

MAY 9, 2016

The ninth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, May 9, 2016 at 6:00 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, David J. Di Salvo, Susan F. Drago, and Randall G. Holcomb. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Department of Public Works Supervisor Thomas R. Pilling and Fire Chief Kurt W. Hallberg. Absent were Village Attorney Edward P. "Tad" Wright and Building Inspector Jeffrey A. Swanson.

#### APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Barnes, to approve the minutes of the last regular meeting of the Board of Trustees, held April 25, 2016. Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

#### AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Holcomb, that the claims as audited by the Auditing Committee of the abstracts dated April 29, 2016 and May 9, 2016 be approved and that the Clerk shall execute said abstracts (#50, #51 & #52) and direct payment by the Treasurer. General Fund: (End-of-Month), \$ 15,695.18, (Checks #12678 thru #12680), Trust & Agency Fund: \$ 53,182.32, (Checks #3722 thru #3736), General Fund: \$ 24,626.02, (Checks #12681 thru #12718)

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

#### REPORTS

Mayor Birrittieri reported the Events & Marketing Committee has done an amazing job in volunteering to stuff over two thousand envelopes for the 4<sup>th</sup> of July Summerfest fund raiser mailing. Also, the Marketing Team has taken to social media and begun profiling local businesses on the Village of Lakewood's facebook page. The events committee is currently working to complete the Thursday evening summer concert schedule. The next meeting of the Events & Marketing Committee is scheduled for 7:00 PM, Wednesday, May 18th in the conference room.

Mayor Birrittieri said a mailing will be sent to Lakewood's independent merchants for feedback on forming a local merchants association and they will be invited to take part in the 4<sup>th</sup> of July Summerfest activities. She added a future mailing will include a "Village Newsletter", along with schedules for both the 4<sup>th</sup> of July Summerfest and the Thursday evening "Live on the Lake" summer concert schedule.

Mayor Birrittieri also reported that the DPW crew, under the direction of DPW Supervisor Thomas R. Pilling, did a fantastic job in completing its annual brush pick-up last week. She reminded residents must now take brush, grass clippings and other yard waste to the prepared site located on Packard Ave. Brush dump stickers are available, free of charge, at the Village Clerk's office. Mayor Birrittieri informed everyone there will be no more curbside pick-up of brush, grass clippings and yard waste until next May and that only leaves will be picked-up in the fall.

Regarding property maintenance, Mayor Birrittieri said last week Building Inspector Swanson sent several "Order to Remedy" notices to owners of property which are in violation of NYS and local building codes, with more to come. It is time for everyone to clean-up their homes and yards to keep Lakewood beautiful.

Mayor Birrittieri thanked those who do keep their properties and homes neat and tidy and encouraged those receiving an "Order to Remedy" notice to correct the building and/or property maintenance issue within the thirty day period. She said there are two residential properties scheduled for demolition and clean-up, one due to neglect, the other due to a recent structure fire.

MAY 9, 2016 (CONTINUED)

Mayor Birrittieri said she, Planning Board Chairman/Chairman of the Comprehensive Plan Steering Committee, Edward J. McCague and others attended a seminar Friday, April 29<sup>th</sup>, on Consolidated Funding Application (CFA), which was very informative. Mayor Birrittieri said there are a number of funding opportunities available.

Mayor Birrittieri said a big shout-out and congratulations go out to Chautauqua County Legislator and Lakewood's own P.J. Wendel. Representing the United States, Mr. Wendel recently competed in the European Championship of Celtic Wrestling in France and by virtue of his second place finish in his age and weight class, became the first American to medal in the European Championship. Congratulations!!

Department of Public Works Supervisor Thomas R. Pilling reported that a number of residents have already violated the Village of Lakewood's new brush pick-up rules and suggested that they be sent a letter reminding them of the change. Mr. Pilling said he would like to take a minute or two following tonight's meeting to show Mayor Birrittieri and members of the Board of Trustees some options in new playground equipment at Richard O. Hartley Park for them to consider. Mr. Pilling said by the end of the current fiscal year there should be a ten to fifteen thousand dollars overage in the budget's gasoline and diesel line items to spend on the new playground equipment.

Mr. Pilling then asked about the \$ 153,486.00, (NYS Bid Price), dump truck he included in his budget estimate, which was ultimately taken out.

Mayor Birrittieri said she and the Board of Trustees will consider adopting a resolution at the next meeting to include its price with that of the new ambulance on the five year Bond Anticipation Note.

Mr. Pilling also said he has some information for Mayor Birrittieri and the Board of Trustees to consider concerning colors and patterns for the proposed 25 ft. x 15 ft. concrete pad in front of the gazebo at Richard O. Hartley Park. Mr. Pilling indicated the DPW crew could form and pour the concrete pad, but would have to hire a contractor to color and "stamp" it at an approximate cost of \$ 1,200.00.

Mayor Birrittieri explained that members of the Events & Marketing Committee and some musicians she has spoken to, have expressed the need to get bands performing at Richard O. Hartley Park out from under the gazebo. The size of the gazebo also limits the type of events that can take place in the park and

what bands are able to comfortably perform. She said originally there were thoughts of constructing a portable stage. After the idea of doing that became too cumbersome, Mayor Birrittieri said she eventually became sold on a concrete pad/stage in front of the gazebo as suggested by Mr. Pilling. Mayor Birrittieri said that line of thinking has brought us to this point.

Police Chief John R. Bentley reported the Lakewood-Busti Police Department has responded to three thousand seven hundred forty-two reportable incidents year-to-date and that the canine officer is back to work. Chief Bentley said through the federal asset forfeiture program, the L-BPD recently received \$54,709.00.

Chief Bentley then wished to thank Trustee Drago for having stopped-by recently to discuss some personnel matters such as whether to hire part-time officers versus adding one or more full-time officers and associated costs in doing so.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to two hundred seventy-seven alarms year-to-date, twenty-four of which have occurred during the past two weeks.

Chief Hallberg also indicated there is a training session planned at Brookdale of Lakewood, the assisted living facility at 220 Southwestern Dr., in the very near future. Also the LFD will be working with the folks at the newly opened Fairway Point Senior Village, located just outside the village on Southwestern Dr. to develop an evacuation plan.

MAY 9, 2016 (CONTINUED)

Chief Hallberg concluded his report saying the LFD will also be participating in an elevator exercise on May 17<sup>th</sup>.

Village Treasurer Windoft said regarding the cost of the dump truck, which had been removed from the DPW 's estimated budget, at an interest rate of 3.4%, and adding its cost to the 2017-2018 budget, the line item would increase by \$ 27,587.00 or 19%. If the new ambulance was the only vehicle being financed via the five year Bond Anticipation Note, (BAN) the debt would decrease by 6% due to the fact that two BANS will be paid-off this summer. The end result is an increase of 13% in that line item.

Village Treasurer Windoft also reported the budget for the fiscal year 06/01/16 - 05/31/17 has been filed with New York State and she has also processed the tax cap and tax freeze information, plus has filed the constitutional tax limit forms. Last but not least, Village Treasurer Windoft said she has received the Village of Lakewood's quarterly share of the NYS sales tax revenue in the amount of \$ 151,904.00 for the months of February, March and April 2016.

Trustee Drago asked Village Treasurer Windoft to explain the note on the invoice from Bruce E. Robinson, Inc., Jamestown, N.Y., regarding the purchase of the trees.

Treasurer Windoft indicated the Arbor Day Tree, (Kentucky Coffee Tree), which cost \$ 193.58, was to be paid for by the Women's Club of Lakewood. Because they weren't in a good financial position to fund the tree's purchase this year, \$ 111.54 was paid from Account A-8510.41, (Community Beautification - Trees), with the balance of \$ 82.04 paid from Account #A-8510.40, (Community Beautification). Mrs. Windoft noted Account #A-8510.41, has been completely

expended for this fiscal year. The Tree Committee has \$ 1,900.00 along with a Tree Grant in the amount of \$ 4,000.00, plus the \$ 2,000.00 appropriated in next year's budget to spend as they wish.

Mayor Birrittieri said because the Village of Lakewood is seeking designation as Tree City - USA, it is imperative to continue to plant an Arbor Day tree each year.

Mr. Richard Rose, 42 Gifford Ave. and Chairman of the Lakewood Tree Committee, indicated the Women's Club of Lakewood paid for the Arbor Day tree which was planted last year and intended to do so again this year. To a certain extent a reason they weren't able to conduct any fund raisers this past year was because the former recreation center was sold. The Tree Committee is actively searching for an individual or business to fund this year's Arbor Day tree.

Ms. Kaie Smith, 24 Park Lane, said she would be happy to fund this year's Arbor Day tree purchase.

Mayor Birrittieri and members of the Board of Trustees expressed their thanks to Ms. Smith for her generosity.

Trustee Barnes was happy to report that the former Beechwood Restaurant, 400 East Terrace Ave., has been sold and the new owner plans to make some necessary renovations and reopen it as a restaurant.

Trustee Di Salvo thanked Police Chief Bentley for providing him with a list of times police service had been requested on Oho Ave. during the past year. He was disappointed and surprised to learn that officers had been called to respond to forty-four incidents on Ohio Ave. in the past twelve months.

Trustee Di Salvo also reported he recently spent some time with Building Inspector Swanson and visited the nine properties within the Village of Lakewood that are noted on the Chautauqua County Real Property Tax Services' foreclosure list. Of the nine properties, five are vacant lots, three of which are located adjacent to structures having the same owner. Two of properties have structures on them that warrant condemnation and eventual demolition. Unfortunately it costs approximately \$ 30,000.00 per structure to have them demolished and property cleaned-up.

MAY 9, 2016 (CONTINUED)

Mr. Di Salvo said he talked with Ms. Barb Cybert, Legal Aid, from the Chautauqua County Real Property Tax Services office, who put him touch with its Director, Mr. Jim Caflisch, who is also a board member of the Chautauqua County Land Bank. The question asked was, what would it take for the Village of Lakewood to strike the aforementioned properties from the county's upcoming auction list.

Mr. Caflisch said a possible solution for those two properties, if the Village of Lakewood is interested, would be for the Chautauqua County Land Bank to incur 50% of the demolition costs. Trustee Di Salvo said the Village of Lakewood would need to notify the county of our intentions by May 31<sup>st</sup>.

Trustee Di Salvo said he and Building Inspector Swanson spent some time on Ohio Ave. and paid a visit to an abandoned/zombie property on Fairwood Dr. Despite federal regulations lending institutions and/or those holding the

mortgage allow these properties to deteriorate. A lot of the times there is no contact information regarding the abandoned properties as the foreclosure process is allowed to drag on.

Trustee Di Salvo said there is some good news. Before the NYS Legislature is a "zombie kill" bill, which would require all lending institutions to register with the local municipality and to provide any and all information pertaining to the status of their foreclosures and pertinent contact information. Trustee Di Salvo said there are at least two dozen bank owned properties within the Village of Lakewood and their negative impact on nearby properties is quite evident. Unfortunately the problem will probably get worse before it gets better.

#### ANYONE TO BE HEARD

Tree Committee Chairman Richard Rose indicated there is a technique to water newly planted trees by using irrigation bags. The Village of Lakewood currently has about two dozen such bags however there is a need to water the nearly eighty new trees that have been planted the past few years. Mr. Rose said the Tree Committee plans on putting together a flier for the upcoming bulk mailing explaining the need for the irrigation bags and to ask residents to consider purchasing one or more of the bags which cost around \$23.00 apiece.

Ms. Sandy Olson, 10 Clark Street, appeared before Mayor Birrittieri and the Board of Trustees to ask if there is any news on when the fire damaged structure at 9.5 Clark Street will be demolished and property cleaned-up.

Mayor Birrittieri indicated to Ms. Olson said she recently spoke with Building Inspector Swanson regarding the matter and was told that the structure would be demolished and property cleaned-up very soon, but would be happy to call her first thing tomorrow with a more definitive timetable if one is known.

Chautauqua County Legislator Wendel indicated to Mayor Birrittieri and the Board of Trustees that the Chautauqua County Department of Public Facilities expects to begin repairing the abutments on the bridge on East Terrace Ave. by the 4<sup>th</sup> of July. The work would consist of forming and pouring new concrete abutments over the existing structures.

Mr. Wendel said he spoke with an official from the NYS Comptroller's Office regarding the recent Town of Busti audit saying the report was very clear however they can't mandate the return of any funds to the taxpayers from the Village of Lakewood.

Trustee Di Salvo asked DPW Supervisor Pilling what is the status of the project to replace the retaining wall on East Terrace Ave. between New York Ave. and Lakeview Ave.

Mr. Pilling said he is hopeful that particular project can be done during this year's construction season.

MAY 9, 2016 (CONTINUED)

Mr. Derek Svenson, 12 East Terrace Ave., wanted to thank everyone for taking

action in response to discussions two weeks ago regarding some property maintenance and other concerns on Ohio Ave. There have been increased police patrols and neighbors have seen Building Inspector Swanson in the neighborhood. Mr. Svenson then asked if there are any news on the Nuisance Abatement Law that was discussed two weeks ago and if action on it is moving forward as a priority.

Mayor Birrittieri said the Village of Lakewood is definitely pursuing that angle as a priority regarding property maintenance enforcement.

Mr. Doug Callen, former reporter for The Post-Journal, indicated he wanted to make it known to those who were not in attendance at the last Town of Busti Town Council meeting held, May 2, 2016, that Councilman Mueller introduced two motions, neither of which received a second, which dealt with possible solutions to money questions between the Town of Busti and the Village of Lakewood. Supervisor Robbins then indicated that Councilman Mueller's motions would be included on the agenda for their next regular meeting, May 16<sup>th</sup>.

Mr. Donald Carpenter, of Carpenter Consulting Group, Rochester, N.Y., representing his client, Up State Tower Co., LLC, Bethesda, MD, appeared before Mayor Cara Birrittieri and the Board of Trustees, to provide a clear understanding of his client's position on its recent cell tower application and newest site selection. He said up until now the process has been going from attorney to attorney, and if you don't know already, his client, Up State Tower Co., LLC, is in the process of filing a law suit against the Village of Lakewood. Mr. Carpenter said he is not here this evening to change the minds of the elected officials, rather to try to work things out before the timeframe of when a law suit may be withdrawn.

Mayor Birrittieri informed Mr. Carpenter that the Village of Lakewood's legal counsel is not present this evening.

Mr. Carpenter indicated that the Local Law being proposed does have legal precedent of being stuck down by the State of New York. The fees associated with the application process were found to be exorbitant. Mr. Carpenter proceeded to distribute a copy of case law, Metro PCS vs. Mount Vernon, N.Y., to Mayor Birrittieri and members of the Board of Trustees. He said Mount Vernon had a similar local law in place, which incidentally was also drafted by the Village of Lakewood's consultant, Mr. Richard A. Comi, of The Center for Municipal Solutions. When compared with other zoning application fees in both Mount Vernon and Village of Lakewood, the fees required in the local laws drafted by the consultant are unfair. In the case against Mount Vernon, N.Y., for example, a special use permit fee was \$ 500.00, while a special use permit fee for a wireless telecommunications facility was \$ 12,000.00, which was deemed unfair by the court. Mr. Carpenter said he is a contractor and doesn't work for Up State Tower Company directly.

Mayor Birrittieri asked Mr. Carpenter why is he in attendance this evening and if he is getting paid.

Mr. Carpenter indicated his client has a desire to work things out, prior to going to court and is therefore reaching out to the Village of Lakewood on their behalf, and yes he is getting paid.

Mayor Birrittieri said then you are working for Up State Tower Company as a consultant.

Mr. Carpenter indicated the initial site for the wireless telecommunications facility was located adjacent to an industrial zone and probably wasn't the best location, being in close proximity to residential properties. We have found what is a much more suitable location, on Lakewood Volunteer Fire Company, Inc. property, which could provide an income stream to the fire company. We believe the alternate location is a wonderful compromise and that Up State Tower Company takes issue with what they view as being forced into an unreasonable application process.

MAY 9, 2016 (CONTINUED)

Mayor Birrittieri asked Mr. Carpenter, who is being forced here. She told Mr. Carpenter she and the Board of Trustees is well on its way to enact a local law dealing with the application process to site a wireless telecommunications facility within the Village of Lakewood. Mayor Birrittieri said she appreciates the fact that you've been sent here to inform us of action that has taken place in other parts of the State, with respect to the application process for wireless telecommunications facilities. She asked Mr. Carpenter what is the goal for him being here this evening.

Mr. Carpenter said all he is doing by being here this evening is to advise the Village of Lakewood that they might be setting themselves up to become embroiled in a law suit they can't defend. He said Up State Tower Company would much rather work this matter out by the Village of Lakewood accepting an amended application.

Mayor Birrittieri thanked Mr. Carpenter for his time in coming down and expressing his client's position to her and the Board of Trustees.

RESOLUTION #71-2016 - RE-SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Barnes, to set 6:55 PM, Monday, May 2, 2016, as the time and date for the Board of Trustees to conduct a public hearing on proposed Local Law #4-2016 - Siting of Wireless Telecommunications Facilities.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #72-2016 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Holcomb, to set 6:40 PM, Monday, May 23, 2016, as the time and date to conduct a public hearing to consider amending Section #25-71, [Schedule of Fees], of the Village of Lakewood Zoning Law.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #73-2016 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Holcomb, seconded by Trustee Barnes, to set 6:45 PM, Monday, May 23, 2016, as the time and date to conduct a public hearing, to consider amending the Village Code with respect to the fines and fees for those ticketed by officers of the Lakewood-Busti Police Department for parking violations.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

Trustee Di Salvo indicated that the Town of Busti must also be agreeable to the fine and fee schedule adopted by the Village of Lakewood in that the single ticket cites local laws by both the village and township. Trustee Di Salvo then asked Chief Bentley if he knew where the Town of Busti was in its review and adoption of a new fines and fees schedule.

Chief Bentley said he will mention it to Town of Busti Supervisor Robbins and make sure it is on an upcoming agenda.

RESOLUTION #74-2016 - AUTHORIZE YEAR-END BUDGET TRANSFERS

Motion by Trustee Drago, seconded by Trustee Barnes, authorizing Village Treasurer Andrea J. Windoft to make necessary year-end budget transfers for the fiscal year 06/01/15 - 05/31/16.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

MAY 9, 2016 (CONTINUED)

RESOLUTION #75-2016 - SET TIMES & DATE FOR PUBLIC HEARINGS

Motion by Trustee Di Salvo, seconded by Trustee Barnes, to set 6:25 PM, Monday, May 23, 2016, as the time and date to conduct a public hearing on a Special Use Permit Application - 6 ft. Fence, as submitted by Mr. James Saullo & Ms. Sarah Niebank, 5 Case Ave., and 6:35 PM, Monday, May 23, 2016, as the time and date to conduct a public hearing on a Special Use Permit Application - 5 ft. Fence, as submitted by Mr. David G. Bargar, 11 Sunset Ave.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #76-2016 - AUTHROIZE REQUEST FOR QUOTES

Motion by Trustee Di Salvo, seconded by Trustee Drago, per the recommendation of Mayor Birrittieri, authorizing the Village Clerk to request quotes for janitorial services for the Anthony C. Caprino Municipal Building and the Lakewood Fire Station.

Adopted; 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

Motion by Trustee Barnes, seconded by Trustee Holcomb, and unanimously carried, the Board adjourned at 7:03 PM.

---

Joseph M. Johnson  
Village Clerk