



CANDLEWOOD LAKE AUTHORITY

P.O. BOX 37 • SHERMAN, CONNECTICUT 06784-0037 • (860) 354-6928 • FAX (860) 350-5611

Minutes of Regular Meeting May 11, 2016

Attending:

P. Schaer	Sherman
J. Murphy	Brookfield
J. Wodarski	New Milford
B. Brown	Brookfield
W. Lohan	Brookfield
E. Siergiej	Danbury
D. Rosemark	Danbury
C. Robinson	Danbury
B. Kemble	New Fairfield
J. Keating	New Fairfield
J. Hodge	New Fairfield

Absent:

P. Eng	New Milford
M. Toussaint	New Milford
H. Berger	Sherman
G. Linkletter	Sherman

F. Frattini, CLA Administrative Coordinator
M. Howarth, CLA Public Education Director
L. Marsicano, CLA Executive Director
R. Barnard, CLAMP Captain

Recorder: F. Frattini

Guests: Sue Slater, Selectman, Brookfield
Sui Wodarski, New Milford
Ted Backer, Esq
Mark Propper, Danbury
Jim McAlister, New Fairfield

Chairman, Phyllis Schaer, called the regular meeting of the Candlewood Lake Authority to order at 7:33 P.M. at Brookfield Town Hall, Brookfield, CT. She welcomed the guests.

She then advised a change in the Agenda to allow Attorney Ted Backer to speak to the delegates on his letter regarding the legal opinion on the money raised from the First Enchanted Evening on the Lake. Mr. Backer noted that he was happy to be here to explain his April 10, 2015 opinion. He gave some background and noted that the opinion of the Attorney General dated August 7, 2013 in the matter of Newtown-Sandy Hook Foundation Inc was used as a portion of the basis of his opinion. CT Law requires that donations must be used for the purpose intended by the donor when solicited. Donor intent is determined by representation by the solicitor and must be used in accordance with those representations. The money raised at the event, as stated on the ticket solicitation, was "Proceeds from the event will go toward environmental science and education equipment and programs and other needs for the grand opening of the long-awaited Candlewood Lake Education and Resource Center." Through no fault of the Lake Authority the CLERC never materialized. His interpretation was the funds were not directly tied to that situs - not brick and mortar but for equipment and programs. The CLA does have situs in New Milford and does run programs, use environmental, science and education equipment from there. It did not matter where the physical location is. "Donations were given without written restrictions or conditions limiting

the use of the money by the CLA.” These were unrestricted donations and in his opinion he noted - going forward the monies could be used for the purpose solicited. It was a simple straightforward opinion, it was donated for that purpose without restriction. (Note a copy of this opinion is attached to these minutes with the Executive Director’s Report). Mr. Rosemark asked, “Who would challenge this?” The donors could question it, the Attorney General if he saw something improper could raise an issue or the public could. The actual use of the funds is discretionary, the Board makes the recommendation and a consensus of the Board approves the use of the funds. You could have a motion to expend for those purposes. Mr. Hodge noted that the money was spent before the opinion. Mrs. Schaer advised that the Auditor noted that the year fund balance ended with a positive \$15,000 plus, and that the money was not spent since it still is listed in the last audit. Mr. Hodge noted we are in agreement. “Thank you Ted.” Mr. Backer added he was happy to be here. He then thanked the board and left the meeting.

Public Safety Committee – Captain Barnard asked if the advice of an attorney had been received, he was advised CIRMA had been contacted and has not gotten back, the office will follow up on this. He also advised that he will have the radio from Salisbury before the end of June. It was noted that the new recruits needed to be hired by the CLA prior to beginning patrols – it was suggested that a special meeting be called to do this prior to scheduled patrols.

Jerry Murphy reported that the committee had met and discussed the new patrol boat, the liability issue and approved the patrol payroll schedule for the 2016 season. With nothing else, Capt. Barnard left the meeting.

Secretary’s Report: In the absence of the Secretary, Mrs. Frattini noted that there was a change to the minutes of the April 13, 2016 special meeting on Page 3 second paragraph the section that Mr. Keating read should have been: “...the essential aspect that the unrestricted donations were made for environmental science and education equipment and programs relating to the Candlewood Lake Authority.” The first part was left out of the April minutes.

Bill Lohan then made a motion to accept the minutes of the April 13, 2016 regular meeting as corrected, seconded by Jerry Murphy and voted with all in favor, and John Hodge abstained. Minutes have been accepted as corrected.

Chairman’s Report: Phyllis Schaer, Chairman reported that all the Towns have signed off on the ICE Grant and the Inter-Municipal Agreement for the new patrol boat, checks have been received from Brookfield and Sherman, New Milford has given their assurance, Danbury is in the process and New Fairfield Board of Selectmen defeated a motion to fund the purchase. The Bond Commission meets May 27th and the invoice is needed before the grant can be funded. Jack Keating asked if the dealer would issue an invoice with a “non-appropriation clause” – Mrs. Schaer would look into this. She noted that the delegates need to do a better job of adequately informing their Board of Selectmen, especially in New Fairfield.

DEEP advised that during July there will be Aquatic Invasive Species (AIS) Awareness week and Candlewood will be one of their key focus sites.

Grants have been received: \$2,000.00 from DEEP for AIS education and billboards, and \$2,700.00 from FirstLight Power Resources as a Clean Up sponsor. DEEP will be supplying the paint for stenciling the ramps with Clean, Drain and Dry info.

On May 16th there will be a meeting of the Lake CEO’s in Danbury to discuss CLA issues, namely funding and other concerns. At the CLA Executive Committee Meeting May 6th they suggested that letter be sent to the CEO’s to clarify Financial Plan guidance and acceptance, including appropriation payments and resolving the negative unassigned concerns. Also a letter to the New Fairfield Board of Finance as to why they objected to the legal opinion of outside counsel which the CLA Board had approved last year.

At the April 28th NF Board of Selectmen’s meeting they voted to approve the Inter-Municipal Agreement for the ICE Grant for the Patrol boat but then did not vote in favor of funding, they also spoke dismissively on the request to participate in funding the Blue Green Algae testing program which has great benefit to the towns and local health departments. Having the testing done locally at WESCONN will have a much faster turn around at a reduced cost.

At a meeting with the Auditor yesterday it was noted that it is obvious that many of the financial concerns that have been in the local press exists as a result of lack of funds. Suggestions for changes to the monthly reports, separating out grant funds on the monthly report, modifying line items, there is presently

too much detail, doing this should make it easier to read and understand. Mrs. Schaer thanked Cheryl Reedy of the NF Board of Finance who supplied reports from HRRRA as examples of reports from Quick Books that could be used. The Auditor noted that the CLA ended the year positive \$15,000.00 plus. The Audit is a snapshot picture of only one day i.e. June 30th. The negative unassigned is an audit number. There is misinformation, the Authority has only one fund the General Fund and every dollar is fungible, there is no separate restricted account, no special revenue account, just the one "general fund" account. The Board has not misappropriated any funds; it has not spent in excess of cash on hand. The CLA is in compliance with both the Bylaws and the Audit. While expenses were in excess of revenues there were sufficient assets to offset the unanticipated expenses. At fiscal year end there was deferred income of approximately \$81,000. The Audit as of June 30th had a negative unassigned balance but as of July 1st, there was no negative unassigned.

Mrs. Schaer noted that the Procurement Policy needs to be updated to raise the bid requirements to \$10,000 as the member towns.

Mr. Rosemark noted that comments from the newspapers had misinformation. Mrs. Schaer will send letter to the CEO's.

Vice Chairman's Report: In the absence of the Vice Chairman there was no report.

Treasurer's Report: Bill Lohan, Treasurer, reported 95% receipts have been received, from the Towns and all other, should be within \$2000.00 of budget. Expenditures are in good shape with Administration at 88%, Equipment/Facilities 68%, Public Safety 70%, Public Awareness 93%, Watershed Management 50% and overall expenditures at 81% of budget, this is below the 83% for year to date. By identifying items in the budget that are either under or over budget it can come within eight thousand dollars at year end. *Jerry Murphy moved that the Treasurer's Report of Income and Expenses for the month ended April 30, 2016 be approved as presented, seconded by Bill Lohan and voted with all in favor, with John Hodge and Jack Keating abstaining. Motion passed and the Treasurer's Report of Income and Expenses for the month ended April 30, 2016 has been approved and filed for audit.*

Executive Director: Larry Marsicano Executive Director, advised his report is attached to these minutes and then noted the highlights. FERC, Budget/Audit Issues, Carp Tracking Study, Grants, Clean Up, Environmental Stewardship Program at WESCON that he will be asked to be an advisor on, site plan reviews for Danbury's EIC and thanks to former Danbury Delegate Gary Dufel for help on this, presentations to Coldwell Banker Real Estate Offices in New Milford and Danbury, assisting at the CWI Soil testing day, and participating in the Grand Opening of Great Hollow Nature Preserve in New Fairfield. Also attached to his report is a map of the New Fairfield lake properties and their town taxes. Mr. Rosemark asked if any other towns had been done? Yes, this has also been done for Sherman and New Milford. Brookfield and Danbury will be done next.

Pickett Industries of Ohio, wanted to attend the meeting to present their product that gets rid of blue green algae, but it is not registered with the State, after that has been done he will be welcome to visit the Authority. Also LG Sonics has a type of sonicfication to remove blue green algae – there will be follow-up on this to see if the Authority can test it in the lake.

CO2 study needs the DEEP to set up a personal service agreement with Dr. Kevin Kelly of the Bureau of Reclamation.

He was asked about CLA's ability to convey to FERC concerns with reports submitted by FirstLight to FERC. Mr. Marsicano noted that recent issues have precluded setting up the meeting with FirstLight and that he will try again.

Congressman Esty, her District Director Stephanie Podwell and a staff person from Senator Blumenthal's office visited the lake this past month to discuss lake related issues and got a tour.

Public Education Director/Public Awareness Committee:

Mark Howarth, Public Education Director, noted his report is attached to these minutes and reviewed the highlights. He noted that he has obtained donated public service ad time for about 40 spots on the radio this season; the committee had discussed a number of topics to cover. They discussed the "Adopt a Carp" program for a donation and these would be the tracked fish and their movement could be reported to the adopter. He reported on the Lake Guardian program that the homeowner could sign off on and then

be presented a sign for their dock, etc. This would be similar to programs in Maine, Minnesota and Michigan. He has been working on planning for the Clean Up and boat drivers are needed. There will be a pump-out boat on the lake again this year at Echo Bay Marina. He accepted a grant from the Danbury New Fairfield Women's Club that will be used to redesign and reprint the Zebra Mussel Brochure. He is working on 2016 sponsors, he stopped at soil testing day to take pictures and then off to Sail Harbour Club to photograph Boating Safety Class and lastly photographed the on the water boat handling training by DEEP for the new Patrol Officers, new Lake Housatonic Officers joined in on Candlewood. These photos posted on Face Book generated a large number of likes and public support and appreciation of the Lake Patrol. Mrs. Schaer noted that the new website is up and running and asked that all visit and give comments, suggestions and input welcome.

Equipment/Facilities: Ed Siergiej Committee Chairman reported that the buoys are in, some of the older ones may need to be refitted with cable to extend their life. He was sorry to hear that FirstLight did not fund the grant application for new buoys this year, he may need to purchase some. Boats are in and operating OK, all Patrol equipment has been removed from McKee II.

Watershed Management Committee: In the absence of the Committee Chairman there was nothing to report

Old Business:

Mrs. Schaer advised that there will be a memorial service for Harold Mayer on June 4, 2016 at the Sherman Jewish Community Center from Noon to 4PM – all are welcome (please RSVP to Mrs. Schaer know if you plan on attending so she can advise the family).

With no further business to come before the Candlewood Lake Authority, *Jerry Murphy moved to adjourn the meeting seconded by Chris Robinson.*

Meeting adjourned at 9:29 P. M.

Respectfully submitted,

George Linkletter, Secretary
Frances Frattini, Administrative Coordinator

r/b/ljm

These minutes are not considered official until they have been approved at the next regularly scheduled meeting of the Candlewood Lake Authority.



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Executive Director's Report May 9, 2016 Larry Marsicano

The following report summarizes Executive Director activities from April 10, 2016 to May 9, 2016.

FERC

FirstLight submitted its Vegetated Buffer Progress Report to FERC on April 28th. Included in the submittal were our comments on all the reports we received at the Lake Advisory Committee meeting in November of 2015 in their entirety. A review of FirstLight's responses in the Stakeholder Consultation Record in the submittal revealed that none of our written comments on the Buffer Progress Report were addressed. A few were addressed in responses to comments by the CT DEEP or Scott Randall. One of our primary concerns is that stakeholders have no way to identify lakefront areas requiring a buffer in five years despite several years of stakeholders requesting this information. See excerpts from our comments below.

Included in the filing was the proposed change to accelerate revegetation of the shoreline from five years to three years through a gradual process. A copy of the draft agreement was included. To date, New Fairfield has signed the agreement; New Milford and Sherman will be taking it up at their next meetings of the Town Council and Selectmen, respectively. The modification to the SMP comes from a collaborative effort between FirstLight and Candlewood Stakeholders including Scott Randall and CLA.

Addressing Budgeting and Negative Unassigned Issues

As per my April 22nd email with attached article from the Town Tribune, the New Fairfield Board of Finance passed a motion by John Hodge to effectively reduce the operational funding of the CLA to approximately \$21,000 dollars from New Fairfield for FY 2016/2017. From the minutes of the NF BOF meeting on April 13th:

Board of Selectmen's requested budget for 2016-2017

Candlewood Lake Authority

John Hodge made a motion to create a new line item under the Board of Selectmen budget entitled "CLA Negative Unassigned Fund Repayment" and to fund said line item in the amount of \$55,621.00. The money in this line item can only be expended for repayment of the negative

unassigned fund balance created by the misappropriation of restricted funds by the Candlewood Lake Authority and under the following conditions:

1. The CLA establishes an entirely separate bank account to make sure that the restricted funds will be segregated from operating fund.
2. Funds from this account will only be appropriated for the purpose that the donors originally intended and for no other reason.

Further, the Board of Finance requests that the remaining appropriation for the Candlewood Lake Authority be paid in 1/12 increments, commencing July 1, 2016 and on the first of every month thereafter.

This was the primary topic of the Executive Committee Meeting of the night of Wednesday, May 4th. The Executive Committee decided on having two letter's drafted: one to the CEO's regarding the upcoming May 16th meeting of Candlewood CEOs, Sen. McLachlan, and Rep. Smith (CLA was not invited); the second was to the New Fairfield Board of Finance regarding the use of the "Community Education Center Fund." Both draft letters are attached.

Carp Tracking Study

We coordinated and held a conference call on Tuesday, May 3rd with collaborators on this research. A timeline was established with fish being received Tuesday, May 31st; transmitter implants on the following Saturday, June 4th; stocking and practice tracking at Haviland Millpond on Tuesday, June 7th; stocking at Candlewood on Wednesday, June 8th; and then tracking events on Candlewood for remainder of summer. I also corresponded with Keo Fish Farm to reconfirm our pricing on the fish and hauling.

Grants

We were asked and provided some Commission on Human Rights and Opportunities paperwork for the CT DEEP grant.

We received word that the grant application submitted to Meserve Memorial Fund was awarded \$5,000 dollars. This was for scholarships for Project CLEAR which will not occur this summer. I did speak with the Chair of Meserve Committee who will discuss with his committee the CLA's use of the funds for a different project.

We should be learning about the grant application to the Ellen Knowles Harcourt Foundation soon. This grant application was to provide half of the funding necessary for the cyanotoxin monitoring study.

Clean Up

Mark and I have been working on the 2016 John Marsicano Memorial Candlewood Lake Clean Up scheduled for May 21st.

Analysis of Shoreline Tax Revenues in New Fairfield

I requested and received parcel and assessment data for the Town of New Fairfield and performed the GIS work attached to the back of this report. From the text on the map:

The assessed value of shoreline parcels (in red) is \$271,702,275. Based on a mill rate of 28.53, taxes are \$7,751,666 dollars. Our request of \$76,800 is 0.99% of those shoreline property taxes. Included: Taxes on Vaughn's Neck are \$2,128 dollars; Taxes on CL&P property north of the town park are \$593 dollars. Not included: Taxes on FirstLight project lands which are \$210,885 dollars.

Total Town revenue from property taxes is \$47,777,362 dollars. Total area is 16,142 ac. Area of red parcels is 1,246 ac. Therefore 7.7% of the land (red) is generating 16.2% of the tax base.

By removing taxes and area of the Vaughn's Neck land and CL&P land north of New Fairfield Town Beach, the percent of shoreline land becomes 3.7% of the total but the percent of taxes remains at 16%.

Advisory Committee to Environmental Stewardship Program

I have received word that I will be requested to be an advisor to the Environmental Stewardship Program, an academic program being proposed at WCSU. This program evolved over many years of discussions with faculty in the Biological and Environmental Science Department and others at WCSU. Candlewood Lake is the poster child of how environmental science, social science and politics are intertwined and impact a community's ability and efforts to protect natural resources.

Site Plan Reviews

We received requests for reviews of projects proposed along the shoreline in Danbury by the Environmental Impact Commission or by the applicant at the urging of the EIC. These included 254 Great Plain Road and 48-B Forty Acre Mountain Road. The owner of the Forty Acre Mountain Road met with us at the CLA's Demonstration Buffer Garden on Monday, May 2nd where we provided guidance on shoreline buffers, and several days later he visited our office we reviewed his planting plan based on our advisement.

Presentations & Events

George Linkletter and I assisted Jim McAlister and Candlewood Watershed Initiative with their Soil Testing Day on Saturday, April 23rd. I also provided presentations to the New Milford Coldwell Banker Realtors and Danbury Coldwell Banker Realtors. I also set up a table and participated in the Great Hollow Nature Preserve's opening on Sunday, May 1st.

Excerpts from CLA's Review of reports distributed at the 2015 Lake Advisory Committee meeting dated December 3, 2015

Based on this comparison, there are effectively three new types of information being provided. The first, *Vegetative Removal*, needs some additional clarification, e.g. is this telling us that there was unpermitted vegetation removal, or that vegetation removal is being permitted?

The second is *Required Date* but this only provides information on how much time is being allowed to install a buffer. There is no information on when the time requirement starts, i.e. when the property owner is notified that a buffer is required.

Thirdly, *Enhanced Buffer %* is providing the percentage of area below the 440 needing buffering to meet the 50% requirement or in most if not all cases, the difference between *Total Vegetated Buffer* and *Existing Buffer*.

In their June 22, 2015 letter on LAC Meeting minutes and vegetative buffer report FERC notes our request that you include the date which a property was sold in future reports.¹ We requested this so as to have a benchmark in time from which buffer progress could be assessed. Your response was that you don't track property sales dates but rather track permit transfer dates. Similar comments CT DEEP and NPS were discussed by FERC.

FERC does later state:

*Thus you are responsible for tracking the date that a property is transferred, sold, or otherwise experiences a change in ownership because this data is necessary in determining the deadline (i.e. 5 years after this date) for installing a compliant buffer.*²

While not implicitly stated in FERC's letter, we believe FERC is requiring that the transfer date and/or date of permit transfer be provided in these reports. FERC does note in their letter that the Commission and consulting agencies are to review your progress in implementing the shoreline buffer rules.³ Without these dates, we are unable to provide an adequate review.

In their June 22, 2015 letter, FERC also states that, "*Further, all future reports should include details on properties from past years that are subject to the 5-year buffer requirement, but have not yet implemented a functioning buffer*" noting that the 2013 report reported no property ownership changes and those figures were not updated in the 2014 report.⁴ A number of

¹ See Letter to FirstLight Hydro Generating Company regarding the LAC Meeting minutes and vegetated buffer report for the Housatonic River Hydroelectric Project under P-2576 (FERC Issuance No. 20150622-3027, June 22, 2015) ("FERC's Letter regarding 2014 LAC Meeting") at P 3

² Ibid at P 4

³ Ibid at P 4

⁴ Ibid at P 3

buffers were listed as required in the 2014 report but there is no way of knowing whether these were updated in the 2015 report without a date for reference. Please discuss if properties requiring buffers from past years are identified in the report. If they are, identify the date when the buffer was required. If they are not, discuss why not.

FERC also required in their letter that *“future annual vegetated buffer reports should include a detailed discussion of your method (tracking which properties require buffers) and any changes that are needed or have already been made to ensure that all property transfers are properly identified.”*⁵ Early in your 2015 Buffer Progress Report you note that the report represents the period of time from November 2014 through November 2015. Later in the report you discuss how the Municipal Tax Assessors Grand List is used to track future required buffers. You state:

This process is updated annually for the previous year’s update of the Municipal land records.

This implies that the buffers listed in the 2015 report are for those in response to transfers and other triggers that occurred through 2014, not November 2015, as might be inferred. This is not clear, particularly since dates are not included in the data on the table. As requested by FERC, please include in your report a detailed discussion of your method and any changes that are needed or have been made to ensure that all property transfers are properly identified.

At the 2014 LAC meeting, in minutes of that meeting, and in FERC’s letter there was much discussion on the appropriate method for identifying transfers or sales of properties abutting the project, including use of the Multiple Listing Service (MLS). For the purpose of that discussion, the MLS listed 44 properties abutting the project on Candlewood Lake that were sold from January 1, 2014 and December 31, 2014. From November 2014 to November 2015 thirty-two (32) lakefront properties sold. Twenty-nine sold from January 1, 2015 through November 2015.

⁵ See “FERC’s Letter regarding 2014 LAC Meeting” at P 3



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May 9, 2016

VIA ELECTRONIC MAIL

Dear Mayors Boughton and Gronbach and First Selectmen Chapman, Dunn and Cope:

I am writing in follow up to the Candlewood Lake Authority Executive Committee meeting held on May 4, 2016. The Executive Committee noted the upcoming CEO meeting scheduled for May 16, 2016 and thought that meeting would provide an opportunity to clarify and/or bring closure to the payment of the negative unassigned fund balance.

At this point, the CLA assumes the CEOs are aware of the following: (i) the CLA's annual audit report dated December 11, 2015 (the "2014-2015 Audit"); (ii) comments on the 2014-2015 Audit provided by the auditor retained by the Town of New Fairfield (including the prior 8 years of CLA audits); and (iii) the plan of action submitted by the CLA to the Member Municipalities to rectify the negative unassigned balance (the "CLA Plan"). To summarize, the 2014-2015 Audit identified a negative unassigned balance of \$55,621. This was a new auditor with municipal experience retained by the CLA. The CLA had used the funds for expenses based on the opinion of CLA's outside counsel. The auditor for the Town of New Fairfield identified similar issues and provided recommendations, more or less, in line with the recommendations of the CLA's auditor.

Essentially, the differences between the CLA and the Town of New Fairfield are in the payback period and the interpretation of the use of the funds¹:

The Town of New Fairfield Plan:

The Town of New Fairfield has determined the replenishment of the funds should be completed on or before June 30, 2017 (the "One Year Plan"). To fully satisfy the One Year Plan, the Town of New Fairfield Board of Finance has approved a plan of withholding \$55,621² (or the equivalent of the final negative unassigned year-end balance³) from the required amount to be paid to the CLA as per the statute. This withholding in such an abrupt manner will severely impact the CLA budget and operations.

The CLA Plan:

The CLA Plan includes a payment for this year ending 2015-2016, and extending payments up through the next 3 years (2016-2017, 2017-2018 & 2018-2019). To bring the CEOs up to date on the CLA Plan, the negative unassigned balance is \$55,621 as per the 2014-2015 Audit. The CLA is currently forecasting

¹ The opinion of the CLA's outside counsel for the use of the funds is being discussed and addressed with the Town of New Fairfield and its Board of Finance, as the Town of New Fairfield may have a different opinion than the CLA's counsel on use of the funds. This was raised by a Town of New Fairfield Delegate to the CLA, but no official response has been received by the CLA. The CLA is expecting to have clarification before the end of this 2015-2016 fiscal year on this issue.

² See Town of New Fairfield Board of Finance Minutes dated Wednesday, April 13, 2016 or via the following link: <https://drive.google.com/file/d/0BxBalpFGQOk4T0k4YTJfUHphM0k/view>

³ New Fairfield auditor states "As of June 30, 2015 CLA has used \$47,553 of this money to cover its own shortfall."

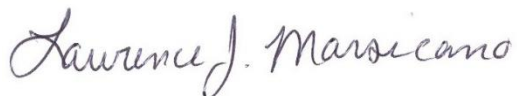
a \$14,000 repayment of funds (through cutting costs and expenses) for the year ending 2015-2016. Therefore, the balance of the negative unassigned will be \$41,621 by the end of the 2015-2016 period, barring any unforeseen issues in the next 2 months. The CLA envisions equal payments of approximately \$14,000 annually over next 3 years to bring down the negative unassigned balance and minimizing the impact to CLA operations.

In summary, the CLA Plan will have an estimated negative unassigned balance of \$27,621 by the end of the 2016-2017 year, whereas the One Year Plan would have a zero balance. Given that some of the Member Municipalities were agreeable with the CLA Plan, the CLA respectfully requests that the CEOs consider the two repayment options and provide guidance to the CLA on resolving this matter while taking into consideration the impact to the CLA operations.⁴

We look forward to having this issue resolved so that we can continue to provide the level of service our lake community has come to expect. If there are any questions or comments that the CLA can provide, either before or after the CEO meeting, please contact me directly at (860) 354-6928 or via email at claexecdir@earthlink.net.

Sincerely,

CANDLEWOOD LAKE AUTHORITY

A handwritten signature in dark ink that reads "Laurence J. Marsicano". The signature is written in a cursive style with a large, stylized 'L' and 'M'.

Laurence J. Marsicano
Executive Director

⁴ Although Connecticut General Statute 7-151a does not provide guidance on solutions such as the one presented here, the CEOs may want to consider how the budget is solved through majority vote/appropriations per the CLA Ordinances in each municipality when deciding on this issue.



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May 9, 2016

VIA ELECTRONIC MAIL

Dear Chairman Marsh and Members of the Board of Finance:

I am writing in follow up to the Candlewood Lake Authority Executive Committee meeting held on May 4, 2016. The Executive Committee noted an upcoming meeting scheduled for May 16, 2016 among the CEOs of the Member Municipalities (“CEO Meeting”) and thought that CEO Meeting presented an opportunity for the CLA and the Town of New Fairfield, including the Board of Finance and/or Board of Selectmen, to meet and discuss the Town of New Fairfield’s interpretation of the CLA’s use of certain restricted funds known as the “Community Education Center Fund” (the “Restricted Funds”). The purpose of this meeting would be to clarify whether the Town of New Fairfield has an opinion on the CLA’s use of the Restricted Funds that might be different from the opinion the CLA has from its outside counsel on use of such funds (the “CLA Legal Opinion”).¹

To summarize the basis for this discussion, please recall the following events: (i) the CLA’s annual audit report dated December 11, 2015 and submitted to the Member Municipalities (the “2014-2015 Audit”); (ii) comments on the 2014-2015 Audit provided by the auditor retained by the Town of New Fairfield (including comments on past audits as well); and (iii) the plan of action submitted by the CLA to the Member Municipalities to rectify the negative unassigned balance, including re-characterization of certain costs and expenses as expenditures that met the definition within the CLA Legal Opinion that such use was proper for the 2015-2016 fiscal year (the “CLA Plan”).²

The 2014-2015 Audit identified a negative unassigned balance of \$55,621. The CLA had used the funds for expenses based on the CLA Legal Opinion. The auditor for the Town of New Fairfield identified similar issues and provided recommendations, more or less, in line with the recommendations of the CLA’s auditor. However, the Town of New Fairfield Delegate, Mr. John Hodge, had a difference of opinion on what constitutes a proper expenditure out of the Restricted Funds. For example, during a discussion between Mr. Hodge and Mr. Howard Berger, the Delegate from Sherman, during the March meeting Mr. Hodge did not agree with Mr. Berger in that the use of the funds for the purchase satellite imagery and dissemination of a resulting GIS map to be made publically available on our website constituted proper use of the Restricted Funds. Mr. Hodge relied upon, in part, his interpretation of the comments prepared by the auditor for the Town of New Fairfield. Mr. Hodge’s opinion was further echoed, in part, through comments he made as a member of the Board of Finance during the Town of New Fairfield’s Board of Finance meeting held on April 13, 2016 where it was his opinion that the CLA

¹ A copy of the opinion letter from Cramer and Anderson, P.C. is attached.

² The CLA notes that the CLA Legal Opinion did not restrict the CLA from “looking back” to prior years of expenditures; however, the CLA determined the cost of going back and re-engaging the audit would not be the best use of the budget, and therefore, started with the 2015-2016 fiscal year.

was misappropriating funds by use of the Restricted Funds for reasons he did not believe were consistent with the Town of New Fairfield's auditor review.³

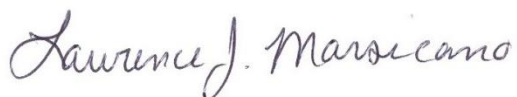
It is the opinion of the CLA that we meet with the Town of New Fairfield Board of Finance and/or Board of Selectmen in an effort to bring closure, consensus or some clarity as to the use of the Restricted Funds, whether such resolution is in accordance with or in contradiction to the CLA Legal Opinion.⁴ At this point, however, we do not have any official opinion from the Town of New Fairfield other than the comments received by the New Fairfield Delegate and through the review of minutes and third party news articles concerning this characterization of use of funds.

Given that time is of the essence, the CLA respectfully requests a response and/or opportunity to discuss the CLA Legal Opinion with the Town of New Fairfield's Board of Finance and/or Board of Selectmen concerning this matter at your earliest convenience.

Thank you for your attention to this matter and if I can be of further assistance, kindly contact me at (860) 354-6928 or via email at claexecdir@earthlink.net.

Sincerely,

CANDLEWOOD LAKE AUTHORITY



Laurence J. Marsicano
Executive Director

Cc: First Selectmen Susan Chapman

Attachment: Letter from Cramer and Anderson to the Candlewood Lake Authority dated April 10, 2015.

³ The money in this line item can only be expended for repayment of the negative unassigned fund balance created by the misappropriation of restricted funds by the Candlewood Lake Authority Minutes of the April 13, 2016 Board of Finance Meeting.

⁴ The CLA is not aware of any other Member Municipality, or its delegates, having an opinion that is contrary to the CLA Legal Opinion vis-à-vis the Restricted Funds.



CRAMER & ANDERSON^{LLP}
Attorneys at Law

51 Main Street
New Milford, CT 06776

(860) 355-2631
Fax (860) 355-9460

30 Main Street
Danbury, CT 06810

Kent Green
Kent, CT 06757

46 West Street
Litchfield, CT 06759

6 Bee Brook Road
Washington Depot, CT 06794

April 10, 2015

The Candlewood Lake Authority
P.O. Box 37
Sherman, CT 06784-0037

Re: Community Education Center Fund

Gentlemen:

The Candlewood Lake Authority requested a legal opinion on the use going forward of \$64,023.00 in funds donated to The Candlewood Lake Authority by virtue of proceeds of a fund raising Candlewood Lake Authority Dinner Dance. The funds are maintained for internal purposes in a Candlewood Lake Authority account denominated "Community Education Center Fund".

Under Connecticut law, all gifts intended for a charitable purpose must be used for the purpose intended by the donor. See Connecticut General Statute §45a-514 and 47-2; *Yale v. Blumenthal*, 225 Conn. 32 (1993); *Coit v. Comstack*, 51 Conn. 352 (1884). When donations are solicited or invited from the public, donor intent is determined by the representation as made to the public in the solicitations, and responsive donations must be used in accordance with those representations. See CGS § 21a-190h(1); *State v. Am. Recycling Technologies, Inc.*, CV040832985, 2009 WL 1532330 (Conn. Super. Ct. May 5, 2009); *State v. Children's Charity Fund Corp.*, CV960558744S, 1997 WL 381220 (Conn. Super. Ct. June 25, 1997). See also, the *Opinion of The Attorney General dated August 7, 2013 in the matter of Newtown-Sandy Hook Foundation, Inc.*

All of the approximately \$64,023.00 was donated to The Candlewood Lake Authority in conjunction with the dinner dance and auction event entitled "First Annual Enchanted Evening on the Lake Candlewood Lake Authority Dinner/Auction Benefit".

The solicitation for tickets and donations stated:

"Proceeds from the event will go toward environmental science and education equipment and programs and other needs for the grand opening of the long-awaited Candlewood Lake Education and Resource Center."



While the Candlewood Lake Education and Resource Center at the planned location at the time of the Dinner Dance in 2007 referenced above would have been in Danbury by virtue of a building donated, leased or in some other manner made available to the Candlewood Lake Authority, for whatever reason not relevant to this opinion, the building did not become available. Since the Danbury Facility was never made available, the offices of The Candlewood Lake Authority became located for a number of years at 30 Bridge Street, New Milford, Connecticut. The environmental science and education equipment and programs are planned at the current home of The Candlewood Lake Authority at 30 Bridge Street, New Milford, Connecticut, and the various environmental science and education equipment and programs related thereto are implemented and conducted at various locations as the situation and/or educational program dictates or warrants, both on Candlewood Lake and in various locations in surrounding Towns abutting the Lake.

The By-Laws of the Candlewood Lake Authority at Article VII, Section 2, provide that the Authority shall have the right to request and accept....private funds. The donations referenced hereinabove, in conjunction with this First Enchanted Evening Energy Dinner and Auction, were donated without written restrictions or conditions limiting the use of the money by The Candlewood Lake Authority. As indicated, the solicitation was for the funds raised were to be used by The Candlewood Lake Authority for the purposes of "environmental science and education equipment and programs . . . "

The fact that those expenditures for the environmental programs may not occur in Danbury, because that building was never made available to The Candlewood Lake Authority, is not material to the essential aspect that the unrestricted donations were made for environmental science equipment and educational equipment and programs relating to The Candlewood Lake Authority. Therefore, the funds solicited for that purpose may be utilized going forward by The Candlewood Lake Authority for the purpose solicited.

For informational purposes only, there is a State Statute, Connecticut General Statute 45a-535, et seq, which adopted the Uniform Prudent Management of Institutional Funds Act, which Section 45a-535e deals with "Release or modification of restrictions contained in gift instrument on management or purpose of institutional funds." It is not necessary to involve that statute in this opinion because these funds were raised through ticket sales and an auction and other related donations for and in support of the dinner dance or expenses related thereto in 2007 and donated without a written condition or written restriction when donated.



In conclusion, the approximately \$64,023.00 of donated funds in The Candlewood Lake Authority "Community Education Center Fund Account" may be expended for the purposes originally solicited, that purpose being "environmental science and education equipment and programs for The Candlewood Lake Authority.

If you have any questions, please do not hesitate to call.

Very truly yours,

CRAMER & ANDERSON LLP

By: Ted D. Backer

Ted D. Backer

TDB:kd

A map of New Fairfield, Connecticut, showing shoreline property parcels highlighted in red. The map includes the town's land area and surrounding water bodies. The red parcels are distributed along the shoreline, with some larger areas in the north and south, and smaller, more fragmented parcels in the center and west. The map also shows the town's street grid and other land parcels in white.

NEW FAIRFIELD SHORELINE PROPERTY TAXES

The assessed value of shoreline parcels (in red) is \$271,702,275. Based on a mill rate of 28.53, taxes are \$7,751,666 dollars. Our request of \$76,800 is 0.99% of those shoreline property taxes.

Included:
Taxes on Vaughn's Neck are \$2,128 dollars.

Taxes on CL&P property north of the town park are \$593 dollars.

Not included:
Taxes on FirstLight project lands which are \$210,885 dollars.

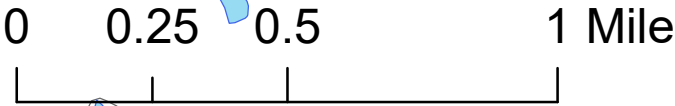
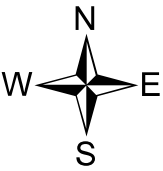
Total Town revenue from property taxes are \$47,777,362 dollars.

Total area is 16,142 ac.

Area of red parcels is 1,246 ac

Therefore 7.7% of the land (red) is generating 16.2% of the tax base.

By removing taxes and area of the Vaughn's Neck land and CL&P land north of New Fairfield Town Beach, the percent of shoreline land becomes 3.7% of the total but the percent of taxes remains at 16%.





CANDLEWOOD LAKE AUTHORITY

P.O. BOX 37 • SHERMAN, CONNECTICUT 06784-0037 • (860) 354-6928 • FAX (860) 350-5611

May 11, 2016
Public Education
Mark Howarth

April eNewsletter:

We sent out an electronic newsletter in April and it covered a number of topics including the spring hazard buoy deployment, discussing spring lawn care tips, reinforcing current fertilizer regulations and announcing the Candlewood Watershed Initiative's Soil Testing Day, plus recognizing Senator Clark Chapin for his work towards bettering our lakes in CT.

Operations Help

I've been spending time working with Nic in operations, helping him get ready for the summer, in lieu of a summer assistant.

Buoy Deployment:

I spent another week with Nic, working to complete the deployment of the hazard, speed and navigation buoys. We also spent a day with Mike Peyton of the CT DEEP, repositioning and officially positioning the buoys in both Squantz and Lattin's Coves.

Canada Goose Program:

I assisted Nic for a couple of days with our Canada Goose program.

Dock Installation:

I assisted Nic in installing the CLA's docks on Deer Island and in Allen's Cove.

Clean Up Prep:

We are preparing for the 2016 Candlewood Lake Clean Up on May 21st. We're recruiting not only volunteers to help clean up, but also volunteer boat captains to help transport the crews around the lake.

Additionally, preparation for the rest of the Clean Up details are under way and will continue.

Women's Club Grant Acceptance:

On April 26th I attended The Woman's Club of Danbury/New Fairfield's Celebration of Community Giving Breakfast, where I accepted a check for the grant we were awarded by the Club. That grant money will help us update, redesign and reprint our zebra mussel tri-fold brochures.



Sponsor Recruitment:

We are working to secure as many sponsors for the 2016 season as possible.

We have mailed out information and personally visited as many of our prior year sponsors to discuss sponsorship with them. We have received positive feedback from many of those we visited and it gave us an opportunity to hear from them as well.

The sponsor program has been updated and modified from prior years. Below is our program.



2016 SEASON SPONSOR

Let us promote your business to our thousands of our supporters and friends!

Dear Candlewood Lake Friend,

The CLA is proud to be the only organization who is solely dedicated to protecting both the water quality of and the safety of those who enjoy Candlewood Lake, and **through your sponsorship we can introduce your business to our thousands of dedicated friends, supporters and lake users - while supporting the mission of CLA, now in its 45th year.**

We are the go-to resource for those who live on and visit Candlewood Lake...and our 4,000 Facebook and email subscribers are an indication of that. In addition, the CLA has a brand new mobile-friendly website that launched in April. It is attracting many new visitors...and your company can be seen at on every page! **Check it out at www.candlewoodlakeauthority.org!**

We would like to introduce our growing list of visitors and followers to your company through our different sponsor opportunities. *If you'd like to discuss customized sponsorships, with unique benefits to you and those who we connect with, please contact us.*

Will you join us as a 2016 CLA Sponsor?

SUMMER IS CANDLEWOOD LAKE



SPONSOR BENEFITS

Principal Sponsor: \$2,500

Principal Sponsors of the Candlewood Lake Authority and our events are the highest level of partnership and exposure. Not only do you get all of the benefits of a Major Sponsor, we want to work with you to achieve the brand exposure you desire by creating customized sponsor benefits tailored to you, your business and your target market. We would love to talk to you further about this unique opportunity.

Major Sponsor: \$1,000

Company Logo-branded exposure at our planned events and through our range of electronic media channels - Candlewood Lake Clean Up, 2017 State of the Lake, website, newsletters, social media, as well as any other added events. Our goal is to bring your business directly into our audiences' awareness and provide them with a connection to your company, as a place that supports an organization that works to protect the lake they cherish.

Partnering Sponsor: \$500

Company Name-branded exposure at our planned events and through our range of electronic media channels - Candlewood Lake Clean Up, 2017 State of the Lake, website, newsletters, social media, as well as any other added events. We will put your company name in front of the eyes of our loyal followers, allowing them to see that you value the lake they love.

Supporting Sponsor: \$250

Company Name-brand exposure through our electronic media channels - website, newsletters and social media. As a supporting sponsor you have the opportunity to reach many thousands of Candlewood residents and users who depend upon the CLA for information and news about Candlewood Lake.

Our Electronic Media Reach:

- Over 2,100 Facebook Followers
- Nearly 2,000 Regular eNewsletter Subscribers
- Brand New Mobile-Friendly Website
 - Regularly ranked #2 in google searches for Candlewood Lake, behind Wikipedia, that has seen an average of 50 visitors per day in the last half of April, 80% of which have been new visitors.
 - Sponsor logos are now featured at the bottom of every page (an example of last season's sponsors can currently be seen on the site - www.candlewoodlakeauthority.org)



2016 SPONSOR FORM

(Runs through 2017 State of the Lake)

COMPANY NAME (as it should appear) _____

CONTACT NAME _____

PHONE _____ EMAIL _____

COMPANY ADDRESS _____

Please check one:

- ☐ **Principal Sponsor** - \$2,500
- ☐ **Major Sponsor** - \$1,000
- ☐ **Supporting Sponsor** - \$500
- ☐ **Contributing Sponsor** - \$250

Mail this form and payment to:

Candlewood Lake Authority
PO Box 37
Sherman, CT 06784

Sponsor online at www.candlewoodlakeauthority.org

(at the bottom right of the page click on red sponsor button)

**To be included in the 2016 Candlewood Lake Clean Up event marketing
please respond no later than May 17th.**

Questions: Contact Mark Howarth @ 860-354-6928 or clapad@earthlink.net