

AUGUST 8, 2016

The fifteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, August 8, 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, and Fire Chief Kurt W. Hallberg. Absent were Department of Public Works Supervisor Thomas R. Pilling 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 25, 2016.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

AUDIT OF CLAIMS

Motion by Trustee Di Salvo, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated August 8, 2016, be approved and that the Clerk shall execute said abstracts (#10, #11) and direct payment by the Treasurer. Trust & Agency Fund: \$ 60,040.67, (Checks #3826 thru #3840), General Fund: \$ 38,329.39, (Check #12960 voided, Checks #12961 thru #13008)
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

REPORTS

Mayor Birrittieri reported that the Events & Marketing Committee met recently and has rescheduled the tentative date for the Village of Lakewood's inaugural Wellness Day, which is expected to be business driven. The next meeting of the Events & Marketing Committee is scheduled for 7:00 PM, Wednesday, August 10th. Mayor Birrittieri also indicated that this Thursday, is the last "Live on the Lake" event this summer. It will be a "Kids Night" with Marty's Bubblegum Machine and the Geoff Bach Juggling Show.

Mayor Birrittieri also reported she received a letter from Senator Cathy Young regarding pending legislation dealing with "zombie properties" (properties abandoned and in disrepair). Residents may report "zombie properties" to the State of New York by calling (800) 342-3726.

Mayor Birrittieri said at this time she would like to read a letter she received from Trustee Randall G. Holcomb via e-mail August 3, 2016.

Although it was voted on at the last meeting to approve Mr. Stanton for village attorney items for the one month time frame, I am still very concerned about the payment that was made to him. My concern is that if the Village of Lakewood is audited this payment will most certainly be red-flagged due to the fact that this payment was made without authorization from the Village Board as we only saw the check stub attached to a letter from Mr. Stanton. There was no voucher attached and the payment was made before the trustees did their audit before the meeting of July 11, 2016, so the payment was never audited by us. In reading NYS Village Law 4-400, trustees can be charged with a misdemeanor for such a payment without Village Board approval.

However if we write a letter to the Village Clerk acknowledging this has occurred, that will alleviate the possibility of being at fault and/or being charged. As trustees, we have 30 days from the date that we learned of this payment to write such a letter if you so wish. I saw the check stub to Mr. Stanton on July 9, 2016. Thanks for your time, Randy

Mayor Birrittieri said she would like to publically respond to Trustee Holcomb's letter, with her own letter addressed to the Village Clerk Joseph M. Johnson.

AUGUST 8, 2016 (CONTINUED)

Dear Mr. Johnson:

Per an e-mail received from Trustee Holcomb, dated August 3, 2016, it has come to my attention that a recent payment to Mr. Richard E. Stanton, Esq. for services performed on behalf of the village may have occurred in procedural error. I write to acknowledge that possibility and agree that it would be prudent to make a correction for the record, as he suggests.

Mr. Stanton, submitted a Retainer Agreement for Service as Attorney for the Village of Lakewood, dated June 27, 2016. A copy is on file. No village attorney existed at that time, yet important, time critical village legal business needed to be accomplished. In exchange for a retainer of \$ 1,667.00, Mr. Stanton agreed to escrow the funds and perform the following legal services. The total amount is \$ 1,320.00.

June 27, 2016	Review request for opinion letter.
.3 hrs.	
June 29, 2016	Review BAN draft opinion letter and back up
regarding	.8 hrs.
	proof of competitive procurement on vehicles as well
as	finance instrument, editing letter, and executing.
June 30, 2016	Review proof of competitive procurement for
ambulance	1.0 hrs.
	purchase and funding and
issuing opinion letter, review	document for \$ 66,000.00
BAN, "3" and draft letter.	
July 7, 2016	Review file on pole sign including attorney
request for	2.0 hrs.
	interpretation, legal
research on code and "alteration" of	structure under common law.
July 15, 2016	Meeting with ZBA and Planning Board heads and
remainder	2.5 hrs.
	of team, attend ZBA meeting
and charging board on law and	duties regarding code interpretation.

On July 25, 2106 a majority of the Village Board of Trustees voted to approve resolution #135-2016 titled "Ratify Retainer Agreement with Richard E. Stanton, Esq.", authorizing payment to Mr. Stanton for services rendered on behalf of the Village of Lakewood for the specific period of June 27th through July 27, 2016. Unexpected funds would be returned to the retainer to support funding in the matter of Up State Tower Co., v. the Village of Lakewood, et al. Please officially incorporate this letter into the village minutes and retain in village files.

Thank You,
Cara Birrittieri
Mayor

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to six thousand five hundred twenty-two reportable incidents year-to-date and that he is in the process of upgrading the surveillance system currently in place at the Anthony C. Caprino Municipal Building.

Chief Bentley reminded residents to lock their cars and homes, in that there have been a number of car larcenies and burglaries lately and if people see something suspicious, please don't hesitate to call.

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to five hundred ten alarms year-to-date, thirty-three since the last meeting. Chief Hallberg said the LFD was also asked to be on stand-by with the Celoron Fire Department at the Dragon Boat Races this past Friday and Saturday and that the LFD is breaking the new boat, ambulance and rescue-engine into service.

Village Treasurer Andrea J. Windoft reported that she has prepared and distributed a financial summary of the revenue and expenses for this year's 4th of July Summerfest to the Mayor and Board of Trustees for their review and comment. The net balance totaled \$ 4,371.00. Mrs. Windoft also reported that the recently received quarterly sales tax revenue of \$ 162,323.00, for the months of May, June and July is down by 11% when compared with the corresponding quarter in 2015.

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Mayor Birrittieri said she was very pleased with the 4th of July Summerfest's outcome. The event was expanded this year to include a kids zone and VIP area which was tied in with the web.com tour golf tournament at the Peek 'n Peak Resort. Mayor Birrittieri said the generosity of the community was very evident. People's financial assistance and their time in volunteering were greatly appreciated. Mayor Birrittieri said she and the committee learned a lot about what worked and what didn't work and will adjust the day's events accordingly next year. She then thanked everyone who contributed in making this community event a huge success.

RECESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, 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: 6:45 PM
SPECIAL USE PERMIT
CHAUTAUQUA HILL CREST INN PROJECT
180 EAST FAIRMOUNT AVE.

Ms. Michele L. Richards, 10 Norwood Ave., Jamestown, N.Y., has submitted an application for a Special Use Permit regarding her proposal to remodel the former Page's Motel, 180 East Fairmount Ave., into an inn having ten (10) guest rooms. The existing two story block and wood frame structure measures approximately 25 ft. x 75 ft. In accordance with Section #25-14, (C), [Highway Business (B-2) District], the establishment of a motel/inn within this particular zoning district requires a special use permit.

Ms. Diane Hendrix, Registered Architect, briefly explained the project saying Ms. Richards after having purchased the property went through an asbestos abatement procedure and is currently awaiting an asbestos certificate. In short Ms. Richards intends to remodel the former motel into a ten room Adirondack style inn. Ms. Hendrix said last month this project went before the Planning Board, who recommended, with a few conditions, that the Board of Trustees approve/grant Ms. Richards' special use permit application. The conditions included the submittal of the following; detailed site plan with contours, short environmental assessment form (SEQR), asbestos abatement report and a response from the Chautauqua County Department of Planning & Economic Development.

Trustee Di Salvo asked Ms. Hendrix what is the developer's schedule for construction.

Ms. Hendrix said the developer is ready to move forward with this project just as soon as their special use permit/site plan review application is approved.

Trustee Di Salvo said it appears the applicant has met a few of the conditions, however the Village of Lakewood is still awaiting a response from the county. Although it is an administrative act Trustee Di Salvo suggested, so as not to delay this worthwhile project, to approve the special use permit with conditions, assuming the county's response will be that of local concern.

Mayor Birrittieri said she agrees with Trustee Di Salvo.

Mr. Dana Stahlman, 208 Maplecrest Ave., and owner of the property abutting the project site to the south, asked if there are any plans to install a privacy fence along the developer's southerly boundary line. He also asked if the property to the rear of the building to be remodeled is going to be used as a parking lot.

Ms. Richards indicated she intends to install some fencing along the southerly boundary line and that there will not be a parking lot in back of the building, adding she wants to keep that area as green space.

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With no one else to be heard, Mayor Birrittieri closed the public hearing at 6:51 PM, and proceeded to reopen the regular meeting of the Board of Trustees.

RESOLUTION #140-2016 - APPROVE/SPECIAL USE PERMIT

Motion by Trustee Holcomb, seconded by Trustee Barnes, to approve/grant the application for a Special Use Permit as submitted by Ms. Michele L. Richards, Jamestown, N.Y., whereby she will be allowed to remodel the former Page's

Motel and to utilize the property at 180 East Fairmount Ave. as a motel/inn, (Chautauqua Hill Crest Inn), with the conditions that the developer submit a SEQR form, a detailed survey with contours, an asbestos abatement report and that the Village of Lakewood receives a response from the Chautauqua County Department of Planning and Economic Development.
Adopted: 4 ayes, no nays (Barnes, Di Salvo, Drago, Holcomb)

COMMITTEE REPORTS

Village of Lakewood Historian Ms. Susan Lane reminded everyone that the Chautauqua County History Fair will be held this weekend at the Chautauqua Suites, Mayville, N.Y., Saturday, 10:00 AM - 8:00 PM and Sunday, 10:00 AM - 4:00 PM. Ms. Lane said in addition to over fifty history exhibits, some local authors will be in attendance. Also, the History Committee will be debuting a twenty-seven minute video entitled Lakewood Then & Now.

Trustee Barnes, Chairman of the Public Safety Committee indicated per a previously adopted resolution, letters have been drafted to Senator Charles E. Schumer, Congressman Tom Reed, NYS Senator Catharine Young and NYS Assemblyman Andy Goodell, requesting financial assistance to upgrade the radio system currently used by our first responders, namely police agencies and local fire departments.

Mr. Edward J. (Ted) McCague, Chairman of the Village of Lakewood's Comprehensive Plan Steering Committee wanted to let Mayor Birrittieri and the Board of Trustees know if they have questions about any aspect of the comprehensive plan document, to please let him know.

Mayor Birrittieri said the document contains an amazing amount of information and is excited about getting it out to the public.

Zoning Board of Appeals Chairman William F. Chandler indicated to Mayor Birrittieri said he is in the process of identifying some shortcomings in the current zoning law and will make those known prior to any scheduled re-write of the local zoning law.

ANYONE TO BE HEARD

Ms. Laurie Shults, 6 Alta Way, appeared before Mayor Birrittieri and the Board of Trustees to ask if it is possible to impose a curfew on the activation of the loud fire alarm siren located on the roof of this building. She said the siren is so loud, she sleeps with ear plugs. Ms. Shults said it is her understanding other fire departments implement such siren curfews, for example the siren could be deactivated between the hours of 10:00 PM and 6:00 AM. As a landlord Ms. Shults said she is also here this evening on behalf of her tenants, adding she lost a couple as a tenant when it was learned they were expecting a child.

Fire Chief Kurt W. Hallberg, said he has spoken with Ms. Shults a couple of times about the siren and indicated that it is a means of dispatch. Chief Hallberg indicated that the insurance rates for homeowners are based on an Insurance Service Office (ISO) rating, which examines various aspects of a local fire department's readiness. Chief Hallberg said one of the criteria examined is dispatch, which includes cell phone text messages, pagers, and the siren.

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Any adjustment to the ISO rating could impact one's homeowner insurance rates. Chief Hallberg said the Lakewood Fire Department currently has the best rating attainable by a volunteer fire department. Chief Hallberg said the siren represents more than sentimentality to him and the LFD.

Mayor Birrittieri wondered if anyone has looked into the monetary difference in one's homeowner's insurance rates, with and without the siren activation. She said the siren could impact the sale of nearby properties. Mayor Birrittieri said the proposal introduced by Ms. Shults is reasonable and it is something that should be looked into.

RESOLUTION #141-2016 - AUTHORIZE FALL TRAINING SCHOOL ATTENDANCE

Motion by Trustee Di Salvo, seconded by Trustee Barnes, authorizing Mayor Birrittieri to attend NYCOM's Annual Fall Training School, to be held in Saratoga Springs, New York, September 12th - 16th. Mayor Birrittieri will be reimbursed for any and all necessary expenses incurred.

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

RESOLUTION #142-2016 - AUTHORIZE USE OF VILLAGE STREETS

Motion by Trustee Barnes, seconded by Trustee Drago, authorizing the National Comedy Center, Jamestown, N.Y., to make use of Village of Lakewood streets as a portion of the 13.1 mile course for the Fourth Annual Lucy Town Half Marathon, between 9:00 am & 12:00 noon, Sunday, October 9, 2016.

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

REVIEW/DISCUSS PROPOSED ADDENDUM TO THE SHARED CEO AGREEMENT

Town of Busti Supervisor Jesse Robbins appeared before Mayor Birrittieri and the Board of Trustees and indicated the proposed addendum addresses asbestos related inspections to be conducted throughout the township by Building Inspector Jeff Swanson. Supervisor Robbins noted Mr. Swanson received the proper schooling last year and subsequently became certified to conduct asbestos inspections. Conducting these inspections from within saves the Town of Busti and the Village of Lakewood from contracting out this service, plus revenue generated will return to the respective municipalities. Mr. Robbins said a third of the inspection fees will go to Mr. Swanson, a third to the township and a third to the village. Supervisor Robbins said the proposed addendum is a win, win, win proposition.

Mayor Birrittieri agreed with Supervisor Robbins saying the proposed addendum to the Shared CEO Agreement will benefit all parties involved.

RESOLUTION #143-2016 - APPROVE ADDENDUM TO THE "SHARED CEO AGREEMENT"

Motion by Trustee Holcomb, seconded by Trustee Di Salvo, for the Board of Trustees to approve the addendum to the "Shared CEO Agreement" between the Town of Busti and the Village of Lakewood and authorize Mayor Birrittieri to execute same.

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

REVIEW/DISCUSS CONSULTING SERVICES AGREEMENT

Trustee Di Salvo asked Village Treasurer Windoft if any of the \$ 8,500.00 deposited into an escrow account has been expended. If not, the Village of Lakewood should find out if there are indeed any outstanding invoices from The Center for Municipal Solutions, Glenmont, N.Y.

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Trustee Di Salvo said in doing so, the Village of Lakewood will have a better idea what the balance is in the escrow account moving forward. Trustee Di Salvo said he doesn't have any issues with the consulting services agreement as proposed with The Center for Municipal Solutions, however he would like to know

what the escrow account balance might be. Trustee Di Salvo suggested the Board of Trustees table any action on this agreement to determine if a "do not exceed dollar amount" could be inserted into the language of the agreement.

Following some discussion between Mayor Birrittieri and members of the Board of Trustees and because of the scheduled court date in the matter of Up State Tower Co., LLC vs. the Village of Lakewood, et al, Mayor Birrittieri said to be on the safe side she would be in favor of acting on the proposed consulting services agreement this evening.

RESOLUTION #144-2016 - APPROVE CONSULTING SERVICES AGREEMENT

Motion by Trustee Di Salvo, seconded by Trustee Barnes, that the Board of Trustees, per the recommendation of Mayor Birrittieri, approve the agreement between Richard A. Comi, d/b/a The Center for Municipal Solutions, Glenmont, N.Y., and the Village of Lakewood for consulting services in regards to the matter of Up State Tower Co., LLC vs. the Village of Lakewood, et al.

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

RESOLUTION #145-2016 - APPROVE NEW LFD MEMBER & GRANT OUT OF DISTRICT STATUS

Motion by Trustee Drago, seconded by Trustee Barnes, that the Board of Trustees, acting as the Board of Fire Commissioners, approve Ms. Marcia Kent, 137 Westminster Dr., WE, Jamestown, N.Y., as a new member of the Lakewood Volunteer Fire Department and to grant her "out-of-district" status.

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

RESOLUTION #146-2016 - ACKNOWLEDGEMENT OF PROCEDURAL MISSTEP

Motion by Trustee Di Salvo, seconded by Trustee Barnes, per the Mayor's Report earlier in the meeting that Mayor Birrittieri is putting a motion forth to accept Trustee Holcomb's solution to a procedural misstep with a letter acknowledging Mayor Cara Birrittieri to take such steps in the best interest of the Village of Lakewood.

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

Mayor Birrittieri asked if there was anything else to be brought before the Board of Trustees this evening.

Trustee Drago respectfully suggested that the Board of Trustees need to discuss the Village Attorney position.

Mayor Birrittieri said if that is the case, she would favor recessing the regular meeting at this time and enter into executive session.

RECESS

Motion by Trustee Di Salvo, seconded by Trustee Barnes, for the Board of Trustees to recess the regular meeting at 7:23 PM and enter into executive session.

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

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EXECUTIVE SESSION

Present at the executive session were Mayor Cara Birrittieri, Trustee David J. Di Salvo, Trustee Ellen E. Barnes, Trustee Susan F. Drago, Trustee Randall G. Holcomb and Village Clerk Joseph M. Johnson.

Motion by Trustee Barnes, seconded by Trustee Drago, to adjourn the executive session at 7:43 PM, and reopen the regular meeting of the Board of Trustees.

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

RESOLUTION #147-2016 - RESCHEDULE PUBLIC HEARING

Motion by Trustee Holcomb, seconded by Trustee Di Salvo, for the Board of Trustees to reschedule the public hearing to consider adding one (1) alternate to the current five (5) member Planning Board from 6:50 PM, Monday, August 22, 2016, to 6:40 PM, Monday, September 26, 2016.

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

RESOLUTION #148-2016 - RESCHEDULE PUBLIC HEARING

Motion by Trustee Barnes, seconded by Trustee Drago, for the Board of Trustees to reschedule the public hearing to consider adding one (1) alternate to the current five (5) member Zoning Board of Appeals from 6:55 PM, Monday, August 22, 2016, to 6:45 PM, Monday, September 26, 2016.

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

RESOLUTION #149-2016 - RESCHEDULE PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Barnes, for the Board of Trustees to reschedule the public hearing to consider a local law drafted by Trustee Di Salvo, which establishes a set of rules regarding the proper management and disposal of brush and yard waste for residents to follow, from 7:00 PM, Monday, August 22, 2016, to 6:50 PM, Monday, September 26, 2016.

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

Motion by Trustee Barnes, seconded by Trustee Holcomb, and unanimously carried the Board adjourned at 7:48 PM.

Joseph M. Johnson
Village Clerk