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Tompkins Weekly

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Volume 5, No. 32 • June 6-12, 2011 **FREE**

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Heights Residents Sue Village

By Anne Marie Cummings

On May 23 a dozen local residents brought suit against the Village of Cayuga Heights Board of Trustees and the New York State Department of Environmental Conservation (DEC) to forestall the Cayuga Heights Deer Management Plan approved on April 4 by the board.

The lawsuit was filed by Buffalo area attorney Arthur J. Giacalone. Lawyers for both sides are scheduled to present their cases before New York State Supreme Court Judge Phillip Rumsey in the Tompkins County Courthouse on June 24. The respondents are obliged to respond in writing to the lawsuit no later than June 19.

The 49-page petition accompanying the suit includes three exhibits: exhibit A contains copies of reports from independent scientists and qualified professionals raising serious concerns about the Draft Environmental Impact Statement (DEIS) for deer management, noting that the plan lacks any basis in Cayuga Heights-specific data; exhibit B includes copies of letters that petitioners submitted to the village board as part of the

State Environmental Quality Review Act (SEQRA) study (approved on March 14); exhibit C includes two cases, from 1996 and 1997, in which courts in the Town of Amherst and Erie County set aside "bait-and-shoot" programs to kill deer.

The plaintiffs in the Cayuga Heights case contend that the village's plan to capture and surgically sterilize about 20 female deer and then kill all remaining deer within the boundaries of Cayuga Heights is "irrational." They also claim that the SEQRA study "lacks criteria and thresholds for determining the effectiveness of the deer killing program," and fails to take the "state-mandated 'hard look' at reasonable alternatives and the potential impacts on human health, the deer population itself, and the existing community character."

The petitioners argue that carrying out the deer control plan will cause emotional distress when viewing, hearing, or being informed of, the capture and killing of deer. Charlene Temple and Hazel Brampton, Ithaca-based mental health professionals, state that backyard mass killing of deer may cause significant trauma,



This sign was made by James LaVeck and Jenny Stein, documentary filmmakers and founders of www.cayugadeer.org.

especially for children or those already suffering from exposure to violence. "Just knowing the killing is taking place could trigger symptoms in those with pre-existing trauma, as well as aggravate conditions of anxiety and depression," Temple says.

Adding to the potential psychological distress is the issue of undisclosed locations and times for killing deer. The village's Final Environmental Impact Statement (FEIS) stated that, "For safety reasons, the DEC and Deer Remediation Advisory Committee (DRAC) recom-

mend against publicizing culling sites and times." However, in the same paragraph, it is noted that some village residents have expressed their view that safety would be enhanced by publicizing the sites and times.

In Amherst, in 2005, a bullet was fired by a trained police professional as part of a municipal deer-killing program. The bullet went several hundred yards off target and blew a baseball-sized hole in a second-story window of a family's home; a father and his son were in

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the house at the time. "The bullet could have killed someone," says James LaVeck, documentary filmmaker and founder of cayugadeer.org. "I'm shocked that the DEC is willing to issue permits for such dangerous activities so close to peoples' homes."

Giacalone notes that two recent events motivated the petitioners to file the lawsuit. The first was on March 14, when the FEIS included provisions for using "net and bolt" to "manage" the Cayuga Heights deer population. The controversial approach, which involves baiting groups of deer, ensnaring them in nets and then driving large steel bolts into their brains, has never been used as part of a suburban deer management program in New York State.

Despite repeated inquiries, the DEC has yet to explain why it gave the green light to net and bolt as a component of the Cayuga Heights deer management plan.

The second event occurred on April 4, when the village board unanimously approved the plan with an unannounced vote at a meeting described as an organizational meeting for which no agenda was published in advance. "This matter was voted in with only four members of the public present," says LaVeck. "Had they properly announced this important vote, the room would have been packed."

Of the 12 petitioners, eight reside in Cayuga Heights. They are: Ann Druyan, Dominick LaCapra, Sandip Tiwari, Mary Tabacchi, Anne Serling, Charlene Temple, Sherene Baugher, Eleanor Benisch, Jane Pedersen, Catherine Stein, Gabrielle Vehar and Mari Tiwari. Legal costs are being borne by the petitioners and a legal fund has been established for donations from local residents.

Angela Korbel, Cayuga Heights Deputy Village Clerk, speaking on behalf of the village board, says,

"Our attorney has advised us not to comment on any litigation at this time." Likewise, Lori Severino, a DEC spokesperson, states, "The DEC does not provide comments on pending litigations."

The court is asked to annul both the village board's April 4 resolution approving the plan and the SEQRA review conducted on behalf of the board. The suit also seeks an injunction barring the DEC from issuing any permits in furtherance of the Cayuga Heights plan until all applicable state laws and regulations, including SEQRA, are in full compliance.

"No other community in New York State has ever attempted to carry out a mass killing of deer in neighborhood backyards," says LaVeck. "Now and in many different ways members of the Ithaca community are saying 'Please don't do this...It's not too late...Let's find a better path.'"