

CUBA LAKE DISTRICT
P.O. BOX 307
OLEAN, NEW YORK 14760

The regular monthly meeting of the Cuba Lake District Board of Commissioners was held on Thursday, June 13, 2002, at the Cuba Town Hall, 20 Water Street, Cuba, New York

Deputy Chairperson Lynn Sweet called the meeting to order at 7:03 p.m. and asked the secretary to call the roll:

COMMISSIONERS PRESENT:

Jeff Bradley
Erick Laine
Walter Lang
Lynn Sweet
Wayne Schlifke

ALSO PRESENT:

Treasurer Andrew Lindquist
Secretary Pam Konieczka
Attorney John M. Hart, Jr.

GUESTS:

Jim Mostacato
Jillian Kule - Olean Times Herald
Dana Harvey - Maintenance
Mark McGovern - Water Quality

Dana Harvey reported that the harvester is now in the water. He is waiting for parts for the elevator. Commissioner Sweet asked when the weed cutting would start. Mr. Harvey stated that he would begin cutting once he receives the parts for the elevator. Commissioner Sweet stated that he would like to see that a schedule be created for the weed cutting. He also stated that Shawn Mountain would be interested in helping with the weed cutting and gave phone numbers to Mr. Harvey where he could be reached.

Mr. Harvey stated that the Fridays would be a good day to pick up weeds from docks. Commissioner Sweet asked how many loads of weeds could be cut per day. Mr. Harvey stated that approximately 10 - 15.

Commissioner Sweet asked if Mr. Harvey would continue to do maintenance as he has in the past cleaning up by the spillway, mowing, etc. Mr. Harvey said that he would. Mr. Harvey asked if the area where the trailer was purchased would need to be mowed. Commissioners felt that it was not needed.

Mr. Harvey would like to charge a fee for usage of his equipment. For example, use of his dump truck. The commissioners will discuss an amount for that fee. Mr. Harvey will

keep a logbook and submit it to Andy Lindquist for payment. Commissioner Bradley will furnish Mr. Harvey with a logbook and time sheets. Mr. Harvey gave his phone number, 968-0111 if there were any problems or concerns.

Mr. Harvey also asked about charging the District for storing the harvester. It is stored for about 6 months out of the year. Commissioners will discuss an amount.

Mark McGovern who is a student at Alfred University spoke regarding his ideas for water sampling of the Lake. The water samplings would be sent to a lab for testing. He would like to pick up the samples on Thursdays. The samplings would be \$70.00 per sample. He felt doing samplings every third week would create a base line for him to work from. The cost would probably be around \$1,470.00 for the project, which would run from June 20 through October 17. This fee could be paid for by the Management Agreement Budget. Commissioner Sweet asked Mark if he had a recommendation for minimal testing. Mr. McGovern replied that there really isn't one.

Commissioner Laine asked what areas of the Lake Mark would be testing. He felt a definite area would be by the Rawson Creek.

Motion was made by Commissioner Laine to give Mr. McGovern the go ahead to begin his project, seconded by Commissioner Schlifke. All in favor 5 yes, 0 no. MOTION CARRIED.

Mr. McGovern also expressed that a rain gage and temperature gage be used to monitor the Lake that should be taken daily and the readings sent to Mark. Commissioner Sweet agreed to do the readings.

Commissioner Sweet asked Mark about paying for the lab testing. Mark stated he would check to see if the District could be billed on a monthly basis.

Bill Dibble with the Allegany Trails handed out a copy of a Membership Application and a proposed trail map that surrounds the Lake. He felt this would be a good concept to follow and help if and when there was ever a sewer system put in around the Lake. He stated there is grant money available, but may still entail some expense from the District. Commissioner Sweet asked what Mr. Dibble would want from the District. Mr. Dibble would like to see help with insurance expenses. Attorney Hart asked what the liability risk would be and Mr. Dibble stated \$5 million. Commissioner Sweet asked what funding was also available to help with the expense. Mr. Dibble felt the application fees would help cover it.

APPROVAL OF MINUTES:

Motion was made by Commissioner Lang to accept the minutes of the May 9, 2002 meeting, seconded by Commissioner Laine. All in favor 5 yes, 0 no. MOTION CARRIED.

CORRECTIONS: None

TREASURER'S REPORT:

Following review of reports circulated by Treasurer, Commissioner Bradley moved to accept the Treasurer's reports for filing, seconded by Commissioner Laine. All in favor 5 yes, 0 no. MOTION CARRIED.

Following presentation of the List of Claims, Commissioner Bradley moved to pay the accounts as listed, seconded by Commissioner Schlifke. All in favor 5 yes, 0 no. MOTION CARRIED.

AMOUNT: \$ 11,096.17

CORRESPONDENCE:

See attached Index of Correspondence.

COMMITTEE REPORTS:

1. BUILDING & LOT IMPROVEMENTS - Walt Lang, Jeff Bradley

A. Pohlig, Lot 3271 - received written approval from OGS.

B. Feldbauer, Lot 3207 - received written approval from OGS.

C. Weatherell, Lot #301 - received written approval from OGS.

D. North, Lot #103 - received written approval from OGS.

E. Yaht Club - received written approval from OGS.

F. Armbruster, Lot #332 - request to replace wooden breakwall with new breakwall constructed of precast concrete. Pending District approval. Commissioner Lang will get further information from Mr. Armbruster. Pending OGS approval also.

-Commissioner Sweet asked how the District ever knows if there has been DEC approval given to any of the requests that are submitted by cottage owners. Commissioner Sweet asked if we, the District should be receiving DEC approval before receiving it from OGS. Commissioner Lang commented that that could hold up the whole process. Attorney Hart would like to meet with Taft from the DEC to discuss the issue. Commissioner Sweet suggested that maybe there is a way the DEC could notify the District when such approvals are given.

2. BUDGET & FINANCE - Jeff Bradley, Lynn Sweet, Andy Lindquist, ex officio

-The 2003 Budget was proposed. See resolution.

3. PARK MAINTENANCE - Wayne Schlifke, Walt Lang

-Commissioner Schlifke asked if there was a budget line for the use of Dana Harvey's equipment. Commissioner Sweet stated that would fall under Operating Expenses.

-Commissioner Sweet asked the treasurer if he receives any employment information on Dana Harvey or anyone else hired by the District. Mr. Lindquist stated that he only receives W-4 forms.

-Commissioner Laine stated that he spoke with Lt. Kemp from the Sheriff's Department regarding the Ranger Cabin. Lt. Kemp stated to him that the boathouse is in need of a new roof and that the boatlift isn't working. Commissioner Laine suggested that Orn Smith take a look at the boatlift and if repairs are done, that maybe the county would reimburse the District.

Motion was made by Commissioner Laine to hire someone to do the repair needed on the roof of the boathouse, seconded by Commissioner Schlifke. All in favor 5 yes, 0 no. MOTION CARRIED.

4. WATER QUALITY - Lynn Sweet, Erick Laine

-Nothing to report.

5. STATE RELATIONS COMMITTEE - Erick Laine, Lynn Sweet

A. Seneca Nation of Indians Litigation Update

- Attorney Hart reported that under Section 10, the council to the Governor does not have authority for the State to cover legal fees for the 19 cottage owners involved in the litigation.

- There is a special meeting set for Saturday, June 15 at the Cuba Library to further discuss the litigation.

B. Budget Update

- Attorney Hart spoke with Tom Pohl and he felt that the final approval necessary should be done within the week. Attorney Hart stated that the District would be receiving approximately \$150,000.00 from the State in lease fees.

Motion was made by Commissioner Schlifke to authorize to adopt the proposed budget as the budget and keep all budget lines as is, seconded by Commissioner Lang. All in favor 5 yes, 0 no. MOTION CARRIED.

- Attorney Hart transmitted documents regarding the purchase of the Taylor Farm to the State and that they will now own it. The State will then issue a check back to the District for the full amount of the purchase. Commissioner Sweet asked if this would include any legal fees involved with the purchase. Again, Attorney Hart stated that a check would be issued for the full amount incurred in the purchase.

Motion was made by Commissioner Bradley to authorize the District to equal the cost of the Taylor Farm purchase, seconded by Commissioner Lang. All in favor 5 yes, 0 no. MOTION CARRIED.

- Commissioner Bradley asked Attorney Hart if all back taxes on the Taylor Farm were current. Attorney Hart stated that they were.

Motion made by Commissioner Laine to adjourn into executive session regarding the Seneca Nation Litigation issue at 8:50 PM, seconded by Commissioner Schlifke. All in favor 5 yes, 0 no. MOTION CARRIED.

Motion made by Commissioner Scelifke to adjourn out of executive session and back into the regular meeting at 9:15 PM, seconded by Commissioner Bradley. All in favor 5 yes, 0 no. MOTION CARRIED.

It was noted that in executive session the Commissioners had discussed in detail the current state of the Seneca Indian Nation v. State of New York litigation including the

events of recent weeks which among other things saw the Federal District Court denying the District authority to participate in the litigation/mediation. The decision of the Court also did not permit the affected cottage owners the right to participate in the mediation. It was observed that the litigation raised very substantial lake-wide issues with the risk of significant long term potential impact on the affected cottage owners as well as potentially on the lake as a whole. It was also noted there would be a meeting on Saturday 6/15/02 with the affected cottage owners in the contested area. The commissioners all felt that it would be of benefit to the entire Lake if the cottage affected cottage owners were to be represented by counsel. To achieve this, it was felt that it would be of benefit to legally challenge the recent position taken by the Counsel to the Governor that State Law 10 protections would not be given to cottage owners in the contested area, if the affected cottage owner agreed that such a challenge was in their interest. It was felt that to offer to the affected cottage owners the support of the District in testing this legal decision would be wise since there appears to be a good argument that the interpretation of the Governor's counsel overlooks the realities at Cuba Lake. Motion was made by Commissioner Lang to have the District pay the legal expenses associated with the legal action against the State to have the Governor under State Law, Section 10, appoint council for defense of the 19 cottage owners involved in the litigation case with the Seneca Nation of Indians, seconded by Commissioner Bradley. All in favor 5 yes, 0 no. MOTION CARRIED.

Motion was made by Commissioner Schlifke to hire Hodgson Russ to represent the 19 cottage owners under the State Law, Section 10, seconded by Commissioner Laine. All in favor 5 yes, 0 no. MOTION CARRIED.

NEW BUSINESS:

1. Resolution to Adopt Official Newspapers for District-resolution attached.
2. Resolution to Adopt Official Notice for Budget-resolution attached.
3. Resolution to Adopt Official Notice for Annual Election-resolution attached.
4. Additional Patrol for 4th of July weekend. Commission felt this was handled at the April Meeting that Lt. Kemp attended.

ADJOURNMENT:

Motion to adjourn meeting by Commissioner Bradley, seconded by Commissioner Lang. All in favor 5 yes, 0 no. MOTION CARRIED.

Respectfully Submitted,

Pam Konieczka