



Bruce E. Young  
Chairman

Dave Wick  
Executive Director

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## **MEETING MINUTES**

**MEETING No. 467**

**TUESDAY, AUGUST 22, 2017**

**BEST WESTERN OF TICONDEROGA, TICONDEROGA, NY**

**PRESIDING:**

Kenneth W. Parker, Vice-Chairman

**COMMISSION MEMBERS PRESENT:**

Catherine LaBombard  
Marc Migliore  
James Kneeshaw  
Dean Cook  
William Mason  
John McDonald  
Joe Stanek

**COMMISSION MEMBERS ABSENT:**

Bruce Young, Chairman  
Dave Floyd

**COMMISSION STAFF PRESENT:**

Dave Wick, Executive Director  
Molly Gallagher, Environmental Analyst II  
Joseph A. Thouin, Environmental Analyst I  
Joseph Johns, Director of Law Enforcement  
Michelle Way, Office Assistant II Calculations  
Roger Smith, Conservation Operations Supervisor III  
Justin Luyk, Park Ranger

**COMMISSION COUNSEL PRESENT:**

Eileen Haynes

**OTHERS PRESENT:**

Joel Matthews	Buzz Lamb
John Salvador, Jr.	Jean Matthews
Walt Lender	John Creede
Ed Creede	Al Rider

Steve Ramant  
Ed Kelly  
Pat Dowd

David Smalley  
Greg Teresi

**Item #1 — Introductions, Roll Call, Minutes of Previous Meeting: Kenneth W. Parker, Vice-Chairman**

The meeting was called to order at 10:00 a.m. and the roll call was taken.

Dean Cook made a motion to approve the June meeting minutes which was seconded by William Mason; all members present voted to approve with the exception of Joe Stanek who was not present at that meeting.

**Item #2 — Fiscal Actions Report for July 2017: Kenneth W. Parker, Vice-Chairman**

Joe Stanek made a motion to approve the July Fiscal Actions Report which was seconded by Marc Migliore; all members present voted unanimously.

**Item #3 — Project Review, Acceptance of the Project Review Actions Report: Molly Gallagher**

***Resolution 2017-49 — Project Review Actions Report***

Joe Stanek read and moved to approve the Project Review Actions Report which was seconded by William Mason, all members present voted unanimously.

**WHEREAS** the Commission has received and reviewed the Project Review Actions Report prepared by staff and dated August 8, 2017.

**WHEREAS** the Project Review Committee recommends acceptance of the Project Review Actions Report.

**NOW THEREFORE BE IT RESOLVED** that the Commission directs that the Project Review Actions Report be incorporated in the minutes of the full Commission meeting.

**Variance Request for Wharf Modification Submitted by Thingvellir, LLC, Town of Queensbury, Warren County**

Molly Gallagher introduced the project and said that the applicant, Thingvellir, is requesting a variance for wharf modification. She further explained that a variance had been previously approved in May.

Joel Matthews spoke on behalf of the Thingvellir application. He said that he was before the board in May seeking a variance and had included the overhang that he is seeking approval for in the original drawings but Molly Gallagher had discouraged this as it was another variance to consider.

Mr. Matthews said that as time has gone on it has become more apparent that that apron is needed to protect the boat that he has been restoring for the past 7 years. He said that the boat is moored as lake forward as possible to allow for clearance under the boat. The boat draws a lot of water – 21 inches in the front and 24 inches in the back.

Mr. Matthews said that he and his wife both grew up on the lake and wouldn't do anything that would be detrimental to the lake.

Joe Stanek spoke about the possibility of using a canopy or a screen to protect the boat.

Mr. Matthews spoke about the reasons why he believes that would be a bad idea. He said that the dock is shared and the others who use it may not want a canopy or shade on the dock. He spoke further about the maintenance on caring for the boat.

William Mason spoke about an application that was heard before the Commission a while back where the applicant installed a lift that lifted the boat and moved it forward. He asked if Mr. Matthews had looked into such a lift.

Mr. Matthews said that he had not planned on installing a lift and has not investigated that.

Marc Migliore asked if the slip has always been that shallow.

Mr. Matthews said that the location is unique in that it is very sandy with coarse sand. He said that he has noticed changes in the bay with the introduction of sand material.

There were no additional comments or questions for the applicant.

William Mason said that he visited the site and said it is a lovely dock but he is impressed by the fact that he has a 21' boat and needs a 28' slip. He added that we are going down a slippery slope – this applicant has already received a variance.

Cathy LaBombard said that the dock is beautiful and the whole area is lovely but she is also having a hard time approving this.

Joe Matthews said that he originally included the apron on the dock but Molly had discouraged it because it was another variance. The variance was granted for the sundeck and the widening of the original dock.

John McDonald said that he understands the concerns here and was initially worried about the slippery slope but he can see the issues here and would support the application.

Marc Migliore spoke about the possibility of dredging the area and said that he could also support the application.

Dean Cook said that he sees absolutely no need for this variance. He believes that a curtain could be added. He said this is variance on variance.

William Mason said that he still has issues with this and could not support it.

Joe Stanek said that shade would protect the boat.

James Kneeshaw said that it seems that it could go either way.

Joel Matthews said that there is no doubt that a sunscreen would help but the area is shallow and it is a shared boathouse – maybe the others do not want a sunscreen. He said that haven't explored that option.

Mr. Matthews said that he is not looking to extend the dock. He is asking for a very insignificant 2' curtain in the air that doesn't touch anything.

Dean Cook said that he could add a motorized awning on just one side of the dock.

Joe Stanek read and moved to approve Resolution 2017-50 which was seconded by Marc Migliore. Vice-Chairman Parker called for a roll call vote. The results are as follows:

Ayes: J. Stanek, J. Kneeshaw, C. LaBombard, J. McDonald, M. Migliore, K. Parker (6)

Nays: W. Mason, D. Cook (2)

Abstentions: None (0)

**WHEREAS** the applicants have applied for a permit to extend an approved sundeck over a permitted dock by 2' lakeward; and

**WHEREAS** the Lake George Park Commission has reviewed the application, supporting documents, comments received and other information which appears in the record; and

**WHEREAS** the Commission has made a determination pursuant to 6NYCRR 645-3.6 and the State Environmental Quality Review Act 6NYCRR 617.5 that the project is a Type II action and does not require further review of potential environmental impacts pursuant to this act; and

**WHEREAS** the action is considered to be a Minor project pursuant to 6NYCRR 645-5.3 and public notice has been published and distributed; and

**WHEREAS** the applicant has requested variance from 6 NYCRR 646-1.1(c)

(11) Every dock or wharf constructed shall have a minimum setback of twenty feet from the adjacent property line extended into the lake on the same axis as the property line runs onshore where it meets the lake, or at a right angle to the mean high-water mark, whichever results in the greater setback; and

(7) The maximum number of docks, wharfs or moorings permitted per lakefront lot or parcel shall be limited as follows:

(i) Forty-five to sixty-five feet of lakefront - one dock or wharf constructed as a straight pier (a minimum of forty-five feet is required for the construction of a wharf);

**WHEREAS** the applicant has demonstrated that strict conformance with the regulations will cause unnecessary hardship due to unique and peculiar circumstances which impose substantial financial, technical and safety burdens; and

**WHEREAS** the Commission finds that there is no reasonable possibility that the applicant's property will bring a reasonable return following conformance with the regulations; and

**WHEREAS** the Commission finds that the project represents the minimum necessary variance required to alleviate the hardship; and

**WHEREAS** the Commission finds that the project will have no adverse impact on the health, safety or welfare of the public, the environment or the resources of the Park; will not alter the essential character of the area in which it is proposed; will not lead to congestion in the Park and will not have an undue visual, cultural or audible impact on the neighborhood or the Park.

**NOW THEREFORE BE IT RESOLVED** that the Lake George Park Commission hereby approves the request for variance and approves the above application as proposed.

**Item #4 — Decision Regarding Appeal of Dock Fees by John Salvador, Town of Queensbury, Warren County**

Eileen Haynes, Commission Counsel, explained that Mr. Salvador had put in a request for a dock fee redetermination. He had contested his dock fees and made an appeal to the full Commission board last month. Staff denied his appeal and all correspondence was copied to the members.

Joe Stanek read and moved to approve Resolution 2017-52 which was seconded by James Kneeshaw. Vice-Chairman Parker called for a roll call vote. The results are as follows:

Ayes: W. Mason, J. Stanek, J. Kneeshaw, K. Parker, C. LaBombard, J. McDonald, M. Migliore and D. Cook (8)

Nays: None (0)

Abstentions: None (0)

**WHEREAS** The Article 43 of the Environmental Conservation law (ECL) empowers the Lake George Park Commission to establish and collect annual regulatory fees for residential and commercial docks and

**WHEREAS** The Commission's regulation, 6 NYCRR 645-7.6 provides a process by which a dock owner may challenge the amount or the establishment of his or her dock fee; and

**WHEREAS** On or about April 20, 2017, John Salvador sought a redetermination of his dock fee on the grounds that he owned the lake bed upon which approximately 1094 useable linear feet of his docks are located; and

**WHEREAS** On or about May 15, 2017, the Commission staff denied Mr. Salvador's request for a dock fee redetermination on the grounds that Mr. Salvador unsuccessfully raised the same arguments in a 1992 and 1995 challenge to his fee determination and on the grounds that the payment of dock fees is not dependent upon private or public ownership of the submerged lands where the dock is located; and

**WHEREAS** Mr. Salvador appealed the Commission staff's denial of his fee redetermination to the entire Commission on or about July 25, 2017; and

**WHEREAS** The Commission reviewed Mr. Salvador's and the Staff's submission on this matter and determined that Mr. Salvador's appeal lacks merit for the reasons stated in the letter from Executive Director Dave Wick's letter to Mr. Salvador dated May 15, 2017;

**NOW, THEREFORE, BE IT RESOLVED THAT** pursuant to 6 NYCRR § 645-7.6 the Lake George Park Commission denies John Salvador's appeal and request for a dock redetermination for the reasons set forth in Mr. Wick's letter to Mr. Salvador dated May 15, 2017, and

**BE IT FURTHER RESOLVED THAT** the Executive Director and Counsel are directed to follow the procedures set forth in 6 NYCRR 645-7.6 and issue to the appellant a written decision consistent with the terms of this resolution.

The appeal submitted by Mr. Salvador has been denied and payment must be made to the Lake George Park Commission within 30 days.

#### **Item #5 — Charter Boats: Dave Wick, Executive Director**

Dave Wick, LGPC Executive Director, said that he and Eileen Haynes have looked at the subject of charter boats. A hearing was held in June on the matter and all marinas and tour boat operators were invited to attend.

The Lake George Park Commission is seeking to rescind a prior 1995 interpretation of tour boats. A tour boat is any boat that conveys a passenger for a fee. Other than marinas, charter boats would receive their own permit.

If a marina operator is also a charter then only one permit would be issued which is consistent with our tour boat regulations.

Mr. Wick said that we have seen a large influx of Public Vessels on Lake George and thought this would be a good time to take a look at our current regulations.

Marc Migliore said that on behalf of DEC, he would like to make a motion to table the application. There was no second to approve the tabling suggested by Mr. Migliore.

Joe Stanek read and moved to approve Resolution 2017-52 which was seconded by William Mason. Vice-Chairman Parker called for a roll call vote. The results are as follows:

Ayes: W. Mason, J. Stanek, J. Kneeshaw, K. Parker, C. LaBombard, J. McDonald, and D. Cook (7)

Nays: None (0)

Abstentions: M. Migliore (1)

**WHEREAS** The Lake George Park Commission is established by Article 43 of the Environmental Conservation Law (ECL) to provide a means for the people who reside or visit within the Lake George Park to preserve, protect and enhance the unique natural and scenic resources of the lake, and to regulate the use of the lake for appropriate purposes; and

**WHEREAS** Pursuant to 6 NYCRR 646-1.4 (d), the Commission has routinely required those operating tour boats on Lake George to obtain a permit for such operation; and

**WHEREAS** Commission regulation 6 NYCRR § 646-2.3 (a)(7) defines tour boat as a vessel that is used for the commercial purpose of conveying a passenger for a fee; and

**WHEREAS** Since 1995, based on an opinion of counsel concerning fishing charters, the Commission has interpreted section 646- 2.3 (a)(7) and 646-1.4 (d) as applying only to large vessels that operate on a particular schedule and that provide tours for more than 10 passengers at a time; and

**WHEREAS** Since 1995, the Commission has not extended the requirements of 646-1.4 (d) to charter vessels, despite that charter boats are vessels used for the commercial purpose of conveying a passenger for a fee; and

**WHEREAS** Since 1995, the number of charter vessels on Lake George has dramatically increased and, as a result of the Commission's 1995 interpretation of the definition of tour boats, many such vessels have not been regulated by the Commission; and

**WHEREAS** In 2015, the Commission procured a recreational use study of Lake George which determined that, during weekends and peak summer days, some areas of the lake experience high density and may operate at areas over the recommended density threshold; and

**WHEREAS** The Commission has determined that it is necessary for the environmental well-being of the Lake and the safety of the users of Lake George that charter boats be subject to the Commission's regulation in the same way that tour boats are regulated;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Lake George Park Commission hereby rescinds the 1995 interpretation of counsel which provided that fishing charters were not included in the definition of tour boats under 646-2.3 (a)(7) and



**BE IT FURTHER RESOLVED THAT** the provisions of 646-1.4 (d) shall apply to all vessels “used for the commercial purpose of conveying passengers for a fee” on Lake George; and

**BE IT FURTHER RESOLVED THAT** as of May 1, 2018, all charter boats operating on Lake George must operate pursuant to an authorized tour boat permit issued by the Commission; and

**BE IT FURTHER RESOLVED, THAT,** pursuant to 646-1.4 (d)(2)(v), all tour boats, including charter boats, must be operated out of a properly permitted Class A marina, or seek a variance from the Commission; and

**BE IT FURTHER RESOLVED THAT** all charter boat operations that have been operating on Lake George continuously since prior to January 1, 2015 are entitled to a tour boat permit without having to appear before the full commission, provided such operation otherwise meets the requirements of 646-1.4 (d); and

**BE IT FURTHER RESOLVED THAT** the Commission delegates to the Executive Director, the ability to issue tour boat permits for any charter boat operation that has satisfactorily demonstrated that its operation existed continuously on Lake George since prior to January 1, 2015 and that otherwise meets the requirements of 646-1.4 (d); and

**BE IT FURTHER RESOLVED THAT** the Commission waives the \$100 initial filing fee for all tour boat operations that have satisfactorily demonstrated that their operations existed continuously on Lake George prior to January 1, 2015.

**Item #6 — Log Bay Day Closing: Lieutenant Joe Johns, Director of Law Enforcement**

Lieutenant Joe Johns spoke about last months meeting where a resolution was passed closing Log Bay and Shelving Rock Road.

Lieutenant Johns said that everything went very well. The LGPC Marine Patrol, NYS DEC, Warren County Sheriff, Air Patrol and other partners worked together and did a great job making sure that all points were secure.

Three BWI check points were set up in the afternoon where four additional BWI arrests were made – making a total of 18 BWI arrests so far this year.

Lieutenant Johns spoke further about the work that is being done between Warren County and Legislation to link DWI and BWI offenses in New York State.

**Item #7 — Law Enforcement Committee Report: Kenneth Parker, Vice-Chairman**

Vice-Chairman Parker said that a Law Enforcement meeting was held where they discussed Log Bay day, buoy issues and officer safety.

**Resolution 2017-53 — Law Enforcement Committee Report**

Cathy LaBombard read and moved to approve Resolution 2017-53 which was seconded by Dean Cook, all members present voted unanimously.

**WHEREAS** the Law Enforcement Committee met August 22, 2017 to review matters pertaining to the Lake George Park Commission’s Marine Patrol and the Commission's Law Enforcement Program, and

**WHEREAS** active Law Enforcement cases and their status were reviewed in Executive Session, and

**WHEREAS** the Law Enforcement Committee has reported on the results of that committee meeting at this full Commission meeting, and

**WHEREAS** the Law Enforcement Committee recommends acceptance of this month's Law Enforcement Report.

**NOW THEREFORE BE IT RESOLVED** that the Commission accepts the report of the Law Enforcement Committee.

**Item #8 — Public Comments**

Greg Teresi, Queensbury Resident and owner of Lake George Tiki Tours, said that he has noticed an issue of sign pollution on the lake. The lake is filled with 5 mph buoys. He said that he does not disagree with the mentality behind the buoys but thinks that there may be a greater issue that needs to be looked at by the Commission as to why the homeowners feel the need to install the buoys.

Mr. Teresi said that the other thing he wanted to talk about is charter boat affiliation. He said that he is affiliated with the charter boat business on Lake George and is incredibly grateful that the Park Commission has given him the chance to get involved.

Mt. Teresi said that the response has been phenomenal so much so that they are hoping to expand their fleet – not necessarily the tiki boat but possibly pontoons and fishing boats. He spoke about the possibility of purchasing a Lyman boat as well. He said that there is a need on this lake from a tourist stand point to provide visitors with a way to get on the lake. He also said that he is glad that the LGPC is regulating this industry because something as magnificent and pristine as Lake George needs to be regulated.

Mr. Teresi asked that the Commission members consider that charter boats are providing a service. He said that he has received a dozen phone calls regarding the availability of having his captains drive personal boats while the owners have some drinks and enjoy the lake. He added that this is a good sign – people are finally getting the message that drinking and boating will not be tolerated.

Mr. Teresi said that not all charters have the same level of funding – someone starting out may not have the funds to be able to operate out of a marina. Everything in Lake George costs money. He said that he hopes that the Commission will consider this when an application comes before the board.

Steve Ramant, Hague Resident, said that he would like to see the Commission require kayakers to place a flag on their kayak. They need an identifier so other boaters can see them on the lake.

John Salvador, Queensbury resident, spoke about the Dunham's Bay Estuary and the buoys in the bay. He said that algae has been going on in this bay for 25 years and no one is testing sub-surface failure.

Mr. Salvador spoke further about a letter that was sent to the Commission members regarding a meeting with John Strough that was to take place on August 29, 2017. He said that he would encourage the LGPC to have a presence at this meeting.

David Smalley, Gull Bay resident, spoke about a neighboring property. He said that the permit was issued for this property in September of 2016 on an unbuildable lot which should have never received a permit because the applicant has no home nearby and has no deeded access. He said that the Town of Putnam has deemed that this lot is unbuildable. He said that he would like to see this permit rescinded.

### **Item #9 – Adjournment**

James Kneeshaw made a motion to adjourn which was seconded by William Mason, all members present voting affirmatively. The meeting ended at 11:51 a.m.

**SECRETARY'S NOTE:** The next Commission meeting is scheduled for **Tuesday, September 26, 2017 at the Huletts Landing Fire Department.**