Minutes of the Lake Hopatcong Commission
August 20, 2007

A meeting of the Lake Hopatcong Commission was held on August 20, 2007 at the Hopatcong Civic Center, 32 Lakeside Boulevard, 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 requested a moment of silence for all the troops and their families as well at Patrick Donofrio, a past member of the Commission, who recently passed away.

Roll Call:

Present: Elizabeth Gantert, Eric Grove, Kenneth Klipstein, Daniel McCarthy, Richard O'Connor, Benjamin Spinelli, Nicholas DePalma (Roxbury Alternate), Robert Mitchko (Jefferson Alternate) and Arthur Ondish

Absent: Colleen DeStefano, David Jarvis, Richard Zoschak

Alternates Present: Patricia Rector (DEP Alternate), Joel Servoss (Hopatcong)

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

Communications

Mr. Klipstein addressed the waterline issue included in the correspondence. Chair Ondish provided background that one of the harvesters severed a water line with heat tape on it that pumps water to a resident's home in the River Styx area of the Lake. The Chair stated photographs were distributed. He stated that the amount paid to have it repaired seemed high. A letter was sent to the resident requesting the original invoice when the pump was recently installed as well as to provide other estimates for the repair work. He stated the resident is requesting that the Commission pay for the repair cost.

The Chair took a moment to introduce Ben Spinelli from the Department of Community Affairs. He is replacing Chuck Richman on the Commission.

Mr. Spinelli asked Counsel if the Commission is covered by the Tort Claims Act. He stated if the Commission is covered than there are certain requirements in how a claim is presented and there are certain provisions that require the claimant to go first to their own insurance company. The Chair stated the Commission has not received the requested quotes back from the resident. He stated when the requested information is received the issue will be discussed further. Ms. Macalle-Holly stated Ms. DeStefano suggested that the Commission make a claim with the insurance company before time period runs out. Mr. McCarthy asked if the Commission files a claim, how would it affect the insurance rates, but he suggested putting the insurance company on notice about the claim. Ms. Macalle-Holly stated that the pump was 3 to 4 feet off the end of the dock and had not marker on it because it was pulled off by a fisherman prior to the incident. The State Police advised that there are no regulations that pumps have to be marked. There was discussion on how close the harvesters need to go to the docks and how to notify residents to request that they mark pumps in the lake. Mr. McCarthy requested that a sample letter be sent to the Municipal Administrators to ask them to get this information out to the residents somehow. Ms. Macalle Holly reiterated that at this point she would notify the insurance company of the incident, Counsel will check on the Tort Claims Act and she will put something together for the towns asking them to mark obstacles such as water lines, rocks, pumps. The Chair stated this would be discussed at the next meeting.

Mr. McCarthy addressed the TMDL report public notice document and questioned the Lake area column in Table 1. Mr. Klipstein stated that the data may be referring to watershed/drainage area because it was square kilometers and not the size of the lake.

The Chair stated the Commission received a handwritten thank you note from Eagle Scout Beretta and he read the note.

Treasurer's Report/Payment of Bills

Mr. Grove stated the Reconciliation Summary for period ending July 31, 2007 in the Valley National Bank account had a register balance of $206,401.88. A Revised Bill List for $39,110.74 was distributed. Mr. O'Connor made a motion to approve the Revised Bill List. Mr. Mitchko 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 there are two bills for Fairview Insurance. One is for the Commission's monthly package insurance which was renewed back in January and the other is for the pollution insurance renewal effective the end of August. The Commission did not receive any other quotes for pollution insurance besides the quote from the current company. The renewal is included on the Revised Bill List for $13,969 and there are sufficient funds in the budget. She stated that the increase was minimal. The Chair requested a roll call vote.

ROLL CALL:

Gantert	Yes	Spinelli	Yes
Grove	Yes	DePalma	Yes
Klipstein	Yes	Mitchko	Yes
McCarthy	Yes	Ondish	Yes
O'Connor	Yes		

Motion carried 10 to 0.

Minutes of Meeting of July 16, 2007

The Chair requested a motion to approve the minutes. Mr. Mitchko made the motion to move minutes and Ms. Gantert seconded. The Chair asked for any changes to the minutes. The Chair reminded everyone that on page four, everyone agreed to follow Roberts' Rule and to be recognized before speaking.

ROLL CALL:

Gantert	Yes	Spinelli	Abstained
Grove	Yes	DePalma	Yes
Klipstein	Abstained	Mitchko	Yes
McCarthy	Yes	Ondish	Yes
O'Connor	Yes		

Motion carried 7-0-2 (two abstentions).

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, suggested the Commission seek an ordinance from the municipalities to require a buoy mark any water lines in the lake.

Mr. Beebe addressed the insurance claim. He stated there were no witnesses, they were unsure how it happened and the burden of proof is on the person making the claim. He does not think the Commission should do anything on it.

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

Chairman's Report

Chair Ondish stated his report would be short. He mentioned again the passing of Patrick Donofrio, who served on the Commission and that he attended the services. The Chair stated there would be another meeting with Adam Zellner in Mount Arlington on September 10, 2007 at 9:00 a.m. The meeting will be a workshop session and the public is welcomed to listen but will not have input.

The Chair stated that he, Mr. Calderio and Ms. Macalle-Holly would be meeting on August 21 with the new Garrison Commander at Picatinny to brief him on exactly what the Commission is doing regarding the facility that the Commission uses there. He stated that the agreement with Picatinny has been signed for another year to allow the Commission to continue to use the facility. Ms. Macalle-Holly stated that Congressman Frelinghuysen's office would be sending a representative to the meeting as well. She stated she checked with Senator Bucco's office to see if someone could attend, but has not heard back.

Mr. McCarthy inquired about Mr. Zellner's visit. Chair Ondish stated his understanding is that Mr. Zellner will be coming up with a draft proposal on how to begin the process of a user fee system based on information provided by the Commission. He stated he forwarded the email from Ray Fernandez from Bridge Marina. Chair Ondish agreed to send a copy of Mr. Fernandez's questions to Mr. Klipstein. Mr. McCarthy inquired at what point the public could comment on the process. Chair Ondish stated the Funding Committee would begin work with the draft proposal that Mr. Zellner will be bringing. Mr. Klipstein stated he has not received any other input and asked that everyone also send the information to him. Chair Ondish stated Mr. Zellner received input at the last meeting about users at the State Park. Mr. Klipstein stated the park surcharge is a tangible one that can be looked at, but the downstream water use was talked about, but he was unsure about it. He stated if there were any specific other suggestions submitted, he has not seen them. Chair Ondish stated other examples brought up at the last meeting with Mr. Zellner were fishing licenses and possible dock fees. Mr. Klipstein stated using the boating registration fees was not a potential means because it is constitutionally dedicated. There was further discussion on some of these alternatives.

Mr. Klipstein stated he would like the Chair to charge the Commission with developing a business plan, rather than debating the different user sources. Mr. Klipstein stated he is looking at the mechanism on how to do the boat count and the administrative side of a user fees, but he is still primarily focused on boat fees and the park fees. There was discussion to set up a meeting or conference call prior to the meeting with Mr. Zellner.

Ms. Tracy Impink, resident of Hopatcong, asked for clarification on dock fees and the Chair responded that it was all docks.

<u>Old Business</u>

<u>Field Staff Report</u>

Ms. Macalle-Holly stated harvesting is continuing along Brady Bridge between Nolans Point and East Shore Estates, as well as River Styx/Crescent Cove and portions of Woodport. She stated that 2,130 cubic yards or 960 tons has been harvesting this year compared to the 2.9K cubic yards last year.

She also reported on the weed disposal with the farmers from Oak Shade farms discussed at last month's meeting. She stated the Commission worked closely with NJ DEP and received the go ahead for the farmer to take the weeds. There was another issue as to whether the lake weeds could be used on an organic farm and the necessary metal testing was done. The lake weeds can be compost on the organic farm. She stated the farmer has an issue with his truck and will be bringing the trailer for the visual inspection by Mr. Calderio.

Ms. Macalle-Holly stated the employee out on leave returned to work last month and the seasonal employee that agreed to work on a fill-in basis asked to stay on so it was not necessary to hire a truck driver as previously discussed.

Mr. McCarthy stated he spoke at the Northwood Community Association and one of the residents asked if harvesting could be done at Mountain Inlet to address the problem with excessive lily pads. Ms. Macalle-Holly asked if that was the sanctuary and Mr. McCarthy said it was. She reviewed how Mr. Clark, working in consultation with Dr. Souza and NJ DEP Fish and Wildlife, determined what areas on the lake would not be harvested because of its role in the fishery habitat. One area was the sanctuary and the other area is the canals. Mr. McCarthy inquired if a channel could be cut for boat access. Ms. Macalle-Holly stated the lily pads are typically harvested at the end of the season. If a lily pad area is cut frequently, it will multiply the growth of the lily pads.

In response to an inquiry from Mr. Mitchko, Ms. Macalle-Holly explained why Bright's Cove is not harvested anymore. She explained that Bright's Cove was harvested for two years at which time there was an arrangement with a property owner to dispose of the weeds on his property and Jefferson Township removed the weeds. However, it was determined it took about one weeks time in manhour to remove the harvester from the lake, trailer it to Bright's Cove and harvest. Beside the manhour issue, the Commission does not have permission to use the property any longer. She stated a resident that came before this Commission put together an association for the area and the area is now treated with herbicides.

User Fees

The Chair stated this issue had been discussed already.

Princeton Hydro Report

Dr. Lubnow reviewed the status of the existing 319 grant and indicated the bid specs for the three projects in Hopatcong were reviewed by the State. Princeton Hydro will review the bid specs on a technical basis and provide comment to Ms. Macalle-Holly. He also reviewed the targeted dates in order to install the BMPs before the end of the year. He stated the Jefferson 319 project requires filing for a permit and although Jefferson has received verbal approval for the easement, a written easement is required to submit for the permit.

He stated the EPA TWG is also underway and the Commission received verbal approval from the EPA on the Quality Assurance Protection Plan (QAPP) so the sites can be monitored. He stated PH provided information on the Alternative Septic System structure in Jefferson and worked on the public education material which is nearly completed. He stated PH developed the prototype for the lawn sampling device for phosphorus and non-phosphorus fertilizers. Surface runoff from four lake properties will be collected and monitored during the next growing season to quantify how much phosphorus can be removed by converting to non-phosphorus fertilizers.

Dr. Lubnow discussed the new 319 grant proposal and stated that work has been done with the municipalities to develop potential projects to be included in the grant application. He provided details on the proposed projects for: (1) implementation project in Hopatcong near Alfred Way which drains into a high priority area. Hopatcong already has a stormwater project plans and surveys available for this project; (2) a design project near Ashley Cove in Jefferson Twp; (3) a design project to assess three different BMP scenarios in Roxbury on approximately 2-1/2 acres of forested property on King Road owned by the municipality; and, (4) a bathymetric survey to focus on coves and near shore areas to determine the water depth and thickness of the unconsolidated bottom material. From the one or two sites that have the highest amount of material, permit-grade plans for a bathymetric survey would be developed to dredge the areas when funding become available.

Mr. Klipstein stated that if the Commission is applying for 319 funds, it should submit for direct and indirect costs. He stated that the Commission needs to put together a business plan that includes the right projects that will be successful. Dr. Lubnow stated that even though it is one grant application, each project will be separate, distinct projects so DEP can pick and choose. Ms. Macalle-Holly stated that the 319 grant application will be submitted by September 14. Dr. Lubnow discussed the work to be done in preparing the grant application.

Ms. Macalle-Holly stated that the TMDL coordination meeting occurs twice a year, but because there was not much to report in June, the meeting was postponed. Additionally the Commission will be meeting quarterly with the towns and counties to discuss the status of the EPA TWG grant.

Dr. Lubnow discussed the mid-year monitoring report. [A copy of the report is available on file]. He stated that from May 29 – July 11 it has been estimated that 672 tons of plant material was removed. Using the study PH did last year, he estimated that it accounts for 6.3% of the annual phosphorus load targeted under the TMDL which comes to about 209 kilograms (460 pounds) of phosphorus and is comparable to installing a basin at the cost of $100K-$200K to remove a couple hundred pounds of phosphorus. He stated his abstract submitted to the North American Lake Management Society (NALMS) was accepted which will discuss the Lake Hopatcong harvesting efforts and how much phosphorus is being removed through this activity.

Dr. Lubnow stated that last month the Commission gave approval to submit the EPA Wetland grant for a $110K project in the Borough of Hopatcong to remove invasive species and to address erosion problems in a stormwater basin to improve its pollutant removal rate.

There was discussion on how non-point sources into the lake need to be addressed prior to any dredging work being done. Ms. Macalle-Holly briefly reviewed all the grant projects currently underway.

Ms. Rector provided an update on Jefferson's 604B grant for septic management planning in the Lake Shawnee area. Jefferson has passed its septic management ordinance. A database that is used by Lake Mohawk and Byram will be used to track the Jefferson program. Jefferson is planning a public education meeting on septic management on September 11, 2007.

Sub-Committee Reports

Chair Ondish asked if there were any sub-committee reports. Ms. Macalle-Holly stated the project planning committee will be meeting immediately following the work session meeting on September 10 to discuss projects for possible inclusion in the FY09 budget. FY09 is when the 60 inch drawdown will occurs. She stated that the 60 inch drawdown is not this year, but it will begin the day after Labor Day in 2008.

Mr. McCarthy stating the Aquatic Habitat committee will meet again with the goal to have some type of alert to issue for the next boating season. Ms. Rector stated that Bob Haskic, a biologist, will address the Commission in late fall or early winter. Ms. Macalle-Holly said she had a picture that shows a sign that if you launch your boat in Maine with any weeds on it, the fine is $5,000.

Ms. Gantert stated the bylaws committee will begin meeting in September when members are back from vacation.

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

New Business

Fundraiser Donation

Ms. Macalle-Holly stated Mr. Tosh Hermann from Entertainment Select contacted the Commission to donate a portion of the proceeds from the 3rd Annual Poker Run on September 8 (rain date September 9) to the Lake Hopatcong Commission. The cost to participate in the Poker Run is $10. The Chair asked Commissioners how they felt about this and questioned how we would respond if Mr. Hermann requested the Commission advertise the Poker Run on our website. Ms. Macalle-Holly confirmed that everyone was agreeable to accepting a donation from the proceeds and if requested, to include something on the website about it. Ms. Macalle-Holly advised that Counsel recommended that we check to make sure Mr. Hermann has all the proper permits.

Mr. McCarthy asked about shared services for the fall. Ms. Macalle-Holly stated the Commission received in the mail today, a shared services agreement with Mount Arlington and when meeting with the other towns about the EPA TWG, the issue of shared services was discussed. If the 319 project for Hopatcong is done in the fall, some of the LHC field staff will be working with the contractor as on the project as part of the grant match and it will be a learning process for the staff to see how the devices are installed. The goal at some point is for the Commission to work with the municipalities DPW and use their equipment to install the devices ourselves instead of going out to bid. So at this point, we are moving forward with shared services agreements, but are unsure of how much staff might be available.

Mr. McCarthy also brought up the Alternate Commissioner issue that was discussed at the last meeting. He stated that Counsel's opinion letter was emailed. Chair Ondish stated the letter dated back to when Anthony Albanese was Chairman. Mr. McCarthy asked for any comments or opinions from Commissioners on this issue. After considerable discussion including Counsel reiterating what was outlined in the opinion letter, it was agreed not to make any changes to the current practice. An Alternate Commissioners can participate in Executive Session only when the regular Commission Members is unable to participate in Executive Session. Ms. Macalle-Holly stated that this issue is not addressed in the by-laws, but it is a policy issue. Ms. Gantert stated she did respect Counsel's opinion on this issue and it is nothing against the Alternates.

<u>Public Comment</u>

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 inquired about the lease in Landing. Chair Ondish stated a new lease for the office was not signed. She asked about weed harvesting in River Styx and inquired if in between the docks would be done.

Mike Brunson, resident of Hopatcong, asked about his suggestion for alternate funding to put a surcharge on the summons and if any inquiry was made to the Administrative Office of Court on what kind of revenue can be expected. Mr. Klipstein stated it is being looked at.

Mayor Hodson of Hopatcong inquired when the rules for a drawdown can be modified. Counsel Weyl stated that there has been work done on it, but he will check with the AG when he gets back from vacation. The Mayor stated he and the Commission contacted the Boating Commission to try to get them up here. Chair Ondish stated that the last he heard is that the Boating Commission was interested in attending one of our meetings. Ms. Macalle-Holly stated she would call her contact at the Boating Regulation Commission to see if we can get confirmation of their attendance at our October or November meeting. Mayor Hodson also discussed reviewing the duties and responsibilities of the Commission legislation to determine how much money is needed and if there are not enough funds available to accomplish all the duties, the Commission should have the Legislature change the Act.

Mr. Kurzman, resident of Jefferson, suggested putting on the website on how to clean things, such as boats or cars, without negatively impacting the lake. He also discussed the damage to the waterline for the pump and how the fisherman that took away the buoy should be responsible. In response to Mr. Kurzman's concern about how to educate the public, Mr. Klipstein responded that DEP is doing a Clean Water New Jersey program and will be doing much more regarding fertilizer side. He discussed the Boating Regulation Commission schedule which is available on their website for meeting in October and November. If changes to laws are not public noticed during those two meetings, you miss the end of the calendar year and new laws cannot go into affect the next summer. He stated that anyone that uses Lake Hopatcong water downstream is a potential user, suggested information from DMV be obtained about boat registration and breakdown and suggested a Lake Hopatcong fishing sticker, or assessing a penny or two on each town property. If a legislation change is needed, he suggested spreading it state-wide. Mr. Klipstein stated new money could be added on to boat registration as a surcharge, but current registration is constitutionally dedicated. He discussed the situation that DEP is looking to reclassify Lake Mohawk and that no more motor boats will be allowed on the Lake. Mr. Klipstein stated all of the Wallkill is being considered for C1 classification and Lake Mohawk is the headwaters.

Mr. Beebe of Beebe Marine, stated the Commission should be working for the people and was appointed to look into Lake Hopatcong. He discussed the funding issue and how the Governor has the million dollars to give to the Commission. He discussed ownership of property owners on the Lake and the increase of patrols on the Lake. Chair Ondish addressed the need for patrols on the Lake. Chair Ondish encouraged Mr. Beebe to schedule a meeting with the Governor and he would attend. He also asked about the water level issue, with Mr. Klipstein stated was discussed earlier and needs to get an answer for.

Mr. McCarthy urged members of the public to attend meetings and encouraged everyone to get involved as the discussion of user fees progresses. There was additional discussion on user fees and Chair Ondish stated the philosophy of the Governor's administration is that anything you use in New Jersey you will have to pay for.

A resident of the King Cove section and a member of the Northwood Community Association thanked Mr. McCarthy for attending their meeting yesterday. She suggested the Commission should reach out to the lake association because they are an excellent source for funding ideals. She suggested getting a liaison from each lake association. She stated that a resident of Mountain Inlet stated there are no more fish there because of the depletion of oxygen. Dr. Lubnow discussed the importance of having data on this or photos of dead fish. She stated that the Northwood Community Association hired someone to treat the area chemically, but they still need a channel for boats on the one side. Dr. Lubnow stated that a hydro rake could be used to open a channel.

The Chair thanked the members of the public for attending the meeting He also thanked Hopatcong Council Members for being so well represented at our meetings. There being no further business, Mr. McCarthy made a motion to adjourn and Mr. Mitchko seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly