

JUNE 26,, 2017

The twelfth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, June 26, 2017, 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, Susan F. Drago, Randall G. Holcomb and Edward J. McCague. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Fire Chief Kurt W. Hallberg and Building Inspector Jeffrey A. Swanson. Absent was Department of Public Works Supervisor Thomas R. Pilling.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee McCague, to approve the minutes of the last regular meeting of the Board of Trustees, held June 12, 2017.
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Holcomb, that the claims as audited by the Auditing Committee of the abstract dated June 26, 2017, be approved and that the Clerk shall execute said abstracts (#3 & #4) and direct payment by the Treasurer. Trust & Agency Fund: \$ 59,973.36, (Checks #4129 thru #4140), General Fund: \$ 312,985.19, (Checks #13867 thru #13913)
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

REPORTS

Mayor Birrittieri indicated that Lakewood's biggest event of the year, (annual 4th of July Summerfest) is just a week away and the committee is looking for more volunteers to help out. Mayor Birrittieri mentioned that during the work session, Ms. Talitha Mascelli, a representative of Bocar Family Holdings, owners of the Save-A-Lot Plaza, 165-169 West Fairmount Ave., appeared before her and the Board of Trustees to respectfully ask that the Village of Lakewood consider removing the five (5) dead trees in front of the plaza along Rt. 394. Ms. Mascelli indicated a local landscaping firm will be submitting a landscaping proposal for the area between the parking lot and the curb line, to the Village of Lakewood for review and comment.

Mayor Birrittieri indicated although D.P.W. Supervisor Thomas R. Pilling is not in attendance this evening, he did provide a written report highlighting several street projects. His report noted that the drainage portion of the Vista Way project is almost complete. Also, certain sections of sidewalk and driveway aprons have been removed and will be formed and poured later in the week. The DPW will also complete about two road miles of oil and stone later in July. The white picket fence along the public bathing beach's break wall will be replaced as soon as possible and the Streets and Parks crews will be getting everything set-up later this week for the upcoming 4th of July Summerfest.

RESOLUTION #102-2017 - AUTHORIZE REQUEST FOR PROPOSALS

Motion by Trustee Barnes, seconded by Trustee McCague, authorizing DPW

Supervisor Thomas R. Pilling to seek Request for Proposals (RFP's) for the construction/replacement of sidewalks, driveway aprons, curbs and gutters at various locations within the Village of Lakewood when the DPW crew is occupied with other projects.

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

JUNE 26, 2017 (CONTINUED)

REPORTS (CONTINUED)

Police Chief John R. Bentley reported the Lakewood-Busti Police Department has handled four thousand nine hundred forty-two reportable incidents year-to-date, four hundred fifty-two of which occurred within the past two weeks. Chief Bentley indicated he recently sent two officers to a Traffic Tactic School and three officers recently attended an Outlaw Motorcycle Gang Seminar conducted by the Pennsylvania State Police. Chief Bentley concluded his report by saying the L-BPD recently collected its share of an asset forfeiture payout to the tune of \$ 5,850.00.

RECESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, to recess the regular meeting so as to conduct previously scheduled public hearings.

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

PUBLIC HEARING - 6:40 PM
SPECIAL USE PERMIT APPLICATION - 6 FT. FENCE
3 DELAWARE AVE.

Mr. Kurt W. Hallberg, 3 Delaware Ave., has submitted an application for a Special Use Permit regarding his proposal to erect sixty-four (64) lineal feet of 6 ft. high vinyl fence along a section of his easterly boundary line. The fence will serve as a buffer/barrier between his property and the rental property at 23 Gifford Ave. In accordance with Section #25-50, [Fences, Walls], of the Village of Lakewood Zoning Law, any fence above four (4) feet in height requires a special use permit.

Mayor Birrittieri, in referencing the minutes of the last Planning Board meeting, it was their recommendation that the Board of Trustees approve Mr. Hallberg's application with the condition that the proposed fence meet the required set-back of two (2) feet.

RESOLUTION #103-2017 - APPROVE SPECIAL USE PERMIT APPLICATION - 6 FT. FENCE

Motion by Trustee Holcomb, seconded by Trustee Drago, to approve/grant an application for a Special Use Permit as submitted by Mr. Kurt W. Hallberg, 3 Delaware Ave., whereby he will be allowed to erect sixty-four (64) lineal feet of 6 ft. high tan vinyl fence along a portion of his easterly boundary line, in accordance with Section #25-50, [Fences, Walls], of the Village of Lakewood Zoning Law.

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

PUBLIC HEARING - 6:45 PM
TEMPORARY RETAIL OUTLET
165 WEST FAIRMOUNT AVE.

Mr. Gordon S. Young, III, Warren, PA, has submitted an application for a Special Use Permit regarding his proposal to conduct a Temporary Retail Outlet at 165 West Fairmount Ave., (eastern end of the Save-A-Lot Plaza property), beyond the maximum timeframe for temporary retail outlet permits as set forth in Section #25-40, [Temporary Retail Outlet], of the Village of Lakewood Zoning Law.

Building Inspector Jeff Swanson indicated Mr. Young was not given the correct information by a local realtor prior to him moving the sheds on site, adding he has worked with the Village of Lakewood since being informed he needed a special use permit.

JUNE 26, 2017 (CONTINUED)

Mayor Birrittieri indicated at the last meeting of the Planning Board, it was recommended that this application be approved with some specific conditions, namely he will be allowed to keep eight buildings on site until the end of his current lease through November 10, 2017 and as the structures are sold, any and all replacements are to meet the required 20 ft. set back from the southerly right-of-way line of Rt. 394, (West Fairmount Ave.)

Trustee Barnes commended members of the Planning Board for working with the applicant and coming to a nice compromise regarding his commercial endeavor. A job well done on all sides.

RESOLUTION #104-2017 - APPROVE SPECIAL USE PERMIT APPLICATION - RETAIL OUTLET

Motion by Trustee Holcomb, seconded by Trustee Drago, to approve/grant an application for a Special Use Permit, whereby Mr. Gordon S. Young, III, Warren, PA, will be allowed to keep eight (8) buildings/structures on the site through November 10, 2017 and as they are sold, any replacement buildings/structures situated on the site are to meet the required 20 ft. front yard set-back from the southerly right-of-way line of NYS Rt. 394, (West Fairmount Ave.). NOTE: This Special Use Permit will be valid on a continual basis unless Mr. Gordon's business were to cease to operate for a year.

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

REPORTS (CONTINUED)

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to four hundred three alarms year-to-date and recently assisted the Ashville Fire Department with a good stop on a structure fire on Randolph Road, followed by a structure fire at the same residence the next evening. Unfortunately the house was a total loss and it was obvious the cause of the fire was very suspicious. Chief Hallberg also indicated that the LFD was on standby with the ladder truck and heavy rescue truck for the Jamestown Fire Department during the recent structure fire at the Arcade Building.

Treasurer Andrea J. Windoft reported that six additional dog waste stations

have been purchased and located throughout the community. She also reported that 66% of the 2017-2018 Village Taxes have been collected and that donations for the 4th of July Summerfest are coming in, but at a slower rate than last year. Mrs. Windoft said as the previous fiscal year was closed-out, it became necessary to reduce the fund balance in order to pay for some extraordinary expenses.

Trustee McCague thanked Mrs. Windoft for ordering the new pet waste stations and also thanked the DPW crew for installing them.

Building Inspector/Code Enforcement Officer Jeff Swanson reported he has been in conversation with officials from the Chautauqua County Land Bank about the demolition of the unsafe structure at 208 Elmcrest Ave. Mr. Swanson said there is a feral cat problem associated with this property and recently learned it is a county-wide problem.

COMMITTEE REPORTS

Trustee McCague indicated the Planning & Zoning Committee has taken a hiatus during the summer months, recognizing the fact how busy Mr. Swanson is during this time. Trustee McCague also noted the Implementation Committee continues to meet weekly concentrating on the redesign of the Village of Lakewood's web site.

JUNE 26, 2017 (CONTINUED)

Tree Committee Chairman Richard Rose wished to give folks a brief update on the tree situation on Chautauqua Ave. The dead and dying trees along certain sections of Chautauqua Ave. will be removed eventually and backfilled with mulch. With a generous donation from the Sheldon Foundation, the Tree Committee is hoping to replace eight of the stricken trees later this fall.

ANYONE TO BE HEARD

Mrs. Josie Caprino, 25 Cherry Lane, appeared before Mayor Birrittieri and the Board of Trustees, to reiterate her concerns about the donations solicited for the VIP Area of the 4th of July Summerfest event and the fact that gifts were being offered to those who donated money at a certain level.

Mayor Birrittieri indicated that those willing to be sponsors of the VIP Area will receive refreshments, meet and greet professional golfers from the web.com tour and receive instructions on a golf simulator. The money raised does help the Village of Lakewood defray the cost of the fireworks display.

Mrs. Caprino asked when did the Village of Lakewood ever have to provide beer and wine at an event such as this and does the Village of Lakewood have a license to do so. Someone has to have a license to serve beer and wine, because someone has to be responsible for any potential liability that may arise through this Village of Lakewood sponsored event.

Trustee Holcomb indicated Mrs. Caprino brings up a valid concern.

Mayor Birrittieri indicated the VIP Area is a private party held on private

property for those who opted to sponsor this event, however we will look into Mrs. Caprino's question about the proper licensing.

Village Attorney LaMancuso indicated if a license is required to conduct the VIP Area as proposed, then the Village of Lakewood will need to see how to go about acquiring a license.

Mr. A. Jackson Smith, 15 Sunset Ave., interjected saying to Mrs. Caprino, perhaps your late husband never went out of his way to make this annual event better. You are just here tonight to cause trouble.

Mr. William F. Chandler, 207 West Summit Street, indicated from his experience, it is possible for someone holding a valid liquor license to step-in as the licensee for an event such as this.

Ms. Myra V. Blasius, 19 Owana Way, agreed with Mr. Chandler's suggestion that there are ways for the VIP Area as proposed, to be conducted legally.

Trustee Barnes asked if the Village of Lakewood would need extra liability insurance coverage.

Ms. Laurie Shults, 6 Alta Way, indicated to Mayor Birrittieri and members of the Board of Trustees that she and Mr. Salvatore Rachuna weren't able to attend the last regular board meeting at which a vote on the continued use of the fire siren was held.

Although she has mentioned it before, Ms. Shults wanted to go on record saying she has the utmost respect for all first responders and is hopeful there is no ill will towards us for wanting to talk about a concern of ours and others. Ms. Shults said we have tried to get our facts together when presenting this issue before the Board of Trustees, adding we are not asking for the siren to be banned, rather arrive at some compromise when it is activated. Ms. Shults then provided members of the Board of Trustees with a proposal listing a few suggestions regarding use of the siren for them to consider.

Ms. Shults said in the wake of bringing this issue before the Board of Trustees she and her business have been threatened on social media.

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Mr. Salvatore Rachuna, 33 Sunset Ave., noted that at the last regular meeting Fire Chief Hallberg said that the Lakewood Fire Department does not boycott any local businesses when in fact one of its members, Andrew Schilling, went on social media stating he would boycott the Fitness Bunker until the end of time.

Fire Chief Hallberg indicated that the Lakewood Fire Department and the Lakewood Fire Company, Inc., have not boycotted any local businesses nor have they threatened anyone. If that is how Mr. Schilling feels, that is between he and the owners of the Fitness Bunker.

Mr. Rachuna said all he and Ms. Shults are asking for is some compromise when it comes to activating the siren. Mr. Rachuna said he can't understand how other fire districts can have a siren curfew and the Lakewood Fire Department can not.

Fire Chief Hallberg reiterated that the Insurance Services Office (ISO) does not recognize the use of cell phones as a means of communication and dispatch, when a volunteer fire department, such as the LFD, responds to over seven hundred fifty alarms per year. Chief Hallberg said if the LFD does not live up to ISO requirements, it could impact its classification thus significantly increasing liability insurance rates for homeowners and business owners.

Mr. Rachuna said upon doing some research, he learned that only structure fires count for ISO ratings and wondered if it was necessary for the siren to be activated for each and every EMS alarm. He also questioned whether first responders living outside the fire district were being alerted of an alarm via the fire siren. He then asked why the resolution on the siren wasn't on the agenda for the last meeting.

Fire Chief Hallberg said he was basing his answer about the ISO ratings on the information he received via a memo from the Director of the Chautauqua County Office of Emergency Services. Chief Hallberg said everyone loves the local fire department, but in many cases only when it is on their terms. In other words, I love the fire department, but don't inconvenience me.

Ms. Shults said we are here asking for some compromise regarding use of the siren and a better quality of life for area residents.

Trustee Barnes said it is important to use the siren as a tool to notify and dispatch our first responders. Ms. Barnes indicated to Ms. Shults she did some research on the matter and distributed the information at the last regular meeting of the Board of Trustees.

Dr. Jonathan Blasius, 19 Owana Way, indicated the siren does not wake him up, plus his daughter is a volunteer for the LFD. It is his opinion that Fire Chief Hallberg has done adequate research on the questions raised about the continued use of the fire siren. He contacted Mr. Julius Leone, Director of the Chautauqua County Office of Emergency Services, got answers to his questions and reported those findings.

Mayor Birrittieri said those who spearheaded the petition and others, evidenced by the number of signatures on the petition, would like to see some change regarding an issue that is likely to come up again. Mayor Birrittieri indicated she was unaware prior to the last meeting that a resolution about the siren was going to be introduced. Mayor Birrittieri said she is concerned enough about this particular topic as more information surfaces it could be discussed again in the future.

Ms. Shults said she would like to be able to believe in the Village of Lakewood and its Board of Trustees. It was very unfortunate that the Board of Trustees would introduce and vote on a motion about the siren without her and Mr. Rachuna in attendance.

JUNE 26, 2017 (CONTINUED)

Ms. Shults said she and Mr. Rachuna have been misinformed, misled and in the end, very disappointed with the outcome. Ms. Shults indicated that she doesn't know who to trust anymore. Mr. Rachuna's six year old son is only with his father two nights per week and is unable to sleep when the fire

siren is activated. Because of that, Mr. Rachuna has been forced to move out of the Village of Lakewood.

Mr. Rachuna said although he loves Lakewood, he can not live here anymore and take a chance on losing his son. Mr. Rachuna said it is very frustrating to have to leave a community with which he has so many ties.

Trustee Barnes said the Board of Trustees are not for or against individuals, however when resolutions relating to public safety are considered and adopted, it is for the community as a whole.

Mayor Birrittieri said she believes there are options regarding the siren that still can be pursued and that there should be room for compromise. Mayor Birrittieri said she understands the emotions and anxiety displayed and expressed by Ms. Shults and Mr. Rachuna.

Mrs. Caprino said she has been a long time village resident and the gentleman in the back roll had the nerve to publically embarrass her earlier this evening, by accusing her of trying to make trouble. Mrs. Caprino said as a resident she has the right to ask a question in trying to make the Village of Lakewood safe from another law suit.

Mr. Michael Looker, 15 Owana Way, Townhouse #7, indicated to Mayor Birrittieri he is here this evening to voice his concern about the fence that was recently erected along the common boundary line between his property and 19 Owana Way, the home of Dr. & Mrs. Jonathan Blasius. There had been an older stockade type fence along the common property line that over the years became dilapidated and broken down. At the end of May 2017, a new similar style fence was erected, however the so called "good side" faced 19 Owana Way versus the other way around. For one reason or another the fence wasn't erected properly making for a shoddy and unprofessional installation. Mr. Looker said according to the local zoning law the "good side" of any new fence must face the abutting property and that it should meet the required set-back of 2 ft. Mr. Looker said the fence as is, either needs to be properly repaired or replaced.

Dr. Jonathan Blasius, 19 Owana Way, indicated back in 1998 when he and his family moved in, there was a 6 ft. wooden stockade fence in place, running from the driveway along both alleyways and between 19 Owana Way and the Packard Townhouses property. The sections of fence that were along the alleyways was replaced in 1991 with a 6 ft. white vinyl fence by the Warren Fence Company. Mr. Looker was correct in saying the fence between the properties was in disrepair. Per the Village Code, fences erected prior to any revisions, needed only to comply with two requirements, one regulation had to do with fencing between zoning district boundaries and the other was the fence needed to be properly maintained both structurally and visually.

Dr. Blasius said he contacted the Warren Fence Company earlier this year to prepare an estimate to repair the stockade fence running between the two properties. He noted that the fence as repaired is made up of some posts and boards from the old fence. While the fence was being repaired, Mr. Looker voiced some concerns via e-mails about the workmanship of the fence contractors, however when some his concerns turned into threats, that's when we contacted local law enforcement. Dr. Blasius said the question is, is this considered a brand new fence or is it a matter of replacing an old fence. Both fences are 6 ft. stockade type fences, in the same location along the common boundary line. Per the law dictionary and the IRS, returning something to an equal value is considered a repair and maintenance versus a

replacement.

Mrs. Myra V. Blasius, 19 Owana Way, said she concurs with what her husband has stated and therefore the fence is clearly "grandfathered" in. We were trying to do the right thing for the neighborhood.

JUNE 26, 2017 (CONTINUED)

Mr. Looker indicated that he wanted to make it perfectly clear that there aren't any pieces of the old fence in place and far as he is concerned it is a brand new fence. To say the new fence is "grandfathered" is not a question. He then said the section of fence directly behind his townhouse looks terrible.

Mayor Birritieri indicated that this matter should be reviewed by the Zoning Board of Appeals and she can appreciate a difference of opinion regarding the replacement fence.

Trustee Drago indicated to Dr. & Mrs. Blasius that the local zoning law clearly states that the "good side" of the fence must face the abutting property.

Dr. Blasius said that is true for a new fence, but this is a replacement fence.

Building Inspector/Code Enforcement Officer Jeff Swanson indicated that he put together packs of information regarding this fence project and distributed them to Mayor Birrittieri, members of the Board of Trustees and the Village Attorney for their review.

Trustee Barnes asked Dr. Blasius, what percentage of the fence was replaced.

Dr. Blasius indicated a majority of the fence was replaced.

Mr. Swanson said he had a conversation with Dr. Blasius and indicated to him that replacing some boards or even a couple of sections of fence would be classified as a repair, however he asked Village Attorney LaMancuso for his opinion on the matter and what actions are necessary at this point.

Village Attorney LaMancuso indicated there is some ambiguity in the language used in the local zoning law and the Building Inspector is restricted on how it is enforced by what is stated in it. Nothing is going to be decided on the fence matter this evening and that the Zoning Board of Appeals has the jurisdiction to review zoning related issues when an interpretation is requested.

Mr. LaMancuso said Mr. Looker has indicated a violation of the local zoning law has occurred however the local zoning law isn't clear enough to determine if a violation has occurred or not. He agreed there are arguments on both sides and that the time is ripe for both parties to come to some resolution.

Mr. Looker said that isn't going to happen. They are not going to do anything, so now what.

Mr. LaMancuso said if the Building Inspector feels he isn't equipped to make

a decision he may request an interpretation from the Zoning Board of Appeals on the matter.

Mr. Swanson said because it is such a gray area, as suggested by Village Attorney, he will move forward and request an interpretation from the Zoning Board of Appeals.

RESOLUTION #105-2017 - APPROVE LIBRARY AGREEMENT

Motion by Trustee Drago, seconded by Trustee McCague, for the Board of Trustees to approve the Contract/Agreement between the Village of Lakewood and the Lakewood Memorial Library and to authorize Mayor Birrittieri to execute same.

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

JUNE 26, 2017 (CONTINUED)

RESOLUTION #106-2017 - AUTHORIZE ACCOUNT OVERVIEW

Motion by Trustee McCague, seconded by Trustee Holcomb, authorizing Village Treasurer Andrea J. Windoft to oversee the revenues and expenses for the 2017 4th of July Summerfest. All expenses shall be paid from the General Fund, (Account A7550.40), and all revenues received shall be deposited in the Trust & Agency Account T1093.40. Invoices paid from donations/sponsorships shall be process as any other claim and be subject to approval by the Auditing Committee. Any transfers will be made back to the General Fund from Account T1093.40.

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

RESOLUTION #107-2017 - APPROVE RENEWAL OF A BOND ANTICIPATION NOTE

Motion by Trustee Holcomb, seconded by Trustee Drago, authorizing Village Treasurer Andrea J. Windoft to renew the Bond Anticipation Note for the John Deere Front End Loader and the DPW garage addition in the amount of \$ 44,000.00, at an interest rate of 3.82%

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

RESOLUTION #108-2017 - APPROVE RENEWAL OF A BOND ANTICIPATION NOTE

Motion by Trustee Barnes, seconded by Trustee McCague, authorizing Village Treasurer Andrea J. Windoft to renew the Bond Anticipation Note for the 2016 Road Rescue Ambulance and the 2016 International Dump Truck in the amount of \$ 209,080.00, at an interest rate of 3.82%.

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

RESOLUTION #109-2017 - DESIGNATE THE VILLAGE OF LAKEWOOD AS LEAD AGENCY

Motion by Trustee McCague, seconded by Trustee Barnes, for the Board of Trustees, in accordance with the State Environmental Quality Review (SEQR)

Act, to designate the Village of Lakewood as the Lead Agency as it relates to the Environmental Review and Assessment of the Five Star Urgent Care & Aspen Dental project being proposed for 386-390 East Fairmount Ave.
Adopted: \$ ayes, no nays (Barnes, Drago, Holcomb, McCague)

RESOLUTION #110-2017 - PLEDGE & PROVIDE LANDFILL CREDITS

Motion by Trustee Holcomb, seconded by Trustee McCague, that the Village of Lakewood hereby agrees to pledge and provide its Chautauqua County Landfill Credits to the Jamestown Urban Renewal Agency, per a contract with the Chautauqua County Land Bank Corporation, in connection with a proposal to demolish the structurally unsound and unsafe single-family residence at 208 Elmcrest Ave., Lakewood, New York.
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

RECESS

Motion by Trustee Barnes, seconded by Trustee McCague, to recess the regular meeting of the Board of Trustees at 8:30 PM, so as to enter into executive session to discuss ongoing litigation and labor contract negotiations.
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

JUNE 26, 2017 (CONTINUED)

EXECUTIVE SESSION

Present at the executive session were Mayor Cara Birrittieri, Trustees Edward J. McCague, Trustee Susan F. Drago, Trustee Ellen E. Barnes, Trustee Randall G. Holcomb, Village Attorney John I. LaMancuso and Village Clerk Joseph M. Johnson. Motion by Trustee Holcomb, seconded by Trustee Drago, to adjourn the executive session at 8:55 PM.

Motion by Trustee McCague, seconded by Trustee Barnes, and unanimously carried the Board adjourned at 8:56 PM.

Joseph M. Johnson
Village Clerk