

Mountain Island Lake Marine Commission Minutes

July 3, 2013 · 6:30 pm

Mount Holly Municipal Complex

Mount Holly, North Carolina



Commissioners Present: Chairman Kari Lanning (Lincoln County)
 Vice Chairman Skip Hudspeth (Mecklenburg County)
 Secretary Treasurer Brian Weyeneth (Gaston County)
 Commissioner Jerry Campbell (Gaston County)
 Commissioner Murray Nixon (Gaston County)
 Commissioner Cathy Roche (Mecklenburg County)
 Commissioner Daniel DuVall (Mecklenburg County)

MILMC Staff Present: Emily Parker, Executive Administrator; Chris Clark, Legal Counsel

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Welcome & Introductions	Chairman Lanning called the meeting to order and welcomed everyone present. Chairman Lanning introduced new Mecklenburg County marine commissioner, Daniel (Dan) DuVall. He said he was glad to be there.
Consideration of Agenda	<ul style="list-style-type: none"> • Chairman Lanning stated that she wanted to add the Blue Fin Award brochure discussion under the Chairman’s Report. <u>A motion was made by Secretary Treasurer Weyeneth to approve the July 3 agenda, as amended. Commissioner Campbell seconded the motion and it was approved unanimously.</u> • There were no items for the Consent Agenda.
Approval of Meeting Minutes	<ul style="list-style-type: none"> • Chairman Lanning asked if any changes needed to be made to the June 5, 2013 meeting minutes. No changes were stated. The June 5 meeting minutes were approved as written.
Public Comments (3 minutes per person)	<ul style="list-style-type: none"> • Chairman Lanning for Mr. Humpy Wheeler. Mr. Wheeler sent his comments to Chairman Lanning to report to the group. The immediate problem is how lake property owners are warned (or not) before a high water event. Warnings for lake residents in the Catawba chain and for individual lakes before high water events are essential. Mr. Wheeler recommended the following: an entity must assume responsibility for notification; that entity must communicate out about when lake levels will be excessive and when an individual lake may go over full pond. The entity must communicate to and coordinate with the media before high water occurs so they can get the message out to areas where individual lakes will impacted (like a tornado warning).

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	<p>Vice Chairman Hudspeth added, based on his communications with Mr. Wheeler that Mr. Wheeler had spoken with a high level Duke Energy representative who noted that Duke Energy is not responsible for getting the word out in the case of high water, but the Office of Emergency Management was responsible for communicating out about high water. When asked, OEM commented that they are only responsible for notifying the public in terms of evacuations. Mr. Wheeler's point was that some entity needs take responsibility for notifying people about coming high water. Mr. Wheeler requested that the MILMC somehow help ameliorate this situation.</p> <ul style="list-style-type: none"> • Ms. Alice Battle used a topographic map to present to the group. She addressed Tom Waters' proposed development of Mr. Bechtler's lake front property. Presumably, the lake front homes would have private docks attached. A main issue is that in that part of the lake, the water is relatively shallow and in a drought situation is dangerously shallow. Mr. Waters' communicated with Ms. Battle that his firm would do a sonar reading on that segment of the lake where docks would possibly be and that when the time comes, his firm would take other steps to communicate with homeowners about restrictions related to boating and low lake levels. • Mr. James Lee used Ms. Battle's topographic map. He addressed the same issue he brought up at the June 5 meeting, which is the dangerous area near the point at the pump station that currently has no marker. Mr. Lee was following up on the status of the buoys that were discussed at the June 5 meeting and whether or not they had been ordered. Vice Chairman Hudspeth answered that the buoy Mr. Lee addressed is a very high priority and that it had been ordered. Ms. Parker will check in again with Rolyan Buoys. At a previous meeting, Mr. Lee asked about who pays for it. Vice Chairman Hudspeth noted that MILMC would pay for the hardware and installation, and any replacement buoys would be paid for by the individual lake resident or HOA. Mr. Lee had questions about the legitimacy of the payment structure around buoy replacement. Vice Chairman Hudspeth decided to re-visit payment arrangement. • Mr. Terry Roche commented on Ms. Battle's presentation on shallow water near the Bechtler development. Speaking as a boater, this is a very dangerous part of the lake. Please be very careful about what you decide to approve as related to this part of the lake.
<p>Public Safety Reports</p>	<ul style="list-style-type: none"> • Officer Turner of the Charlotte Mecklenburg Police Department reported that: There were 46 calls for service; 14 boats inspected; 8 boaters warned; 5 citations issued; 2 navigational hazards; 1 boater was assisted; 8 volunteer hours; 1 special event – the Latta Park Triathlon. There were 4 zone checks at Latta Plantation Park and 4 at Neck Road Access.

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	<p>There was 1 abandoned boat was found at Neck Road Access. It was found by Officer Turner to be a boat that was tied to the dock at the access for 2 days and broke loose. Officer Turner spoke with the owner who advised that it was not running properly and going to be removed before the end of the day. NC Wildlife has been working the Neck Road Access for drug activity. They have made some arrests for marijuana and cocaine possession from both boaters and people parking at access area in vehicles.</p> <ul style="list-style-type: none"> • Officer Hord of the Gaston County Police Department reported. There was 1 dispatched call; 16 special checks; 6 boats assisted; 58 safety inspections; 20 boat violations/verbal warnings; 4 boat violations/written warnings; 5 hazards removed. Shore violations: 10 written warnings and 6 verbal warnings. • Kermitt Taylor of Duke Energy reported: <ul style="list-style-type: none"> ○ Current lake level was 96.3 ○ Low Inflow Protocol (LIP) Stage is Normal ○ Lakes above MIL are full and more rain is forecasted, so please watch the weather over the weekend. ○ 1 new pier permit issued (in the Stonewater subdivision) since the June meeting. <p>Commissioner Roche asked about Duke Energy's pier permitting process and whether or not there is public input involved. She was asking in reference to Tom Waters' project which may include 100+ private docks installed. Mr. Taylor answered that any time a resident applies to install a private dock the opportunity for public comment was in the creation of the Shoreline Management Guideline, which addresses how Duke reviews applications for dock permits. There is no public notice process related to the permitting and/or installation of private docks. Mr. Taylor noted that the minimum requirements for a private dock are included in the guidelines. Basic requirements include details on where a dock can be placed, how it is designed, who can use it, maximum length, maximum square footage based on amount of shoreline a resident has, and other criteria about what can be built on the dock (e.g., 2nd floors, closets, roofs, etc). Commissioner Nixon clarified that lake residents still have to get a permit to repair storm damage. Duke Energy will waive the permit fee – if work is done within 6 months. Mr. Taylor clarified that Duke Energy needs to be notified about ANY work to be done on the lake. However, building and other permits need to be obtained from the county BEFORE Duke will grant a permit.</p>
Environmental Reports	<ul style="list-style-type: none"> • Alice Battle provided the Lakekeepers Report. <ul style="list-style-type: none"> ○ At their last meeting, the Covekeepers had a discussion about the destruction of property due to the high water event. One suggestion proposed as a possible way to avoid future

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	<p>property damage is for Duke Energy to require that docks be able to withstand 105 foot water level.</p> <ul style="list-style-type: none"> ○ There will be no Covekeepers meeting in July due the annual Catawba Riverkeeper Foundation meeting that will be held on July 27 at Mahlon Adams Pavilion at Freedom Park in Charlotte. ○ The next Covekeepers meeting will be held on August 19. <ul style="list-style-type: none"> ● Heather Davis with Mecklenburg County LUESA provided the May report. LUSI scores did not really change from March. The June maps are done; June is an off month, so LUESA only checks the summer fecal sites. Everything looked good, except McDowell Creek Cove was “partially supporting” for fecal coliform. LUESA checks within 48 hours of a rain event. Ms. Davis told the group that there was a pesticide accident on the lake. Duke Energy has a cooling pond near McGuire where once every quarter, they introduce pesticide to kill fish in the cooling pond. The pesticide is kept in 14-30 gallon drums. The big rain event happened on Friday. The cooling pond overflowing and spilled into another pond then spilled into a stream that flows into MIL. Commissioner DuVall asked about what chemical was spilled. The chemical is called rotenone. Ms. Davis commented that we exceeded a 100 year storm event on Friday night. She brought Chairman Lanning a flood plain map that shows MIL. A lot of mud went into the creek during that storm event. Mr. Robert Billings with LUESA made the flood plain map could possibly attend the MILMC meeting in September to answer questions and provide further explanation.
<p>Catawba Riverkeeper Foundation Presentation on Coal Ash Ponds and Litigation</p>	<p>Rick Gaskins, Executive Director of the Catawba Riverkeeper Foundation presented “Status Report on Riverbend Coal Ash Litigation.” Mr. Frank Holloman, attorney with the Southern Environmental Law Center was present. Mr. Gaskins delivered the presentation and the ‘ask’ is for the MILMC’s help/influence to get the coal ash ponds cleaned up. Here are some of the questions and discussion points that emerged: Mr. Gaskins noted that the Charlotte region is interesting because we do not have a backup source of water. All of our chips, so to speak, are on the Catawba River. Commissioner DuVall asked questions that expanded the context around a “catastrophic failure” – in addition to the devastating environmental impact, there would be equally devastating economic impacts, as the City uses power generated from the Catawba to power A/C, computers, etc. Commissioner DuVall asked about actual risk of “catastrophic failure”. Mr. Gaskins thinks that the actual risk is low; however, because all of our chips are on the Catawba River and MIL, we cannot take that risk. Chairman Lanning asked about the solutions to cleaning up the coal ash ponds. The cost of taking ash away from the site to a lined landfill is cheaper than retroactively double-lining the ash pond. Pre-litigation, Duke Energy proposed putting a cap overtop of the pond or, burying the</p>

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	<p>coal ash pond. That would not necessarily help since the ponds are not lined and seepage may continue. Commissioner Nixon asked if the Catawba Riverkeeper Foundation has spoken with the City of Charlotte about what the contingency plan is with regard to our drinking water being contaminated. Mr. Gaskins said, yes, but the City cannot elaborate on the contingency plan because of the possibility of terrorists finding out the plan and threatening our drinking water source. He went on to say that a compromise could be to remove the coal ash and dig down 5 feet and remove that material. Catawba Riverkeeper Foundation may then deem it pretty good. That is the compromise that was agreed upon in South Carolina at the Wateree plant. There will likely still be contamination in the ground at the Wateree plant; and that is likely what would happen at Riverbend. Cleaning up would reduce the risk of “catastrophic failure.” Chairman Lanning asked if coal ash ponds appear on the EPA brownfields list. Interesting, because Riverbend is NPDES permitted, it cannot be considered as a hazardous waste site. Ms. Parker will send Mr. Gaskins’ presentation to the MILMC.</p>
5 Minute Recess	<p>Chairman Lanning called for a 5 minute recess.</p>
Finance Report	<p>Secretary Treasurer Weyeneth pointed out the \$1,156.00 overage Mecklenburg County paid to the MILMC. Here is the overage explanation received from Mecklenburg County: For fiscal year 2013, Mecklenburg County kept the funding levels for the marine commissions at the same levels from FY2012. In fiscal year 2012 the Mountain Island Lake Marine Commission received \$21,844.00 from the general fund and \$1,156.00 from the Land Use and Environmental Services (LUESA), specifically the storm water fund. All the marine commissions receive funding from both the general fund and the LUESA department. The FY14 funding is also consistent with prior years. The general fund service description for Mountain Island Lake is to work with citizens, developers, and local governments to resolve environmental problems on the lake including sewer spills, accident discharge and sediment violations. The LUESA (storm water fund) service description is to provide safety and security information to boaters, residents, and citizens that use Mountain Island Lake.</p> <p>Secretary Treasurer Weyeneth reviewed the balance sheet. The MILMC has a cash balance of over \$80,000.00. He asked if Ms. Parker has received all bills related to life jacket program. She answered that to her knowledge she has. At the August meeting, Secretary Treasurer Weyeneth would like to recommend where to put the FY 13-14 overage (projected to be around \$13,400) – in NCCMT or Trust Portfolio.</p>
Chairman’s Report	<p>Chairman Lanning provided the monthly Chairman’s Report.</p>

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	<ul style="list-style-type: none"> Blue Fin Award Brochure. Chairman Lanning reviewed what has been done recently on the Blue Fin Award (asking Ms. Battle to write down the history of the award; creating a webpage for the award). She then described the updated trifold brochure (each commissioner received a copy). Chairman Lanning asked the group about how the nomination process should work this year. Her thought was that having a selection committee could be a bit cumbersome. Nominations are due at the end of August. Commissioner Roche commended Chairman Lanning for updating the brochure. She also said that the major challenge is getting applications. The nominating committee was created two years ago because not many nominations were received. Commissioner Roche liked the idea of the commission voting on nominees vs. a separate nominating committee. We also need to brainstorm how to get word out. The overall schedule is to receive nominations through the end of August, discussion and select the winner at the September meeting, and present the award in October. Commissioner Nixon thinks that the commission has sufficient time in July and August to nominate people, and that the MILMC should determine the award recipient, not a nominating committee. Nomination information can be loaded into a spreadsheet and sent out to the MILMC. Secretary Treasurer Weyeneth asked about how hard it would be to recreate the application on the website, and Chairman Lanning answered not too hard. He asked if people could fill out the application and submit it through the website. This could probably be done; it would just take more work. The most time effective approach would be to make a pdf that folks could print, fill out, then scan and mail or email to Ms. Parker. <u>Secretary Treasurer Weyeneth made a motion to accept the form as presented and to put the form in a suitable format on the MILMC website, and post information to Facebook. Commissioner DuVall seconded the motion.</u> Discussion: Commissioner Nixon noted that she found a different picture of a blue fin that could be used on the brochure and web page. She will send it to Chairman Lanning. <u>The vote was taken and the motion was approved unanimously.</u>
Committee Reports	<ul style="list-style-type: none"> Buoys – Vice Chairman Hudspeth provided an update. The Buoy Committee has been working since flood to repair, replace, re-position buoys. A contractor that lives on lake has been identified. He has offered to help with buoy installation on an as needed basis. The contractor told Vice Chairman Hudspeth today that he found an insurance provider. Vice Chairman Hudspeth replaced a buoy in Stonewater Cove. Two buoys are on order with Rolyan Buoys. He added that eight buoys have been decaled and numbered. Ms. Parker will send an invoice to Stonewater. Vice Chairman Hudspeth mentioned a new GPS device he has on his boat that is being used to mark buoy locations. Communications – Commissioner Roche added that she continued to talk with Duke Energy corporate communications personnel about the notification issue.

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	<ul style="list-style-type: none"> • Shoreline Protection – Chairman Lanning went back to Mecklenburg County about the Adopt-a-Cove program. She will present that information at the August meeting. • Watershed/Water Quality – Commissioner Campbell made a suggestion that could be taken up at the January MILMC planning meeting. Gaston County offers courses on how they handle permitting, maintenance and inspections, stormwater and erosion issues. This may be something that members of the MILMC could consider participating in. If marine commissioners are interested in participating, let Commissioner Campbell know. Chairman Lanning added that Mecklenburg County offers courses like this 4 times a year for ~\$25. Commissioner Roche asked why the Watershed/Water Quality Committee has not reported on the proposed redevelopment of the Bechtler property. Commissioner Roche wants to make sure that the property development situation is very closely monitored by the Watershed/Water Quality Committee and the MILMC. <i>[The following italicized text was added via motion to amend the July 3 minutes at the August 7 MILMC meeting.]</i> Commissioner Campbell responded to Commissioner Roche that as soon as Mr. Waters submits the application to Mount Holly, the Watershed/Water Quality Committee will be informed and thus, Commissioner Campbell will keep the marine commission and stakeholders informed about the status of the application process, about upcoming public and other meetings, and so on. Commissioner Campbell assured the marine commission that they will be kept abreast of the situation related to the proposed development of the Bechtler property. • Public Safety – Commissioner Nixon reported on the loaner life jacket program. All but one life jacket has been taken and not returned. She has one more set of life jackets to put out, hopefully they will last through the summer. Perhaps more education is needed on the nature of a “loaner” program. Perhaps some notice can be put out on the Facebook page. It is great that people are using them, but folks need to return them. • Technical Advisory Committee (TAC) – Secretary Treasurer Weyeneth did not have a report.
Executive Administrator’s Report	<ul style="list-style-type: none"> • Ms. Parker said she is working with Awards Express get the reflective vests and plate for former Commissioner Morgan’s award ordered. Two buoys have been ordered and will be delivered to Vice Chairman Hudspeth. MILMC-CCOG contract has been executed. • Ms. Parker distributed the FY 2011-2012 audit to each marine commissioner. The FY 2011-2012 audit has been approved by the State of North Carolina. Ms. Parker sent an email to marine commissioners the week before that summarized the situation with the audit. One of the main decisions at hand is whether or not to stay with the current auditor or select a new auditor. Commissioner Nixon would rather pay more to get a better service. Commissioner

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	<p>Roche noted that the auditor has been late in previous years. Commissioner Nixon thinks that the commission should go with someone different. Commissioner DuVall asked if the MILMC is good to go regarding the FY 2011-2012 audit. Ms. Parker answered yes. He commented that issue is something the commission can work on. Secretary Treasurer Weyeneth stated that he thinks the situation is totally unacceptable and would resign as Treasurer of the MILMC on principle. Commissioner DuVall stated that the shortfall was not with the Treasurer or the MILMC, but with the process around how the audit gets completed. <u>Vice Chairman Hudspeth made a motion that Secretary Treasurer Weyeneth and Centralina COG work together to come up with other suitable candidates to perform the audit and report back to the group. The motion was seconded by Commissioner DuVall.</u> Discussion: Based on Vice Chairman Hudspeth's motion, Secretary Treasurer Weyeneth suggested that he work with Ms. Parker and Centralina COG's Finance Director to find three (3) viable firms and present them at the August MILMC meeting. The MILMC can vote on which firm to hire to conduct the FY 2012-2013 audit at the August meeting. Legal Counsel Chris Clark advised Vice Chairman Hudspeth to amend his motion. <u>Vice Chairman Hudspeth amended the motion to reflect Secretary Treasurer Weyeneth's suggestions on how to and who should proceed, and by when. Commissioner Roche seconded the amended motion and was approved unanimously.</u></p> <p>Chairman Lanning thanked Ms. Parker for her work on getting the facts together on the audit. The idea of not compensating the auditor was raised. Secretary Treasurer Weyeneth suggested that the number of hours Centralina COG's Finance Director and Ms. Parker spent on the audit be tallied multiplied by respective their rates, then deduct that amount from the auditor's bill. If the auditor has an issue, then he can sue the MILMC for performance and he can defend why he deserves the full amount he is charging. Chairman Lanning asked Legal Counsel Clark if he had any issue with that plan, and he replied no, assuming the reason for the delay was solely with the auditor. Commissioners Roche and Campbell agreed that the MILMC should not make a decision about payment until all or more facts are on the table. This audit issue will be brought up again at the August meeting and Ms. Parker will hold the invoice until then.</p>
MILMC Bylaws Amendment	<p>Secretary Treasurer Weyeneth proposed two amendments to the bylaws:</p> <ol style="list-style-type: none"> 1. The bylaws should be amended to say that the MILMC Chairman should have served for at least one year immediately preceding the election before being elected as Chairman. That will help determine leadership strengths and gaps and so on.

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	<p data-bbox="621 253 1944 545">2. In Section 4.2. of the bylaws, it currently says, “No Commissioner shall serve in the same office for more than two (2) consecutive one-year terms, unless he or she shall receive the unanimous vote of all Commissioners.” Secretary Treasurer Weyeneth would like to strike that sentence for the office of Chairman. Commissioner Roche asked about Secretary Treasurer Weyeneth’s rationale for wanting to make this particular amendment. He stated that it is antiquated and he is not sure what purpose it serves. Vice Chairman Hudspeth asked if it is causing a problem. Secretary Treasurer Weyeneth said that he does not think so, and added that it is just a proposal.</p> <p data-bbox="667 589 1944 1401"><i>On proposed amendment #1:</i> A motion was made by Secretary Treasurer Weyeneth that the bylaws be amended to state that the person elected as Chairman of MILMC will have served one full term previous to their election as an officer or a member of the MILMC. Commissioner Campbell seconded the motion. Discussion: Commissioner Nixon asked if it matters if the person is an officer or not before being elected Chairman. The answer was no; serving the year immediately preceding the election is the important part. <u>Secretary Treasurer Weyeneth amended the motion to state that the bylaws be amended to read that the person elected as Chairman of MILMC will have served for one full term in the year immediately preceding the election as a member of the MILMC. Commissioner Campbell seconded the amended motion.</u> Discussion: Commissioner Roche made the point for not amending the bylaws as proposed. One of her main points is that new blood and leadership is good sometimes. Vice Chairman Hudspeth concurred with Commissioner Roche. He does not want the MILMC to limit itself when it comes to deciding on leadership positions. Commissioner Nixon would like to see more formality around the officer nomination process, perhaps like the nominating process is done in on the Lake Wylie Marine Commission or Lake Norman Marine Commission. She does not want the MILMC to be limited to one commissioner who is eligible, but not interested in or able to serve as Chairman. <u>The vote was taken. Commissioners Roche and Vice Chairman Hudspeth were not in favor of the amendment, Chairman Lanning, Secretary Treasurer Weyeneth, and Commissioner Campbell were in favor of the amendment and Commissioner Nixon abstained.</u> After the vote was taken, there was discussion about how to properly count the vote. Legal Counsel Clark consulted Robert’s Rules of Order and determined that <u>the vote stands to amend the bylaws.</u></p> <p data-bbox="667 1446 1944 1471"><i>On proposed amendment #2:</i> <u>Commissioner Campbell made a motion to strike this sentence</u></p>

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	<p><u>from Section 4.2 of the bylaws, “No Commissioner shall serve in the same office for more than two (2) consecutive one-year terms, unless he or she shall receive the unanimous vote of all Commissioners.” Commissioner Roche seconded the motion and the vote was approved unanimously.</u></p>
Public Comment (limited to 3 minutes)	N/A
Commissioner Comments	<ul style="list-style-type: none"> • Commissioner Campbell – none. • Commissioner Roche – none. • Commissioner Nixon – none. • Commissioner DuVall – none. • Secretary Treasurer Weyeneth – none. • Vice Chairman Hudspeth – none. • Chairman Lanning – none.
Legal Counsel Report	N/A
Closed Session	<p><u>Secretary Treasurer Weyeneth made motion to go into closed session for the purpose of consulting with Legal Counsel on matters related to insurance. Commissioner Campbell seconded the motion and it was approved unanimously.</u> The Commission consulted with and received advice and information from Legal Counsel relating to legal risk mitigation strategy.</p>
Adjournment	The meeting was adjourned at 10:00 pm.
Next Business Meeting Date and Location	The next MILMC business meeting will be held on August 7, 2013 at 6:30 pm at the East Lincoln Fire Department (416 South Pilot Knob Road, Stanley, NC).

Emily Parker, Executive Administrator