

AUGUST 22, 2011

The eleventh regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, August 22, 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. James Bloom, 112 Elizabeth Street, appeared before Mayor David T. Wordelmann and the Board of Trustees to voice a concern. Mr. Bloom indicated that he and his neighbor Ada Ramsey enjoy breakfast on Fridays at Mindy's Place. Over time they met a gentleman at the restaurant who unfortunately has to make use of a walker to get around and who has joined them for breakfast on occasion. When they hadn't seen the gentleman for some time Mr. Bloom asked him the next time he saw him, where he'd been. The gentleman said if he drives to Mindy's Place for breakfast and can't find a parking space up close he ends up going home. Mr. Bloom said upon exiting the restaurant he noticed there weren't any handicapped parking spaces up and down Chautauqua Ave. He said it is a shame there aren't any for people like his friend. Mr. Bloom encouraged the Village of Lakewood to consider establishing a few handicapped parking spaces along Chautauqua Ave. so his friend can enjoy breakfast at Mindy's Place when he wants to.

Ms. Ada Ramsey, 111 Elizabeth Street, said she doesn't wish to add to what Mr. Bloom said other than their friend is a veteran and he deserves the opportunity to dine where he wants to.

Trustee P.J. Wendel indicated that he would like to see at least one handicapped space in each block along Chautauqua Ave.

Trustees Susan F. Drago and Joseph M. Troche agreed there should be some handicapped parking spaces along Chautauqua Ave.

Mayor David T. Wordelmann asked that the highway committee look into this matter. He then thanked Mr. Bloom for bringing this matter to the attention of the Board of Trustees and said we will make sure there are some handicapped parking spaces along Chautauqua Ave.

Ms. Jamie Ceci, 32 Teddy Ave., appeared before Mayor Wordelmann and the Board of Trustees to voice her concerns and those of her neighbors regarding the proposal by Dr. Christopher J. Colburn to construct a 40 ft. x 64 ft. storage building two doors down at 25 Linwood Ave. She indicated that members of the Zoning Board of Appeals failed to listen to any of our concerns when they granted Dr. Colburn's variances. She said a building that size is not appropriate for a residential neighborhood. Ms. Ceci said she has over fifty signatures of area property owners who are totally against the proposed storage building. It was her opinion that members of the zoning board of appeals should have tabled the matter in order to give it some more thought. Ms. Ceci said people won't be able to sell their homes with a massive storage building in the neighborhood. Ms. Ceci said she is trying to fix up her house but is afraid that her property value is going to decrease being just two doors down from a 40 ft. x 64 ft. storage building. Ms. Ceci said she doesn't want to live by it and it is obvious that Dr. Colburn doesn't want to live by it.

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Zoning Board of Appeals Chairman William F. Chandler, 207 West Summit Street, wished to clarify the action taken by the Zoning Board of Appeals. He said Dr. Colburn applied for area variances which have to do with the distances or set-backs from the proposed building to the respective property lines. He said a lot of people came to the meeting thinking the Zoning Board of Appeals was empowered to decide what type of structure could be built in that particular district.

Ms. Ceci said she believes that the Zoning Board of Appeals should be empowered to decide what type of building is appropriate for a particular district. She said it is her opinion that although a storage building 32 ft. x 60 ft wouldn't require a variance, a storage building that size would still be inappropriate for the neighborhood.

Mayor Wordelmann explained to Ms. Ceci that the Zoning Law of the Village of Lakewood allows certain uses by right and certain uses by special use. He noted a storage building in an R-1, Single-Family Residential (R-1) District is listed as a use by right. So anyone wishing to construct a storage building in an R-1 district can do so by right. Because Dr. Colburn's site plan for the proposed storage building indicated set-backs less than the zoning code required he proceeded to apply for the area variances.

Ms. Ceci indicated that she and her neighbors are just saying that the size of the proposed building is just too big for the lot. A storage building this size should be built in a commercial district. She said apparently one person's desire to build a storage building matters more than over fifty people that are against it.

Trustee Troche asked Building Inspector Charles L. Smith if the height of Dr. Colburn's proposed storage building complies with the height requirements. He also asked Mr. Smith, didn't the Village of Lakewood amend its zoning law with respect to maximum building height.

Building Inspector Smith indicated that Dr. Colburn's storage building as proposed complies with the height limits noted in the zoning law and yes the Board of Trustees adopted a local law in January of 2010 amending the local zoning law with respect to building height as it related to the side yard set-back.

Mayor Wordelmann indicated that by law the Board of Trustees does not have any say with respect to decisions made by the Zoning Board of Appeals.

Ms. Ceci asked Mayor Wordelmann what is her alternative.

Mayor Wordelmann told Ms. Ceci she would have to appeal the Zoning Board of Appeals' decision at the county level.

Mr. Terry Truver, father of Ms. Ceci, indicated people do not like things such as this jammed down their throats. The idea to construct a storage building this size in this area is just ludicrous. It doesn't make sense. Why doesn't Dr. Colburn build the storage building on his father-in-law's property? Dr. Scott has plenty of property.

Trustee Gale A. Denn indicated that we live in a nation of laws. Currently the law provides a person with the right to construct a storage building within an R-1, residential district. For this board to circumvent the very law that is on the books is unconstitutional. We do not have the authority to circumvent the law. He then told Ms. Ceci the remedies are out there if you wish to pursue them civilly.

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Trustee Wendel agreed with Trustee Denn saying that the Board of Trustees can not deny certain uses allowed in a particular district, such as the lingerie store on Chautauqua Ave. Although that particular store is unacceptable to some, the use is allowed in accordance with the local zoning law.

Trustee Denn indicated a way to address some of the zoning issues that surface over time is to periodically conduct a comprehensive review of the local zoning law.

Mayor Wordelmann asked Building Inspector Smith if the Board of Trustees could amend the local zoning law by deleting certain uses that are currently allowed in particular districts.

Mr. Smith indicated the Board of Trustees is empowered to amend the local zoning law as needed adding there are always zoning issues that surface over time that necessitate review.

Mr. Dan Hilldale, owner of the single family residence at 25 Teddy Ave., asked if anyone has looked at whether or not the project site is located within a designated wetland.

Village Attorney Edward P. Wright indicated that the New York State Department of Environmental Conservation is the agency that could be contacted if there are questions concerning area wetlands.

Mr. Richard Peterson, 25 Harlem Ave., asked the question why did the Zoning Board of Appeals grant Dr. Colburn's variance request.

Zoning Board of Appeals Chairman Chandler indicated that after reviewing the site plan and following discussions among members of the zoning board of appeals it was decided that the additional floor space requested was not significant enough to deny the variances.

Trustee Denn in summation said issues such as this can be contentious however he understands the neighbors' concerns about the project and can sympathize with what they are saying, however the Board of Trustees can not circumvent the law. He told Ms. Ceci that she and her neighbors have brought the matter to our attention and rest assured this zoning issue will be looked into.

Village Attorney Wright let it be known that there are very stringent time frames when appealing a decision by the zoning board of appeals.

Trustee Susan F. Drago asked Ms. Ceci if she has had a chance to talk with Dr. Colburn regarding the project.

Ms. Ceci said Dr. Colburn spoke with a few of the neighbors and he fully understood our concerns about the size of his proposed storage building.

Mr. Peterson said it is his opinion that the Zoning Board of Appeals did the wrong thing when they granted Dr. Colburn's variances.

Zoning Board of Appeals Chairman Chandler said people are certainly given a chance to be heard during the course of a zoning board of appeals meeting.

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#### 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 August 8, 2011, with the exception to include Building Inspector Charles L. Smith to those in attendance at the executive session Monday, August 8, 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 August 22, 2011, be approved and that the Clerk shall execute said abstract (#11) and direct payment by the Treasurer. General Fund: \$ 18,877.77 Trustee Denn reported that he and Trustee Drago recently conducted the annual audit of the Village of Lakewood financial records and found them in order. Trustee Denn wished to commend Village Treasurer Andrea J. Windoft for her diligent work in keeping the financial records in order.

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

#### REPORTS

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to six thousand six hundred thirty-four reportable incidents year-to-date. Chief Bentley also reported that the Lakewood-Busti Police Department along with the Chautauqua County Sheriff's Department, New York State Police and the New York State Liquor Authority conducted a detail at Stateline Speedway the weekend of August 13<sup>th</sup> & 14<sup>th</sup> following complaints of underage drinking. Chief Bentley also indicated the department recently assisted the Pennsylvania State Police with the investigation of the theft of scrap metal. Officers from the Lakewood-Busti Police Department engaged the burglars in a high speed chase that ended on the Northrup Road where the two burglars were captured and the stolen scrap metal was recovered.

Police Chief Bentley indicated that he spoke with officials from the Town of Busti regarding the possibility of participating in a deer management program however they chose not to entertain the idea. Town Councilman Jesse Robbins made a motion for the Town of Busti to agree to participate in the deer management program with the Village of Lakewood but it was not seconded. Chief Bentley indicated the option to participate in a bait and shoot program is still open but that particular program can only occur after the deer hunting season has concluded, (January thru March).

Trustee P.J. Wendel indicated that he is somewhat upset that the Town of Busti did not wish to participate in a joint deer management program. The idea posed a unique opportunity for the Village of Lakewood and the Town of Busti to participate in a great example of sharing services. We were criticized for not participating in the program last year. To say there isn't a deer problem in the township is disappointing.

Mayor David T. Wordelmann indicated Town of Busti officials say they don't have a deer problem out in the township. They are forgetting the Village of Lakewood is part of the Town of Busti. We have a deer problem in the Village of Lakewood so therefore they have a deer problem in the Town of Busti. It is very frustrating when trying to accomplish something and the cooperation is not there. Both the Village Board of Trustees and the Town of Busti Board need to try to work together to erase the barrier between themselves, the barrier being the boundary lines of the Village of Lakewood.

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Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to five hundred fifteen alarms year-to-date which is ahead of the number of alarms this time last year.

Village Treasurer Andrea J. Windoft reported that the Village of Lakewood has received grant money in the amount of \$ 37,525.00 from the Federal Emergency Management Agency in connection to the new air compressor purchased by the Lakewood Fire Department. All that is left to do at this point is to process the payment for the new piece of equipment.

Mayor Wordelmann also wished to thank Village Treasurer Windoft for all the work that goes into managing the Village of Lakewood's finances and for preparing the records for review and inspection by the auditing committee during their annual audit.

Building Inspector Charles L. Smith reported that there is only one storefront space left at the Lakewood Village Center that is not in the process of being occupied however there apparently are negotiations underway between the owner and a prospective tenant regarding that space.

Mayor Wordelmann informed everyone that he will be meeting again with Mr. Bill Daly and Mr. Rich Dixon from the Chautauqua County Industrial Development Agency to discuss a restructured P.I.L.O.T. program in connection with the redevelopment of the Lakewood Village Center. The Southwestern Central School Board recently voted not to participate in the original P.I.L.O.T. program as proposed by the Chautauqua County I.D.A.

Trustee Denn asked Building Inspector Smith if when variances are granted can they include stipulations.

Building Inspector Smith said stipulations or conditions can be part of the motion when granting a variance. He stressed it is very important that any stipulations or conditions be included in the motion.

RESOLUTION #59-2011-2012 – DISCONTINUANCE OF HEALTH CARE COVERAGE

Motion by Trustee Denn, seconded by Trustee Wendel, for the Village of Lakewood to discontinue paid health care coverage for all elected officials effective retroactive to June 1, 2011.

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

RESOLUTION #60-2011-2012 – OPTION FOR ELECTED OFFICIALS TO PURCHASE HEALTH INSURANCE

Motion by Trustee Wendel, seconded by Trustee Drago, to table any action on the resolution to offer elected officials the option to purchase health care coverage through the Village of Lakewood's current health insurance plan until the subject can be discussed further in executive session.

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

AUGUST 22, 2011 (CONTINUED)

RESOLUTION #61-2011-2012 - UPDATES TO PROCUREMENT & INVESTMENT POLICIES

Motion by Trustee Troche, seconded by Trustee Drago, authorizing Village Treasurer Andrea J. Windoft to update the Village of Lakewood's procurement and investment policies as necessary.

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

RESOLUTION #62-2011-2011 – AUTHORIZE SEMINAR ATTENDANCE

Motion by Trustee Troche, seconded by Trustee Drago, that the Board of Trustees acting as the Board of Fire Commissioners to authorize Lakewood Fire Department members Ms. Sharoyrn Ruby and Ms. Laura Gilbert to attend the 2011 "Vital Signs" seminar in Syracuse, New York October 14<sup>th</sup> & 15<sup>th</sup>, per the request and recommendation of Fire Chief Kurt W. Hallberg.

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

RESOLUTION #63-2011-2012 – APPROVE NEW L.F.D. MEMBER

Motion by Trustee Troche, seconded by Trustee Drago, that the Board of Trustees acting as the Board of Fire Commissioners, approve Mr. Steve Rauschenburger, 1968 Shadyside Road, as a new member of the Lakewood Volunteer Fire Department.

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

RECESS

Motion by Trustee Troche, seconded by Trustee Wendel, to recess the regular meeting of the Board of Trustees at 7:36 PM, so as to enter into executive session to discuss a personnel matter.

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

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 and Village Attorney Edward P. Wright.

Motion by Trustee Wendel, seconded by Trustee Troche to adjourn the executive session at 8:10 PM and to reopen the regular meeting of the Board of Trustees.

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

RESOLUTION #64-2011-2012 – HEALTH INSURANCE COVERAGE OPTION

Motion by Trustee Denn, seconded by Trustee Drago, that the Village of Lakewood offers its elected officials the option to purchase health care coverage through the Village of Lakewood's health care plan. The elected officials/prospective subscribers shall be responsible for 100% of the going premium costs. Those elected officials who opt to subscribe to the Village of Lakewood's health care plan shall also pay 100% of all deductibles and co-pays and are exempt from receiving any reimbursements from the \$1,000.00 Health Savings Account which eligible employees now receive.

Adopted: 3 ayes, 2 nays (Wordelmann, Denn, Drago) (Troche, Wendel)

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Motion by Trustee Wendel, seconded by Trustee Troche, and unanimously carried the Board adjourned at 8:15 PM.

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Joseph M. Johnson  
Village Clerk