

JULY 22, 2013

The eighth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, July 22, 2013 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, Department of Public Works Supervisor Thomas R. Pilling and Building Inspector Charles L. Smith. Absent were Trustee Gale A. Denn and Fire Chief Kurt W. Hallberg.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Jablonski, to approve the minutes of the last regular meeting of the Board of Trustees, held July 8, 2013.

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

AUDIT OF CLAIMS

Motion by Trustee Drago, seconded by Trustee Jablonski, that the claims as audited by the Auditing Committee of the abstracts dated July 22, 2013, be approved and that the Clerk shall execute said abstracts (#6 & #7) and direct payment by the Treasurer. Trust & Agency Fund: \$ 58,887.56, (Checks #2533 thru #2554), General Fund: \$ 126,038.04, (Checks #9848 thru #9894)

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

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that sluice pipes under Spruce Street and Mapleview Ave. have been replaced in preparation for the road to be milled, surface treated and paved within the next few weeks.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to five thousand six hundred eighty-one reportable incidents year-to-date. Chief Bentley also reported he hired Ms. Emma A. Roosa as a part-time Police Officer replacing part-time Officer Garrett N. Jackson who recently resigned.

Village Treasurer Andrea J. Windoft reported that she has filed an updated audit document with the New York State Comptroller's Office and respectfully asked the Auditing Committee, comprised of Trustee Susan F. Drago and Trustee David J. Di Salvo, to set a time in the near future to conduct the annual audit of the financial records of the Village of Lakewood.

Building Inspector Charles L. Smith reported that he received the asbestos report relating to the razed single family residence at 215 Elmcrest Ave. and he is pleased to report that there are no asbestos issues. Mr. Smith indicated beginning this Wednesday (July 24, 2013) crews from adjacent townships will be assisting the Village of Lakewood in loading and transporting the demolition material to the Chautauqua County landfill for proper disposal. Mr. Smith also reported that he conducted a final inspection at the new Fuji Sushi & Steak House located in the Lakewood Village Center, which will soon be opening.

Trustee Jablonski asked Building Inspector Smith if there was anything new to report regarding Mr. Larry Spaac's new used car lot.

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Building Inspector Smith indicated it was his understanding that Mr. Spacc was invited to attend the last Board of Trustees meeting however he hasn't had any communication from him for some time.

COMMITTEE REPORTS

Mayor Wordelmann reported that the first meeting of the Zoning Law Review Committee was held last Monday, (July 15th). The meeting was more or less an introduction to some of the goals of the committee which includes review of the four current moratoria, (vehicle sales, certain storage structures, electronic signage, adult novelty stores), review and amend some language contained in the current zoning law, review and amend certain sections of the current zoning law and review and amend the zoning map. Mayor Wordelmann asked members of the committee to bring to the committee's attention any particular issues they may have encountered with certain sections of the current zoning law or if they think any amendments or clarification to sections of it need to be considered. An outline of possible amendments can then be developed for consideration.

Trustee Jablonski asked Mayor Wordelmann if during the review process will there be opportunities for public input.

Mayor Wordelmann indicated to Trustee Jablonski that he expects there will be several public hearings as the zoning law review process moves forward and that the planning & zoning sub-committee will be kept apprised of what the Zoning Law Review Committee is doing. Mayor Wordelmann encouraged Trustee Jablonski and Trustee Di Salvo, members of the planning & zoning sub-committee, to submit suggested amendments, ideas and any other relative information to the Zoning Law Review Committee for consideration. Mayor Wordelmann said once some progress is made by the Zoning Law Review Committee then the first of the public hearings can be scheduled.

Trustee Jablonski, liaison for the newly appointed tree committee, reported that the tree committee has met once and will be meeting again on July 29th. Trustee Jablonski indicated the tree committee will be meeting with arborist Bruce Robinson to discuss updating the Village of Lakewood's urban forestry master plan and to pinpoint areas where new trees could be planted.

Trustee Di Salvo indicated he reviewed a proposal submitted by Valu Home Center to plant some new trees where trees had been removed and asked Mayor Wordelmann if he has heard anything else concerning that issue.

Mayor Wordelmann indicated to Trustee Di Salvo he's awaiting a report or comments back from Tree Committee Chairman Richard Rose.

Village Attorney Wright indicated there were a couple of concerns Mr. Rose had regarding the tree replacement proposal submitted by Valu Home Center. The first concern is, are the trees noted in Valu Home Center's proposal appropriate for that location and the second concern is that the proposal includes the removal of the remaining two trees, which is unacceptable to the tree committee.

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Trustee Di Salvo noted the caliper of the trees listed in the Valu Home Center's proposal was considerably less than the trees that were removed. It's nice that the Village of Lakewood is working with Valu Home Center on this but it is important to be on the receiving end of a fair exchange.

Building Inspector Smith indicated the notice sent to Valu Home Center stated the trees removed needed to be replaced in kind.

Trustee Jablonski indicated another concern of Mr. Rose was whether the trees were planted within the New York State highway right-of-way or on private property.

Trustee Di Salvo asked Department of Public Works Supervisor Pilling if the dead tree located in Richard O. Hartley Park was going to cut down soon.

Mr. Pilling said he recently received word from Mr. Rose to go ahead and cut it down, but they had wanted to have a tree expert look it prior to see if it could be determined why it died.

ANYONE TO BE HEARD

Mr. Thomas A. Turner, 33 East Lake Street, appeared before Mayor Wordelmann and the Board of Trustees with a couple comments. Firstly, Mr. Turner said it is his opinion that there doesn't seem to be a lot of continuity with respect to enforcement of the local zoning law, wherein some residents have been allowed to build things and other residents haven't been allowed to do so. In his particular case, Mr. Turner said he built a shed and has been chased aggressively by the Village of Lakewood to have him tear it down. On the other hand, his neighbor, Mr. Geoffrey Bond, 20 East Lake Street was issued two building permits one in connection with his garage addition and one for the addition connecting the garage to the house. Mr. Turner said he has some issues with the set-backs that were allowed in connection with this combined construction project. Mr. Turner said he would be happy to provide photos and copies of the building permits issued to Mr. Bond. Mr. Turner asked Building Inspector Smith to explain how and why that was allowed to happen.

Mr. Smith indicated that Mr. Bond's proposed set-backs complied with the zoning law.

Mr. Turner suggested that the Building Inspector's interpretation of the zoning law amounted to him "back-dooring" the rules favoring Mr. Bond adding one shouldn't be able to use the area standards for accessory structures for what has become an attached garage/addition.

Building Inspector Smith indicated to Mr. Turner he would prefer not to argue this point until he had an opportunity to pull the file and review the information relative to Mr. Bond's additions.

Mr. Turner said he would still like an answer from the Building Inspector concerning this matter.

Building Inspector Smith indicated to Mr. Turner once he has had a chance to review the material he would be happy to stop up at Mr. Turner's real estate office to discuss it.

Secondly, Mr. Turner said he would like to make sure the tax payers of the Village of Lakewood are being protected. Admittedly Mr. Turner said he has had some issues with the Village of Lakewood over the years but it has come to his attention that a number of other residents have had issues with the Village of Lakewood wherein they felt they were treated unfairly when it comes to how the zoning law has been interpreted and enforced over the years.

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Mr. Turner then asked if the Village of Lakewood has informed its liability carrier of any and all ongoing law suits and respectfully requested a yes or no answer for the record.

Mr. Turner went on to say if you haven't, his liability carrier requires him to inform them of any law suits so they can be tracked.

Village Attorney Edward P. "Tad" Wright indicated to Mr. Turner we've been down this road before and we are not going to speak about litigation and this question touches on litigation.

Mr. Turner said at least the question asked is on record.

Mr. Randy Ridgeway, 323.5 East Terrace Ave., appeared before Mayor Wordelmann and the Board of Trustees to ask Mayor Wordelmann if there is a convenient time to meet to discuss the matter involving his neighbor's addition.

Building Inspector Charles L. Smith interjected saying he would like the discussion to include Mr. & Mrs. Jon T. Rowe, owners of 321.5 East Terrace Ave. Mr. Smith said he would work on a date and time to meet adding he would be available on Saturdays if need be.

Mrs. Sally Ulrich, 85 East Terrace Ave., appearing before Mayor Wordelmann and the Board of Trustees expressed her disappointment in Mayor Wordelmann's appointments to the newly formed Zoning Law Review Committee. Mrs. Ulrich indicated there are two members of the Board of Trustees well qualified and very familiar with planning and zoning matters and neither was selected for this committee. To then appoint them to a sub-committee seemed somewhat silly.

Mayor Wordelmann indicated to Mrs. Ulrich that the open meetings law prevents more than two members of the Board of Trustees to meet outside the regular board meeting without publicizing said meeting seventy-two hours in advance. Mayor Wordelmann said it was his personal choice and as Mayor his prerogative to select who he wanted on the Zoning Law Review Committee.

Mr. Thomas A. Turner indicated to Mayor Wordelmann said he runs a real estate business and in the private sector we put the best people in the best positions for the best results. Having two members of the Board of Trustees with urban planning degrees, and not to appoint at least one of them to the Zoning Law Review Committee was a very poor decision.

Mayor Wordelmann said well then that was my poor decision.

Mr. Charles B. "Chip" Ulrich, III indicated to Mayor Wordelmann he wholeheartedly agrees with the comments made by Mr. Turner. To be successful one surrounds oneself with capable and intelligent people. Specifically, two members of the Board of Trustees would have been excellent candidates and sees no reason why one of the two individuals could not have been selected as a member of the Zoning Law Review Committee.

Mr. Jackson Smith, 15 Sunset Ave., asked Mayor Wordelmann if a model zoning law from some other community has been looked at because a number of villages out there have fantastic codes that officials from the Village of Lakewood could draw upon. Mr. Smith said he would like for the Village of Lakewood to consider adopting a zoning law that is working well for a similar community but mold it to Lakewood's specific needs.

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Mayor Wordelmann agreed with Mr. Smith saying at the first meeting of the Zoning Law Review Committee he distributed copies of zoning law excerpts from different communities, including Westfield and Fredonia, to the committee members for their review for consideration.

Mayor Wordelmann indicated he will continue to search the internet for good examples of zoning rules and regulations that the Village of Lakewood might consider.

Trustee Susan F. Drago indicated to Mr. Smith that the Zoning Law Review Committee intends to research one of the four moratoria at a time and amend the zoning law accordingly. Mayor Wordelmann provided excerpts from other community's zoning laws which address the subjects of each moratorium. Trustee Drago said the committee certainly doesn't wish to reinvent the wheel during the zoning law review process.

Mr. Smith said Westfield and Fredonia are nice villages but not necessarily the ideal model for what the Village of Lakewood should be.

Mayor Wordelmann said he and the Zoning Law Review Committee are looking at excerpts from other municipality's zoning laws to get some ideas on how to address certain subjects not currently covered by our local zoning law.

Mr. Thomas A. Turner indicated to Mayor Wordelmann and the Board of Trustees that there is a need for more multi-family zoned property and asked that they take that into consideration when making any changes to the zoning map.

Trustee Jablonski indicated that he was contacted by Dr. Wayne Carlson, who expressed his concerns over the condition and overall appearance of the former Grazer's Restaurant, 5 West Fairmount Ave. and the former Wilson Farms Store, 67 Chautauqua Ave. and asked if the Village of Lakewood was doing anything. Trustee Jablonski went on to say that Building Inspector Smith has informed the Board of Trustees that he has cited both of the property owners for property maintenance shortcomings.

Trustee Di Salvo said a few months ago he had asked Building Inspector Smith if it would be any trouble in providing him and other members of the Board of Trustees a listing of properties that have been cited for various zoning violations and where the Village of Lakewood is with respect to the process of getting cited properties in compliance. Trustee Di Salvo said it would be nice, sometime in the near future, to be able to look at an excel spreadsheet to track what is being done from a zoning law enforcement standpoint. Trustee Di Salvo said residents ask him about certain properties and he would like to be able to let them know that indeed a certain property owner has been cited for a particular violation and what the Village of Lakewood is doing to ensure compliance. Trustee Di Salvo suggested that this information be placed on the Village of Lakewood's web site for all to see, adding it would be very helpful for everybody.

Building Inspector Smith indicated to Trustee Di Salvo that usually each spring he canvases properties throughout the Village of Lakewood and compiles a list of them which are not in compliance with building and zoning codes. With the amount of ongoing and proposed construction, both residential and commercial, Mr. Smith said most of his time this past spring was consumed with inspections and plan review. Although he didn't have the time to do his annual canvassing of properties this past spring Mr. Smith said he still plans on doing so when time permits.

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RESOLUTION #55-2013-2014 – APPROVE SITE PLAN – 2 EAST SECOND STREET

Motion by Trustee Jablonski, seconded by Trustee Drago, per the recommendation of Mayor David T. Wordelmann, for the Board of Trustees to approve the proposed site plan as submitted by David G. Bargar, 11 Sunset Ave., regarding plans to renovate the former Yaw Oil Co. building and property at 2 East Second Street, with the condition that the Phase II environmental inspection of the premises is acceptable.

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

RESOLUTION #56-2013-2014 – AUTHORIZE PURCHASE OF E-Z PASSES

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing the Village of Lakewood to purchase two (2) E-Z Passes from the New York State Thruway Authority. The E-Z Passes shall only be used by employees and/or officials when on official business for the Village of Lakewood.

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

RESOLUTION #57-2013-2014 – AUTHORIZE BOND ANTICIPATION NOTE RENEWAL

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing Village Treasurer Andrea J. Windoft and Village Attorney Edward P. “Tad” Wright to renew the Bond Anticipation Note (5 year renewable – 1 year maturing BAN) in the amount of \$ 5,892.20, for the 2009 Tandem Vibratory Street Roller, Model HD 10vv.

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

RESOLUTION #58-2013-2014 – AUTHORIZE BOND ANTICIPATION NOTE

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing Village Treasurer Andrea J. Windoft and Village Attorney Edward P. “Tad” Wright to prepare a Bond Anticipation Note (5 year renewable – 1 year maturing BAN) in the amount of \$ 95,586.60 to finance the balance owed on the 2011 Case backhoe and the 2012 International dump truck, w/snow plow.

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

Motion by Trustee Drago, seconded by Trustee Jablonski, and unanimously carried the Board adjourned at 7:02 PM.

Joseph M. Johnson
Village Clerk

