



KEY DATES:

- Tuesday, March 11: Ossipee elections. Town Hall, 10AM-7PM.
- Tuesday, March 11: Effingham elections. Town Hall, 11AM-7PM.
- Tuesday, March 11: Freedom Town Meeting (9AM) and elections (9AM-7PM). Town Hall.
- Wednesday, March 12: Ossipee Town Meeting. Town Hall, 6:30PM.
- Saturday, March 15: Effingham Town Meeting. Town Hall, 9AM.

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OSSIPEE LAKE, THE BAYS, THE RIVERS
AND CHANNELS, DANFORTH POND, LOON
LAKE AND ROUND POND

David Smith, Executive Director
Susan Marks, Development Director
Board Members: Howard Bouve, Perry
Fine, Barre Hellquist

OSSIPEE LAKE REPORT

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CHALLENGES AHEAD FOR DANFORTH POND

FREEDOM — When there is a lot of milfoil to control and limited funds to pay for it, what is the best solution? Is it hand-pulling by divers? Chemical treatments? Or the new method called suction harvesting?

Those are among the questions facing Danforth Pond volunteers as they work to control the milfoil that inhabits almost every part of the hour glass-shaped water body where almost \$100,000 has been spent to date to keep in check.

The volunteers, including those from the newly formed group Friends of Danforth Pond, are working with Ossipee Lake Alliance to assess which method, or combina-

tion of methods, will be cost-efficient as well as effective in keeping the invasive weeds under control. There is a lot to consider.

As a foundation for making a decision, Danforth Pond organizer Marcia Murphy and Alliance program director Susan Marks last year helped the Department of Environmental Services (DES) create a milfoil management plan for the pond.

The two led volunteers in compiling data ranging from the characteristics of the water to the location of docks and the patterns of boat traffic. Then they and DES each mapped the affected areas by physical loca-

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There was early ice this year, followed by sleet, snow and freezing rain as winter made its presence felt on Ossipee Lake just before the holidays. *Photo: Canoe King*

JUDGE OVERRULES MARINA EXPANSION AND SELECTMEN APPEAL TO SUPREME COURT

FREEDOM — A Superior Court judge has overturned the Freedom Zoning Board of Adjustment's January 2007 approval of unlimited boat storage at Ossipee Lake Marina, and the town's Selectmen have appealed the decision to the N.H. Supreme Court.

Marina owner Kevin Price will not be an intervener in the appeal, meaning the town will argue the case to the High Court alone. Legal experts say the appeal could cost the town as much as \$5,000.

The Selectmen's vote to appeal took place on November 26 after a five minute non-public

discussion, according to meeting minutes. Selectman Donna Cupka, whose husband is a marina employee, abstained from the vote.

Selectman Les Babb informed the Zoning Board about the appeal the next day, saying Town Attorney Peter Malia believes the ZBA did "a good job in its decision and process" despite the town's defeat on the issue in Superior Court.

In an order signed on November 15, Judge Edward Fitzgerald ruled that what the Zoning Board approved on January 23 was "sub-

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SELECTMEN TAKE OSSIPEE LAKE MARINA CASE TO SUPREME COURT

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stantially the same" as what it turned down in 2002 as having adverse impact.

Reversing the Zoning Board's decision, Fitzgerald cited case law in *Fisher v. Dover* which prohibits individuals from repeatedly applying for the same special exceptions in the hope of obtaining a different outcome as board members change over time.

Price Opt's Out

As the appeal moves forward, the individual with the most at stake in the case, marina owner Price, is not a party to the proceeding and has no direct involvement in the matter.

Although his 2006 application for unlimited boat storage set the case in motion, court records show he did not file as an intervener after the Zoning Board's approval of his expansion plan was appealed by neighbors.

As an intervener, Price would have had the same legal status in the matter as the town.

An attorney familiar with municipal cases says it is unusual for an individual with a substantial interest in a town legal matter not to intervene to ensure that his personal interests are protected in the proceeding.

By not filing as an intervener, Price abandoned his right to participate in the case, including the right to appeal, leaving responsibility for pursuing the matter to town officials.

Community Interest Questioned

Attorney Fay Melendy, who represents one of the marina's neighbors in the case, questioned what community interest was being served by the town mounting a Supreme Court challenge of a decision that did not break new legal ground.

"The Superior Court said the 2007 Zoning

Board did not have the right to overrule decisions made by the Board in 1997 and 2002 that put limits on boat storage," she said.

"In essence, the judge ruled that the town had already resolved the issue and the new decision was invalid. By appealing to the Supreme Court the town is going against its own history in this matter."

Key Marina Case Facts

1997 — ZBA grants Price a special exception for two storage buildings subject to a cap on the number of boats.

2000 — An illegally constructed third building collapses in a storm and ZBA denies Price's application to rebuild.

2001 — Price applies for more boat storage but withdraws before ZBA can rule.

2002 — Price applies again and ZBA turns him down, citing adverse impact. Price revises the application and resubmits it, but is denied again. He sues the town and loses.

2006 — Selectmen acknowledge they have allowed Price to exceed the boat storage cap, and he applies to ZBA a sixth time.

2007 — ZBA votes 3-1 to eliminate the 1997 cap but Superior Court reverses the decision. Selectmen appeal the court's reversal to the Supreme Court.

The marina case stems from the Zoning Board's 1997 decision to allow Price to construct two storage buildings on the property provided that the number of boats was capped.

After area residents complained to town officials that a third building had been constructed and the cap was being violated, Price applied to the ZBA for relief in 2002 and was turned down, a decision town officials successfully fought to uphold in Superior Court a year later.

Hearings Held

The 2007 Zoning Board approval of expanded operations came after three public hearings at which a majority of the testimony opposed Price's expansion plan.

In addition to citing the town's previous rejection of increased storage, residents who opposed the change raised issues about environmental impact and fire danger. DES submitted two letters asking the Board to establish whether the expansion would affect the lake environment.

After the Board voted 3-1 that the plan would not have an adverse impact, the vice-chairman of the 1997 Board, Donald Bossi, wrote a public letter calling it "one of the worst [town] decisions I have ever seen."

Bossi added that the ruling would allow the marina to store boats "without any thought about fire, vehicle access or neighborhood economic and environmental impact." §

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DANFORTH POND ASSESSING MILFOIL COSTS AND CONTROL OPTIONS

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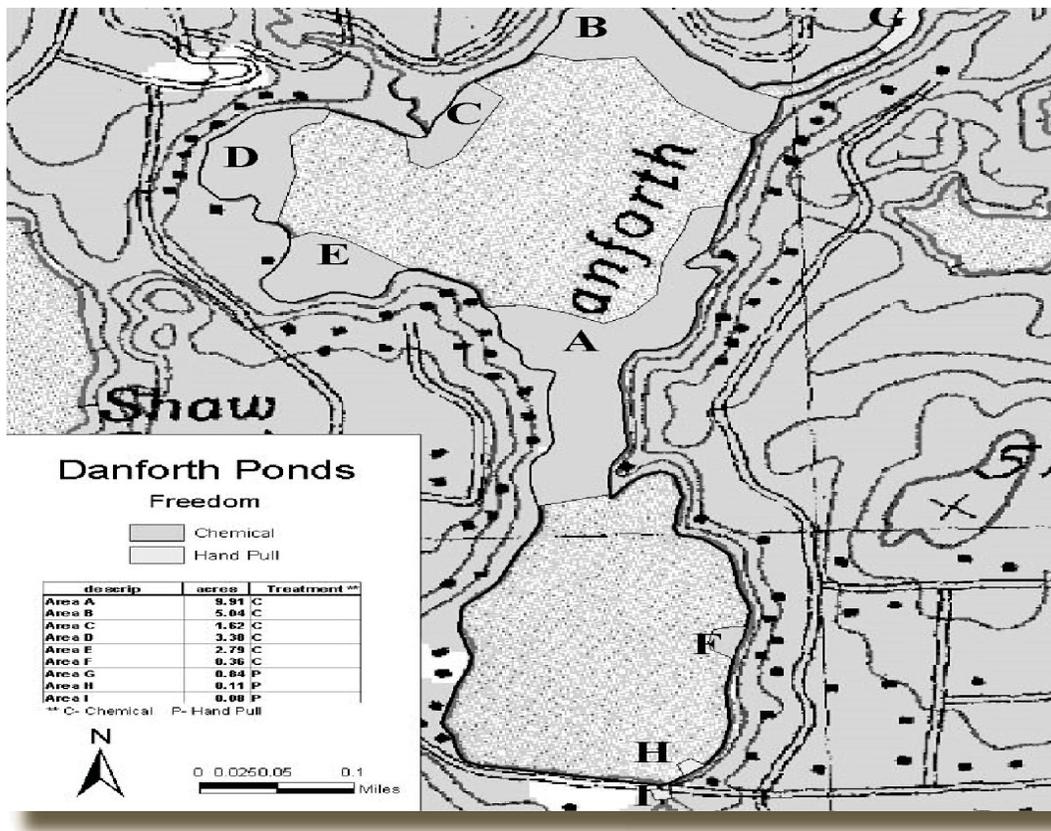
tion and the degree of infestation, the composite of which is shown in the map below.

In all, there are 23.1 acres of infested waters marked with bold-faced letters in upper and lower Danforth Pond, as well as in Huckins Pond Brook to the north and in Danforth Brook to the south.

In November DES formulated a preliminary

First, the use of the chemical 2,4-D requires that the owners of lakeside wells be identified and that they agree to the treatment, something the volunteers felt was not possible to accomplish by year-end.

In addition, while chemical treatments can be effective their track record on the lake is spotty. A 2004 Diquat treatment in Phillips Brook,



recommendation that the most heavily infested areas of the pond - those marked A-F on the map - should be treated with an aquatic herbicide, either Diquat or 2,4-D, and that the northernmost and southernmost parts of the pond, areas G, H and I, be hand-harvested by professional divers.

Cost and Performance Factors

Estimates obtained for the chemical treatments alone ranged from \$12,000 to \$15,000 with DES indicating that the work could qualify for a matching State grant. That is, if an agreement could be signed by the end of December.

After a hastily arranged conference call with specialists at DES, a decision was made to delay committing to the State-proposed plan for reasons that virtually define the dilemma that milfoil presents.

for example, failed to stop milfoil's advance toward Leavitt Bay, something that divers were able to accomplish a year later in the first State-sponsored test of hand-harvesting.

In the final analysis, Murphy and Marks felt there was not enough time to evaluate the options and gain the consensus of town officials and Danforth Pond property owners, all of whom will need to be involved in the plan and its funding.

The two say they are confident that a new DES proposal can be ready by spring, with State matching funds still a possibility.

In the continuing search for the best control plan, only one thing is certain. Until an eradication method is found, tough financial decisions about milfoil will be with us for years to come.

LAKES ASSOCIATION PROPOSES LEGISLATION

CONCORD — The N.H. Lakes Association (NHLA) is considering filing legislation that would require licensed sewage and septic designers to notify DES when they discover a failed or failing waterfront septic system during a site assessment.

State law RSA 485-A:39 requires that waterfront property owners perform a site assessment prior to the sale of a property, but there is no requirement that a system that is out of compliance be reported to the State.

If the loophole is closed, the Association says the information that is already being collected can be used by DES to follow up and ensure that inadequate systems are corrected.

NHLA says inadequate septic systems are one of the State's most significant non-point sources of water quality pollution and degradation.

Moorings Petition Process

The proposed legislation is one of a number of bills on the Association's tentative agenda for 2008. Also under consideration is a bill that could bring additional lakes and ponds under the State's mooring law, which controls the number and placement of boat moorings.

Currently only New Hampshire's six largest lakes, including Ossipee Lake, fall under the moorings regulation. The Association says moorings, if not properly regulated, pose a threat to people and the environment as boats

are randomly moored in different areas of a water body, often in large numbers.

In some instances moored boats have been known to prevent property owners from fairly accessing public waters in front of their property.

Pointing to a correlation between regional population growth and an increase in the number of boaters, NHLA says a process is needed so that the Department of Safety can be petitioned to have new lakes and ponds come under the State's existing moorings law.

Personal Watercraft

The Association also hopes this will be the year the legislature closes a loophole that has rendered the State's ski-craft law, RSA 270:73, meaningless.

While New Hampshire was one of the first states to regulate the watercraft commonly known as jet-skis, the law defined jet-skis as two-passenger craft and was never updated to include three- and four-passenger vessels.

A number of lakes and ponds in the State obtained restrictions through the law's petition process only to have the restrictions become moot as manufacturers built watercraft that exempted them from the law.

Previous efforts by NHLA to close the jet-ski legislative loophole have been unsuccessful.

WEBCAM OFFERS YEAR-ROUND LAKE VIEW

OSSIPEE — Miss the lake? Thanks to a local businessman you can be hundreds of miles away and feel like you're right on the water with the click of a mouse.

The Ossipee Lake webcam is John Rowe's idea. The Tamworth native is one of the owners of Canoe King, which has been renting and selling canoes, kayaks and paddle gear on Route 16 for 30 years.

He got the webcam bug from a friend in Vermont who taught him how easy it is to set one up and operate it. Back in New Hampshire with an arm load of equipment, Rowe found the perfect lakeside perch for the camera at his home on Broad Bay, which has been in the family since the 1930s.

Positioned toward the northwest, the lens takes in a great sweep of the bay with the undulating Ossipees and craggy Mount Chocorua as a backdrop.

Stunning? Always, whether it's sunny or stormy. Not surprisingly, since the webcam launched in May it has garnered about 5,000 page views daily, a number that has slowed a bit off-season, Rowe says.

"We've been promoting it in the store and on our website, but we're also getting hits from websites that list webcams."

Every five seconds the camera refreshes and uploads a new image, connecting to the Canoe King website via cable modem. The site also has an archive of shots from sunsets to dramatic clouds to lightning strikes.

Since the scenery on Ossipee Lake is second to none, the webcam has been good for Rowe's business, where the most popular daytrip for rental customers is a leisurely paddle down the Bearcamp River to the big lake.

"People outside the area see the lake on the webcam and want to be here," he says, "but there probably are also a lot of summer residents who miss the lake and just want a quick look."

"The webcam lets them come back anytime they want."

Canoe King's Ossipee Lake webcam can be found at www.canoeking.com. Just click the "webcam" tab.

Ossipee Lake Alliance gratefully acknowledges the contributions made in 2007 in memory of:

Margaret Littlefield
Arnold F. Sammis III and Wendy Sammis-Davis
Barry Hill



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INSIDE:

- Tough Decisions for Danforth Pond
- Selectmen Appeal Marina Decision
- 2008 Lakes Legislation Agenda
- Webcam Offers Year-Round View

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