



Bruce E. Young
Chairman

Dave Wick
Executive Director

MEETING MINUTES

MEETING NO. 482

TUESDAY, FEBRUARY 26, 2019

HOLIDAY INN, LAKE GEORGE, NY

PRESIDING: Kenneth W. Parker, Vice-Chairman

COMMISSION MEMBERS PRESENT:

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

COMMISSION MEMBERS ABSENT:

Bruce E. Young
John McDonald
Dave Floyd

COMMISSION STAFF PRESENT:

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

COMMISSION COUNSEL PRESENT:

Karla Buettner

OTHERS PRESENT:

| | | |
|-----------------|-----------------|----------------|
| John Davis | Claudia Braymer | John Carr |
| Kitty Rooney | Gwen Craig | Walt Lender |
| Mike Savioli | Mark Schacner | Jim Sutherland |
| Greg Teresi | Dennis Quirk | Chris Navitsky |
| Devin Dickinson | Pat Dowd | |
| Kristen Wilde | Sean Quirk | |

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

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

Joe Stanek made a motion to approve the January meeting minutes which was seconded by Cathy LaBombard; all members present voted unanimously.

Item #2 — Fiscal Actions Report for January 2019: Kenneth W. Parker, Vice-Chairman

Joe Stanek made a motion to approve the January Fiscal Actions Report which was seconded by William Mason; all members present voted unanimously.

Resolution 2019-05 — Purchase of New Lake George Marine Patrol

WHEREAS the Lake George Park Commission has reviewed the status and condition of its eight Marine Patrol vessels for the upcoming 2019 season, and

WHEREAS the Commission has identified the need for replacement of its oldest vessel, a 2001 19' Boston Whaler Justice currently with 7,852 hours of use, and

WHEREAS the mission of the Commission requires the continued operation of the Marine Patrol and a replacement vessel for the 2019 season is essential for Patrol operations at the present level, and

WHEREAS Commission staff has prepared specifications for a replacement vessel and has submitted those specifications to various suppliers of such vessels, soliciting general cost estimates from the suppliers of such vessels, and

WHEREAS those general estimates have shown that the Commission can procure a new center console Patrol vessel (without motor) meeting the requisite requirements for law enforcement operations for less than \$40,000, and

WHEREAS the Commission currently owns a spare Yamaha motor and controls with relatively low hours that can be utilized for this new vessel, which can be installed by DEC/LGPC staff at Green Island, and

NOW THEREFORE BE IT RESOLVED that the Commission hereby authorizes staff to obtain formal quotations for the procurement of a new Marine Patrol vessel (without motor), and hereby allocates funds not to exceed \$40,000 in total for the purchase of this vessel, and

FURTHER RESOLVES that the Executive Director is authorized to execute a purchase order for such replacement Patrol vessel consistent with the findings and requirements of the State Finance Law and Office of Standards and Purchase of the Office of General Services procurement guidelines, and

FURTHER RESOLVES that the existing 2001 vessel will be put forth for sale through approved NYS processes.

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

Resolution 2019-06 — Project Review Actions Report

Joe Stanek read and moved to approve the Project Review Actions Report which was seconded by James Kneeshaw; all members present voted unanimously.

WHEREAS the Commission has received and reviewed the Project Review Actions Report prepared by staff and dated February 12, 2019.

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 Congers Point Association,
Town of Bolton, Warren County**

Molly Gallagher introduced the application submitted by Congers Point Association. She said that the applicant is before the Commission seeking an approval to reconfigure their existing wharf complex. A variance is required.

Molly Gallagher explained that the Commission took a look at this application in November.

Mike Savioli of the Dock Doctors spoke briefly about the alternative plans provided. The plans went out to the neighbors with out and comments back.

There was no one present to speak against the application.

Joe Stanek read and moved to approve Resolution 2019-08 which was seconded by James Kneeshaw; all members present voted unanimously.

WHEREAS the applicant has applied for a permit to reconfigure an existing wharf complex and change from stake to pile supported wharfs; 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)

(2) No dock or wharf shall be constructed so as to exceed the following offshore distance criteria:...

(i) No dock or wharf may extend offshore for more than forty feet beyond the mean low-water mark where the wharf intersects the mean low-water mark;

(iii) No dock, wharf or mooring shall be constructed or placed so as to extend offshore more than 100 feet from the mean high water mark.

(4) The maximum surface area of any dock or wharf shall be seven hundred square feet, including any walkway.

(6) The maximum width of any dock or wharf, including all lateral projections, shall be forty feet.

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

(iii) One hundred and fifty one to two hundred and fifty feet of lakefront - two docks or wharfs constructed in any combination of straight pier, T, F, L or U-shaped, or one E shaped wharf, plus two moorings;

(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

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

The Lake George Park Commission hereby approves the request for variance and approves the above application with the following modifications:

Alternative #4 is the approved plan

Class A Marina Modification Submitted by James D. Quirk, Town of Lake George, Warren County

Joe Thouin introduced the marina modification application submitted by James Quirk. The applicant is seeking approval to increase his winter boat storage from 200 vessels to 246 vessels. 146 of those vessels are proposed for outdoor storage and the remaining 100 vessels are proposed to be stored inside the proposed building.

Mark Schacner spoke on behalf of the applicant. Mr. Schacner said that it is critical to look at the context of this application. He added that Sewell Street is a highly

commercial location and the proposed changes would be an enormous upgrade to the indoor storage as well as a highly organized outdoor storage area.

Devin Dickinson spoke on behalf of the applicant and spoke about the current conditions as well as the upgraded features that are being proposed.

Mr. Dickinson said that there is already existing gravel that is in close proximity to the service area. The building will be acting as a sound barrier to some of the existing neighbors such as the brew pub, the liquor store, etc.

A discussion followed regarding some enormous upgrades to stormwater management at the site. The plans have been reviewed extensively and it has been determined that there are no significant historical, cultural or archaeological impacts.

Tim Barber of Jag Design Group also spoke on behalf of the applicant. He said that the applicant has added a lot of architectural details to make this a really great project and to make it esthetically pleasing.

Mr. Barber said that the windows have been upgraded and are made of higher grade aluminum with added polymer. They are using composite cedar shakes and a lot of vertical, horizontal and architectural features. There will be a mix of evergreen and deciduous trees that were chosen due to shade and salt tolerance. They will be good, hearty trees that will last with little to no maintenance.

Mr. Schacner said this is a commercial building in a commercial location. This building facilitates and improved community.

Dean Cook asked about the 25 year storm rate as well as the 100 year storm rate with regard to the stormwater plans.

Devin Dickinson said that they started at the 25 but changed and designed for the 100 year storm.

Joe Stanek spoke about the increasing volume of boats that will be handled on the site. Joe Thouin said that there is an agreement that most launches will be occurring pre and post season. All limitations will remain in place and no quick launch activities are allowed from Sewell Street.

Claudia Braymer spoke on behalf of John Carr. Mr. Carr owns property at 1 Canada Street, 33 Canada Street and 10 Sewell Street.

Mr. Carr said that he is extremely pro-business and said that he is not asking the board to limit the number of boats. He is afraid this is going to creep out of the confines of the proposed area. He said that he does not want this to become a warehouse district. He just wants this to be the best project that it can be.

A discussion followed about an alternative location between Mr. Carr and Kenneth Parker.

Claudia Braymer said that her client is not opposed to the project but would just like this to be a much better project. She said that she submitted her comments late which she did get permission to do.

Ms. Braymer said the proposed building is an industrial building being put into an area that is not zoned industrial. She said that the 12,000 square foot building could be made smaller and also said that the 246 boats is almost a 4 times increase to what is currently permitted. They also believe that the landscaping should be around the whole building.

Ms. Braymer said that similar comments were also made to the Village as well.

Chris Navitsky spoke about concerns regarding the extent of coverage, grading near the Laundromat, parking clarification as well as wet land delineation and vegetative buffers.

Marc Schacner said that some of the comments have been articulate and helpful. He said that the site is essentially flat with minimal grading and has a shallow infiltration basin. He also said that the Village has installed 4 catch basins on the property.

Mr. Barber said that this building cannot be minimized due to the turning radius of the forklift and the size of the boats that shoreline accommodates. It is essentially a rack system with a building around it.

Joe Stanek said that it seems to be a reasonable design. He said that this is not a requirement, but he wondered if they thought about adding landscaping around the entire building along Sewell Street.

A discussion followed regarding an alternative use of the property when the boats are not there. They are entertaining the possibility of boat sales.

Mr. Quirk said that he is amenable to adding some additional landscaping with brush and small trees, etc.

Bill Mason said that he is impressed with the stormwater plans and he believes that this is an improvement.

Cathy LaBombard said that she also believes this is a great plan and a good project. She added that she likes the look of the building.

James Kneeshaw said that he seconds what Bill Mason had to say.

Joe Stanek said that he also agrees with what everyone had to say and he would not be in favor of multiple buildings.

Dean Cook said that there will be more boats stored here than ever and he is still concerned about stormwater. He said that he would have liked to have seen some alternatives.

Joe Stanek read and moved to approve Resolution 2019-07. Vice-Chairman Parker called for a roll call vote. The results are as follows:

Ayes: W. Mason, M. Migliore, C. LaBombard, K. Parker, J. Stanek and J. Kneeshaw
Nays: D. Cook
Abstentions: None

WHEREAS the applicant has applied for a permit to modify an existing Class A Marina to expand winter boat storage from 200 to 246 vessels, with 100 of these vessels to be stored within a proposed storage building; 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 that the project is an Unlisted action pursuant to the State Environmental Quality Review Act 6NYCRR 617.5 and, as Lead Agency for the purposes of the State Environmental Quality Review Act, has made a determination that the project will have no significant impact on the environment; and

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

WHEREAS the applicant has demonstrated that the facility complies with the Class A Marina requirements of 6 NYCRR 646-1.2; 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

The Lake George Park Commission hereby resolves to approve the above application with the following modifications or conditions:

Class A Marina Modification Submitted by the Lake George Beach Club, LLC, Town of Lake George, Warren County

Joe Thouin introduced the application submitted by the Lake George Beach Club, LLC. He said that the applicant is seeking to modify a Class A Marina and Tour Boat permit by reducing charters from 3 to 1 and would like to add a 16 passenger tri-toon and 10 non-motorized rental vessels (6 stand-up paddle boards and 4 kayaks).

John Davis and Greg Teresi were present to speak on behalf of the application.

Mr. Teresi said that he has had his fair share of trials and tribulations over the last few years with his tiki boat experiences.

He said that he has hired a naval architect to redesign the tri-toon. The tri-toon is 30x10 and they are currently waiting for approval from USCG to have the boat built. They will then be seeking approval from the NYS Parks of Recreation and Historic Preservation.

A discussion followed regarding the stand-up paddle boards and the kayaks. Mr. Teresi said that his open to suggestions from the Commission members regarding locations. They also discussed using visibility flags for safety and colored kayaks and paddleboards.

Sean Quirk said that he wants to make sure that the paddleboards and the kayaks are not going to be used right off of the docks. He said that he is happy to hear that they will be going out into the lake to use these directly from the tri-toon.

Kitty Rooney said that she is the property manager at Lochlea and she was confused by the application. She said that there concern was that the tri-toon would be coming into their swimming area.

Dean Cook said that he is so excited that the tiki boats will no longer be on the lake.

Joe Stanek spoke about the possibility of a 1 year approval.

James Kneeshaw said that it is probably a good idea. It is approvable with a 1 year stipulation.

Cathy LaBombard said that she agrees with the stipulation. She also suggested approving resolution dependent on USCG approval.

Marc Migliore said that he does not agree. It's a permit – they either follow it or they don't. It can be revoked if the rules are not followed.

Joe Stanek read and moved to approve Resolution 2019-09 which was seconded by Dean Cook; all members present voted unanimously.

WHEREAS the applicants have applied for permits to operate 1 Tour Boat, and modify a Class A Marina to reduce the number of charter vessels from 3 to 1, and provide 10 non-motorized boat rentals from the subject Tour Boat; and

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

WHEREAS the Commission has made a determination that the projects are Unlisted actions pursuant to the State Environmental Quality Review Act 6NYCRR 617.5 and, as Lead Agency for the purposes of the State Environmental Quality Review Act, has made a determination that the projects will have no significant impact on the environment; and

WHEREAS the actions are considered to be Major projects pursuant to 6 NYCRR 645-5.3 and public notice has been published and distributed as required; and

WHEREAS the applicants have demonstrated that the activity and facility comply with the Tour Boat requirements of 646-1.4(d)(2) and Class A Marina requirements of 6 NYCRR 646-1.2(b); 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

The Lake George Park Commission hereby resolves to approve the above application with the following modifications or conditions:

2 year approval and review from United States Coast Guard and the New York State Office of Parks, Recreation and Historic Preservation.

Item #4 — Law Enforcement Committee Report: Kenneth Parker, Vice-Chairman

Vice-Chairman Parker said that a Law Enforcement meeting was held at 9 a.m. where they met and discussed on going enforcement cases as well as Marine Patrol needs and updates.

Resolution 2019-03 — Law Enforcement Committee Report

Joe Stanek read and moved to approve Resolution 2019-10 which was seconded by Dean Cook; all members present voted unanimously.

WHEREAS the Law Enforcement Committee met February 26, 2019 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.

Karla Buettner spoke about the determination handed down to Adirondack Boat Rental and Mr. Pellerin by the Administrative Law Judge.

Joe Stanek read and moved to approve Resolution 2019-10 which was seconded by Cathy LaBombard; all members present voted unanimously.

WHEREAS: On or about July 19, 2017, the Lake George Park Commission served a Notice of Hearing and Complaint upon Respondents Christopher Pelerin and Adirondack Boat Rental Company, LLC for the following violations:

1. Operating a Class A marina without a permit in violation of 6 NYCRR 646-1.2(a)(1);
2. Renting personal watercraft without providing customers with a guide or ensuring customers were familiar with the rules and regulations of the Commission in violation of 6 NYCRR 646-1.2(b)(9);
3. Attempting to launch a vessel into Lake George without the require vessel identification control seal in violation of 6 NYCRR 646-9.3, and

WHEREAS: These violations were based upon the facts gathered through investigations and inspections from May 2015 through September 2016; and

WHEREAS: Respondents failed to submit an answer to the Commission’s complaint; and

WHEREAS: On October 2, 2018, the Commission staff made a motion for default judgment against Respondents, pursuant to 6 NYCRR 622.15; and

WHEREAS: Hon. Molly T. McBride, Administrative Law Judge, issued a Ruling and Default Judgment Summary Report, dated January 15, 2019, which determined that the Commission’s motion for default judgment against Respondents should be granted in its entirety; and

WHEREAS: Hon. Molly T. McBride, Administrative Law Judge, further determined that the civil penalty to be issued against the Respondents jointly and severally should be \$60,000 based on the numerous violations;

NOW, THEREFORE, BE IT RESOLVED, that the Lake George Park Commission adopts the findings and conclusions regarding the violations set forth in Hon Molly T. McBride’s Ruling and Default Judgment Report; and

BE IT FURTHER RESOLVED that the Lake George Park Commission determines that Respondents jointly and severally violated the following:

1. 6 NYCRR§ 646-1.2(a)(1) by operating a Class A marina without registering the marina with the Lake George Park Commission, and
2. 6 NYCRR § 646-1.2(b)(9) by renting personal watercraft without a guide or ensuring customers were familiar with the rules and regulations of the Lake George Park Commission; and

BE IT FURTHER RESOLVED, that the Lake George Park Commission determines that Respondent Christopher Pelerin violated 6 NYCRR §646-9.3(a) by attempting to launch a vessel into Lake George without the required vessel inspection control seal, and

BE IT FURTHER RESOLVED, that the Commission adopts the recommendation of Judge McBride for a civil penalty; and

BE IT FURTHER RESOLVED, that the Commission finds a civil penalty in the amount of \$25,000 is appropriate in this action, and

BE IT FURTHER RESOLVED, that Respondents are directed to jointly and severally pay a civil penalty in the amount of twenty-five thousand dollars (\$25,000) to the Lake George Park Commission within one hundred eighty days (180) of the service of the Lake George Park Commission’s service of this resolution and the Ruling and Default Judgment Summary Report on Respondents; and

BE IT FURTHER RESOLVED that Respondents are enjoined from operating a Class A marina without first registering the marina with the Lake George Park Commission; and

BE IT FURTHER RESOLVED that the Executive Director, staff and counsel are hereby authorized and directed to take all necessary measures to implement and enforce this resolution

Item #5 — Public Comments

No public comments.

Item #6 — Adjournment

Dean Cook made a motion to adjourn the meeting which was seconded by Joe Stanek; all members present voting affirmatively. The meeting was adjourned at 10:45 a.m.

SECRETARY'S NOTE: The next Commission meeting is scheduled for **Tuesday, April 30, 2019 at the Fort William Henry Conference Center, Lake George, NY.**