

FEBRUARY 23, 2015

The twenty-second regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, February 23, 2015 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.

#### SPECIAL GUEST

Mayor Wordelmann said in attendance at this evening's meeting is Jared Yaggie, a sophomore at Southwestern Central School. Mr. Yaggie indicated he is interested in politics and wanted to get an understanding of how local governments function.

#### 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 February 9, 2015.

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 February 23, 2015 be approved and that the Clerk shall execute said abstracts (#11, #40 & #41) and direct payment by the Treasurer. Capital Fund: \$ 728.11, (Checks #11462 thru #11464), Trust & Agency Fund: \$ 57,598.70, (Checks #3268 thru #3281), General Fund:

\$ 30,241.02, (Checks #11465 thru #11486)

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 one thousand five-hundred eighty reportable incidents year-to-date and that they are keeping busy. Chief Bentley said in the wake of a threat by the Somali based radical group al-Shabaab to target American malls, the Office of Homeland Security has asked that local police agencies be more vigilant at malls within their jurisdiction. Chief Bentley reported that additional foot patrols at the Chautauqua Mall have been scheduled in response to this threat.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to one hundred eleven alarms year-to-date. Of the twenty-nine alarms since the previous meeting the most significant was the major structure fire at Carving Masters, 4718 Cramer Drive. Chief Hallberg said everyone did a good job under very frigid conditions to knock the fire down, unfortunately the building sustained significant damage. On a positive

note, Chief Hallberg said none of the equipment used to fight the fire was damaged.

Trustee Di Salvo asked Chief Hallberg if he expects the new pumper to be delivered within three hundred sixty-five days as stated in the purchase contract. Trustee Di Salvo said his question is tied to the timetable when the vendor would expect payment.

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Chief Hallberg said typically the truck buyer isn't appraised on the truck's progress until it is nearly completed and believes payment won't be required until sometime after the Lakewood Fire Department takes delivery of the fire truck.

Mayor Wordelmann indicated that he and Village Attorney Wright had some questions concerning the original contract document. Village Attorney Wright subsequently drafted a Contract Addendum which provides the Village of Lakewood as the purchaser additional protection.

Mayor Wordelmann said while the truck is being built the Village of Lakewood will have to decide on how to pay for it, either a Bond Anticipation Note, a ten year Bond or via a bank lease agreement.

Trustee Di Salvo then asked Village Treasurer Windoft if she has had an opportunity to put any figures together in connection with the payment options.

Village Treasurer Windoft said she doesn't know which payment option the Village of Lakewood will choose and therefore hasn't worked-up any figures yet.

Trustee Jablonski asked Mayor Wordelmann if the contract for the fire truck will be coming before the Board of Trustees, authorizing him to sign it.

Mayor Wordelmann indicated to Trustee Jablonski that he and the Board of Trustees indirectly approved the contract when they authorized the purchase of the new fire truck.

Village Attorney Wright agreed with Mayor Wordelmann saying it was his understanding the contract was accepted when the Board of Trustees approved the purchase of the fire truck.

Trustee Jablonski said he assumed the Board of Trustees would receive a contract to approve.

Village Attorney Wright reiterated he thought the bid was accepted subject to the contract being entered into.

Trustee Di Salvo indicated to Village Attorney Wright that he was asked by a member of the newly formed Chautauqua Lake Community Sailing Foundation what might be the next step by the Board of Trustees for them to be granted use of the Richard O. Hartley Park/Beach for their sailing program.

Mr. Wright said he hasn't heard from anyone associated with the sailing

foundation but did speak with Mr. Bill Erickson, the Village of Lakewood's insurance agent, about what insurance liability limits and requirements he would like for the foundation to carry and agree to. Mr. Wright said it is his opinion that the matter is in the sailing foundation's court to firstly present a rent proposal to the Village of Lakewood and secondly for their insurance agent to contact Mr. Erickson to ensure their insurance coverage meets the requirements suggested by the Village of Lakewood's insurance carrier.

Mr. Wright said at some point in time it will be up to the Board of Trustees to decide the financial terms of the use of the park and facility by the sailing foundation.

Trustee Drago indicated that there is still a question about where the sailing foundation expects to store equipment, whether it be in the beach house and/or in a trailer stored on site.

Village Treasurer Andrea J. Windoft wished to make Mayor Wordelmann and the Board of Trustees aware that last year the Lakewood Fire Department applied for and was awarded a grant for new radios for those volunteer fire departments in the 3<sup>rd</sup> Battalion. Mrs. Windoft said the Village of Lakewood as receiver of the grant will be obligated to manage it from a financial standpoint. She said each fire department will be paying its share of the radio costs to the Village of Lakewood, who will inturn make payment to the vendor.

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Mrs. Windoft is hopeful that from a bookkeeping standpoint the transactions in total will occur within the current fiscal year or next year's fiscal year.

RECESS

Motion by Trustee Jablonski, seconded by Trustee Drago, to recess the regular meeting so as to conduct a previously scheduled public hearing.  
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

PUBLIC HEARING - 6:45 PM  
LOCAL LAW #1-2015  
PROPOSED ZONING LAW AMENDMENTS

Mayor Wordelmann opened the public hearing by asking the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper. Mayor Wordelmann indicated the proposed zoning law amendments include revisions to Section #25-41, [Drive-In Establishments] and the addition of Section #25-54, [Mobile Food Truck] and Section #25-65, [Sediment Control]. Mayor Wordelmann added the Chautauqua County Department of Planning & Economic Development have reviewed and commented on the proposed zoning law amendments and deemed them a matter of local concern.

Mayor Wordelmann said he would prefer to discuss one proposed amendment at a time beginning with Section #25-41, [Drive-In Establishments].

Mr. Jeremy Hirliman, 1122 Forest Ave., Jamestown, N.Y., proprietor of Farmer Brown's Beef & More, 274 East Fairmount Ave., indicated to Mayor Wordelmann that he just wanted to clarify what will be required on the site plan, when

submitted with the special use permit application.

Mayor Wordelmann indicated to Mr. Hirliman that the site plan should be detailed and suggested that he speak with Building Inspector Swanson to make sure it includes everything that is required.

Mayor Wordelmann moved on to Section #25-54, [Mobile Food Truck], and asked if anyone had any questions or comments.

The third amendment to the local zoning law being considering involves sediment control. Mayor Wordelmann indicated this is the Village of Lakewood's first attempt at including measures requiring sediment control in the local zoning law.

Trustee Jablonski indicated this is a big step in the right direction for the local zoning law to include sediment control requirements, however he is hopeful the Village of Lakewood will take steps to draft stronger sediment control requirements to be on par with New York State D.E.C. requirements and/or the model that was drawn up by the Chautauqua County Inter-Municipal Committee.

Mayor Wordelmann agreed saying the Village of Lakewood needed to have some sediment control measures in place and would consider adding to those measures in the future.

With no one else to be heard Mayor Wordelmann closed the public hearing at 6:52 PM and proceeded to reopen the regular meeting.

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#### RESOLUTION #103-2014-2015 - ADOPT LOCAL LAW #1-2015 -ZONING LAW AMENDMENTS

Motion by Trustee Di Salvo, seconded by Trustee Drago, for the Board of Trustees to adopt Local Law

#1-2015, approving the following zoning law amendments. Revisions to Section #25-41, [Drive-In Establishments], and the addition of Section #25-54, [Mobile Food Truck] and Section #25-65, [Sediment Control] to the local zoning law.

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

#### REPORTS (CONTINUED)

Building Inspector Jeffrey A. Swanson reported that tomorrow morning a representative from Williamson Law Book Company, Victor, N.Y., will begin installing equipment and the Building & Code Enforcement software program at the Town of Busti administration building. Mr. Swanson this will allow him to get started on mandatory fire inspections. Mr. Swanson also reported that he has sent out property maintenance awareness letters to those property owners who need to address certain property maintenance issues, sooner rather than later.

## COMMITTEE REPORTS

Trustee Di Salvo said he would like to make a couple of comments regarding the reassessment of the former Wilson Farms Store property in the matter of Benderson vs. the Town of Busti Assessor, whereby the assessment was reduced to \$ 123,200.00 from \$ 225,000.00. Trustee Di Salvo said this assessment reduction has an impact on the budget and the Village's overall assessed value. Trustee Di Salvo said what really bothers him about this is that we've seen disinvestment by this absentee owner over the years. The building has been vacant for years and is in disrepair. Trustee Di Salvo said he is also concerned about the impact that this assessment reduction will have on other vacant properties throughout the village. Trustee Di Salvo said what really infuriates him is while marketing the property Benderson priced it higher than the assessed value and then proceeded to go to court to get the assessment reduced in half. Trustee Di Salvo realizes it is normal for businesses to challenge their assessments in court, but this has a major impact on the Village of Lakewood, which isn't even mentioned in the matter. Trustee Di Salvo then asked Village Attorney Wright for his opinion on this matter.

Mr. Wright said there is a legal framework in handling property assessment grievances, unfortunately they don't give the Village a say in the matter. As far as the merits of the assessment reduction, the Village might want to review the appraisals that the Town of Busti likely has on file as part of the public record.

Trustee Di Salvo indicated the property owner has not been motivated to sell for any number of reasons. Unfortunately the property has a negative impact on other properties along the Chautauqua Ave. corridor.

Mayor Wordelmann said there may be a silver lining to this whole thing in that with the assessment reduced to \$ 123,200.00, the property becomes more marketable to a buyer and/or for the Village of Lakewood to take possession of it via eminent domain.

Mr. Richard Rose, Chairman of the Tree Committee, told Mayor Wordelmann and the Board of Trustees the trees along Chautauqua Ave. have become overgrown, obscuring business signs, store windows and are getting in the way of pedestrians. Mr. Rose said at Mayor Wordelmann's suggestion, he solicited a contractor, Bruce E. Robinson, Inc. - Forestry Consultants, Jamestown, N.Y., to prepare an estimate to trim the trees along Chautauqua Ave. Mr. Rose said the estimate to trim the one hundred twenty-eight trees along Chautauqua Ave. total \$ 3,000.00. If the Lakewood Department of Public Works crew agrees to pick-up the trimmings, the cost would be reduced by \$ 400.00 to \$ 2,600.00. Mr. Rose noted the ideal time to do the tree trimming is February or March, prior to when the trees start budding.

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Mr. Rose said he realizes there is no money in the current budget, however if money were to be appropriated in next year's budget Mr. Robinson would be willing to do the work now, with the knowledge he would be paid in June. Mr. Rose said it is a good price and that it is something that needs to be done sooner rather than later. In closing Mr. Rose recommended that the Village of Lakewood go forward with this very important project.

Mayor Wordelmann indicated legally the Village of Lakewood can not spend

money on projects that haven't been budgeted for. Mayor Wordelmann said he will consider appropriating funding in next year's budget for the Chautauqua Ave. tree trimming project.

Dr. Rudolph Mueller, 7 Sunset Ave., asked Mayor Wordelmann if money from the Village of Lakewood's surplus fund balance could be put towards the tree trimming project.

Mayor Wordelmann said the Village of Lakewood has an appropriated fund balance and a separate fund balance. Money from the separate fund balance can not be spent unless it is an emergency and only by a Board of Trustees resolution. Mayor Wordelmann said the Village of Lakewood faced a financial emergency last year when contributions due the New York State Retirement System exceeded the amount of money appropriated. A resolution was subsequently adopted by the Board of Trustees to pay the difference due the New York State Retirement System from the fund balance.

Dr. Mueller asked Mayor Wordelmann if the Board of Trustees could adopt a resolution to utilize money from the fund balance to pay for the tree trimming project and then to replenish the fund balance when preparing next year's budget.

Mayor Wordelmann and Village Attorney Wright concurred that money in the fund balance may only be accessed and spent under a financial emergency with the approval of the Board of Trustees. Mayor Wordelmann told Dr. Mueller he would be happy to look into his question.

Village Historian Ms. Susan Lane indicated to Mayor Wordelmann and the Board of Trustees that while looking for a summer project to undertake, a member of the history committee suggested why not consider placing signs at a few choice alleyways in the Village. Ms. Lane said to her knowledge there have never been signs identifying Lakewood's alleys. Ms. Lane she is looking at prices and asked if there is a procedure that needs to be followed. The three alleys she would like to purchase signs for are the Sales alley, Trade-Co alley and "The Bucket" alley.

Mr. William A. "Billy" Evans, III, President of the Local Community Development Corporation, (L.C.D.C.) which facilitated the reconstruction of the Chautauqua Ave. corridor a little over a decade ago. Since then the L.C.D.C. has been somewhat dormant but are active again and are conducting regular meetings with a new Board that includes Mayor Wordelmann and Trustee Di Salvo. Mr. Evans said the L.C.D.C. has some great plans in the making to improve the business corridor along Chautauqua Ave. and to introduce more cultural activities to the community. Without any merchant association in place the L.C.D.C. could fill that role and act as a representative for Chautauqua Ave. businesses. Mr. Evans also said the L.C.D.C. has some long term projects and would work in tandem with the comprehensive plan process and overall planning with an emphasis on signage, building facades, funding, etc. In the short term, Mr. Evans indicated said they plan on having a spring clean-up of Chautauqua Ave., miscellaneous work to be done at Recognition Park and to place recycling receptacles along Chautauqua Ave. Mr. Evans said the main reason for attending this evening's meeting was to let the Board of Trustees know that the L.C.D.C. is back and is looking forward to doing good things for the Village of Lakewood. The L.C.D.C. would also ask that the Village of Lakewood consider appropriating some funding in the upcoming budget to achieve some of their goals going forward.

Mayor Wordelmann thanked Mr. Evans for appearing before the Board of Trustees this evening and said it is exciting to see the enthusiasm of the entire L.C.D.C. Board who truly want to accomplish some worthwhile projects.

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RESOLUTION #104-2014-2015 - SELECT PLANNING CONTRACTOR FOR COMPREHENSIVE PLAN

Motion by Trustee Di Salvo, seconded by Trustee Jablonski, and per the recommendations of the Comprehensive Plan Steering Committee and Mayor David T. Wordelmann, that the Village of Lakewood hereby select Peter J. Smith & Company, Inc., Buffalo, N.Y., as the contractor to develop a Comprehensive Plan for the Village of Lakewood at the submitted bid price of \$ 46,440.00. NOTE: The Village of Lakewood's last comprehensive plan was completed in 1970.

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

Dr. Rudolph Mueller asked Mayor Wordelmann if the cost of the comprehensive plan has been included in next year's Village budget.

Mayor Wordelmann indicated to Dr. Mueller that next year's budget is not set yet and it is too early to say if any or all of the money to pay for the comprehensive plan will be budgeted.

Trustee Di Salvo indicated to Dr. Mueller that the Board of Trustees has discussed different options to finance the cost of the comprehensive plan, one being to pay for it over two fiscal years and the Village of Lakewood will be pursuing a Technical Assistance Grant through CHRIC, which would help defray the overall cost.

RESOLUTION #105-2014-2015 - APPOINT NEW PLANNING BOARD MEMBER

Motion by Trustee Di Salvo, seconded by Trustee Drago, per the recommendation of Mayor Wordelmann, to appoint Edward J. "Ted" McCague, 12 Park Lane, as a new member of the Planning Board. Mr. McCague replaces Mrs. Sally Bootey, who after serving twenty years on the Planning Board, opted to resign late last year.

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

RESOLUTION #106-2014-2015 - APPROVE TERMS OF WATER QUALITY IMPROVEMENT PROJECT

Motion by Trustee Drago, seconded by Trustee Jablonski, for the Board of Trustees to adopt the following resolution which relates to a proposed storm water drainage project for Crescent Creek. Resolution authorizing the items listed below pursuant to the Bond Acts enacted in 1965, 1972 and 1996 and the Environmental Protection Fund, as well as federal grant awards available for such projects. WHEREAS, the Village of Lakewood, New York, herein called the "Municipality", after thorough consideration of the various aspects of the problem and study of available data, has hereby determined that certain work, as described in its application and attachments, herein called the "Project", is desirable, is in the public interest, and is required in order to implement the Project; and WHEREAS, the Environmental Conservation Law ("ECL") authorizes State assistance to municipalities for water quality improvement projects by means of a contract and the Municipality deems it to be in the public interest and benefit under this law to enter into a contract therewith; NOW, THEREFORE, BE IT RESOLVED BY the Village Board of Trustees #1. That Village of Lakewood Mayor David T. Wordelmann or such person's

successor in office, is the representative authorized to act in behalf of the Municipality's governing body in all matters related to State assistance under ECL Articles 17, 51 and 56 and/or any applicable federal grant provisions. The representative is also authorized to make application, execute the State Assistance Contract, submit Project documentation, and to otherwise act for the Municipality's governing body in all matters related to the Project and to State assistance; #2 That the Municipality agrees that it will fund its portion of the cost of the Project and that funds will be available to initiate the Project's field work within twelve (12) months of written approval of its application by the Department of Environmental Conservation; #3 That one (1) certified copy of this Resolution be prepared and sent to the Albany office of the New York State Department of Environmental Conservation. #4 That this Resolution take effect immediately. Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

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Trustee Jablonski said, speaking of storm water management, suggested that Building Inspector Swanson, Department of Public Works Supervisor Pilling and he meet sometime to formulate a plan that addresses the flow of storm water in the vicinity of the Chautauqua Mall. Trustee Jablonski added there might be some funding available for such storm water management projects.

RESOLUTION #107-2014-2015 - ACCEPT/AWARD LOW BID FOR TWO POLICE PATROL CARS

Motion by Trustee Drago, seconded by Trustee Di Salvo, per the recommendation of Police Chief John R. Bentley, for the Board of Trustees to accept/award the lone/low bid for two (2) 2015 marked police patrol cars (Dodge Charger - All Wheel Drive) in the amount of \$29,130.00 per car, as submitted by Dave Warren Auto Group, Jamestown, New York. (NOTE: The trade-in value for two used police patrol cars totals \$ 8,000.00.)

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

Motion y Trustee Di Salvo, seconded by Trustee Jablonski, and unanimously carried the Board adjourned at 7:22 PM.

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Joseph M. Johnson  
Village Clerk