

JANUARY 22, 2018

The second regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, January 22, 2018, 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, Randall G. Holcomb, Edward J. McCague and Douglas L. Schutte. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Department of Public Works Supervisor Thomas R. Pilling and Fire Chief Steve Smouse. Absent were Village Attorney John I. LaMancuso and Building Inspector Jeffrey A. Swanson.

APPROVAL OF MINUTES

Motion by Trustee Barnes, seconded by Trustee McCague, to approve the minutes of the last regular meeting of the Board of Trustees, held January 8, 2018.

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

AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Holcomb, that the claims as audited by the Auditing Committee of the abstracts dated January 22, 2018, be approved and that the Clerk shall execute said abstracts (#33 & #34) and direct payment by the Treasurer. Trust & Agency Fund: \$ 61,596.34, (Checks #4321 thru #4332), General Fund: \$ 86,224.72, (Checks #14455 thru #14502)

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

ANYONE TO BE HEARD

Mr. Rich Fischer, 43 West Fairmount Ave., appeared before Mayor Birrittieri and members of the Board of Trustees and asked what is the current status of the cell tower that was being proposed adjacent to the railroad tracks on property off East Summit Street owned by the Lakewood Fire Company.

Mayor Birrittieri indicated to Mr. Fischer that the cell tower matter is currently in litigation and therefore she isn't at liberty to discuss it in any detail, plus because the Village Attorney isn't present, she would prefer not to comment any further on the subject.

Mr. Fischer said he and other taxpayers from Village of Lakewood are likely "footing the bill" for tens of thousands of dollars in legal fees and wondered when the matter is expected to be resolved.

Changing subjects, Mr. Fischer said he attended the previous meeting of the Board of Trustees and noticed on the listing of Mayor Birrittieri's eight committee appointments, they aren't shared equally among the four Trustees.

Mayor Birrittieri told Mr. Fischer Trustees McCague and Schutte were newly elected this past November and have expressed an eagerness to do a lot of work for the Village of Lakewood and to get things done. Frankly, Trustee McCague and Trustee Schutte have asked to be fully involved and Mayor Birrittieri said she is going to let them immerse themselves with work on the various committees. Mayor Birrittieri said because there is more than enough work to go around, Trustees not appointed to a certain committee are welcome to assist his or her fellow Trustees. Mayor Birrittieri said Trustees McCague and Schutte ran their campaign with the pledge to get things done and she is putting them to the task with additional committee assignments.

Mayor Birrittieri said although she consolidated some of the committees, there is plenty of work to be done by each and every member of the Board of Trustees.

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RECESS

Motion by Trustee McCague, seconded by Trustee Barnes, to recess the regular meeting so as to conduct a previously scheduled public hearing.

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

PUBLIC HEARING: 6:35 PM
CABLE TELEVISION FRANCHISE AGREEMENT RENEWAL

Mayor Birrittieri opened up the public hearing to discuss the proposed Cable Television Franchise Agreement between the Village of Lakewood and Time Warner Cable Northeast, LLC, locally know as Charter Communications/Spectrum and proceeded to ask if there are any questions for Mr. Mark Meyerhofer, Charter Communications' Director of Government Affairs in Western New York, who is in attendance.

Trustee Barnes asked Mr. Meyerhofer what portion of the franchise fees, if any, are paid from Spectrum's profits.

Mr. Meyerhofer indicated the franchise fees are indirectly paid by our cable television customers within the franchise service area.

Trustee Barnes then asked Mr. Meyerhofer if there are any municipalities that don't charge franchise fees.

Mr. Meyerhofer said yes, there are a few municipalities that opt out of collecting franchise fees. He wished to make it clear that franchise fees are only applied to the television or video portion of the customer's monthly bill.

Trustee Barnes said the franchise fee is nothing more than an additional tax for cable television subscribers. She then indicated to Mr. Meyerhofer that the Village of Lakewood's franchise fee had been at 3% but is now considering increasing it to 5%.

Mr. Meyerhofer said that is correct.

Trustee Barnes then asked Mr. Meyerhofer if the agreement contains language allowing the two parties to re-evaluate its terms during the course of the agreement.

Mr. Meyerhofer said Section #10.1 of the Contract/Agreement allows the Grantor to reduce the franchise fees if they so desire.

Mr. Rich Fischer, 43 West Fairmount Ave., indicated to Mr. Meyerhofer that his cable TV bill for February 2017 was \$ 24.55 and his cable TV bill for February 2018 is going to be \$ 33.81, an increase of \$ 9.26 or 35%. Mr. Fischer said that is a lot of money for those on Social Security.

Mr. Meyerhofer said the increase in customer cable television costs Mr. Fischer referenced happens occasionally as a normal course of business. He said each year Time Warner Cable now known as Charter Communications renegotiates its contracts with the various television outlets or affiliates for the best pricing on behalf of its customers, but invariably costs go up. Mr. Meyerhofer said thanks to the Cable Act the days of free television programs are long gone.

Trustee Barnes asked Mr. Meyerhofer if there is a history to what is referred to as the franchise fee that cable TV customers incur within a specific service area. She added those on fixed incomes are likely going to notice any slight increase in their cable bills more than others.

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Mr. Meyerhofer indicated franchise fees cable television customers pay are regulated by federal laws and are capped-off at 5% of the cable provider's annual Gross Revenue.

Mayor Birrittieri said because the Village of Lakewood is financially strapped with an austerity budget in place, any extra revenue collected via the increased fees would be beneficial to the Village of Lakewood as a whole.

Trustee Schutte indicated if the extra revenue is coming from residents via their cable television bills it should be spent on projects to benefit everybody, whether it be used to reduce debt service, improve our parks or construct new sidewalks. Trustee Schutte said it is important that the Cable TV Agreement contains language that allows the Village of Lakewood to reduce the franchise fee during the term of the contract.

Trustee Barnes said per Village Law revenue such as the cable TV franchise fees cannot be earmarked for specific projects, rather they get deposited into the General Fund. From there, the Board of Trustees will be able to vote on how that money is spent. She reiterated her feelings on the question, whether or not to raise the franchise fee from 3% to 5%, saying it is her opinion that the fee is a regressive tax which hits the lower income people a little harder. Trustee Barnes said she would be in favor of keeping the franchise fee at 3%.

Trustee McCague asked Mr. Meyerhofer how many Villages and Towns in Chautauqua County are at the 5% level for cable television franchise fees and if he knows what percent the Town of Busti pays.

Mr. Meyerhofer indicated that approximately 50% of the Villages and Towns in Chautauqua County are at 5% with another 30% at 3%, however off the top of his head could not quote what the Town of Busti's franchise fee is currently.

Trustee McCague said he checked and the Town of Busti's cable franchise fee is at 5%. He then asked Mr. Meyerhofer, if the Village of Lakewood decided to raise its franchise fee from 3% to 5%, how much more in franchise fee revenue would the Village of Lakewood receive annually.

Mr. Meyerhofer said based on the current figures, the Village of Lakewood's revenue from franchise fees would increase by approximately \$ 20,000.00, (\$ 30,000.00 to \$ 50,000.00).

Mayor Birrittieri asked D.P.W. Supervisor Pilling if he recalls the estimated cost to replace/upgrade the playground equipment at Veterans' Memorial Park on East Terrace Ave.

Mr. Pilling said he believes it was in the neighborhood of \$ 40,000.00.

Mayor Birrittieri said currently the Village of Lakewood has many needs, one of which is to improve the playground at Veterans' Memorial Park, and any extra revenue would come in handy in addressing those needs. For that reason she would be in favor of increasing the Village of Lakewood's franchise fee from 3% to 5%. With no one else to be heard, Mayor Birrittieri closed the public hearing at 6:52 PM.

RESOLUTION #16-2018 – APPROVE THE CABLE TELEVISION FRANCHISE AGREEMENT

Motion by Trustee Schutte, seconded by Trustee McCague, per the recommendation of Mayor Birrittieri, for the Board of Trustees to approve the new Cable Television Franchise Agreement between the Village of Lakewood and Time Warner Cable Northeast, LLC, locally known as Charter Communications – Spectrum, with an initial franchise fee set at 5% of the cable provider's annual Gross Revenue for a term of ten (10) years and to authorize Mayor Birrittieri to execute same.

Adopted: 3 ayes, (Holcomb, McCague, Schutte), 1 nay, (Barnes)

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REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that Andrew Johnson, P.E., of Ecostrategies Engineering & Surveying, Falconer, N.Y., is in the process of applying for a permit regarding the Water Quality Improvement Project (WQIP) planned for the section of Crescent Creek between the railroad tracks and East Summit Street. Once the permit is issued by the N.Y.S. Department of Environmental Conservation work on the project can commence.

Mr. Pilling said in looking ahead to preparing his estimated budget for the upcoming fiscal year, he will need to know if he should include materials necessary to begin work on the walking trail being proposed along the south side of the railroad tracks between Lakeview Ave. east to Shadyside Ave.

Mayor Birrittieri told Mr. Pilling she will gladly look into where that particular project stands right now and advise him accordingly.

Mr. Pilling kindly asked residents to please refrain from depositing snow from their sidewalks and driveways back into roadway. If weather conditions are right the deposits of snow could refreeze and cause damage to cars or snow removal equipment.

Police Chief John R. Bentley reported the Lakewood-Busti Police Department has handled four hundred fifty-nine incidents year-to-date, three hundred eleven of which have occurred in the past two weeks. Chief Bentley also reported that he received confirmation that the L-BPD was awarded a \$ 1,500.00 grant that will fund the purchase and installation of a drug "drop-box" here at the police station. The new drug "drop box" will make it convenient for folks to drop any unused prescription drugs. Chief Bentley said the L-BPD was recently reimbursed \$ 13,177.91 for upgrades in police equipment (rifles, helmets and bullet proof vests) that were made late last year.

Chief Bentley also reported that this past Saturday evening Officer Pilling administered the opioid antidote Narcan, reviving an individual on Shadyside Road who had overdosed.

Chief Bentley concluded his report saying Senator Cathy Young and Assemblyman Andrew Goodell have introduced legislation for the Town Court Officer to also have the title of Peace Officer, which will allow Town Court Officers to maintain their Police Certificate.

Fire Chief Steve Smouse submitted the LFD Alarm Report for the month of December 2017 noting that the Lakewood Volunteer Fire Department responded to seventy-two alarms last month. He also reported the LFD was one of a number of local fire departments that provided mutual aid to the Village of Falconer last week in battling a major structure fire within their business district.

Village Treasurer Andrea J. Windoft reported that she recently received a check in the amount of \$500.00 from the Gloria Dei Lutheran Church which they remit annually to the Village of Lakewood as a gift, in lieu of paying taxes. Mrs. Windoft wished to publically thank the church for their generosity and noted the money will be deposited in the Richard O. Hartley Park Trust & Agency fund.

Village Treasurer Windoft indicated she distributed a memo to Mayor Birrittieri and members of the Board of Trustees regarding a salary increase that the Town of Busti has approved for Building Inspector Swanson and asked that she and the Board of Trustees consider adopting a resolution at the next regular meeting to do the same.

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COMMITTEE REPORTS

Trustee Holcomb indicated in regards to the New York State Energy Research & Development Authority (NYSERDA) grant, the Village of Lakewood has been given a password and that additional information on the grant process will follow.

Mayor Birrittieri said she recently met with members of the Events & Marketing Committee and discussed upcoming events such as the 125th Anniversary of the Village of Lakewood, Live on the Lake concert schedule and the annual 4th of July Festival.

Village Historian Susan Lane indicated she and the History Committee are considering conducting a History Day to coincide with Lakewood's 125th Anniversary Celebration by having the history museum and the Lakewood Fire Department museum open. She noted the LFD Museum features the 1912 Antique Fire Truck which was a gift from J.W. Packard to the Lakewood Fire Department

Mayor Birrittieri said more information on community events for 2018 will be forthcoming.

RESOLUTION #17-2018 SET TIME AND DATE FOR PUBLIC HEARING

Motion by Trustee Schutte, seconded by Trustee Barnes, for the Board of Trustees to set 6:35 PM, Monday, February 26, 2018, as the time and date to conduct a public hearing on Local Law #1-2018, Amend Chapter #25 [Zoning], Local Law #2-2018, Amend Chapter #25 [Zoning] and Local Law #3-2018, Amend Local Law #6-2016, as proposed.

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

RESOLUTION #18-2018 – ADOPT SECTION #3 – 1968 HOUSING & URBAN DEVELOPMENT ACT

Motion by Trustee Barnes, seconded by Trustee McCague, for the Village of Lakewood to adopt Section #3 of the Housing & Urban Development Act of 1968 as it pertains to funding received through the Chautauqua Home Rehabilitation & Improvement Corporation (CHRIC) program and authorize Mayor Birrittieri to execute same.

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

RESOLUTION #19-2018 – AUTHORIZE FUND TRANSFERS

Motion by Trustee Barnes, seconded by Trustee Holcomb, authorizing Village Treasurer Andrea J. Windoft to transfer \$ 2,595.04, from Account #T1093.20, [Police Federal Government Forfeiture Account], to Account #A3120.20, [Police Equipment], to fund the purchase of a new drug testing device.

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

RESOLUTION #20-2018 – DPW TO PARTICIPATE IN BOCES INTERNSHIP PROGRAM

Motion by Trustee Schutte, seconded by Trustee Barnes, per the recommendation of D.P.W. Supervisor Thomas R. Pilling, authorizing the Department of Public Works to participate in the Erie 2 Chautauqua-Cattaraugus (Ashville) BOCES Conservation Internship Program during the spring of the 2018 school year.

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

JANUARY 22, 2018 (CONTINUED)

RESOLUTION #21-2018 – APPROVE NEW FIRE DEPARTMENT MEMBER

Motion by Trustee McCague, seconded by Trustee Holcomb, that the Board of Trustees acting as the Board of Fire Commissioners, approve Mr. Christian Grover, 2251 Big Tree Road, as a new member of the Lakewood Volunteer Fire Department.

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

RESOLUTION #22-2018 – AUTHORIZE REQUEST FOR BIDS - WEEKLY GARBAGE COLLECTION

Motion by Trustee Schutte, seconded by Trustee McCague, authorizing the Village Clerk to advertise for bids regarding the Village of Lakewood's weekly collection and disposal of household garbage and recyclables. Bids are to be received at or before 3:00 PM, Friday, February 23, 2018.

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

Motion by Trustee McCague, seconded by Trustee Barnes and unanimously carried the Board adjourned at 7:15 PM.

Joseph M. Johnson
Village Clerk