

## **BLA Zoom Meeting Minutes for Emergency Meeting December 4, 2021**

The purpose of the emergency meeting is to vote on three resolutions raised by Justin Adamo. Justin provided the resolutions below to Mark Nasuti for the meeting. The BLA members who called for the emergency meeting were Justin Adamo, Kiley Hug-Adamo, Rovie Simons, Rob Dawes, Colleen Masters, Barbara Boughton, and Bruce Mereness.

### Voting Resolutions

1. Dam Board being placed back in immediately as per DEC and Rensselaer County Soil and Water recommendations
2. A mark being placed on the dam so we know what a proper water level is
3. Revising the current dam board policy so we are no longer causing more harm than good to the lake

### Attendance

Clif Mark  
Barb Mark  
Matt LaFleur  
Barb Boughton  
Mark Nasuti  
Vicki Fowler  
Justin Adamo  
Kiley Hug-Adamo  
Janice Kullman  
Bill Kullman  
Ron Cahill  
Eileen Cahill  
Vicki Simons  
Rovie Simons  
Elaine Merguerian  
Colleen Masters  
Anja Carr  
John Losee  
Bruce Mereness  
Jack Betterly  
Shane Cahill  
Lorraine Ferguson

Erin Robilotta  
Eric Berman  
Patty Betterly  
Cathy Berman  
Barb Kivlin  
Elizabeth Marks  
Laura Dagostino  
Dean Choudri  
Rob Dawes  
Matt Robilotta  
Matt Miller  
Kathy Hale  
Jason Dagostino  
Barb Schulman  
Bill Schulman

Mark Nasuti called the meeting to order at 7:13.

He went over several ground rules for the meeting. These were the rules Mark sent out on November 22, 2021 that everyone was aware of.

- Everyone will have a chance to speak before the vote;
- The group that petitioned for the meeting “the group” will have 15 minutes to present their position;
- Attendees may have 5 minutes each to speak;
- The group will have another 10 minutes to address the issues at the end;
- The group is treated differently because they have bound themselves together as a group to call this meeting;
- Mark will be timing everyone and will call time;
- No one is allowed to interrupt another speaker;
- Suggesting people put comments or questions for the speaker in the chat;
- People can use the share screen function on zoom if they would like;
- Voting will be out loud, public, one by one, each person will announce the proxy votes they have as well;
- Mark will mute anyone who disrupts the meeting though he hopes not to have to do that.

Mark said today he realized there may be a misunderstanding of the purpose of the meeting, not related to the merits of the resolutions. The resolutions are proposed changes to a BLA policy, not a change of by-laws. The water-level and dam management is a policy so if any of the resolutions pass it will be a change in how we do things. If they do not pass, there will be no change. Voting no means no change. It does not mean it could never be changed another time.

Vicki Simons asked how the speakers can talk and read the chat at the same time.

Rovie Simons asked that since the group only has 15 minutes could Mark warn them at every 3 minute increment. Mark said he would.

Barbara Boughton and Bruce Mereness said they would give their time to Justin. Cliff Marks suggested they have Q and A from the chat after they speak. Janice Kullman suggested that after their 15 minutes, the group have another 10 minutes to address questions from the chat. Mark and others agreed and Elaine Merguerian agreed to read the chat questions.

#### Group Presentation

Justin Adamo summarized the emails he had sent to most of the BLA from Rennsselear County Soil & Water and the NY DEC stating that drawing down a lake can cause harm to aquatic animals like newts, frogs by freezing them. He said we have been doing it that way for 13 years.

Justin referred to page 142 of Diet for a Small Lake saying that winter draw downs are not a good thing. Lake Sacandaga will draw down their lake three feet until 4 inches are frozen but that's a different lake than ours.

He said there have been massive fish die-offs—dozens hundreds or thousands reported in other lakes. He also cited studies from Ohio State Extension, Penn State extension on winter kills and an environmental fact sheet that says algae blooms may happen after a drawdown.

He talked about another lake that is 1500 acres and it is still possible to have fish kills. He said he has done his research, this is not just his feeling or his opinion. We create a stagnant pond when we draw down.

Wetlands are not affected because they are dormant in winter so they can adapt to changing water levels.

In 2011 there was a change to the dam policy to take all the boards out in the winter but not all of the riparian rights holders were consulted.

There is no research to say that a winter drawdown is good. We should improve our structures. We are here for the lake. There is no point if we kill the lake.

Rovie Simons said we are going to have to make changes because of global warming. He has seen a lot of sniping in emails and it is not productive. He suggested we put in the dam board on a trial basis. If it causes a problem, then we will know. He said we should also put a mark on the dam or somewhere. Rovie further suggested the membership and by-laws should be changed. Studies can be cherry-picked, we should seek an expert opinion. Rovie said he had a contact, Steve LaMeir from Adirondack Ecologist, that he could reach out to for a recommendation.

Justin said there were some last minute emails on using the dam to control weeds. He said that only worked if there was a three-foot drawdown. He said weeds can increase with changes in water level. He said this was not done on purpose, they had followed the BLA policy. He is challenging the lake to do what is best for the lake and not to make it political.

Colleen Masters thanked Justin for all his research and said she agreed we needed to change with the times.

Questions and Answer for 10 minutes

Is the small board in? Does that follow policy? Is the policy on the website current?

Justin: now there is no board in the dam and that is consistent with the policy.

Kiley: read the current policy that says to take the boards out to lower the water level as low as possible unless that causes a problem. The board was pulled out October 28, 2021.

Is there an option to figure out if there is oxygen depletion as referenced in the materials.

Justin: George Smith did such a measure but not in all winter months. The machines cost \$500-\$1,000 to buy. We could measure it through CSLAP.

What evidence do we have that there are adverse effects on frogs and turtles?

Justin: DEC says that even a 2 inch drop in water levels can have a deadly effect.

How many dead fish have you seen?

Justin: a couple on my shore and a few others around. Could be maybe as many as 60. Usually see them by Tip Simons' house and that of Bruce Mereness.

Kiley: I saw 4—2 at our beach and 2 at Bruce Mereness' beach.

Can fish die of natural causes in winter?

Yes

What information do we have on the consequences of putting in the board in the winter?

Justin: Regarding high water levels, weather patterns show that winter is the driest season. The chances of floods are minimal.

Mark opened the meeting to anyone else who wanted to talk.

Janice Anne Kullman referred people to the email she sent out that week summarizing the issues, legal and scientific: Who should vote on these issues and whether taking the board out for the winter is bad for aquatic animals.

She said she would be voting no on the three proposals because she did not want to take a chance on damaging people's homes and she did not know that Justin's proposal was going to help the wildlife. She said that to her, reading generic guidance from people who have not been to our lake is not persuasive. She did not see this as an emergency and said we could get an expert to advise us.

Janice said that she is very concerned about our community and every time she saw another email this week her stomach sank. We all have a lot of history on the lake but let's not make it

personal. It's great that so many have come to the meeting and care about the lake. We all have something to contribute so let's give people the benefit of the doubt.

Vicki Fowler said she was speaking as a veterinarian. Justin did observations and then did research and made a conclusion. She said if you asked a pediatrician if kids riding bikes in the road could be deadly, the doctor might say yes, but that does not mean kids riding bikes on Lawson road is deadly. The observations are good but the conclusion is not.

Vicki said that 18-43% of catch and release fish die. Perch are suction fish—they suck to get food. If the sole purpose was to preserve fish, we would not allow catch and release fishing, but it is part of recreation on a lake.

Since 1960 there have been studies showing worldwide declines in frogs, bats and other species. The reasons include pollution, loss of habitat, climate changes, bacterial and fungal infections of frogs and bats. We can't prevent diseases.

We are monitoring the lake. We joined CSLAP, we got a law passed to prevent motors on the lake, several of us spent \$135,000 to buy the land around the lake to preserve it. Janice Anne found turtle eggs and took steps to preserve them. If you want more turtles, create sandy areas for them to nest. We have been good stewards. The decline in amphibious species at Big Bowman is not about the dam.

Elizabeth Marks said she was impressed with the knowledge of the people at the meeting. She is not a BLA member but she wanted to share some information as a lake biologist, someone who has spent a lot of time at the lake and who advises others on water levels and dams. She works for the USDA, but her opinions are her own.

She said that unless the person giving advice has seen the lake it will be generic advice. She said it is true we say not to change the water level after Labor Day. But the water level changes at Big Bowman are minute. Changing the water level as we do won't matter. The animals can handle these kinds of small fluctuations in the water level. The change is so small as to not have any effect. There are plenty of places for animals to hibernate.

She said it would not be worth it to measure oxygen levels in the water because the oxygen levels fluctuate in winter. She said fish do die and there is nothing we can do to stop that.

She said the biggest risk to Big Bowman is septic systems. She said a lower water level would help with septic systems not leaching into the lake. Avoiding fertilizers is the other important thing to do.

She said she works with and knows Megan—the women who wrote Justin with advice. She disagrees with her that 2" of difference in the water level makes a difference on our lake.

She said, when studies refer to a “draw down” they typically mean 3-4 feet. That is not what the dam on Big Bowman does.

Ron Cahill started by apologizing if any of his emails were offensive. He didn't mean to, but the marine in him made him want to fight back. He said we have a glacial lake that is 10,000 years old and has natural springs. We created a dam to raise the water level in the summer. We pull the boards in the winter to let the lake return to natural levels. He agrees with Diesel that we need to hire an expert. He spoke to a man from the Army Corps of Engineers (Andrew Dongler) who said a 35' lake has plenty of room to hibernate. Megan [from DEC who wrote the emails to Justin] is talking about Babcock Lake which is not much bigger. They spent \$60,000 to put in 12" of free board above their dam. That would be a big deal, we would need permits. Megan said it tore the community apart. He said it is hard to believe there is a problem with the lake after George Smith's report. Raising the level could hurt properties.

Ron said we have springs and streams feeding the lake. He said the dam raises the level 2" but that's over the summer level, but a total of 13" which would cause a lot of damages. Everything I built was with town approval.

John Losee John thinks that only riparian owners should have a vote on land and water issues, as they are the people affected by the situation, not all members of the Association should get a vote, and further, non BLA riparian owners should be included in such votes as well. He realizes we cannot have such a vote tonight, as we're already committed under the current rules to the BLA voting on the proposals before us. In 2007, when he was BLA President, we created the current dam policy. At that time, the BLA was structured so there were owner members, and associate members, and only owner members could vote. At that time, the owner members invited all non-BLA land riparian owners to join the discussion and voting on the proposed dam policy, as they were affected as well. That worked well, and since then, until now, no issues have arisen. He feels it would be best if we do the same thing if we vote to change the policy. He said he didn't feel that this was an emergent situation, but definitely merits further investigation. Therefore, he is going to vote no on the first proposition, as he doesn't feel we should make a hasty decision without further investigation, so we don't do something detrimental. He is going to vote yes on the second and third propositions though, as a) it only makes sense to put a mark on the dam, to make it easier for those regulating it - so they don't have to check the level at Anja's, and b) because he agrees we may need to change the policy based on all the new information that has come to light. He thinks it would be great to get an unbiased expert or experts to come to the lake and investigate, so that we can use their knowledge to work together on putting together, and implementing a new policy by next fall.

Jack Betterly tried to talk but his audio wasn't working.

Lorraine Ferguson said she appreciated Justin bringing this issue to our attention. We will have to change because of climate change and maybe we need to look at policies annually. She does

not think the situation is an emergency. She thinks there should be more concern about property damage. She thanked Mark for having an orderly meeting.

Jack Betterly said that the original level of the lake would be what it is with no dam and for more than half the year we return it to its natural level. Raising the level in the winter would be a giant experiment and not all the riparian owners are allowed to vote.

Shane Cahill said that the lake specific data convinced him that there is not an emergency. He said he has a stake in the health of the lake and we need a study to find out more. It is \$800 for an oxygen measuring tool. The dam board only makes 2" of difference. If less deep lakes are not affected then why should we be? Shane said we should get accurate measurements. He loves to fish but is very concerned with causing possible property damage.

Barbara Mark said she still has scars from the sonar issue [a herbicidal treatment to kill bladderwort in the lake] but she sees two issues but who can vote supersedes the other issue and it changes her vote on the other issue. She wants to abstain because not everyone who should vote is here. She sees over 1' of change on her end of the lake but no property is damaged because of it. She is an animal lover and doesn't want to hurt the animals.

Vicky Simons had a question about riparian rights owners. Other decisions have been made, so were those riparian rights owners consulted then? If not, then we are still doing the same thing.

John Losee answered that when he was president of the BLA only owner-members could vote. However, we invited non-BLA riparian rights owners to vote on the dam policy. Associate members (non-owners) did not vote. The owner-members voted to let non-BLA riparian rights owners vote in the decision and they did. He remembers Diane Smead coming. Do riparian rights owners know what is going on now with this issue?

Anja Carr said that back then non-owners could only be Associate members who were non-voting.

Barbara Mark noted that for the sonar issue DEC needed the riparian owners only to vote. Anja said that that movement was Rick Keeler doing something outside the BLA.

Pat Betterly asked about notification of this meeting and whether those without email were notified as well.

Mark said he hand delivered the notice and agenda to the two houses he is aware of that do not have internet or email. Mark said he maintains the BLA mailing list and does his best to keep it accurate. The list includes some people who are not BLA members but are interested like Cathy Berman, Bill and Cindy Lafleur, Rick and Chris Keeler. He doesn't know if all the riparian rights owners are on the list.

Pat said she is concerned the other owners are not aware and that she would pay her \$20 to be a member for that reason.

Mark pointed out every riparian owner is eligible to become a BLA member.

Vicki Simons For those concerned about riparian owners, they would not have standing if they are not members because they could be members if they wanted to be.

Bill Schulman said that until 2011 we put the 5" board in in May and the 11" board in in spring. He said it seemed like a lot of people didn't know of the change from 2007. How old is the dam? How is it operated?

Rovie said he was president of the BLA in 2005 when the dam needed to be fixed. Between 2005 and 2007 John Walsh fixed it. The two boards used to fit on top of each other. With today's dam you cannot do that. The old dam had to be replaced because it was wood and was rotting.

John said that Dan Coiteux dumped the rocks into the outlet above the dam after that. There are still some of those rocks left which clogged the outlet. He added that John Walsh got a permit from DEC in Mark Frost's [then current owner of Justin's property where dam is] name. He said the current dam has two metal sheets which can be locked. Until 2011 we switched the small board and the large board. In 2011 the policy changed so that we had no board in the dam in the winter.

Ron said the new concrete dam starts higher so it is already higher than the old wood dam. He said we have had no problems between 2007 and 2011.

Mark said that riparian representation is important and if it is important to you, then you should vote no tonight. Marking the dam seems sensible but we have never done it because we need to mark the water level in the lake, not by the dam. The water level on the lake is what is relevant. Flowing water is different than still water. The third proposal of changing the dam policy makes no sense. I have written three emails on this. If you are not sure who to listen to, if you need more information, then you should vote no. No means no for now.

The group was allowed the remainder of its time now that everyone who wanted to speak had spoken.

Justin Elizabeth Marks seems like a nice person and all but who is she? How was she invited? How do we know she is not biased? Justin called the Army Corps of Engineers and they would not respond. DEC said dam is under 6 feet so it is up to the property owners. We have evidence from DEC. We have had two boards in the past. Were elevations taken? We don't know. How do we get to a point to mark a point? A survey would do it. There are a lot of facts here. We have three organizations saying we are doing damage.

Low water is good for properties. But not good for the lake. An expert needs to have no bias. Some people say the dam will raise the lake 11". Dam only raises the water 1.5" but that much could be crucial to animals. Our pond is the right size for these problems. We should be concerned about property but winter is dry and can mitigate potential damage with bubblers.

Ron Andy Dangler is the Army Corps of Engineer guy. He came up to catch a goose. Elizabeth Marks is Charlie Benson's niece and she put together the memory book of Bowman Lake.

Kiley Elizabeth sounds knowledgeable but has she done a study of the lake? Do you have to be a BLA member to be in the meeting?

Mark We have never limited attendance to the meeting, but you cannot vote if you are not a member.

Kiley The dam board was pulled so many times. There should be a mark somewhere. We pull it out at the threat of rain. We need a better marker. The by-laws need to change. Maybe not tonight but sooner rather than later.

Justin George Smith's study, he was a college student and did the study as his thesis. George referenced a study from 2003 that said that 78% of water did not have enough oxygen to support fish life.

Eric Berman I'm an owner, but not a BLA member, why don't I get a vote?

Mark The by-laws don't allow non-members to vote. As President of the BLA, I need to follow those rules.

Mark then instructed that he would call names out for the voting. Laura Dagostino would check to make sure each person was a member in good standing. Each person should also say how any proxies they had were voting. Mark called the names, and Janice Anne recorded the votes, as follows.

1. Dam Board being placed back in immediately as per DEC and Rensselaer County Soil and Water recommendations
2. A mark being placed on the dam so we know what a proper water level is
3. Revising the current dam board policy so we are no longer causing more harm than good to the lake

y= Yes to the resolution n= No to the resolution.

| NAME                        | RESOLUTION 1 | RESOLUTION 2 | RESOLUTION 3 |
|-----------------------------|--------------|--------------|--------------|
| Cliff Mark                  | abstain      | y            | y            |
| Barbara Mark                | y            | y            | y            |
| Matt LaFleur                | n            | n            | n            |
| Barbara Boughton            | y            | y            | y            |
| Mark Nasuti                 | n            | n            | n            |
| Vicki Fowler                | n            | n            | n            |
| Justin Adamo                | y            | y            | y            |
| Kiley Hug-Adamo             | y            | y            | y            |
| Dave Cobden                 | y            | y            | y            |
| Karen Cobden                | y            | y            | y            |
| Karen Douttiel <sup>1</sup> | y            | y            | y            |
| Dave Douttiel <sup>2</sup>  | y            | y            | y            |
| Rick Giolito                | y            | y            | y            |
| Janice Kullman              | n            | n            | n            |
| Bill Kullman                | n            | n            | n            |
| Wes Krahl                   | n            | n            | n            |
| Katherine Kullman           | n            | n            | n            |
| Sharon Dawes                | n            | n            | n            |
| Bob Dawes                   | n            | n            | n            |
| Ron Cahill                  | n            | n            | n            |
| Kevin Rowe                  | n            | n            | n            |
| Kaitlyn Rowe                | n            | n            | n            |
| Erin Robilotta              | n            | n            | n            |
| Matt Robilotta              | n            | n            | n            |
| Scott Cahill                | n            | n            | n            |
| Rachel Cahill               | n            | n            | n            |
| Eileen Cahill               | n            | n            | n            |
| Jamie Cahill                | n            | n            | n            |
| Anthony Cahill              | n            | n            | n            |
| Vicki Simons                | y            | y            | y            |
| Rovie Simons                | y            | y            | y            |
| Lindsay Frost               | y            | y            | y            |
| Tip Simons                  | y            | y            | y            |
| Laura Simons                | y            | y            | y            |

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<sup>1</sup> This proxy vote came from Justin who represented he had sent the votes in writing to Mark but Mark received votes, not proxies. Advance voting (voting prior to the meeting ) was not an option. Mark informed the membership of this in his Nov 23 email. Therefore, these votes were not counted as part of the total.

<sup>2</sup> This proxy vote came from Justin who represented he had sent the votes in writing to Mark but Mark received votes, not proxies. Advance voting (voting prior to the meeting ) was not an option. Mark informed the membership of this in his Nov 23 email. Therefore, these votes were not counted as part of the total.

|                     |                                   |                  |                  |
|---------------------|-----------------------------------|------------------|------------------|
| Sarah Simons        | y                                 | y                | y                |
| Elaine Merguerian   | n                                 | n                | n                |
| Karen Merguerian    | n                                 | n                | n                |
| Colleen Masters     | y                                 | y                | y                |
| Dan Coiteux         | y                                 | y                | y                |
| Anja Carr           | n                                 | n                | n                |
| John Losee          | n                                 | y                | y                |
| Bruce Mereness      | y                                 | y                | y                |
| Jack Betterly       | n                                 | n                | n                |
| Marsha Broch        | n                                 | n                | n                |
| Charlie Broch       | n                                 | n                | n                |
| Shane Cahill        | n                                 | n                | n                |
| Lorraine Ferguson   | n                                 | n                | n                |
| Pat Betterly        | n                                 | n                | n                |
| Barbara Kivlin      | n                                 | n                | n                |
| Laura Dagostino     | n                                 | n                | n                |
| Rob Dawes           | y                                 | y                | y                |
| Cathy Hale          | n                                 | n                | n                |
| Jason Dagostino     | n                                 | n                | n                |
| Barbara Shulman     | n                                 | n                | n                |
| Bill Shulman        | n                                 | n                | n                |
|                     |                                   |                  |                  |
| <b>TOTALS</b>       | 1 abstention;<br>35 No;<br>17 Yes | 34 No;<br>19 Yes | 34 No;<br>19 Yes |
|                     |                                   |                  |                  |
| <b>FINAL RESULT</b> | No                                | No               | No               |

The result after 53 votes of members were counted, including those by proxy, was that all three resolutions failed.

Mark said that he was going to start a committee on water level and that as President he can appoint committee chairs and he hopes it will have broad representation.

Vicki Simons and Dean Choudhri both remarked that it would be good to promote BLA memberships by letting people know that membership means voting rights.

Cathy Berman noted that she will be sending in dues for her and her family.

Justin said that for resolutions 2 and 3 to be voted down he was really disappointed.

Kylie I hope that those committees start sooner rather than later. She wanted to know when we were going to hire someone and who can vote and said that we should have deadlines.

Justin said we should get someone to the lake by February or March.

The next meeting of the BLA is President's Day Weekend, Sunday February 20th @ 7 pm via Zoom.

The meeting closed at 9:00 PM; several people remained on the zoom to talk for an additional 30 minutes.