

JULY 25, 2016

The fourteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, July 25, 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, 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 July 11, 2016.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

AUDIT OF CLAIMS

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated July 25, 2016, be approved and that the Clerk shall execute said abstracts (#8 & #9) and direct payment by the Treasurer. Trust & Agency Fund: \$ 59,052.19, (Checks #3808 thru #3825), General Fund: \$ 180,795.67, (Checks #12914 thru #12959)
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

REPORTS

Mayor Birrittieri wished to report that the first two "Live on the Lake" concerts, held on Thursday evenings at the Richard O. Hartley Park gazebo have been well attended. She said a food truck has been added to the Thursday evening concert schedule this year. Mayor Birrittieri indicated the remaining concert schedule includes the Steve Strickland Duo, July 28th and the Derek Davis Duo, August 4th. A "Kids Night" featuring Marty's Bubblegum Machine, (6-8 PM) and Geoff Bach Juggling Show, (8-9 PM) will close out the summer events Thursday, August 11th. Mayor Birrittieri said she is still committed to putting together a Lakewood Merchants Association.

Department of Public Works Supervisor Thomas R. Pilling reported that the D.P.W. will soon begin surface treating a select number of roads and that the rain garden at Richard O. Hartley Park/Beach was recently replanted with help from Marlinski Landscaping. Mr. Pilling wished to thank Mr. Pat Marlinski and his staff for donating the time it took to weed, trim and mulch the various flower beds throughout the village to the tune of about \$ 1,300.00.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to six thousand one hundred forty-seven reportable incidents year-to-date. Chief Bentley said because there have been some recent burglaries in the area, reminded residents to be sure to lock their cars and secure their homes. Other than that, the L-BPD has been very busy in keeping one step ahead of the criminal element.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to four hundred seventy-seven alarms year-to-date, fifty-two of which occurred in the past two weeks. Chief Hallberg indicated the fire

department has been very busy and was pleased to report the new 2016 Road Rescue Ultramedic ambulance has been placed into service and expects the new 2016 Sparten fire/rescue engine to be placed into service very shortly. Chief Hallberg then presented a check from Cummins Engine Plant in the amount of \$ 26,593.32 to Mayor Birrittieri. The check represents a reimbursement of the cost/donation of the diesel engine installed in the new 2016 Sparten fire/rescue engine.

JULY 25, 2016 (CONTINUED)

Village Treasurer Andrea J. Windoft reported the two encumbrances from the 2015-2016 budget year, namely the transactions for the new rubber membrane roof and rooftop air conditioning unit for the Anthony C. Caprino Municipal Building have been carried out. Mrs. Windoft then reported that she has filed the Village of Lakewood's annual audit document with the NYS Comptroller's Office. Speaking of audits, Treasurer Windoft would like to set-up a time and date when the Auditing Committee can conduct their annual audit of the Village of Lakewood financial records. In conclusion, Mrs. Windoft noted at the next regular meeting of the Board of Trustees she will submit a report detailing the expenses and revenues relating to this year's 4th of July Summerfest.

RECESS

Motion by Trustee Drago, seconded by Trustee Holcomb, to recess the regular meeting of the Board of Trustees so as to conduct a previously scheduled public hearing.

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

PUBLIC HEARING: 6:40 PM
SITE PLAN REVIEW
LUXURY DOG KENNEL & DOG DAY CARE/SPA
333 EAST FAIRMOUNT AVE.

Mr. Lee M. Lodestro, 2855 Girls Road, Jamestown, N.Y., has submitted an application for a Site Plan Review regarding his proposal to redevelop the existing 8,040 sq. ft. building and property at 333 East Fairmount Ave., (former Jim Boland's Goodyear), into a luxury dog kennel, dog day care & grooming spa.

In accordance with Section #25-89, B - 1, [Site Plan Review] of the Village of Lakewood Zoning Law, the alteration/conversion of existing structures having 5,000 sq. ft. or more of commercial floor space, shall require site plan review.

Mr. Lodestro appeared before Mayor Birrittieri and the Board of Trustees to answer any questions they may have and to state he and his wife are looking forward to getting started on this project. Mr. Lodestro said he is hopeful the luxury kennel and dog day care facility will be up and running by October 1st.

Zoning Board of Appeals Chairman William F. Chandler indicated the zoning board of appeals met back on July 14th to review a request for interpretation as submitted by Mr. Lodestro's legal counsel, relating to the existing signage on site at 333 East Fairmount Ave. In short, Mr. Chandler said the rules and regulations on signs as noted in Section #25-49, [Signs] of the Village of Lakewood zoning law were not amended as thought, making it

difficult to pursue the desired appearance along the commercial corridor. The zoning board of appeals, per Section #25-49, determined that the existing pylon sign structure on site was not going to be altered or enlarged by the developers, avoiding the need for a variance. Mr. Chandler asked the Board of Trustees to consider reviewing Section #25-49 of the zoning law and amend as necessary.

Mayor Birrittieri agreed with Mr. Chandler saying the current zoning law doesn't address certain signage issues and concerns and the Board of Trustees will certainly take a look at it when the time comes.

Trustee Barnes indicated it is her understanding that the implementation of the newly developed Comprehensive Plan will include the eventual review and re-write of the entire zoning law. She said with input from members of the zoning board of appeals, Section #25-49 of the zoning law will be amended accordingly in an effort to make it easier for those who are asked to enforce and interpret it.

With no one else to be heard Mayor Birrittieri closed the public hearing at 6:47 PM, and proceeded to reopen the regular meeting.

JULY 25, 2016 (CONTINUED)

RESOLUTION #134-2016 - APPROVE SITE PLAN REVIEW APPLICATION

Motion by Trustee Barnes, seconded by Trustee Drago, to approve the Site Plan Review application as submitted by Mr. Lee M. Lodestro, 2855 Girls Road, Jamestown, N.Y., whereby he will be allowed to redevelop the building and property at 333 East Fairmount Ave., (former Jim Boland's Goodyear), as a luxury dog kennel, dog day care & grooming boutique, [Happy Hounds Hotel & Day Spa], per the site plan and related information as submitted.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

REPORTS (CONTINUED)

Building Inspector Jeffrey A. Swanson indicated two weeks ago, inspectors from the NYS Department of State paid him a surprise visit. Mr. Swanson said they were satisfied with what they saw and that nothing triggered a potential audit.

Mr. Swanson said as far as Section #25-49, [Signs], of the Village of Lakewood zoning law goes, he believes the business owners should have some say in how restrictive the rules and regulations pertaining to signs become. Businesses do represent 40% of the tax base.

Mr. Swanson also reported that plans for the new Honda dealership at 207 East Fairmount Ave. have been submitted for preliminary review by the Planning Board.

Building Inspector Swanson said he intends to revamp the site plan review application that will include a checklist for the applicant/developer to follow. He said when it comes time to re-write the zoning law, consider changing the process how applications for fences are handled in general. Mr. Swanson said the powers that might be might also wish to consider an alternate zoning district for the residential area along East Terrace Ave.,

where lot after lot is a substandard building lot.

Planning Board Chairman Edward J. McCague agreed with Building Inspector Swanson that there is a need to "tighten-up" the application process for special use permits, site plan review and variances. In doing so the applicant will know exactly what they need to submit to allow the review process to move forward.

Mayor Birrittieri indicated that she recently talked with Mrs. Carol Darling regarding her property on Ohio Ave., and said she is continuing to comply with the Building Inspector's requests. Mrs. Darling also said there might be other individuals interested in her properties.

Mr. Swanson said a number of things need to be done yet before her property on Ohio Ave. complies with his directive.

COMMITTEE REPORTS

Trustee Holcomb reported that Chautauqua County is only empowered to collect or assess charge-backs on unpaid water bills, unpaid sewer user fees and unpaid garbage collection fees. Any other municipal related fees or charges must be taken to civil court and have a judgement lien put on the property in question.

Trustee Holcomb also said he received an inquiry about having the Village of Lakewood install an additional height/clearance sign with respect to the low railroad underpass on Shadyside Ave.

JULY 25, 2016 (CONTINUED)

D.P.W. Supervisor Thomas R. Pilling said he will make sure the existing signs on Shadyside Ave. are visible to motorists and look into installing additional signage.

Historian Susan G. Lane reported that the Lakewood History Museum will be participating in the Chautauqua County History Fair, to be held at the Chautauqua Suites in Mayville, N.Y., August 13th (10:00 am - 8:00 pm) and August 14th (10:00 am - 4:00 pm). Ms. Lane said there will be in excess of fifty exhibitors.

Ms. Lane also indicated that the Lakewood History Committee is also considering conducting a cemetery tour of the Bentley Cemetery during daylight hours on Halloween. Details to follow.

RESOLUTION #135-2016 - RATIFY RETAINER AGREEMENT WITH RICHARD E. STANTON, ESQ.

Motion by Trustee Holcomb, seconded by Trustee Drago, to ratify the Retainer Agreement between the Village of Lakewood and Richard E, Stanton, Esq., Buffalo, New York, to provide the Village of Lakewood legal services retroactive to June 27, 2016 thru July 27, 2016, with the condition that any remaining monies in the retainer fee be returned to the retainer funding for the matter of Up State Tower Co., LLC vs. the Village of Lakewood, et al. Mayor Birrittieri did point out that Mr. Stanton has been hired to represent

the Village of Lakewood in the matter of Up State Tower Co., LLC vs. the Village of Lakewood, et al. Trustee Barnes wished to go on record stating she would not have approved Mr. Stanton as the acting Village Attorney for a month but would have approved hiring him on a case by case basis as needed. Adopted: 4 ayes, (Birrittieri, Di Salvo, Drago, Holcomb), 1 nay, (Barnes)

COMPREHENSIVE PLAN PRESENTATION

Comprehensive Plan Steering Committee Chairman Edward J. "Ted" McCague indicated he is pleased to be able to present to Mayor Birrittieri and members of the Board of Trustees a Comprehensive Plan as prepared by the Peter J. Smith & Company, Buffalo, New York. Mr. McCague said it has been forty-five years since the last comprehensive plan had been prepared for the Village of Lakewood. Mr. McCague said it was twenty-four months ago that he and fellow committee member Craig Seger approached Mayor Wordelmann with the idea to head-up an ad hoc committee for the sole purpose of getting a comprehensive plan in place. He said the pack of information presented includes a cover letter, a comprehensive plan timeline, a copy of the full survey report and the comprehensive plan itself, dated May 2016. Mr. McCague pointed out that four hundred twenty-two individuals completed the community survey and the responses were evenly spread across the village neighborhoods. Gathering information for the comprehensive plan included meeting with focus groups and conducting public forums, adding public opinion is what the plan is based on.

Mr. McCague said generally comprehensive plans are made up of broad concepts that will serve a community ten to twenty years into the future. He then asked for the Mayor and Board of Trustees to take the time they need to review the plan and for them to feel free to ask questions or make comments. Mr. McCague said the next step in the process is the adoption phase, which could take three to four months.

Mr. McCague then thanked members of the steering committee for their dedication and commitment in helping to deliver a comprehensive plan for their community.

Trustee Drago and other members of the Board of Trustees thanked Mr. McCague for all his time and energy he has put into the preparation and development of this comprehensive plan.

JULY 25, 2016 (CONTINUED)

RESOLUTION #136-2016 - SET VILLAGE ATTORNEY APPOINTMENT GUIDELINES

Mayor Birrittieri indicated the following resolution was introduced by Trustee Drago to her and members of the Board of Trustees at this evening's work session.

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the Village Attorney for the Village of Lakewood must reside in Chautauqua County and within a twenty-five mile radius of the Lakewood Village Hall.

Adopted: 3 ayes, (Barnes, Drago, Holcomb), 2 nays (Birrittieri, Di Salvo)

Mayor Birrittieri said after searching and finding a good experienced

Attorney who happens to practice law in Erie County finds these guidelines arbitrary. She said there aren't that many local attorneys that are well versed in municipal law that have the time this position requires. With the twenty-five mile radius as a condition for hiring puts an overreaching limit on who could be appointed as Village Attorney.

RESOLUTION #137-2016 - APPOINT EDWARD P. "TAD" WRIGHT, ESQ. AS VILLAGE ATTORNEY

Motion by Trustee Holcomb, seconded by Trustee Drago, for Mayor Birrittieri, as the Village of Lakewood's Chief Executive Officer, to appoint Edward P. "Tad" Wright, Esq., as the Village of Lakewood Attorney, as of August 1, 2016, at a prorated annual salary of \$15,000.00.
Adopted: 3 ayes, (Barnes, Drago, Holcomb), 2 nays (Birrittieri, Di Salvo)

Mayor Birrittieri said she is appointing Mr. Wright as the Village Attorney under some duress, because she previously opted to appoint an Attorney residing outside Chautauqua County, whom she thought would do a fantastic job for the Village of Lakewood and still believes that. She is appointing Mr. Wright at the request of the majority of the Board of Trustees, however would not approved this appointment otherwise.

RESOLUTION #138-2016 - SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Barnes, seconded by Trustee Drago, to set 6:45 PM, Monday, August 8, 2016, as the time and date for the Board of Trustees to conduct a public hearing on a Special Use Permit application as submitted by Ms. Michele L. Richards, 10 Norwood Ave., Jamestown, N.Y., regarding her proposal to redevelop the property and building at 180 East Fairmount Ave., as a motel/inn.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

RESOLUTION #139-2016 - SET BOARD OF TRUSTEES MEETING AGENDA POLICIES

Mayor Birrittieri indicated the following resolution was introduced by Trustee Drago to her and members of the Board of Trustees at this evening's work session.

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the Mayor or any member of the Board of Trustees may add items to a meeting agenda at any time prior to a meeting, during a work session and/or during a meeting.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

Motion by Trustee Barnes, seconded by Trustee Drago, and unanimously carried, the Board adjourned at
7:30 PM.

Joseph M. Johnson
Village Clerk

