

OCTOBER 27, 2014

The fourteenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, October 27, 2014 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, 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, 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 Drago, seconded by Trustee Di Salvo, to approve the minutes of the last regular meeting of the Board of Trustees, held October 14, 2014. Adopted: 4 ayes, no nays (Denn, 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 October 27, 2014 be approved and that the Clerk shall execute said abstracts, (#21 & #22) and direct payment by the Treasurer. Trust & Agency Fund: \$ 51,511.51, (Checks #3139 thru #3150), General Fund: \$ 56,608.28, (Checks #11147 thru #11177) Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the D.P.W. crew finished its brush pick-up for the year and started its annual leaf pick-up earlier today. Mr. Pilling also reported that a good portion of the wetland mitigation project adjacent to the new baseball field under construction off Linwood Ave. has been completed. With the aid of equipment from the Busti Highway Department a pond has been established and the area around it has been graded. Mr. Pilling said with the help from Cummins Engine Plant employees an assortment of plants will be set in the ground around the pond sometime before winter.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to ten thousand two hundred fifty-six reportable incidents year-to-date, which is one thousand five hundred fifty-seven more incidents than last year at this time. Chief Bentley said in the past two weeks officers have responded to four hundred three reportable incidents and have assisted other law enforcement agencies twenty-five times. Chief Bentley indicated he might be losing one his part-time officers who has interviewed for a full-time position with the City of Olean police department.

Trustee Di Salvo asked Chief Bentley how many of the officers are part time.

Chief Bentley indicated that currently there are ten part-time officers on staff.

Trustee Di Salvo said there needs to be some discussion on the question concerning the number of part-time positions versus the number of full-time

positions and how that number impacts departmental costs.

Trustee Denn said adding more full-time officers would result in an increase in pension costs.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to six hundred fifty-seven alarms year-to-date. In the past two weeks there was one structure fire, which could have been a lot worse if the owner hadn't returned home. The cause of that fire was due to an improperly discarded cigarette.

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Trustee Jablonski asked Chief Hallberg if the fire department has a capital plan and if so, could he get a copy for reference.

Chief Hallberg indicated to Trustee Jablonski the fire company has a fifteen year capital plan which details the timetable for equipment replacement.

Mayor Wordelmann reminded the Board of Trustees of the fire department's annual Halloween costume party and parade which begins at 5:30 PM, Friday, October 31st.

Building Inspector Jeffrey A. Swanson reported that Panera Bread and Five Guys Burgers are hoping to open the first week in December. Mr. Swanson also indicated that he has cited two individuals regarding "junk" vehicles and has talked with the leasing company which is marketing the former Wilson Farms convenient store regarding the old pylon sign standard and the fence which is in disrepair.

Building Inspector Swanson asked Mayor Wordelmann for some clarification as to how to address the new electronic sign at the Lakewood Memorial Library.

Mayor Wordelmann said, if nothing else the sign should be on a timer so it isn't flashing all night long.

Trustee Di Salvo indicated that would be a good compromise however he has a question about the commercial electronic variable message (CEVM) signs in general. He realizes that CEVM signs are prohibited in the revised zoning law as proposed, but isn't there language in the current zoning law prohibiting signs that are illuminated by flashing, intermittent or moving lights. Trustee Di Salvo suggested to Village Attorney Wright if that is the case, the permit for the new library sign should not have been issued.

Village Attorney Wright said without a copy of the current zoning law in front of him to reference, he recalls Trustee Jablonski reciting the section on sign illumination, and if that particular section is applicable to the new library sign then the permit should not have been issued.

Trustee Di Salvo said the library should not be faulted if a sign permit was issued to them, but hopes the Village of Lakewood can stay on top of things when it comes to issuing permits for signs. A lot of time and energy has been spent to revise and update the Village of Lakewood's zoning law but if it isn't properly enforced what good is it. Trustee Di Salvo said he agrees with the compromise as suggested by Mayor Wordelmann, that the new library sign be on a timer.

COMMITTEE REPORTS

Trustee Di Salvo reported that the Planning Committee is in the process of applying for a Community Transformation Grant. Ms. Lisa Schmidtfrerick-Miller in the process of compiling a final report on the survey results that were received from area residents dealing with access to sidewalks for pedestrians and bike paths. Trustee Di Salvo said he hopes this report can be tied into the Village of Lakewood's comprehensive plan.

Trustee Di Salvo also indicated that with assistance from Ms. Schmidtfrerick-Miller the Village of Lakewood is in the process of developing a final draft of a Complete Streets Ordinance and would like for it to be included in the revised zoning law.

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ANYONE TO BE HEARD

Mr. Jeremy Hirliman, 1122 Forest Ave., Jamestown, N.Y., manager of Farmer Brown's Beef & More Food Concession, 274 East Fairmount Ave., appeared before Mayor Wordelmann and the Board of Trustees, saying it has been brought to his attention that some members of the Board of Trustees have had some questions as to the scope of the business operation that has been allowed under Zoning Permit #781, which is valid for the period of 06/01/14 - 06/01/15. Mr. Hirliman said the zoning permit was issued for a mobile food truck but apparently some questions have been raised as to what the definition of a mobile food truck is. Mr. Hirliman said he would like to know up front if there is going to be an issue when starting up the business again next spring. Mr. Hirliman said he and Mr. Dennis Brown have made a very serious investment into this business venture and contracts for billboard advertising next year need to signed before January 1, 2015. Mr. Hirliman went on to say he and Mr. Brown are locked into a long time lease contract with the property owner, some catering dates are already in place for 2015 and they plan on purchasing up to \$ 50,000.00 worth of additional equipment for the food trailer. Mr. Hirilman said the community's response to the food concession has been overwhelmingly positive and each and every inspection of the facility by the Chautauqua County Health Department have passed with flying colors. Mr. Hirliman said the property, which has been vacant for about fifteen years now has a seasonal tenant and that he and Mr. Brown have received congratulatory letters on the success of the business from State Senator Cathy Young and State Assemblyman Andrew Goodell.

Mayor Wordelmann indicated to Mr. Hirliman that some members of the Board of Trustees have questioned some aspects of the business, such as the numerous vehicles on the site and the signage utilized. Mayor Wordelmann said he doesn't have a problem with the business however there is the question of how to classify the business when it comes to enforcement of the local zoning law. Is the use enforced as a mobile food truck or as a permanent albeit seasonal restaurant?

Mr. Hirliman said all vehicles on the site are registered with license plates.

Mayor Wordelmann indicated the zoning permit application submitted by Mr. Brown lacked details.

Trustee Di Salvo said a food truck/zoning permit should never have been issued because the Village of Lakewood has no rules and regulations pertaining to mobile food trucks in its current zoning law. The Village of Lakewood is however proposing an amendment to the current zoning law which deals with food trucks. Trustee Di Salvo considers Farmer Brown's Food Concession as a temporary retail outlet, which according to the current zoning law, can only operate a maximum of two weeks per calendar year. Trustee Di Salvo said the intention of the language being proposed in the revised zoning law is that a mobile food truck is just that, a truck serving food that moves from place to place in accordance with the rules and regulations. Trustee Di Salvo said it is not fair for any business to have to guess what is required of them from a zoning point of view. Trustee Di Salvo said the Board of Trustees need to clarify this particular use before it surfaces again.

Trustee Drago said the Board of Trustees need to be careful so as not to "zone out" small businesses.

Trustee Di Salvo said that is not what he is suggesting rather businesses need to follow the rules and regulations for that particular enterprise as set forth in the local zoning law.

Trustee Jablonski indicated that what Mr. Hirliman and Mr. Brown operate is essentially a restaurant, unfortunately the current zoning law with respect to site plan review for projects under 5,000 sq. ft. is deficient. Trustee Jablonski suggested that the zoning law be amended to say that any commercial project must be subject to site plan review. Trustee Jablonski said what he would like to see from Mr. Hirliman is a detailed site plan showing exactly what is going to be on the site and where it is going to be located. It then would be submitted to the Building Inspector for review to make sure it complies with the zoning law.

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Mayor Wordelmann said unfortunately the only thing depicted on the original site plan submitted by Mr. Brown was a rectangle located ten feet from the property's westerly boundary line. Mayor Wordelmann indicated to Mr. Hirliman that he and the Board of Trustees intend to work with him regarding his food concession business, however it may be determined that a few changes be made prior to reopening next spring.

Trustee Di Salvo indicated to Mr. Hirliman that he will likely be asked for a lot more information next time he files an application for a permit to operate his food concession.

Trustee Drago indicated that she has heard nothing but positive feed back from friends and neighbors regarding Mr. Hirliman's business. As a lake community people like the option of sitting outside and enjoying a bite to eat. She said the business offers people a different dining experience and would hate to see a small business face problems because of questions in the interpretation the local zoning law.

Building Inspector Swanson indicated that Mr. Brown and Mr. Hirliman have

been very cooperative when it came to complying with various regulations.

In closing, Mayor Wordelmann thanked Mr. Hirliman and Mr. Brown for investing in the community.

Chautauqua County Legislator P.J. Wendel appeared before Mayor Wordelmann and the Board of Trustees to make them aware of a few things going on at the county level. Legislator Wendel indicated that there are some questions about the county budget in particular the increase in the Emergency Medical Services budget. Back in 2006 there were 6,700 EMS calls, in 2013 there were 12,600 and there are fifty fewer Emergency Medical Technicians (EMT) available. Legislator Wendel also wanted to make it clear that Chautauqua County is not buying the Con-Ag building in Fredonia, N.Y. He noted Chautauqua County is buying the bonds and issuing them to the Chautauqua County Industrial Development Agency, which is buying the building.

Legislator Wendel indicated County Executive Vince Horrigan is looking to privatize more services now being provided by Chautauqua County while clinging to a bare bones budget. Mr. Wendel also said legislators are considering raising the sales tax from 7.5% to 8%, which would generate an additional 6.3 million dollars annually. The idea is to have consumers, in particular tourist dollars, to pick-up some of the tax burden as opposed to having this burden dropped in the county taxpayers lap.

Trustee Denn asked Legislator Wendel what kind of savings are going to be realized with the sale of the Chautauqua County Nursing Home.

Legislator Wendel said the money lost in running the nursing home will no longer be part of the equation however 51% of the total number of disability claims countywide are attributed to employees of the nursing home, the cost of which will linger for years to come. Mr. Wendel said Chautauqua County is also saving the money it previously paid out for employees' New York State pension benefits. Mr. Wendel added however a few positions at the facility will be retained by employees of Chautauqua County.

Mayor Wordelmann said he and Trustee Drago recently attended a discussion lead by Mr. Dennis Brooks, Insurance Administrator for Chautauqua County who pointed out that he hopes Chautauqua County sets aside enough money annually to handle the outstanding workers' compensation claims for the employees of the Chautauqua County Nursing Home for years to come versus appropriating the money generated by its sale to balance the budget.

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REVIEW PROPOSED ZONING LAW AMENDMENTS & REVISIONS

Mayor Wordelmann said he would very much like for members of the Board of Trustees to come to a consensus this evening on what sections of the amended and revised zoning law as proposed they will be able to move forward on and what sections might need additional review. A few sections of the proposed zoning law that Mayor Wordelmann believes need additional review include

Mobile Food Trucks, Temporary Retail Outlets, Signage and Sediment Control, adding the changes Trustee Jablonski has suggested for the section on Sediment Control seem to be reasonable. Mayor Wordelmann indicated although there is some disagreement about the section dealing with rules and regulations for trees within a public right-of-way, he would like to move forward with what is being proposed.

Mr. David Bargar, 11 Sunset Ave., asked Mayor Wordelmann if the amended zoning law and map addresses plans or concepts to attract new private enterprise to the Village of Lakewood in the future.

Mr. Barger said with more and more businesses locating here, is there is enough properly zoned property to allow for commercial expansion and whether or not the Village of Lakewood has looked into this issue.

Mayor Wordelmann indicated to Mr. Bargar that the "big picture" scenario is something that he believes would fall under a comprehensive plan concept. Before the Board of Trustees decides to act on a major zoning change it should first be determined if it is what the community needs or desires. Mayor Wordelmann said in his opinion major zoning questions/changes would best be answered via a comprehensive plan process.

Trustee Di Salvo indicated a major part of the comprehensive plan process are the visioning sessions at which residents and business owners alike provide input on what they would like the community to look like in the future and offer suggestions on ways to address the changing needs of the community. The comprehensive plan will evolve by comparing current land use and zoning needs with future land use and zoning needs based on the information collected from the public at the visioning sessions.

Mayor Wordelmann said once the comprehensive plan is completed it is very likely, as Trustee Di Salvo suggested, that the Board of Trustees will take another look at zoning law.

Mayor Wordelmann said he would like a motion to approve the bulk of the zoning law and its separate sections that have been discussed in detail and amended accordingly, less the six sections on auto sales, adult novelty stores, mobile food trucks, temporary retail outlets, signs and sediment control, two of which have already been sent to the Chautauqua County Planning Board for their review and comment, with the remaining four requiring additional review.

Trustee Di Salvo indicated to Mayor Wordelmann that he agrees that the Tree Rules & Regulations be part of the local zoning law but would like for the language in that particular section include a reference to the existing Tree Committee as an advisory role to the Board of Trustees.

Village Attorney Wright indicated it is his opinion that historically committees such as the tree committee loses its steam over time and become inactive for one reason or another. If they were to be referenced as an advisory role to the Board of Trustees it could open up questions about their role if someone were to be charged with violating rules and regulations pertaining to trees within the public right-of-way.

Trustee Di Salvo said he would still prefer to have the section on tree rules and regulations reference the tree committee as an advisory role to the Board of Trustees and to be in a position to offer advice and suggestions not only to the Board of Trustees, but also to developers.

Mayor Wordelmann said it time to move forward, if we find it necessary to add something to the section pertaining to tree rules and regulations, we can elect to take action on the matter at a later date.

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RESOLUTION #80-2014-2015 - APPROVE ZONING LAW AMENDMENTS AS PROPOSED

Motion by Trustee Denn, seconded by Trustee Drago, per the recommendation of Mayor Wordelmann for the Board of Trustees to approve the proposed amendments and revisions to the Village of Lakewood zoning law with the exception of the individual sections pertaining to Mobile Food Trucks, Temporary Retail Outlets, Signage and Sediment Control.

Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

COMPREHENSIVE PLAN STEERING COMMITTEE REPORT

Mr. Ted McCaughe, 12 Park Lane, Chairman of the Comprehensive Plan Steering Committee, reported that the committee has been formed and in addition to himself, it is comprised by Trustee Di Salvo, Craig Seger, Kaie Smith and Village Clerk Johnson. Mr. McCaughe indicated he met with Mayor Wordelmann on October 8th and reviewed with him a very detailed plan on how we proceed to having a final draft of a comprehensive plan in place by the end of next year. Mr. McCaughe said there are two things that need to happen to get the process underway. First and foremost the committee needs to advertise for Request for Proposals (RFP) and secondly the committee would like to look into applying for funding which would offset the overall cost of the project. Mr. McCaughe said he would also like for the Board of Trustees to consider a resolution to commit to comprehensive planning as was previously discussed with Mayor Wordelmann.

RESOLUTION #81-2014-2015 - COMMITMENT TO COMPREHENSIVE PLANNING

Motion by Trustee Di Salvo, seconded by Trustee Jablonski, per the recommendation of Mayor Wordelmann, WHEREAS there is a real need for the Village of Lakewood to consider a comprehensive plan to provide the community a vision for the future, and WHEREAS having a comprehensive plan in place facilitates the application process for funding, which has become very competitive, and WHEREAS the Comprehensive Plan Steering Committee needs the support of the Board of Trustees in order to move forward, NOW, THEREFORE BE IT RESOLVED THAT THE Board of Trustees hereby supports the work of the Comprehensive Plan Steering Committee and commits to the development of a comprehensive plan with financial and legislative assistance.

Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

RESOLUTION #82-2014-2015 - APPROVE EMPLOYEE HEALTHCARE PLAN

Motion by Trustee Drago, seconded by Trustee Di Salvo, for the Board of Trustees to approve the iDirect Gold healthcare plan offered through Independent Health, Buffalo, N.Y. for eligible employees of the Village of Lakewood for the period of December 1, 2014 - November 30, 2015.

Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

RESOLUTION #83-2014-2015 - AUTHORIZE MID-YEAR BUDGET TRANSFERS

Motion by Trustee Drago, seconded by Trustee Denn, authorizing Village Treasurer Andrea J. Windoft to make several mid-year budget transfers regarding overages in the following accounts: Tree Service: A-5110.46 (-\$1,175.00) from Streets Contractual A-5110.40, Lifeguards Salaries: A-7140.11 (-\$29.88) from Parks Salaries A-7140.10.
Adopted: 4 ayes, no nays (Denn, Di Salvo, Drago, Jablonski)

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Motion by Trustee Denn, seconded by Trustee Drago and unanimously carried the Board adjourned at 7:58PM.

Joseph M. Johnson
Village Clerk