

OCTOBER 14, 2014

The thirteenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Tuesday, October 14, 2014 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were David J. Di Salvo, Susan F. Drago, and John Jablonski. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Village Attorney Edward P. Wright, Fire Chief Kurt W. Hallberg and Building Inspector Jeffrey A. Swanson. Absent were Trustee Gale A. Denn and Department of Public Works Supervisor Thomas R. Pilling.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Di Salvo, to approve the minutes of the last regular meeting of the Board of Trustees, held September 22, 2014.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Di Salvo, that the claims as audited by the Auditing Committee of the abstracts dated September 30, 2104 and October 14, 2014, be approved and that the Clerk shall execute said abstracts, (#5, #18, #19 & #20) and direct payment by the Treasurer. General Fund - Month End: \$ 30,151.40, (Checks #11075 thru #11079), Capital Fund: \$ 2,161.30, (Check #11080), Trust & Agency Fund: \$ 52,775.54, (Checks #3127 thru #3138), General Fund: \$ 69,655.50 (Checks #11081 thru #11146)

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

REPORTS

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to nine thousand eight hundred seventy reportable incidents year-to-date and that Investigator Jarrett Reed recently attended two weeks of schooling on interview and interrogation technics. Chief Bentley also reported that he received a \$ 1,000.00 donation towards the new K-9 unit and New York State Governor's Traffic Safety grants totaling \$ 5,295.00.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to six hundred thirty alarms year-to-date, one of which was within the past hour to remove some clear plastic panels from the old advertising sign in front of the former REX appliance store, which had become dislodged by the wind and were falling onto the adjacent commercial property. Chief Hallberg also reported that the Lakewood Fire Department took part in a demonstration at the Southwestern Elementary School as part of fire prevention week. Chief Hallberg then reminded Mayor Wordelmann and members of the Board of Trustees of the Halloween costume parade sponsored by the Lakewood Fire Department and asked if they would again act as judges.

Building Inspector Jeffrey A. Swanson reported that work at three current projects, the proposed Five Guys Burgers & Fries restaurant in the Chautauqua Mall, Panera Bread, on Mall Blvd. and the LUV Toyota express lube and car wash on East Fairmount Ave. are one to two weeks behind in their respective

construction schedules. Mr. Swanson also reported that he has met with officials from the South & Center Chautauqua Lake Sewer Districts and the Southern Tier Brewery, who are working together to reduce the pungent odor emanating from the sewer district's collection system.

Mr. Swanson said he is also looking into Mr. Denny Brown's restaurant set-up and signage compliance for the site on East Fairmount Ave. Mr. Swanson said he is looking for some clarification on what exactly was agreed to by Village of Lakewood officials and Lakewood Memorial Library officials regarding their new electronic sign.

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Trustee Di Salvo indicated that language in the current zoning law prohibits any signs that are illuminated by flashing, intermittent or moving lights and suggested that the permit for the new sign at the library should not have been issued.

Mr. Richard Rose, 26 Gifford Ave., indicated he was part of the Lakewood Memorial Library's sign committee and said we as a committee would not have gone forward with the purchase of the new sign if it wasn't allowed.

Mr. Swanson concluded his report by saying he will be attending the Second Annual Southern Tier West Stormwater Management Conference at the Holiday Valley Resort in Ellicottville, N.Y., Thursday, October 23, 2014.

Trustee Di Salvo asked Mr. Swanson if a Temporary Retail Outlet Permit was issued to Mr. Brown for his seasonal restaurant business on East Fairmount Ave.

Mr. Swanson indicated that former Building Inspector Charles L. Smith issued Mr. Brown a Zoning/Food Truck Permit for the period of June 1, 2014 thru June 1, 2015.

Trustee Di Salvo said if what Mr. Brown is doing is a food truck, we better take another look at the food truck rules and regulations. Trustee Di Salvo said food trucks are to be mobile and what Mr. Brown is doing would be considered stationary. Mr. Brown's operation looks like a bazar. The Village of Lakewood is in a position to attract million dollar investments within its commercial corridor. Trustee Di Salvo said he had lunch last week with Mr. William McFadden and his architect to discuss ideas for possible design standards as they may relate to his proposed projects, when Mr. McFadden said that is all well and good, but what about that, pointing to Mr. Brown's business location. Needless to say it was an embarrassing moment adding businesses like Mr. Brown's don't speak well for the Village of Lakewood. According to the zoning law, temporary retail outlets are allowed for a maximum of two weeks with a calendar year.

Trustee Di Salvo indicated to Mayor Wordelmann that the zoning law review committee spent a lot of time in trying to right the wrongs of the past and to bring the zoning law up to the 21st century. Trustee Di Salvo said there is language in the current zoning law to control this type of business activity. Trustee Di Salvo said businesses like Mr. Brown's should not be permitted and that he should not be allowed to open next year.

Mayor Wordelmann indicated it appears that Mr. Brown's business venture is more than what he indicated it was going to be on the permit application,

however the business in place is likely winding down for the season.

Trustee Di Salvo said he hopes members of the Board of Trustees appreciate what he is trying to stress. He suggested that the Board of Trustees may wish to "beef-up" the current language dealing with temporary retail outlets and to take another look at the language being proposed to regulate food trucks so something like this doesn't occur again. Trustee Di Salvo said, wheels or no wheels, he doesn't consider Mr. Brown's seasonal restaurant as a food truck. Trustee Di Salvo said from an aesthetic standpoint alone, businesses such as Mr. Brown's have negative impacts on near-by businesses. Trustee Di Salvo went on to say that language in Section #25-41 [Temporary Retail Outlets] stresses that they be conducted safely and in an aesthetically acceptable manner. Trustee Di Salvo said Mr. Brown's business couldn't be further from aesthetically acceptable and is hopeful the Board of Trustees will make time to look at this particular use before it is approved next year.

Mr. Joseph Troche, 19 Winchester Road, indicated if he were a business owner along East Fairmount Ave., paid taxes and complied with the local zoning law, he would be very upset that Mr. Brown has been allowed to do what he is doing.

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Mr. Troche said giving Mr. Brown the freedom to operate a seasonal restaurant on East Fairmount Ave. gives others ideas that they can do it too. No matter what it is called, Mr. Brown's restaurant is a temporary business and should be treated as such.

Mayor Wordelmann said this situation brings up a bigger question, in that the temporary business isn't paying taxes. It isn't fair to the established businesses that pay taxes and is something the Board of Trustees will need to look at going forward.

Ms. Susan Lane, 188 East Terrace Ave., asked Mayor Wordelmann if the language in the local zoning law distinguishes between temporary and seasonal.

Mayor Wordelmann indicated to his knowledge some uses are referred to only as temporary but not seasonal.

Village Attorney Edward P. Wright suggested that the Village of Lakewood advise Mr. Brown in advance as to what its posture is going to be regarding this particular business venture next spring.

Mayor Wordelmann asked Building Inspector Swanson to advise Mr. Brown that next year the Village of Lakewood will not allow what he has been permitted to do this year.

Mr. Swanson reminded Mayor Wordelmann and the Board of Trustees that the zoning permit that Mr. Brown was issued is valid from June 1, 2014 thru June 1, 2015.

Trustee Di Salvo asked if Mr. Brown was issued a permit for a food truck, how is he able to operate for an entire year, because the language in Section #25-41, [Temporary Retail Outlet], is perfectly clear, stating this allowable use shall be for a period not to exceed two weeks within twelve months. Although the permit can't be revoked, the office of the building inspector can be prepared ahead of time when Mr. Brown attempts to reapply next spring.

Mayor Wordelmann indicated that he believes Mr. Brown's original zoning permit application was incomplete and therefore has operated a business that he wasn't given permission to operate. If Mr. Brown wishes to reopen in the spring, prior to June 1st, he will be held to what he applied to do on his original permit application.

Trustee Di Salvo then had a question for Mr. Swanson concerning the old pylon sign base at the former Wilson Farms store.

Mr. Swanson indicated to Trustee Di Salvo that he would like to receive clarification on the sign issues from Town of Busti Attorney Joel Seachrist before moving forward on that question so similar sign issues throughout the township could be handled simultaneously.

Trustee Di Salvo then asked Building Inspector Swanson if he has heard anything concerning the dilapidated fence at the former Wilson Farms convenient store.

Mr. Swanson said he hasn't heard anything but would be happy to contact the leasing company about the condition of the fence.

Trustee Di Salvo indicated that the fence in question has fallen into disrepair and all the Village of Lakewood would be asking is that it be repaired or replaced. The fence in its current condition is unsightly, especially to the abutting property owners, and it boils down to Benderson Realty being bad neighbors.

Trustee Jablonski asked if the fence, in its unsafe condition, could be condemned.

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Village Attorney Wright said that could be a possibility under the unsafe structures law, however it would have to be inspected by a qualified engineer who would be required to file a report substantiating its unsafe condition prior to it being condemned.

Trustee Jablonski had a question concerning the trees that were recently planted in front of the Valu Home Center, that replace the three trees which were illegally cut down. It was Trustee Jablonski's opinion that the three new trees are unacceptable when compared to the trees that were cut down.

Mayor Wordelmann indicated that the most desired of the three species of trees that were recommended by Big Tree Landscaping, Lakewood, N.Y., to replace the three trees that were removed became diseased. The tree most resembling the trees removed became the new tree of choice and were therefore planted in their place. Mayor Wordelmann said Big Tree Landscaping also removed the stumps of the trees that were cut down and as far he is concerned the matter is closed.

Mr. Richard Rose, Chairman of the Village of Lakewood Tree Committee, indicated on behalf of the entire tree committee voiced his displeasure in the how the situation regarding the trees cut down in front of the Valu Home Center was allowed to play out and that it sets a bad example for like situations in the future. Mr. Rose said he would like to recommend a different route to take by the Village of Lakewood in the future.

ANYONE TO BE HEARD

Mr. Richard Rose, Chairman of the Village of Lakewood appeared before Mayor Wordelmann and the Board of Trustees to discuss a proposed amendment to the Village of Lakewood Zoning Law listed as Section #25-66 [Public Tree Regulations]. Mr. Rose said for many years now the tree committee has tried to get the Village of Lakewood to adopt a set of rules and regulations pertaining to tree maintenance. Mr. Rose said when he became Chairman, he and rest of the tree committee wished to establish a set of rules and regulations that would give the committee some authority and to have something "on the books" to enforce. Mr. Rose also stressed that certain funding opportunities depend on whether or not a community has a tree ordinance in place. After reviewing a number of proposals the tree committee submitted one they favored to Village Attorney Wright, Mayor Wordelmann and the Board of Trustees for their review and comment.

To the tree committee's dismay, Section #25-66 [Public Tree Regulations] as proposed, is considerably different than the tree ordinance they submitted for consideration. Mr. Rose said he was disappointed in not hearing from the zoning law review committee to at least to discuss the differences in the two proposals pertaining to tree regulations. Mr. Rose said unfortunately some very important prohibitions and sections of the ordinance the tree committee presented were omitted from the public tree regulations that the Village of Lakewood is proposing. Mr. Rose said it is his opinion that a tree ordinance should be presented in a clear and reasonable manner that details the respective regulations as well as penalties for violations. Changing subjects slightly, Mr. Rose said somewhere within the zoning law or separate ordinance there should be a detailed set of landscaping rules and regulations for residential and commercial developers to follow.

Mayor Wordelmann indicated to Mr. Rose the zoning law review committee went through the ordinance submitted by the tree committee section by section and what they came up with is Section #25-66, [Public Tree Regulations]. Mayor Wordelmann said a majority of the zoning law review committee thought the tree ordinance was too regulatory and punitive. Mayor Wordelmann said although the document isn't perfect the proposed set of public tree regulations could evolve over time.

Trustee Drago said it was her opinion that the tree ordinance proposed by the tree committee would have been too difficult to enforce.

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Trustee Di Salvo indicated proposed Section #25-66 [Public Tree Regulations] doesn't include fines for violations and agrees with Mr. Rose that the Village of Lakewood needs to be very specific with respect to fines and penalties. Also, Trustee Di Salvo said Section #25-66 should recognize the Tree Committee as an advisory staff and it should spell out the parameters of their role.

Village Attorney Wright indicated there was discussion to establish a separate section for fines and penalties. One of the concerns that surfaced with respect to the tree ordinance as submitted by the tree committee was some of the language might have been confusing to property owners.

Mayor Wordelmann indicated to Mr. Rose that he, Village Attorney Wright and the Board of Trustees will gladly take another look at.

Mr. Ted McCague, 12 Park Lane, indicated in his prior community, not unlike the Village of Lakewood, had a large number of big trees. With a tree ordinance in place, and a desire to protect the community's trees, no one could cut down a tree without the benefit of a permit. Mr. McCague said trees are an incredible asset for a community and measures to protect them should be considered.

Mayor Wordelmann said he agrees with Mr. McCague that trees should be protected but does have an issue with being told what one can or can't do on their own property with respect to trees.

Mr. Joseph Troche, 19 Winchester Road, indicated his residential lot contains numerous large trees and doesn't believe a municipality should be empowered to regulate tree cutting on private property. Mr. Troche would go along with a regulation such as if someone cut down a tree on their private property it would have to be replaced.

RESOLUTION #72-2014-2015 - ADOPT FAIR HOUSING PLAN & DESIGNATE HOUSING OFFICER

Motion by Trustee Drago, seconded by Trustee Di Salvo,
WHEREAS, the Village of Lakewood is committed to furthering Fair Housing.
WHEREAS, the Village of Lakewood's demographics as well as housing characteristics have been identified in the Village's Fair Housing Plan.
WHEREAS, the Village has designated the position of Village Clerk to hold the responsibility of serving as the Village's Fair Housing Officer and to date there have been no complaints filed against any seller, leaser, purchaser or financier of housing with the Village's Fair Housing Officer.
And WHEREAS, the Village of Lakewood will continue to seek funding for programs to increase the quality and quantity of safe, decent, affordable and accessible housing through rehabilitation programs and foster partnerships with community agencies to help achieve Fair Housing Goals.
NOW, THEREFORE BE IT RESOLVED, that the Mayor and Board of Trustees of the Village of Lakewood adopt the Fair Housing Plan and designation of the position of Village Clerk as the Village's Fair Housing Officer.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #73-2014-2015 - APPROVE BORDER PATROL AUGMENTATION AGREEMENT

Motion by Trustee Drago, seconded by Trustee Di Salvo, to approve the Border Patrol Augmentation Agreement between the County of Chautauqua and the Village of Lakewood and to authorize Mayor Wordelmann to execute same.
Trustee Di Salvo and Trustee Jablonski posed a few questions to Police Chief Bentley about the program. Trustee Jablonski indicated he supports the Lakewood-Busti Police Department's participation however opposes the overall policy of local law enforcement agencies being asked to assist a national agency such as the US Border Patrol.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

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RESOLUTION #74-2014-2015 - APPROVE BASEBALL FIELD FUNDING AGREEMENT

Motion by Trustee Jablonski, seconded by Trustee Drago, to approve an agreement between the County of Chautauqua and the Village of Lakewood regarding available funding of ten thousand dollars for the new baseball field under construction from monies designated for watershed protection projects and authorize Mayor Wordelmann to execute same.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #75-2014-2015 - APPROVE COLLECTION OF UNPAID VILLAGE TAXES

Motion by Trustee Drago, seconded by Trustee Jablonski, authorizing Village Treasurer Andrea J. Windoft to forward any and all unpaid 2014-2015 Village Tax Bills to the Chautauqua County Division of Taxation, Mayville, N.Y., for collection or levying onto the 2015 Town & County property tax bills.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #76-2014-2015 - AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing the Lakewood Fire Department to make use of Chautauqua Ave. as the route for the annual Halloween costume parade to be held from 5:30 PM - 6:30 PM, Friday, October 31, 2014.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #77-2014-2015 - SET HALLOWEEN TRICK OR TREAT HOURS

Motion by Trustee Drago, seconded by Trustee Di Salvo, to set 6:00 PM - 8:00 PM, as the hours designated for Trick or Treat in the Village of Lakewood on Halloween, Friday, October 31, 2014.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #78-2014-2015 - AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing the Lakewood Family YMCA to make use of village streets as the route for Annual Amy King Memorial 5-K race, Saturday, November 29, 2014.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #79-2014-2015 - AUTHORIZE CONFERENCE ATTENDANCE

Motion by Trustee Drago, seconded by Trustee Jablonski, authorizing members of the Board of Trustees, Planning Board, Zoning Board Appeals and other village officials to attend the annual Fall Planning & Zoning Conference. One session will be held Wednesday, November 5th at Southern Tier West Salamanca, N.Y., and the other session will be held Thursday, November 6th at Chautauqua Suites Hotel & Expo Center, Mayville, N.Y. Those participating will be reimbursed for any and all legal expenses incurred.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

REVIEW PROPOSED ZONING LAW AMENDMENTS & REVISIONS

Mayor Wordelmann had provided each member of the Board of Trustees with a copy of the proposed zoning law as amended which highlighted in red the proposed amendments and revisions for their review and comment.

Mayor Wordelmann expressed his desire to move forward with certain zoning law amendments and revisions that for the most part everyone agrees with such as storage sheds, adult novelty stores and the revised auto sales zoning overlay district.

Trustee Di Salvo indicated that he doesn't have any issues with the proposed amendments dealing with accessory structures however he does have a few questions/comments regarding signage. Trustee Di Salvo said the Board of Trustees should consider different regulations and language specific for signage along the Chautauqua Ave. business corridor.

Mayor Wordelmann agrees that with the existing tree canopy along Chautauqua Ave., signage rules and regulations for Chautauqua Ave. should be different than those enforced along Rt. 394.

Mayor Wordelmann said if anyone has any suggestions to amend or revise the zoning law they should present them at the next regular meeting for consideration.

Mayor Wordelmann, Trustee Di Salvo and Trustee Jablonski briefly discussed the proposed Village of Lakewood sedimentation plan with the consensus that it is good some rules are in place which could be expanded upon in the future.

Trustee Di Salvo said he and fellow sub-committee member Trustee Jablonski would like to e-mail any suggestions that they might have to Village Attorney Wright for his review.

In closing Mayor Wordelmann indicated that Planning Board member Sally Bootey has implied she will be stepping down. He asked if the zoning sub-committee, made up of Trustee Di Salvo and Trustee Jablonski, would care to submit a list of possible candidates to replace Mrs. Bootey.

Motion by Trustee Drago, seconded by Trustee Di Salvo, and unanimously carried, the Board adjourned at 7:41 PM.

Joseph M. Johnson
Village Clerk