

Minutes of the Lake Hopatcong Commission

September 17, 2007

A meeting of the Lake Hopatcong Commission was held on September 17, 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.

Roll Call:

Present: Colleen DeStefano, Elizabeth Gantert, Eric Grove, David Jarvis, Daniel McCarthy, Richard O'Connor, Benjamin Spinelli, Richard Zoschak and Arthur Ondish

Absent: Kenneth Klipstein

Alternates Present: Robert Mitchko (Jefferson Alternate) and Joel Servoss (Hopatcong Alternate)

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

Communications

Chair Ondish asked for any questions or comments on the communications. In response to an inquiry, Ms. Macalle-Holly stated the letter regarding the audit was for the Workers' Compensation Audit. There was also discussion on the correspondences about the water pump. Mr. McCarthy inquired if this should be discussed in public. Counsel Weyl stated the underlying facts are not something to be discussed in public. He stated that Counsel had advised that the Commission is covered by the Tort Claims Act and Counsel Chudzik advised Ms. Macalle-Holly to file notice with the insurance company in case the Tort Claims does not apply. Ms. Macalle-Holly stated letters will be sent to the homeowner to send a notice to the Tort Claim Fund and to give notice to the Insurance Company.

In response to Mr. McCarthy's inquiry, Dr. Lubnow stated that he was led to believe that the Commission would be eligible for funding, but according to the letter from the EPA the Commission is not eligible. Dr. Lubnow stated he would check the Federal Register, but regardless he believes the application would have been rejected anyway because the EPA felt the project was not innovative. Dr. Lubnow stated he would check with the EPA.

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Ms. Macalle-Holly stated that Shared Service Agreement with Mount Arlington was signed by Mr. Grove. She stated Jefferson Township is moving forward with an agreement.

Treasurer's Report/Payment of Bills

Mr. Grove stated Ms. Macalle-Holly advised him there was a problem with Paychex, the payroll company and the usual Reconciliation Summary was not available. However, he indicated the Valley National Bank Statement dated August 31, 2007 had an ending balance of \$150,606.92. A Revised Bill List for \$18,348.21 was distributed. Mr. Zoschak 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 discussion on the Revised Bill List. The Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	O'Connor	Yes
Ganert	Yes	Spinelli	Yes
Grove	Yes	Zoschak	Yes
Jarvis	Yes	Ondish	Yes
McCarthy	Yes		

Motion carried 9 to 0.

Minutes of July 24, 2007 Work Session

The Chair requested a motion to approve the minutes. Mr. O'Connor made the motion to move minutes and Mr. McCarthy seconded. Mr. McCarthy asked that a copy of the approved minutes be sent to Mr. Zellner with a cover letter. The Chair asked for any changes to the minutes and requested a roll call vote.

ROLL CALL:

DeStefano	Yes	O'Connor	Yes
Ganert	Yes	Spinelli	Abstained
Grove	Yes	Zoschak	Abstained
Jarvis	Yes	Ondish	Yes
McCarthy	Yes		

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

Minutes of Meeting of August 20, 2007

The Chair requested a motion to approve the minutes. Mr. O'Connor made the motion to move minutes and Mr. McCarthy seconded. The Chair asked for any changes to the minutes. Dr. Lubnow stated on Page 6 of 9, 3rd paragraph, 3.3% of the annual phosphorous removal should be changed to 6.3% and the amount should be changed to 209 kilograms or 460 pounds. There being no further changes, the Chair requested a roll call vote with the changes.

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ROLL CALL:

DeStefano	Abstained	O'Connor	Yes
Gantert	Yes	Spinelli	Yes
Grove	Yes	Zoschak	Abstained
Jarvis	Yes	Ondish	Yes
McCarthy	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. John Kurzman, resident of Lake Hopatcong, addressed the pump damage and he suggested that the Commission should make the resident realize that the buoy was not secure enough.

Mr. Tim Clancy, resident of Lake Hopatcong addressed the user fee issue stating that he is only hearing about a fleet-based user fee and there is not much discussion about alternates such as a land-based or state-wide fee that could be less painful. He stated the fleet-based would add another layer of bureaucracy. He stated the Commission Funding Committee should be doing a more aggressive job to create three or four different models. The Chair stated the Commission will be working this through thoroughly with the DEP. Mr. Clancy stated the DEP is dictating the policy and will spoon-feed whatever works for them and the Commission will be stuck with it. He stated the Commission's highest priority now should be to get alternate funding ideas on its own.

Mr. Michael Brunson, resident of Hopatcong, stated he could not attend the last work session due to a work engagement. He inquired about the next funding committee meeting and about researching his suggestion on the summons surcharge. The Chair stated he brought the suggestion to the meeting with Mr. Zellner. Mr. Zoschak stated Mr. Zellner's response that it would be difficult to separate the surcharge from the fines for the State Police. Mr. Brunson stated that someone should contact the administrative office of courts and research this because it is done on surcharges for many things. He also inquired about what the goal is to having the Chair of the Boating Regulation Committee attend the October 15 LHC meeting. Chair Ondish stated his intent is to open a channel of communications.

Mr. Beebe discussed the Commission's responsibilities and inquired who is pushing for the fee. Ms. DeStefano stated that the State is proposing legislation for fees. He inquired how the state could give tax refunds and claims that it does not have \$800K to run the Commission. There was discussion about Mr. Beebe's request to meet with the Governor.

Chairman's Report

Chair Ondish stated on August 21 he met with the Garrison Commander at Picatinny for discussion on the storage facility. Picatinny is growing and is looking for space. The space the Commission currently uses is becoming a hot commodity. He stated he is making calls to the State about using other State facilities for a maintenance and storage facility.

He stated the Funding Committee needs to work on a business plan for the Commission. He and Mr. Klipstein will call a meeting. With nothing further to report, he moved to Old Business.

Old Business

Field Staff Report

Ms. Macalle-Holly stated harvesting is continuing. This year 2,816 cubic yards (1,268 tons) of weeds has been harvested. Harvesting will continue until the end of September/October at which time the equipment will be power washed before transporting it to the storage facility. Afterwards the staff will move into Shared Services or working on the 319 grant for Hopatcong.

Ms. Macalle-Holly stated she followed-up with the farmer from Oak Shade last week. He brought the trailer over for visual inspection by Mr. Calderio and some work needed to be done on the trailer. The farmer agreed to have the trailer work done by the end of the week to begin taking weeds the following week.

She stated the 26" drawdown begins on November 1 and to achieve the level by December 15. Chair Ondish stated the big drawdown is scheduled for next year.

User Fees

The Chair stated this issue had been discussed already, but reiterated that a Funding Committee meeting will be scheduled. The Commission did meet with Mr. Zellner to discuss a broad plan and the Commission expressed their opinions on some issues. Ms. Macalle-Holly stated that once Mr. Zellner has material available for the Commission to review, he would contact the Commission. Chair Ondish stated Mr. Klipstein is working very closely with Mr. Zellner on this.

Mr. McCarthy mentioned his suggestion on a user season pass that would capture everyone equally. He stated the plan should be as close to perfect as possible before it is implemented and clearly thought through. He stated Commissioners should be given plenty of time to bring the plan back to their municipality and that the Commission is not bound by some artificial deadline. Mr. O'Connor discussed the importance of discussing the plan with the public. The Chair suggested any member of the public that has

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suggestions should send an email to the Commission or contact the Commission by phone.

Mr. Zoschak suggested that when a Committee meets, the Committee Chair prepares a written report and it is incorporated into the meeting minutes and reported out at the Commission meeting. Chair Ondish stated that the subcommittee reports are on the agenda so as much information as possible is on record for what goes on in Committee.

Boating Regulation Commission Chair Attends LHC 10-15-07 Meeting

Chair Ondish stated Chairman Brown from the Boating Regulation Commission will be attending the October 15, 2007 LHC meeting. The Chair stated this will be a way to develop communications and to come up with procedures on how to bring issues forward. There was discussion on how the Lake Hopatcong regulations were included in the boating regulations. Ms. Macalle-Holly stated another member of the Boating Regulations Commission will be attending as well as a member of the State Police stationed at Hopatcong if available.

Mr. McCarthy inquired about getting a copy of the report from the State Police on violations which were previously requested. He stated that Fish and Game should also be submitting a report to the Commission. Chair Ondish stated he would follow-up on these issues.

Princeton Hydro Report

Dr. Lubnow stated on September 14, the SFY08 319 grant was submitted. He stated the budget was for \$840,870 with an in-kind match of \$25,340 for a total budget of \$866,210. A complete copy of the application was provided to Ms. Macalle-Holly and DEP. He provided a summary of the proposed projects for Hopatcong, Jefferson and Roxbury. Other projects included in the grant proposal were the preliminary bathymetric survey for approximately 700 acres of near shoreline area and another project to collect and quantify sediment deltas in front of the outfall structures throughout the lake. Other projects in the grant include stormwater monitoring to be done by the staff and Step-L modeling that DEP is requiring which will be done by Princeton Hydro (PH).

He also provided an update on the existing 319 project in Hopatcong stating that comments were received by Counsel and as a result, the PH Engineer had some concerns. The main issue was that Counsel made the point that the bid specification identify that it is an agreement between the Commission and the contractor. As a result, PH submitted a draft Memorandum of Agreement to Ms. Macalle-Holly to acknowledge PH as the project engineer and the Commission would ask PH for any recommendation or advise before making any decisions relative to materials, installation or dealing with the contractor since Princeton Hydro's name is on the certified plans.

He stated for the EPA TWG, PH will schedule a training session with the LHC staff on the collection of stormwater samples and also include training on the lawn sampling. He

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stated PH received some iron oxide from companies in Western Pennsylvania. IO will be used to increase the phosphorous removal rates in stormwater basins. He stated they are also working with Suntree Technologies to send different mesh size for booms to fill with the IO to install in the basins. This project will be done in the Borough of Hopatcong.

He also reported on the 604B grant with Jefferson Township and Lake Shawnee sub-watershed.

In response to an inquiry, Dr. Lubnow provided further details on the iron oxide project. Dr. Lubnow responded to another inquiry stating he was not familiar with the project done near Lake Musconetcong, but PH is working with Musconetcong on a 319 grant. Dr. Lubnow responded that Lake Musconetcong is not using SONAR. He stated in the Musconetcong restoration plan, PH recommended using SONAR to eradicate Eurasian Water Milfoil.

Sub-Committee Reports

Chair Ondish asked if there were any sub-committee reports. Mr. McCarthy stated the Aquatic Habitat Committee is trying to schedule a meeting. His plan is to have a product to distribute to the public by the start of the next boating season

Mr. McCarthy stated the Project Planning Committee met. He stated the committee discussed renewing Princeton Hydro monitoring and consulting contracts and stated there is no fee increase in these projects. He stated the committee also discussed continuing the USGS gages. Other weed eradication methods such as benthic barriers were discussed. During the meeting, Mr. Klipstein and Ms. Rector felt the Commission should spend their funds elsewhere because these had already been tried and there is a maintenance component to it. The other method discussed was a roller to eradicate weeds. The committee was unsure of the cost benefit of this project. The committee did agree to look into the hydro raking. The issue with floaters was also discussed and the committee would like to find an effective means to deal with them.

Ms. Gantert stated the Bylaws Committee met tonight to arrange for future dates to review the Bylaws.

The Chair stated he would speak with Mr. Klipstein about arranging a meeting with the Funding Committee. In response to Mr. McCarthy request for what the Funding Committee should look at, Ms. DeStefano stated that the Commission needs to be careful when the legislation is changed that a user fee structure can be developed, but it should not exclude State Funding in the legislation. The Commission needs to keep the Commission legislation open because Mr. Zellner did commit that the State will not cut the Commission off unless it has enough money to fund itself.

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

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New Business

Resolution 07-07 Establish VNB Checking Account for US EPA TWG

Chair Ondish requested a motion to move Resolution 07-07. Mr. Zoschak made the motion and Mr. Grove seconded. Ms. Macalle-Holly stated it would be a separate account for the EPA Targeted Watershed Grant (TWG). The Chair requested a roll call vote.

ROLL CALL:

DeStefano	Yes	O'Connor	Yes
Ganert	Yes	Spinelli	Yes
Grove	Yes	Zoschak	Yes
Jarvis	Yes	Ondish	Yes
McCarthy	Yes		

Motion carried 9 to 0.

LHC Business Plan

Chair Ondish stated this issue was discussed briefly. The Funding Committee will need to meet to move this forward. Ms. DeStefano stated that the Commission would not be giving up any of its statutory duties because the Commission does not have funding and the Commission will try to find other ways to fund the Commission, so if possible, the Commission can meet all its objectives. There was discussion on having the business plan done by the full Commission or in Committee and how to review the plan and provide comment.

US EPA Visit to Lake Hopatcong

Ms. Macalle-Holly stated the EPA visit is scheduled for September 26. Chair Ondish stated that EPA has never been out on the lake. Mr. O'Connor offered to let the Commission use his boat. Ms. Macalle-Holly stated that once the number of visitors from EPA was provided, she would let Mr. O'Connor know if his boat would be needed to accommodate everyone.

Resolution 07-08 Authorization by LHC for its Foreman, Subject to Limitation, to Promote Staff

Chair Ondish introduced the resolution. There was significant discussion on resolution and how the bylaws, in the absence of an Executive Director and Field Director state the Personnel Committee is responsible for personnel actions. Chair Ondish stated this issue was discussed at the Personnel meeting to retain a good employee. Chair Ondish stated the Commission needs to either pass this resolution or needs to authorize the personnel committee to make an offer to the employee.

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Mr. Jarvis made a motion to move Resolution 07-08 and Mr. Grove seconded. The Chair requested a roll call vote. The Chair stated if the resolution passes, Mr. Calderio would decide to make the offer to the employee. Chair Ondish stated that the resolution deals with procedure.

ROLL CALL:

DeStefano	No	O'Connor	No
Gantert	No	Spinelli	Yes
Grove	Yes	Zoschak	No
Jarvis	Yes	Ondish	Yes
McCarthy	No		

Motion did not carry 4 to 5.

Mr. Grove moved that the Personnel Committee Chair could make a promotion offer to the particular employee pursuant to Section 3.1 of the Bylaws since there is presently no Field Director. Mr. O'Connor seconded.

ROLL CALL:

DeStefano	No	O'Connor	Yes
Gantert	Yes	Spinelli	Yes
Grove	Yes	Zoschak	Yes
Jarvis	Yes	Ondish	Yes
McCarthy	Yes		

Motion carried 8 to 1.

Public Comment

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

Mike Brunson, resident of Hopatcong, stated that John Bedezwall, Director of Municipal Court Services, can and has offered to breakdown summons activities. He stated the Commission should get summons activities from each municipality which is important information. Mr. Zoschak stated that the State Police provided those numbers in a presentation. The Chair stated this issue was brought to Mr. Zellner.

Mr. John Kurzman, a member of the Funding Committee, discussed the evolution of the Funding Committee which is turning into a spending committee to develop a business plan. Mr. Kurzman questioned why the Committee is headed by the DEP representative. He stated the Commission needs to look at other alternatives and questioned why it has been so long since the Committee has met. He stated that he believes Mr. Zellner does not clearly understand the surcharges on summons. Chair Ondish stated that Funding Committee will be meeting. He stated the budget is not based on what the Commission is chartered to do and a business plan will allow the Commission to accomplish what it is chartered to do. Mr. Kurzman stated that in discussion with a marina owner, they estimate about 7,000 boats on the lake. If you charge \$50 per boat that amounts to only

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\$350K which is less than the Commission's budget. Mr. Kurzman stated the Commission needs to focus on other funding mechanisms such as surcharges, summons or other things. He also discussed his experience of working with the Boating Regulation Committee. He volunteered to work on any committee to address boating regulation. He also inquired about the maintenance space. He also inquired about how lake level and how it is dropping quickly. He questioned why the State Park staff is never at any Commission meetings. Ms. Macalle-Holly stated the Commission staff works very closely with Park personnel. He also had questions about the project to measure the sediment in the delta. He also discussed the procedures taken for personnel action and his concern about counter offers.

Mr. Beebe questioned why the Commission was looking to promote someone when the Commission did not have any money. The Chair stated the position was vacant and budgeted for. He also questioned if the mussels were an endangered species. He stated the Commission may be operating on private property because some residents have deeded rights to the lake.

There being no further business, at 10:15 p.m. Mr. Zoschak made a motion to adjourn and Mr. O'Connor seconded. The motion to adjourn was unanimous.

Submitted by: Donna Macalle-Holly