

MAY 29, 2012

The fifth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, May 14, 2012 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, Susan F. Drago, Joseph M. Troche and John Jablonski. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Village Attorney Edward P. Wright, Department of Public Works Supervisor Thomas R. Pilling and Fire Chief Kurt W. Hallberg. Absent was Building Inspector Charles L. Smith.

ANYONE TO BE HEARD

Mr. & Mrs. Thomas Dusenbury, who reside in Derby, New York and are owners of the property at 8 Canal Street, appeared before Mayor David T. Wordelmann and the Board of Trustees to voice their concerns regarding the condition of the adjacent property at 10 Canal Street. Mr. Dusenbury indicated that he wrote a letter to Mayor Wordelmann back in May regarding the situation next door. Mr. Dusenbury said he and his wife have owned property in the Village of Lakewood for the past seventeen years and have owned the property at 8 Canal Street the past nine years. Mr. Dusenbury went on to say that the condition of 10 Canal Street has gone from bad to worse. During the last nine years the owner of the property has not performed any maintenance on the residence and it appears the owner is just collecting rent. Contributing to the problem is the fact that the small back yard is the home for two large dogs and their owners fail to adequately clean-up after them. The odors from the dog's feces and urine make it impossible for us or weekly tenants to enjoy the back patio. Mr. Dusenbury said he and his wife have talked with Building Inspector Smith and the Village Clerk concerning this ongoing problem, and even contacted the Lakewood-Busti Police Department to look into possible health issues associated with the poorly kept property. Mr. Dusenbury said he and his wife are at a loss as to what can be done to prompt the owner to take better care of the property.

Mr. Dusenbury said over the past year he put his property at 8 Canal Street up for sale and once prospective buyers take a look at the adjacent property, they jump back in their car and are never heard from again. He is hopeful something can be done to improve the situation. Mr. Dusenbury said he pays his fair share of taxes and it doesn't seem right that something can't be done.

Mr. Robert Whitman, 321 East Terrace Ave., indicated that he is also impacted by the terrible smell of feces and urine from 10 Canal Street.

Mrs. Cheryl Dusenbury indicated that the neighbors might install a pool in their small back yard and asked at the end of the summer where do you think the pool water will drain to. It will likely flow into our back yard. She also said the dogs never leave the premises.

Mayor Wordelmann thanked Mr. & Mrs. Dusenbury for sharing their concerns with members of the Board of Trustees this evening and said the problem will be investigated and we'll try to find an answer.

APPROVAL OF MINUTES

Motion by Trustee Denn, seconded by Trustee Jablonski, to approve the minutes of the last regular meeting held May 14, 2012.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

MAY 29, 2012 (CONTINUED)

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Denn, that the claims as audited by the Auditing Committee of the abstract dated May 29, 2012 be approved and that the Clerk shall execute said abstracts (#53, #54 & #55) and direct payment by the Treasurer. General Fund: \$ 40,517.92,(Check #8514 thru #8550), add on check #8479 (postage), void Check #8480 thru #8513 (printer misalignment), Trust & Agency Fund \$ 51,642.45 (Check #1978 thru 1994) and \$ 52,360.99, (Check #1995 thru 2011)
Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that he and the D.P.W. crew will soon be tackling a drainage project along Chautauqua Ave. and that upon completion of that project Chautauqua Ave. will be micro-paved. He also reported that other paving projects scheduled include the milling and paving of the rest of East Terrace Ave. and that Packard Ave. and Laurel Street will be milled and paved.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has answered four thousand seven hundred eighty-nine reportable incidents year-to-date. Police Chief Bentley also wished to commend Sgt. Fardink and Officers Hafner and Hasson for responding to a fight which turned into an assault at Wait Corners in the Town of Sherman over the Memorial Day holiday weekend. Because of budget issues at the county level the number of Sheriff patrol cars has been limited to one in the south county and one in the north county. It just happened that the Lakewood-Busti Police Department was the closest agency to offer assistance at that particular time. The officers that responded handled the situation admirably. Chief Bentley said when serious calls are reported we are obligated to assist other law enforcement agencies and vice versa. Chief Bentley was pleased to announce that Officer Carl A. Caprino was recently selected by the Lakewood American Legion Post #1286 as Police Officer of the year for 2011 and was also selected by the American Legions of Chautauqua County as Police Officer of the year for 2011. Congratulations go out to Officer Caprino.

Trustee Denn indicated that the officers led by Sgt Fardink in responding to the serious incident at Wait Corners did a wonderful job and should be commended.

Sgt. Steven P. Fardink, appearing before Mayor Wordelmann and the Board of Trustees, wished to make it clear that the Lakewood-Busti Police Department does not actively patrol outside its own jurisdiction, but as Chief Bentley noted we are obligated to respond to serious incidents when needed. He said there weren't a lot of options regarding the incident at Wait Corners and was pleased everything worked out for everyone involved.

Chief Bentley said Sgt. Fardink triaged the incident at Wait Corners well and he and the other officers did a good job in managing the situation at hand.

Chautauqua County Legislator P.J. Wendel, representing District 18, appeared before Mayor Wordelmann and the Board of Trustees and said as a member of the Public Safety Committee he will look into the sheriff patrol question from a county perspective. Legislator Wendel said it is unacceptable to only have one or two sheriff patrol cars covering the entire county on a given night and told Mayor Wordelmann and the Board of Trustees that they have his word this subject will be brought up at the next meeting of Chautauqua County's Public Safety Committee.

MAY 29, 2012 (CONTINUED)

RECESS

Motion by Trustee Denn, seconded by Trustee Drago, to recess the regular meeting of the Board of Trustees so as to conduct previously scheduled public hearings.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

PUBLIC HEARING – 6:45 PM
SPECIAL USE PERMIT – FENCE
8 WEST SECOND STREET

Mr. Patrick Karr, 8 West Second Street has submitted an application for a Special Use Permit regarding a proposal to erect 227 lineal feet of 5 ft. high chain link fence (including two gates), as an enclosure for his dog, which will surround portions of his front, side and rear yards. In accordance with Section #25-51, [Fences, Walls], of the Village of Lakewood Zoning Law, fences above 4 ft. in height shall require a Special Use Permit.

Mayor Wordelmann opened the public hearing at 6:45 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper.

Mayor Wordelmann then asked if there was anyone who wished to speak for or against Mr. Karr's Special Use Permit application.

Mr. Karr indicated to Mayor Wordelmann and the Board of Trustees that none of his neighbors have any objections to his proposed fence project. Mr. Karr said rather than putting up a solid stockade type fence he has opted to install a green vinyl chain link fence which will offer a more open appearance to his fenced-in yards.

With no one else to be heard, Mayor Wordelmann closed the public hearing at 6:50 PM.

PUBLIC HEARING – 6:50 PM
SPECIAL USE PERMIT – ACCESSORY APARTMENT
385 EAST FAIRMOUNT AVE.

Mr. David Garofalo, 17 Linwood Ave., Jamestown, N.Y., has submitted an application for a Special Use Permit regarding a proposal to establish a second floor accessory apartment above the commercial business (Key Real Estate) at 385 East Fairmount Ave. In accordance with Section #25-14, (C-5), [Highway Business (B-2) District], of the Village of Lakewood Zoning Law, the establishment of an accessory apartment in a B-2, Highway Business District shall require a Special Use Permit.

Mayor Wordelmann opened the public hearing at 6:50 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper.

Mayor Wordelmann then asked if there was anyone who wished to speak for or against Mr. Garofalo's Special Use Permit application.

Mr. Garofalo explained to Mayor Wordelmann and the Board of Trustees being visually impaired, he doesn't drive. As part owner of Key Real Estate Mr. Garofalo said life would be made much easier if he were to be able to reside above his work place.

MAY 29, 2012 (CONTINUED)

With no one else to be heard, Mayor Wordelmann closed the public hearing at 6:54 PM.

PUBLIC HEARING – 6:55 PM
SITE PLAN REVIEW – OUTSIDE SEATING PLATFORM
112 CHAUTAUQUA AVE.

Mr. Gerald N. Paddock, owner of the commercial building at 110-112 Chautauqua Ave., has submitted an application for Site Plan review regarding a proposal to establish an outside seating platform on the sidewalk in front of the Phoenix Palace restaurant, 112 Chautauqua Ave. In accordance with Section #25-85, [Site Plan review], of the Village of Lakewood Zoning Law, if in the Building Inspector's opinion a proposed project might have an impact on the safety, health and character of nearby businesses, he may ask that the Planning Board review said project and render a recommendation to the Municipal Board.

Mayor Wordelmann opened the public hearing at 6:55 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper.

Mr. Paddock was out of town on family business and therefore could not attend this evening's public hearing.

Mayor Wordelmann indicated because of the incline directly in front of the restaurant, for any outside seating to be level an angled wooden platform as proposed by Mr. Paddock would be necessary.

Village Attorney Edward P. Wright indicated to protect the Village of Lakewood's interests the applicant should provide a Certificate of Insurance indemnifying the Village of Lakewood relative to the proposed wooden platform.

With no one else to be heard, Mayor Wordelmann closed the public hearing at 7:00 PM.

PUBLIC HEARING – 7:00 PM
SPECIAL USE PERMIT – FENCE
297.5 SHADYSIDE AVE.

Mr. Matthew Thomas, 297.5 Shadyside Ave., has submitted an application for a Special Use Permit regarding a proposal to erect approximately 344 lineal feet of 6 ft. high privacy fence so as to provide an enclosed play area in his side and rear yards. In accordance with Section #25-51, [Fences, Walls], of the Village of Lakewood Zoning Law, any fence above four (4) feet in height shall require a Special Use Permit.

Mayor Wordelmann opened the public hearing at 7:00 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper.

Mayor Wordelmann explained to Mr. Thomas that he and the Board of Trustees are generally against 6 ft. fences and are approved only under extraordinary circumstances. Mayor Wordelmann said he is personally against closing-off neighborhoods via 6 ft. privacy fences. He then asked Mr. Thomas if he would consider a 4 ft. fence versus the 6 ft. fence he is proposing.

MAY 29, 2012 (CONTINUED)

Mr. Thomas indicated that the 6 ft. fence provides a wonderful barrier and is a cost effective choice. Mr. Thomas did say since he has moved in his original ideas about the fence could change.

Trustee Denn suggested to Mr. Thomas that he reapply to the Planning Board for a Special Use Permit and to provide more detailed information concerning his proposal.

Mr. Justin Morris, son of Mrs. Judith E. Morris, who is the owner of 303 Shadyside Ave., appeared before Mayor Wordelmann and the Board of Trustees to express concerns on behalf of his mother regarding Mr. Thomas' fence proposal.

Mr. Morris said although his mother has no immediate objection to Mr. Thomas' fence she is concerned about the line of pine trees that run parallel with Mr. Thomas' rear property line. Her concern is the fence posts could cause damage to the trees' root systems which could kill the trees. Mr. Morris said his mother would also like to be kept apprised of any and all work that is to be undertaken along their common boundary line so any possible damage to her property could be mitigated.

With no one else to be heard Mayor Wordelmann closed the public hearing at 7:10 PM.

RESOLUTION #42-2012-2013 – APPROVE/GRANT SPECIAL USE PERMIT – FENCE

Motion by Trustee Drago, seconded by Trustee Denn, to approve/grant the Special Use Permit application as submitted by Mr. Patrick Karr, 8 West Second St., whereby he will be allowed to erect 227 lineal feet of 4 ft. high green vinyl chain link fence dog enclosure surrounding portions of his front, side and rear yards per the site plan on file.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RESOLUTION #43-2012-2013 – APPROVE/GRANT SPECIAL USE PERMIT – ACCESSORY APT.

Motion by Trustee Denn, seconded by Trustee Drago, to approve/grant the Special Use Permit application as submitted by Mr. David Garofalo, 17 Linwood Ave., Jamestown, N.Y., whereby he will be allowed to establish a second floor accessory apartment above the commercial business (Key Real Estate) at 385 East Fairmount Ave.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RESOLUTION #44-2012-2013 – APPROVE SITE PLAN – OUTSIDE SEATING PLATFORM

Motion by Trustee Denn, seconded by Trustee Jablonski, to approve the site plan as submitted by Mr. Gerald N. Paddock, owner of the commercial building at 110-112 Chautauqua Ave., for an 8 ft. x 10 ft. wooden platform to be situated in front of the Phoenix Palace restaurant, 112 Chautauqua Ave., so as to provide a level surface for an outside eating area, with the stipulations that Mr. Paddock provides a Certificate of Insurance indemnifying the Village of Lakewood for any and all loses associated with the proposed platform, that the wooden platform be removed from in front of the restaurant between November 1st and April 1st of each year and that continued use of the platform for outside seating shall be approved on an annual basis.

Adopted: 4 ayes, nays (Denn, Drago, Jablonski, Troche)

MAY 29, 2012 (CONTINUED)

RESOLUTION #45-2012-2013 – TABLE ACTION ON SPECIAL USE PERMIT APPLICATION

Motion by trustee Troche, seconded by Trustee Jablonski, for the Board of Trustees to table any action on the Special Use Permit application as submitted by Mr. Matthew Thomas, 297.5 Shadyside Ave., regarding his proposal to erect approximately 344 lineal feet of 6 ft. high privacy fence as an enclosed play area for his children, until he submits more detailed information concerning his proposed fence project. It was suggested that he resubmit an application for a Special Use Permit to the Planning Board for their review and recommendation.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

OPEN DISCUSSION
RE: PROPOSED PUBLIC BOATING DOCK
RICHARD O. HARTLEY PARK

Mayor Wordelmann opened the discussion on a proposal by the Village of Lakewood to establish a public boating dock at Richard O. Hartley Park by stating as a lakeside community it is his opinion that it is important to take advantage of that by considering providing boaters access to the lovely park as well as the businesses along Chautauqua Ave. Mayor Wordelmann said the dock would be situated east of the public bathing beach. The proposed dock will measure 128 ft. long, with a tee and two side sections. The dock as proposed would provide slips for up to eight boats.

Ms. Nancy G. Bargar, 11 West Terrace Ave., indicated to Mayor Wordelmann and the Board of Trustees that she owns one of the closet private residences to Richard O. Hartley Park. When this subject came up for discussion a few years ago, there was much discussion about the contrast between the Village of Bemus Point and Lakewood. Ms. Bargar said she is not here this evening to strenuously object to the proposed dock but rather to point out some changes that occurred to the park over the years and to listen to input from other residents. When she purchased her home, next door was the Green Farm gift shop and across the street was a beautiful park with lovely open green space. Since then the former gift shop has been converted into a weekly rental property, the gazebo was built, which is the site for numerous weddings and Thursday night concerts throughout the summer months, the children's playground has been expanded. With these changes has come more traffic which in turn disrupts the peacefulness of the neighborhood. In addition to these changes she has had to deal with the aftermath of the annual 4th of July/Summerfest activities. She asked would you want to be in my situation and said the park today is much different than it was when she purchased her house and wonders how a public boating dock might impact the park further.

Mr. Jon T. Pearson, 4 East Terrace Ave., said as a resident he is not opposed to the proposed dock. As the owner of Pearson's Stained Glass Studio & Gift Shop, he doesn't particularly cater to walk-in business however the public dock could be beneficial to other businesses along Chautauqua Ave.,

Mr. John Shedd, 7 Walnut Street, indicated to Mayor Wordelmann and the Board of Trustees that during the 1990's he was a member of CIBOL, (Committee for the Improvement & Betterment of Lakewood), which was a made up of a group of concerned residents looking for ways to make the Village of Lakewood a better place to live. One of the things discussed at that time was how to improve the traffic for Chautauqua Ave. businesses, and the subject of a public dock was brought up. Mr. Shedd said he believes a public dock would be a nice addition to the park and a positive asset for the community.

MAY 29, 2012 (CONTINUED)

Mr. Geoffrey Bond, 20 East Lake Street, indicated one of the concerns he has about the proposed public dock location is its location. Because of a shallow reef in front of his property his rights to deeper water while navigating his own boat will have to be maintained.

Mayor Wordelmann indicated to Mr. Bond that the dock will be located in the gap between the trees along the shoreline. There is also talk of creating a picnic area in that area of the park for boaters to enjoy. Mayor Wordelmann went on to say that public docks were important when steamboat traffic on the lake was popular years ago. Although there are no more steamboats, providing a public dock for boaters to access is just as important.

Mr. Thomas A. Turner, 35 East Lake Street, indicated he owns two properties near Richard O. Hartley Park and is in favor of the dock as proposed which could generate traffic for village businesses, adding it is long overdue. Mr. Turner said a gravel delta has been forming in the lake over the years at the discharge point of the drainage ditch/culvert which runs along the east side of the park. Some consideration should be given to how to better manage the sediment run-off from this culvert.

Mr. Samuel Whitmore, 34 Ohio Ave., and owner of Bag & String Wine Merchants, 119 Chautauqua Ave., said he echoes Mr. Turner's comments.

Trustee Troche said by having a public dock the Village of Lakewood is not going to turn into a Bemus Point.

Mr. William F. Chandler, 207 West Summit Street, said as a boater he knows where there are places to dock and having a dock at the park would be nice for families to take advantage of. Mr. Chandler said he is in favor of the dock in that it gives boaters a chance to visit Lakewood and support the businesses along Chautauqua Ave.

As discussion on the proposed public dock drew to a close Ms. Barger asked what will be the financial impact of the new dock.

Mayor Wordelmann said the new dock will cost the Village of Lakewood about \$ 30,000.00.

REPORTS (CONTINUED)

Village Attorney Edward P. Wright asked that the Village Board of Trustees enter into executive session following the regular meeting so as to discuss a personnel matter.

COMMITTEE REPORTS

Trustee Troche reported that talks with the Town of Busti regarding a new police services agreement between the Village of Lakewood and the Town of Busti are going along well and our intentions are to arrive at a fair and equitable deal with the Town of Busti.

MAY 29, 2012 (CONTINUED)

RESOLUTION #46-2012-2013 – APPROVE INTERNET CONTRACT/AGREEMENT

Motion by Trustee Troche, seconded by Trustee Denn, authorizing Mayor David T. Wordelmann to enter into a contract/agreement between the Village of Lakewood and Chautauqua County regarding a planned fiber optic connection for internet service. The monthly cost for this service will total \$ 350.00.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RESOLUTION #47-2012-2013 – AUTHORIZE HIRING OF SEASONAL EMPLOYEE

Motion by Trustee Denn, seconded by Trustee Troche, authorizing the hiring of Mr. Riley G. Smith, 1528 Track Road, Jamestown, N.Y., as a seasonal employee for the parks and street department, per the recommendation of Department of Public Works Supervisor Thomas R. Pilling. Mr. Smith'S date of hire will be May 30th and he will be compensated at the minimum wage of \$ 7.25/hr.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RESOLUTION #48-2012-2013 – APPROVE DOCK PERMIT APPLICATIONS

Motion by Trustee Troche, seconded by Trustee Drago, to approve the following dock permit applications for 2012: Harlem Ave., as submitted by Steven P. Johnson, 26 Harlem Ave. and Oakland Ave., as submitted by Mark S. Ramsey, 8 Oakland Ave., and to table any action on a dock permit application as submitted by Nicholas Pannes, 34 W. Terrace Ave., regarding a proposal to establish a dock off the Howard Park Allotment.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RECESS

Motion by Trustee Troche, seconded by Trustee Drago, to recess the regular meeting at 7:35 PM, so as to enter into executive session to discuss personal matters.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

EXECUTIVE SESSION

Present at the executive session were Mayor David T. Wordelmann, Trustee Gale A. Denn, Trustee Susan F. Drago, Trustee John Jablonski III, Trustee Joseph M. Troche, Village Attorney Edward P. Wright and Police Chief John R. Bentley. Motion by Trustee Denn, seconded by Trustee Troche, to adjourn the executive session and reopen the regular meeting at 8:20 PM.

MAY 29, 2012 (CONTINUED)

RESOLUTION #49-2012-2013 – APPROVE SALARIES & BENEFITS FOR 2012-2013

Motion by Trustee Troche, seconded by Trustee Drago, to approve non-union employee salaries and benefits as follows: non-union salaried employees shall receive a 3% annual salary increase, non-union hourly wage employees shall receive a wage increase of \$.50/hr., Building Inspector Charles L. Smith's annual salary will remain the same, Police Chief John R. Bentley shall receive an increase of \$ 1,500.00 in his annual salary., non-union employees' monthly payroll deductions for health insurance coverage shall increase from 10% to 14% effective June 2012 and the annual health savings account for eligible non-union employees shall remain at \$ 1,000.00.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

RESOLUTION #50-2012-2013 – APPROVE CONSTRUCTION DEADLINE EXTENSION

Motion by Trustee Troche, seconded by Trustee Drago, for the Board of Trustees to extend a previously agreed upon deadline to Mr. Timothy M. Shults, who has acquired the property known as 140-144 Chautauqua Ave., from Mr. Thomas A. Turner, who had a previous agreement with the Village of Lakewood regarding the commercial development of said property, to November 2013, whereby Mr. Shults shall be required to apply for a building permit by January 1, 2013, and that a Certificate of Occupancy shall be issued by the Village of Lakewood for his commercial/residential structure at the aforementioned address on or before November 1, 2013.

Adopted: 4 ayes, no nays (Denn, Drago, Jablonski, Troche)

Motion by Trustee Denn, seconded by Trustee Drago, and unanimously carried, the Board adjourned at 8:38 PM.

Joseph M. Johnson
Village Clerk