

OCTOBER 28, 2013

The fourteenth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, October 28, 2013 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. Wright, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg and Building Inspector Charles L. Smith.

APPROVAL OF MINUTES

Motion by Trustee Denn, seconded by Trustee Drago, to approve the minutes of the last regular meeting of the Board of Trustees, held October 14, 2013.

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 28, 2013, be approved and that the Clerk shall execute said abstracts (#20 & #21) and direct payment by the Treasurer. General Fund: \$ 17,752.44, (Checks #10122 thru #10155, Check #10139 voided), Trust & Agency: \$ 58, 673.33, (Checks #2684 thru #2700)

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

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that with help from the Town of Busti Highway Department and the Chautauqua County Department of Public Facilities the former sewer treatment plant was recently razed to make way for the new dog park and that the annual leaf pick-up started earlier today.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to eight thousand seven hundred reportable incidents year-to-date and that the Lakewood-Busti Police Department recently received a \$ 1,500.00 grant from the Governor's Traffic Safety Committee to be used towards the department's children car seat safety program.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire department has responded to six hundred eighty-two alarms year-to-date and that recent the fire prevention program conducted at the Southwestern Elementary School went very well.

Trustee Di Salvo, on behalf of his neighbors the Dunlop's, wished to commend Chief Hallberg and the Lakewood Fire Department for their quick response and their professionalism in handling a recent emergency medical service alarm at their residence.

Treasurer Andrea J. Windoft asked for the Board of Trustees to review the "Bark Park" rules and regulations and to offer any suggestions or comments.

OCTOBER 28, 2013 (CONTINUED)

Trustee Di Salvo asked Building Inspector Charles L. Smith if there are any outstanding issues with respect to the development of the corner of East Fairmount Ave. and Fairdale Ave. as a used car dealership by Mr. Larry Spacc and if so what is the Village of Lakewood's next step.

Building Inspector Smith indicated that he and Mayor Wordelmann have attempted to meet with Mr. Spacc to no avail and it is up to the Board of Trustees if they wish to pursue any issues they may have with Mr. Spacc or his dealership.

Trustee Jablonski asked if Mr. Spacc has been sent written notification that he hasn't yet provided a landscaping which was one of the conditions of granting of the special use permit. Trustee Jablonski said the Board of Trustees needs to stand by its word.

Mayor Wordelmann asked the question how long do we pursue this matter, because in his opinion the car dealership looks just fine.

Trustee Denn said it wouldn't hurt to remind the developer that he live up to any promises and/or conditions of the special use permit.

Building Inspector Smith indicated he will work with Village Attorney Wright to follow-up on the matter.

Mayor Wordelmann said Mr. Spacc choose to invest into the community by purchasing and developing the property as a used car dealership and although he hasn't exactly done everything that was asked of him, he has cleaned-up the property and it looks a lot better than it did before he purchased it.

Trustee Di Salvo indicated to Building Inspector Smith that he noticed that Mr. Ridgeway is in the audience this evening and is curious as to what is the status of the zoning law matter between Mr. Ridgeway and his neighbor.

Village Attorney Wright indicated to Trustee Di Salvo that the matter is in his court and he will be working with Mr. Ridgeway on it. Village Attorney Wright offered his apologies to Mr. Ridgeway for not getting back to him regarding this matter.

COMMITTEE REPORTS

Mayor Wordelmann indicated the Zoning Law Review Committee met on October 21st and discussed the subject of adult novelty stores and referenced existing zoning laws from the Village of Westfield and the Village of East Aurora. The committee also discussed the possibility of establishing a new zoning district for car dealerships within which an adult novelty store would be allowed. Mayor Wordelmann noted that the language would restrict where exactly an adult novelty store could be located within that particular district.

Mayor Wordelmann indicated the next meeting of the committee will be held Monday, November 18th at which the various moratoria will continue to be discussed as well as different subjects such as noise ordinance, weekly rentals, food trucks, improved guidelines for the zoning board of appeals and planning board to follow when making determinations along with the general review of the existing zoning law.

Trustee Di Salvo suggested to Mayor Wordelmann that a new site plan review process including regulations for erosion and sedimentation control should also be included on the list of subjects to discuss.

OCTOBER 28, 2013 (CONTINUED)

Building Inspector Smith wished to make a quick comment on a suggestion by a member of the zoning sub-committee regarding billboards. Mr. Smith said billboards must be allowed however because the district in which they are permitted is so restrictive he doesn't foresee any issues pertaining to them in the future.

ANYONE TO BE HEARD

Mrs. Jill Conley, 7 Winchester Road, appeared before Mayor Wordelmann and the Board of Trustees, saying that she and some fellow neighbors left the meeting held two weeks ago with mixed emotions relating to their concerns about the weekly rental property in their neighborhood.

Mrs. Conley thanked the Board of Trustees for listening to their concerns however questions still remain, namely why is a commercial operation being allowed to operate within a residential district.

She and her neighbors didn't feel they were given a satisfactory answer or response to the question. Mrs. Conley said she realizes a letter, of which she has a copy, was sent from Building Inspector Smith to the property owner. Mrs. Conley proceeded to read the letter, and said what it implies to her is as long as your renters don't make a lot of noise and the neighbors don't complain it is ok to rent out your house on a weekly basis. Mrs. Conley said it is not ok and that is why we were in attendance two weeks ago and here this evening.

Mayor Wordelmann agreed with Mrs. Conley that the weekly rental of 35 West Lake Street is considered a commercial operation and is a violation of the local zoning law. The problem arises when the Village of Lakewood moves forward to enforce the local zoning law. The building inspector can not zero in on a single violator when it is known that this particular use occurs at other locations throughout the village. Mayor Wordelmann indicated to Mrs. Conley that he is hopeful that this matter can be resolved before next spring.

Mrs. Conley said regardless what season it is use of the property at 35 West Lake Street as a weekly rental is still a violation. When looking at the long term, where will this particular problem and concern end. Mrs. Conley asked Mayor Wordelmann do we want the Village of Lakewood to become a collection of rental properties.

Mayor Wordelmann indicated to Mrs. Conley that the subject of weekly rental properties is on the agenda for discussion at the next zoning law review committee meeting scheduled for Monday, November 18th.

Chautauqua County Legislator P.J. Wendel reminded everyone about the upcoming election Tuesday, November 5th, and encouraged people to get out and support the candidate of their choice. Legislator Wendel also indicated that the Legislature will vote on the sale of the Chautauqua County Nursing Home at 6:30 PM, October 30th. Legislator Wendel noted he is on record as favoring the sale of the County Home and encouraged taxpayers to attend Wednesday evening's vote. Legislator Wendel said the Chautauqua County Legislature is also moving forward on the purchase of a new county wide radio system.

Trustee Drago asked Legislator Wendel how many votes is it going to take to approve the sale of the Chautauqua County Nursing Home.

Legislator Wendel said it is going to take seventeen votes.

OCTOBER 28, 2013 (CONTINUED)

Mayor Wordelmann also reminded everyone to get out and vote next Tuesday and noted that there is a proposition on the ballot to change the time of the year when General Village Elections are conducted in the Village of Lakewood from March to November beginning in 2015.

DISCUSSION ON THE PROPOSED VEHICLE SERVICE FACILITY

Mayor Wordelmann indicated although the Village of Lakewood is still awaiting a written comment/recommendation from the Chautauqua County Department of Planning on a proposal by Mr. William McFadden, owner of the LUV Toyota dealership at 215 East Fairmount Ave., to construct a 3,090 sq. ft. vehicle service facility, (express lube & car wash) at 205 East Fairmount Ave., it would be his recommendation to approve the Special Use Permit application and proposed site plan, contingent upon receiving a favorable review from the county.

Trustee Jablonski said he would have to disagree with Mayor Wordelmann's recommendation considering the Village of Lakewood doesn't have complete landscaping plans or any information on the proposed signage, adding it is his opinion Mr. McFadden has submitted an incomplete application.

Building Inspector Smith said typically signage work follows the building construction and wouldn't necessarily require review by either the Planning Board or the Board of Trustees.

Trustee Di Salvo said he would like to see a complete landscaping plan prior to approving this project.

Mayor Wordelmann said the Village of Lakewood has a forty-five day window to make a decision on applications such as the one submitted by Mr. McFadden, however it is unclear as to when the forty-five day period started.

Building Inspector Smith reminded members of the Board of Trustees that this project doesn't require a Short Environmental Assessment Form (SEQR) or Site Plan Review. The only thing the Board of Trustees is required to decide is whether or not to approve Mr. McFadden's Special Use Permit application regarding his proposal to utilize the property at 205 East Fairmount Ave. as a vehicle service facility. The project as proposed is short of other thresholds that would require any additional review.

Trustee Di Salvo indicated as suggested Tree Committee Chairman Mr. Richard Rose plans on meeting with Mr. McFadden to discuss the proposed site plan as developed by Marlinski Landscape & Stone, Lakewood, N.Y. to offer any suggestions or comments.

Mr. Douglas McCurdy, representing Mr. McFadden indicated a complete and detailed landscaping plan for this project has been submitted however he would be happy to consider any changes that Mr. Rose might suggest.

Mayor Wordelmann indicated there is a legal aspect to the whole process in that the Village of Lakewood might be asking more from the applicant than is required and he would rather not press the issue.

Trustee Di Salvo asked when did the forty-five day clock start and suggested that the Village of Lakewood await comment from the Chautauqua County Department of Planning so as to be sure the proper procedure is followed. He would rather not see any permit issued until the Chautauqua County Department of Planning has been heard from.

OCTOBER 28, 2013 (CONTINUED)

Building Inspector Smith indicated the Village of Lakewood is at day forty-three with respect to the review timetable however he doubts the Chautauqua County Department of Planning will issue any comment other than the project has no impact and that the matter is of local concern.

Trustee Di Salvo said he wouldn't have any issue approving the Special Use Permit with a contingency so as to comply with the forty-five day decision timetable. However, he doesn't want to give the Chautauqua County Department of Planning the impression that the Village of Lakewood is acting on a matter without first paying attention to any comments that they may have.

Trustee Jablonski reiterated his previous comment stating he doesn't think the applicant has not yet submitted a complete application and can not vote on a project without a detailed site plan including a landscaping plan and suggested action on this project should not be taken until a State Environmental Quality Review (SEQR) determination is made.

Mayor Wordelmann indicated this particular project does not meet the threshold for SEQR.

Trustee Di Salvo indicated the short Environmental Assessment Form (EAF) was indeed completed and submitted by the applicant however this board doesn't have all the necessary information in order to issue a negative declaration with respect to this project.

RESOLUTION #88-2013-2014 – APPROVE SPECIAL USE PERMIT W/CONTINGENCY

Motion by Trustee Denn, seconded by Trustee Drago, to approve the Special Use Permit application as submitted by Mr. William McFadden, whereby he will be allowed to construct a 3,090 sq. ft. vehicle service facility (express lube & car wash) on a .78 acre site at 205 East Fairmount Ave., contingent upon the Village of Lakewood receiving a favorable review of this project from the Chautauqua County Department of Planning.

Adopted: 3 ayes, (Denn, Di Salvo, Drago) 1 nay, (Jablonski)

RESOLUTION #89-2013-2014 – APPROVE ARBITRATED PAYOUTS

Motion by Trustee Denn, seconded by Trustee Jablonski, to approve two (2) separate payouts to Officers of the Lakewood-Busti Police Department as arbitrated and agreed to on October 16, 2013, by police union representatives, a New York State appointed arbitrator and the Village of Lakewood.

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

RESOLUTION #90-2013-2014 – AUTHORIZE FUND TRANSFER

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing Village Treasurer Andrea J. Windoft to transfer to Account A5110.46 (Tree Service) from Account A1990.40 (Contingent Account), \$ 5,000.00 for expenses incurred following the Labor Day wind and hail storm. The price tag for tree & stump removal and clean-up totaled \$ 12,875.00.

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

OCTOBER 28, 2013 (CONTINUED)

RESOLUTION #91-2013-2014 – AUTHORIZE FUND TRANSFER

Motion by Trustee Denn, seconded by Trustee Drago, authorizing Village Treasurer Andrea J, Windoft to transfer to Account A7140.11 (Lifeguard Salaries), from Account A7140.10, (Park Salaries), \$ 931.39 regarding salary overages.

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

RESOLUTION #92-2013-2014 – AUTHORIZE CONFERENCE ATTENDANCE

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing members of the Board of Trustees, Planning Board and Zoning Board of Appeals to attend the annual Fall Planning & Zoning Conference. One session will be held Wednesday, November 13th at Southern Tier West, Salamanca, N.Y., and the other session will be held Thursday, November 14th at the Chautauqua Suites Meeting & Expo Center, Mayville, N.Y. Participants will be reimbursed for any and all legal expenses incurred.

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

RESOLUTION #93-2013-2014 – POSTPONE NEXT REGULAR BOARD OF TRUSTEES MEETING

Motion by Trustee Denn, seconded by Trustee Drago, due to the fact that the upcoming Veterans Day Holiday will fall on the date of the next regular meeting of the Board of Trustees, previously scheduled for Monday, November 11, 2013, it was agreed to postpone the next regular meeting of the Board of Trustees until Tuesday, November 12, 2013. The 6:30 PM meeting will be preceded by a 6:00 PM work session in the Board Room of the Anthony C. Caprino Municipal Building, 20 West Summit Street, Lakewood, N.Y.

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

RESOLUTION #94-2013-2014 – APPROVE EMPLOYEE HEALTH PLAN

Motion by Trustee Denn, seconded by Trustee Drago, to approve the iDirect 1 Series employee health plan through Independent Health with a renewal date of December 1, 2013 and to authorize Mayor Wordelmann to execute the health plan's rate agreement.

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

Motion by Trustee Denn, seconded by Trustee Drago, and unanimously carried the Board adjourned at 7:22 PM.

Joseph M. Johnson
Village Clerk

