

JUNE 9, 2014

The fifth regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, June 9, 2014 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were 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. Absent was trustee Gale A. Denn.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Jablonski, to approve the minutes of the last regular meeting of the Board of Trustees, held May 27, 2014.

Adopted: 3 ayes, no nays (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 June 9, 2014, be approved and that the Clerk shall execute said abstracts (#56 & #1) and direct payment by the Treasurer. General Fund for the previous fiscal year: \$29,421.05, (Checks #10710 thru #10750), General Fund for the current fiscal year: \$107,759.18, (Checks #10751 thru #10767)

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that components of the new D.P.W. storage building have been delivered to the site and that work on the roads will begin soon.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to five thousand four hundred ninety-eight reportable incidents year-to-date, which is nine hundred eighty-six more incidents year-to-date than last year. Chief Bentley also reported the K-9 unit is in service and on the road. He noted the K-9 unit has been on two "call outs" already. Chief Bentley indicated that the L-B P.D. has participated in a statewide selective traffic enforcement program, nick named "Operation Crackdown" the past two weeks including over the Memorial Day holiday weekend. Chief Bentley said the program, which puts additional officers on the streets, will likely be conducted again over the upcoming 4th of July holiday weekend.

Trustee Jablonski asked Chief Bentley if the local media publicizes local law enforcement programs such as "Operation Crackdown".

Chief Bentley said they are publicized but for the most part people don't pay attention to public service announcements.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire

Department has responded to three hundred forty-six alarms year-to-date, noting that thirty-two of those alarms were answered during a twenty-four hour period on May 21st which was the date the area experienced heavy rain and some minor flooding. Chief Hallberg indicated many of the calls were service related involving flooded basements and that a section of Rt. 394, from Rt. 474 west to Fardink Road was closed for a few hours due to Goose Creek overflowing its banks.

Mayor Wordelmann indicated that the work done in recent years by D.P.W. Supervisor Pilling and his staff prevented flooding in areas that have flooded in the past, in particular the area near Crescent Creek.

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Building Inspector Charles L. Smith reported that Wal-Mart will be undergoing a remodel involving for the most part energy codes upgrades.

Trustee Jablonski asked Mr. Smith if plans for the proposed Panera Bread restaurant have been received for review. Trustee Jablonski said he is interested in looking at a detailed site plan to see what it shows for parking, landscaping, storm water management, etc.

Mr. Smith said although this project falls short of the threshold for site plan review, the developer has asked that the local municipal board approve the Short Environmental Assessment Form and agree to be the lead agency as it pertains to the State Environmental Quality Review process. Mr. Smith the entire site is 1.43 acres however only .88 acres is planned for development at this time. The developer is currently negotiating with another company to develop the balance of the parcel.

Trustee Di Salvo asked Mr. Smith if there is going to be significant changes to the project site and questioned if the total site if developed in segments would comply with SEQR rules and regulations.

Mr. Smith indicated the same owner will be developing the entire site, however he has only received plans for Panera Bread.

Trustee Jablonski asked Mr. Smith if the plans include storm water control measures.

Mr. Smith said storm water calculations have been determined and structures for the Panera Bread site are designed to manage it properly. Similar drainage structures will likely be installed on the site to be developed south of the Panera Bread location.

Trustee Jablonski asked Village Attorney Wright if the Village of Lakewood has an opportunity to place any conditions on the development of the Panera Bread site. Trustee Jablonski said it is his opinion that the site was illegally paved last year and would like to see the developer, as a condition of the issuance of a building permit to dig it all out prior to site development.

Building Inspector Smith interjected saying the development of the site will create more green space than what currently exists.

Trustee Di Salvo asked Mr. Smith, in accordance with state law, how long can exterior insulation be exposed before an owner or contractor be required to cover it up.

Mr. Smith said per manufacturer's specifications, exterior insulation such as Tyvek, should be covered within ninety days after installation and that is the timetable he as Building Inspector would enforce.

Trustee Di Salvo suggested more needs to be done to get property owners to comply with this timeframe.

There are buildings on Chautauqua Ave., a commercial corridor, that have had exposed insulation for years and he is concerned about the impact that non-compliant properties have on adjacent properties.

Non-compliant properties, which are unsightly, make it difficult for others to invest in nearby properties.

Trustee Di Salvo said during his brief tenure the message that the Village of Lakewood sends out to property owners is, it is ok.

Building Inspector Smith said he has cited numerous property owners over the years regarding shortcomings with building exteriors and that he has talked with the owner of the Chautauqua Ave. property in question, saying he has had some financial problems which has prevented him from finishing the building's exterior.

Trustee Di Salvo said having financial problems should not be used as an excuse for not complying with the local zoning law. What it boils down to is the property maintenance code needs to be enforced.

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RECESS

Motion by Trustee Drago, seconded by Trustee Jablonski to recess the regular meeting of the Board of Trustees in order to conduct a previously scheduled public hearing.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

PUBLIC HEARING - 6:45 PM
LOCAL LAW #3-2014
ADMINISTRATION & ENFORCEMENT OF THE NEW YORK STATE
UNIFORM FIRE PREVENTION & BUILDING CODE

Mayor Wordelmann opened the public hearing at 6:45 PM and asked the Village Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper.

Mayor Wordelmann asked Building Inspector Charles L. Smith if he would care to briefly explain what the Village of Lakewood is undertaking in considering this local law.

Mr. Smith indicated that the Village of Lakewood previously adopted a similar local law back in 2003 however the State of New York suggested municipalities to adopt a new version of the law as a means to updating its local codes with respect to the enforcement of the New York State Uniform Fire Prevention & Building Code and it would allow the Village of Lakewood to contract for code enforcement services with another municipality. Mr. Smith also suggested that the fee schedule be structured to be more compatible with fees imposed by other municipalities.

Dr. Rudolph Mueller, 7 Sunset Ave., asked Mr. Smith if he would cite any significant changes in the code.

Mr. Smith said the code is quite lengthy, however one significant change relates to the energy code which was modeled after the National Energy Code. The entire code was updated based on revisions to the International series of codes New York State adopts.

Trustee Jablonski asked Mr. Smith if the new code addresses abandoned properties and how they should be boarded-up and secured and can the Village of Lakewood elect to amend the State Code to make it stronger. Trustee Jablonski said he would prefer that all boarded-up windows are painted black or that Plexiglas be used.

Mr. Smith said there are weather protection standards listed in the State of New York's Property Maintenance Code and yes, the Village of Lakewood can elect to adopt a code with more teeth in it.

Trustee Di Salvo said the former church on Ohio Ave comes to mind when speaking about boarded-up buildings and feels sorry for the residents who have to look at plywood year in and year out and represents another case where it discourages people from investing in their community. Emergency enclosures are one thing, but for residents to endure the former church property for years is another matter. Trustee Di Salvo said he agrees with Trustee Jablonski's suggestion that maybe the Village of Lakewood should adopt a more stringent code.

Building Inspector Smith the condition of the exterior of the former church on Ohio Ave. is the result of a court ruling handed down in Town of Busti court years ago.

Trustee Di Salvo suggested it might be time to revisit that particular matter.

Village Attorney Wright indicated that the code being consider this evening is the minimum code for enforcement by local municipalities however as Mr. Smith noted earlier the Village of Lakewood could opt to adopt a more stringent code in desired sections at a later time.

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Trustee Di Salvo said he doesn't have an issue adopting the code as presented, however he agrees with Trustee Jablonski that the Village of Lakewood should take a look at possibly adopting a more stringent code in certain areas.

Village Attorney Wright indicated if the Village of Lakewood were to opt for a more stringent code, it is important to follow through on the enforcement both at the local level and judicial level.

Ms. Lori Svenson, 12 East Terrace Ave., said unfortunately she, family members and guests must drive down Ohio Ave. to get to her house. Ms. Svenson said she and her husband have invested a lot of money into their home and is very interested in what is going on in the neighborhood and what might the Village of Lakewood be doing to update their codes. Although the Lakewood-Busti Police Department helped to rid the neighborhood of a known drug dealer, the overall condition of the street has not changed.

Trustee Di Salvo suggested that the Village of Lakewood should try to motivate the property owner to sell the former church and nearby properties. There are codes in place that need to be enforced and if nothing else they should be good neighbors and maintain the properties properly. Trustee Di Salvo indicated that in the short time he has lived in Lakewood it is evident the blight is spreading on Ohio Ave. and discourages people from investing in their properties. The visible junk and trash at 27 & 29 Ohio Ave. is sinful.

Building Inspector Smith indicated the case that went before the Town of Busti judge years ago can be reopened. Regarding the junk at 27 & 29 Ohio Ave., Mr. Smith said he has asked for permission from the owner of 28 Pennsylvania Ave., to take some photos of the back yard of 27 Ohio Ave., from their second floor.

Ms. Nicole Segrue, 16 East Terrace Ave., and owner of the adjacent property at 28 Pennsylvania Ave., indicated that Mr. Smith has been responsive to their inquiries regarding property maintenance issues. Ms. Segrue indicated that she and her husband have invested a lot of money into their rental property next door and something definitely needs to be done to get property owners to comply with the property maintenance code.

With no one else to be heard, Mayor Wordelmann closed the public hearing at 7:01 PM.

RESOLUTION #33-2014-2015 - ADOPT LOCAL LAW #3-2014

Motion by Trustee Jablonski, seconded by Trustee Drago, for the Village of Lakewood to adopt Local Law #3-2014, providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code as presented, with the understanding that it could be amended as necessary in the future.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

REPORTS (CONTINUED)

Trustee Di Salvo wished to revisit a property maintenance issue on Olive Ave. that he first brought to the attention of the Board of Trustees last June and that is the condition of the properties at 8 & 10 Olive Ave.

Mr. Gale Seekings, 12 Olive Ave., appeared before the Board of Trustees two weeks ago voicing his concerns about the properties next door, which are owned by Mr. Bruce Carlson. The Village of Lakewood and Penhollow Disposal Service worked together two years ago in an effort to help Mr. Carlson clean-up his properties. Penhollow Disposal Service agreed to provide a Mr. Carlson dumpster to while he agreed to pay for the service over time, which he did. Although a lot of construction and demolition material was removed from the site property maintenance remain.

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Trustee Di Salvo indicated the lot at 10 Olive Ave. is littered with waste and that he noticed there are at least six code violations on the exterior of the property at 8 Olive Ave. Trustee Di Salvo indicated when Mr. Seekings appeared before the Board of Trustees two weeks ago he was told the Village of Lakewood would follow-up on this matter. The Village of Lakewood needs to take action and to set an example that conditions such as those on Olive Ave.

can not be tolerated any longer. Perhaps the Village of Lakewood can be proactive and encourage Mr. Carlson to take advantage of the funding that is available through CHRIC and contact other property owners that might be eligible.

Building Inspector Smith said Mr. Carlson has had some financial issues and hasn't been able to afford to fix his roof.

Trustee Jablonski asked Mr. Smith if Mr. Carlson has been cited for any property maintenance violations in the past two weeks.

Mr. Smith indicated he has not cited Mr. Carlson but did speak to him about the ongoing property maintenance shortcomings at 8 & 10 Olive Ave.

Village Attorney Wright said there needs to be concerted effort from both the Village of Lakewood and judicial side of the matter when dealing with property maintenance issues. He suggested if the Village of Lakewood intends to embark on a property maintenance program it would be a good idea to sit down with the local judges to make sure everyone is on the same page.

Trustee Jablonski suggested that Mayor Wordelmann arrange a convenient time, when he, a Trustee and the Village Attorney can sit down with Town of Busti Judges (Dahlgren and Hajdu) to review the method on how to get property owners to comply with the local property maintenance codes.

Trustee Di Salvo said if necessary the Board of Trustees could "go public" and put some pressure on the local court system.

Mayor Wordelmann indicated that every municipality throughout New York State has problems with derelict properties and the Legislature is trying to develop new laws which would make it easier to deal with out of state landlords.

Ms. Segrue said it is obvious Mr. Smith is very busy and that we all have a common goal to make the Village of Lakewood aesthetically pleasing, but how can it be accomplished by someone working part-time.

Mayor Wordelmann indicated to Ms. Segrue that very few small municipalities have full time code enforcement officers and therefore the job becomes a balancing act. The Village of Lakewood is currently working with the Town of Busti on developing an agreement whereby the Township would hire a full time Building Inspector/Code Enforcement Officer and contract those services to the Village of Lakewood.

ANYONE TO NE HEARD

Mr. Joseph Troche, 19 Winchester Road, wished to publically thank Mr. Smith for his service to the Village of Lakewood over the many years.

Mayor Wordelmann said he would like to echo those sentiments expressed by Mr. Troche. It is a thankless and difficult job and one in which not many friends are made.

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COMMITTEE REPORTS

Trustee Di Salvo indicated the Planning & Zoning Sub-Committee would like to report a few things. He was happy to report that the Village of Lakewood was awarded a \$ 2,500.00 Active Community Enhancement (ACE) grant which he applied for back in May. It will provide design, planning and visioning assistance to improve the safety and appearance of the community's streets and roads. There were a total of seven applications and in addition to Lakewood, grants were awarded to the Village of Fredonia and the Town of Poland.

Mayor Wordelmann thanked Trustee Di Salvo for his efforts and those of his committee in procuring this grant assistance.

As far as the CHRIC Application, Trustee Di Salvo said he is still waiting to hear from Mr. Tom Maggio, who is the special projects manager, regarding a possible \$ 20,000.00 grant for main street initiatives on Chautauqua Ave.

Trustee Di Salvo also reported that he and the Village Clerk recently met with Southwestern Central School Superintendent Mrs. Maureen Donahue and the School Business Administrator, Mr. Scott Hoot, to discuss details of applying for a NYS Government Efficiency grant to establish a fuel sharing facility. It was determined that the idea was not feasible and there was no reason to pursue the matter any further.

Superintendent Donahue did note however she and the school district would be willing to work with the Village of Lakewood and the Village of Celoron on any future programs that may fall under the criteria for a NYS Government Efficiency grant.

RESOLUTION #34-2014-2015 - APPOINT NEW PART-TIME POLICE OFFICER

Motion by Trustee, seconded by Trustee Jablonski, per the recommendation of Police Chief John R. Bentley, to appoint Mr. Corbin S. Meleen, Westfield, N.Y., as a part-time Police Officer, with an effective date of hire as June 11, 2014. Officer Meleen will be compensated at a rate of \$ 16.49/hr.
Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #35-2014-2015 - SET DATE & TIME FOR PUBLIC HEARING

Motion by Trustee Drago, to set 6:45 PM, Monday, June 23, 2014, as the date and time for the Board of Trustees to conduct a public hearing on the proposed revisions and amendments to the Village of Lakewood Zoning Law.
NOTE: There was no second to Trustee Drago's motion.

Trustee Di Salvo indicated he doesn't think there is enough time to review the amended document and therefore he would recommend not to conduct a public hearing on this matter until sometime in July 2014.

Mayor Wordelmann said he and the zoning law review committee have been working on the task to amend the local zoning law for over a year and now is the time to commence action on the four zoning moratoria and the amended zoning law. Mayor Wordelmann said he is not asking members of the Board of

Trustees to approve the amended zoning law but rather commence public comment on the document.

Trustee Di Salvo said he and Trustee Jablonski submitted some recommendations for the zoning law review committee to consider, however they didn't receive any correspondence pro or con regarding their recommendations.

JUNE 9, 2014 (CONTINUED)

Trustee Jablonski said he will not vote for the amended zoning law as presented and voiced his disappointment that the amended zoning law did not include an appropriate site plan review proposal based on work done by the Chautauqua County Department of Planning which was geared for improving the Chautauqua Lake watershed. Trustee Jablonski believes that the proposed zoning law as presented also doesn't address erosion and sedimentation sufficient enough. It is his opinion that the signage regulations are also insufficient. Trustee Jablonski would like the opportunity to discuss these and other revisions that have been made to the zoning law in more detail over the next month.

Mayor Wordelmann explained to Trustee Jablonski that rules and regulations pertaining to site plan review would be a matter for discussion by the Board of Trustees at a later time and would be a separate chapter of the Village Code separate from Chapter 25 - Zoning. Because one or more Trustees don't agree with the amended zoning law as presented, it isn't a reason to delay the public hearing process.

If you desire transparency in local government, why be against having a public hearing. Mayor Wordelmann said, he doesn't get it, all he is requesting is a resolution by the Board of Trustees to set 6:45 PM, Monday, June 23, 2014 as the time and date to conduct the initial public hearing on the revised and amended local zoning law.

Trustee Jablonski said he doesn't believe the public has ample time to review the document and formulate questions and/or comments within a two week period, plus he will not be in attendance at the next regular meeting of the Board of Trustees scheduled for June 23, 2014. For those reasons he would prefer that the initial public hearing on the revised zoning law not be held before July 14, 2014.

Trustee Drago indicated when Trustee Jablonski attended one of the zoning law review committee meetings he himself agreed that the Erosion & Sedimentation Control document drafted by Mr. Don McCord was too wordy. The committee along with Mayor Wordelmann decided to remove that particular Section from the zoning law so as not to hold up the review process.

Mayor Wordelmann said we have a completed document less a section on site plan review, which will be addressed at a later date. To hold up the zoning law review process because of questions regarding site plan review is wrong and that is why he made the decision to remove that section from the zoning law.

We need to start the process.

Trustee Di Salvo appreciates the time the zoning law review committee has spent amending the local zoning law and that the need for public discourse is very important. It is likely that he and Trustee Jablonski will ask for substantial changes the zoning law as presented which may result in scheduling additional public hearings. He then asked if it would be a huge problem if the public hearing be delayed until July 14th. He added, because Trustee Jablonski will not be attendance at the next regular meeting, wouldn't it make more sense to wait until the entire board could attend an important public hearing.

RESOLUTION #35-2014-2015 - SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Drago, seconded by Trustee Di Salvo, to set 6:45 PM, Monday, June 23, 2014, as the time and date for the Board of Trustees to conduct a public hearing on the revisions and amendments to the local zoning law.

2 ayes (Wordelmann, Drago), 2 nays (Di Salvo, Jablonski)

Mayor Wordelmann then asked for a member of the Board of Trustees to make a motion to conduct a public hearing at 6:45 PM, Monday, July 14, 2014.

JUNE 9, 2014 (CONTINUED)

RESOLUTION #36-2014-2015 - SET TIME & DATE FOR A PUBLIC HEARING

Motion by Trustee Di Salvo, seconded by Trustee Jablonski to set 6:45 PM, Monday, July 14, 2014 as the time and date for the Board of Trustees to conduct a public hearing on revisions and amendments to the local zoning law.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #37-2014-2015 - SET DATE AND TIMES FOR PUBLIC HEARINGS

Motion by Trustee Jablonski, seconded by Trustee Drago, to set 6:45 PM, Monday, June 23, 2014 as the time and the date to conduct a public hearing on a Special Use Permit (Fence) application as submitted by Mr. P. Scott Sawyer, 105 Winchester Road and to set 6:50 PM, Monday June 23, 2014, as the time and date to conduct a public hearing on a Special Use Permit (Fence) application as submitted by Ms. Lana Lanphier, 32 Marvin Ave.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #38-2014-2015 - APPROVE 2014 DOCK PERMIT APPLICATIONS

Motion by Trustee Drago, seconded by Trustee Di Salvo, for the Board of Trustees to approve dock permit applications submitted by Mark Ramsey, 8 Oakland Ave., for the Oakland Ave. right-of-way and John Johnson, 178 Front Street, for the Woodlawn Ave. right-of-way.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #39-2014-2015 - APPOINT LIFEGUARD STAFF - 2014

Motion by Trustee Drago, seconded by Trustee Di Salvo, that per the recommendation of Village Clerk Joseph M. Johnson, to appoint the following individuals as lifeguards at Richard O. Hartley Park/Beach for the summer of 2014: Supervisory Lifeguard: Nina LaMantia, Jamestown, N.Y., \$ 9.50/hr., and Lifeguards: Jordan J. Powers, Lakewood, N.Y., (\$8.75/hr.), Harrison R. Troche, Lakewood, N.Y., (\$8.50/hr.), Michael J. Burns, Jamestown, N.Y., (\$8.25/hr.), Gabriella Hoose, Lakewood, N.Y., (\$8.00/hr.), Taylor R. LaTour, Lakewood, N.Y., (\$ 8.00/hr.), Katie I. Lawton, Lakewood, N.Y., (\$ 8.00/hr.) and Kelly T. Stevens, Lakewood, N.Y., (\$8.00/hr.).

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

RESOLUTION #40-2014-2015 - AUTHORIZE SIGNING OF SEQR FORM & LEAD AGENCY STATUS

Motion by Trustee Drago, seconded by Trustee Di Salvo, authorizing Mayor David T. Wordelmann to sign a Short Environmental Assessment Form relative to the proposed Panera Bread restaurant at 80 Mall Blvd. and for the Village of Lakewood to act as the project's Lead Agency as it pertains to the State Environmental Quality Review (SEQR) process.

Adopted: 3 ayes, no nays (Di Salvo, Drago, Jablonski)

Motion by Trustee Drago, seconded by Trustee Di Salvo, and unanimously carried the Board adjourned at 7:41 PM.

Joseph M. Johnson
Village Clerk