

Minutes of Lake Hopatcong Commission

July 24, 2007 Work Session

A work session meeting of the Lake Hopatcong Commission was held on July 24, 2007 at the Mount Arlington Municipal Building, 419 Howard Blvd., Mount Arlington, New Jersey. At 9:00 a.m., Chair Ondish called the special work session 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: Colleen DeStefano, Elizabeth Gantert, Eric Grove, David Jarvis, Kenneth Klipstein, Daniel McCarthy, Richard O'Connor, Nicholas DePalma (Roxbury Alternate) and Arthur Ondish

Absent: Charles Richman, Richard Zoschak

Alternates Present: Robert Gruber (Mt. Arlington), Robert Mitchko (Jefferson), Patricia Rector (DEP), Joel Servoss (Hopatcong)

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

Discussion with Adam Zellner, NJ DEP, regarding User Fees

Chair Ondish introduced Adam Zellner and thanked him for attending. The Chair provided a brief background of previous activities relative to user's fees including the meeting with the Governor and the Memorandum of Agreement (MOA) that was signed.

Mr. Zellner stated there have been an ongoing series of meetings including a meeting with the Governor personally because he is concerned about the operations of the lake. Mr. Zellner discussed the importance of having an independent ability to fund the Commission which is critical to move forward especially in light of the State's budget crises and the instability in past funding for the Commission. Mr. Zellner discussed the need for a dialogue.

Mr. Zellner stated he would address three issues: (1) the lake today including the operating budget, MOA and fears about cutoff date since no stable revenue source has been established yet; (2) the revenue source including boat fees, the number of boats for residents and visitors to the lake; (3) a combination of items one and two. When and if the right numbers are obtained and the right structure for the fees are established, who collects it, what are the logistics, who has oversight and what is the balance between the Commission staff and help needed from the State.

Mr. Zellner stated he is not here to tell the Commission that this is the end of the relationship with the State. He stated once the user fee structure is established, the second mission is to look at how to create the ability for the Commission to successfully go through the grant process.

He discussed the problems the lake is dealing with, most of which are man-made, such as runoff, nitrates, weed growth, warmer summers, stormwater, rain and drought events that are causing trials and tribulations for the lake's health and water quality. He stated the instability of the funding source to do the proper maintenance.

Mr. Zellner emphasized the importance of moving forward, which is an open book and needs to be done carefully. He stated that not everyone will be happy, but he believes we can get to a place where the Commission is comfortable with a stable revenue source which is collected in a way the Commission can live with and easily keep up with in terms of staff. He added that a stable funding source will enable the Commission to plan long-term.

The Chair brought up the concern about getting an accurate boat count. He stated that user fees could include anyone that uses the lake including anglers, state park visitors or anyone that uses the water downstream. He asked Mr. Zellner for his vision on how to collect fees. Mr. Zellner agreed there were a lot of options in this picture and he is open to looking at a host of things. The boat fees were considered because there are a lot of boaters. He stated he has seen estimates ranging from 9,000 to 20,000 boats. He stated the State and Commission need to work together to figure out how to get these numbers.

Other than the obvious reason of why boater fees were selected, Mr. Zellner stated timing was the other factor. The boating fees were the first and most obvious place to go before getting to a bad budget cycle again. He stated the importance of understanding where all the boats are coming in and how many boats there are. Mr. Zellner stated it is necessary to get to the boat fee structure. The structure should be the least regressive in its effects on locals and how to charge visitors without creating an elastic effective that will make the boat fee so high that visitors will go to other places.

Mr. Zellner stated there may be a need in the first year to look at bridge financing or grant financing to make sure the Commission is covered while looking at other applications that could be charged for use. This would enable the Commission to have the ability to operate and set a budget threshold. The State would work with the Commission on the collection of fees. The Chair stated the Commission did not have the administration and enforcement capability. Mr. Zellner stated that although localized enforcement is preferred by Trenton, he indicated the State will look at ways to assist in enforcement as well as collection of fees.

Chair Ondish stated and Mr. Zellner confirmed that user fees would be going directly to the Commission and not go to the general fund. Mr. Zellner stated the State is committed to making sure that the structure would pay for the maintaining the lake. Chair Ondish stated the Commission does not have the staff to go to the marinas to determine who is paying and it infeasible for the Administrator to do so. In response to the Chair's inquiry, Mr. Zellner stated that registration fees are constitutionally dedicated to the Department of Education and currently there is no way to separate the registration fees by lake use.

The Chair asked other Commissioners for their comments and questions. Ms. DeStefano stated that based on the number of registered boats within surrounding counties, there would still be a short fall and she asked for confirmation that if the Commission needed bridge funding that it may be available. She described activities by Jefferson Township and stated the towns are stepping up. She was glad to hear that the State will not cut the Commission off and the State is discussing the issue relative to tourism and how it hurts the lake's image to be in the news about weeds. She suggested specialty license plates.

Mr. Zellner stated the specialty license plates do not make much money. He addressed the cutoff date in the MOA and stated the MOA plans for a fiscal year. He stated the State has no intention of leaving the Commission out alone. The State will work with the Commission as part of the MOA, but he wants to be clear that the State wants the Commission to become independent before the next budget cycle because everyone is predicting how bad the budget will be.

Mr. McCarthy discussed his efforts in the Save the Lake campaign which created the Commission and how the Commission should be a line item in the State budget. He stated that it is his Borough's sentiment that they are already taxed enough. He discussed the importance of Mr. Zellner meeting with the Commission and the public. He stated a economic impact study should be done. He stated according to a Daily Record article, 159,000 people use the State Park in a recent summer and if they are charged an extra \$10 it would amount of \$1.59M. He stated according to a marina owner that there are only 6,000 boats on the lake and a count needs to be done. He detailed the work the staff has done and the skill set that has been developed, as well as the Commission's mission. He also discussed the Commission's facilities needs and how the Commission relies on another government agency for a maintenance facility. He stated it is important to solicit input from the marina owners.

Mr. Zellner discussed the importance of long-term planning and developing a business plan. He stated the State is committed to partner, but there is a pressing urgency to establish funding. Mr. McCarthy addressed the issue of imposing an artificial deadline and stated he needs to report back to his town's governing body and brings their input back to the Commission.

Chair Ondish stated that he spoke with Commissioner Watson about a building for the Commission at the State Park, but the corporate business tax funds have already been earmarked for the projects for the next couple years.

Mr. Klipstein stated the MOA is a fair document that does not have hard deadline. It addresses cooperatively developing user program, having statutory approval to move forward and looking at a goal to get it done by next fiscal year which is important. He stated the Commission cannot wonder how many boats are on the lake and needs to focus on really moving forward with a timetable to make things happen. The MOA fully funded the Commission for two full years in order for the Commission to get serious about developing a user fee.

The Chair stated and Mr. Klipstein confirmed that the MOA does not limit the number of employees the Commission can hire after this current fiscal year. Mr. Zellner stated the freeze is consistent with language used for all independent authorities throughout the State.

Mr. DePalma stated he is looking forward to working with the DEP to craft language to move forward. He stated his Township has similar concern about the user fees, how they are crafted and what is a user. He hopes the State Park will also be looked at. He addressed how the legislation will be written and questioned if the fees need to be adjusted in the future, would the Commission have to go through the legislative process.

Mr. Zellner responded that you need a law to create a bucket for funding. Once the bucket is created, the mechanisms of filling the bucket, how much fees, etc. are usually not subject to legislative oversight. It is usually moved over to an independent authority or a department. The vision of the legislation is to authorize the Commission to collect fees and to create the bucket, but once created, it would go to the Commission, in a large part, to make decisions about the bucket. Mr. Zellner stated after the first summer, the Commission will need to debrief on how the program worked and it may need to be tweaked going forward. He summarized by saying that he envisions giving a large amount of independence to the Commission once the bucket is created and the legislation is only to create the bucket.

Mr. O'Connor emphasized for the purposes of the public, that these are dedicated fees for the Commission and will not get lost in government. Mr. Zellner agreed that the fees would be dedicated and part of the structure will be to ensure that the Commission is comfortable with the collection and redistribution of the fees.

Mr. Jarvis stated that the registration fee state-wide could pay for a lot of different lakes. A user fee will be modeled lake after lake. He was hopeful that something could be done that was already in place and would benefit more than Lake Hopatcong. He stated he did not know if enough homework was done to look at all the different mechanisms that could be used. Mr. Zellner stated if there are other ideas, he is happy to do the homework to look at those.

Ms. Gantert stated the State should be aware that there are different socio-economic groups on the lake and fees will be a concern. She is interested to see how much money could be brought in and what grants will be available. She asked that Trenton consider the burden this will bring and that it is a State lake and is being used by others.

Mr. Zellner stated that he agrees there is a balance that must be struck, but the homeowners rely on the lake for the value of their homes. He stated that it is necessary to get a stable program with the least effect on the constituents.

Mr. Grove discussed some activities of his involvement with the lake during his 30 year tenure between the Commission and the Lake Hopatcong Regional Planning Board (LHRPB). He stated the LHRPB could not continue to function due to inconsistent

funding. He discussed the \$3M startup funds and how the startup funds for building construction and other projects were redirected to operating costs when the Commission did not receive additional funding. He stated the Commission has not reached its potential and is still a growing operation.

Mr. Zellner stated that a magnificent job of band-aiding has been done based on the Commission's unstable funding source for the benefit of the residents and businesses. He stated that if the State can allow the Commission to have more to long-term plan, there will be many benefits.

Ms. DeStefano asked if Mr. Zellner could work to get another quick appointment from Department of Community Affairs since Mr. Richman's promotion. She stated that in order to complete a business plan, the Commission needs to hire someone full time and asked if the Department would support that. Mr. Zellner agreed to look into the appointment issue. Chair Ondish stated while he is looking into the appointment, the Commission is also down another appointment as well.

The Chair stated that it will take a long time to get the lake clean and dredging is the ultimate answer, but he realizes the Commission cannot dredge until all the inflows into the lake are addressed. The Commission is working on addressing these issues through its grants. Relative to the fees, the Chair stated it will be an ongoing process and he is sure that it will need adjustment. Chair Ondish stated he is hopeful many questions were answered today. The Chair stated he looks forward to the next meeting and questioned if Mr. Zellner would provide another draft.

Mr. Zellner stated he will try to put some additional statistics together to tighten up some of the numbers. He stated he will come back up. Mr. Zellner stated that if there are any other concepts to be considered, to forward him the details and the State can do the background research. Chair Ondish stated that Ray Fernandez, a member of the Funding Committee, did submit a list of questions that will need to be addressed in the future.

The Chair asked if the Commission would be submitting an FY09 budget. Mr. Zellner responded that it is early yet and conversation will have to evolve further yet. He stated it is likely the Commission will submit something and this should be discussed at the next meeting. He also stated that a timeline documenting some milestones need to be worked through at the next meeting.

Mr. Grove made a motion to adjourn at 10:05 p.m. Ms. DeStefano Mr. seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly