovation would need to be done. Ms. Macalle-Holly and Ms. Gantert stated that Jefferson was willing to work with the Commission to make the building usable for our needs.

Chair Ondish stated he recently contacted Jay Watson of DEP. During the Chair's meeting with the Governor, Mr. Watson stated he would work with the Commission to

## **LHC 7/16/07 Meeting Minutes**

---

get some kind of a facility at the State Park. The Chair stated when Mr. Watson gets back to him he will call a meeting so he is not the only one from the Commission involved in it. There was further discussion about he rent the Commission pays at its current location. The Chair stated he is looking for some space in Mt. Arlington for the Commission's use, but there will be a cost associated with the move and questioned if the cost of moving would be worth it if the event the State steps up and gets the Commission to the State Park in a reasonable time frame. The Chair stated that the money to build a for the Commission office at the State Park would be capital money that would come from the corporate business tax funds from Ballot Question #2 last year, but he was informed that that money was already spent for the next two years.

The Chair stated it would be appropriate for the Commission to respond with a letter to Mayor Felter thanking him for the offer, but it will not work out at this time. The Chair asked and there was general agreement with this.

Mr. McCarthy stated that long-term he would like to see an on-lake site for the Commission building with a dock. Mr. Gruber asked if anyone was looking to the County for space. The Chair stated that Counties are not happy the State is not doing what it should be to maintain Lake Hopatcong. The Chair stated he would ask if there was anything available at the Counties.

There was discussion on Morris County patrolling the lake with the State Police, the docking issues in Bryam Cove and other areas around the lake as well as the enforcement of Borough ordinances by county officers. The Chair asked Counsel Weyl to look into legislation to allow for inter-local agreements, for example, to allow Mount Arlington to enforce Roxbury rules in Roxbury.

### **Public Comment**

Chair Ondish opened the meeting for the second round of public comment and asked to limit the comment to two minutes.

Estelle Klein from Hopatcong Borough questioned about the special meeting and was advised that the meeting on July 24 at Mount Arlington Borough Hall with Adam Zellner was open to the public, but was not open to public comment.

Mike Brunson, resident of Hopatcong, stated that the Alternate Funding Committee will not be authorized to be part of the meeting as a public member and cannot address Mr. Zellner even though he is a committee member. The Chair recommended Mr. Brunson channel his comments through he Commission members and encouraged him to attend. The Chair directed Ms. Macalle-Holly to send out an email to the other members of the Funding Committee about this. Mr. Brunson stated that the situation in Byram Cove has seemed to improve.

## LHC 7/16/07 Meeting Minutes

---

Mr. Beebe of Beebe Marina, resident of Jefferson, addressed the water level and stated the law says the lake should remain full, but it is going down. Ms. Macalle-Holly stated the lake level was at 8.3 on June 16 and the level today is 8.59. She stated 9.0 is the crest of the spillway and 9.5 is no wake conditions. Mr. Beebe stated the high water mark is 10.23 inches above the spillway and that is the law and the way it was designed. He stated over the years it was altered and that the lake should be kept full and the fountain should be off. He stated the lake needs to be kept full to prevent the weeds and algal blooms. He stated the lake is a State Park and it should be funded by the State. The Chair directed Mr. Beebe to discuss his issues with his legislatures. Mr. Beebe stated the lake needs dredging. The Chair explained why dredging was not possible at this time. Mr. McCarthy suggested to Mr. Beebe that he could help by getting the public involved and he discussed the importance of public involvement at the meeting with Mr. Zellner.

Councilman Bunce from Hopatcong suggested the Commission's real estate issues should be on the agenda with the meeting with Mr. Zellner. He encouraged the Commission to get any grants possible for River Styx and Crescent Cove and discussed how Hopatcong spent millions of dollars sewerage that area. He stated he received many comments about the good job the harvesters are doing and they appreciate it.

The Chair asked for any other business to be discussed and Mr. McCarthy brought up the policy issue regarding Alternate Commissioners not being able to participate in the executive session which was discussed many years ago and whether this should be re-addressed. The Chair felt there was no reason why the Alternates could not participate in Executive Session. Counsel Weyl stated that Counsel Chudzik's advice is that it is a policy call; however, if Alternates are there, the Commission is waiving privilege because the Statute refers to Commission members and in their absence Alternates participate in the session. If the Commission member is there, the Alternate is not required to be there. He stated that is why Counsel Chudzik recommended and advised the Commission not to include Alternates in Executive Session. Mr. Richman stated that if it is a waiver of privilege he would not recommend it. Mr. McCarthy questioned the waiver of privilege issue, inquired about the opinion letter Counsel Chudzik prepared and what the recommendation was based on. Counsel Weyl stated it was not a legal obligation, but it is recommendation and advice. Ms. Macalle-Holly stated Counsel Chudzik provided a document to the Commission at that time and that was the basis for this Commission's decision, based on Counsel's recommendation, to not include Alternates in Executive Session.

The Chair also brought up issues of availability of Commissioners for special meetings and Alternates being able to sit in for Commissioners at sub-committee meetings, but this will be addressed in the Bylaws Committee. Ms. Gantert stated that the Commission should review documentation to make a decision and should respect Counsel's advice. Counsel Weyl stated that the document prepared by Counsel Chudzik would have been reviewed by someone above DAG Chudzik, but would think it would be agency advice. Mr. Richman stated he has not seen a case where an agency has chosen to ignore the AG's advice once it is reduced to a formal opinion. Mr. Jarvis stated that he does not see this as an issue because an Alternate can participate with all powers in Executive

## LHC 7/16/07 Meeting Minutes

---

Session when a Commissioner is not there. Counsel Weyl stated he has not seen the opinion prepared by Counsel Chudzik, but a copy of it would be distributed again. Mr. McCarthy inquired if the Commission's statute was changed, if this issue about Alternates could be changed. Counsel Weyl stated most Commissions do not have Alternates so the issue does not come up. The Chair stated the Commission would review the opinion letter again. The Chair stated this affected the ability of the Commission to move forward with its mission by having people informed and ready to make decisions when necessary. There was further comment by the Commissioners on this issue.

There being no further business, Mr. DePalma made a motion to adjourn and Ms. Rector seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly