

NOVEMBER 14, 2016

The twenty-first regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, November 14, 2016 at 6:30 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, Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg and Building Inspector Jeffrey A. Swanson.

APPROVAL OF MINUTES

Motion by Trustee Barnes, seconded by Trustee Drago, to approve the minutes of the last regular meeting of the Board of Trustees, held October 24, 2016. Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Holcomb, that the claims as audited by the Auditing Committee of the abstracts dated October 31, 2016 and November 14, 2016, be approved and that the Clerk shall execute said abstracts (#23, #24, #25 & #26) and direct payment by the Treasurer. End of Month: Trust & Agency Fund: \$ 55,962.68, (Checks #3912 thru #3924), End of Month: General Fund: \$ 17,236.06, (Checks #13217 thru #13221), Trust & Agency Fund: \$ 58,492.16, (Checks #3925 thru #3934), General Fund: \$ 30,448.92, (Checks #13222 thru #13267)
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

REPORTS

Mayor Birrittieri said she is very pleased to announce that Buffalo Business First has ranked the Village of Lakewood number five out of fifty-nine municipalities across Western New York for its 2016 standard of life. Those communities scoring higher than the Village of Lakewood were the villages of Orchard Park, Hamburg, Williamsville and Allegany.

Mayor Birrittieri indicated the Events & Marketing Committee is working hard on this year's Christmas in the Village celebration, which will be held Saturday, December 10th, from noon to 8:00 PM. She added there has been a tremendous response for vendor space. Mayor Birrittieri said the event will also include a pie & cookie baking contest and Christmas lighting contest for businesses and residences. She then asked everyone to consider becoming a volunteer.

Mayor Birrittieri reported there is meeting of the Zoning Board of Appeals, Tuesday, November 22, 2016, to review the application as submitted by Up State Tower, LLC, regarding their proposal to erect a 180 ft. tall wireless communications facility on Lakewood Fire Company, Inc. property adjacent to the southerly end of Glenwood Ave. The Zoning Board Appeals requested and received some additional technical information with respect to the tower's need and necessity which will be reviewed prior to their meeting November 22nd. The meeting is open to

the public and the Village of Lakewood is accepting any written comments residents may have concerning the tower as proposed.

Department of Public Works Supervisor Thomas R. Pilling reported the new dump truck has been delivered and it is being outfitted with the dump box and its hydraulic system. He also noted the new turf has been installed on the baseball field off Linwood Ave. He said additional funding will be required to purchase the outfield fence, backstop, raised pitcher's mound and build the dugouts. Mr. Pilling also reported the DPW crew has been picking-up leaves the past two weeks and will continue to do so until snowy conditions set-in.

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Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to nine thousand sixty-four incidents year-to-date, nine hundred of which occurred since the last meeting. Chief Bentley said in the past three weeks the L-BPD has assisted other area law enforcement agencies thirty-nine times, including assisting the Jamestown Police Department with the recent homicide. The balance of the incidents included two DWI arrests, thirty-eight motor vehicle accidents and two hundred twenty-seven vehicle & traffic arrests. Chief Bentley noted that a few of the vehicle & traffic incidents involved the newly constructed median on Rt. 394 in front of M & T Bank & Tim Horton's.

Mayor Birrittieri indicated she e-mailed a New York State Department of Transportation official posing a couple questions concerning the median and respectfully requested that a traffic study be conducted to consider installing a traffic control device at the intersection of East Fairmount Ave. (Rt. 394) and Shadyside Ave.

Chief Bentley also reported that the L-BPD is part of a joint federal grant application with other law enforcement agencies which will help fund the purchase of upgraded body armor and that twenty new body cameras for the L-BPD will be paid in total with federal asset forfeiture monies.

Fire Chief Hallberg reported that the Lakewood Volunteer Fire Department has responded to seven hundred thirty nine alarms year-to-date, forty-four of which occurred since last meeting. Chief Hallberg also reported that members of the LFD recently participated in two good training sessions using foam to extinguish specific types of fires.

Engine 372, formally Engine 371, had some paint work done on it by C & A Auto & Marine, Celoron, N.Y., at no cost to the LFD. Chief Hallberg wished to publically thank Mr. Calamunci for his generosity. With Engines 371 & 372 in service the LFD will now be able to advertise the sale of E-373, which is a 1993 Sutphen Custom Pumping Engine.

Village Attorney John I. LaMancuso reported that he has received correspondence from Mr. Dominic Luna, a Labor Relations Specialist from the CSEA regarding his wish to commence labor contract negotiations between the Village of Lakewood Police Unit and the Village of Lakewood. Mr. LaMancuso noted the current labor contract agreement expires May 31, 2017 and he plans on having an initial meeting with the assigned CSEA representative sometime in December 2016.

Mr. LaMancuso also reported that he has reviewed the proposed easement

agreement documents between Windstream Communications and the Village of Lakewood, whereby the local phone company would like to install some cabinets and underground conduit within a 25 ft. x 25 ft. portion of the Marion Street right-of-way at its northerly end. Mr. LaMancuso said everything is order and it would be up to the Board of Trustees if they would agree with the agreement's terms, which calls for a one-time payment of \$5,000.00 to the Village of Lakewood. Mr. LaMancuso said he would be happy to circulate a Memorandum of Understanding to members of the Board of Trustees for their review and comment, adding there is no immediate urgency on Windstream Communications part.

Trustee Holcomb indicated that an Easement Appraiser could place a dollar value on a particular easement or the Village of Lakewood could just decide to agree with what Windstream Communications is offering to pay.

Village Treasurer Andrea J. Windoft reported that the Village of Lakewood has received the latest quarterly sales tax payment, in the amount of \$ 189,797.00, for sales transactions conducted in August, September & October. The sales tax revenue is 2% more than the corresponding quarter in 2016.

Mrs. Windoft also respectfully asked for the Board of Trustees to adopt a resolution authorizing her to set up Trust & Agency revenue account, (T1093.42), in which to deposit revenue generated via the Christmas in the Village event, until such a time it is paid out.

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Building Inspector Swanson reported he attended a Planning & Zoning Conference in Mayville, N.Y. last Thursday and while currently reviewing the application for the new cell tower, municipalities should also be in a position to review applications for windmills and solar panel systems. At the conference he also attended a session at which there was a discussion about grants in the amount of \$ 100,000.00, available to municipalities for improving the energy efficiency of their facilities. Mr. Swanson said it is something the Village of Lakewood should consider, noting the Town of Busti is already moving forward in applying for the grant money. Mr. Swanson said the gentleman from Southern Tier West, who gave the presentation, is willing to speak to individual municipalities about the grant program upon request.

Trustee Di Salvo said as it was explained to those in attendance at the conference that it is a onetime grant offering available on a first come first serve basis for municipalities meeting four of the ten required criterion. The grant money could be used for windows, furnace and anything else that would improve energy efficiency.

Mayor Birrittieri said one of the things she was lamenting earlier in the day is that this wonderful building is underutilized without the benefit of an elevator.

Mr. Swanson also reported that work on converting the former Grazer's Restaurant, Denny's Diner and Perkins' Pancake & Steak House, into a Mexican restaurant is underway and earth has being moved at the new Jamestown Honda site on East Fairmount Ave.

COMMITTEE REPORTS

Trustee Drago indicated that Village Attorney LaMancuso provided her with a number of local laws dealing with smoking bans to review in the wake of the one recent incident at Richard O. Hartley Park.

Some issues she sees in implementing a smoking ban include, who enforces the ban, determining appropriate penalties, should the ban be all inclusive and should we, as a village, dictate a belief on others.

Instead of adopting and implementing a smoking ban, Trustee Drago would propose erecting no smoking signs and place them in Harley Park and the Beach area, reminding people not to smoke in the park & beach.

Trustee Di Salvo said he would be in favor of the Village of Lakewood adopting a local law.

Trustee Holcomb said he would agree with Trustee Drago's proposal to place signs at the Richard O. Hartley Park & Beach.

Trustee Di Salvo said he agrees with the placement of signs in the park, but thinks their placement should be based on a local law. As far as enforcement goes he agrees we shouldn't be using the limited staff of the L-BPD, however a local law on the books gives us some teeth when pressed to enforce the smoking ban. Trustee Di Salvo said that this is his opinion and feels very strongly about it.

Mayor Birrittieri said signs without a local law are meaningless. If for example a local law was adopted to ban smoking in public parks, it would probably become self-policing.

Trustee Barnes said most smokers would comply if told to stop smoking in the parks. Obviously smokers should know better than to toss a cigarette butt into the wood chips that act as a carpet for the kiddie park. Looking at those who utilize the dog park, it has become self-policing. When someone breaks the rules, others remind the offender of the park's rules and regulations. Trustee Barnes noted fewer people are smoking and to her is not a big issue.

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Imposing one's beliefs on other people in a public area just doesn't seem like something the Board of Trustees needs to be getting into when there are more important things that need our attention.

Trustee Di Salvo said as an example, the Village of Lakewood adopted a noise ordinance in response to complaints about seasonal renters. A local law, whether it be a noise ordinance or a smoking ban, gives the Village of Lakewood a level of enforcement if the situation presents itself. Trustee Di Salvo said this matter should be considered as a public health issue.

Mayor Birrittieri said the single incident late last summer pointed out a deficiency in the Village of Lakewood's personnel policy and the fact she had previously received complaints about individuals smoking in the park. She noted the higher than average incidence of smoking in Chautauqua County and believes adopting a local law banning smoking in public parks is something simple and positive the Village of Lakewood can do for the community.

Trustee Drago said she doesn't see it being simple at all.

Trustee Di Salvo interjected saying there is nothing simpler, adding the matter warrants further discussion. Somewhere between stringent regulations and doing nothing could be a reasonable compromise.

Mr. David Card, 42 Chautauqua Ave., said out of courtesy he doesn't smoke around anybody, however he agrees with Trustee Di Salvo's idea to adopt a local law, because signs don't mean a lot to most people.

Trustee Holcomb asked what is the Village of Lakewood going to do at its annual 4th of July Summerfest?

Trustee Barnes said on the 4th of July when the population of the Village of Lakewood jumps from three thousand to ten thousand, local law enforcement likely are going to be occupied with things other than enforcing a smoking ban at the park.

Mayor Birrittieri said she has heard from reliable sources that some people do not attend the 4th of July festivities at Richard O. Hartley Park because of people smoking. Mayor Birrittieri said she would like to see a smoking ban instituted for all public parks particularly for during events such as the 4th of July Summerfest. Although there are those who say they have civil liberties and rights in defense of smoking, others who are sensitive to smoke also have the right to attend and enjoy an event at a public park, such as the 4th of July Summerfest. Mayor Birrittieri said it isn't much to ask for people not to smoke at Richard O. Hartley Park.

Trustee Drago said she didn't mean to open up a can of worms, but why not start with the installation of a few signs.

Trustee Di Salvo said he is agreeable to the installation of a few new signs however he believes there is the need to discuss having a simple local law adopted to protect the Village of Lakewood if a problem arises.

Village Treasurer Windoft said when she established the rules and regulations for the dog park, she never gave the matter a thought and just noted no smoking allowed in the dog park. Mr. Windoft said she hasn't heard that smoking has ever been an issue at the dog park.

Trustee Barnes said there apparently was a complaint about people in the park after dark. With it getting dark so early, it would probably be a good idea to set specific hours for when the park is open as opposed to have it posted as being open from dusk to dawn.

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Trustee Holcomb indicated he and fellow Auditing Committee member, Trustee Barnes, recently conducted the annual audit of the financial records prepared and maintained by Village Treasurer Andrea J. Windoft and reported that they found everything in order. Trustee Barnes commended Treasurer Windoft for her impeccable bookkeeping, which made the task of auditing the records very easy.

Mr. Edward J. McCague, 12 Park Lane, Chairman of the Comprehensive Plan Steering Committee, said the Village of Lakewood is in the adoption phase of the plan, having received a report back from the Chautauqua County Department

of Planning & Economic Development. Mr. McCague said in their report, which has been disseminated to the Steering Committee and the Board of Trustees, were some very good recommendations, which the Steering Committee is considering pretty carefully. Mr. McCague said Ms. Eve Holberg, a Senior Planner from LaBella Associates, Buffalo, N.Y., has nearly completed the environmental (SEQR) review of the comprehensive plan. Because the ninety day review timeframe for the Comprehensive Plan concludes December 8, 2016, Mr. McCague would like the Board of Trustees to consider adopting the plan at the first or second meeting in December. Mr. McCague conclude his report saying the next meeting of the Comprehensive Plan Steering Committee will be this Friday, November 18th.

RESOLUTION #194-2016 - AUTHORIZE SET-UP OF NEW REVENUE ACCOUNT

Motion by Trustee Holcomb, seconded by Trustee Drago, authorizing Village Treasurer Andrea J. Windoft to establish a new Trust & Agency Revenue Account, [T1093.42], into which revenue generated by the 2016 Christmas in the Village event will be deposited.

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

RESOLUTION #195-2016 - FORMER "PAPER STREET" DECLARATION

Motion by Trustee Holcomb, seconded by Trustee Barnes, to declare that the former Dover Street, ("paper street"), per a survey prepared by Jerome E. Erickson, P.E. & L.L.S., Jamestown, N.Y. and dated October 14, 1985, is no longer needed for municipal purposes by the Village of Lakewood, New York.

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

RESOLUTION #196-2016 - APPROVE TRANSFER OF A PORTION OF THE FORMER DOVER ST.

Village Attorney LaMancuso wanted to make it clear that in accordance with the New York State Constitution the Village of Lakewood can not gift anything, including real property. Mr. LaMancuso said although some of the costs borne by the abutting property owners of the former Dover Street, at the time the "paper street" was abandoned and subsequently when portions of it were transferred, could be construed as payment, he would be more comfortable if a minimal cost could be included in its conveyance. Motion by Trustee Holcomb, seconded by Trustee Barnes, to approve the transfer of a portion of the former Dover Street, which is no longer needed for municipal purposes, from the Village of Lakewood to Randall A. and Gary W. Carlson, 35 Gifford Ave., Lakewood, N.Y., for the price of \$ 1.00, and to authorize Mayor Birrittieri to execute the related documents, namely the Quit Claim Deed, a TP-584 Form and an RP-5217-PDF Form. The executed documents are then to be returned to Charles T. Hall, Esq., Hall & Lee Yaw, LLP, Jamestown, N.Y., for filing.

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

RESOLUTION #197-2016 - APPROVE ENCROACHMENT EASEMENT AGREEMENT

Motion by Trustee Di Salvo, seconded by Trustee Drago, for the Village of Lakewood to approve an Encroachment Agreement, per the request of Jonathan N. Courtis, Esq., Schaack, Nelson & Courtis, Attorneys at Law, Mayville, N.Y., as it relates to the sale of the real property known as 26 East Terrace Ave., and to authorize Mayor Birrittieri to execute same.

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

DISCUSSION: PROPERTY INQUIRY

Mr. Frank Piacente and his son-in-law, Mr. Edward Papke have respectfully asked for the Village of Lakewood to consider selling/transferring/deeding a portion of the former "Grand Canal" property which abuts Mr. Piacente's property known as 519 East Terrace Ave., so as to "square-up" his parcel of lakefront property.

When Trustee Drago and Trustee Di Salvo asked whether the property in question should be appraised or advertised for sale, Village Attorney LaMancuso indicated there is no requirement that the property be advertised however to be fair, the Village of Lakewood may wish to advertise the property's sale if in fact it is decided to consider Messrs. Piacente's and Papke's inquiry.

Trustee Di Salvo, referring to a survey of the property, indicated the land in question would only be valuable to the abutting property owner, (Mr. Piacente) or his neighbors to the west and agreed with Mr. LaMancuso to err on the side of caution by advertising the property for sale if it comes to that.

Mayor Birrittieri said the steps in moving forward would be to have the property appraised and advertised for sale if the Village of Lakewood decides to do so.

Mr. Edward J. McCague, 12 Park Lane, said he is unfamiliar with this particular parcel however from a planning standpoint, would this property have any future possibilities for development.

Mr. David G. Bargar, 11 Sunset Ave., said when one looks at the Comprehensive Plan, mention of Chautauqua Lake and access to it are paramount to the economic success of Chautauqua County as a whole. Mr. Bargar believes that particular area along East Terrace Ave. has a lot of potential for development. He said the shoreline could be reconfigured with additional docks and dock space to make it more fishermen friendly. Having an attractive boat launch draws fishermen and boaters to the area who support the local economy. Mr. Bargar said he agrees with Mr. McCague saying it would be a mistake to start conveying any Village of Lakewood owned property in that area until it is known if it could be redeveloped in some way.

Trustee Holcomb asked Mr. Pilling if the owner of 519 East Terrace Ave. is using the property in question as his lawn now. Mr. Holcomb also said it wouldn't make much sense for the Village of Lakewood to retain the 10 ft. 35 ft. portion of that property.

Mr. Pilling answered yes he is, noting a hedge row separates that area from the boat launch/community park.

Mr. McCague said the question is the property more valuable to the Village of Lakewood than selling it to the abutting property owner.

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RESOLUTION #198-2016 - AUTHORIZE APPRAISAL & ADVERTISE FOR SALE

Motion by Trustee Barnes, seconded by Trustee Di Salvo for the Village of Lakewood to have an appraisal done on the Village of Lakewood owned property abutting property owned by Frank A. & Patricia M. Piacente, 2168 Rt. 98, Attica, N.Y. 14011, known as 519 East Terrace Ave., and advertise it for sale upon receipt of an appraisal.

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

RESOLUTION #199-2016 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Barnes, to set 6:40 PM, Monday, December 12, 2016, as the time and date to conduct a public hearing on a Special Use Permit application, (Serving of alcohol at a bar/restaurant), as submitted by Mr. Usiel Fuentes regarding his plans to convert the commercial building at 5 West Fairmount Ave. into a Mexican restaurant, (La Cocina). NOTE: Action on this application will be dependent upon receipt of a response from the Chautauqua County Department of Planning & Economic Development regarding Mr. Fuentes' proposal.

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

Motion by Trustee Holcomb, seconded by Trustee Barnes and unanimously carried the Board adjourned at 7:52 PM.

Joseph M. Johnson
Village Clerk