

SEPTEMBER 26, 2011

The thirteenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, September 26, 2011 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, Susan F. Drago, Joseph M. Troche, and P.J. Wendel. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Village Attorney Edward P. Wright, Police Chief John R. Bentley, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg, and Building Inspector Charles L. Smith.

Mayor David T. Wordelmann wished to thank Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft and Deputy Village Clerk/Treasurer Mary B. Currie for all they did in organizing the ceremony held Thursday, September 15, 2011, renaming the Village Hall as the Anthony C. Caprino Municipal Building after the late mayor.

APPROVAL OF MINUTES

Motion by Trustee Denn, seconded by Trustee Troche, to approve the minutes of the last regular meeting of the Board of Trustees, held September 12, 2011.

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

AUDIT OF CLAIMS

Motion by Trustee Denn, seconded by Trustee Drago, that the claims as audited by the Auditing Committee of the abstract dated September 26, 2011, be approved and that the Clerk shall execute said abstract and direct payment by the Treasurer. General Fund: \$ 113,461.38

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

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the D.P.W. crew recently installed 350 ft. of drain pipe along Brook Street and that the driveway aprons and other finishing touches will be done early next month. Mr. Pilling also reported that the Street Department's new back-hoe/loader is expected to be delivered sometime later this week and that three new handicapped parking spots have been established along Chautauqua Ave.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to seven thousand five hundred eighty-nine reportable incidents year-to-date. Chief Bentley also reported that it was a very busy weekend and a lot of traffic issues associated with the Busti Apple Festival, opening of the TJ Maxx store in the Lakewood Village Center and the gun raffle at the Lakewood Rod & Gun Club. The Lakewood-Busti Police Department has handled approximately one hundred forty incidents between last Friday and this morning. Chief Bentley indicated the department is currently working on a major criminal mischief case out in the township. The case involves about \$ 20,000.00 worth of property damage to a camp, but we have suspects and hope to make some arrests soon.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to five hundred eighty-six alarms year-to-date. He also reported that October is fire prevention month and that some activities have been scheduled at area schools and businesses to promote fire prevention and safety.

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Village Attorney Edward P. Wright reported that he will discuss current litigation with members of the Board of Trustees at the executive session.

Village Treasurer Andrea J. Windoft reported she has provided each member of the Board of Trustees with new projections regarding the 2012-2013 payments to the New York State Retirement System, adding the retirement system costs keep escalating.

Mayor Wordelmann indicated it is another case of New York State imposing more mandated costs onto municipalities while at the same time asking those same municipalities to maintain an annual real property tax levy cap of 2% or less.

Building Inspector/Code Enforcement Officer Charles L. Smith reported that work at the Lakewood Village Center is continuing and that he recently issued a demolition permit for a complete tear down and eventual re-build at 2 Maple Ave. Mr. Smith also indicated that he looked into the situation at 27 Ohio Ave. noting the property is not pleasing to the eye however the question about the usefulness and value of the items on the front porch come into play. He added there is a van in the driveway that could be considered a junk vehicle very soon.

Mayor Wordelmann asked Mr. Smith if he had anything new to report regarding the appearance of the property at 5 West Fairmount Ave., the former Grazers restaurant.

Mr. Smith indicated that he hasn't had a whole lot of luck dealing with the out of state owner and therefore contacted the local realtor who indicated they have been trying to convince the owner to do a few things to the building's exterior to make it more appealing which in turn would make it more marketable.

Trustee Gale A. Denn suggested that the Village of Lakewood create ordinances to empower the Building Inspector/Code Enforcement Officer to impose fines on property owners who have substandard properties.

Mr. Smith indicated one problem with the current laws is that he can not pursue out of state property owners when it comes to building and/or property maintenance issues.

Trustee Denn then asked the following question, which is fueled by the increased number of foreclosures nationwide, does the Village Clerk keep a registry of vacant properties.

Mr. Smith agreed saying the Village of Lakewood would need to develop a local law to deal with this particular issue, adding the entire zoning law should be reviewed and amended where necessary.

Trustee Joseph M. Troche indicated there is a Chautauqua county community that notifies residential property owners of existing structural deficiencies and if they are not corrected within thirty days the house is torn down. He then asked why can't the Village of Lakewood be this proactive when it comes to dealing with structurally unsound residential structures.

Building Inspector/Code Enforcement Officer Smith indicated to Trustee Troche that the Village of Lakewood has in recent years initiated some emergency demolitions.

SEPTEMBER 26, 2011 (CONTINUED)

Village Attorney Edward P. Wright indicated that unless it is an emergency demolition, to raze a so called unsafe structure, it would be necessary for the Village of Lakewood to hire a structural engineer to submit a report stating such and to offer the property owner the opportunity to rebut said report before the structure could be demolished.

Trustee Wendel indicated that in some cases the township or county could waive or reduce the tipping or dumping fees associated with certain demolition projects.

OLD BUSINESS

Mayor Wordelmann indicated that one agenda item under old business this evening is to review the budget request as received from the Town of Busti relative to the operating expenses of the Busti-Lakewood Recreation Commission for 2012. In years past the Village of Lakewood has appropriated \$ 15,000.00 for the Busti-Lakewood Recreation Commission's budget.

Mayor Wordelmann said he asked Mrs. Diana Peterson to attend this evening's board meeting to answer any questions the Board of Trustees may have regarding the aforementioned budget request.

Trustee Joseph M. Troche indicated he is not questioning the request for the \$ 15,000.00, but rather the idea that the Village of Lakewood provides the upstairs courtroom to the Town of Busti free of charge. He said employees of the Village of Lakewood did not receive a raise this year, yet we continue to subsidize the Town's recreation program and building. Trustee Troche contends that because the Town of Busti is receiving something for free from the Village of Lakewood then the Village of Lakewood should receive something for free from the Town of Busti.

Town of Busti Councilman Jesse Robbins indicated that he thought members of the Board of Trustees were mainly concerned about where the \$ 15,000.00 allocation is spent by the town.

Mrs. Peterson provided members of the Board of Trustees with copies of the recreation department's budget figures for the years 2005 through 2012 and noted that the \$ 15,000.00 appropriation from the Town of Busti is paid from the so called A account, which is funded by both town and village or whole tax revenue. She also noted that back in 1977 and 1978 the town and village appropriated equal dollar amounts of \$17,497.00 and \$18,712.00 respectively towards the Busti-Lakewood Recreation Commission. Mrs. Peterson indicated that any fund balance at the end of the fiscal year is transferred into a reserve account which is used for building maintenance and upkeep.

Trustee Denn indicated with the pending change in the Town Supervisor position, it is the perfect time to sit down and negotiate a shared services plan between the two entities.

Mrs. Peterson indicated a few years ago it was decided that a recreation commission was no longer necessary and therefore it was dissolved. She then reviewed with the Board of Trustees how the Town of Busti acquired the property at 9 West Summit Street from the Lakewood Kiwanis Club. She then noted one restriction on the deed, dated June 1972, which requires the property and building can only be used for recreational purposes and/or maintained as green space.

Trustee Denn indicated he sees the inequity in Trustee Troche's assessment of the current budget request from the Town of Busti when compared to the Town Court's use of the Village Hall.

SEPTEMBER 26, 2011 (CONTINUED)

Trustee Troche then asked Mrs. Peterson what is the current balance in the recreation department's reserve fund.

Mrs. Peterson indicated the reserve fund balance is approximately \$ 90,000.00.

Trustee Troche indicated this is a prime example of unfairness. The Village of Lakewood continues to add to the recreation department's reserve fund by appropriating \$ 15,000.00 annually to the Town of Busti.

Mayor Wordelmann asked if the recreation department's reserve fund is at \$ 90,000.00, shouldn't there be an adjustment in the amount of funding requested by the Town of Busti.

Mrs. Peterson indicated that it is likely some of that reserve fund will soon be expended to pay for roof repairs, paint job and a new sign. She added that the Town of Busti spent \$ 20,000.00 to repair the floor at the recreation center a few years ago.

Mayor Wordelmann asked Mrs. Peterson, who controls how money in the reserve account is spent.

Mrs. Peterson indicated that she has allocated \$ 20,000.00 the past few years for building maintenance and repairs and those particular expenses are approved by the Town Board. .

Trustee P.J. Wendel indicated that village and town officials should look at doing a joint capital project with respect to the recreation center.

Trustee Denn indicated that based on his experience as a Town Supervisor, it is his understanding that monies in a reserve fund may only be used for specific purposes. It raises an interesting question as to whether or not monies appropriated by the Village of Lakewood for the recreation department that end up in their reserve fund would be considered a co-mingling of funds.

RESOLUTION #69-2011-2012 – TABLE ACTION ON REC. BUDGET REQUEST

Motion by Trustee Troche, seconded by Trustee Denn, for the Board of Trustees to table any action on the request from the Town of Busti for the Village of Lakewood to appropriate \$ 15,000.00 towards the operating budget of the Busti-Lakewood Recreation Commission for 2012. Mayor Wordelmann thanked Mrs. Peterson for attending tonight's meeting and for providing answers to questions regarding the recreation commission budget.

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

RESOLUTION #70-2011-2012 – AUTHORIZE BUDGET TRANSFER

Motion by Trustee Troche, seconded by Trustee Denn, authorizing Village Treasurer Andrea J. Windoft to transfer \$4,125.00 from the General Fund Savings Account to the Bond & Coupon Account for the interest payment on the Public Improvement Serial Bond due October 1, 2011.

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

SEPTEMBER 26, 2011 (CONTINUED)

RESOLUTION #71-2011-2012 – AUTHORIZE BUDGET TRANSFER

Motion by Trustee Troche, seconded by Trustee Drago, authorizing Village Treasurer Andrea J, Windoft to make a budget transfer from account A-8510.40, (Community Beautification), to account A-7510.40, (Historian), in the amount of \$274.10 to cover overages.

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

RESOLUTION #72-2011-2012 – APPROVE COLLECTION OF UNPAID VILLAGE TAXES

Motion by Trustee Wendel, seconded by Trustee Drago, authorizing Village Treasurer Andrea J. Windoft to forward any and all unpaid 2011-2012 Village Tax Bills to the Chautauqua County Division of Taxation, Mayville, N.Y. for collection or eventual levying onto the 2012 Town & County tax bills.

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

RESOLUTION #73-2011-2012 – APPROVE NEW L.F.D. MEMBERS

Motion by Trustee Troche, seconded by Trustee Wendel, that the Board of Trustees acting as the Board of Fire Commissioners approve Mr. Adam Sykes, 107 Waldemere Way and Mr. Daniel Propheter, 3211 Baker St. Ext. as new members of the Lakewood Volunteer Fire Department and to also approve out of district status for Mr. Propheter.

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

RESOLUTION #74-2011-2012 – AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Troche, seconded by Trustee Wendel, authorizing the Chautauqua Striders to make use of village streets to conduct a Winter Series of five 5K road races to be held December 31st, January 14th, January 28th, February 11th and February 25th. NOTE: The route will be the same one used for the annual Amy King Memorial 5K Run.

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

RESOLUTION #75-2011-2012 – AUTHORIZE AMENDMENT TO OPTION AGREEMENT

Motion by Trustee Denn, seconded by Trustee Wendel, authorizing Village Attorney Edward P. Wright to draft an amendment to the Option Agreement between the Village of Lakewood and Thomas A. Turner and Michelle M. Turner, 4 East Fairmount Ave. dated January 23, 2008, per the request of Mr. Turner. The amendment will clarify what exactly needs to be completed by September 1, 2012, regarding the planned construction of a commercial building at 142 & 144 Chautauqua Ave.

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

RECESS

Motion by Trustee Denn, seconded by Trustee Wendel, to recess the regular meeting of the Board of Trustees at 7:37 PM, so as to enter into executive session to discuss current litigation.

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

SEPTEMBER 26, 2011 (CONTINUED)

EXECUTIVE SESSION

Present at the executive session were Mayor David T. Wordelmann, Trustee Gale A. Denn, Trustee Susan F. Drago, Trustee Joseph M. Troche, Trustee P.J. Wendel, Village Attorney Edward P. Wright and Building Inspector Charles L. Smith. Motion by Trustee Denn, seconded by Trustee Wendel to adjourn the executive session at 7:59 PM and to reopen the regular meeting of the Board of Trustees. Adopted: 4 ayes, no nays (Denn, Drago, Troche, Wendel)

Motion b Trustee Troche, seconded by Trustee Drago, and unanimously carried the Board adjourned at 8:00 PM.

Joseph M. Johnson
Village Clerk