

DECEMBER 9, 2013

The seventeenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, December 9, 2013 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were David J. Di Salvo, Susan F. Drago, 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 Building Inspector Charles L. Smith. Absent were Trustee Gale A. Denn and Fire Chief Kurt W. Hallberg.

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 November 25, 2013.

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

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Jablonski, that the claims as audited by the Auditing Committee of the abstracts dated November 29, 2013 and December 9, 2013, be approved and that the Clerk shall execute said abstracts (#27, #28 & #29) and direct payment by the Treasurer. Trust & Agency Fund: \$ 54,976.51 (Checks #2729 thru #2744), General Fund: End of Month- \$ 1,559.63, (Checks #10237 thru #10238), General Fund: \$ 342,512.94 (Checks #10239 thru #10276)

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

REPORTS

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to ten thousand seven reportable incidents year-to date and that he has conducted interviews of two current full time officers vying for the open Police Sergeant position. Chief Bentley said he is also interviewing candidates for the open part-time position. Police Chief Bentley also reported that he recently received a \$1,500.00 grant from Wal-Mart which he would like to put towards the K-9 program and that he recently applied for a grant through a local foundation. Chief Bentley said he has been in contact with the Department of Homeland Security concerning a potential grant in the amount of \$ 59,782.00, plus a \$ 20,000.00/year stipend to fund and maintain the K-9 program. In order to qualify for both grants Chief Bentley said he would have to acquire two dogs for the K-9 unit. One dog would be utilized on the federal level to sniff for bomb making material and tracking. The other or local dog would be utilized to combat drug trafficking, in particular increased heroin use in an effort to make more drug seizures.

Village Treasurer Andrea J. Windoft indicated with respect to Police Chief Bentley's grant application it would take a resolution by the Board of Trustees approving the grant and the K-9 program for it to move forward.

Chief Bentley indicated that he has been in contact with an individual at the Department of Homeland Security and they are in the process of preparing a contract relative to the grant that will fund the K-9 unit.

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Village Treasurer Windoft also reported that the Internal Revenue Service has set the standard mileage rate of 56 cents per mile for business miles driven beginning January 1, 2014, a standard the Village of Lakewood has typically accepted.

In conclusion, Village Treasurer Windoft reported that the new dog park was officially opened this past Saturday, (December 7th).

Joseph M. Troche, 19 Winchester Road, indicated although he wasn't initially a big fan of the dog park, his daughter recently made use of the park and thoroughly enjoyed the experience. On behalf of all who use the dog park, thank you.

COMMITTEE REPORTS

Mayor Wordelmann reported the zoning law review committee met again on December 2nd. The committee finalized amendments to Section #25-47, [Accessory Structures], which is slated for tonight's public hearing. Mayor Wordelmann indicated Section #25-50 [Signs] and Section #25-44 [Automobile Sales] two of the four moratoria, have been reviewed and amended accordingly. Mayor Wordelmann also indicated that information relative to site plan reviews was distributed to the committee and will be reviewed next week. Another subject that was discussed was short term or vacation rentals. A consensus on how to manage this particular use wasn't reached however there was some discussion on the possibility of allowing short term or vacation rentals in certain zoning districts (current or to be established) within the Village of Lakewood.

ANYONE TO BE HEARD

Mr. Daniel Zabala, 15 West Third Street, appeared before Mayor Wordelmann and the Board of Trustees saying he has had an issue with the large overgrown trees located between the sidewalk and road edge in front of his house. He said on more than one occasion windy conditions have caused dead limbs from the trees to fall on his vehicles parked underneath. Mr. Zabala said he has spoken with the Village Clerk and D.P.W. Supervisor Thomas R. Pilling about the situation. He has been told by Mr. Pilling all that can be done is to have the Village of Lakewood's tree contractor trim out the dead wood. Although the trees have been trimmed of some dead previously, there is still more that needs to be trimmed. Mr. Zabala indicated that on November 18th a large limb came down on his daughter's car causing considerable damage. At this point Mr. Zabala said he is looking for some relief from the Village of Lakewood. Mr. Zabala said he has an Estimate of Repairs from Shults Accident Repair Center he would like to file with the Village Clerk. Mr. Zabala noted that a couple of trees along West Third Street have been taken down but the trees in front of his house are still dropping large dead limbs and pose a hazard.

D.P.W. Supervisor Thomas Pilling indicated the Village of Lakewood has had a tree contractor on site two times over the past year or so to trim out the dead wood.

Mayor Wordelmann suggested to Mr. Zabala that he turn to his home owner's insurance agency or auto insurance agency for some guidance concerning his claim. They in turn may contact the Village of Lakewood to have the matter reviewed by its insurance agency.

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Mr. Zabala indicated that this was the third time a limb from a “village” tree has fallen and damaged one of his family member’s vehicles. Mr. Zabala said the latest damage is over \$ 5,000.00 and doesn’t understand why it isn’t the Village of Lakewood’s liability. He wondered what is it going to take for the Village of Lakewood to take care of this situation. Mr. Zabala realizes it is an expensive proposition to cut the trees down but it is a hazard that needs to be removed.

Village Attorney Wright suggested to Mr. Zabala that he turn over this latest claim to his auto insurance agent in a timely manner. They in turn may make a claim against the Village of Lakewood. Going forward you should put the Village of Lakewood on written notice of the defect in case another claim arises in the future.

Mrs. Jill Conley, 7 Winchester Road, appeared before Mayor Wordelmann and the Board of Trustees to address the matter of short term/vacation rentals, which has been discussed at previous meetings. Mrs. Conley appreciates the Board of Trustees’ attention to the matter but suggested some decisions need to be made. Mrs. Conley indicated the particular vacation rental the neighborhood is presently having an issue with is still being advertised on the internet. She said it would be nice if a decision is made prior to people making vacation plans for next summer.

RECESS

Motion by Trustee Di Salvo, seconded by Trustee Jablonski, to recess the regular meeting at 6:45 PM, so as to conduct a previously scheduled public hearing.

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

PUBLIC HEARING – 6:45 PM
PROPOSED ZONING LAW AMENDMENTS

SECTION #25-6 [DEFINITIONS] & SECTION #25-47 [ACCESSORY STORAGE STRUCTURES]

Mayor Wordelmann briefly explained the reasons which prompted the overall review of the Village of Lakewood Zoning Law in particular the four moratoria that were imposed, including Automobile Sales, Accessory Storage Structures, Signs and Adult Novelty Stores. He then recapped the proposed amendments that were made to Sections #25-6 and #25-47.

Trustee Jablonski asked how is Section #25-10 [Single Family (R-1) Residential] going to be amended with respect to accessory storage structures.

Building Inspector Charles L. Smith indicated to Trustee Jablonski that the intent was to let the public know where the zoning law review committee was at with respect to the four (4) moratoria and agreed that each zoning district will have to be amended as needed. That will be done as the committee reviews the overall zoning law.

Village Attorney Wright said it was the committee’s feeling to introduce the proposed amendments with respect to the four moratoria items first, receive feedback and then incorporate the information into the zoning law while it undergoes its final review and updates.

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Trustee Di Salvo indicated as the amended section reads, he and sub-committee member Trustee Jablonski would like to know if it is the intent of the zoning review committee to have a detached garage be considered the one and only accessory structure allowed in all districts. If that isn't the intent, then some language should be added that would indeed allow a detached garage and a second accessory structure.

Mr. Smith said that particular issue was discussed along with how a detached garage is defined.

Trustee Jablonski asked what was the reasoning of the zoning law review committee in determining how many accessory structures would be allowed.

Village Attorney Wright indicated the committee's decision was based on appearance wherein they measured the benefit versus the detriment to a neighborhood or an overall community regarding the number of accessory structures allowed.

Mr. Joseph M. Troche, 19 Winchester Road, indicated it is very important that the required set-backs for accessory structures be adhered to.

Ms. Cara Birrittieri, 15 Sunset Ave., asked Mayor Wordelmann what about decorative structures such as a gazebo, playhouse, etc. For example if property owner has a woodshed and would like to add an accessory structure, would he or she have to apply for a variance.

Trustee Jablonski asked if that particular scenario would require an area variance or a use variance.

Village Attorney Wright explained it would require a use variance for a property owner to establish a second accessory structure.

With no one else to be heard a motion was made by Trustee Drago, seconded by Trustee Di Salvo to close the public hearing at 6:58 PM and to reopen the regular meeting.

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

REVIEW OF MASS ICE RESCUE EXERCISE

Police Chief Bentley indicated to Mayor Wordelmann and the Board of Trustees he would like to take a few minutes to review some of the details of a mass ice rescue exercise which the U.S. Coast Guard has scheduled for Saturday, February 22, 2013. This particular exercise is classified as a Level III National Incident. He said the exercise is expected to take place out in front of the Chautauqua Lake Yacht Club and could cause a significant disruption for those living in the immediate area. Chief Bentley indicated that he and Building Inspector Charles L. Smith are working on trying to change the exercise location to the Community Park at the east end of the village.

Building Inspector Smith, former Director of Emergency Services, indicated he spoke with Mr. Julius Leone the current Director of Chautauqua County Emergency Services and asked him to reconsider the location for the exercise and suggested a more sensible lake access such as the one at Community Park on East Terrace Ave. Mr. Smith indicated Fire Chief Kurt W. Hallberg would be the initial incident commander for the planned exercise.

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RESOLUTION #104-2013-2014 – SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Drago, seconded by Trustee Di Salvo, per the recommendation of Mayor Wordelmann, to set 6:45 PM, Monday, December 23, 2013, as the time and date to conduct a public hearing to discuss and review proposed amendments to Section #25-50, [Signs] of the Village of Lakewood Zoning Law. Adopted: 3 ayes, (Wordelmann, Di Salvo, Drago) 1 nay (Jablonski)

Trustee Jablonski indicated it is his opinion that this matter isn't ready to be heard at a public hearing yet. Mr. Jablonski said he and sub-committee member Trustee Di Salvo would like to meet with members of the zoning law review committee to review the proposed amendments to Sections #25-44 [Automobile Sales] & #25-50 [Signs] as a group so there is some sort of consensus on the changes. Trustee Jablonski indicated a majority of the changes suggested by the sub-committee have been left out of the proposed amendments and he would like a chance to go over the reasons why.

Mayor Wordelmann indicated to Trustee Jablonski that he would be able to question the proposed amendments during the public hearing.

Trustee Di Salvo said he and Trustee Jablonski have had some back & fourth with the zoning law review committee but would have liked to meet with them jointly to review and discuss the proposed changes and/or additions to the local zoning law. He and Trustee Jablonski would ultimately like to understand why some of their recommendations or suggestions have not been given any consideration and would like some feedback prior to it going to a public hearing.

RESOLUTION #105-2013-2014 – SET TIME AND DATE FOR PUBLIC HEARING

Motion by Trustee Drago, seconded by Trustee Di Salvo, per the recommendation of Mayor Wordelmann, to set 7:00 PM, Monday, December 23, 2013, as the time and date to conduct a public hearing to discuss and review proposed amendments to Section #25-44 [Automobile Sales], of the Village of Lakewood Zoning Law. Adopted: 3 ayes, (Wordelmann, Di Salvo, Drago) 1 nay (Jablonski)

RESOLUTION #106-2013-2014 – AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Jablonski, seconded by Trustee Drago, authorizing the Chautauqua Striders to make use of village streets on which to conduct their 2014 Winter 5K Series of races. The scheduled race dates are January 4th, January 11th, January 25th, February 1st and February 15th. Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #107-2013-2014 – AUTHORIZE INCREASE IN THE CURRENT BUDGET

Motion by Trustee Drago, seconded by Trustee Jablonski, authorizing Mayor Wordelmann, as the Budget Officer, to increase the current budget by \$ 23,291.00 to offset the increase in the Village of Lakewood's annual contributions to the New York State Retirement System. Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

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Mayor Wordelmann indicated the State of New York provides municipalities across the state with calculated estimates of what their annual contributions to the New York State Retirement System are expected to be. This allows the municipality to appropriate the correct dollar amount when preparing its annual budget. Unfortunately this year's estimates were \$ 23,291.00 low. Mayor Wordelmann indicated that in the past four years the Village of Lakewood's contribution to the New York State Retirement System has risen from \$ 119,553.00 to \$ 328,323.00 or 175%. The retirement system contributions used to account for approximately 3% of the budget, now it is more like 10%. Mayor Wordelmann wished to point out that this predicament will not result in higher taxes, but rather a matter of tapping into the village's fund balance for the difference. In light of these increases State Comptroller Thomas P. DiNapoli recently announced that he is pleased to inform public employers across the state that the pension system continues to set a high standard for integrity and performance among the nation's public funds. Mr. DiNapoli also announced that after four years of increases in employer contributions, next year they are expected to decrease slightly. Mayor Wordelmann said Mr. DiNapoli is proud of the fact that during his tenure he has increased the value of the retirement system from 153 billion to 160.7 billion. He has done so however at the expense of municipalities across New York State. Mayor Wordelmann went on to say that three years ago Governor Cuomo instituted the 2% tax cap for municipalities and then New York State proceeds to ask for more than 2% increases in retirement system contributions.

RESOLUTION #108-2013-2014 – AUTHORIZE RETIREMENT SYSTEM CONTRIBUTIONS

Motion by Trustee Drago, seconded by Trustee Jablonski, authorizing the Village of Lakewood to remit its annual contributions to the New York State Retirement System, which are due December 15, 2013. Employees' Retirement System: \$ 106,151.00, Police & Fire Retirement System: \$ 222,172.00
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

Motion by Trustee Drago, seconded by Trustee Di Salvo and unanimously carried the Board adjourned at 7:24 PM.

Joseph M. Johnson
Village Clerk