

Lake Wylie Marine Commission



**MAY 28, 2008
7:00 p.m.**

**Red Fez Club
16,600 Red Fez Club Road
Charlotte, NC**

Minutes

- Commissioners Present:** Chairman Joe Stowe (Gaston County), Vice Chairman Bo Ibach (Mecklenburg County), Secretary/Treasurer Sandy DuPuy (Mecklenburg County), Commissioner Smitty Hanks (Gaston County)
- Commissioners Absent:** Commissioner Dan Ballou (York County), Commissioner Troy Blackmon (York County), Commissioner David Cloninger (Gaston County)
- LWMC Staff Present:** Chris Clark, Legal Counsel
- LWMC Staff Absent:** Annette Lawing, Interim Executive Director

Topic	Discussion Summary	Action
Welcome & Introductions	Chairman Joe Stowe called the meeting to order at 7:03 pm.	
Approve Minutes – April 28, 2008	The minutes from the April 28, 2008 meeting were approved.	A motion was made by Commissioner Hanks to approve the April 28, 2008 meeting minutes. Seconded by Commissioner Ibach. The motion was approved.

Topic	Discussion Summary	Action
Consent Agenda	Consent Agenda - None	
Public Comments	Public Comments - None	
County Reports	<p>Charlotte-Mecklenburg Police Dept and SPLASH Report – Officer Everhart reported</p> <ul style="list-style-type: none"> • Quiet on the water during May. The unit expects to get another officer in two weeks. Splash was active this month at a rodeo, Robinson Elementary School, Mayfest and will participate in a children’s boating class at Lake Norman. • Mecklenburg Parks and Rec is aware that 8 buoys are missing at various locations. Commissioner Stowe requested that they contact Annette Lawing regarding replacements. • Plans are being finalized for speakers, food and door prizes for the Regional Water Safety Forum scheduled on June 17-18 sponsored by the CMPD Steele Creek Division, Lake Enforcement Unit. Water safety professionals from around the region and North and South Carolina will convene to share safety information and regional and national safety issues. Dan Ballou has been asked to speak on the Commission’s project to establish a Clean Marina program on Lake Wylie. Officer Everhart encouraged Marine Commission members to attend the Forum. <p>Gaston County Police Department – Officer Jason May reported</p> <ul style="list-style-type: none"> ➤ Gaston Lake Unit started on the water weekends in May from Saturday until Monday and wrote numerous citations. After training with other agencies on June 13th, they will be on the water full time beginning June 14. <p>York County Sheriff’s Office – Deputy Ed Ware reported</p> <ul style="list-style-type: none"> ➤ Lake Patrol Unit started last weekend on the water. ➤ SC Highway Patrol issued a press release on the “100 days of safety” initiative and York County’s joint effort with other law enforcement agencies. Next year York County would like to coordinate with the LWMC and other lake units. <p>N.C. Wildlife Resources – No one was present to give a report</p> <p>Tega Cay Police Department – No one was present to give a report</p> <p>S.C. Dept of Natural Resources - No one was present to give a report</p>	<p>Chairman Stowe will verify participation by Commissioner Ballou.</p>

Topic	Discussion Summary	Action
<p>County Reports (continued)</p>	<p>Mecklenburg County Land Use and Environmental Service Agency (LUESA) – David Beutow reported</p> <ul style="list-style-type: none"> ❑ Distributed the April 2008 Water Quality report. All sites reported in the Good-Excellent range for water quality. This was the first time in several months that measures could be taken at full pond. ❑ Bacteriological results showed the South Fork with high concentrations (210). This was most likely due to recent heavy rains and storm water run-off. They have re-sampled the South Fork since then and the sample is down to the usual low levels. ❑ Staff noticed water surface turbidity while taking the other samples and decided to measure for turbidity. Turbidity measures cloudiness of the water which can relate to sediment, algae and/or other agents, and it can also occur after storm events. The NC state standard is 25. All measures taken were below 25. At 25 one can probably see one foot down in the water. There are inflows from Long Creek and Dutchman’s Creek after storms which can account for some turbidity. LEUSA may take additional measurements in the future if it seems warranted. <p>Duke Energy of the Carolinas – No one was present to report</p> <p>Lake Wylie Lakekeeper – Ellen Goff reported</p> <ul style="list-style-type: none"> ➤ A quiet month for violations. They are monitoring on-going challenges around Belmont but York County issues have improved. ➤ In the last phase of training persons for the new Water Watchers program. There will be 24 Water Watchers in addition to the 21 regular Cove Keepers with welcome additions from Mecklenburg County. ➤ Preparing for River Sweep scheduled for Saturday, October 4 and will ask the Marine Commission to be a partner again. ➤ The fire fighters at the new fire house at Withers Cove will also be Water Watchers which will be a great asset to that area. <p>Mecklenburg County Parks and Recreation – No one was present to give a report</p>	

Topic	Discussion Summary	Action
Request for Comments	<p data-bbox="453 220 772 248">Request for Comments</p> <p data-bbox="453 289 1562 358">Request for Permanent Staging Site, Riverfront (Tail Race) Marina (Follow up) – Larry Harrelson with Rowboat Dock and Dredge.</p> <ul data-bbox="506 402 1612 1471" style="list-style-type: none"> <li data-bbox="506 402 1612 542">• Chairman Stowe reminded the Commission that it asked Mr. Harrelson to inform homeowners at Riverfront of his request for a permanent staging site and to get a letter from the Homeowners Association (HOA) stating a position regarding the request. <li data-bbox="506 553 1612 802">• Mr. Harrelson explained that he asked the Commission for support for a permanent staging area at the Tail Race (Riverfront) Marina. He met with the HOA last night and 45 homes were represented. He gave a Marina update and his request concerning a permanent staging site. Members signed in before the meeting and afterwards were asked to check a box on the sign-in form indicating support for, against or no opinion of the permanent site. He reported that 42% were against, 58% either supported and had no opinion or didn't check anything. <li data-bbox="506 813 1612 953">• He explained that Duke supports the site because it restricts commercial work to one specific site rather than having the buffer repeatedly breached at various locations. He said he actually only needs a temporary site because when the marina is fully built out, there won't be room for a staging site. <li data-bbox="506 964 1612 1062">• Mr. Harrelson said that he gave the HOA a letter promising to self restrict the hours of operation and set a term limit of 5 years for the site. He said attorneys at the meeting offered to help negotiate the terms of agreement. <li data-bbox="506 1073 1612 1354">• Mark Soper, President of the Homeowners Association, said that he was not able to speak on behalf of the HOA as an entity per their restrictive covenants. He brought a packet containing notifications for the meeting, the sign-in sheets and emails he had received since the meeting from persons not present and from some who had been at the meeting. Out of 265 homes in Riverfront, 45 were represented at the meeting. 19 marked the sheet that they were against the permanent staging site, 14 were for (because of the stipulations promised by Mr. Harrelson) and 12 did not respond. <li data-bbox="506 1365 1612 1471">• Jerry Morgan, resident of Riverfront since 2000, stated that he was concerned with the short notice and lack of opportunity for discussion and said that residents were not aware the property was being used for a temporary staging site or that the 	

Topic	Discussion Summary	Action
<p>Request for Comments (continued)</p>	<p>meeting concerned the site. He brought 8 emails from other residents expressing concern. He expressed concern about his and his neighbors' investments in their homes. He doesn't want to jeopardize the quality of his community for the sake of the marina. The permanency of the staging site concerns him. Mr. Morgan read an email from Eric Thomas, Mt. Holly City Manager, who is also a Riverfront resident, who stated that Mt. Holly had not issued any permits agreeing to this staging site, and he did not believe Mt. Holly would approve it. Mr. Thomas asked the Commission not to make any decisions tonight without concurrence from Mt. Holly. Both he and Mr. Morgan asked for additional time for residents to consider the staging request.</p> <ul style="list-style-type: none"> • Cove Keeper C.D. Collins explained that he had worked with the community for some time. He believes a staging area is not needed at all to complete the marina project. He understands that Mr. Harrelson wants the staging area to do other work on the lake but the homeowners want Rowboat to finish the work and close the site. He supports Rowboat giving owners a letter limiting the time (2-5 years) for the permanent staging area. He believes the homeowners might accept Rowboat doing other commercial work during that limited time. If Duke and the HOA can concur, he believes the issue could be resolved. He pointed out that the marina will have several buildings and amenities when is fully developed, and it will be in Rowboat's best interest to close out the commercial site. • A resident who did not identify herself noted her concern about how clear the water was before home construction started and how murky it has become because of the developer's negligence practices. She is concerned about water quality and the negative effect on the community from the staging site. • Chris Clark, Commission Counsel, noted that he had reviewed the material from Mr. Soper from the meeting and wanted to clarify how the votes had been characterized. The sign in sheet had three columns: for a staging area, against and don't care. 13 people didn't vote at all, 1 marked "don't care", 19 were against, and 14 were in favor with stipulations regarding a limited term. Those who didn't vote cannot be characterized as people who "don't care". He said that the emails could all be characterized as opposed to the staging area. • Commissioner Hanks made a motion to give homeowners another month for deliberation on the request. • Larry Harrelson reminded those present that the HOA did, in fact, give permission 	

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<p>Request for Comments (continued)</p>	<p>for a temporary staging site many months ago and had apparently not noticed the current operation because of its low profile. Current activities are similar to what would happen if it were a permanent site.</p> <ul style="list-style-type: none"> • Mr. Harrelson explained the appearance of the staging site and said that what would be seen is a marina. There would be a break in the middle of the marina with a hardened shoreline, and an excavator would be there to unload barges onto trucks. The trucks would drive 100' on a community road and exit the community via a public road. There would be no piles of dirt or rock. He suggested that while construction continues within the neighborhood (a potential 100 homes are still planned), the Rowboat dump trucks would not be distinguishable from other construction trucks. He explained that Rowboat doesn't have that much work on the lake. There would probably only be 1-2 days a week when there would be work and then for a very limited number of hours. • Commissioner Ibach shared pictures from a permanent staging area on Phelps Road on Lake Norman that appeared to be quite different in nature from what Mr. Harrelson proposes. • Chairman Stowe asked everyone to keep comments pertinent to the motion on the floor to delay a decision for another 30 days. • Commissioner DuPuy said she had reservations about waiting another month to make a decision. She reminded the homeowners present that the LWMC does not have authority or power to deny the permanent staging site. The LWMC is one of several entities that Duke Energy asks for comments regarding various projects on the shoreline. Duke holds the power in this matter. If Rowboat meets Duke's requirements, they will issue the permit without regard for the neighbors' concerns. Duke has already stated that they would approve the permanent staging site. Commissioner DuPuy urged homeowners to work with Mr. Harrelson to establish the parameters under which this is going to happen. It would be better to work out this agreement in the next 30 days instead of waiting for another 30 days. • Mr. Harrelson explained that he had presented his request to 9-10 other agencies that have already approved the request. He has worked with the LWMC for three months to address ongoing concerns. He called the HOA last week to ask them to call a meeting. He does not have a deadline but obviously he would like to settle this issue as soon as possible. • C.D. Collins spoke again about his concerns about a Rowboat dredging operation 	

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<p>Request for Comments (continued)</p>	<p>at Reflection Point that he observed that caused mud and muck to fall into the main channel and fall from the truck onto neighborhood roads. He contacted Kelvin Ragan at Duke who stopped the operation. He said Rowboat would be loading similar barges at this site as part of their work. His other concern is that Rowboat has no legal responsibilities to the HOA. The agreements that Squires Construction had with the neighbors did not transfer to Rowboat with the sale of the land. He does not believe that Mr. Soper and the HOA have the authority to establish an agreement with Rowboat.</p> <ul style="list-style-type: none"> • Chairman Stowe called for a vote on the motion to delay the decision for another month. There were no further comments. The motion failed. • Commissioner Ibach asked about the comment from Mt Holly’s City Manager. Mr. Harrelson said Duke will make sure that the request complies with shoreline management policies. Mr. Harrelson explained that he did not understand the Mt. Holly comment about a lay down yard. He explained that this will be a high end marina. During the interim construction phase, the staging area will create a revenue stream for Rowboat but they do not want the staging area as an ongoing operation. • Chairman Stowe stated that the floor was open for another motion. • Commissioner DuPuy asked if the parties concerned believed that there was a possibility for agreement between the HOA and Rowboat. Mr. Morgan replied that the homeowners are not sure. They need time. Mr. Soper explained the procedure in the HOA covenants and restrictions for approval of any issue. They must achieve a 90% approval of a quorum present for any issue. If approval is not achieved with the membership then the matter is turned over to the Board. The entire procedure takes 120 days. He doesn’t think they can come to agreement under the HOA procedure. Mr. Harrelson stated that he has offered his terms in the letter, and he believes that a deal can be negotiated that will satisfy everyone. • Commission Counsel, Chris Clark, advised the Commission to enter into a Closed Session at the end of the meeting tonight to confer with him on this subject. Once the Closed Session is complete, the Commission will resume its public meeting and will decide whether or not to take any action. Discussion was suspended by consensus. <p>Request for New Aerial Fiber Optic Cable Line Crossing – Buddy Mauney</p>	<p>A motion was made by Commissioner Hanks to give the homeowners at least another month for further deliberation on the permanent staging site. It was seconded by Commissioner Ibach. After discussion the motion was defeated by a 2-1 vote.</p> <p>Discussion was suspended by consensus until the end of the regular meeting.</p> <p>A motion was made by Commissioner</p>

Topic	Discussion Summary	Action
<p>Request for Comments (continued)</p>	<p>Mr. Mauney with Shaw Energy presented the request from AT&T North Carolina to the Commission in April to extend a new aerial fiber optic cable across Lake Wylie adjacent to the Withers Cove Bridge on Shopton Road West in Charlotte. Mecklenburg Commissioners DuPuy and Ibach completed a site inspection with Mr. Mauney and found no issues of concern.</p> <p>Permanent Dock Proposal at U.S. National Whitewater Center – David Hepp</p> <ul style="list-style-type: none"> • USNWC requests approval for a dock coming off the bank near the boat slips to be used primarily for rental canoes and kayaks. They are not seeking to dock motorized boats but will not turn them away. The dock will not be set up for power boats. • Commissioners Hanks and Ballou visited the site and found no concerns. <p>Request for Approval of a No Wake Zone in Forest Cove – Jeff Slye, FC HOA</p> <ul style="list-style-type: none"> • The HOA requests a no wake buoy to be placed at the mouth of their narrow cove to protect their community dock. The community has turned over, there is more activity and traffic, there are larger homes, more traffic and numerous teens and small children using the dock. There has been no previous application for a buoy there. • Following LWMC procedure, Chairman Stowe and Commissioners Cloninger and Hanks will make a site visit and report at the next meeting. <p>Public Safety Hearing</p> <p>Due to the change in the Commission’s meeting date in May, the Public Hearing for consideration of a resolution to request that the North Carolina Wildlife Resources Commission impose No Wake Zone Buffers for the areas around all North Carolina bridges located on Lake Wylie has been rescheduled for June 23, 2008 meeting of the LWMC in order to give proper public notice of the time and place.</p> <p>Review of the Marine Commission Goals Worksheet</p> <ul style="list-style-type: none"> ➤ Project E-1, Concord/Kannapolis IBT (Stowe/DuPuy) – Chairman Stowe reported that Concord had recently published a statement that their case for their IBT request was overstated and the studies were 10 years old. They are now 	<p>Ibach to approve the request. Seconded by Commissioner DuPuy. The motion was approved.</p> <p>A motion was made by Commissioner Hanks to approve the dock request. Seconded by Chairmen Stowe. The motion was approved.</p>

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Review of the Marine Commission Goals Worksheet	<p>drawing water but they have their IBT. A federal judge from San Francisco will hear the case and several lawsuits are pending.</p> <ul style="list-style-type: none"> ➤ Project E-2, Hydrilla (Ibach) – Commissioner Ibach reported that 500 Grass Carp were released into Lake Wylie on May 21 near the 74/29 bridge where there has been serious hydrilla growth. He hopes that the 500 fish will accomplish what is needed. If not, more can be added next year. Chairman Stowe thanked Commissioner Ibach for taking the lead on the project. Commissioner Hanks received a quote of approximately \$50/each for signs to be posted at area access ramps stating the NC Regulations regarding the possession of Grass Carp. ➤ Project E-3, Wastewater Treatment Plant Stakeholders Group (DuPuy/Ibach) There is nothing new to report. ➤ Project E-4, Creating a “Clean Marina” program for LWMC (Ballou/DuPuy) No report. ➤ Project S-01, Law Enforcement Facility (Stowe) – Chairman Stowe reported that, at the request of the neighbors, the building was relocated 30’ toward the lake and back into the woods. It has been underpinned, the roof is sealed and the building was washed, primed and painted. Chairman Stowe met on site with contractors and DHEC. He requested up to \$5000 for a sewer system and the same amount for a well so he can let the contracts quickly. He believes the actual cost will be less. Once that is done, they will build the handicapped ramp. York County delegates promised \$30,000 to build the road. York County Electric will move power poles as needed and add temporary electricity. ➤ Project S-02, No Wake Buffers at all Bridges on Lake Wylie (Ibach/Stowe) – The public hearing will take place on June 23. Commissioner Ibach has sent pictures of all bridges and will complete a map for Counsel Chris Clark. ➤ Project PI-01, Notification of Sewage Spills. (Ballou) – No report. ➤ Project PI-02, Website – (DuPuy) Commissioner DuPuy stated there is nothing new to report. ➤ Project PI-03, Law Enforcement Posters – (Hanks) Commissioner Hanks reported that distribution of the posters continues. 	<p>The motion was made by Commissioner DuPuy to approve up to \$5000. each for the septic tank and well. Seconded by Commissioner Ibach. The motion was approved.</p>
Finance	Finance and Activity Report – Chairman Stowe - The Finance and Activity report for April 30, 2008 were provided. There were no questions on the reports.	

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Contracting with Centralina COG	Consideration of Contracting with Centralina COG for Administrative Services for FY 08-09 Chairman Stowe reported that the contract is in the packet. He asked Commissioners to review the contract for a vote in June. The Commission will end the year under budget.	
Budget Ordinance	Public Hearing for Consideration of the 2008-2009 Budget. Chairman Stowe announced that due to the change in the Commission's meeting date in May, the public hearing is postponed until June 23, 2008 in order to give proper public notice of the time and place.	
Other Business	<p>Chairman's Report – No report</p> <p>Executive Directors Report – No report</p> <p>Legal Counsel Report – No report</p>	
Public Comments	Public Comments – None	
Closed Session	The Commissioners adjourned to a Closed Session. Commissioners conferred with Counsel to clarify the Commission's role and responsibility with regard to the Rowboat Dock and Dredge request for a permanent staging site at Tail Race Marina.	A motion was made by Commissioner DuPuy that the Commission go into Closed Session to consult with legal Counsel. Seconded by Commissioner Hanks. The motion was approved.
Open Session	Chairman Stowe asked for a motion to open the public meeting.	A motion was made by Commissioner DuPuy that the Commission reconvene the public meeting. Seconded by Commissioner Hanks. The motion

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		was approved.
	<ul style="list-style-type: none"> • Chairman Stowe asked Chris Clark to explain the parameters under which the Commission deliberated. Mr. Clark explained that he had worked with the LWMC and the Mountain Island Marine Commission for some time, and this is one of the most difficult issues that he has been in a position to advise the Commission on. The Commission sees merit to both sides of the issue. The Commission’s purpose is not to look out for any particular neighborhood or for Mr. Harrelson’s best interest. Its purpose is to preserve and protect the lake. That was the light in which he advised the Commission and the light in which the Commission deliberated. • Chairman Stowe opened the floor for a motion and stated that Counsel advised the Chairman to vote in order to achieve a majority vote. • Chairman Stowe stated that the Commission’s role is to deal with the lake and lake issues. He reiterated that this request is not something that the LWMC can stop. Duke has 100% control over the staging site request. The Duke Energy representative who was present at the last meeting was questioned, and Duke is satisfied with the request. The Commission will write a letter to Duke to ask them to reopen the discussion on this site and the precedent they are setting with approval. What troubles everyone is the permanent nature of the site. What was most considered was protection of the 50’ buffer. The buffer is disturbed every time and everywhere someone is working. The staging area Mr. Harrelson proposes will minimize that. He expressed regret that the Commission had to make a decision that would leave people unhappy but that is the Commission’s role. • Larry Harrelson asked the Commission to use its influence with Duke to encourage them to find a permanent commercial staging site that everyone can use from its extensive properties around that lake. Chairman Stowe said that would be the gist of the Commission’s letter. 	<p>A motion was made by Commissioner DuPuy to approve the request from Rowboat Dock and Dredge to establish a permanent staging site at Trail Race Marina. Seconded by Commissioner Ibach. The motion was approved with a 3-1 vote.</p>
Adjournment	There was no further business and the meeting was adjourned at 8:50 pm	The meeting was adjourned by consensus.

Topic	Discussion Summary	Action
Next Business Meeting Date and Location	The next LWMC business meeting will be held on June 23, 2008 at 7:00 at the Belmont City Hall, 115 N. Main Street, Belmont, N.C.	

Sandy DuPuy, Secretary/ Treasurer