

Lake Wylie Marine Commission
February 27, 2017
The Red Fez Shriners Club



Commissioners Present: Chairman Lynn Smith (Mecklenburg County)
Vice Chairman Neil Brennan (Gaston County)
Commissioner Tim Mead (Mecklenburg County)
Commissioner Blanche Bryant (York County)
Commissioner George Medler (York County)
Commissioner Ellen Goff (York County)
Commissioner Peter Hegarty (Mecklenburg County)

Commissioners Absent: Secretary Treasurer Robert Biggerstaff (Gaston County)
Assistant Secretary Treasurer Brad Thomas (Gaston County)

LWMC Staff Present: Joe Stowe, Executive Director; Chris Clark, Legal Counsel;
Emily Parker, Administrator

Meeting Minutes

Mission Statement

*To promote public policies and support regulations for the preservation of Lake Wylie and its wildlife
and for the education and safety of the citizens who use this
beautiful natural resource.*

Item 1 – Welcome and Introductions

Chairman Smith called the meeting to order at 7:00 pm and welcomed everyone present.

Item 2 – Approval of Minutes

Chairman Smith asked if any changes need to be made to the January 23, 2017 minutes. Commissioner Mead moved to approve the January 23, 2017 minutes. Vice Chairman Brennan seconded the motion, and it was approved unanimously.

Item 3 – Approval of Agenda

Chairman Smith asked if any changes need to be made to the February 27, 2017 agenda. Vice Chairman Brennan moved to approve the February 27 agenda. Commissioner Mead seconded the motion, and it was approved unanimously.

Item 4 – Public Comment

None.

Item 5 – Stakeholder Reports

Charlotte Mecklenburg Police Department – Officer Carey addressed the proposal that was distributed to the LWMC about outfitting CMPD boats with SCUBA equipment. He noted that CMPD lake enforcement officers are all dive and recovery certified. They are trained, but do not have sufficient equipment. The Charlotte Fire Department (CFD) has SCUBA equipment, but oftentimes they are busy attending to other calls. CMPD lake enforcement wants to be able to act when the time comes. It would cost \$5,600 to outfit the boat. Officer

Carey noted that amount does not cover annual maintenance for SCUBA gear. The funds would be for the upfront cost to buy SCUBA equipment. He added that with help from the LWMC, CMPD lake enforcement can advance their dive program and capacity. Officer Carey commented on previous unsuccessful attempts to access financial assistance and support from the CFD for SCUBA equipment. Vice Chairman Brennan voiced a concern that if the LWMC gave funds, the Marine Commission could get in the middle of an internal situation between the police department and fire department. Officer Joye clarified that CMPD puts little resources towards lake enforcement. Commissioner Goff asked if Gaston County has dive capabilities. Officer Hamrick with GCPD explained the situation with dive rescue in Gaston County. Currently, they call the Charlotte Fire Department for assistance. Commissioner Bryant asked YCSO about their dive capacity. Sgt. Richardson replied that their SCUBA equipment exists but is kept at a secured facility. They do not have SCUBA equipment on the boat. Chairman Smith said that the LWMC will come back to this issue.

Gaston County Police Department – Officer Hamrick reported that one of their boats has a bad bilge pump. He commented that the Boat Show was a success. Since 2001, GCPD has kept their boat at Harbortowne Marina, and the marina has never charged them. Currently, there are a lot more boats on the water. He noted that over the last two years, all the slips are full at Harbortowne. When GCPD arrives by boat, they have to pull in and see what slips are available. GCPD lake enforcement wants to be guaranteed a slip. Officer Hamrick distributed a sheet that addresses the cost of renting a slip for a year. Vice Chairman Brennan asked if they have considered any other gated communities or marinas. Officer Hamrick stated that they want to be in a gated situation with power to the boat. Vice Chairman Brennan said he could ask in his community, Reflection Pointe. Chairman Smith recommended that GCPD lake enforcement look at all avenues to address their problem, including going before the Gaston County Commissioners.

York County Sheriff's Office – Sgt. Richardson reported that they are currently involved in dive training. The YCSO made a lot of contacts at the Boat Show. They have a few boater trainings coming up – the next one is on April 25. They continue to coordinate with area high schools about life jacket awareness.

NC Wildlife Resources Commission – Sgt. Laton introduced Lt. Josh McConnell. Lt. McConnell oversees 10 counties for the NCWRC. He transferred into this region approximately 14 months ago. The Mecklenburg County NCWRC law enforcement position will close tomorrow. They are offering training about felony BWI and Cheyenne's Law on April 24 at 9:00 am. A boater safety class at Bass Pro Shop on Sunday, March 5 from noon – 6 pm.

SC Department of Natural Resources – Sgt. Richardson reported that the buoys in the Niven's creek area have been replaced.

US Coast Guard – No report was given.

US Coast Guard Auxiliary – No report was given.

Mecklenburg County Land Use and Environmental Services Agency (LUESA) – Mr. Dave Ferguson could not be with the LWMC this evening. He sent his report to Ms. Parker, and she forwarded it to the LWMC before the meeting.

Duke Energy – Ronnie Lawson reported that:

- Lake level: 98.0' (target level: 97.0')
- Low inflow protocol: Stage 1. We are experiencing evaporation due to unseasonably warm weather.
- No dredge permits have been submitted or approved in the past month. Executive Director Stowe asked if Duke Energy owns any dredging equipment. Mr. Lawson replied that they do not and they contract it out.

Mr. Lawson reported that he spoke with Duke Energy staff in the Licensing group and in the Recreation Management group. Currently, the Recreation Management plan is with FERC. Once plan is approved by FERC, it would be a good time for Recreation Management staff to update the LWMC.

Gaston County Cove Keeper – No report was given.

Lake Wylie Lakekeeper Report – Mr. Dan Mullane reported that they are up to speed on the sites they are patrolling. He noted that there will be a Water Watchers training on March 4 at Anne Springs Greenway. Vice Chairman Brennan asked Mr. Mullane for a summary of the difference in water runoff rules among the three counties and related penalties, etc. Vice Chairman Brennan would like to know if there is any consistency among the three counties or not. Mr. Mullane agreed to put a spreadsheet together and share it with the group.

Item 6 – Communications Development

Commissioner Goff reported that the redesign of the LWMC website is the most complex piece of the LWMC communications plan. She said that she has recommendations on website redesign firms for the Marine Commissioners to consider. Chairman Smith suggested that she write up a report and send it out for the group to review before the next meeting. Commissioner Goff asked the group look at the website and note what they would like to keep and/or see added to a new site. She added that the LWMC brochure will need to be updated. She also plans to offer “elevator speech” copy for the group to review.

Item 7 – LWMC Bylaws Review

Legal Counsel Clark introduced this agenda item. He spoke to and recommended the periodic review of the bylaws, as they are the Marine Commission’s internal governing document. At the last meeting, it was requested that Marine Commissioners review the bylaws and recommend what text could be edited changed. Vice Chairman Brennan sent in suggested changes. Legal Counsel Clark mentioned that he had one change to suggest. He asked if anyone else had comments or suggested edits. Executive Director Stowe commented on the different resolutions that have been made during past meetings (e.g., the LWMC’s gift giving policy from February 2013). He does not think those resolutions need to be added to the bylaws, but they do need to be kept up with in another way. He volunteered to go through the last 3-5 years’ worth of meeting minutes and pull out those resolutions. Legal Counsel Clark said pulling out and keeping all resolutions in one place is a smart idea and he recommended doing so. Those resolutions could be kept separate from the bylaws, referred to in the bylaws, or added into the bylaws. This is a decision for the Marine Commissioners to make. The following discussion ensued:

Commissioner Mead noted that bylaws are amendable by majority vote. He thinks it would be unnecessary to have a set of bylaws and then a separate “policy manual” which would outline actions taken by the LWMC that were consistent with the bylaws but not part of the bylaws. Commissioner Goff asked Commissioner Mead if he was suggesting that the LWMC have an addendum to go along with the bylaws. Commissioner Mead clarified that no, the LWMC does not need an addendum because the bylaws can be changed by majority vote.

Legal Counsel Clark brought up the example of LWMC officers authorizing joining a chamber of commerce. He commented that that type of decision feels like a resolution and does not feel right in the bylaws. He suggested that keeping a record of such resolutions would be an appropriate approach.

Commissioner Mead commented that he would think the authority of officers to spend money would be in the bylaws, but what money is spent on would not be in the bylaws. Chairman Smith commented that the resolution for officers to be able to authorize spending up to \$300 is for an urgent need or exigency.

Vice Chairman Brennan verified that Legal Counsel Clark does not have any objections with his suggested changes and Legal Counsel Clark confirmed. Vice Chairman Brennan concurred with Commissioner Mead's statement about the officers' authority to spend a certain amount of money in an exigency situation should be in the bylaws, but what the money is spent on should not be in the bylaws. He concurred that the bylaws are the Marine Commission's rules about how the Marine Commission operates. If the Marine Commission thinks the officers should have that authority to spend funds on something that comes that has a deadline before the next meeting, that seems to be reasonable. He thinks that could be included in the bylaws because it is how the LWMC operates.

Chairman Smith added that on the topic of bereavement expenses, \$50.00 in this day will not go very far. Vice Chairman Brennan suggested that the word "bereavement" could be replaced with "exigency." Commissioner Bryant commented that the LWMC is a group that has public monies. She thinks we need to keep a finger on what is going on regarding expenditures. She trusts the officers, but this is a small group. If something comes up and funds need to be spent in between meetings, it should not be a problem to call and check in with everyone. Chairman Smith concurred with Commissioner Bryant and followed up by asking Legal Counsel Clark if a vote could be taken via email or phone. Legal Counsel Clark said technically yes, but notice would have to be given to the public and there would have to be a way for the public to participate. His understanding of the open meetings law in North Carolina is that a group may conduct meetings outside of an open meeting environment, but if a group is going to put something up to a vote, it must be done at an official, publicized meeting that includes appropriate opportunity for the public to attend and participate (such as the regularly scheduled LWMC meetings). Commissioner Mead said that the LWMC bylaws specify (in Section 2) about where and how often regular meetings take place, about special meeting, etc. His interpretation is that a conference call meeting or email vote would not be valid, per the current bylaws.

Legal Counsel Clark stated that it is important to remember that the bylaws are the LWMC's internal governing document, but they are not the Commission's only governing document. Other governing documents include enabling legislation, and open meetings law. If the bylaws are silent or ambiguous on certain issues, there are other places the group can look for guidance. He read an excerpt from the North Carolina open meetings law. He commented that if the group is talking about and voting on funds, it should be at an official meeting unless authority is granted in the group's bylaws.

Vice Chairman Brennan stated that this issue has to do with timing. For example, if a situation is time sensitive and needs to be addressed before the next monthly meeting, the officers should be able to act and be allowed the latitude to exercise judgment. The officers could follow up by sending a notification of expenditure and rationale for the decision to the rest of the group. Commissioner Bryant commented that she did not understand the urgency of joining the Montcross Chamber of Commerce. She noted that the decision did not need to happen that day and Vice Chairman Brennan commented that it did and explained why. Nonetheless, Commissioner Bryant did not think the group needed to join that chamber at that time. She added that if there is an emergency, that would be different. She stated that the group needs to draw a line somewhere.

Commissioner Goff commented since we are talking about a relatively small amount of money as a threshold (i.e., \$300.00), reimbursement could be a backstop. The decision and expenditure could be discussed at the next meeting. Commissioner Bryant asked, if we spend \$300.00, do we have another \$300.00? Executive Director Stowe answered yes, but said to not get hung up on the dollar amount. He said the bigger point is that the officers we would be trying to address a situation that needs to be dealt with immediately instead of waiting. It has not been abused, and it is there if necessary. Executive Director Stowe emphasized the importance of having a guideline(s) in writing that include specific monetary limits such as in the cases of gift giving in bereavement situation and how much officers are authorized to spend without the approval of the whole group in an emergency. Chairman Smith said that she thinks that \$300.00 is rather high and would be alright with \$150.00 instead.

Commissioner Goff commented that the more we parse this issue, the more it becomes a solution in search of a problem. She thinks we have a dynamic and level-headed Marine Commission that exhibits good judgment. The spirit of the policy is what should be focused on and to separate that out from whether we should join chambers or other local groups, which are time-limited commitments.

Chairman Smith asked the group if there is anything further on the bylaws. Legal Counsel Clark called attention to Section 7.0 (Financial) of the bylaws and said there is language in that section that does not align with the way the LWMC operates. He pointed out Section 7.1 (Fiscal Control) which says:

“The accounting and fiscal control procedure shall be in accordance with the Local Government Budget and Fiscal Control Act of North Carolina and the South Carolina Home Rule Act, as amended from time to time, anything contained herein to the contrary notwithstanding.”

He commented that he does not think our procedures are necessarily in accordance with the Local Government Budget and Fiscal Control Act of North Carolina and the South Carolina Home Rule Act. He went on to talk about Section 7.6 (Budget Officer and Finance Officer) which says:

“The Commission shall, by resolution, authorize an individual to serve as the Budget Officer and as the Finance Officer of the Commission and shall perform such duties in these capacities as may be prescribed by the Budget and Fiscal Control Act, the Home Rule Act or by the Commission, not inconsistent therewith.”

Mr. Clark does not think the LWMC is following the custom of authorizing an individual to serve as the Budget Officer and Finance Officer, as stated in Section 7.6, which comes from the Local Government Budget and Fiscal Control Act. Legal Counsel Clark said that when he generates the next round of bylaws he will probably, unless the LWMC objects, remove the requirement to follow those statutes. Commissioner Mead pointed out that the originating legislation may specify those statutes. Legal Counsel Clark said that he looked at the legislation and they do not specify. He stated that the first draft of the bylaws was put together in 1987.

Vice Chairman Brennan moved that the LWMC delete Section 7.6, based on recommendation of Counsel, and in place of Section 7.6 add the word “deleted.” Legal Counsel Clark went on to talk about language in 7.1 and 7.5 that would need to come out as well. He urged the LWMC to consider instructing him to revise Section 7.0 to remove that requirement. Chairman Smith recommended that the LWMC go on Legal Counsel Clark’s recommendation to make those changes. Vice Chairman Brennan withdrew his motion.

Commissioner Mead moved to instruct Legal Counsel Clark to prepare amendments to the bylaws as discussed. Commissioner Bryant seconded the motion. Discussion: Legal Counsel Clark said that he wanted to make sure there is clear direction in the section that authorizes whomever to spend funds. Vice Chairman Brennan suggested the following change, shown below in italics, to Section 5.5 of the bylaws:

Section 5.5, Limitations. Except as specifically set forth in these Bylaws to the contrary, no member, officer or staff employee of the Commission shall have the authority to bind or obligate the Commission with respect to any matter whatever, or to expend any funds of the Commission without the specific approval and authority of the Commission. *Exception: The officers may unanimously authorize the expenditure of up to \$300 for an exigency they deem appropriate. In these instances, the Chair will notify the Commission of the circumstances surrounding these expenditures.* All contracts, agreements or other instruments to which the Commission is a party and which require Commission approval shall be submitted to the Commission's attorney for approval as to form prior to execution thereof. Any and all contracts, agreements, applications or other instruments to which the Commission

is a party shall be executed in the name of the Commission by the Chair, or, in his absence, the Vice Chair, whose signature shall be attested by the Secretary-Treasurer.

Legal Counsel Clark added that this is the time, during discussion, to decide on the dollar amount. Chairman Smith said to stay with \$300, for now. Legal Counsel Clark summarized by saying that the motion includes edits to Section 5.5 (as shown above), parts of Section 7.0 he specified, and the other edits that Vice Chairman Brennan sent out before the meeting that include the following:

Section 1.7. Proposed change: Add “above sea level” after “five hundred and seventy feet”

Section 2.1. Proposed change: Rewrite the second sentence to read, “Meetings shall be held as may be determined by the Commission in a place appropriate to accommodate public access.” (deletes “at the respective county courthouse”

Section 4.6 (Secretary-Treasurer) and 7.5 (Bonds). Section 4.6 states that the Treasurer will have “custody of all funds,” and section 7.5 states he must be bonded. These two sections need to be revised to reflect the actual conditions – our Treasurer does not have custody of the funds.

Proposed change for Section 4.6: Delete the sentence, “As treasurer, he or she shall have custody....”

Proposed change for Section 7.5: If the Secretary-Treasurer does not need to be bonded given the change to Section 4.6, then delete “Secretary-Treasurer” from the first sentence so it reads, “The Finance Officer and the Chair of the Commission shall be bonded....”

Section 8.4 (Determining whether a Conflict of Interest Exists). *Proposed change:* Delete the last part of the last sentence, “...at such a meeting to determine whether a conflict of interest exists.”

The vote was taken and approved unanimously. Legal Counsel Clark will draft the amendments and send out draft revised bylaws for the group to review before the March 27 meeting.

Item 8 – Riversweep 2017 Update

Vice Chairman Brennan reported that 120 people signed up at the Boat Show as potential volunteers for Riversweep 2017. The first meeting of Riversweep Planning Committee will be held on March 15 at 4:00 pm at the Bagel Boat.

Item 9 – Treasurer’s Report

Secretary Treasurer was not present to provide a report. Chairman Smith said that it is time to start working on the FY 18 budget. Chairman Smith appointed a budget planning committee – Commissioner Thomas (as Chairman; Gaston County), Commissioner Mead (Mecklenburg County), and Commissioner Goff (York County). Chairman Smith noted that she is willing to sit in as needed. Chairman Smith would like to see a proposed budget by the May LWMC meeting. Ms. Parker will email the budget committee to set up a time to talk.

Item 10 – Executive Director’s Report

Executive Director Stowe reported:

- Meeting with York County Sheriff – It was determined that it may be premature to meet with him before the LWMC has a chance to discuss this meeting.
- Update on the Stakeholder Appreciation Gathering – This gathering will be held at Red Fez Club in April or May. Details are forthcoming.

Item 11 – Chairman’s Report

Chairman Smith reported that the Boat show was a great success. She also attended the February officers meeting.

Item 12 – Clerk’s Report

Ms. Parker did not have a report.

Item 13 – Old/New Business and Commission Projects Reports**Old Business**

- Water Quality –
 - Clean Marina/Clean Boating – Commissioner Medler said that Clean Marina re-certification will be conducted this year.
 - Sedimentation – Commissioner Goff reported that the River Keeper would be pleased to give the LWMC a course on how to be a Water Watcher. Vice Chairman Brennan added that he spoke with Paul Cameron at the Boat Show about doing a TV segment on sedimentation. He will set up a meeting with Paul Cameron.
 - Invasive Species – Commissioner Medler did not have a report.
- Buoy – No report was given.
- Safety – Commissioner Bryant reported that she has spoken to five area high schools that say they will participate this year. Commissioner Goff asked about doing a press release or even a short story on this initiative. It was noted that this year we need to be sure to take pictures of the winners and trophy. Vice Chairman Brennan said he was taken with Officer Carey’s presentation about SCUBA equipment. It appears to be a safety issue. Vice Chairman Brennan recommended that we consider CMPD’s request when we look at the FY 18 budget.
- Recreation – No report was given.
- Public Information – Commissioner Goff encouraged all Marine Commissioners to be mindful of opportunities to tell our story and share information about ongoing lake-related programs. She requested that Marine Commissioners let her know if there are stories to share.

Item 14 – Adjournment

The meeting adjourned at 8:48 pm.
