

Minutes of the Lake Hopatcong Commission

July 29, 2004

A meeting of the Lake Hopatcong Commission was held on July 29, 2004 at the Mount Arlington Municipal Building, 419 Howard Boulevard, Mt. Arlington, New Jersey. At 7:34 p.m., Vice Chairman Klipstein called the meeting to order and stated that the meeting was being held in accordance with "Open Public Meetings Act."

Salute to the Flag: Vice Chairman Klipstein and all those in attendance joined in a salute to the flag.

Roll Call:

Present: Eric Grove, Elizabeth Gantert, Richard Hodson, David Jarvis, Walter Kerner, Wayne McCabe, Robert Mitchko (Jefferson Alternate), Brandon Phillips (Roxbury Alternate), and Ken Klipstein (Vice Chair)

Absent: Colleen DeStefano, Richard Zoschak

Alternates Present: Daniel McCarthy (7:45 - Hopatcong Alternate), John Risko (Sussex County Alternate)

With nine members present at Roll Call, Vice Chairman Klipstein declared a quorum.

Also present were: Fred Lubnow - Princeton Hydro

Communications

Vice Chairman Klipstein asked for any comments or questions regarding the Communications List. The Vice Chairman acknowledged the impressive resumes of the two new Commissioners (Ms. Gantert and Mr. McCabe) and indicated he was looking forward to working with them.

Treasurer's Report/Payment of Bills

Mr. Grove's reported that for the period ending June 30, 2004 the checking account register balance was \$23,748. The JP Morgan account had a balance of \$237,614.35 for a total balance in the JP Morgan and Bank of New York accounts of \$261,362.35.

The Revised Bill List for \$31,082.56 was presented for approval. Mr. Hodson made a motion to approve the Revised Bill List. Mr. McCabe seconded the motion. [A copy of the Revised Bill List is available on file.]

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ROLL CALL:

Grove	Yes	McCabe	Yes
Gantert	Yes	Mitchko	Yes
Hodson	Yes	Phillips	Yes
Jarvis	Yes	Klipstein	Yes
Kerner	Yes		

Motion carried 9 to 0.

Minutes of Meeting of June 21, 2004

Mr. Grove made a motion to move the June 21, 2004 minutes. Mr. Mitchko seconded the motion. Vice Chairman Klipstein asked for any further comments or questions regarding the meeting minutes. There being no further comment, the motion passed with two abstentions [Mr. Kerner and Mr. McCabe].

Public Comment

At this time, Vice Chairman Klipstein opened the meeting for public comment. There being no public comment, Vice Chairman Klipstein moved to the next item on the agenda.

Old Business

Field Staff Report

Mr. Clark reviewed his July 29, 2004 Field Staff Report with the Commissioners. [A copy of the field staff report is available on file.]

Mr. Clark stated that since the last meeting, the Field Staff has been continuing with the weed harvesting operations. Mr. Clark reported on the June 28, 2004 meeting with representatives from DEP Land Use Regulation (LUR), Parks and Forestry, all four municipalities, New Jersey State Police along with Vice Chairman Klipstein, Mr. Hodson, Mr. Phillips, Mr. Clark and Ms. Macalle-Holly. He acknowledged and thanked Mark Maurella from LUR because the primary speaker, Dan Bello, had an emergency that day and could not attend. Mr. Maurella sent two other staff members on very short notice. The meeting was extremely beneficial and participants discussed rules and regulations for docks and bulkheads.

Mr. Clark provided a general observation regarding the weed growth stating the crop is very small compared to the past three years possibly due to a number of factors, e.g., drawdown, turbid water conditions, cooler water temperatures and high water level. The Commission office has not received many complaints about the weeds from homeowners. Mr. Clark reported that the equipment is holding up well and only a few minor repairs have been needed. Mr. Clark indicated that as the water warms and the rain recedes in August and September, he anticipates the weed harvesting operation will be more productive.

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Mr. Clark showed a water sample taken from the Lake at Lee's County Park on July 27. He stated that green stuff floated in and by mid-day the shoreline water looked like pea soup. Mr. Clark reported that he notified Dr. Lubnow and sent pictures of the condition. He stated that this was never seen at Lee's Park before.

Vice Chairman Klipstein commented on the meeting with Land Use and ordinances with each of the towns and how they enforce their ordinances, jurisdictional questions, construction and zoning permits. He stated it was a good informational exchange and there will be follow-up necessary. Mr. Clark stated it would be beneficial for all the towns to be on the same page regarding their rules and restrictions, although he was unsure if that would be possible. Mr. Hodson stated that part of the problem seemed to be how the municipalities were interpreting the construction code from the State. Vice Chairman Klipstein reiterated Mr. Grove's point with these types of issues that it would be valuable to have a DCA representative participate on the Commission. Mr. Hodson stated that the municipalities should take the stance that they are issuing the permits and not ask for permission. Vice Chairman Klipstein suggested sending a letter to Commissioner Susan Bass-Levin to ask for an appointment. Mr. Hodson made the motion to send a letter to the Commissioner and Mr. Grove seconded. There being a unanimous "aye" the motion was carried. Vice Chairman Klipstein requested Ms. Macalle-Holly draft the letter.

He also asked that on the commissioners' contact list be revised to list him as a DEP ex-officio and not a gubernatorial appointee and the list should also include the Chairman and DCA ex-officio members as vacant.

Mr. Clark also referenced the recent newspaper article about the Coast Guard presence on the Lake beginning July 31 and introduced Sal Cottone, a member of the Field Staff, who is a member of the Coast Guard Auxiliary that will patrol the Lake.

Vice Chairman Klipstein stated that the Commission should begin reviewing the work plan for the off-season. Mr. Clark responded that discussions are underway. The shared services agreement with Sussex County is through the spring. Rick Blood of Roxbury advised the Commission Field Staff Foreman Matt Hofgesang that the Commission staff would be welcomed back to work in Roxbury. Mr. Clark also reported that he and Ms. Macalle-Holly have been in discussion with Jack Schrier to get an arrangement with Morris County similar to the arrangement with Sussex County. Mr. Clark reminded the Commission of the other big hurdle of securing Picatinny facility. Because of the funding situation, Picatinny may not be willing to allow access to a building if staff is not available to remove the equipment in the spring. He also reported that the Commission's primary contact, Marie Felix, was recently reassigned. The Vice Chairman responded that the Picatinny issue needs to be nailed down because if the Picatinny facility is not available, there will be budget implications. Mr. Clark agreed to try to contact Marie Felix for her recommendations. Vice Chairman Klipstein stated the issue was critical and if Mr. Clark reaches an impasse, then other avenues will have to be pursued, e.g., possibly contacting Congressman Frelinghuysen.

FY05 Budget/Personnel Issues

Vice Chairman Klipstein reported that the Commission was allocated \$300K by the Joint Budget Oversight Committee (JBOC) and the JBOC will revisit the funding issue when they reconvene. He stated that Senator Bucco along with DEP Assistant Commissioner Irene Kropp were present at the meeting. He indicated the feedback he received from DEP was that the JBOC believed the Commission's budget included capital expenditures and JBOC members were especially interested in the equipment maintenance plan to ensure the equipment is being properly maintained. Vice Chairman Klipstein stated Mr. Clark has prepared a daily, monthly, annual maintenance plan which will be forwarded to the JBOC through both the DEP and Senator Bucco's office after the Commissioners have an opportunity to review.

Mr. Hodson stated that instead of having a Legislative Bill to appropriate annual funding for the Commission, a Bill should be proposed for other suggested funding, e.g., some type of fee or to allocate funding from existing monies. Mr. Hodson stated that perhaps the Commission should ask Senators Bucco or Littell or someone within the State to pursue funding for lakes throughout the State on a regular basis. Vice Chairman Klipstein stated that if Senator Bucco were to respond to the funding inquiry, he would indicate that the enabling legislation specifically states that the Commission should receive annual appropriations and that was the route he chose to take rather than a fee-based program. The Vice Chairman stated that perhaps since the Commission budget request is getting wider circulation, that there will be a better understanding of what the Commission is doing and that it is expensive to manage Lakes. Vice Chairman Klipstein stated that's why he believed it was important to have the supplemental funding sub-committee look at funding options. Although he indicated that if a fee structure were implemented it would not provide the entire budget needed.

Vice Chairman Klipstein requested that the sub-committee list be re-distributed to get more participation.

In response to Mr. Grove's inquiry about receiving the funding check, the Vice Chairman indicated that Dave Barth at DEP notified him that the check was posted. He further stated that the Budget Sub-Committee will need to meet in September and he also needs to find out when the Commission budget request will be revisited at the JBOC meeting.

Vice Chairman Klipstein stated that the Attorney General's office provided a response on the outstanding personnel issue from the last meeting. Their response, which was more of an opinion, was more notice is better, but the rule of thumb is generally two weeks minimum and as much as possible. Their strong suggestion was to finalize the Commission's by-laws and employee handbook which then becomes the contractual obligation for notice. Vice Chairman Klipstein stated that these need to be finalized although considerable work has already been done on the by-laws. Mr. Hodson stated he had the Delaware River Basin Commission employee handbook.

PRINCETON HYDRO REPORT

Dr. Lubnow reported on the following:

FY05 319(h) Grant – The grant application was submitted by the end of June and a copy of the grant proposal is included in the meeting package. The grant proposal was to install four structures, two in Hopatcong and two in Jefferson, to help with the non-point source pollution by retaining solids and phosphorous. Dr. Lubnow responded that the DEP received 91 applications and he assumes a decision would be made in winter or early spring. If the grant is funded, the project would be implemented possibly sometime next summer.

EPA Watershed Initiative Grant – The Commission did not receive funding for this \$1M grant proposal. EPA received 114 applications and only 14 were awarded. Vice Chairman Klipstein added that this was the second year of the program. New Jersey received a grant last year for the Raritan and the State received another grant this year for the Passaic.

EPA Wetlands Grant – Princeton Hydro has not received any new information on this grant application.

Total Maximum Daily Load (TMDL) Project - Princeton Hydro submitted a no-cost, three month extension, which was accepted by both Rutgers and DEP. PH plans to meet with the technical groups for both Rutgers and DEP in September and they will review the project results. At that time, he will have the completed draft document. He also provided two additional copies of the current draft TMDL for Lake Hopatcong and its municipalities. PH received all the municipal zoning maps and digitized the maps to get a better ideal of future loads under build out scenarios. The plan is to reduce phosphorous loads to help control algal growth and aquatic plant growth.

In response to an inquiry, Dr. Lubnow indicated that once the restoration plan is finalized some potential funding may be available through the Army Corp of Engineers and he has left messages with their restoration group. Vice Chairman Klipstein questioned whether the Corp would take the TMDL study and move forward with it or will they want to do their own characterization study of the Lake. Dr. Lubnow indicated he needs to get clarification on that, but he did state that for Carnegie Lake, PH is doing the characterization study. The Corp may ask for bathymetric or fishery survey that have not been implemented for Lake Hopatcong. Dr. Lubnow did confirm that the primary sources of grant funding are the 319(h) grant, EPA and the Army Corp.

Dr. Lubnow indicated he reviewed the long-term Lake drawdown data at Ms. Macalle-Holly's request because the water clarity tended to be better in years following the drawdown. During the extended drawdown in 1992-93, these were very dry years and the water clarity following the drawdown was very good. During the next extended drawdown in 1997-98, there were similar conditions in that both were dry years and water clarity was great. In 2003, this was a wet year during the extended drawdown. In

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May 2004 there were very turbid conditions in the northern sampling stations and more recently there have been very turbid conditions because of all the storms. Dr. Lubnow indicated there could be a relationship here. Having a drawdown helps to consolidate the sediments and when the water level rises, it takes more energy to re-suspend the sediments. Both the draw down and the weather do impact water quality.

Dr. Lubnow discussed the water sample collected by Mr. Clark in the cove by Lee's Park. He will test the sample to determine what type of blue-green algal it is because certain types are deep water algal. If it's not deep water algal, it is probably in response to all the recent storms that bring in all the nutrients and the sunny weather following the storms stimulates algal growth. He will let the Commission know more about the sample. He stated that last week Lake Mohawk had its worst algal bloom since 1998. Dr. Lubnow stated that for Lake Hopatcong, it is necessary to focus on keeping the phosphorous under control or minimize these conditions. In response to an inquiry about potential issues for swimmers, Dr. Lubnow responded that there are some cases where people have an allergic reaction. Dr. Lubnow stated that the algal bloom could cause a fish odor and looks unpleasant.

Mr. Clark indicated that two members of the Field Staff noticed the algal bloom again earlier today by the two deepest portions of the Lake off of Nolan's Point and Chestnut Point. Dr. Lubnow reported that Princeton Hydro would also be conducting the standard monitoring tomorrow for all 11 stations and more data will be available. In response to the Vice Chairman's request, Dr. Lubnow indicated that monitoring has only been done twice in May and June, but a mid-year report will be available next month. Since he recently reviewed the data, Dr. Lubnow provided a summary. Nutrient concentrations were not excessive in May or June, but clarity was unusually low for May. Again this was probably due to storm activity and winds churning up the sediment material because the *chlorophyll a* concentrations which measure algal were not particularly high. When there is low clarity and relative low algal it means the decrease in clarity is primarily from inorganic material such as dirt and suspended material. Vice Chairman Klipstein summarized the Lake conditions as follows: not a lot of sunshine, low clarity and not a lot of weed production. Dr. Lubnow concurred stating because of low clarity and a lot of turbidity this keeps the weed growth down.

SUB-COMMITTEE REPORTS

Ms. Macalle-Holly provided an update for the public relations committee indicating that John Driscoll loaded the FrontPage software for designing the website and gave a quick tour of how to build a website. Ms. Macalle-Holly stated she posted today's meeting on the site. Ms. Macalle-Holly indicated she would be working to get content on the site, but said it may not be anything fancy as she learns how to create a website.

Mr. Phillips stated that there were a few site plans and discussed one plan where they were trying to pave the entire site and build a boathouse storage facility right by the bulkhead wall. He advised the planning board that this application would be under the jurisdiction of stream encroachment. The plans had an 18% slope on the only non-paved

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part of the property which created a swale down the side of the property that dumped right into the Lake.

Ms. Macalle-Holly stated that the Commission has been receiving more site plans for review and the process is working very smoothly with Mr. Phillips reviewing the site plans. She also indicated that the Commission may begin to receive some site plans from Jefferson because it was necessary to contact Jefferson due to a resident's complaint about proposed construction.

Vice Chairman Klipstein indicated that the budget and alternate funding sub-committees did not meet.

Mr. Hodson indicated he would email to all Commissioners the draft by-laws. The by-law draft is fashioned on an entity with an Executive Director. When reviewing the draft, in the absence of an Executive Director, it is necessary to determine who fills in for some of the Executive Director's responsibilities. He stated that the most important decision to make is deciding on how to divide those responsibilities. Vice Chairman Klipstein responded that the Commission needs to decide how to look at the Executive Director position since it has been functioning some time without that position and he does not anticipate the Commission will be hiring anyone soon. Mr. Hodson stated the Commission was a body that met monthly and did nothing in between because other people did the work in between meetings, but the Commission cannot function that way. There has to be a willingness to assume some of the duties or not to do them, but to acknowledge how to handle various tasks.

Vice Chairman Klipstein stated that the topic needs to be further discussed. Mr. Hodson stated that it would be helpful to have an opportunity to discuss the by-laws at the August meeting and to address how to handle the Commission's duties outlined in the Act.

Vice Chairman Klipstein stated that the sub-committee list should be re-distributed and Commissioners should select which committee to participate on. Ms. Macalle-Holly would send a copy of the TMDL report to Mr. McCabe and Ms. Gantert.

New Business

Vice Chairman Klipstein stated that the banking arrangements had to be changed since Commissioner Hoagland is no longer part of the Commission. A copy of the resolution was included in tonight's meeting handout. Ms. Macalle-Holly reviewed the background for the resolution. Mr. McCabe made a motion to move Resolution 04-04 Changes to Bank of New York Account and Safety Deposit Box. Mr. Kerner seconded the motion. [A copy of Resolution 04-04 is available on file.]

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ROLL CALL:

Grove	Yes	McCabe	Yes
Gantert	Yes	Mitchko	Yes
Hodson	Yes	Phillips	Yes
Jarvis	Yes	Klipstein	Yes
Kerner	Yes		

Motion carried 9 to 0.

Mr. Grove inquired about the status of the Chairman appointment. Vice Chairman Klipstein indicated that he has not heard anything and does not anticipate hearing anything further until the Legislature returns to session. Mr. Phillips questioned whether Mr. Chamberlain was still being considered by the Legislature. The Vice Chairman stated that the nomination has been made, but he did not think it has been heard. The Governor has not withdrawn the nomination.

Public Comment

There being no public comment, the Vice Chairman requested a motion to close. Mr. Phillips made a motion to adjourn. The motion was seconded. All those in favor signify by saying “aye” and those opposed by saying “no.” There being a unanimous “aye” the motion was carried.

Submitted by: Donna Macalle-Holly