

Mountain Island Lake Marine Commission Minutes

March 6, 2013 · 6:30 pm

Charlotte Mecklenburg Utilities Department

Charlotte, North Carolina



Commissioners Present: Chairman Kari Lanning (Lincoln County), Vice Chairman Skip Hudspeth (Mecklenburg County), Commissioner Cathy Roche (Mecklenburg County), Commissioner Murray Nixon (Gaston County), Commissioner Meg Morgan (Mecklenburg County), Commissioner Jerry Campbell (Gaston County)

Commissioner Absent: Secretary/Treasurer Brian Weyeneth (Gaston County)

MILMC Staff Present: Emily Parker, Executive Administrator

MILMC Staff Absent: Chris Clark, Legal Counsel

Topic	Discussion Summary
Welcome & Introductions	Chairman Lanning called the meeting to order and welcomed new Executive Administrator Emily Parker (Centralina COG) aboard.
Consideration of Agenda	<ul style="list-style-type: none"> No items for the Consent Agenda.
Approval of Meeting Minutes	<ul style="list-style-type: none"> <u>Commissioner Campbell made a motion to approve the minutes of the February 6, 2013 meeting as submitted. The motion was seconded by Commissioner Hudspeth and approved unanimously.</u>
Public Comments	<ul style="list-style-type: none"> Alice Battle stated that the sentence in the first paragraph on page 2 of the February 2013 minutes under Environment Reports is “is so vague that it is inaccurate.” Ms. Battle also noted for the group’s information: the City of Mount Holly City Council at their February 11 meeting, consent agenda item #3 – the City exercises its option to require Duke Energy to submit a voluntary annexation petition and industrial zoning application for a certain parcel of land containing ~22.77 acres of land containing the Mountain Island Dam and Hydro Facility in accordance with the annexation agreement dated August 1, 2000. The Mountain Island Dam will become part of the City of Mount Holly on that side (on the Gaston County side on Highway 273). Chairman Lanning asked if this agenda item was approved by Mount Holly City Council. <u>Chairman Lanning made a motion to amend the February 2013 meeting minutes per recommended language provided by Ms. Battle. The motion was seconded by Commissioner Campbell and approved unanimously.</u>

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Public Safety Reports	<ul style="list-style-type: none"> • Officer Turner of the Charlotte Mecklenburg Police Department reported that for February 2013, there were 4 zone checks in Latta Plantation Park and 6 zone checks at Neck Road Access. No issues have been reported at either location. • Officer Hord of the Gaston County Police Department reported that the GCPD is still off the water and continues to rely on the CMPD for service calls, and is continuing its efforts towards the purchase of a new boat, and that Duke Energy has contributed some financial support to offset the cost of the boat. Officer Hord will travel to San Antonio, TX on March 23 to attend the International Boating and Water Safety Summit to teach his block, hopefully four times. He will attend the Summit with a CMPD officer. • Kermit Taylor of Duke Energy reported. <ul style="list-style-type: none"> ○ 1 pier permit was issued since the last meeting. ○ Low Inflow Protocol remains in Stage 0 ○ Current lake level is 97.0.
Environmental Reports	<ul style="list-style-type: none"> • Heather Davis with Mecklenburg County LUESA, reported. LUSI scores are very good. The scores have not changed at all since November 2012. Metals are checked twice a year at all sites, and were most recently checked in January. They have been checking Riverbend, about 100 feet out from the discharge point. A second site has been added at Riverbend that is 400-500 feet out from the discharge point. LUESA also checks for metals at the intake point. There are no exceedences anywhere for metals. In August 2012, LUESA went out with the State and re-sampled blue catfish in the lake. 4 out of 6 samples are above the State health standard for PCBs. This data has been submitted to the North Carolina Division of Health and Human Services. This division issues fish consumption advisory notices. LUESA is waiting to hear back from HHS about the status of blue catfish. The good news is that the signs that LUESA has say ‘catfish,’ which is broad enough to include blue catfish, if need be. Mercury was present in all fish sampled, but not over the health standard. They also tested for arsenic in the fish sampled and none was detected. A Commissioner asked if Riverbend site the only site in Gaston County where sampling happens. • Alice Battle provided the Lakekeepers Report. <ul style="list-style-type: none"> • A Gaston Day School student designed a science project that showed the effect of storm water runoff from lawns on streams. This project has proved to be useful in educating other students about the impact of storm water runoff. Several middle schools have asked for a prototype of her project to use in their classes. • The Covekeepers have photographic documentation of sediment control violations in the Preservation Point development. After recent rain events, the new sediment basin on Nance Cove was filled with muddy water. A Nance Cove resident called the code inspector for the

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	<p>site and he responded by coming out and taking a water sample from the sediment basin. Ms. Battle noted that many of the silt fences on development sites were down, due to contractor carelessness. The site inspector will take up the silt fences issue with the developer.</p> <ul style="list-style-type: none"> • Ms. Battle provided an update on two middle school students who are conducting projects on the lake. One of the projects is to test for mammalian bacteria using test kits. At the time of the report, the only place that had a high count was near the Neck Road Access. • Ms. Battle attended the We Love Mountain Island Lake meeting, which was a training session for speakers at the February 28 public meeting on the plan Duke Energy submitted to justify raising rates. Their approach was to have children testify, and nine middle school students did so at the meeting. • The spring hike on Kay Killian’s conservancy property is scheduled for Saturday, March 16 starting at 9:00 am. People are asked to park in front of Ms. Killian’s father’s house, which is on the side of the road opposite the lake. The address is 1069 Killian Farm Road in Stanley. Please wear comfortable shoes and no dogs are permitted. After the hike, participants plan to go to Geppeto’s on Highway 73 for pizza. • The next Lakekeepers meeting will be on March 11 at Cook’s Presbyterian Church at 7:00 pm. Sam Perkins, Technical Director of the Catawba Riverkeeper Foundation, is preparing a special report aimed at answering question about the retirement of the coal ash ponds.
Finance Report	In Commissioner Weyeneth’s absence, Chairman Lanning gave the finance report, as provided in advance by Commissioner Weyeneth.
Funding of legal counsel contract through end of fiscal year	<p>Chairman Lanning conveyed a summary of actions that have taken place since the Commission’s January 2013 Strategic Planning meeting related to reviewing the needs of independent legal representation for this board. As stated in Chairman Lanning’s summary, she received a resignation letter from Chris Clark, long time MILMC legal counsel, on February 28, 2013. Chairman Lanning told Mr. Clark that she did not want to accept his resignation without making one more attempt to retain him as counsel on an ongoing basis. Chris stated he would be willing to consider that, but only with the unanimous vote of the Marine Commission. Chairman Lanning stated that she understands Mr. Clark’s reasoning, but would like to try to save the relationship if possible. Specific advantages of saving the relationship include continuity and his 12-year long term history with the marine commission and its issues. However, in lieu of a unanimous vote of the commission, Chairman Lanning stated that she was prepared to accept his resignation as previously submitted.</p> <ul style="list-style-type: none"> • <u>Chairman Lanning made a motion that the Commission commit to retain Chris Clark as counsel and fund his services in the amount of \$700 per month. The motion was seconded by Commissioner Roche and discussion followed.</u>

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	<p>Commissioner Nixon stated that she has no issues, being relatively new to the Commission, but emphasized that the board does need legal counsel and support. Commissioner Campbell stated that he was uncomfortable proceeding with this discussion in a public setting (open session vs. closed session) and provided no further comments. Chairman Lanning clarified that because Mr. Clark is not an employee of the Commission, that a closed session is not warranted. Vice Chairman Hudspeth added that according to closed meeting law, from a legal standpoint this issue can be discussed in an open meeting, understanding though, that this particular issue is personally sensitive. Vice Chairman Hudspeth agreed that the Commission needs legal counsel, he thinks that Mr. Clark is the best option, and he stated that the Commission should not have an attorney linked to a specific county that is part of the Commission (i.e., Gaston, Lincoln or Mecklenburg). Commissioner Morgan asked about the budget the Commission has to pay for legal counsel. Chairman Lanning answered saying that the decision was made in July 2012 to continue funding Mr. Clark through January 2013, and that funding was not necessarily the issue. Commissioner Roche clarified that funding was part of the issue, in that the Commission has been intentional about challenging itself to do more with less, with regard to administration costs. Chairman Lanning added that with a fund balance of ~\$63,000, the Commission could fund Mr. Clark. After brief discussion about how much of Mr. Clark's time is billable vs. <i>pro bono</i>, the point was made that the value of Mr. Clark's service should not necessarily be in question. Commissioner Morgan stated that she left a detailed voicemail for the Lake Norman Marine Commission's attorney explaining the situation and asking him to consider the counsel position, and he has not returned her call. Commissioner Nixon made reference Mr. Clark's conditions and asked if there is not a unanimous vote, can those who vote against say why? Commissioner Campbell stated that he is not comfortable discussing the matter.</p> <ul style="list-style-type: none"> • <u>Chairman Lanning returned to the aforementioned motion, the board voted, and the result was five (5) votes (Chairman Lanning, Commissioners Nixon, Hudspeth, Morgan, and Roche) in favor of retaining Mr. Clark and one (1) vote (Commissioner Campbell) against retaining Mr. Clark.</u> Per conditions set forth by Mr. Clark, the outcome of this vote is that Mr. Clark will proceed with resigning as the Commission's legal counsel. • Commissioner Roche made a motion for Chairman Lanning to ask Mr. Clark if he will reconsider the conditions set forth (unanimously in favor or resignation) and consider accepting a majority vote. At this time, Commission Roche's motion was not seconded, but discussion followed. <p>Commissioner Morgan asked how the group should go about selecting a new attorney. Chairman Lanning read a letter to the group from Gaston County Manger Jan Winters that offers the service of a Gaston County attorney. Commissioner Morgan inquired about whether or not the attorneys referred to in the letter have any experience with multi-county boards, and about possible conflict of interest. Commissioner Roche noted that she spoke with Mecklenburg County Attorney Tyrone Wade and he said it would be a</p>

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	<p>conflict of interest to have an attorney who represents one county included on a multi-county board. Commissioner Campbell stated that he recently met with every Gaston County Commissioner and it was agreed that would not be a conflict of interest. Commissioner Nixon stated that she is not comfortable having an attorney from one county represent this multi-county board, and she would prefer to have independent counsel instead. Commissioner Hudspeth concurred with Commissioner Nixon's sentiment about independent counsel. Chairman Lanning expressed interest in wanting the group to move forward with solving this issue, and does not want to wait an additional 30 days for an attorney's decision.</p> <ul style="list-style-type: none"> • Vice Chairman Hudspeth said that he would like to second Commissioner Roche's aforementioned motion. Commissioner Morgan also seconded Commissioner Roche's motion. Commissioner Nixon brought up amending Commissioner Roche's motion to – in addition to asking Mr. Clark to reconsider his terms – to include simultaneously investigating other counsel options. • Commissioner Roche withdrew her motion and Commissioner Morgan withdrew her second of the motion. • <u>Commissioner Nixon made a motion for Chairman Lanning to ask Mr. Clark to reconsider his conditions, while simultaneously investigating other counsel options – including the aforementioned Gaston County counsel option. Commissioner Hudspeth seconded this motion. The motion went to a vote and the result of the vote was two (2) votes (Chairman Lanning and Vice Chairman Hudspeth) in favor of the proposed motion amendment and four (4) votes (Commissioners Nixon, Campbell, Morgan and Roche) against the proposed amendment. The motion died.</u> <p>Commissioner Roche stated that she will not support a motion that includes the Gaston County counsel option.</p> <ul style="list-style-type: none"> • <u>Vice Chairman Hudspeth made motion for the board to decide that whatever legal counsel sought will not be employed by the government of any of the counties the Mountain Island Lake Marine Commission represents. Commissioner Nixon seconded this motion.</u> <p>Brief discussion followed about funding availability, and it was reiterated that there is a fund balance of ~\$63,000. Commissioner Morgan asked if the Gaston County counsel arrangement could be implemented for a trial period.</p> <ul style="list-style-type: none"> • <u>Chairman Lanning called for a vote on Vice Chairman Hudspeth's motion. The result of the vote was five (5) votes (Chairman Lanning, Commissioners Nixon, Hudspeth, Morgan, and Roche) in favor of the motion and one (1) vote (Commissioner Campbell) against the motion.</u> <p>At this point, the board was at a stalemate. Chairman Lanning commented that it is a mistake not to have independent counsel.</p> <ul style="list-style-type: none"> • <u>Commissioner Roche reintroduced the motion for Chairman Lanning to ask Mr. Clark if he will</u>

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	<p><u>reconsider the conditions set forth (unanimously in favor or resignation) and consider accepting a majority vote and, simultaneously investigate other counsel options. Vice Chairman Hudspeth seconded the motion. The result of the vote was five (5) votes (Chairman Lanning, Commissioners Nixon, Hudspeth, Morgan, and Roche) in favor of the motion and one (1) vote (Commissioner Campbell) against the motion, and the vote carries.</u></p>
<p>Chairman's Report</p>	<p>Chairman Lanning provided the monthly Chairman's report.</p> <ul style="list-style-type: none"> • It has been a busy month for the Marine Commission. Chairman Lanning extended a warm welcome to Emily Parker, the Commission's new Executive Administrator from Centralina COG. Ms. Parker took over Executive Administrator duties from Ms. Dil in February 2013. Chairman Lanning recognized Officer Turner for his work at the Southern Spring Show at the marine law enforcement booth. • Chairman Lanning, Vice Chairman Hudspeth, and Commissioner Campbell had a positive and productive meeting with Michelle Nance, Planning Director at Centralina COG, to discuss marine commission expectations of Centralina COG staff moving forward. • Chairman Lanning presented a MILMC report to Mecklenburg County Commissioners on Tuesday, March 5. Comments were received from three Mecklenburg County Commissioners Ridenhour, Dunlap, and Clark. There will be a presentation to Gaston County Commissioners on March 28. • QNRC meets tomorrow (3/7) night and coal ash ponds are on the agenda. • Chairman Lanning forwarded: grant information to Commissioner Morgan, information on how to name coves to Vice Chairman Hudspeth, and safety resources to Commissioner Nixon with reference to boater safety week in May. • Chairman Lanning returned boxes to legal counsel Clark and picked up binders. She has copies of all meeting minutes from 2005 and 2004 for archives, and has completed the web pages to post those agendas and minutes. Chairman Lanning also made several tweaks to the website. Vice Chairman Hudspeth commented that he appreciates all of the work Chairman Lanning has been doing on the website and with older historic records. • Chairman Lanning asked Alice Battle to redo the Blue Fin Award brochure. The updated brochure should include nomination criteria, eligibility information, and deadline for nomination submittals. It was agreed that Ms. Battle would have a good working draft ready to show at the next MILMC meeting (4/3). Chairman Lanning would also like to feature past Blue Fin Award winners on a dedicated page on the MILMC website.

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<p>Committee Reports</p>	<ul style="list-style-type: none"> • Buoy (Vice Chairman Hudspeth) – Partnership with Meck Park and Recreation to replace missing no wake buoys in north Latta cove: <ul style="list-style-type: none"> ○ Buoys are on site at Latta ○ Fabricated eight buoy anchors for installation of Latta north cove no wake buoys. ○ Plan to install buoys using Latta’s boat this weekend <p>Ordered and received decals for numbering no wake buoys. Spring buoy survey planned for assessing buoy condition, numbering and collecting GPS coordinates for all buoys</p> <p>Emily provided a copy of the MIL map COG is helping us develop. Will update the map with buoy locations.</p> <p>Currently reviewing no wake zone historical data collected by Kari in preparation for meetings with Duke Energy and Law Enforcement and NC Wildlife to update no wake zone/no wake buffer status.</p> <ul style="list-style-type: none"> • Communications (Commissioner Roche) – Chairman Lanning thanked Commissioner Roche for the wonderful press release that went into the <i>Charlotte Observer</i>, however there was no notice in the <i>Mountain Island Monitor</i>. Commissioner Roche asked if anyone has a good contact at the <i>Monitor</i>. She also suggested putting together another article for spring and early summer on litter. Commissioner Roche said she would take Chairman Lanning up on her offer and check the website for errors. • Shoreline Protection (Commissioner Morgan) – Commissioner Morgan updated the group on grants that have been applied for. Chairman Lanning she applied for a grant from Keep America Beautiful and Coca Cola for six recycling cans. Kermitt Taylor asked who would empty them. If MILMC is awarded, the group will figure out what to do with them – keep them or give them away. Commissioner Campbell asked about when the Big Sweep will be held this year and the answer is the first weekend in October. There was discussion about when to add Big Sweep information to the website, and to be sure to not add info too soon. • Watershed/Water Quality (Commissioner Campbell) – Commissioner Campbell spoke with Ron Smith and he indicated nothing further on charter school and land use, and that there are no zoning issues on the lake. • Public Safety (Commissioner Nixon) – Commissioner Nixon is going to meet with Kermitt Taylor and area law enforcement personnel about getting public and water safety education take home

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	<p>folders to ~1800 kids at three local elementary schools.</p> <ul style="list-style-type: none"> • TAC (Commissioner Weyeneth) – Commissioner Weyeneth was not present to report.
Executive Administrator’s Report	<ul style="list-style-type: none"> • Ms. Parker reviewed two quotes for two different sized pennant flags from Conder Flag Company – 12”x18” and 16”x24” – these quotes were requested by the Commission at a previous meeting. For 6 12”x18” pennant flag, the cost is \$29/unit and \$174.00/total. For 12 pennant flags of the same size, the cost is \$26/unit and \$312.00/total. <u>Commissioner Hudspeth made a motion to authorize the purchase of six (6) 12”x18” pennant flags. Commissioner Campbell seconded the motion and it was approved unanimously.</u> • <u>Chairman Lanning made a motion to go forward with the MILMC’s letter of support for the Gaston County Police Department’s purchase of a new vessel. Commissioner Hudspeth seconded the motion and it was approved unanimously.</u> • Ms. Parker stated that each month she will prepare an Executive Administrator’s activities report to share with the Commissioners via the agenda package. She commented that it was great to meet everyone and she looks forward to working with the Commission and learning more about Mountain Island Lake.
Commission Counsel Report	Not present to report.
Public Comment (limited to 3 minutes)	Alice Battle stated that by February 28, 2014, Duke Energy will have to have a plan submitted that addresses what their plan is to deal with coal ash ponds. There will be a period for public comment at some point before this date. Commissioner Roche stated that she thinks it is important that the Marine Commission takes an advisory position on coal ash ponds, but it may be too early to take a position at this time.
Commissioner Comments	<ul style="list-style-type: none"> • Commissioner Campbell would like regular MILMC attendance at Catawba-Wateree River Bi-State Commission meetings. The next meeting is on April 19, 2013. Chairman Lanning appoints Commissioner Campbell to attend meetings and report back to the group. It was noted that the Executive Administrator should received notices about these meetings. Commissioner Campbell said he would forward relevant emails to Chairman Lanning and Ms. Parker. • Commissioner Roche – No further comment. • Commissioner Morgan – Welcomed Ms. Parker and had no further comments. • Commissioner Hudspeth – Welcomed Ms. Parker and made mention of the large MIL map (provided by Centralina COG) that shows buoy placement and discussed plans for using the map

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	including possible lamination. <ul style="list-style-type: none"> • Chairman Lanning – Thanked all those gathered for their patience throughout the meeting, and noted that it saddens her that the group cannot move forward in a positive way without turmoil.
Adjournment	The meeting was adjourned at 8:20 pm.
Next Business Meeting Date and Location	The next MILMC business meeting will be held on April 3, 2013 at the Mount Holly Municipal Complex (400 East Central Avenue, Mount Holly, NC).

Emily Parker, Executive Administrator