

CUBA LAKE DISTRICT Board of Commissioners
Minutes of the Regular Meeting Held June 14, 2007
At the District's Office, 31 Water Street, Suite 8

Chairperson Lynn Sweet called the regular meeting to order at 7 pm

Present: Lynn Sweet
Erick Laine
Dave Shemeld
Jerry Collins

Also Present: John Hart, Attorney
Secretary, Isabel Warren
Treasurer, Andrew Lindquist
Dave Bosworth, Lake Manger

Recognition of Guests: Joseph Higgins (259)

Deputy Sheriff Bart Hannon

- A. Reported Additional Patrol for 4th of July weekend.
- B. Weekend patrols will be 4 hours on Friday and 8 hours on Saturday and Sunday.
- C. Special holidays will also have patrols.
- D. More tickets will be given for justified reasons, i.e. reckless operation or speed more than 5mph within 100' of a dock or vessel.
- E. Possibility to draw up a local package for Cuba Lake Navigation Law. Dave Shemeld will look up what is in the navigation law. Deputy Hannon will research what other lakes have done.
- F. Request a monthly activity report from the sheriff's department for warnings and tickets given out.
- E. Sheriff's Contact number 585-268-9208.

Approval of Minutes: Motion made and seconded to accept minutes from May 10, 2007. 4 yes 0 no, MOTION CARRIED.

Treasurer's Report:

Following review of reports for the District Budget circulated by the Treasurer, a motion was made and seconded to accept the Treasurer's reports for filing. 4 yes, 0 no, MOTION CARRIED.
Isabel will check CD rates for 12 months at Five Star Bank.

Following presentation of the List of Claims of the General Account, \$4065.26. Motion was made and seconded to pay the accounts as listed. 4 yes, 0 no, MOTION CARRIED.

Management Budget:

Following review of the budget and the cash balance reports for April 2007 circulated by the secretary, motion made and seconded to accept. 4 yes, 0 no. MOTION CARRIED.

Lynn will call Tom Pohl about money due Cuba Lake District for leases collected.

Following review of the budget and the cash balance reports for May 2007, motion made and seconded to accept. 4 yes, 0 no. MOTION CARRIED.

Following presentation of the List of Claims of the Management Account in the amount of \$11534.00. Motion was made and seconded to pay the accounts as listed. 4 yes, 0 no, MOTION CARRIED.

Correspondence: see attached Index of Correspondence.

Old Business:**Action List Review:**

1. District budget hearing will be August 9, 2007 during the regular district meeting.
2. Annual election will be August 25, 2007 from noon to 8pm at lot #63 garage.

RESOLUTION

WHEREAS on August 26, 2006, pursuant to the authority granted by Section 10 of Chapter 263 of the New York State Laws of 1981, the electors of Cuba Lake adopted Land Use Restrictions and Controls; and

WHEREAS Section 13.2 of the Land Use Restrictions and Controls provides among other things for there to be established reasonable monetary penalties for non-compliance in such amounts as may from time to time be approved by resolution of the Cuba Lake District Commissioners.

NOW THEREFORE, it is resolved that the following monetary penalties be and hereby are established as the Cuba Lake Land Use Restrictions and Control penalties for non-compliance:

1) Failure to comply with a stop work order, issued for violation of the Land Use Restrictions and Controls, is subject to a penalty at a sum as may be fixed by the Cuba Lake District up to a maximum of one hundred dollars (\$100) per day.

2) In the event construction has been undertaken without first having obtained a required permit or where work is performed which is not in substantial compliance with the issued permit, the Board of Commissioners may require the Lease Holder or Lot Owner to elect one of the following options:

a) To abate the violation by its removal at the property owners expense, or

b) If the leaseholder so requests, and if the Board of Commissioners determines the grant of a permit for such construction would be otherwise authorized, the leaseholder/Lot Owner may be ordered to pay a penalty to the Cuba Lake District as may be fixed by the Cuba Lake District up to a maximum of ten thousand dollars (\$10,000.00).

3) In the event a variance proceeding under Section 11 of the Land Use Restrictions and Controls has been held which results in the Cuba Lake Commission ordering compliance and upon failure to comply with said order the Lease Holder may be required to submit payment of a penalty at a sum as may be affixed by the Cuba Lake District up to a maximum of a \$100 per day of non-compliance measured from the day of the failure to comply.

4) Prior to the fixing of any penalty, the Cuba Lake Commission shall have a hearing. The hearing shall be public with prior written notice of at least 30 days. Such proceeding shall permit the property owner to attend and to speak to the matter that is subject to non-compliance. The Commissioners shall thereupon vote upon the proposed fine or modify the fine or reject the fine by Board action.

5) Any fine fixed shall be payable within thirty (30) days and thereafter shall accrue interest at the annual rate of nine percent (9%) per year compounded daily during the period of time it is unpaid. Outstanding amounts beyond 30 days and associated interest will be invoiced as part of the property tax invoice issued by the Town/County. The Cuba Lake Commission may collect the fines as permitted by law including, without limitation, as an addition to annual lease payments. Non-payment shall be grounds for non-renewal of a lease or by remedies associated with failure to pay taxes.

Resolution is hereby adopted this 14th day of June, 2007.

Motion was made and seconded to approve the above resolution. 4 yes, 0 no, MOTION CARRIED.

Lake Manager's Report:

Mallard Farms had a manure spill on 6/5/07 and 6/6/07. On Tuesday emergency overflow (run off water) was being drained from the catch basin. At approximately 3am a pipe broke emptying liquid manure into the basin and consequently into Rawson Creek. Wednesday, the spill was discovered and corrective measures were made which consisted of pumping water and liquid manure out of the creek and into a field. The flow at the stream was stopped and controlled so that little if any manure reached the lake. DEC officer Hanson, Commissioner Dave Shemeld and Dave Bosworth confirmed this along with a call from the Division of Waters in Buffalo, Gerry Palumbo. On 6/8/07, Dave Bosworth called Mr. Palumbo and found that approximately 40 to 75 thousand gallons of manure was emptied into Rawson Creek. Dave called Gerry Palumbo and asked what will the farm be fined? How much will they be fined? Will the farm be required to install alarms? What will be done to insure that this will not happen again? The answer to all these questions is yet to be determined. Dave made the suggestion to Mr. Palumbo that a STIFF fine be levied as well as an order from DEC to install an alarm system to indicate a loss of pressure on any line carrying liquid manure. Charlie Bare/Mallard Farms left a message on 6/14/07 saying that DEC had tested Rawson Creek below the spill and found that the oxygen levels were excellent. Pumping the creek was stopped.

Conveyance of Smith Rd. right of way to Tom Rhow has been stopped for the moment. Research on property lines and ownership is being conducted. Dave Roeske, Allegany County Highways Department, will keep Dave informed. Dave has petitioned him to transfer a right of way to the District or to keep the right of way available to the public and for the sewer line.

After some minor repairs to the weed harvester and elevator both are ready for summer use. With the exceptionally clear water and warm temperatures we expect a healthy crop. The harvester was launched on 6/14/07.

With the help of the CRCS Agriculture Class, we have successfully planted over 1000 trees and shrubs at the sediment basins and at public access areas.

After a review of the viewshed from lot 344, my finding was that the large arborvitae on lot 345 does in fact diminish the view but the problem is that they were planted before the building at 344 was built. The newly planted trees on lot 343 do very little to limit the view but they are of the variety of tree that will get bigger and after some time substantially limit the view from 344.

After noticing many dead and dying small fish in the lake Joe Evans DEC fish biologist was contacted. He had noticed the same and noted that it did not appear to be a wide spread fish kill but possibly a virus affecting a certain species (crappie). He asked Dave to capture a dying fish, kill it, ice it down and bring it to the DEC office to be tested in their lab. On 6/13/07 Jay Morris brought a fish that was dying and Dave according to instructions took the fish to DEC on 6/14/07.

Water Testing

- a. CSLAP is being held up by contract discussions with the testing lab.
- b. National Lakes Survey-see hand out.
- c. Testing in Cuba Lake for Fecal Coli form bacteria and E. Coli-see hand out.

DEC Aquatic Invasive Species Eradication Grant Program-Cuba Lake is not eligible.

Tom Pohl reported 6/12/07; the management agreement is still in the comptroller's office. The check is tied into the agreement. He will be sending Dave the most recent information on the dam.

Committee Reports:

1. **Building and Lot Improvements/Park Maintenance**-Jerry Collins, Dave Shemeld

#246 Marijanna Vanderhorst Remove trees between lots for construction of new home and demolition of old. Approval held for further clarification.

A motion was made and seconded to approve the following requests for lot improvements. 4 yes 0 no, MOTION CARRIED.

- | | | |
|------|---------------------------|---|
| #225 | Eric Laine | Amended request
Addition of 9'6" by 14'10" entryway to existing residence and 11' by 40' longhouse/storage shed. |
| #328 | Donald and Sandra Close | Addition of garage/bedroom to existing home. |
| #333 | Robert and Tiffany Prizel | 15' by 15' stone pavers patio. |
| #239 | Cloyd John Dean | Cut down six dead or diseased pine trees. |
| # 39 | DiSorbo Family | Deck (APPROVAL PENDING SIGNING OF LETTER) |

2. **Budget and Finance**-Jerry Collins, Dave Shemeld and Andrew Lindquist, ex officio.

3. **Water Quality**-Dave Shemeld, Erick Laine, Lake Manager-Dave Bosworth.

4. **State Relations**-Erick Laine, Lynn Sweet.

5. **Public Relations and Communications**-Dave Shemeld, Dave Bosworth, Isabel Warren.

Dave Bosworth will post signs at the spillway. Dave will also speak to the SNI Marshall at lot 108 about policing the spillway.

NEW BUSINESS:

1. Chairman Sweet will be unable to attend the July meeting. **Meeting will be changed to July 19, 2007**
2. Isabel will be unable to attend the August meeting. **Meeting will be changed to August 15, 2007.**
3. A motion was made and seconded to appoint Joseph Higgins as director on the Cuba Lake Commission. 4 yes, 0 no. MOTION CARRIED.
4. Resolution to adopt official newspapers for CLD.
5. Resolution to adopt official Notices of Budget Hearing and Annual Election.

TITLE OF RESOLUTION:

**RESOLUTION DETERMINING THE NEWSPAPERS IN WHICH THE
OFFICIAL NOTICES FOR THE BUDGET HEARING AND THE
ANNUAL ELECTION NOTICE SHALL BE PUBLISHED**

ADOPTED BY THE COMMISSIONERS: JUNE 14, 2007

WHEREAS, Chapter 263 of the Laws of 1981 establishes the statutory authority for the formation and operation of the Cuba Lake District; and

WHEREAS, pursuant to Section 13 and related sections of Chapter 263, the Board of Commissioners shall prepare and file the Preliminary Annual Budget with the Secretary of the District at least 30 days prior to the Annual Election and thereafter hold at least ten (10) days prior to the Annual Election, a public hearing on the Preliminary Budget and notice of such public hearing must be published at least ten (10) days before the Hearing, once in at least two (2) newspapers having general circulation in the District; and

WHEREAS, pursuant to Section 13 and related sections of Chapter 263, the last Saturday in August of each year is fixed by Chapter 263 as the date on which the Annual Election shall be held; and must be published once each week for at least three (3) weeks;

NOW, THEREFORE, be it resolved that pursuant to the authority of such statutes, upon a motion being made, seconded and carried, there being 4 ayes in favor of the adoption of such resolution, and 0 nays opposed to the adoption of such resolution;

BE IT RESOLVED, by the Commissioners of the Cuba Lake District, as follows:

1.) That the Patriot, published in the Village of Cuba, New York, and the Olean Times Herald, published in the City of Olean, New York are two newspapers having general circulation in the area of the Cuba Lake District and are hereby designated

as the newspapers in which the Official Notice of the 2008 Budget Hearing and the 2007 Annual Election shall be published.

TITLE OF RESOLUTION:
**RESOLUTION APPROVING THE OFFICIAL
NOTICE OF THE ANNUAL ELECTION**

ADOPTED BY THE BOARD OF COMMISSIONERS: JUNE 14, 2007

WHEREAS, Chapter 263 of the Laws of 1981 established the statutory authority for the formation and operation of the Cuba Lake District; and

WHEREAS, pursuant to Section 13 and related sections of Chapter 263, be it resolved that pursuant to such authority of such statutes, upon motion duly made, seconded, and carried, there being 4 ayes in favor of the adoption of such resolution, and 0 nays opposed to the adoption of such resolution;

BE IT RESOLVED, by the Commissioners of the Cuba Lake District that the attached copy shall

be the Official Notice of the Annual Election to be published in the Patriot and the Olean Times Herald on July 23, 2007, July 30, 2007 and August 6, 2007.

TITLE OF RESOLUTION: **RESOLUTION APPROVING THE OFFICIAL
NOTICE OF THE PUBLIC HEARING ON
THE PRELIMINARY BUDGET FOR 2008**

ADOPTED BY THE BOARD OF COMMISSIONERS: JUNE 14, 2007

WHEREAS, Chapter 263 of the Laws of 1981 established the statutory authority for the formation and operation of the Cuba Lake District; and

WHEREAS, pursuant to Section 13 and related sections of Chapter 263, be it resolved that pursuant to such authority of such statutes, upon a motion duly made, seconded, and carried, their being 4 ayes in favor of the adoption of such resolution, and 0 nays opposed to the adoption of such resolution;

BE IT RESOLVED, by the Commissioners of the Cuba Lake District that the Official Notice of the 2008 BUDGET HEARING to be published in the Patriot and the Olean Times Herald.

Presentation of 2007 Budget. **July 19, 2007**

**FOR THE GOOD OF THE LAKE:
ADJOURNMENT:**

Motions was made and seconded to adjourn the meeting.
Meeting adjourned at 9:49 pm
Respectfully submitted, Isabel Warren
Next Meeting July 19, 2007 at 7PM