

OCTOBER 11, 2016

The nineteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Tuesday, October 11, 2016 at 6:00 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, David J. Di Salvo, Susan F. Drago, and Randy Holcomb. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg and Building Inspector Jeffrey A. Swanson. Absent was Police Chief John R. Bentley. Mayor Birrittieri offered a warm welcome to newly appointed Village Attorney John I. LaMancuso who is attending his initial Board of Trustees meeting.

#### APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Barnes, to approve the minutes of the last regular meeting of the Board of Trustees, held September 26, 2016. Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

#### AUDIT OF CLAIMS

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated October 11, 2016, 2016, be approved and that the Clerk shall execute said abstracts (#19, & #20) and direct payment by the Treasurer. Trust & Agency Fund: \$ 58,919.36, (Checks #3887 thru #3900), General Fund: \$ 28,902.62, (Checks #13132 thru #13175).

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

#### REPORTS

Mayor Birrittieri updated members of the Board of Trustees and the general public on the Village of Lakewood's Community Development Block Grant (CDBG) Program, wherein twenty-two properties have qualified for funding to be repaired and/or remodeled. Mayor Birrittieri indicated Ms. Eileen M. Powers, Director of Housing Rehab Services, for the Chautauqua Home Rehabilitation & Improvement Corporation, (CHRIC), has reported via a memo that of the twenty-two potential rehab projects, two are out to bid, one work order is being written-up, three projects are up for inspection, three are ready for rehab and thirteen are on the waiting list. Ms. Powers also reported that due to the average cost of the scheduled residential rehab projects, the number of projects to be undertaken will be considerable fewer than originally projected.

Mayor Birrittieri reported she received a letter from a resident/walker, who has lived in the Village of Lakewood since 1965, requesting the village consider constructing new sidewalks or at least improve the shoulders along East Summit Street and East Terrace Ave. The letter writer implied it is downright dangerous walking along certain sections of East Summit St. and East Terrace Ave. In the letter the resident/walker indicated there are more people, young and old alike, walking for health reasons and doesn't foresee the number of people walking decreasing anytime soon. Mayor Birrittieri said the resident/walker also wondered why improvements to the community's infrastructure occurs in some neighborhoods and not others. The letter writer

however thanked the Village of Lakewood for improving a couple of lengths of sidewalk along East Terrace Ave. and stated new and improved sidewalks throughout the Village of Lakewood will make the community safer for its pedestrians.

Mayor Birrittieri indicated D.P.W. Supervisor Thomas R. Pilling and his crew have done a wonderful job this construction season replacing lengths of substandard sidewalks throughout the village. She then commended the resident/walker for taking the time to write her a letter, for each person who writes a letter to his or her elected officials there are ten or more residents thinking the same thing.

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Department of Public Works Supervisor Thomas R. Pilling reported work on the new baseball field continues and that the new artificial turf infield is scheduled for installation next week. Mr. Pilling also reported that the annual leaf pick-up will commence Monday, October 31<sup>st</sup>. In closing Mr. Pilling indicated that last week he discovered someone had broken into a storage building located off Simpson Road in Vukote and stolen some old water valves and couplings which were found to have been sold for scrap metal at a scrap yard in Blockville. Mr. Piling said with the help of Investigator Reed of the L-BPD, the perpetrator has been identified and a warrant has been issued for his arrest.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to six hundred ninety-eight alarms year-to-date, forty-nine of which occurred in the past two weeks. He also reported that the LFD ambulance was twice on stand-by recently, once at a SWCS football game and the other time for the Lucy Town half-marathon race, October 9th.

Village Attorney John I. LaMancuso indicated it has been a very exciting first ten days on the job, and thanked everyone for their patience and assistance while becoming acclimated with the position. Mr. LaMancuso said he would like to briefly discuss the two easement agreements that are awaiting the Village of Lakewood's approval and execution.

Mr. LaMancuso indicated that the language contained in the Drainage Facilities Easement Agreement between the Village of Lakewood and the Chautauqua Mall, LLC is reasonable and doesn't see any reason why the Board of Trustees shouldn't approve it and to authorize Mayor Birrittieri to execute same.

Mr. LaMancuso said the other easement agreement that he is reviewing is between the Village of Lakewood and Windstream Communications, whereby they are asking permission from the Village of Lakewood to situate a piece of telecommunications equipment within the northerly end of the Marion Street right-of-way. Mr. LaMancuso said although it is a public right-of-way, under the law, Windstream Communications is required to ask for approval from the Village of Lakewood via an easement agreement, granting them permission to do so. Mr. LaMancuso said he will look at the draft easement document and correspond with Windstream Communications Senior Engineer Brian Gross if any issues surface during its review. He said a final document will then be presented to Mayor Birrittieri and the Board of Trustees for its approval and execution.

In concluding his report Village Attorney LaMancuso said he plans on

reviewing the local zoning law in connection with signage and in particular look into some questions that were recently raised about political signs.

Village Treasurer Andrea J. Windoft reported that she recently received the final figures for the annual N.Y.S. Retirement System Contributions that will be due in December 2016 for the Local Employees' Retirement System and the Police & Fire Retirement System. She said for the Local Employees' Retirement System the amount budgeted was \$ 74,744.00 versus the amount due of \$ 75,251.00. For the Police & Fire Retirement System \$ 185,580.00 was budgeted, versus the amount due of \$ 176,901.00. Mrs. Windoft said taking into account the annual contributions for both retirement systems, there will be a welcomed surplus of \$ 8,172.00, when comparing the amount budgeted with the actual amount due.

Building Inspector Jeffrey A. Swanson said he doesn't have much to report this evening other than there is a lot of construction projects either underway or scheduled throughout the village, adding he is pleased that a new Village Attorney has been appointed. Mr. Swanson indicated he met with John I. LaMancuso, Esq., earlier today to review a number of enforcement matters and how best to approach them. Mr. Swanson was pleased to report that the former Dairy Queen is being remodeled into a 50's Diner and that a restaurant is considering converting the former Grazer's Restaurant/Perkin's Pancake House into a Mexican restaurant. Both commercial buildings have been vacant for a few years.

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Trustee Drago indicated to Mr. Swanson that Mayor Birrittieri and members of the Board of Trustees recently received an e-mail from a concerned citizen regarding the temporary signs that are visible along different stretches of highway, in particular the area in front of the Save-A-Lot plaza on West Fairmount Ave. Trustee Drago said there is actually a washer or dryer located along the curb line in front of the plaza with signs on both sides of it.

Mr. Swanson indicated businesses may display temporary signs while they are open but they should be brought-in at the close of business, but will be happy to check out the appliance being used as a sign in front of the Save-A-Lot plaza. Mr. Swanson said he would like to thank DPW Supervisor Pilling and his crew for their help in collecting a pick-up truck load of temporary/political signs last week. Mr. Swanson said he does refrain from picking-up certain signs promoting certain events/programs and/or local school sports pep signs.

Trustee Barnes indicated there is a delicate balance of allowing businesses to advertise versus an overkill of advertising signs.

Trustee Holcomb indicated the bait shop in the back of the Save-A-Lot plaza now has a sign on a trailer located in the parking lot. He asked Mr. Swanson if that particular sign is acceptable.

Mr. Swanson indicated that particular situation is a little sticky, but if the sign is on a licensed trailer, there isn't anything in Section #25-49, [Signs] of the current zoning law to enforce.

## COMMITTEE REPORTS

Trustee Di Salvo reported that he recently heard from Mr. Patrick Gooch, from the Chautauqua County Department of Planning & Economic Development, who respectfully asked that the Village of Lakewood consider adopting a resolution to support their application for a Transportation Alternatives Program (TAP) grant. Trustee Di Salvo said the grant application is for the Lakewood-Jamestown Connector Project, which first surfaced back in 2008, and is in line with the Complete Streets Ordinance which was adopted in December of 2014.

Planning Board Chairman Ted McCague indicated he and members of the Re-Zoning Committee have been meeting with Building Inspector Swanson in an effort to determine what sections of the current zoning law might need to be amended prior to its complete re-write. Mr. McCague also said the committee has talked about application procedures and the establishment of check lists to give guidance to the applicant. Mr. McCague said these measures will aid the Building Inspector when it comes to zoning law enforcement and give developers a heads-up on what they will need to provide when applying for a zoning or building permit.

Village of Lakewood Historian Susan Lane sadly reported that History Committee member Mr. Roger Gilbert was severely injured in a recent car accident. Because Mr. Gilbert was going to be a principal player in the Cemetery Tour of the Bentley Cemetery, scheduled for Saturday, October 15<sup>th</sup>, the event has been cancelled.

## ANYONE TO BE HEARD

Mr. William McFadden, owner and developer of the Jamestown Honda Dealership, being proposed for 207 East Fairmount Ave., thanked Mayor Birrittieri, the Board of Trustees and the Planning Board for their support in connection with this wonderful project. Mr. McFadden said he also wanted to address a question that was raised about the dealership being named Jamestown Honda rather than Lakewood Honda. Mr. McFadden said it is a very good question and there are three reasons why it will be called Jamestown Honda. He said the dealership's marketing area is vast and extends as far east as Hornell.

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He said there are probably people in Hornell who don't know where Lakewood is but likely knows where Jamestown is. Also, when one does a google search, the name Jamestown will appear higher in the search than Lakewood. And finally, Mr. McFadden said Honda awarded this dealership franchise with the condition that it be named Jamestown Honda. Mr. McFadden said the bottom line is he's compelled to honor their wishes. He then extended an invitation to everyone to the ground breaking to be held at 4:30 PM, Wednesday, October 12<sup>th</sup>.

Ms. Sandy Olson, 10 Clark Street, asked Mayor Birrittieri if there is any additional information available about the rash of burglaries that have occurred in the area recently.

Mayor Birrittieri thanked Ms. Olson for attending this evening's meeting and although Police Chief Bentley isn't in attendance this evening she reiterated previous pleas of his for residents to keep their cars and homes locked, and if one sees something suspicious to call 911.

Trustee Barnes indicated after serving as a police officer for twenty-five years and as a current 911 Dispatcher, reminded everyone that law enforcement is on duty to serve the local community 24/7. She encouraged residents to call 911 if and when they see anything suspicious and to advise their neighbors to do the same.

Ms. Greta Smith, 227 West Summit Street, indicated to Mayor Birrittieri and the Board of Trustees that because the Lakewood Baptist Church was allowed to extend their parking lots to the road edges of Green Street and Brook Street, the "green space" between the previous road edges and private property was eliminated. Ms. Smith said she believes the lack of "green space" along the Green Street and Brook Street reduces the value of nearby residential properties. Ms. Smith said because the church now has a new parking lot off the south side of Erie Street they should be asked to consider restoring the lost "green space" and to create new entrances to their parking lots off Green Street and Brook Street.

Mayor Birrittieri said she will be glad to take a look at the situation Ms. Smith described.

Mayor Birrittieri indicated that Trustee Di Salvo has invited Mr. Ken Dahlgren, from Roswell Park Cancer Institute, and Ms. Lisa Schmidfrerick-Miller, from the Chautauqua County Health Department to make a brief presentation to the Board of Trustees on smoke-free policies for public parks, buildings and/or personnel policies. Mayor Birrittieri said the subject came up a few weeks ago when a park goer filed a complaint against a Village of Lakewood Parks employee, who was suspected of smoking while on the job at Richard O. Hartley Park.

Mr. Dahlgren thanked Mayor Birrittieri and the Board of Trustees for the opportunity to speak to the importance of the tobacco free movement, originally for indoors but now includes the outdoors. Mr. Dahlgren said a few years ago a "Young Lungs at Play Program" was initiated making certain playgrounds in area communities smoke-free. There has been a recent push to expand this program to include the entire public park, not just the playgrounds. He said currently there are approximately three hundred communities across New York State that have adopted policies prohibiting smoking in public parks.

Mr. Dahlgren said discarded cigarette butts creates a huge littering problem. He said in addition to a litter issue each and every discarded cigarette butt represents a mini toxic waste dump.

Because the indoor smoking issues have pretty much been successfully addressed Mr. Dahlgren said there is a lot of public support now for communities to adopt outdoor policies. He noted there are many different levels of smoke-free policies for communities to consider. He said while working at an information booth on smoke-free environments at this past year's Labor Day Festival in Jamestown, a number of people approached him to voice their concerns about the smoking issues at Richard O. Hartley Park.

Trustee Holcomb asked Mr. Dahlgren, who enforces the smoke-free policies.

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Ms. Schmidfrerick-Miller indicated to Trustee Holcomb that the campus at the County Seat in Mayville went smoke-free a few years ago and although the signage isn't the best, employees for the most part end up being the

enforcing agents by reminding fellow employees and visitors alike of the smoke-free policy on the property.

Mr. Dahlgren said with the proper signage, the issue usually takes care of itself.

Mayor Birrittieri said she is always looking at ways to promote the area and because the Village of Lakewood is becoming a wellness community, with many of its new businesses encouraging healthy living, it would only be natural to have a smoke-free policy in place. Mayor Birrittieri thanked Mr. Dahlgren and Ms. Schmidtfrerick-Miller for opening her eyes to the issue and for offering some solutions.

Trustee Di Salvo asked Mr. Dahlgren if he could provide the Village of Lakewood with some smoke-free policies to choose from.

Mr. Dahlgren said there are many examples of smoke-free policies, but he will be happy to provide a few model policies for the Village of Lakewood to review and consider.

Trustee Barnes said it is her opinion smoking in or near the Village of Lakewood's public parks has not been a huge issue and one incident shouldn't warrant a statute.

Trustee Di Salvo said he respectfully disagrees with Trustee Barnes. The Village of Lakewood must be proactive in this matter and needs to express to residents and visitors alike what kind of community we are. Although smoking is a declining habit across the country, Chautauqua County has one of the highest per capita smoking rates in New York State. Trustee Di Salvo said he would like the Village of Lakewood to look at a few model ordinances and consider adopting a local law addressing this health issue.

Mayor Birrittieri again thanked Mr. Dahlgren and Ms. Schmidtfrerick-Miller for their time this evening and indicated the Village of Lakewood will be in touch.

#### RESOLUTION #181-2016 - APPROVE PLANNING BOARD ALTERNATE

Motion by Trustee Di Salvo, seconded by Trustee Barnes, be it enacted by the Board of Trustees of the Village of Lakewood as follows: To Chapter 25, Article X, Section #25-85, add Pursuant to Village Law #7-718 (16), one alternate member of the Planning Board position is hereby created . Said alternate member shall be appointed by the Mayor and approved by the Board of Trustees, for a term approved by the Board of Trustees. The Chairperson of the Planning Board may designate an alternate member to substitute for a regular member of the Planning Board when such regular member is unable to participate in Planning Board business because of a conflict of interest or any other reason. When so designated, said alternate member shall possess all of the powers and responsibilities of a regular member. Any such designations shall be entered into the minutes of any Planning Board meeting at which such a designation is made. All provisions contained in the Village Law relating to required training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to such alternate member. To the extent this local law is inconsistent with Section #7-718 of the Village Law of the State of New York, said Village Law is amended. This local law shall take effect upon filing with the Secretary of State of the State of New

York.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

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RESOLUTION #182-2016 - APPROVE ZONING BOARD OF APPEALS ALTERNATE

Motion by Trustee Drago, seconded by Trustee Barnes, Be it enacted by the Board of Trustees of the Village of Lakewood as follows: To Chapter #25, Article IX, Section #25-80, add: Pursuant to Village Law #7-712 (11), one alternate member of the Zoning Board of Appeals position is hereby created. Said alternate member shall be appointed by the Mayor and approved by the Board of Trustees, for a term approved by the Board of Trustees. The Chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a regular member of the Zoning Board of Appeals when such regular member is unable to participate in Zoning Board of Appeals business because of a conflict of interest or any other reason. When so designated, said alternate member shall possess all of the powers and responsibilities of a regular member. Any such designations shall be entered into the minutes of any Zoning Board of Appeals meeting at which such a designation is made. All provisions contained in the Village Law relating to required training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to such alternate member. To the extent this local law is inconsistent with Section #7-712 of the Village Law of the State of New York, said Village Law is hereby amended. This local law shall take effect upon filing with the Secretary of State of the State of New York.  
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #183-2016 - ADOPT LOCAL LAW RE: BRUSH & YARD WASTE REMOVAL

Motion by Trustee Holcomb, seconded by Trustee Di Salvo, for the Board of Trustees to adopt a local law providing residents of the Village of Lakewood a set of rules and regulations regarding the management, collection and disposal of brush and yard waste.  
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #184-2016 - SUPPORT CHAUTAUQUA COUNTY'S TAP GRANT APPLICATION

Motion by Trustee Barnes, seconded by Trustee Holcomb, for the Village of Lakewood Board of Trustees to support Chautauqua County's efforts to secure Transportation Alternatives Program (TAP) Grant funding: Whereas; the New York State Department of Transportation (NYS DOT) is making available \$98.7 million dollars in funding to support bicycle, pedestrian and multi-use path projects and programs that will help meet the requirements of the Clean Air Act; and Whereas; in 2008 the Chautauqua County Department of Planning & Economic Development and Department of Public Facilities prepared and submitted the "Lakewood-Jamestown Connector" plan for funding, under a different funding source: and Whereas; although the project was not selected for funding in 2008, despite the tremendous level of support from Chautauqua

County, the City of Jamestown, the Towns of Ellicott and Busti and the Villages of Celoron and Lakewood, it remained a project worthy of future consideration; and Whereas; Chautauqua County considers the "Lakewood-Jamestown Connector", if implemented, will provide neighborhoods in the aforementioned municipalities with a relatively low traffic, safe and flat route for bicyclists and pedestrians; and Whereas, Chautauqua County has agreed to resubmit, with minor revisions, the 2008 "Lakewood-Jamestown Connector" plan for 2016 New York State (TAP) grant funding; Now, therefore be it resolved that the Board of Trustees of the Village of Lakewood fully endorses and supports Chautauqua County's efforts to secure 2016 New York State (TAP) funding for the "Lakewood-Jamestown Connector" project.

Adopted: 5 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

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RESOLUTION #185-2016 - APPROVE COLLECTION OF UNPAID TAXES

Motion by Trustee Holcomb, seconded by Trustee Di Salvo, authorizing Village Treasurer Andrea J. Windoft to forward any and all unpaid 2016-2017 Village Tax Bills to the Chautauqua County Division of Taxation for collection or to levy onto the 2017 Town of Busti/Chautauqua County tax bills. The amount of unpaid taxes to be collected or levied totals \$ 49,753.22.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #186-2016 - AUTHORIZE 2016-2017 VILLAGE BUDGET ADJUSTMENTS

Motion by Trustee Drago, seconded by Trustee Barnes, authorizing Village Treasurer Andrea J. Windoft to make a necessary 2016-2017 Village Budget adjustment by increasing account A-5142.40, (Snow Contractual) by \$ 30,000.00, taking into account the encumbrance of the cost of the new Lakewood-Busti Police Department's 2016 Ford Expedition, (\$ 30,000.00), from the 2015-2016 budget.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #187-2016 - ACCEPT THE RESIGNATION OF PART-TIME POLICE OFFICER

Motion by Trustee Drago, seconded by Trustee Barnes, to accept the resignation of part-time Police Officer Brian D. Fox, effective October 12, 2016. Officer Fox, who has worked as a part-time Police Officer for the Lakewood-Busti Police Department since September 2, 2015, has accepted a full-time position with the Jamestown Police Department.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #188-2016 - APPOINT PART-TIME POLICE OFFICER

Motion by Trustee Di Salvo, seconded by Trustee Barnes, per the recommendation of Police Chief John R. Bentley, to appoint Nicholas S. Anderson, Jamestown, N.Y., as a part-time Police Officer for the Lakewood-

Busti Police Department effective October 12, 2016, filling the vacancy created by the resignation of Officer Brian D. Fox. Officer Anderson will be compensated at a rate of \$ 16.49/hr.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #189-2016 - REFERRAL OF AN APPLICATION TO THE ZONING BOARD OF APPEALS

Motion by Trustee Holcomb, seconded by Trustee Di Salvo, Whereas, in April 2016 the Village of Lakewood, N.Y., received by express mail what purported to be an application by Up State Tower Co. LLC, to construct a telecommunications tower in the Village of Lakewood, on Glenwood Ave., on land owned by the Lakewood Fire Company, Inc., which did not contain the mandatory application deposit the Village Board of Trustees previously approved as necessary for the review of telecommunication facilities; Whereas, on May 3, 2016 an application for Up State Tower Co., LLC (Up State Tower) was rejected for failure to provide the application fee of \$ 8,500.00 deemed necessary by the Board of Trustees to assess the application; and Whereas, on June 13, 2016, the Village of Lakewood did again receive an application from Up State Tower, again for the construction of a telecommunications tower on Glenwood Ave. in the Village of Lakewood, this time with the submission of the requisite application fee, albeit "under protest", and Whereas, the Village of Lakewood, after receipt of the cell tower application, did promptly refer the application to their consultant, The Center for Municipal Solutions, (The Center), for the review of the telecommunications tower, and Whereas, representatives of Up State Tower were invited to review the pending proposed telecommunications tower proposal (The Project) on July 1, 2016 in its environmental setting with representatives of the Village of Lakewood; and

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Whereas, on July 1, 2016, Up State Tower representatives refused or failed to attend the scheduled site meeting to review the proposed project in its environmental setting; and Whereas, On July 11, 2016 the Village of Lakewood through their agent, Mr. Richard A. Comi, of The Center for Municipal Solutions advised the representative of Up State Tower of deficiencies in the application concerning the failure to professionally certify technical items in the application, which amongst other things identified the failure to provide documentation certifying proof of need for the cell tower in its location, failure to provide justification for the height of the tower requested, failure to provide sufficient information deemed necessary to assess project impacts including visual impacts, failure to provide material necessary to assess the structure being proposed; and Whereas, the application further identified it would be seeking a use variance from the Village of Lakewood Zoning Board of Appeals, however it contained no variance application; and Whereas from July 11, 2016, through the present, the applicant has failed or refused to provide the additional information requested of them from the Village of Lakewood consultant deemed necessary to determine:

1. If there does in fact exist a significant coverage gap for their service within the Village of Lakewood justifying the need for the facility at or about in its proposed location in the Village of Lakewood
2. Whether or not there is in fact a need for a 180 ft. tower at

- the proposed location,  
or somewhere in close proximity to the proposed location;  
and  
3. Whether or not the site and tower has been designed so as to  
provide the least  
intrusive tower necessary to address any actual coverage  
gap; and

Whereas, on or about October 4, 2016 the Village Board of Trustees, the Village Planning Board and the Village Zoning Board of Appeals had a joint work session with their telecommunications consultant and their special counsel on environmental matters, to review the status of the application, the request for more information dated July 11, 2016, the alleged scientific basis for the claim of a significant coverage gap, and the alleged necessity for the tower, techniques to assess and mitigate impacts, and their respective duties in assessing applications for telecommunications facilities, and applications for variances for telecommunications facilities; and now based upon the foregoing it is hereby Resolved that the Application for a Telecommunications Tower submitted by Up State Tower, LLC received June 13, 2016 is hereby referred to the Zoning Board of Appeals for review, and a factual determination as to:

1. Whether or not the information submitted is the application, and thereafter, establishes that the proposed Tower is necessary to cover an actual coverage gap  
in cellular service of the provider;
2. Whether or not the information submitted is the application, and thereafter establishes that a Tower of 180 ft. is the minimal height necessary to meet reasonable service objectives; and
3. Whether or not the applicant has provided proof that it is has reasonably considered  
alternative sites, and no more suitable sites were available; and
4. Whether or not the proposed tower, at the proposed location was the least intrusive design feasible to reduce established coverage gaps; and it is further

Resolved that a public hearing is hereby scheduled for 6:45 PM, Monday, October 24, 2016, in the Board Room of the Anthony C. Caprino Municipal Building, 20 West Summit Street, Lakewood, N.Y., for the purpose of reviewing the pending application.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

#### RESOLUTION #190-2016 - APPROVE COMMUNITY PARK BENCH PURCHASE

Motion by Trustee Holcomb, seconded by Trustee Barnes, authorizing Mr. Donn Johnston, a Jamestown N.Y. native, now living in the Lower Gwynedd, PA area, to reimburse the Village of Lakewood for the total purchase price of a park bench to be placed in the Community Park on East Terrace Ave. Mr. Johnston is purchasing the bench as a memorial to his late parents who used to frequent the park.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

OCTOBER 11, 2016 (CONTINUED)

#### RESOLUTION #191-2016 - APPROVE DRAINAGE FACILITIES EASEMENT AGREEMENT

Motion by Trustee Barnes, seconded by Trustee Drago, to approve the Drainage Facilities Easement Agreement between Chautauqua Mall, LLC, Columbus, Ohio and the Village of Lakewood, N.Y., and to authorize Mayor Cara Birrittieri to execute same. This Easement Agreement will allow crews from the Village of Lakewood's Department of Public Works to maintain storm water drainage structures and drainage ditches resulting in improved storm water management and a reduction in flooding following heavy rain events in the vicinity of Mall Blvd. and the Chautauqua Mall, 318 East Fairmount Ave.

Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

Motion by Trustee Barnes, seconded by Trustee Di Salvo, and unanimously carried, the Board adjourned at 8:28 PM.

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Joseph M. Johnson  
Village Clerk