

JULY 11, 2011

The eighth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, July 11, 2011 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Susan F. Drago, Gale A. Denn, and Joseph M. Troche. 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. Absent was Trustee P.J. Wendel.

#### ANYONE TO BE HEARD

Mr. Dennis Johnson, 5 Mapleview Ave., appeared before Mayor Wordelmann and the Board of Trustees to bring to their attention a problem he is currently experiencing which involves the discharge of surface water onto his property by his neighbor to the south. Mr. Johnson said his neighbor, Randall W. Swanson, 240 Locust Street, has a ten inch PVC pipe that drains directly onto his property below which causes considerable damage. Mr. Johnson went on to say that he spent a lot of money installing a cistern on his property as well as installing drainage pipe along the front of the property with the cooperation and assistance from the Village of Lakewood Department of Public Works. Mr. Johnson said he believes there is a State Law which prohibits a neighbor from discharging storm water onto someone else's property that is less than fifteen feet away. He noted that every time it rains water comes pouring out of the nearby pipe which erodes and damages his property. Mr. Johnson said in addition to the installation of the cistern he has spent additional money on gravel and other materials to nicely landscape the property. The question he then posed to Mayor Wordelmann and the Board of Trustees is will the Village of Lakewood enforce this State Law?

Mayor Wordelmann asked Building Inspector Charlie Smith for his position on Mr. Johnson's situation.

Building Inspector Smith said he has had conversations with Mr. Johnson about this particular problem over the past two years or so. The neighbor to the south has stated the storm water that reaches Mr. Johnson's property gets there via a naturally occurring tributary that runs down the hill.

Mr. Johnson said we have a problem here and we are asking for some help and cooperation from the Village of Lakewood. If the State Law is in effect in this particular situation, is the Village of Lakewood willing to enforce it. He then asked is the Village of Lakewood willing to press Mr. Swanson to put an elbow on the end the drainage pipe so the water discharges into the Laurel (paper) Street right-of-way and then down to the existing drainage ditch along the south side of Mapleview Ave. rather than draining onto our private property.

Building Inspector Smith indicated that someone can not knowingly discharge storm water onto someone else's property.

Village Attorney Edward P. Wright said he would be happy to look into the law. The fact that Mr. Swanson has built-up his property, when he constructed his log home, as long as he hasn't channeled storm water towards Mr. Johnson's house or property, the natural lay of the land would generate some water run-off to properties below. Mr. Wright indicated he is not totally familiar with the drainage pipe or the channeling of water towards Mr. Johnson's property and would have to talk with Mr. Smith about that.

Mr. Johnson said he would like to resolve this matter peacefully and that is why we have come to you for help and cooperation.

JULY 11, 2011 (CONTINUED)

Trustee Gale A. Denn asked Mr. Johnson if he has talked with Mr. Swanson about the problem to see if he would address the problem voluntarily.

Ms. Sharon L. Stewart, also of 5 Mapleview Ave., said she believes Mr. Smith and D.P.W. Supervisor Thomas R. Pilling have talked with Mr. Swanson about the situation but his response has been it is a natural stream and I can do what I want.

Mr. Johnson said he did speak with Mr. Swanson about the problem and Mr. Swanson indicated to him if he wants to do something about the drainage he is welcome to do it himself at his own expense.

Mr. Johnson said he has spent a lot of money to protect our own property and if we have to take it to court we will.

Village Attorney Wright said the question that remains is Mr. Swanson redirecting storm water onto Mr. Johnson's property.

Building Inspector Smith indicated that Mr. Swanson has stated he has not redirected the water that naturally flows down hill.

Mayor Wordelmann indicated to Mr. Johnson that village officials will look into the matter and see what we can do for you legally.

Mr. Johnson indicated to Mayor Wordelmann if he could do something before the next rainstorm it would be greatly appreciated.

#### APPROVAL OF MINUTES

Motion by Trustee Troche, seconded by Trustee Denn, to approve the minutes of the last regular meeting of the Board of Trustees, held June 27, 2011.

Adopted: 3 ayes, no nays (Denn, Drago Troche)

#### AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Denn, that the claims as audited by the Auditing Committee of the abstract dated July 11, 2011, be approved and that the Clerk shall execute said abstract (#6) and direct payment by the Treasurer. General Fund: \$ 129,169.07

Adopted: 3 ayes, no nays (Denn, Drago, Troche)

#### REPORTS

Department of Public Works Supervisor Thomas R. Pilling asked Mayor Wordelmann and the Board of Trustees if there has been any progress on drafting a local law in connection to controlling those who make use and in cases abuse the brush dump site on Packard Ave.

Village Attorney Wright thought it was left that the Board of Trustees would discuss some parameters of the local law so he could begin working on a draft.

JULY 11, 2011 (CONTINUED)

Trustee Denn asked Mr. Pilling if there is any progress in getting cameras installed at the brush dump site.

Mr. Pilling indicated the conduit has been installed and is now awaiting the contractor to install the cameras.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to five thousand five hundred and twelve reportable incidents year-to-date. Chief Bentley indicated that there was an attempted abduction of a young girl along Waldemere Way last Thursday evening. The perpetrator believed to be a white male between 6 ft. and 6 ft. 4 in. was driving a black sport utility vehicle with a brush guard, oversized tires and tinted windows.

Chief Bentley said the investigation is ongoing and that a similar incident recently occurred in Warren, PA. He noted that the Lakewood-Busti Police Department is working closely with the Jamestown Police Department and the Pennsylvania State Police on the case. Because the case could involve the transporting of a victim across state lines, the F.B.I. has become involved and are profiling some known local offenders. Chief Bentley also reported that the cell phones used by Village of Lakewood employees are scheduled for an upgrade Wednesday, July 13<sup>th</sup>.

Mayor Wordelmann said he had heard there was a complaint concerning parking within the New York Ave. next to the yacht club and asked Police Chief Bentley if he was aware of matter.

Chief Bentley said he was asked to stop down at the yacht club to investigate a situation where it was reported that a number of boats were parked within the New York Ave. right-of-way. He asked a representative from the yacht club to move any and all boats from the public right-of-way so as to provide fire equipment access to the lake.

Mike Hogan, a member of the Board of Directors at the Chautauqua Lake Yacht Club, indicated to Mayor Wordelmann and the Board of Trustees that he is fully aware of the location of the New York Ave. right-of-way and why it should be kept clear for fire equipment access. Mr. Hogan said the right-of-way literally divides the yacht club property and over time boats inch in. He also said there is a boat ramp just east of the New York Ave. right-of-way and the public tends to make use of it even though it is not within the public right-of-way. As a good neighbor the yacht club generally allows people to make use of the boat ramp even though it is on private property.

Mr. Hogan indicated that over the past three years or so the yacht club has expanded its junior program which utilizes small sail boats called optimist prams. There is a tendency on days when the junior program sails that a number of these small sail boats find there way into the right-of-way and that may be a source of the complaint.

Mr. Brian Duggan, also a member of the Board of Trustees, and who oversees the junior program said he has been pretty diligent with those participating in the junior program to keep their boats tucked-in and will be more diligent following this complaint. If the adult boats are tucked-in on one side of the right-of-way and the junior boats are tucked-in on the other side, we believe there is plenty of room for fire equipment to access the lake.

Fire Chief Kurt W. Hallberg indicated there have been issues with certain rights-of-way to the lake over the years but was unaware there was a problem at the New York Ave. access.

JULY 11, 2011 (CONTINUED)

Trustee Joseph M. Troche said under the regulations the Board of Trustees really can not give the yacht club permission to park boats within the right-of-way and maybe we should discuss this matter further.

Building Inspector Charles L. Smith, who was a former manager of the yacht club wished to give a little historical perspective on the subject. There was a gentlemen's agreement between representatives from the yacht club and village officials that the New York Ave. right-of-way shall be kept clear to the lake a minimum of 22 to 24 feet which is the width of the paved road surface. Mr. Smith went on to say that it is one of the better lake accesses for the fire department in that it is all gravel and if necessary they could make use of the concrete boat ramp.

Mayor Wordelmann indicated the Board of Trustees will take a look at the New York Ave. right-of-way issue at the yacht club, adding it is our intention to keep all the rights-of-way to the lake open.

Trustee Gale A. Denn wished to commend Chief Bentley and officers from the Lakewood-Busti Police Department for giving up a day with their family to serve the community during the 4<sup>th</sup> of July/Summerfest activities in the village. They did a fine job.

Fire Chief Kurt W. Hallberg reported the 4<sup>th</sup> of July was uneventful and that the Lakewood Volunteer Fire Department has responded to three hundred ninety three alarms year-to-date. Chief Hallberg indicated the number of alarms is up substantially when compared with last year's figures.

Village Attorney Edward P. Wright reported that the Village of Lakewood's insurance company is assuming the defense regarding the law suit Turner versus the Village of Lakewood and the appeal regarding the Notice of Claim filed against the Village of Lakewood by Matthew W. Churchill, 169 Front Street, will be heard this Thursday. Mr. Wright then indicated he has spoken with several municipalities regarding lawn maintenance issues on properties that have been foreclosed on. He was told the City of Rochester has had some success in addressing this issue and will contact them soon to learn more.

Building Inspector Charles L. Smith reported that he has received the build-out plans for the fourth new tenant and he was told lease agreement has been signed by a fifth new tenant at the Lakewood Village Center.

#### COMMITTEE REPORTS

Trustee Joseph M. Troche indicated he received a call from a concerned resident about the severe angle of the intersection of East Terrace Ave. and East Summit Street and the difficulty it is looking west toward on coming traffic. Trustee Troche wondered if the Village of Lakewood would consider converting that particular intersection into a ninety degree turn. It is a very danger intersection.

Department of Public Works Supervisor Pilling indicated because Summit Street is a county road, he would have to check with their engineering department to determine if it is feasible to do so.

JULY 11, 2011 (CONTINUED)

RESOLUTION #47-2011-2012 – APPROVE P.I.L.O.T. AGREEMENT

Motion by Trustee Troche, seconded by Trustee Drago, for the Village of Lakewood to approve the Payment in Lieu of Taxes (P.I.L.O.T.) agreement between Widewaters Lakewood Village Center Company, LLC, Dewitt, New York and the County of Chautauqua Industrial Development Agency, Jamestown, New York, relative to the planned redevelopment of the Lakewood Village Center, 279 East Fairmount Ave.

Adopted: 3 ayes, no nays (Denn, Drago, Troche)

RESOLUTION #48-2011-2012 – APPROVE CHAUTAUQUA LAKE WATERSHED COMPACT

Motion by Trustee Denn, seconded by Trustee Drago, to approve the Chautauqua Lake Watershed Compact and authorize Mayor David T. Wordelmann to execute the inter-municipal agreement as a means to promote the Chautauqua Lake Watershed Management Plan.

Adopted: 3 ayes, no nays (Denn, Drago, Troche)

RESOLUTION #49-2011-2012 – APPROVE PART-TIME POLICE OFFICER APPOINTMENT

Motion by Trustee Troche, seconded by Trustee Denn, to approve the appointment of Michael R. Morganti, 122 Southland Ave., as a part-time Police Officer for the Lakewood-Busti Police Department effective July 13, 2011, per the recommendation of Police Chief John R. Bentley. Officer Morganti will be compensated at a rate of \$ 16.49/hr.

Adopted: 3 ayes, no nays (Denn, Drago, Troche)

Motion by Trustee Denn, seconded by Trustee Troche, and unanimously carried, the Board adjourned at 7:04 PM.

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Joseph M. Johnson  
Village Clerk