

NOVEMBER 14, 2011

The sixteenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, November 14, 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.

ANYONE TO BE HEARD

Mr. Donald Maloney, property manager for the Bargain Outlet store, 185 E. Fairmount Ave., appeared before Mayor Wordelmann and the Board of Trustees as a follow-up to his e-mail dated October 31, 2011, requesting permission from the Village of Lakewood to trim back the trees in front of the Bargain Outlet store which are located within the N.Y.S. Rt. 394 right-of-way.

Mayor Wordelmann indicated to members of the Board of Trustees that on Saturday, October 29th the Village Clerk observed individuals trimming the tops of a couple of trees in front of the Bargain Outlet store. Knowing they did not receive permission from the Village of Lakewood to trim the trees which are located within the NYS Rt. 394 right-of-way, he asked the contractor to stop what they were doing.

Mr. Maloney indicated he figured it was his responsibility to trim the trees and therefore contacted a local contractor to do the work. Mr. Maloney said some customers complained that there were some sight line issues when exiting onto Rt. 394, plus his bosses suggested that trimming the trees back would make their advertising sign along Rt. 394 more visible.

Mayor Wordelmann asked Mr. Maloney if he was planning to trim the rest of the trees in front of the building as the first two were trimmed.

Mr. Maloney said that was the plan.

Mayor Wordelmann said it is his opinion that the first two trees were hacked-up by the contractor and that in no way would he allow the contractor to continue to trim any more of the trees in front of the Bargain Outlet store. He indicated the State of New York spent a lot of money to plant the various species of trees along the Rt. 394 corridor following its reconstruction in 1992. Mayor Wordelmann indicated the Board of Trustees has amended the local zoning law to encourage added green space along the Rt. 394 commercial corridor. What we don't wish to see is a commercial corridor that is just a series of advertising signs void of any green space.

Trustee Troche said he agrees with Mayor Wordelmann noting if any of the remaining trees in front of the Bargain Outlet store are to be trimmed the job should be overseen by someone with tree trimming knowledge.

Mayor Wordelmann said he has no issue with trimming the trees up if indeed there are some sight line issues for motorists exiting onto Rt. 394. Trimming the tops of the trees as the first two were doesn't accomplish anything.

Building Inspector Charles L. Smith suggested that the Village of Lakewood develop a policy and to have some input from a professional arborist, such as Ms. Mary Ann Leonard of Krist Hansen Nursery. The individual overseeing the tree trimming should be independent of those doing the trimming.

NOVEMBER 14, 2011 (CONTINUED)

Mr. Smith said the species of trees planted along Rt. 394 will only grow to a certain height and it appears they have all matured by now. Any costs to trim the trees along Rt. 394 should be incurred by the adjacent property owner.

Mayor Wordelmann asked Mr. Maloney what are the intentions of the property owners once Crawford Furniture is no longer in business.

Mr. Maloney said the property owner has contacted a realtor to help market the property with the hope that the soon to be vacant storefront can be leased to a new tenant.

Trustee Susan Drago suggested that Building Inspector Charlie Smith oversee any tree trimming that is required along Rt. 394.

Mayor Wordelmann indicated to Mr. Maloney that the Village of Lakewood will develop a plan so as to have a definite response when requests to either trim or cut down trees within the N.Y.S. Rt. 394 right-of-way are received in the future.

Mr. Maloney asked if an arborist or tree contractor that he consults should be approved by the Village of Lakewood.

Mr. Smith suggested that any contractor looking to do work associated with the trees within the N.Y.S. right-of-way should be approved by the Village of Lakewood.

Mayor Wordelmann told Mr. Maloney that the Village of Lakewood will get back to him as soon as a definitive plan is developed.

APPROVAL OF MINUTES

Motion by Trustee Troche, seconded by Trustee Wendel, to approve the minutes of the last regular meeting of the Board of Trustees, held October 24, 2011.

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

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Denn, that the claims as audited by the Auditing Committee of the abstract dated November 14, 2011, be approved and that the Clerk shall execute said abstract and direct payment by the Treasurer. General Fund: \$ 37,123.85

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

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the new Case back-hoe/loader purchased earlier in the year had to have a new transmission installed in it, but is back in service. Mr. Pilling added that because of the problems experienced with the new back-hoe/loader, the dealer extended the warranty from one to two years.

NOVEMBER 14, 2011 (CONTINUED)

Mr. Pilling also reported that with assistance from the Town of Busti Highway Department, the new International dump truck/snow plow is getting outfitted with a new plow frame and that the D.P.W. crew has started its second trip through the village picking-up leaves.

Trustee Troche asked Mr. Pilling if residents are creating problems for the D.P.W. crew when they mix their leaves with brush.

Mr. Pilling said usually the brush and branches are separated to allow the crew to vacuum up the leaves only. If time and weather permits he said he hopes to be able to get everything picked-up before winter sets in.

Trustee Denn asked Mr. Pilling where does the Village of Lakewood dispose its leaves.

Mr. Pilling said some are taken up to a farm on Baker Street Ext., but most are taken to a large farm on Stoneledge Road in Ashville.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to eight thousand eight hundred fifty-six reportable incidents year-to-date. Chief Bentley also reported that during the past two weeks, the New York State Department of Corrections inspected the Lakewood-Busti Police Department's lock-up/detention facility, which passed. Also during the past two weeks, each officer of the department attended extra T.A.S.E.R. (Thomas A. Smith Electronic Rifle) training as mandated by the State of New York. Chief Bentley said if the T.A.S.E.R. unit is overused it can become a liability for the law enforcement community as a whole. If used correctly it is the greatest tool to come along in some time as a means to incapacitate a perpetrator.

Trustee Denn asked Chief Bentley to define what a reportable incident is.

Chief Bentley said any of the over 8,800 incidents that have been answered year-to-date are incidents that may cause a liability to the Lakewood-Busti Police Department. He said by year's end the number of reportable incidents that are vehicle and traffic stops will total approximately 1,800.

Town of Busti Councilman Jesse Robbins wished to thank Police Chief John R. Bentley for the great job he did as master of ceremonies during the Veterans Day ceremony held last Friday morning at the five corners of Busti. Mr. Robbins said over one hundred people were in attendance.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to six hundred ninety-two alarms year-to-date. Chief Hallberg also reported the Lakewood Volunteer Fire Department responded to calls requesting mutual aid at four recent structure fires, two of which were in Warren County Pennsylvania, one in Blockville, where two firefighters from the Panama Volunteer Fire Department were seriously injured, and a wood stove fire in Kiantone.

Trustee Denn asked Chief Hallberg if the fire calls he just spoke of were mutual aid calls and if so, does the Lakewood Volunteer Fire Department receive mutual aid in return from neighboring fire departments.

Chief Hallberg explained that there is an automatic mutual aid system in place when the Lakewood Volunteer Fire Department responds to a fire alarm or structure fire within its fire district.

Trustee Drago said in view of what occurred to the two firemen from the Panama Volunteer Fire Department, what is in place to provide insurance and compensation to those injured on the job.

NOVEMBER 14, 2011 (CONTINUED)

Fire Chief Hallberg said insurance for members of volunteer fire departments is provided through the Chautauqua County self-insurance plan.

Building Inspector Charles L. Smith said fire fighters and emergency medical service personnel are covered by what is called the Volunteer Firemen's Benefit Law. The Village of Lakewood pays its share of the annual premium which is based on claims and other factors to Chautauqua County. This insurance coverage is provided to all volunteer fire departments throughout the county.

Chief Hallberg said representatives from O.S.H.A., (Occupational Safety & Health Administration) and P.E.S.H., (Public Employee Safety & Health Bureau), are expected to be on site this week to review the events that lead to the injuries sustained by the two firefighters from the Panama Volunteer Fire Department while battling the barn fire on Rt. 474 in Blockville last Thursday. Chief Hallberg said he is hopeful we all can learn something from what occurred so we can prevent it from happening again.

Village Attorney Edward P. Wright indicated that he had heard that one of the firefighters injured purchased a special type of protective helmet and likely was responsible for saving his life.

Chief Hallberg said that particular style of helmet is the type issued to members of the Lakewood Volunteer Fire Department. He added the helmet has an extra frame that goes across the top of the helmet.

Chief Hallberg then wanted to inform the Board of Trustees about an unfortunate incident that occurred at the Chautauqua Mall while conducting driver training in the parking lot. It was a drill conducted by the Celoron Volunteer Fire Department which we were invited to participate in. To make a long story short, Chautauqua Mall Security asked each fire department to leave the premises because arrangements to use the parking lot for the driving exercise were not made in advance and that neither fire department were in possession of a Certificate of Insurance. He said there was a verbal exchange between the Celoron Fire Chief and a member of the Chautauqua Mall Security team who again asked us to leave the property. The Lakewood Fire Department experienced a similar situation when it tried to conduct a hose test a while back. Chief Hallberg said earlier today he received a call from the secretary for the manager of the Chautauqua Mall, who has scheduled a meeting with L.F.D. officials this Wednesday to discuss this particular matter. Chief Hallberg has informed the Chautauqua Mall officials that he and the Lakewood Volunteer Fire Department are not interested in doing anything extra there in the near future.

Obviously the Lakewood Volunteer Fire Department will continue to respond to alarms at the mall, but this year Santa Claus may have to arrive on something other than a fire truck. To put it bluntly the Chautauqua Mall has not been very cooperative the past few years, while their neighbor to the east, (Wal-Mart), will call to inform us they have a \$ 1,000.00 donation for the Lakewood Fire Department.

Another example of the uncooperative nature of Chautauqua Mall officials was when Mall Blvd. became flooded this past year following a heavy downpour. It was decided by emergency personnel to detour traffic through the mall's parking lot, which didn't sit real well with mall officials. When emergencies arise the local fire chief is empowered to make certain decisions. Chief Hallberg said it is just a lack of understanding of what our role is in the community and it is something we hope to get straightened out.

Chief Hallberg said when the mall wants something they call us. When we want to do something at the mall it becomes a big issue.

Mayor Wordelmann asked Chief Hallberg if the issue with mall security or mall management.

NOVEMBER 14, 2011 (CONTINUED)

Chief Hallberg said it appears to be both.

Mayor Wordelmann then wished to thank Chief Hallberg and the Lakewood Volunteer Fire Department for organizing the Halloween Costume Party & Parade two weeks ago this evening. A good time was had by all.

Chief Hallberg said he will be glad to pass on the Mayor's sentiments to the event chairman Jack Knowlton and his entire committee.

Village Attorney Edward P. Wright reported that a decision has been handed down concerning the law suit regarding Mr. Thomas A. Turner's storage shed which is located across from his residence at 33 East Lake Street. Mr. Wright said Mr. Turner has received a court order to either take it down or remove it. Mr. Wright said he talked with Mr. Turner's legal counsel who asked if their appeal of the case is denied, they would like permission from the Village of Lakewood to move the aforementioned shed across the park to its new home on Mr. Turner's property located at the north end of the Ohio Ave. right-of-way.

Trustee Troche asked Building Inspector Smith if Mr. Turner can legally establish a storage shed of that size on his lot at the end of Ohio Ave.

Mr. Smith said he can't say yes or no until he has a chance to reacquaint himself with the size of the shed, the lot size and just how Mr. Turner wishes to position it on the lot, plus it has to comply with the local zoning code as well as the New York State Building Code.

Village Treasurer Andrea J. Windoft wished to update Mayor Wordelmann and the Board of Trustees on the Town of Busti Assessor's 2011 assessment figures for the Village of Lakewood that will be used to calculate next year's tax rate. NOTE: The assessment figures indicate an increase of \$ 473,290.00 for a total of \$ 230,465,710.00. She also asked Mayor Wordelmann if he and the Board of Trustees have discussed whether or not they will adopt a local law to override the new tax cap legislation prior to adopting the budget. If so the New York State Comptroller's Office will need to be notified accordingly.

Village Treasurer Windoft also asked Mayor Wordelmann and the Board of Trustees to clarify a portion of the police union labor contract with respect to the annual boot allowance of \$ 125.00. The specific question is what twelve month period is it based on, the fiscal year, calendar year or anniversary of date of hire. Village Treasurer Windoft just wanted to let members of the Board of Trustees know that some officers are purchasing two pair of boots over a short period of time.

Mayor Wordelmann said it is his understanding that the boot allowance goes along with the term of the labor contract which begins June 1st and ends May 31st and which also coincides with the Village of Lakewood's fiscal year. Mayor Wordelmann indicated the language of the contract with respect to the boot allowance wasn't changed.

Mayor Wordelmann indicated he and members of the Board of Trustees received a report from the Village Treasurer stating that the sales tax revenue received by the Village of Lakewood this quarter is \$17,716.51 less than the corresponding quarter last year.

NOVEMBER 14, 2011 (CONTINUED)

RESOLUTION #84-2011-2012 – ALLOW USE OF THE FAIRDALE AVE. RIGHT-OF-WAY

Motion by Trustee Troche, seconded by Trustee Wendel for the Village of Lakewood to authorize the use of the portion of the public right-of-way in front of 1 & 5 Fairdale Ave., as parking for visitors and/or employees of Patient's Pharmacy, Inc., the prospective buyer of the property, with the conditions that Patient's Pharmacy, Inc. will be responsible for any and all maintenance of that particular section of the Fairdale Ave. right-of-way and that they hold the Village of Lakewood harmless regarding its use. The use of this section of the Fairdale Ave. right-of-way shall be non-transferable.

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

RESOLUTION #85-2011-2012 – APPROVE NEW LFD MEMBER

Motion by Trustee Denn, seconded by Trustee Wendel, that the Board of Trustees, acting as the Board of Fire Commissioners, to approve Robert C. Hughes, 14 Clark Street, as a new member of the Lakewood Volunteer Fire Department.

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

REPORTS

Trustee P.J. Wendel indicated that his final board meeting as a Village Trustee will be Monday, December 12, 2011. Mr. Wendel will begin his duties as the newly elected Chautauqua County Legislator representing District 18 on January 1, 2012.

Mayor Wordelmann then wished to congratulate Mr. Wendel, as well as newly elected Town of Busti Supervisor Jesse Robbins and newly elected Town of Busti Councilman Richard Thor for their election victories on November 8, 2011.

Motion by Trustee Troche, seconded by Trustee Wendel, and unanimously carried the Board adjourned at 7:21 PM.

Joseph M. Johnson
Village Clerk