

To: Board of Trustees, Village of Cayuga Heights
From: Karen Kaufmann, Village Resident
Re: "Deer Remediation" in the Village
Date: January 26, 2009

My name is Karen Kaufmann, and I have lived in the Village since 1990. As the Board is probably aware, I am strongly **opposed to any proposal to cull deer** in the Village of Cayuga Heights, particularly based on the data gathered and the process pursued to date. I am also strongly **opposed to any rush to judgment** on this controversial issue; in particular, I urge the Board not to impose an arbitrary deadline for the receipt of recommendations from the Deer Remediation Advisory Committee, or for the Board's own deliberations over the Deer Committee's recommendations.

Rather, I urge the Board to give the issue of deer management all necessary scrutiny, consistent with the Board's own **legal obligations and with the legal constraints and costs** entailed in management decisions, especially those involving the use of lethal means. In particular, I urge the Board, and DRAC as well, to attend to and scrutinize the following obligations and constraints:

- The need for, and content and cost of, an **environmental impact assessment** before taking any action that affects Village wildlife. (I point to the Town of Amherst, which preceded its controversial bait-and-shoot program with a two-year, multi-phase full environmental impact study and management plan, after an earlier bait-and-shoot decision was reversed for inadequate quantification, documentation, and consideration of environmental review criteria.)
- The need for, and cost of, **quantification and public input** sufficient to sustain even a minimal environmental determination, as set forth in published and unpublished case law regarding the Town of Amherst process.
- The need for, and legal and lifestyle costs entailed in, **amendment of the Village firearms ordinance** to permit the use of firearms for culling.
- The need for, and legal costs entailed in, **competitive bidding for any contract** for culling services, and the need for legal attention to and supervision of the drafting, execution and performance of any such contract.
- The need for, and costs entailed in, obtaining **waivers to the 500-foot rule** of ECL 11-0931.
- The need for compliance with **other provisions of state firearms and hunting laws**, including the proscription on private use of silencers under ECL 11-0931 and the 300-foot baiting rule of ECL 11-0505.
- The need for, and costs entailed in, supervision of any contracted-for culling service, including the **clearing, marking and patrolling of tracts** where contract culling is

occurring and other assurances of safety in any use of firearms on Village premises. Consider, for example, the safety measures required in a cull operation in Michigan, which include helicopter flyovers before each shoot, nightly closure of the public land on which shooting takes place, a ground search to clear the park, construction of stands to enable downward shots, placement of spotters on the ground, and the posting of guards to secure the perimeter. Hometownlife.com, Oakland Co. MI 1/21/09.

- The need for, and costs, of **liability insurance** to protect the Village against potential legal liability for accident or injury arising in the course of a deer-kill operation. (I would refer the Board to several recent news reports regarding cases in which property-owners were deemed potentially liable for physical injuries and infringement of constitutional rights inflicted by hunters and sharpshooters operating on the owners' lands: see, Johnstown (PA) Tribune-Democrat, 9/24/06, reporting a finding of liability against a landowner and a hunter, notwithstanding limitations of liability embodied in PA recreation law; Solon (OH) Sun, 12/18/08, reporting on the settlement of a 1st Amendment suit against the City and White Buffalo).
- The need for quantification and documentation demonstrating a factual basis for, and a **rational relationship between, the problems addressed and the solutions adopted**, to meet any challenge of "arbitrary and capricious" conduct.

The Board's attention to these legal obligations and constraints is all the more critical in light of **DRAC's disregard of the basic process recommendations** of the wildlife professionals it has consulted, including DEC and Cornell wildlife expert Paul Curtis, as well as the lessons of the Village's past experience with this issue-- that is, that any decision regarding deer management be the product of a process that seeks to **build consensus** among stakeholders, and that any management process begin, not (as in DRAC's case) with a proposed remedy, but with a **fact-based assessment of the problems to be addressed and the specific goals to be achieved**.

I have seen this Board give nickel-and-dime scrutiny to routine operating expenditures, such as hourly legal fees. I trust that it will give the same degree of scrutiny to the issue of deer remediation, for which it has already set aside a blanket \$50,000 this year and for which, by DRAC's own accounting of duration, it could expect to expend upwards of \$500,000 over the next ten years. I urge the Board, as it exercises its decision-making powers, to assure Village residents that **any expenditure from the public fisc on the issue of deer remediation will, at the least, address demonstrable and documented community needs in a rational and demonstrably-effective manner**. Even leaving aside the ethical questions involved in the systematic slaughter of deer, I do not believe a bait-and-shoot culling operation meets this test.

Thank you for your attention.