

SEPTEMBER 23, 2013

The twelfth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, September 23, 2013 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, David J. Di Salvo, Susan F. Drago, and John Jablonski. Also present were Village Clerk Joseph M. Johnson, Police Chief John R. Bentley, Village Attorney Edward P. Wright, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg and Building Inspector Charles L. Smith. Absent was Village Treasurer Andrea J. Windoft.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Di Salvo, to approve the minutes of the last regular meeting of the Board of Trustees, held September 9, 2013.

Adopted: 4 ayes, no nays (Denn, Di Salvo, Denn, Jablonski)

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Denn, that the claims as audited by the Auditing Committee of the abstracts dated September 23, 2013, be approved and that the Clerk shall execute said abstracts (#15 & #16) and direct payment by the Treasurer. Trust & Agency Fund: \$ 55,474.45, Checks (#2653 thru #2669), General Fund: \$ 121,769.54, (Checks #10024 thru #10064)

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

REPORTS

Mayor David T. Wordelmann wished to take a moment to welcome back Trustee Gale A. Denn who had been out on sick leave since August and it is very good to hear Gale is feeling much better.

Village of Lakewood Historian Anthony G. Barone appeared before Mayor Wordelmann and the Board of Trustees to personally thank Department of Public Works Supervisor Thomas R. Pilling and the entire D.P.W. crew for the great job they did in installing the three newest history markers. Mr. Barone also reported that the World War II Honor Roll project is moving forward and that they are near their goal of raising \$ 8,000.00 for this project. Mr. Barone said because the proposed location for the WWII Honor Roll replica which is near the corner of Alta Way and Owana Way on property owned by the Lakewood Memorial Library he is waiting to hear from the Lakewood Memorial Library's Board of Trustees. Mr. Barone said he believes the Honor Roll replica will be another wonderful attraction to bring people into the Village of Lakewood. Mr. Barone said he would appreciate it if the Board of Trustees could adopt a resolution this evening endorsing this worthwhile project and to write a letter to the Lakewood Memorial Library's Board of Trustees approving its proposed location.

Mayor Wordelmann asked if any member of the Board of Trustees has any objection to the proposed location of the World War II Honor Roll replica or would like to comment on this project.

Trustee Denn complimented Mr. Barone for all the time and service he gives this community as Village Historian and in particular for pursuing this very worthwhile project which honors our veterans. Mr. Barone, we salute you and thank you.

SEPTEMBER 23, 2013 (CONTINUED)

Mr. Barone indicated that the Lakewood American Legion Post #1286 and its Second Vice Commander Dave Lange have contributed so much to this joint project.

Mayor Wordelmann reiterated Trustee Denn's sentiments in thanking Mr. Barone for his time and efforts on all the history projects he has embraced since becoming Village Historian. Mayor Wordelmann said if no one has any objections it would be proper for the Board of Trustees to entertain a motion showing its support of this project and to approve the proposed location for the WWII Honor Roll replica.

Department of Public Works Supervisor Thomas R. Pilling reported that all the scheduled road work to pave streets and surface treat streets has been completed however there is a little bit of sidewalk block replacement work and some drainage pipe work left to do. Mr. Pilling indicated he would like permission to apply for funding through the New York State Water Quality Improvement Program which if awarded would be used to reduce the amount of sediment that reaches Chautauqua Lake via Crescent Creek. Mr. Pilling indicated that although the application for the funding is due before the end of the year, it is likely work on this project wouldn't start until 2015.

Trustee Drago indicated to D.P.W. Supervisor Pilling that the property owner at 35 Sunset Ave. is placing brush and branches in the road again and by doing so is creating a hazard for motorists and others. Trustee Drago wondered if there is a solution to this particular problem.

Mr. Pilling said the Board of Trustees needs to decide if a specific set of rules should be established for the residents to follow or whether or not the Village of Lakewood wants to continue this service next year.

Trustee Jablonski asked Mr. Pilling if there is a policy in place to remove the stump after a tree is cut down.

Mr. Pilling indicated to Trustee Jablonski that there is a policy in place to remove the stump of a tree that has been cut down.

Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to seven thousand five hundred fifty-three reportable incidents and that he recently received a check in the amount of \$ 1,400.00 through Chautauqua County's STOP-DWI program which will be used to purchase some new equipment. Chief Bentley also reported that he has applied for reimbursement of departmental expenses (manpower costs) in assisting the U.S. Marshall's Office on operation Jumping Fish wherein officers check in on local sex offenders.

RECESS

Motion by Trustee Denn, seconded by Trustee Jablonski, to recess the regular meeting of the Board of Trustees so as to conduct a previously scheduled public hearing.
Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

SEPTEMBER 23, 2103 (CONTINUED)

PUBLIC HEARING – 6:45 PM
SPECIAL USE PERMIT – FENCE
90 EAST TERRACE AVE.

Mr. John R. Churchill, Jr., 90 East Terrace Ave., has submitted an application for a Special Use Permit regarding his proposal to erect approximately 182 lineal feet of 6 ft. high wooden privacy fence along his property's southerly boundary line. In accordance with Section #25-51, (A-2) [Fences], 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 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 asked if there was anyone present wishing to speak for or against Mr. Churchill's fence proposal.

Mr. John R. "Rob" Churchill, 90 East Terrace Ave., appearing before Mayor Wordelmann and members of the Board of Trustees indicated he has spoken with his neighbors and none have any objections to his fence proposal, which actually replaces an old dilapidated fence. Mr. Churchill said he recently removed a few unsafe trees from along his southerly boundary line and in doing so lost some of his privacy.

Mr. Churchill said installing a 6 ft. high board on board fence along his southerly boundary line should restore most if not all the privacy he lost when he removed the trees.

Mayor Wordelmann asked Mr. Churchill how far is his house from the proposed fence line.

Mr. Churchill estimated the distance from his house to the proposed fence line to be approximately 125 feet.

Mrs. Marion Gibbon, 92 West Summit Street, and a member of the Village of Lakewood Planning Board indicated it was the consensus of members of the Planning Board that the fence as proposed would be attractive and beneficial to the entire neighborhood.

Trustee Denn asked Mr. Churchill if he has spoken with his immediate neighbors to the east, west and south.

Mr. Churchill indicated to Trustee Denn he has spoken with his immediate neighbors and none have any concerns with respect to the proposed fence.

Trustee Drago asked Mr. Churchill why wouldn't a 4 ft. high fence provide the privacy he is looking to restore.

Mr. Churchill indicated the topography of his back yard when compared to the elevation of Mari Lane is such that headlights from vehicles on the Mari Lane cul-de-sac would still shine into his residence if a 4 ft. high fence were to be erected.

Mayor Wordelmann indicated the main issue before us is for the past few years the Board of Trustees has taken a stance against 6 ft. high privacy fences anywhere in the Village of Lakewood unless the homeowner can provide proof of an extreme hardship.

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Mayor Wordelmann said this stance against 6 ft. high fences was taken to promote open spaces, views of the lake and to keep the Village of Lakewood from becoming a “stockade village”. The granting of special use permits for 6 ft. high fences goes against this posture in some respects. Mayor Wordelmann said it is his opinion that 6 ft. high fences should only be allowed as buffers between a residential district and a commercial district.

Trustee Denn asked Mr. Churchill what type of fence is he proposing.

Mr. Churchill said the fence he is proposing is a natural cedar board on board fence.

With no one else to be heard, Mayor Wordelmann closed the public hearing at 6:58 PM and reopened the regular meeting of the Board of Trustees.

REPORTS (CONTINUED)

Police Chief Bentley continued his report stating he also applied for the reimbursement of monies spent which was approximately \$ 3,000.00 on the purchase of a few bullet proof vests and that he recently received \$112.00 through a Governor’s Traffic Safety grant program which will be used to offset some of the labor costs incurred conducting the recent child safety seat check-point out in the hamlet of Busti.

Village Attorney Edward P. “Tad” Wright respectfully asked Mayor Wordelmann to include on this evening’s agenda the setting of a time and date to conduct a public hearing on proposed Local Law #4-2013, amending Section #22-7 [Penalties For Violation of Ordinance] of Chapter 22-Vehicle & Traffic, of the Village Code.

Trustee Denn asked Mr. Wright if action against the proprietor of the adult novelty store is completed.

Village Attorney Wright indicated to Trustee Denn that the matter was disposed of in Town of Busti Court three weeks ago.

Trustee Drago indicated to Building Inspector Smith that she has seen few political signs for this November’s election in the area that have been put out prematurely.

Trustee Drago also indicated the Board of Trustees need to look at the problems that have surfaced with respect to the weekly rental of residential properties located outside commercial districts, in particular the property at 35 West Lake Street. Trustee Drago indicated a number of families had rented the property on more than one occasion this past summer and it is her understanding the Lakewood-Busti Police Department responded to a couple of incidents at that location.

Village Attorney Wright indicated he is surprised that no one is here this evening regarding that particular neighborhood concern. He went on to say that the issue is the property owner is conducting weekly rentals and by definition is a commercial use being carried out in a residential district. Mr. Wright said it is his opinion that this use is illegal and whether or not the Village of Lakewood wishes to prosecute would be a discretionary act by the Board of Trustees.

Trustee Di Salvo suggested to Mayor Wordelmann that this subject should be something for the zoning law review committee to look at and to possibly consider limiting the districts in which this practice is allowed and to consider changing the language in the current zoning law that addresses this particular use.

SEPTEMBER 23, 2013 (CONTINUED)

Village Attorney Wright interjected saying enforcement of the current zoning law involves litigation and it is something that could be discussed in executive session to decide if the Village of Lakewood wishes to go forward to prosecute. Mr. Wright went on to say that per New York State case law weekly rentals are considered illegal. He added the Town of Ellery fought the same issue ten years ago and prevailed.

Trustee Jablonski indicated that it would be good for the public for it to be spelled out to them as to what they can and can't do legally as a residential property owner.

Village Attorney Wright said there are two issues, namely what should be addressed in the zoning law as the Village of Lakewood moves forward and what to do about the existing weekly rental properties throughout the Village of Lakewood.

Mayor Wordelmann asked Mr. Wright if there is anything the Board of Trustees can decide or act on this evening regarding this particular concern.

Police Chief Bentley indicated that in most cases when there are disturbance of the peace issues the person notifying the police of the problem is reluctant to file a formal complaint, which makes enforcement more challenging.

Mayor Wordelmann again asked what action may the Board of Trustees take this evening to stop the owner(s) of 35 West Lake Street from renting their residence out on a weekly basis for the balance of the year.

Village Attorney Wright indicated weekly rental of residential property located in an R-1 or R-2 district constitutes a violation of the local zoning law and to initiate enforcement the Building Inspector would need to issue an appearance ticket to the property owner to appear in Town of Busti court.

Trustee Jablonski indicated wouldn't it make sense to inform the property owner in question that what they are doing is a violation of the local zoning law.

Mayor Wordelmann indicated that this subject of weekly rentals in residential districts should be discussed by members of the zoning law review committee over the winter months and should be considered a topic to address when amending the Village of Lakewood Zoning Law. Mayor Wordelmann stated to save money he would rather not pursue this one particular violation at this point in the year until it is determined how prevalent weekly rentals are throughout the village.

Trustee Di Salvo suggested to Mayor Wordelmann that Building Inspector Smith send a letter to this particular property owner informing him or her that the weekly rental of residential property in an R-1 or R-2 zoning district is a violation of the local zoning law.

Village Attorney Wright suggested that the wording of the letter should note that using their property as a weekly rental is illegal now because he would rather not face the argument of the use being "grandfathered" in.

COMMITTEE REPORTS

Mayor Wordelmann indicated that the zoning law review committee met last Monday evening and the topic of discussion was storage sheds, accessory structures, garages, etc. The committee also agreed to ban commercial self-storage facilities within the Village of Lakewood. Mayor Wordelmann said a couple other storage structure related topics discussed included permitted locations, maximum size, maximum height and any and all storage/accessory structures must be located on a contiguous parcel of land on which the principal building is located. Mayor Wordelmann concluded his report by saying the next topic of discussion for the zoning law review committee will be car dealerships.

Trustee Di Salvo said to eliminate any confusion as to what is considered an accessory structure the definitions section of the Zoning Law should be amended accordingly.

ANYONE TO BE HEARD

Mrs. Jane Gesing, 103 Lakeview Ave., appeared before Mayor Wordelmann and the Board of Trustees to bring to their attention a safety concern she has regarding traffic on Ohio Ave. Mrs. Gesing said she and her husband raised their family at 7 East Summit Street, in the house where her son now resides with his wife and children. She indicated there are twenty-six children between the ages of one and fourteen residing on Ohio Ave. For being a dead-end street Ohio Ave. has a tremendous amount of traffic. On any given day motorists, who don't realize Ohio Ave. is a dead-end, end up doing u-turns in the middle of the street or turn around at the north end of the street. Mrs. Gesing, speaking on behalf of all the parents on the street, she respectfully asked for the Village of Lakewood to consider placing a SLOW CHILDREN AT PLAY sign at the south end of the street.

Department of Public Works Supervisor Thomas R. Pilling indicated that the New York State Department of Transportation does not recommend or endorse children at play signs in that they give both parents and children a false sense of security and safety.

Mayor Wordelmann said he understands Mrs. Gesing concerns. He went on to say that requests for SLOW CHILDREN AT PLAY signs have been made in the past and it has been the Village of Lakewood's posture to address this situation through vehicle and traffic law enforcement.

Trustee Jablonski asked Mayor Wordelmann if he has received and had a chance to review the Tree Committee's recommendation regarding the trees that were removed in front of the Valu Home Center store on East Fairmount Ave.

Mayor Wordelmann indicated to Trustee Jablonski that he agreed for the most part agreed with the Tree Committee's recommendation, with the exception of imposing a fine upon the Valu Home Center store. Mayor Wordelmann said it would be his recommendation for Valu Home Center to replace the trees which were cut down with equal valued trees and to consider changing out their existing pylon sign with a monument type sign. Mayor Wordelmann indicated that he spoke with the Valu Home Center's district manager who thought converting the existing pylon sign to a monument sign might be a good idea.

Trustee Denn said he agreed with Mayor Wordelmann's assessment adding the Village of Lakewood shouldn't double-up the cost to the local business by fining them.

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Mayor Wordelmann indicated the business corridor accounts for thirty percent of the Village of Lakewood's tax base and it doesn't do any good to harass a local business with an additional fine.

Trustee Jablonski said he would like to see Valu Home Center replace their pylon sign with a monument sign and to replace the trees cut down in kind. If Valu Home Center were to replace the three large trees with much smaller trees the Tree Committee might have an issue with that.

Village Attorney Wright indicated over the years most businesses along Rt. 394 have treated the trees planted by the New York State Department of Transportation as their own and whereby a number of the trees were cut down. To single out Valu Home Center before each business was made aware of the consequences if they elected to cut any of the trees located within the street right-of-way would be unfair. Mr. Wright said he spoke with members of the tree committee following the Labor Day wind storm and the subject of a fund raiser to purchase trees came up which Trustee Jablonski may wish to expound on.

Trustee Jablonski indicated the Tree Committee is looking for support from the Board of Trustees in a campaign for the sole purpose of raising funds to purchase new trees to replace those lost during the Labor Day wind storm. Their goal would be to raise \$ 5,000.00 to purchase twenty new trees that would be planted next spring. A question that surfaced was, what would be the most practical and acceptable manner in which to receive and manage donations for this purpose. Trustee Jablonski did note that the Tree Committee did apply for a \$ 2,000.00 grant through the Chautauqua Region Community Foundation to purchase trees.

Mayor Wordelmann said because the Tree Committee was appointed by the Village Board of Trustees it only seems right that donations be accepted and paid out through the Village Treasurer's office.

Trustee Drago asked if there might be other grant opportunities available for tree replacement projects such as this versus asking local tax payers to bear the brunt of the cost.

RESOLUTION #72-2013-2014 – ENDORSE PROPOSED WWII HONOR ROLL REPLICA PROJECT

Motion by Trustee Denn, seconded by Trustee Drago, for the Board of Trustees of the Village of Lakewood to hereby endorse the joint project by the History Committee and Lakewood American Legion Post #1286, to construct a replica of the World War II Honor Roll, and approve its proposed location on property owned by the Lakewood Memorial Library at the corner of Alta Way and Owana Way.
Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

RESOLUTION #73-2013-2014 – AUTHORIZE GRANT APPLICATION PROCESS

Motion by Trustee Jablonski, seconded by Trustee Denn, authorizing Department of Public Works Supervisor Thomas R. Pilling to apply for a New York State Water Quality Improvement Program grant to be used to reduce the sedimentation at the outfall of Crescent Creek into Chautauqua Lake.
Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

RESOLUTION #74-2013-2014 – APPROVE SPECIAL USE PERMIT (FENCE) APPLICATION

Motion by Trustee Denn, seconded by Trustee Jablonski, to approve/grant the Special Use Permit application as submitted by Mr. John R. “Rob” Churchill, 90 East Terrace Ave., whereby he will be allowed to erect approximately 182 lineal feet of 6 ft. high privacy fence, as described on the application, along his property’s southerly boundary line.

Adopted: 3 ayes, (Denn, Di Salvo, Jablonski) 1 nay, (Drago)

RESOLUTION #75-2013-2014 – AUTHORIZE FUND TRANSFER

Motion by Trustee Denn, seconded by Trustee Drago, authorizing Village Treasurer Andrea J. Windoft to transfer \$ 1,375.00 from the General Savings Account to the Bond & Coupon Account for the interest payment on the Public Improvement Serial Bond due October 1, 2013.

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

RESOLUTION #76-2013-2014 – APPROVE BORDER PATROL AUGMENTATION AGREEMENT

Motion by Trustee Denn, seconded by Trustee Drago, to approve the Border Patrol Augmentation Agreement with Chautauqua County and to authorize Mayor David T. Wordelmann to execute same. The term of this agreement runs from August 1, 2013 thru August 31, 2014. NOTE: Police Chief Bentley said the Federal government funds this operation and asks local law enforcement agencies to help carry out its mission which has included capturing illegal aliens, securing untaxed cigarettes, alcohol and other contraband. By participating in this operation officers get a chance to use high end law enforcement equipment and it is hopeful the Lakewood-Busti Police Department will be rewarded with a new \$ 17,000.00 license plate reader.

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

SPECIAL USE PERMIT/SITE PLAN REVIEW PUBLIC HEARING DISCUSSION

Trustee Di Salvo indicated to Mayor Wordelmann that it may be premature to set the time and date for the public hearing prior to receiving and reviewing the applicant’s Short Environmental Assessment Form. Trustee Di Salvo said he believes this particular project would be considered an Unlisted Action in accordance with guidelines as set forth in the State Environment Quality Review Act and therefore require SEQR compliance. Under the State Environmental Quality Review (SEQR) Act this action would require a Short Environmental Assessment Form to be completed and filed.

Village Attorney Wright indicated the question is twofold where he agrees the project being proposed by Mr. William McFadden is an Unlisted Action and requires SEQR compliance and would agree that the Short Environmental Assessment Form be completed by the applicant and submitted for review prior to the Board of Trustees rendering a decision on the project. Mr. Wright said there may be some benefit of conducting the public hearing first so as to sift through any concerns voiced by those attending.

Trustee Jablonski indicated that it would be great if the applicant could provide specific information in connection to this project such as traffic generation, storm water calculations and landscaping plans so the public could have a better idea what kind of impact that it may have on the immediate area. Right now there is very little information on which to make a decision.

SEPTEMBER 23, 2013 (CONTINUED)

RESOLUTION #77-2013-2014 – SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Denn, seconded by Trustee Drago, per the recommendation of Mayor Wordelmann to set 6:50 pm, Monday, October 14, 2013 as the time and date to conduct a public hearing on the Special Use Permit/Site Plan Review application as submitted by Mr. William McFadden, owner of LUV Toyota, 215 East Fairmount Ave., regarding a proposal to construct a 3,090 sq. ft. vehicle service facility (express lube & car wash) at 205 East Fairmount Ave.

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

RESOLUTION #78-2013-2014 – APPROVE COLLECTION OF UNPAID VILLAGE TAXES

Motion by Trustee Drago, seconded by Trustee Denn, authorizing Village Treasurer Andrea J. Windoft to forward any and all unpaid 2013-2104 Village Tax Bills to the Chautauqua County Division of Taxation, Mayville, N.Y., for collection or eventual levying onto the 2014 Town & County tax bills. Unpaid 2013-2014 tax bills are payable to the Village of Lakewood on or before September 30, 2013.

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

RESOLUTION #79-2013-2014 – SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Denn, seconded by Trustee Drago, per the recommendation of Mayor Wordelmann to set 6:45 PM, Monday, October 14, 2013, as the time and date to conduct a public hearing on proposed Local Law #4-2013, amending Section #22-7 [Penalties For Violation of Ordinance] of Chapter #22 – Vehicle & Traffic of the Village Code to read as follows: “Every person convicted of a traffic infraction for violation of any of the provisions of the Vehicle & Traffic Law of the State of New York shall be subject to punishment in an amount commensurate with the penalties, including without limitation, fines, surcharges, and/or imprisonment imposed by New York State for traffic infractions.”

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

TRUSTEE REPORT

Trustee Jablonski indicated that it has come to his attention that the Southwestern Central School District would like to look into the feasibility of establishing a common centrally located fueling facility with the Town of Busti and the Village of Lakewood as a means for all three entities to save money on diesel fuel and unleaded gasoline costs.

Mayor Wordelmann said he is aware Mrs. Maureen Donahue, the new SWCS Superintendent is interested in looking into the idea and will gladly follow-up with a phone call.

Motion by Trustee Denn, seconded by Trustee Jablonski, and unanimously carried the Board adjourned at 7:45 PM.

Joseph M. Johnson
Village Clerk

