

Minutes of the Lake Hopatcong Commission February 21, 2012

A meeting of the Lake Hopatcong Commission was held on February 21, 2012 at the Hopatcong State Park, Lakeside Boulevard, Landing, NJ. At 7:00 p.m., Chair Felter called the meeting to order. It was stated that the meeting was being held in accordance with "Open Public Meetings Act."

Salute to the Flag: Chair Felter and all those in attendance joined in a flag salute.

Moment of Silence: The Chair asked for a moment of silence for the men and women in our armed forces.

Roll Call:

Present: Mark Fisch, Elizabeth Gantert, David Jarvis, Daniel McCarthy, Kerry Pflugh, Anne Pravs, Joel Servoss, Richard Keir (Roxbury Alternate), Chairman Russell Felter

Absent: Richard Zoschak

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

Communications

The Chair asked for questions on the communications package. The Chair stated Ms. DeCroce is no longer serving on the Commission and wishes her well as a new Assembly person. The Commission has asked DCA for a new representative. Ms. Pravs referred to a Mount Arlington Resolution. Mr. McCarthy stated the resolution seeks support for a pending Senate Bill for funding for the Commission and requests that the Governor make an appointment for the vacant State seat. He would like to see the Resolution adopted by other governing bodies including the Counties. Ms. Pravs discussed the responsibilities for the Commission and how the Commission has not received funding to do its mandated work. The Chair stated he believes Morris County is considering the resolution.

Treasurer's Report/Payment of Bills

The Chair welcomed Ms. Gantert back after her illness. Ms. Gantert's stated the Valley National Bank checking account balance as of January 31, 2012 was \$41,894.84. The Bill List of \$12,867.80 was submitted for approval. Mr. D. McCarthy made the motion and Ms. Pravs seconded. The Chair requested a roll call vote.

ROLL CALL:

Fisch	Yes	Pravs	Yes
Gantert	Yes	Servoss	Yes
Jarvis	Yes	Keir	Yes
McCarthy, D.	Yes	Felter	Yes
Pflugh	Yes		

Motion unanimous.

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Approval of Meeting Minutes

Mr. McCarthy had a spelling correction for Tocks Island Dam. The Chair requested a roll call.

ROLL CALL:

Fisch	Yes	Pravs	Yes
Gantert	Yes	Servoss	Abstained
Jarvis	Yes	Keir	Yes
McCarthy, D.	Yes	Felter	Yes
Pflugh	Yes		

Motion carried 8-0-1 (one abstention)

Commissioners' Comments

The Chair stated there would be discussion on the MOU later. There being no other comments, the Chair moved to next agenda item.

Public Comment

The Chair stated there would be a two minute limit per speaker.

Tim Clancy stated he was not certain if the Commission was going to proceed with the agreement. He had expressed concerns previously that the equipment should not be used at another water body which could bring other invasive species to this lake. He discussed the Commission legislation and its funding mandate. He hopes there is a way for the Commission to get the equipment back if a revenue stream is established because the Commission could not afford to get new equipment.

Cliff Beebe asked Ms. Pflugh if she spoke to someone to have a meeting with him. She stated he needs to bring his issue to another body because the Commission does not have that authority. He stated the lake is down 26" or more and he cannot get out to his property on the island. The Musconetcong River is supposed to be controlled solely by Lake Musconetcong. He discussed how DEP removal of the dams is adjusting the flow rate of the river. Lake Hopatcong cannot endure 7.5 MGD of water leaving the lake.

John Kurzman, resident of Lake Hopatcong, discussed how there are two groups where some people care and other do not care about the Lake. He discussed how the administration's priorities change and that affects the Lake. He believes the Commission should have a roll in directing the workers and the harvesting operation. He discussed whether an MOU or MOA is a recourse and they are not always legally binding. The Commission should have independent legal counsel review document. The boat or equipment that will not be operated should not be signed over. If something happens to the equipment, is the State self-insured for damage?

Old Business

Meeting Locations for Resolution 12-01

Ms. Macalle-Holly stated she made changes to the meeting locations which were advertised and are noted on the agenda through the end of the year. Mr. McCarthy stated he made a note to check on the availability of Hopatcong's facilities in October.

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MOU between NJ DEP and LHC for transfer of harvesting equipment

The Chair stated he spoke with David Glass of the DEP earlier this afternoon. The DEP Commissioner has not fully review the document. The Chair stated the MOU distributed was the version emailed to David Glass. The Chair read certain articles in the MOU.

Ms. Macalle-Holly summarized some of the changes the Commissioners had requested which included changing transfer of equipment from permanent to temporary, equipment could only be used for Lake Hopatcong and the agreement has an expiration of December 31, 2012.

Chair Felter stated one of the things discussed is that the agreement should not expire, but instead the Commission has the option to renew for another year or else this all has to be done again. The Chair stated the Commission would be able to void the agreement if it wanted. Mr. McCarthy stated there should be a review period in the agreement.

In response to Ms. Pravs' inquiry about staff doing the repairs, the Chair stated it could be staff or a company could be hired to do it. She stated it should be experienced people working on the equipment. She inquired about the salary adjustments for staff. The Chair stated Civil Service is reviewing the salaries. Mr. Keirs stated that qualified individuals should work on the equipment.

Mr. McCarthy stated that the language about the Department providing updates on the weed harvesting operations, which he requested, was added because the Commission is a suitable avenue for the public to find out what is going on with the harvesting. The intent is for someone to explain what is going on with the harvesting. The intent on reporting is for the Commission to continue to have the harvesting data which is utilized by Princeton Hydro in the annual water quality monitoring report. The itemization of repairs is important for the Commission to continue to have a repair log. Mr. McCarthy clarified that he is not looking for anymore information than the Commission already gathers. Ms. Pflugh suggested modifying the language to state the existing reporting practices used by the commission would be continued.

The Chair stated that ownership of replacement equipment has to remain with the Department if the Commission resumes responsibility of the harvesting program. The DEP will not buy new equipment and then transfer a State asset to the Commission.

Mr. McCarthy stated the intent of the language on storage was if the agreement expires at the end of 2012 and the Commission gets the equipment back, it should be stored at the Franklin Building.

Mr. Jarvis inquired if all the equipment would be used. The Chair stated he was unsure and it would depend on how much work the equipment needs. Ms. Macalle-Holly stated it is important for people to understand that the seasonal employees can only work 944 hours in a fiscal year and they will have to balance the amount of time spent on maintenance and harvesting.

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Ms. Pravs stated the modification of the MOU have met concerns from her community except for overseeing the equipment. She does not think the equipment can be surrendered to a new staff. The Chair stated they are trying to work out the salary issues with Civil Service. Mr. Jarvis asked about the difference between an MOU and MOA and if they were legally binding. Ms. Pflugh stated typically the agreement is stronger legally than an understanding, but this is a temporary fix until a permanent arrangement can be negotiated which is supposedly happening with a Bill in committee.

The Chair stated if the Commission does not feel the agreement is legally binding and the Commission will not do it, then there will not be any harvesting. If the Commission doesn't want weed harvesting, then vote the agreement down. The Chair stated he is going to testify on Monday for the Commission's Bill. He stated the Governor is supporting the Bill, but there is no guarantee. If the Bill passes, the Commission will not receive money until August or September after the fiscal year starts.

The Chair stated the Department has agreed to a lot of changes in the agreement and he thanked Mr. McCarthy for his work on the agreement.

The Chair read the synopsis from the Bill to dedicate \$400K annually from pleasure boat registration fees for the Commission.

Ms. Pflugh stated she is not seeing any problems with the proposed changes in the MOU and will relay back that the reporting being requested is not above and beyond what is already being done by the Commission.

The Chair stated if the Commission gets the changes requested, would everyone be okay with it. Ms. Pravs stated she needs to share the changes with her towns. Ms. Macalle-Holly stated the longer this is drawn out, the longer the Commission has to pay for insurance. The Chair stated the Commission would hold a special meeting next Tuesday at 6:30 to discuss the agreement. Mr. Jarvis indicated he has a conflict, but if the DEP agrees to the changes he does not have an issue with doing it. Ms. Macalle-Holly stated she would find a location and send email tomorrow.

The Chair stated if any Commissioner wanted to ride with him to the Senate Hearing next Monday to let him know.

Commission Package Insurance

Ms. Macalle-Holly stated if the Commission goes forward with the agreement then she will have to notify the insurance company to cancel the insurance for the equipment.

New Business

Annual Lake Hopatcong Water Level Management Plan Review Meeting

Chair Felter apologized for not being able to attend the meeting. Ms. Pflugh stated it was a very good meeting with positive comments and good suggestions. Overall, the Committee feedback was that they were positive about the dam operations and the line of communications had been vastly improved. Language will be added to the Plan to

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illustrate the experience this past year for flooding and also for no ice on the Lake. She stated the Lake is in refill mode as of Saturday (February 18). After the Committee meeting, park staff went around the lake to document there was no ice on the lake and after reviewing the long term weather forecast which showed there would be no hard ice for the lake, a request was sent to Assistant Commissioner Cradic who agreed to begin the refill. Ms. Pflugh stated that individuals that had dock permits were contacted prior to the refill and they had no problem with the refill.

She stated that the Park's log sheet from 2010 and 2011 will be added as an appendix to the report. Ms. Pflugh stated she will edit the Management Plan to streamline the documents and send to Committee. A summary of activities from this year will also be included in the Plan. There will be an annual review of the plan with the Committee. The annual USGS data from 2010 and 2011 will also be added to the plan.

In response to recovery of the lake, Ms. Pflugh stated the dam was closed but is still maintaining the minimum passing flow.

Mr. McCarthy stated he has been keeping ice records for over 30 years and he never remembers seeing it this bad. He stated the new Park Superintendent was at the meeting. He sent kudos to those that made the dam gate closing happen so quickly.

Contract with Princeton Hydro for engineering design/project oversight for Filterra stormwater installation funded through SFY05 319(h) grant.

The Chair stated the contract is for \$16,550 and a motion is needed. Mr. McCarthy stated he did not receive a complete copy of the contract and he asked if it was reviewed by Counsel. Ms. Macalle-Holly stated it is the standard contract that is used with Princeton Hydro. When Counsel reviewed the previous contract, she had the indemnification clause removed. Mr. Servoss made the motion to approve the contract and Chairman Felter seconded.

ROLL CALL:

Fisch	Yes	Pravs	Yes
Gantert	Yes	Servoss	Yes
Jarvis	Yes	Keir	Yes
McCarthy, D.	Yes	Felter	Yes
Pflugh	Yes		

Motion unanimous.

Public Comment

Mr. Clancy stated his concerns have been addressed for the agreement, but he wishes there was another way. He stated the staff is very talented and he hopes the Commission lobbies hard for them.

Mr. Beebe stated the meeting is in violation of the New Jersey statute and people cannot justify playing with the level of the lake including the DEP and Ms. Pflugh should bring that to their attention. No one can guarantee with the weather pattern if the lake will fill up by spring. They are jeopardizing his constitutional rights. Ms. Pflugh has stated that

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she has been directed by her legal counsel that the matter is not something that can be resolved and he needs to take it up elsewhere because the Department feels they are following the letter of the law because there are several competing laws and agreements.

Mr. Kurzman stated there should be an escape clause that the LHC has the sole right to determine the agreement on their wishes and have the titles transferred back. He does not understand why it has to be done as an MOA and not done as a legally binding agreement. He suggested not transferring the trucks and have volunteers run the trucks. The Commission should make sure there is good feedback. He is concerned for the safety of just one worker and there should be two workers together. Does new equipment stay with the harvesters and what does self-insured mean? He hopes the public can see the changes in the Water Level Management Plan before they are finalized.

Chairman's Report

The Chair stated he already spoke about everything including going to Trenton on Monday. The Chair thanked everyone for their input into the agreement and looks forward to seeing everyone Tuesday at 6:30. Mr. Keir thanked the Chair for all the time he puts in.

Ms. Pravs made the motion to adjourn at 8:20 and Mr. Keir seconded.

Prepared by: Donna Macalle-Holly