

Minutes of the Lake Hopatcong Commission

August 15, 2016

A meeting of the Lake Hopatcong Commission was held on August 15, 2016 at the Jefferson Municipal Building, 1033 Weldon Rd. Lake Hopatcong New Jersey. At approximately 7:00p.m., Acting Chair McCarthy called the Meeting to order. He stated the meeting was being held in accordance with "Open Public Meetings Act."

Salute to the Flag: Daniel McCarthy (acting chairman) and all those in attendance joined in a flag salute.

Moment of Silence: Daniel McCarthy asked for a moment of silence for our armed forces.

Roll Call:

Present: Eric Wilsusen, Fred Steinbaum, Daniel McCarthy, Robert Tessier, Arthur Clarke, Kerry Kirk Pflugh, Joel Servoss, Commissioner Morris

Absent: Mark Crowley, Mark Fisch, Anne Seibert-Pravs, Richard Zoschak, Mark Fisch, David Jarvis

Speakers: None

Acting chair McCarthy notes that Commissioner Pflugh will be late. When she arrives there will be six members present at Roll Call, and Acting Chair McCarthy can declare a quorum.

Meeting minutes cannot be approved because there are not enough commissioners present for the vote. The approval will be postponed until next meeting.

Treasurer's Report

Commissioner Mark Fisch is absent; therefore there are no updates to the Treasurer's report.

Communications

Acting Chairman McCarthy introduces Department of Community Affairs (DCA) representative Robert Tessier. Acting Chair McCarthy is in receipt of a letter date August 15, 2016 from the Department of Community Affairs which states that project specialist Robert Tessier will represent DCA Commissioner for New Jersey, Charles A. Richman, at all future Lake Hopatcong Commission (LHC) meetings. Acting Chair McCarthy comments that Commissioner Richman once represented the DCA for the LHC and understands what the commission's mission is. He then defers to Commissioner Tessier for comment and introduction. Commissioner Tessier comments on the role of the DCA within the state of New Jersey where he works in the commissioner's office as a community planner. He works on land use planning primarily in the private sector until he began working with the state about five years ago. He hopes to provide some technical expertise to the commission.

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Correspondence

Commissioner McCarthy comments that JoAnne Meyer the assistant to the mayor is acting as the recipient of mail for the commission. Acting chair McCarthy comments on one letter that is an audit which was shipped to the wrong address. The letter is from Steven Manus of the Division of Compensation and Control. The commission will wait until Kerry arrives to comment.

Acting Chairman's Report

Acting Chair McCarthy mentions the three letters written prior to last month's meeting. One was to Commissioner Richmond of the DCA, which received action. Another letter was written to the Governor concerning the two vacant seats of Chair and the citizen's seat. He has not heard from the Governor's office. Acting Chair McCarthy notes the need to renew Commissioner Steinbaum's seat. The third letter was written to the Deputy Attorney General concerning legal questions about the MOU and seeking legal advice. Apparently for the DAG provide legal advice they have to be able to reference a budget line item.

Commissioner Steinbaum asks about the other letters from Princeton Hydro and Contech Engineered Solutions regarding grants. Acting Chair McCarthy hopes that Kerry can further explain the letters when she arrives. Commissioner Wilsusen states that Jefferson installed filter/drainage projects near the yacht club and Ashley Cove. Jessica Murphy of the LHF comments that the letters are probably in reference to a 319 grant; this is confirmed by Donna McCalle-Holly later in the meeting.

Comments

Commissioner Wilsusen comments on the weeds throughout the lake.

Commissioner Steinbaum holds his comment.

Commissioner Morris comments on whether there is still a hotline for reporting when weed conditions are really bad on the lake. McCarthy comments that they should be calling the state park to report areas that need to be harvested.

Harvesting Update

Melissa Castalan the Lake Hopatcong State Park Superintendent reports that as of 8-15-16 the park has harvested (state park superintendents) – Hopatcong 973-398-7010 State Park and ask for Melissa, 2,240 cubic yards. They currently only have three people harvesting, and she has asked that if anyone is interested in employment as a harvester to please call. They are having issues with the personnel. There are still two permanent staff and three seasonal staff and they are trying to do everything that they need to do. She apologizes that they have not gotten to every area yet. Currently they are near Halsey Island and Raccoon Cove where the weeds are very thick. She also mentions that on Friday's there is a clean-up, so this is when they try to pick up any floating debris reported during the week. Commissioner Steinbaum asks Melissa how many people were originally budgeted for harvesting that are not currently harvesting. She responds that she is down two people. Originally there was an additional driver, currently there is one. One person that she could have on a harvester she has driving a truck because weed disposal is very time consuming because it is a long drive. Commission Steinbaum asks if the

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drop in personnel means that they are spending less money, and if so, will the program be extended further than originally anticipated due to a surplus of money at the end of the season. Melissa responds that she plans to work through the end of October with the budget that they have. She adds that she is going to keep them out there as long as possible. She does not have the budget for the coming fiscal year, but notes that it should be similar to what they received for 2015-2016. Commissioner Servoss asks if there have been any break downs or repairs made to the harvesters. Melissa responds that one harvester is currently in the shop because the conveyors went. There are currently two large harvesters and the transport barge running. Commissioner Tessier asks Melissa if they are trying to hire staff. She responds that they are and the listings are up on the LHF website for seasonal weed harvesters and truck drivers. These are seasonal positions and not full-time, therefore it has been difficult to keep people in the positions.

Acting Chair McCarthy comments that when the harvesters were purchased in 2001 they were \$150,000 each, and are probably much more than that now. Driving the harvesters takes a lot of skill and training because the machinery is so valuable. Driving the trucks doesn't require as much training, no CDL is require.

A man from the audience asks Melissa how long it would take for someone to get on a harvester. She responds that it takes two weeks for payroll to process, and from there the training process takes an additional two weeks. He asks if he volunteered his services would that change the timeframe. Melissa responds that it would be something they could discuss if he would like to stop by her office. Commissioner McCarthy adds that there may be legal issues associated with accepting volunteers for the position. He references the fact that the LHC is not able to allow volunteers to work for the Commission. Commissioner Clarke adds that volunteers are not allowed to operate a vehicle for the state park.

Old Business

Harvesting

Commissioner McCarthy moves to the next item. He states that the Commission is charged, legislatively, with weed harvesting, which requires funding. Absent funding we still have a need to harvest. In the current arrangement, the LHC temporarily loans equipment to the NJDEP. This agreement expired December 2015, and it has been renewed month to month until the Commission can get legal advice. A few years ago they were promised some funding for two of harvesters and two transport barges if they loaned one small harvester to Lake Musconetcong. Ultimately what happened was that the Musconetcong harvester and one transport barge in Hopatcong were fixed, but the other two pieces of equipment are still in storage in Franklin, NJ. So, in the end the LHC was not given what they were promised by the state. The LHC continues to renew the MOU on a mon-to-month basis so that if they ever receive funding from the State, they can take back the small harvester in Lake Musconetcong. The Commission has asked the DAG for an answer about the agreement, but they have not received a response. Commissioner McCarthy moves to keep the MOUs for another month. **A roll call vote is held.**

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Commissioner Wilsusen - Yes
Commissioner Steinbaum – Yes
Commissioner Morris - Yes
Commissioner Tessier - Yes
Commissioner Servoss - Yes
Acting Chair McCarthy – Yes

Acting Chair McCarthy concludes that the **vote is unanimous**.

Funding and Budget

Acting Chair McCarthy moves to the next item, budget and funding discussion. What we have been trying to do is establishing a budget. The law says that we are supposed to submit a budget, so the Commission is doing so. Commissioner Steinbaum has been working on the budget, and it needs to be in by November 2016, and we are hoping that Commissioner Tessier can provide some expertise. Acting Chair McCarthy would like to get a copy of the old budget, put together a new one, and submit it.

Commissioner Tessier comments that we should put together all that material and have a subcommittee. Acting Chair McCarthy agrees and adds that Commissioner Steinbaum has been heading the subcommittee. Commissioner Steinbaum adds that it is very hard to create a budget because the original budget was for 1.5 million dollars, which was \$750,000 per year, and now there has been no budget for 6.5 years. Copies of the old budgets are very detailed, and we were told that every year the budget is submitted and it is shelved. Commissioner Pflugh had previously suggested a minimal funding proposal for basic phone and secretary that would be under \$100,000. Commissioner Steinbaum hopes that Commissioner Tessier will be able to aid in this endeavor. Commissioner McCarthy adds that he thinks that two budgets should be submitted one minimal and one that states what would actually be needed to maintain what was set in the original agreement. He explains that the original budget was forecast to be \$3 million. The first 1.5 million was for buying equipment and then the other 1.5 million was for maintenance. There were nine full-time people and the administrator. In the summer they worked on weed harvesting, and had the weeds under control. In the fall they would take out equipment and do minimal winterization and maintenance on the equipment before putting it into storage. For the remainder of the fall they would work with the townships on storm drain maintenance. When it got too cold in the winter they would work on the weed harvesting machines at the storage facility in Picatinny Arsenal until the spring when they would go back out and continue weed harvesting. As the budget was cut, we went from 9 full-time employees to none. The administrator was also let go, so we had no budget to continue minutes etc. So, the committee has many obligations, but no budget to fulfill the obligations. Budgets were proposed but never approved and that lead the Committee to stop submitting budgets. Acting Chair McCarthy continues by saying that if the Committee wants to be funded they have to ask the state for funding through the submittal of a budget. He suggests submitting a budget that covers all of their responsibilities as outlined by the state, and a second budget that is basic. The basic

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budget would cover minutes, someone to answer phones, and handle correspondence. He asks Commissioner Tessier if he would be willing to join the budget committee and Commissioner Tessier accepts. Acting Chair McCarthy asks Commissioner Tessier if he knows whether or not there is a November deadline for budget submittal. Commissioner Tessier replies that he does not know. Commissioner Pflugh adds that the budget cycle runs from July 1st to July 30th. The Department starts thinking about budgets in October or November and budget hearings begin in February. She believes that it is smart to have the budget prepared in November so that it will be considered. Commissioner Tessier asks if the budget will go through NJDEP. Commissioner Pflugh confirms this.

Commissioner Pflugh comments that earlier today she received an email from Laura Foyle who was looking for someone to speak with on the Commission so that they could perform an audit. Commissioner Pflugh shared Acting Chair McCarthy's information so that she can contact him directly. Commissioner Pflugh believes that the audit is a positive sign because it shows that the Department is recognizing the Commission exists and that there is a potential budget to be submitted. Acting Chair McCarthy comments that he received a letter from Steven C Madison from the DEP which states that the committee is required to submit an independent auditors report for the period ended June 30th 2015. Regulations require that this report is due within 9 months of the period end date (March 31th 2016). He adds that he is not sure which account needs to be audited. Commissioner Pflugh comments that Mr. Madison is a good person to reach out to and the commission can do so. Acting Chair McCarthy states that he will contact the Department to find out what is needed.

Acting Chair McCarthy confirms that Commissioner Steinbaum will call a meeting for the budget subcommittee. Commissioner Steinbaum agrees. He then updates Commissioner Pflugh on what has already been covered in the meeting prior to her arrival.

Commissioner Pflugh states that last month there was a presentation done on the proposal for a drawdown. This was met with a positive response. The Department has spoken to all of the mayors and legislators and met with the Citizens Advisory Committee and all of the feedback was positive. She continues by stating that she believes that 1,800 lake front property owners will be getting letters starting today or tomorrow. When the letters were sent the NJDEP has fulfilled their obligation for public notification to the most impacted individuals. The letter will also be posted on the Hopatcong State Park website. The next meeting of the LHC will be a public hearing on 7:00pm September 19th 2016 at the Jefferson High School in the Auditorium. The topic for the public hearing will be the sharing of the lake level proposal. Commissioner Pflugh summarizes the proposal briefly by saying: There have been issues with spring refill after annual drawdowns, and after analysis, consulting with their DAG, and based on history the Department has proposed an adjustment to the lake outflow. The last time that the lake didn't refill was in 1990 when the lake was 4 inches below the full mark. At the time they made an adjustment to the outflow from 30 to 26 inches. The last two years we missed the 9 foot refill, which we try to get to on June 1st and missed by 4 inches. There were several proposals which didn't take root, and the NJDEP decided to come up with their own proposal. We felt that

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looking at history and science that we can safely reduce the amount by 4 inches from 26 to 22 inches if it is a normal year with snow and ice. In the spring if weather permits, we will begin the refill at 8 cfs instead of the previous 12 cfs. The NJDEP believes that this could gain 4 to 6 inches of water in the lake. The proposal is dependent on very specific conditions such as flow and temperature because the lake is precipitation dependent and in the spring it has been warm and dry the past few years. NJDEP commissioner has asked that this be a pilot and after this year the NJDEP will follow-up with residents to comment on property damage, and whether the changes have been effective. She adds that there will be three ways to comment. 1. A dedicated email, 2. Public comment at the public hearing on September 19th, or 3. Traditional mail. Addresses will be posted on the website.

Citizens Advisory Committee

Commissioner Steinbaum comments about the Citizen's Advisory Committee, which was established prior to the water level management plan. There is an annual meeting to review the plan and any changes. At the meeting they reviewed some additional plans that had been submitted. At last year's meeting Commissioner Steinbaum submitted a proposal that would reduce the annual drawdown from 26 to 16 inches. He also addressed the 5 year drawdown be done more quickly. Rather than 1.5 inches per day he proposed 2 inches per day that way the refill could be completed two weeks earlier than prior. This proposal did not receive a lot of enthusiasm. Cliff London, Daniel McCarthy, and Fred Steinbaum submitted another proposal for lake refill to begin on March 15th assuming conditions were favorable for refill. This proposal was made after there was a delay in refill of 6 days a few years ago. The proposal would give the superintendent of Hopatcong State Park the ability to make the decision for when to begin the lake refill. Rene Hernandez made another proposal which you will hear about later. During the meeting there was also a discussion of "Ice Creek". This method is used to keep lake level low through the winter to avoid dock damage. In prior years when there is rain with ice on the lake there was never an attempt to bring lake levels back down because it can cause additional damage. Commissioner Steinbaum comments that he thinks by allowing the lake to refill during the winter, lake level would be higher in the spring and the low levels that have been encountered over the last two years could be avoided. He continued by adding that he believes it is a good idea and would like to make an addendum to the proposed lake management plan. Commissioner Pflugh, responds by saying that an addendum cannot be made to the already approved proposal. She suggests that anyone with comments please submit them during the comment period. Acting Chair McCarthy asks what actions will be taken by the Department to incorporate public comments. Commissioner Pflugh responds that if there is widespread disapproval the Department will not go ahead with the plan. If the plan receives approval we will go ahead with it. If you have ideas you should submit them, but this does not guarantee that they will be incorporated into the plan.

Commissioner Steinbaum adds that these problems seem to be coming up because of changes in weather patterns or global warming. I support the proposal but hesitate to call it permanent because they may need to change the plan as the weather patterns continue to change. Commissioner Pflugh responds that permanent means that it becomes part of the management

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plan. She adds that right now things are changing in the Department, and the administration is changing. She encourages that all ideas be put on the table so that she can advocate for them now.

Acting Chair McCarthy thinks that the CAC is a wonderful tool and encourages anyone to come to the meeting to provide comments on the water level management plan. Commissioner Tessier adds that if there is no public support that the plan will not go into action, and the water level management plan will remain as it is. If there is public support then the water level management plan will go into effect. Commissioner Pflugh comments that the difficulty for the NJDEP is that they own the dam and are responsible for the water in the lake. However, they cannot change drawdown without consulting the property owners because the water level management plan was put in place to protect their properties. The state would be liable for the damages to properties if any occurred from a change in the plan without prior notice to the public. Therefore, the NJDEP must notify the public and they must have an opportunity to comment. Commissioner McCarthy asks how many people make the decision. Commissioner Pflugh responds that ultimately the decision will be made by the commissioner, but he will look to his staff Lisa Barno, Commissioner Pflugh etc. NJDEP did a survey of lake front property owners in 2013 to find out the critical issues facing the lake community. What they found was that the two issues are filling the lake and preventing property damage from ice. These are conflicting concerns. NJDEP wants to fill the lake but also has to lower the lake to prevent property damage. We have not hit the refill mark in the past two years because there have not been good winters or rain in the spring. As big as the lake is it is a small watershed and there are not a lot of inputs, and it is highly developed around the lake, so managing the lake is tough.

New Business

Acting Chair McCarthy moves the meeting to new business. There is no new business, and he opens the meeting to public comment.

Public Comment

Acting Chair McCarthy explains that there is a sign in sheet, and a two minute time limit per speaker.

Ray Fernandez of Jefferson Township comments that he agrees with the NJDEP proposed annual drawdown changes and their acknowledgment that the drawdown has been detrimental for lake refill. He was also pleased to hear that the NJDEP is concerned with the 60 inch drawdown which is looming in 2018. He has one question directed at Commissioner Pflugh. Is the ruling from the DAG which requires the notification of the public available to the public? Commissioner Pflugh states that it is not because it was a consultation and was not in writing. The water level management plan is not a regulation or statutory regulation, so in the absence of rules of operation the NJDEP defers to the rules and procedures that exist for public comment. He asks if the property owners will be contacted every year, and Commissioner Pflugh responds that they will only be contacted if there is a change to the plan.

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Diana Chaffey of 81 Yacht Club Drive in Jefferson comments that as a home owner she is frustrated with the NJDEP because homeowners don't fully understand the science and are not provided all of the information necessary to make sound decisions during the comment period. After looking at the data, and asking for additional information she does not believe the current proposal is based in good science. She hasn't seen anything from the NJDEP that shows that her property taxes and everything else they do on the lake matters. She thinks that it is important that everyone understands the data and the science used to develop the plan. She adds that she thinks that outflow should be based on a cost-benefit analysis because the water level plan is written with subjective requirements; ultimately the NJDEP does what they want. She doesn't believe that anything is being done to manage the risk to lake front residents by allowing water out of the lake.

Commissioner McCarthy closes the meeting. Commissioner Steinbaum makes a motion to adjourn.