

AUGUST 25, 2014

The tenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, August 25, 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. "Tad" Wright and Fire Chief Kurt W. Hallberg. Absent were Trustee Gale A. Denn, Department of Public Works Supervisor Thomas R. Pilling and Building Inspector Jeffrey A. Swanson.

#### 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 August 25, 2014. 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 August 25, 2014, be approved and that the Clerk shall execute said abstracts and direct payment by the Treasurer. Capital Fund: \$ 1,181.55, (Check #10974), Trust & Agency Fund: \$ 55,836.94, (Checks #3073 thru #3094), General Fund: \$ 25,792.91, (Checks #10975 thru #11008)

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 eight thousand one hundred sixty two reportable incidents year-to-date and it has been a very busy afternoon with three domestic disputes taking place simultaneously. Chief Bentley also reported that during the past two weeks he has collected on the "stonegarden" grant to the tune of \$ 17,000.00 and that money was used to install a new license plate reader on L-2. Mr. Bentley said the Lakewood-Busti Police Department recently received a \$ 1,066.00 grant reimbursement to offset the cost of new bullet proof vests. Chief Bentley also reported that earlier today officers confiscated a number of large marijuana plants growing off Highland Ave. The plants were recently spotted by a Starflight crew as it passed overhead and subsequently notified the Lakewood-Busti Police Department.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to five hundred thirty-eight alarms year-to-date adding it has been a very busy summer so far. Chief Hallberg indicated that he and the truck committee have agreed to remove some of pumper truck's bid specifications which should result in lower bid prices next time, without impacting the truck's functionality.

Building Inspector Jeffrey A. Swanson submitted a written report stating that site work is continuing at Panera Bread and McFadden's Express Lube & Car Wash plus the new Affinity One Federal Credit Union branch is nearing completion. Mr. Swanson also noted in his report that new landscaping has

been planted at the Jamestown Area Community Federal Credit Union, 121 Chautauqua Ave. and a remodeling project at Wal-Mart has begun.

Village Treasurer Andrea J. Windoft respectfully asked that the Auditing Committee, which is comprised of Trustee Drago and Trustee Di Salvo, to schedule a time to audit the Village of Lakewood's financial records for the fiscal year ending May 31, 2014.

AUGUST 25, 2014 (CONTINUED)

ANYONE TO BE HEARD

Mr. Craig Seger, 31 Winchester Road, wished to commend Department of Public Works Supervisor Thomas R. Pilling and his crew for the wonderful job they've done installing new surface water drainage structures and restoring the shoreline at the north end of the New York Ave. right-of-way.

Mr. Gale Seekings, 12 Olive Ave., appeared before Mayor Wordelmann and the Board of Trustees to express his concern about one of his neighbors who has taken the liberty to plant a couple of trees within the old canal property. Mr. Seekings indicated it was his understanding that residents living adjacent to the old canal property could mow it, but weren't allowed to plant trees or establish any structures, fences, sheds, etc. within it. Mr. Seekings said he plays by the rules and would like others to do the same.

Mayor Wordelmann thanked Mr. Seekings for expressing his concerns and said the Village of Lakewood would take a look at the property in question.

RESOLUTION #57-2014-2015 - AUTHORIZE EMS CONFERENCE ATTENDANCE

Motion by Trustee Drago, seconded by Trustee Di Salvo, that the Board of Trustees, acting as the Board of Fire Commissioners, to authorize Emergency Medical Service Captain Sharoyne L. Ruby, EMT Brandi Collum and EMT Laura Gilbert to attend the 2014 Vital Signs Conference to be held October 25<sup>th</sup> & 26<sup>th</sup> in Rochester, New York, per the request of Fire Chief Kurt W. Hallberg. Mrs. Ruby, Ms. Collum and Mrs. Gilbert shall be reimbursed for all legal expenses incurred.

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

RESOLUTION #58-2014-2015 - SET TIME AND DATE FOR PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Drago, to set 6:45 PM, Monday, September 22, 2014 as the time and date for the Board of Trustees to conduct a public hearing regarding the Village of Lakewood's participation in the New York State Community Development Block Grant Program, per the request of Ms. Eileen Powers, CHRIC Director of Rehab Services, Mayville, New York.

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

ANYONE TO BE HEARD (CONTINUED)

Mr. William McFadden appeared before Mayor Wordelmann and the Board of Trustees to briefly explain two major projects he is proposing for East

Fairmount Ave., one being a used car showroom, (All Makes Pre-Owned Autos) at the former Grossman's Lumber property at 191 East Fairmount Ave., the other being a 23,000 sq. ft. new car dealership immediately west of LUV Toyota, 215 East Fairmount Ave.

Mr. McFadden went on to say the 48,000 sq. ft. building at 191 East Fairmount Ave. would be completely remodeled, the entire parking area would be repaved, lighting would be upgraded and over the top landscaping would be done along East Fairmount Ave. Mr. McFadden said this particular project would provide twelve new jobs and generate many dollars in sales tax. Mr. McFadden also indicated that he has filed the required special use permit application with the Village of Lakewood.

The second project Mr. McFadden is proposing involves the construction of a 23,000 sq. ft. new car dealership between his express lube and car wash, currently under construction, and LUV Toyota. Mr. McFadden said it will be a beautiful building and the landscaping will be beyond anything presently in the Village of Lakewood. Mr. McFadden said the new car dealership will generate thirty to thirty-five new jobs plus additional property and sales taxes.

AUGUST 25, 2014 (CONTINUED)

Mayor Wordelmann indicated to Mr. McFadden that there is a moratorium currently in place with respect to entertaining any special use permit applications regarding new or used vehicle sales.

Mr. McFadden said although he doesn't understand all the legal ramifications regarding the moratorium, he believes it is in everyone's best interest and benefit to move these projects forward.

Mayor Wordelmann said he would have to refer any legal questions regarding the moratorium to Village Attorney Wright, however when the Village of Lakewood began discussions on revising its local zoning law eighteen months ago, several moratoriums were put into place via local law. At this point the Village of Lakewood can not accept any special use permit applications pertaining to the sale of new or used vehicles. Mayor Wordelmann said it is his understanding that the moratorium can not be lifted until the amended and revised zoning law is adopted and filed with the Department of State. Mayor Wordelmann went on to explain to Mr. McFadden that a new zoning district overlay, proposed specifically for new and used vehicle sales, does not include either property which he is planning to develop or redevelop.

Mayor Wordelmann said he and Village Attorney Wright agree that, if for example, there are changes to the zoning map following the public hearing scheduled for September 8<sup>th</sup> an additional public hearing on the subject would have to be conducted by the Board of Trustees. Mayor Wordelmann said the Village of Lakewood is awaiting comment on the proposed amendments and revisions to the local zoning law and map from the Chautauqua County Department of Planning & Economic Development.

Mr. McFadden asked Mayor Wordelmann and the Board of Trustees for their assistance on this matter and would be happy to do anything to facilitate the process. Mr. McFadden said he is very excited about both projects and believes they will be a tremendous benefit to the Village of Lakewood.

Mayor Wordelmann thanked Mr. McFadden for wanting to expand his business

operations here in Lakewood.

Mr. McFadden then asked Mayor Wordelmann, what would he recommend that he do at this point to move these projects forward.

Village Attorney Wright indicated that he is hesitant to give Mr. McFadden any advice in that he has more than competent legal representation that could offer him that advice. Mr. Wright told Mr. McFadden that he needs to understand the timeframe, noting the Board of Trustees will be conducting a public hearing on the amended zoning law and map at 6:45 PM, Monday, September 8th, at which he would be afforded an opportunity to voice his opinion on the matter. Depending on what decision the Board of Trustees makes regarding the zoning map overlay and amended language in Section #25-43 [Vehicle Sales], if adopted as proposed, Mr. Wright, again deferring to Mr. McFadden's competent legal counsel, a possible remedy would be an application for a use variance.

Mr. McFadden said he is very eager to move forward with these terrific projects and would welcome any advice formally or informally.

Mr. McFadden then introduced Corey A. Auerbach, Esq., his legal counsel from Damon & Morey, LLP, Buffalo, New York.

Mr. Auerbach thanked Mayor Wordelmann and the Board of Trustees for the opportunity to be heard this evening. We understand that the Village of Lakewood has gone through a comprehensive process in review of its local zoning law and applauded those efforts. He said it is clear you are taking the time and effort to consider the community and it appears you are striving to develop a comprehensive plan to guide future development in this wonderful community. Mr. Auerbach said Mr. McFadden has put together a terrific commercial development package to show this board what he envisions for properties on East Fairmount Ave. Mr. Auerbach said we are asking for the opportunity to work with the Village of Lakewood with the hope that these properties could be included in the newly proposed B-2.1 zoning district overlay.

AUGUST 25, 2014 (CONTINUED)

He indicated it is clear the Village of Lakewood has committed to a sound planning ethic. Mr. Auerbach said although the process may push out the timeframe a little bit my client doesn't feel the process needs to be rushed. Mr. Auerbach said he would appreciate it if Mayor Wordelmann and members of the Board of Trustees would review Mr. Fadden's proposals. Mr. Auerbach said we would commit our time and energy to work with the Village of Lakewood with the hope of having these properties included in the newly proposed B-2.1 zoning district overlay.

Trustee Di Salvo asked Village Attorney Wright in that two (2) special use permit applications have been submitted by Mr. McFadden and that fees have been collected, should these applications be voided and any fees paid refunded.

Village Attorney Wright indicated if that is the case, the applications should be voided and any fees collected by the Village of Lakewood should be refunded to Mr. McFadden. Because the moratorium on vehicle sales was in place any special use permit applications and associated fees should not have been accepted.

Mr. Auerbach said for the record, we understand there purports to be a moratorium in place and have questions about the length of time this moratorium has existed. Mr. McFadden did submit the application with the hope that it could be reviewed by this board and recognize there appears to be an impediment in place regarding the review of special use permit applications at this time. If it is finally determined that the timing is a little bit off, we would certainly work with the Board of Trustees on a resubmittal at the proper time.

Motion by Trustee Drago, seconded by Trustee Di Salvo, and unanimously carried, the Board adjourned

At 6:58 PM.

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Joseph M. Johnson  
Village Clerk