

APRIL 11, 2011

The second regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, April 11, 2011 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, Joseph M. Troche and P.J. Wendel. 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, Fire Chief Kurt W. Hallberg and Building Inspector Charles L. Smith.

APPROVAL OF MINUTES

Motion by Trustee Troche, seconded by Trustee Wendel, to approve the minutes of the organizational meeting and last regular meeting of the Board of Trustees held, April 4, 2011.

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

AUDIT OF CLAIMS

Motion by Trustee Denn, seconded by Trustee Wendel, that the claims as audited by the Auditing Committee of the abstract dated April 11, 2011, be approved and that the Clerk shall execute said abstract (#47) and direct payment by the Treasurer. General Fund: \$ 33,574.62

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

APRIL 11, 2011 (CONTINUED)

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the block wall adjacent to the post office property, which was installed during the reconstruction of Chautauqua Ave., is leaning considerably and soon could fall onto the sidewalk. Mr. Pilling also said he received a request from Ms. Amy Darling of Darling Designer Cuts, 32 Chautauqua Ave. asking the Village of Lakewood to consider installing some paving blocks in front of her business between the sidewalk and curb line. Mr. Pilling said he would like to have Pat Marlinski of Marlinski Landscaping & Stone Work, Lakewood, New York to submit a quote to repair the wall as well as install the paving block.

Mr. Pilling also indicated to Mayor Wordelmann and the Board of Trustees that he intends to contact Mr. Dave Wilson, Field Manager for the Chautauqua County Soil & Water Conservation District, to see if the Village of Lakewood can apply for and receive some bed tax funding to address the erosion occurring in the small creek between Elizabeth Street and Locust Street. Mr. Pilling said if funding is available, the project likely wouldn't be undertaken until next year.

Police Chief John R. Bentley reported that the Lakewood-Busti has responded to two thousand nine hundred forty-four reportable incidents year-to-date. Chief Bentley reminded everyone to secure their homes when going on spring vacations.

On another subject Chief Bentley said with the future redevelopment of the Lakewood Village Center he would like the Village of Lakewood to send a letter to the New York State Department of Transportation requesting that a new traffic study be done in front of the plaza. Chief Bentley cited a couple potential problems one being vehicles traveling in the west bound lanes pinch in as the road narrows and the other being vehicles in the east bound lane making illegal left hand turns into Tim Hortons. Chief Bentley foresees when the business in the plaza increases so will the number of multiple vehicle accidents in that stretch of state highway.

APRIL 11, 2011 (CONTINUED)

Chief Bentley said he will be willing to bring up some of these concerns at the next Chautauqua County Traffic Safety Committee meeting.

Trustee Denn asked Chief Bentley if he has any ideas on how those known traffic issues could be alleviated.

Chief Bentley said the Chautauqua County Traffic Safety Committee has suggested some changes to the N.Y.S. Department of Transportation, but they are reluctant make any road design changes at the present time.

Trustee Denn said the problems are further exasperated by the recent opening of Wing City Grille.

Chief Bentley concluded his report by saying the N.Y.S. Department of Transportation will need to make a decision. He warned if nothing is done there will likely be more multiple vehicle accidents occurring.

Fire Chief Kurt W. Hallberg reported that the Lakewood Vol. Fire Department has responded to one hundred ninety alarms year-to-date which averages out to about two per day.

OLD BUSINESS

Mayor Wordelmann suggested that the Board of Trustees begin reviewing and discussing the dock permit application and amended site plan as submitted jointly by Mr. Jeff Weemhoff, 159 East Terrace Ave., and Mr. Jeff Rog, 158 East Terrace Ave., regarding their plans to erect a dock off the Glenwood Ave. right-of-way.

APRIL 11, 2011 (CONTINUED)

Mr. Dudley R. Ericson, 161 Front St., appeared before Mayor Wordelmann and the Board of Trustees said before he speaks to the dock permit application he would like to thank Mr. Thomas Pilling and the D.P.W. crew for going above and beyond the call of duty earlier today by picking up and disposing of a dead deer that washed up on shore near his residence.

Mr. Ericson said he would like to provide the Board of Trustees a brief history of right-of-way use based on his past research of fifteen years. Mr. Ericson said he would like to remind the Board of Trustees that Lakewood is the only municipality on the entire lake that allows docks and boats to be located off public rights-of-way. He noted that Mayville and Bemus Point have public docks off public lands but have eliminated docks and the use of boats off public rights-of-way. The Village of Lakewood did not allow boats on docks located off public rights-of-way until a few years ago when the rules and regulations were revised. Mr. Ericson then referred to item #6 on the current dock permit application which states no watercraft of any kind shall be moored overnight on the right-of-way dock unless approved by the Village Board. Applicants shall also abide by applicable sections of the N.Y.S. Navigation Law, which he brought to the attention of the Board of Trustees a few years ago, which says anyone wishing to place something in the water must get written permission of the adjacent property owners so as address any interference issues.

Mr. Ericson also indicated that item #7 of the dock permit application states the number of boats and /or

boat lifts to be located adjacent to the right-of-way dock will be determined and reviewed for approval by the Village Board on a right-of-way by right-of-way basis, adding that item #7 was the last amendment

to the dock permit application when it was decided to allow boats and boat lifts.

Mayor Wordelmann indicated to Mr. Ericson that this discussion will continue following the scheduled 6:40 PM public hearing on the Tentative Village Budget for the fiscal year of June 1, 2011 – May 31, 2012.

APRIL 11, 2011 (CONTINUED)

RECESS

Motion by Trustee Denn, seconded by Trustee Troche, to recess the regular meeting so as to conduct a previously scheduled public hearing.

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

PUBLIC HEARING – 6:40 PM

2011-2012 TENTATIVE BUDGET

VILLAGE OF LAKEWOOD

Mayor Wordelmann opened the public hearing at 6:40 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper. He then asked if anyone had any questions or comments concerning the Village of Lakewood's Tentative Budget for 2011-2012 as presented.

Mr. Dudley R. Ericson, 161 Front Street, said he has reviewing tentative village budgets for the past fourteen years and wished to say that this is the best budget presentation he has seen. Mr. Ericson said he complimented the Board of Trustees a couple years ago for making some budget adjustments and said they have done a through job this year.

Mr. Ericson said while we all certainly miss Village Attorney Ward W. Westerberg, he noticed that the tentative budget reflects a reduction in the salaries portion of the law account. He then asked if any decision has been made in that area.

Mayor Wordelmann indicated to Mr. Ericson that instead of hiring a Village Attorney to attend board meetings, it has been discussed and decided to compensate the Village of Lakewood's future legal counsel on a per diem basis. Mayor Wordelmann said it is our intention to take \$ 25,000.00 from the law account and add it to the contingent fund/account.

APRIL 11, 2011 (CONTINUED)

Mr. Ericson commended Mayor Wordelmann and the Board of Trustees for those decisions.

Mr. Ericson did wish to ask Police Chief John R. Bentley a question or two about the STOP DWI account, which is broken down by \$ 11,000.00 for personal services and \$ 13,000.00 for equipment. Mr. Ericson asked Chief Bentley what type of equipment was he planning on purchasing with the \$ 13,000,00.

Chief Bentley said he likes to maintain that particular line item in case a need arises adding he very rarely spends all of the monies appropriated for that particular account. For example if he needed to purchase a new radar unit or upgrade a light bar he could do so via the STOP DWI account.

Mr. Ericson wished to make a final comment about the budget increase of \$ 61,000.00 in the Village of Lakewood's annual contributions to the New York State Retirement Systems. He also noted that the tentative budget doesn't reflect any pay increases for Village employees and asked if any of the Board members wished to make any comments about that.

Mayor Wordelmann said what Mr. Ericson said speaks for itself. The \$ 61,000.00 increase in the annual contribution to the New York State Retirement Systems is the equivalent of a 6% pay raise for each employee. Given the fact where the economy is, problems with the State budget, etc., we are not asking

employees to give up anything, but have decided not to raise employee salaries.

Trustee Wendel indicated when we started the budget process, prior to Mayor Caprino's death, the increases in contributions were known and certain budget adjustments were necessary to absorb those mandated increases.

Mayor Wordelmann said our goal in preparing the budget was to keep the budget "flat" with no property tax increases.

Mayor Wordelmann said if the money was there we could have provided the employees with a modest raise, but the money just wasn't there. Mayor Wordelmann wished he could have provided the employees with a raise and expressed his disappointment in not being able to do so. He added, good times are ahead.

APRIL 11, 2011 (CONTINUED)

Mr. Gary Padak, 159 Front Street, asked Mayor Wordelmann if there any grants external to the budget that the Village of Lakewood receives but not reflected in the budget.

Mayor Wordelmann said there isn't much money out there for municipalities other than grants for studies. He noted that the Lakewood Volunteer Fire Department has been very successful in procuring grant money and in doing so keeps their budget in check.

With no one else to be heard, Mayor Wordelmann closed the public hearing on the tentative budget and proceeded to reopen the regular meeting of the Board of Trustees.

RESOLUTION #9-2011-2012 ADOPT VILLAGE BUDGET

Motion by Trustee Wendel, seconded by Trustee Denn, that a resolution adopting the annual budget for the Village of Lakewood, New York, in the amount of \$ 3,048,391.00, for the fiscal year June 1, 2011 – May 31, 2012, making appropriations for the conduct of Village government and establishing the rate of compensation for its elected officials, which will remain at the previous year's rates, {Mayor: \$ 7,500.00, Trustees: \$ 3,500.00 each}, and other employees for said period;

WHEREAS, the Board of Trustees conducted a public hearing on the tentative budget at the time and place specified in the notice of public hearing and heard all persons desiring to be heard;

THEREFORE BE IT RESOLVED that the tentative budget as reviewed and herein set forth is hereby adopted.

NOTE: The newly adopted budget reflects a tax rate increase of less than \$.01/1,000 assessed valuation when compared to last year's tax rate.

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

APRIL 11, 2011 (CONTINUED)

OLD BUSINESS (CONTINUED)

Mr. Dudley R. Ericson said after giving a brief history of the dock permit application process for the Glenwood Ave. right-of-way, he would like to make two quick comments. He noted that most rights-of-way to the lake are fifty or sixty feet wide. The Glenwood Ave. right-of-way is unique in that before 1900 there was an island at the end of the right-of-way. A previous owner of the property known as 161 Front St., likely filled in the area between the island and shore line.

As a result the property sticks out into the right-of-way. Mr. Ericson said his deed shows he owns thirty-five feet of the Glenwood Ave. right-of-way at the lake level. This fact therefore reduces the width of the right-of-way to approximately 25 ft. Mr. Ericson said he believes this permit is the only one applied for by non-residents. Although the applicants are tax payers they are not full time residents nor do they vote here.

Mr. Ericson then introduced his neighbor Gary M. Padak, 159 Front Street, who would like to make a couple of comments concerning this matter.

Mr. Padak said he is a native New Yorker and proceeded to distribute a letter signed by he and his wife noting their concerns regarding the dock that for the past few years had been established off the Glenwood Ave. right-of-way.

Mr. Padak said he and his wife have owned the property at 159 Front Street for the past six years. The first couple of years there wasn't any issues. He went on to say when they purchased their home he wasn't aware of any right-of-way permits. He said realtors sell houses advertising lake access but they don't tell buyers of lakefront homes of the public rights-of-way.

Mr. Padak said the location of the dock off the Glenwood Ave. right-of-way was the cause of some problems for us last summer. He said they have a large pontoon boat which becomes difficult to maneuver in and around the dock when it is windy. The boat lift off the public right-of-way was only thirty-two inches from our boat lift. The location of the right-of-way dock poses not only a liability but also a hidden health hazard.

APRIL 11, 2011 (CONTINUED)

Mr. Padak also said because of the location of the right-of-way dock there isn't room for the barges from the Chautauqua lake Association to clean up the shore line of weeds and other debris. Mr. Padak said he heard the Chautauqua Lake Association has projected a \$ 59,000.00 funding shortfall this year and therefore shoreline clean-up is going to be a challenge again this year if the permit is granted.

Finally, the credibility of the past and present dock permit holders must be looked at. The original permit application site plan noted a dock eighty-eight feet long when in fact the dock that went in the water was over one hundred ten feet in length.

When we questioned them about the dock's length, they suggested that we speak with the Mayor. We ended up meeting with Mayor Caprino and writing numerous letters voicing our concerns. This forum provides me to voice a verbal objection to this dock permit being approved.

Trustee Troche asked Mr. Padak if the right-of-way dock was limited to only eighty-eight feet would that

help in him maneuvering his boat in and out from his dock.

Mr. Padak said it should help.

APRIL 11, 2011 (CONTINUED)

Mr. Ericson said we don't have a problem if the Board of Trustees approve a permit for a dock only, but this particular dock should not be permitted to have any boats or boat lifts for the reasons specified. If the dock is returned to its original length the barges from the C.L.A. still would not be able to access and the shoreline in order to clean-up the weeds and other debris.

Mr. Jeff Rog, 158 East Terrace Ave., indicated that he was not a party of the original dock permit saying the applicants made an error when calculating the length of each dock section which resulted in the difference in the length of the dock on paper versus what went into the water.

When a dock section was added last year we agreed via conversations with the Mayor to remove it based on the information contained with the dock permit application.

Mr. Rog said it was agreed at the time to restore the dock to its original length. He said all we are applying for is what was previously approved.

Trustee Troche indicated because the scale of the site plan was incorrect doesn't mean we approved a dock in excess of one hundred ten feet. What we approved was a dock per the site plan. He said since day one that dock has been a problem.

Mr. Rog said he was aware of the right-of-way permit process via conversations with the Village Clerk's Office and it has been his intention to follow the rules and regulations associated with the process. He said lake access is a reason why people invest in this community. Mr. Rog said he may not be a voter or constituent here but he is certainly a taxpayer who helps fund the village. He said he is a member of the local yacht and comes here to enjoy the quality of life the village affords him and his family. Mr. Rog also said he supports the local economy and is very willing to invest in the community.

Mayor Wordelmann indicated to Mr. Ericson, Mr. Padak and Mr. Rog that any problems between them with respect to the dock off the Glenwood Ave. should be able to be worked out.

APRIL 11, 2011 (CONTINUED)

Mr. Ericson indicated that he and his neighbor have no problems with the dock, it is the boats and boat lifts that they have issues with.

Mayor Wordelmann said it appears that Mr. Ericson and Mr. Padak have moved their docks closer to the Glenwood Ave. right-of-way leaving less room for the dock located off the right-of-way. It is unfair to come to us now saying his dock is creating a problem. The problem didn't exist until you moved your docks in.

Mr. Padak said the problem existed when the Board of Trustees approved the initial dock permit. Mr. Padak said he moved his dock eight feet toward the east to provide a larger swimming area for our kids and grandkids.

Mayor Wordelmann said for the Board of Trustees to deny the dock permit application wouldn't be fair to Mr. Rog and Mr. Weemhoff.

Mr. Ericson said he would like to clarify a statement made by Mayor Wordelmann. He has not moved his dock to the west and it has been in the same location for the past fourteen years.

Trustee Troche asked Mr. Rog what would it take to get his dock down to a length of eighty-eight feet. Doing so would alleviate the problem of Mr. Padak navigating his boat in and out from his dock.

Mr. Rog said the dock is installed by people who recommend a certain water depth.

Mayor Wordelmann said a permit is required for docks over one hundred feet in length.

Mr. Rog asked are we the only ones with a dock over one hundred feet.

APRIL 11, 2011 (CONTINUED)

Mr. Padak said eighty-eight feet would be fine. He said having both of their boats on the east side of the dock would also create more space to maneuver his boat.

Mr. Ericson said he has no problem if both boat lifts were on his side of the dock as long as the Chautauqua Lake Association can access the shoreline with their barges.

Mr. Rog said we've been willing to try to work with our neighbors. He said he is trying the best he knows how to utilize the available vehicle to gain access to the lake.

Mayor Wordelmann asked Mr. Rog, Mr. Padak and Mr. Ericson if when the dock is installed they can agree to its location so it won't interfere with Mr. Padak's boat lift and that the C.L.A. barges can access the shoreline for clean-up.

Trustee Troche said to be fair to everyone the dock location should be agreed to before it is put in. If all parties don't agree then the dock shouldn't be put in.

Mr. Padak indicated to the Board of Trustees he appreciates their thoughts adding the letter he distributed is a little stiff but it is stiff from the position of idealism rather than what can be arrived through negotiation. When we tried to address the matter neighbor to neighbor last June, we were screamed and sworn at by Mr. Weemhoff and were told to go consult with the Mayor.

Mr. Padak said he is willing to give it another try.

RESOLUTION #10-2011-2012 APPROVE DOCK PERMIT APPLICATION

Motion by Trustee Troche, seconded by Trustee Denn, to approve the dock permit application as jointly submitted by Mr. Jeff Weemhoff and Mr. Jef Rog regarding their desire to install a dock from the Glenwood Ave. right-of-way, with the condition that all four parties, Mr. Rog, Mr. Weemhoff, Mr. Ericson and Mr. Padak, agree to its length, location and configuration of any and all lifts.

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

APRIL 11, 2011 (CONTINUED)

RESOLUTION #11-2011-2012 – AUTHORIZE MID-YEAR BUDGET TRANSFERS

Motion by Trustee Troche, seconded by Trustee Wendel, authorizing Village Treasurer Andrea J. Windoft to make several mid-year budget transfers regarding overages or near overages in the following accounts: \$ 3,500.00 from A-5110.40 (Contractual) to A-5110.45 (Diesel Fuel), amount to be determined from A-5110.10 (Street Salaries) to A-5142.10 (Snow Salaries), amount to be determined from

A-5110.11 (Street Overtime Salaries) to A-5142.11 (Snow Overtime Salaries), \$ 2,914.35 from

A-7140.11 (Lifeguard Salaries) to A-7140.10 (Parks Salaries).

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

RESOLUTION # 12-2011-2012 – SET TIME AND DATE FOR A PUBLIC HEARING

Motion by Trustee Troche, seconded by Trustee Wendel, to set 6:45 PM, Monday, April 25, 2011 as the time and date to conduct a public hearing regarding the Payment in Lieu of Taxes (P.I.L.O.T.)

Program as proposed by the Chautauqua County Industrial Development Agency, and in connection with the proposed renovation of 82,000 sq. ft. of the commercial building known as the Lakewood Village Center, 279 East Fairmount Ave., which is owned by Widewaters Lakewood Village Center Company, DeWitt, New York.

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

RESOLUTION #13-2011-2012 – SET TIME AND DATE FOR A PUBLIC HEARING

Motion by Trustee Wendel, seconded by Trustee Troche, to set 6:40 PM, Monday, April 25, 2011 as the time and date to conduct a public hearing to review an application for Site Plan Review as submitted by Widewaters Lakewood Village Center Company, DeWitt, New York, regarding planned renovations to the Lakewood Village Center 279 East Fairmount Ave., in accordance with Section #25-85, [Site Plan Review], of the Village of Lakewood Zoning Law.

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

APRIL 11, 2011 (CONTINUED)

RESOLUTION #14-2011-2012 – TABLE ACTION ON DOCK PERMIT APPLICATION

Motion by Trustee Troche, seconded by Trustee Wendel, to table any action on the dock permit application as submitted by Mr. & Mrs. David Doan, 127 Erie Street, regarding plans to erect a dock off the Lowe Ave. right-of-way.

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

RESOLUTION #15-2011-2012 – APPROVE SUBSIDY FOR BUSTI'S COMPREHENSIVE PLAN

Motion by Trustee Wendel, seconded by Trustee Troche, per the recommendation of Mayor Wordelmann, to remit to the Town of Busti a maximum of \$ 1,000.00 to help subsidize the overall cost of developing a Comprehensive Plan for the Town of Busti.

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

ANYONE TO BE HEARD

Mr. Adam Wenger, 229 Oak Street appeared before Mayor Wordelmann and the Board of Trustees to ask if anything has been decided concerning the request by some Oak Street residents to have the Village of Lakewood post additional speed limit signage on the street.

Mayor Wordelmann indicated the Department of Public Works Supervisor plans to order suggested speed limit signs for the street and that they should be in place within a few weeks.

APRIL 11, 2011 (CONTINUED)

Trustee Wendel indicated Mr. Conley's request for a four way stop at the intersection of Mapleview Ave. and Oak Street will not be granted due to the fact that according to traffic safety engineers, stop signs are not to be utilized as a means to reduce speed. Trustee Wendel added the four way stop as requested is neither warranted nor feasible.

Motion by Trustee Wendel, seconded by Trustee Troche, and unanimously carried, the Board adjourned at 7:22 PM.

Joseph M. Johnson

Village Clerk