

## Ossipee Lake Alliance News Release

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For Immediate Release

### Alliance Asks Zoning Officials To Intervene In Marina Case

**Freedom – March 2, 2006** – Ossipee Lake Alliance has sent a letter to more than three dozen past and present members of Freedom's Zoning Board of Adjustment (ZBA) asking them to intercede with the Board of Selectmen over zoning violations at Ossipee Lake Marina.

The letter, which was signed by Alliance officials Howard Bouve and David Smith, says the Selectmen are undermining the Zoning Board's authority by failing to enforce key provisions of 1997 and 2002 ZBA rulings on the Marina's operations. Bouve was a member of the ZBA at the time of the rulings.

The ZBA rulings, which were appealed by the Marina but upheld in State Superior Court in 2003, ended Freedom's longest, costliest and most divisive land use case; one in which lake residents charged town officials with failing to enforce environmental and zoning violations at the Marina during a four-year period.

Ossipee Lake Marina is principally owned by Kevin Price of Londonderry and is managed by Freedom resident Tim Cupka, whose wife, Donna, is an interim Freedom Selectman. Selectman Cupka, who is running for election in March, was appointed by Board Chairman Les Babb to complete the term of John Krebs, who resigned last fall.

The Alliance officials say they advised the Selectmen of the new violations in writing last July, and again in August and December. While the Selectmen have never responded to the lake organization, minutes of the Selectmen's meetings show the alleged violations were discussed and found to be in compliance with the ZBA, conclusions the Alliance disputes.

#### **Selectmen Decisions**

In one decision, the Selectmen authorized the Marina's use of adjacent Alvino Road for customers despite the ZBA's 2002 rejection of such use, and its mandate that the steep and narrow dirt road be accessible for emergency vehicles only.

The Alliance also says the Selectmen have circumvented the ZBA-imposed winter limit of 23 outdoor boats and trailers by exempting 120 of the 143 boats currently stored outside on the property. In another decision, the Selectmen determined that the Marina's expansion of boat slips to adjacent residential Lot 42 is a State matter governed by RSA 42A2-8b, a law that does not exist.

The record shows that Selectman Cupka recused herself from issues involving her husband's business and left two members to vote, Babb and James Breslin. Babb was the town's Code Enforcement Officer at the time of the ZBA decisions, and Breslin was Chairman of the ZBA and championed the Town Attorney's defense of the Zoning Board rulings in State Superior Court.

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### **Grandfathered Business**

As a grandfathered commercial business in the town's Residential District, the Marina can operate as it did before zoning but must apply to the ZBA to make material changes. After Price purchased the Marina in 1997, lake residents contacted town officials to report environmental and zoning violations that included filling wetlands and constructing buildings without permits. In 2001, Price was ordered to restore the wetlands and apply to the ZBA for "after the fact" special exceptions.

More than 200 people attended a March, 2002 public hearing during an ice storm to oppose Price's proposal to increase the size of the Marina by one-third and expand boat storage to 55,000 square feet. The ZBA rejected the plan, but approved the use of a parking lot and bathhouse that were constructed on adjacent residential property without required approvals. Price appealed, but the ZBA was upheld in State Superior Court in December, 2003.

### **Damage to Zoning**

The Alliance officials say the Selectmen's interpretations of the ZBA rulings have no basis in law and are undermining the authority of the Zoning Board. They hope an intervention by zoning officials will prevent a legal challenge against the Selectmen, something the lake group says will erode confidence in local government and damage public support for zoning.

"The Selectmen are undermining the very same rulings that the Town Attorney successfully defended in Superior Court just three years ago," the Alliance officials say.

"The ZBA rulings are clear, and so are the violations. Given how expensive and divisive the Marina case has already been, you have to wonder why the Selectmen are doing this."

Ossipee Lake Alliance's website contains an updated chronology of the Marina case and all of the relevant public documents from 1997 to present. It's at [www.ossipeelake.org/chronology](http://www.ossipeelake.org/chronology).

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