

AUGUST 22, 2016

The sixteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, August 22, 2016, at 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, David J. Di Salvo and Susan F. Drago. 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 Building Inspector Jeffrey A. Swanson. Absent were Trustee Randall G. Holcomb and Fire Chief Kurt W. Hallberg.

#### 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 August 8, 2016. Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago,)

#### AUDIT OF CLAIMS

Motion by Trustee Di Salvo, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated August 22, 2016, be approved and that the Clerk shall execute said abstracts (#12 & #13) and direct payment by the Treasurer. Trust & Agency Fund: \$ 61,517.52, (Checks #3841 thru #3858), General Fund: \$ 43,169.05, (Check #13009 replaced #12910 [lost] thru #13044) Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

#### REPORTS

Mayor Birrittieri reminded everyone that the final "Live on the Lake" event for the summer is this Thursday, August 25<sup>th</sup>. It will be "Kid's Night" featuring Marty's Bubblegum Machine, 5:30 - 7:30 PM, followed by Geoff Bach's Juggling Show, 7:30 - 8:30 PM. Mayor Birrittieri said the Big Horn Ranch food truck will also be on hand for the entire event.

Mayor Birrittieri also reported that the Events & Marketing Committee has decided to postpone the inaugural wellness day until next spring so as to focus on bringing back the "Christmas in the Village" event. For several reasons the Women's Club of Lakewood wasn't able to sponsor the event last year.

If anyone wishes to be a part of "Christmas in the Village" this year, they are welcome to contact any member of the Events & Marketing Executive Committee. She noted that meetings of the Events & Marketing Committee are held the first and third Tuesdays of the month at 6:30 PM, in the conference room at the village hall.

Mayor Birrittieri said this past week residents of East Third Street called a meeting to discuss nuisance problems relating to property maintenance issues in the neighborhood, not unlike those on Ohio Ave. and Pennsylvania Ave., which surfaced earlier in the year. Mayor Birrittieri said it is very important that all residents be heard when problems such as these arise. Mayor Birrittieri said she will be meeting with Building Inspector Jeffrey A. Swanson to determine a course of action.

Mayor Birrittieri said she is researching the question posed by a resident at the previous Board of Trustees meeting regarding the possibility of curtailing the use of the siren during nighttime hours and what impact that may have on the fire district's ISO (Insurance Service Office) rating. Mayor Birrittieri said she has spoken with Fire Chief Hallberg and will continue to gather information on the matter.

Mayor Birrittieri said she has also been in contact with Richard E. Stanton, Esq., as he vigorously prepares the case, regarding the matter of Up State Tower Co., LLC v. the Village of Lakewood, et al, and will keep the Board of Trustees apprised as the case moves forward.

AUGUST 22, 2016 (CONTINUED)

Finally, to date Mayor Birrittieri said she has been unable to arrive at acceptable contract terms with former Village Attorney Edward P. "Tad" Wright, however she will continue her efforts to reach a mutually acceptable agreement.

Department of Public Works Supervisor Thomas R. Pilling reported that last Monday, the DPW and the Town of Busti Highway Department teamed-up to install two cross pipes under Mall Blvd., near the village/town line which someday will take storm water from the west side of Mall Blvd. and direct it towards the creek between the Chautauqua Mall and Wal-Mart. Additional work outside the public right-of-way is at a standstill due to a few questions regarding a pending easement agreement between the Village of Lakewood and the owners the mall. Without legal counsel on staff to review the easement documents this project is unable to move forward. Mr. Pilling also reported that he plans on putting down a macadam overlay on Mall Blvd. the second week in September and expects to begin resurfacing two (2) miles of roads with oil and stone this Wednesday, August 24th. Finally, the DPW is hopeful to begin replacing the crumbling retaining wall along the south side of East Terrace Ave., between New York Ave. and Lakeview Ave. later next week.

Trustee Di Salvo asked Mr. Pilling if there is going to be any conflict between the Village of Lakewood paving Mall Blvd. and plans by the New York State Department of Transportation to mill and pave Rt. 394 in September.

Mr. Pilling said the N.Y.S. Department of Transportation will start paving where we end up on Mall Blvd.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to six thousand eight hundred eighty-eight reportable incidents year-to-date, three hundred eighty of which occurred since the last meeting. Chief Bentley said of those there were one hundred one traffic arrests, 21 property checks, assisted other agencies seventeen times, two domestic disputes, two driving while intoxicated (DWI) arrests and two drug arrests.

Chief Bentley indicated because there has been some discussion on how often the Lakewood-Busti Police Department is called to the Lakewood Wal-Mart he did some research which showed between August 27<sup>th</sup> of last year and today, August 22<sup>nd</sup>, the L-BPD has been called to Wal-Mart six hundred sixty-five times, for one reason or another.

Trustee Di Salvo indicated this statistic would be even more astounding if the number of Emergency Medical Service (EMS) calls to Wal-Mart were included

in this number, plus the cost to the Village of Lakewood is incredible.

Police Chief Bentley indicated recently there was an incident at Richard O. Hartley Park/Beach wherein a suspicious person approached three young males and questioned them about their sexual orientation. Chief Bentley said the L-BPD has an idea who the individual might be and hopes to track him down and question him about the incident.

Chief Bentley said he received a letter from Governor Cuomo's Traffic Safety Committee informing him that the L-BPD has been awarded a grant in the amount of \$ 5,445.00 grant to be used to enforce any aggressive driving habits exhibited by motorists.

Chief Bentley concluded his report by saying dispatch has advised local law enforcement agencies that The Pagan's motorcycle gang will be in town between August 27<sup>th</sup> and August 29<sup>th</sup> to attend a party at 3372 Baker Street near Trask Road. There are expected to be about two hundred bikers taking part.

AUGUST 22, 2016 (CONTINUED)

RECESS

Motion by Trustee Drago, seconded by Trustee Barnes, to recess the regular meeting in order to conduct a previously scheduled public hearing.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

PUBLIC HEARING - 6:40 PM  
CONSIDER AMENDING SECTION #25-71, [SCHEDULE OF FEES]  
OF THE VILLAGE OF LAKEWOOD ZONING LAW

Mayor Birrittieri opened the public hearing at 6:40 PM and asked if there was anyone wishing to speak in favor or against a proposal to increase fees associated with the issuance of building and zoning permits, which has been long overdue. With no one to be heard, Mayor Birrittieri closed the public hearing at 6:43 PM and proceeded to reopen the regular meeting.

RESOLUTION #150-2016 - APPROVE LOCAL LAW #5-2016, AMENDING THE SCHEDULE OF FEES

Motion by Trustee DI Salvo, seconded by Trustee Barnes, for the Board of Trustees to approve Local Law #5-2016, which amends Section #25-71, [Schedule of Fees], of the Village of Lakewood Zoning Law by increasing the fees associated with the issuance of building and zoning permits.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

REPORTS (CONTINUED)

Village Treasurer Andrea J. Windoft reported she prepared and distributed a memo to Mayor Birrittieri and the Board of Trustees identifying area residents who have generously donated to the tree watering bag fund.

Treasurer Windoft indicated Department of Public Works Supervisor Thomas R. Pilling recently purchased additional irrigation bags specifically for the stressed trees along Chautauqua Ave. with the monies received. Mrs. Windoft also reminded the Auditing Committee, comprised of Trustee Barnes and Trustee Holcomb, to set a time and date later in September to conduct the annual audit of the Village Treasurer's financial records.

RECESS

Motion by Trustee Di Salvo, seconded by Trustee Barnes, to recess the regular meeting so as to conduct a previously scheduled public hearing.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

PUBLIC HEARING: 6:45 PM  
CONSIDER AMENDING CHAPTER #22, [VEHICLE & TRAFFIC],  
OF THE VILLAGE CODE

Mayor Birrittieri indicated the Board of Trustees is considering increasing the fines associated with the issuance of a Parking Summons by members of the Lakewood-Busti Police Department through the enforcement of Section #22-5-c & #22-5-d of Chapter #22, [Vehicle & Traffic], of the Village Code. Mayor Birrittieri indicated per the recommendation of Police Chief John R. Bentley the current fine of \$ 10.00, payable up to 72 hours, will increase to \$ 25.00 and the fine paid after 72 hours will increase from \$ 15.00 to \$ 50.00. After a few questions from the Board of Trustees and with no one else to be heard, Mayor Birrittieri closed the public hearing at 6:49 PM.

AUGUST 22, 2016 (CONTINUED)

RESOLUTION #151-2016 - AMEND THE VILLAGE CODE, INCREASING PARKING FINES

Motion by Trustee Barnes, seconded by Trustee Drago, for the Board of Trustees to amend Sections #22-5-c and #22-5-d of Chapter #22, [Vehicle & Traffic], of the Village Code increasing the fines for parking violations from \$ 10.00 to \$ 25.00, if paid within 72 hours and from \$ 15.00 to \$ 50.00, if paid after 72 hours.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

REPORTS (CONTINUED)

Village Clerk Joseph M. Johnson reported that the public bathing beach at Richard O. Hartley Park will close for the season Sunday, August 28<sup>th</sup>. A report on the 2016 beach revenues will be compiled prior to the next regular meeting of the Board of Trustees.

Trustee Di Salvo asked Village Clerk Johnson if the beach was closed at any time this summer.

Village Clerk Johnson indicated due to a recent proliferation of a green algae bloom in the south basin of Chautauqua Lake, the Chautauqua County Health Department issued a directive prohibiting swimming the past two weeks. Although swimming was prohibited, the beach area has remained open to children wishing to play in the sand and to sunbathers.

Building Inspector Jeffrey A. Swanson reported that following the recent

posting of a few properties on Ohio Ave. work to bring them into compliance has begun on two of the buildings. Mr. Swanson also reported that there are a few big projects on the horizon here in the Village of Lakewood, including a major announcement by the Chautauqua Mall in the very near future. Two projects that have been reviewed to some degree are the Chautauqua Hill Crest Inn, 180 East Fairmont Ave. and the Jamestown Honda dealership project at 207 East Fairmount Ave. Mr. Swanson said both projects are welcome additions to the commercial corridor along Rt. 394.

#### COMMITTEE REPORTS

Trustee Barnes, as Chairperson for the Public Safety Committee, wished to provide some additional background on the use of the siren and how it relates to the fire district's ISO (Insurance Service Office) rating. The better the rating, the lower home and business owner's insurance premiums. Trustee Barnes indicated that the Lakewood Fire Department has the best rating a volunteer fire department can achieve. She said there are a number of elements that determine an ISO rating, including having a pumper with a certain fire suppression capacity, 24 hr. central dispatch service for contacting firefighters via pagers, training levels, number of active fire fighters and a water delivery/hydrant system. Contacting area firefighters includes use of the siren atop this building. Trustee Barnes said she spoke with two long time veterans of the fire service who both agreed that a siren is one of the few methods currently in place to contact emergency personnel letting them know something is going on. In the event that there is a power outage and cell phone service is down, the siren will still be able to alert emergency personnel. Trustee Barnes said those in the fire service are not comfortable in giving-up the siren yet, and therefore leaves that decision up to the fire department's first responders. Trustee Barnes said having the siren is still very important and can be activated in case of a tornado or other disaster.

Mayor Birrittieri agreed saying the siren is a great way to alert the public of a particular situation and how it best be utilized should be part of an ongoing discussion.

Mayor Birrittieri indicated she did heard back from NYS Senator Catharine Young regarding the Village of Lakewood's inquiry about funding for a new radio system for our local police and fire departments.

AUGUST 22, 2016 (CONTINUED)

Trustee Di Salvo indicated as far as planning & zoning there have been some discussions between Planning Board Chairman McCague, Code Enforcement Officer Jeff Swanson and others regarding critical sections of the current zoning law that should be considered for amendments prior to an anticipated complete re-write of the zoning law.

Trustee Di Salvo said some of the proposed changes in the zoning law have been pushed to the side awaiting the adoption of the new Comprehensive Plan. One area of the current zoning law that is need of immediate attention is signage.

Trustee Di Salvo also mentioned that the adoption of a Nuisance Abatement Law could address some property maintenance issues that have recently surfaced on Ohio Ave. and East Third and East Summit Streets.

Building Inspector/Code Enforcement Officer Jeffrey A. Swanson indicated that he and Trustee Di Salvo have received conflicting reports on the effectiveness of the Nuisance Abatement Law currently being enforced in the Village of Newark, New York. Mr. Swanson said according to NYS Department of State Officials some nuisance abatement laws have been challenged in court.

Mr. Swanson said he doesn't believe it is fair to have three or four members of a certain committee to determine sign regulations, suggesting the local business community should also be asked for their input on this particular subject. He also suggested that businesses along Chautauqua Ave. (B-1, Retail Business District), should have a completely different set of sign regulations than that for businesses located along Rt. 394, (B-2, Highway Business District). Another subject Mr. Swanson would like to see changed is when people apply for a fence permit, it should be reviewed by the Zoning Board of Appeals instead of it going before the Planning Board and ultimately to the Board of Trustees for final review. He said changing the review process for fences would reduce the amount of time it currently takes to issue certain fence permits.

Mayor Birrittieri asked if it is the intention of the Planning & Zoning Committee members, (Trustee Di Salvo & Trustee Holcomb), to meet with others to prioritize some of the zoning issues facing the Village of Lakewood.

Trustee Di Salvo said he and fellow committee member Trustee Holcomb, along with Planning Board Chairman McCague, Zoning Board of Appeals Chairman Chandler, Building Inspector Swanson and anyone else Mayor Birrittieri would like to appoint will soon begin discussions on the changes needed and subsequently draft legislation for the Board of Trustees' review and comment.

Trustee Drago, Parks & Recreation Committee Chairperson, indicated that the boat launch and dog park on East Terrace Ave., are both getting a tremendous amount of use this summer. She believes however, the sailing foundation sign on the fence at Richard O. Harley Park blocks the view of the beach and lake from the playground area, suggesting it could be moved a little to the west. Trustee Drago said she also attended a very nice fundraiser at the Lakewood Memorial Library this past Saturday.

RECESS

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

Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

AUGUST 22, 2016 (CONTINUED)

PUBLIC HEARING: 7:05  
SITE PLAN REVIEW APPLICATION  
PROPOSED CHAUTAUQUA HILL CREST INN  
180 EAST FAIRMOUNT AVE.

Ms. Michele L. Richards, 10 Norwood Ave., Jamestown, N.Y., has submitted an application for a Special Use Permit regarding her proposal to remodel the former Page's Motel, 180 East Fairmount Ave., into an inn having ten (10) guest rooms. The existing two story block and wood frame structure measures approximately 25 ft. x 75 ft. In accordance with Section #25-89, (B-1), [Site Plan Review], the alteration/conversion of existing structures having 5,000 sq. ft. or more of commercial floor space, shall require site plan review.

Mayor Birrittieri opened the public hearing and asked Ms. Diane Hendrix, Architect for this project, to briefly explain the Chautauqua Hill Crest Inn project being proposed by Ms. Richards.

Ms. Hendrix indicated she met with the members of the Planning Board last week and they recommended for the Board of Trustees to approve this project with the conditions that the developer correct the size and provide proper signage for the handicap parking space and that two (2) shade trees be planted on the west side of the site and four (4) shade trees be planted on the east side of the site as depicted on the proposed site plan.

Trustee Barnes asked Ms. Hendrix if the area behind or south of the building is going to remain "green space" and if there are plans to erect a fence along the property's southerly and/or easterly boundary lines.

Ms. Hendrix said the "green space" in back of the building will remain "green space" and that all parking will be in front. Also, Mr. Richards has implied that she intends to erect a fence along the property's southern boundary line.

With no one else to be heard, Mayor Birrittieri closed the public hearing at 7:08 PM, and proceeded to reopen the regular meeting.

#### RESOLUTION #152-2016 - APPROVE SITE PLAN REVIEW APPLICATION

Motion by Trustee Barnes, seconded by Trustee Di Salvo, to approve the Site Plan Review application as submitted by Ms. Michele L. Richards, 10 Norwood Ave., Jamestown, N.Y., whereby she will be allowed to remodel the former Page's Motel, 180 East Fairmount Ave., into an inn (Chautauqua Hill Crest Inn) having ten (10) guest rooms, and to redevelop the property in accordance with the site plan as submitted, with the conditions that she will correct the size and provide proper signage for the handicap parking space and that two (2) shade trees will be planted on the west side of the site and four (4) shade trees be planted on the east side of the site.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

#### COMMITTEE REPORTS (CONTINUED)

Mr. Edward J. "Ted" McCague, Chairman of the Comprehensive Plan Steering Committee, said he is hopeful to be able to begin the process to adopt the Comprehensive Plan sometime in September which should allow it to be presented to the Board of Trustees for adoption by the end of the year.

AUGUST 22, 2016 (CONTINUED)

RESOLUTION #153-2016 - SET TIME & DATE FOR THE NEXT REGULAR BOARD MEETING

Motion by Trustee Barnes, seconded by Trustee Drago, that the next regular meeting of the Village of Lakewood Board of Trustees, previously scheduled for 6:30 PM, Monday, September 12, 2016, be rescheduled for 6:30 PM, Wednesday, September 7, 2016, in the Board Room of the Anthony C. Caprino Municipal Building, 20 West Summit Street, Lakewood, N.Y. The meeting will be preceded by a 6:00 PM work session. NOTE: Mayor Birrittieri will be out of town the week of September 12<sup>th</sup> to attend NYCOM's Annual Fall Training School, which this year will be held in Saratoga Springs. New York.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

RESOLUTION #154-2016 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Barnes, for the Board of Trustees to set 6:45 PM, Wednesday, September 7, 2016, as the time and date to conduct a public hearing to review and discuss the Special Use Permit/Site Plan Review application as submitted by McFadden Real Estate, 215 East Fairmount Ave., regarding the proposal to develop the five (5) acre site at 207 East Fairmount Ave. as the Jamestown Honda Dealership & Service Center.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

RESOLUTION #155-2016 - AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Barnes, seconded by Trustee Drago, authorizing the Lakewood Family YMCA, 183 East Fairmount Ave., to make use of village streets for the "Battle of the Businesses" 2 mile run, 9:00 AM, Saturday, September 17, 2016.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

RESOLUTION #156-2016 - APPROVE 2016 LAKE MAINTENANCE AGREEMENT

Motion by Trustee Barnes, seconded by Trustee Drago, authorizing Mayor Cara Birrittieri to execute an agreement between the Village of Lakewood and the Chautauqua Lake Association, Inc., Lakewood, N.Y., whereby the Village of Lakewood agrees to make a contribution in the amount of \$ 3,500.00 toward the Chautauqua Lake Association's lake maintenance program for 2016.  
Adopted: 3 ayes, no nays (Barnes, Di Salvo, Drago)

DISCUSSION - SMOKE FREE PARKS

Mayor Birrittieri read the following memo from the Village Clerk to her and the Board of Trustees describing an incident that occurred at Richard O. Hartley Park earlier in the day.

While at Richard O. Hartley Park with his granddaughter this afternoon, Mr. Gary White, 12 Vista Way, encountered a Village Parks Dept. worker, (Jim Fye) smoking a cigar.

Mr. White was disappointed that there isn't a regulation in place prohibiting smoking in public parks throughout the Village of Lakewood. He would like the

Village of Lakewood to consider adopting a policy to have smoke free parks to protect the "young lungs" in the community.

Mayor Birrittieri said this is the first time this particular issue has come up, adding there are communities that have signs prohibiting smoking in their parks. Also, if a resident brings a concern to our attention it's our obligation to hear them out.

AUGUST 22, 2016 (CONTINUED)

Trustee Di Salvo said there is a big difference of doing nothing and having an ordinance in place that regulates smoking in public places. The subject is a nice starting point for discussion if it were to focus on our paid employees to refrain from smoking in public parks. Trustee Di Salvo said it could be a simple addition to our personnel rules and regulations.

Trustee Barnes asked are we then going to adopt a policy to ban those who chew tobacco from village parks.

Trustee Di Salvo said he is only talking about smoking and asking our employees to refrain from smoking in village parks isn't a bad idea to at least discuss. It is a subject we, as the Board of Trustees, shouldn't ignore.

Department of Public Works Supervisor Pilling said there wasn't much he could do to appease the complainant in that there currently isn't a policy in place to enforce.

Motion by Trustee Barnes, seconded by Drago, and unanimously carried, the Board adjourned at  
7:23 PM.

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Joseph M. Johnson  
Village Clerk