

## **JANUARY 23, 2023**

The second regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held, Monday, January 23, 2023, 6:30 PM, with Mayor Randall G. Holcomb presiding. Trustees present were Ellen E. Barnes, R. Richard Fischer, Nancy W. Jones and Benjamin J. Troche. Also present were Village Clerk Mary B. Currie, Village Treasurer Apryl L. Troutman, Police Chief Christopher A. DePonceau, Village Attorney John I. LaMancuso, DPW Supervisor Thomas R. Pilling, and Fire Chief Kurt Hallberg. Absent was Building Inspector Jeff Swanson. A work session was held with no action taken.

### **APPROVAL OF MINUTES**

Motion by Trustee Troche, seconded by Trustee Jones, to approve the minutes of the last regular meeting of the Board of Trustees held January 9, 2023.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

### **AUDIT OF CLAIMS**

Motion by Trustee Jones, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated January 23, 2023, be approved and that the Clerk shall execute said abstracts and direct payment by the Treasurer. Abstracts (#34 & #34) Trust & Agency Fund: \$ 60,798.42, General Fund: \$ 67,838.34, (checks #19463 thru #19499),

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

### **REPORTS**

Police Chief Christopher A. DePonceau reported the Lakewood-Busti Police Department has had three hundred twenty-eight incidents from January 9, 2023 to January 23, 2023 which included one hundred six business checks, seven check well beings, seven domestic disputes, six larceny complaints, twelve motor vehicle accidents, forty-three property checks, eight shoplifting incidents, fifty vehicle stops, and seventeen warrants that were served and/or entered into the system.

Chief DePonceau also said he is still accepting applications for a part-time Police officer.

Fire Chief Kurt Hallberg reported the Lakewood Fire Department has responded to fifty-five alarms year to date.

Chief Hallberg also reported the LFD has received a grant from the Chautauqua Region Community Foundation in the amount of \$ 4,000.00 and indicated it will go towards the purchase of a new trailer that can be used to haul the Gator, the Model T and also be used as a command post/rehab trailer for large incidents. He added between the grant and the sale of the old trailer, he is hopeful that will cover half of the new trailer cost.

Village Attorney John I. LaMancuso reported he has been in contact with Attorney Mark Butler, Snyder, NY, who indicated before Emergency Medical Services (EMS) billing can begin there should be an agreement in place with the Fire Company on the split of the revenue. He also said he is ready to help with that but wasn't sure if any negotiations have taken place.

Mayor Holcomb said he is happy to announce the 2022 Volunteer of the year award is being presented to Ms. Taryn Wilson-Wheatley. Mayor Holcomb said Ms. Wilson-Wheatley began by helping out with the Farmers' Market and ended up becoming the Market Manager. He also noted Ms. Wilson-Wheatley volunteered her time at the Beers for Badges fundraising event held during the summer. Mayor Holcomb then asked Ms. Wilson-Wheatley if she would be willing to manage the Farmers' Market again this year.

Ms. Wilson-Wheatley said she moved to Lakewood to be back in a small town so she could get involved with the community.

JANUARY 23, 2023 (continued)

Trustee Nancy W. Jones announced that Mr. Bruce Bradford, former resident of the Village of Lakewood, has passed away. Mr. Bradford was the owner of Brad's Hardware on W. Summit St. and also designed the village seal many years ago.

Mayor Holcomb kindly asked if everyone would join him to observe a moment of silence in honor and memory of Mr. Bradford.

### **HISTORIC PRESERVATION STEERING COMMITTEE REPORT**

Mr. Ted McCague, presented an update on behalf of the Historic Preservation Steering Committee (HPSC) saying the committee continues to unanimously support the preservation and rehabilitation of the Village Hall and believes that this initiative is critically important to our community.

He said they are pleased to announce that the consultants at Clinton Brown Company Architecture, PC (CBCA), Buffalo, N.Y., have completed the Historic Structure Report and recommended board approval and adoption of the document.

Mr. McCague also reported the State Historic Preservation Office (SHPO) recently approved the Determination of Eligibility (DOE) application opening the door for an application for National Register Nomination. The consultants have submitted a first draft of this application to NY State Historic Preservation Office (SHPO) for their review and comment. SHPO tells us it may be a couple of months before they can respond. National Boards meet March, June, September and December each year.

Mr. McCague said the completion of these two efforts place the village in a very good position to implement recommendations in the HSR and indicated a great place to start is to apply for grants through the CFA 2023 grant round to begin the needed exterior repairs and maintenance. HPSC will not author a grant application but can advise the village on how best to proceed.

Mr. McCague also said there is no doubt that the future of the village history museum is of critical importance to the community at large, but the committee has determined that the task of addressing the issue of the existing museum and its long-term management requires an initiative beyond the scope of HPSC. Therefore, in order to address this matter the committee recommends the formation of a Lakewood Historic Society (LHS). This new entity would be organized under NYS 501c3 law, would function independent of the village and be open to anyone in the community to become a member and participate. The society's mission statement and agenda would include, but not be limited to, issues surrounding the museum. Instead, LHS would concern itself with all matters of historic preservation in our community.

Mr. McCague said the HPSC recommends that the Board of Trustees submit the proposed Local Law Village Attorney LaMancuso has drafted to the state for their review and comment. He asked that the Board of Trustees look through the draft and let him know if they have any questions.

Mayor Holcomb asked who was on the Historic Preservation Steering Committee.

Mr. McCague said the committee consists of himself, Mrs. Jill Conley, Mrs. Kaie Smith, and Mrs. Diane Hendrix.

Mr. McCague also said late last week the state signed off and closed out the Home & Community Renewal New York Main Street Grant. He said that grant awarded \$ 340,492.00 and \$ 283,079.00 of that was dispersed to the village. He said with that grant the village improved five buildings along Chautauqua Ave., reallocated some of the money for street scapes, which bought some additional benches, flower pots, trash cans and a bike rack and also had the Design Guidelines written for Chautauqua Ave.

Mr. McCague said the Design Guidelines apply to every property within the B-1 district whether it's remodeling, painting, renovation, or anything planned for the buildings along Chautauqua Ave. He also indicated any plans should be done in accordance with these guidelines.

JANUARY 23, 2023 (continued)

Trustee Troche asked Mr. McCague if he thinks there are any grants that could make the Village Hall ADA accessible.

Mr. McCague said he believes there is a lot of money available for the building.

**RESOLUTION #18-2023 – SET TIME & DATE FOR A PUBLIC HEARING**

Motion by Mayor Holcomb, seconded by Trustee Jones, to set 6:30 PM, Monday, February 13, 2023, as the time and date for the Board of Trustees to conduct a public hearing to review a Special Use Permit application as submitted by Mr. Eric Lindquist, requesting approval to establish a Short Term Rental at 3 Alta Way.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #19-2023 – APPROVE SERVICE AGREEMENT WITH DFT COMMUNICATIONS**

Motion by Trustee Barnes, seconded by Trustee Fischer, to approve the Internet Service agreement between the Village of Lakewood and DFT Communications, Fredonia, N.Y., providing internet service for an extended 60 months.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #20-2023 - APPROVE NEW FIRE DEPARTMENT MEMBER**

Motion by Trustee Barnes, seconded by Trustee Troche, that the Board of Trustees, acting as the Board of Fire Commissioners, to approve Mr. Bohdan Wendel, 20 Hern Ave., as a new member of the Lakewood Fire Volunteer Department.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #21-2023 – AUTHORIZE BUILDING OFFICIALS CONFERENCE ATTENDANCE**

Motion by Trustee Fischer, seconded by Trustee Barnes, authorizing Building Inspector Jeffrey Swanson and Fire Inspector David Wilfong, to attend the Finger Lakes Building Officials Association, Inc. annual educational conference, to be held in Rochester, N.Y., March 13<sup>th</sup> – March 15<sup>th</sup>. Mr. Swanson and Mr. Wilfong will be reimbursed for any necessary expenses incurred.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #22-2023 – AUTHORIZE MID-YEAR BUDGET TRANSFER**

Motion by Trustee Troche, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L Troutman to make the following mid-year budget transfer for a budget shortfall: \$ 1,237.50 from A-1990.40 {Contingent Account – Contractual} to A-1420.40 {Law – Contractual}.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #23-2023 - AUTHORIZE MID-YEAR BUDGET TRANSFER**

Motion by Trustee Fischer, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L. Troutman to make the following mid-year budget transfer for a budget shortfall: \$ 13,907.31 from A-9060.80 {Hospital & Medical Insurance} to A-9060.81 {Insurance Buy-outs}.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**RESOLUTION #24-2023 – AMEND CURRENT PROCUREMENT CREDIT CARD PROGRAM**

Motion by Trustee Troche, seconded by Trustee Barnes, for the Village of Lakewood to amend its current Procurement Credit Card Program by increasing the monthly credit limits from \$ 1,000.00 to \$ 3,000.00. The individual transaction limit shall remain at \$ 1,000.00.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

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Trustee Jones said she is concerned about increasing the credit limits because that gives the various departments the ability to just keep buying more and the Board of Trustees won't have any control over it.

Fire Chief Hallberg said the problem he is running into is that he used to go to three different businesses to purchase his supplies and they have all gone out of business. He said he is now having to order on-line through one company, which increases the amount of his purchases, instead of splitting it between three separate accounts.

**RESOLUTION #25-2023 APPROVE THE FARMERS' MARKET AND MARKET MANAGER**

Motion by Trustee Troche, seconded by Trustee Barnes, authorizing the Village of Lakewood to act as the sponsor for this year's Farmers' & Artisan' Market and approve/name Ms. Taryn Wilson-Wheatley, 26 East Terrace Ave., as the Market Manager.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

**PRESENTATION ON SHORT TERM RENTALS**

Mr. John Steinmetz and Ms. Molly Gaudio, Bergmann Engineering and Design, Rochester NY, joined the meeting via Zoom.us and presented a Power Point presentation regarding Short Term Rentals within the Village of Lakewood. Mr. Steinmetz and Ms. Gaudio have been hired by the village to consult on the new zoning laws and have met several times with the Short Term Rental committee. Ms. Gaudio discussed the pros and cons of Short Term Rentals in the different districts of Lakewood. Ms. Gaudio's presentation of the work being done is available in the clerk's office per request.

**DISCUSSION ON AMBULANCE PAYMENT COLLECTION & CO-PAY POLICY**

Village of Lakewood Attorney John LaMancuso said there are a couple different versions of the proposed policy and there appears to be some inconsistency in them. He said there is language saying the Fire Department will not bill people directly and also non-residents would be billed. He said Attorney Mark Butler agrees that the language about not billing anyone directly should be removed from the policy to avoid confusion. He said the language in the policy should say the Fire Department will not bill residents of the Village of Lakewood directly, non-residents of the Village of Lakewood may be directly billed.

Trustee Barnes said Professional Ambulance Billing, LLC (PAB) told her they don't send a bill, they send a form to the patient asking for insurance information, after three attempts and not receiving the form back, the case is no longer billable and is written off by the village.

Trustee Troche said PAB cannot talk with patients so how would they send a co-pay.

**RESOLUTION #26-2023 – AMBULANCE PAYMENT COLLECTION & CO-PAY POLICY**

Motion made by Trustee Troche, seconded by Trustee Fischer, for the Board of Trustee to approve the following Ambulance Payment Collection and Co-Pay Policy:

The Village of Lakewood Emergency Medical Services Department ("EMS Department") will, through its billing service ("Billing Service"), mail or electronically transmit a statement of services rendered ("Statement") to the insurance carrier of the patient in the month following service by EMS Department.

Initially, bills for EMS or ambulance service will not be sent directly to any patient treated or transported by the Village Fire Department.

In the absence of patient insurance information, a request for insurance information ("RFI") shall be mailed directly by the billing service to the patient.

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If, after receiving the RFI, the patient or the patient's responsible party states there is no insurance coverage, no further action shall be taken and the claim closed. A record of such closure shall be made by the Village's billing agency and contained in the billing agency's periodic reporting to the Village.

To the extent permitted by law, Village of Lakewood ("Village") and Town of Busti ("Town") residents who have Medicare, Medicaid or other medical insurance shall not be billed for co-pays or deductibles associated with the services provided by the EMS Department and insurance payments shall be accepted as payment in full.

In as much as the EMS Department is funded through Village *ad valorem* taxes either directly (Village residents) or, for such time as a contract for emergency services exists between the Village of Lakewood and the Town of Busti, through fire protection district taxes within the Town of Busti, the Village has by legal authority offset the deductibles and co-payments ("co-pays") of residents in the Village and Town by making payment to EMS Department which is intended to constitute payment for such co-pays and deductibles. This comprehensive regulatory framework within the Village and the waiver of collection of co-pays of such Village and Town residents is consistent with the Centers for Medicare & Medicaid Services Medicare Benefit Policy Manual Chapter 16 Section 50.3 and no portion of a waived co-pay or deductible will be utilized to calculate the billing service's fee under section 3.2 thereof.

Such waivers shall not apply to non-residents and nothing in this Policy shall otherwise impair the right of the Village EMS Department to pursue collection of accounts deemed uncollectible or closed for non-residents in the future by act of the Village Board of Trustees.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

#### **DISCUSSION ON AMBULANCE BILLING ADMINISTRATIVE PROCEDURES**

Trustee Troche said he met with the EMS committee and they discussed a few changes to the department billing and administration procedures. He said although general administration is important, the Board of Trustees need to let the village departments do their jobs. He said with the Minimum Data Set Documentation, it is the opinion of a few people that there has been some trust broken while pursuing these policies. He said the village needs to make sure there is a concise set of documentation regarding this so that everyone can get along. The Lakewood Fire Department is all volunteers who save the village lots of money and they donate hundreds of hours of their own time.

Trustee Troche proposed that the Village Public Safety Committee have a fire company designee set forth by the chief and that the treasurer and the designee review quarterly. They will submit a report of all charts that were billed for as well as all revenue. He said he thinks this is a fair way to be transparent with everyone involved and could be a policy between the village and the fire company, attached to the EMS billing policy.

Trustee Troche also said the Standard Operating Procedure (SOP) says charting needs to be completed within 48 hrs. of the call. He said is sometimes the information is hard to obtain depending on the nature of the call and the amount of calls on the shift. He said he would like to allow the fire chief to create the amount of hours an EMT has to complete their charts.

Trustee Barnes said the billing procedures were put together by the Attorney who has a lot of experience in this and this is what he recommended we follow. She said the Trustees and the village have the legal responsibility and liability and ultimately everything comes back on the shoulders of the Board of Trustees and the village. She said this document was written by the Attorney to cover these legalities and does not see it as an infringement on the Fire Department and the SOP document is in the main office of the fire hall. She said if there are inspections done by Medicare or Medicaid, we have to be able to show them what is at the village hall, they aren't going to go to the fire department to look for SOP's because we are the entity that is permitted to bill.

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Trustee Barnes said 48 hrs. to complete an EMS billing chart is just a standard. The LFD would not be held to that because there is a standard of life. If it can't be done in 48 hrs., then it can't be done. However, these things do need to be done in a timely manner because some insurances bill quickly, so if you strive for the 48 hrs. you may get a lot more done within that time frame.

Trustee Troche said it doesn't make sense to add the 48 hrs., if they aren't going to be held to it anyway. He said it should just say the chart would be completed and given to the billing agency as soon as possible. That way if the EMT is on a call until midnight on a Friday or even if we had a full time paid person to do the charting, who is going to go in on the weekend to complete a chart.

Trustee Barnes suggested changing the policy to 48 business hrs. She said the village needs to keep a copy of what we are overseeing and what it is for and indicated once the fire department gets all the technology that is available to them, it will be easier.

Trustee Troche said the Fire Department already has all the latest technology, their equipment transfers directly into the EMS chart and the Department of Health regulates all of that.

Trustee Barnes said there has to be a main template and who is going to be in charge of making the changes. The village needs to know when Medicaid or Medicare needs them to change something in their SOP.

Trustee Troche said Medicaid and Medicare will not contact the village. The fire department will find out first because the contact person at PAB is the EMS Captain going forward. It will be the general administration, meaning the fire chief that changes will go through.

Trustee Barnes said Minimum Data Set Documentation is in the fire departments Policies and Procedures but if the village hall does not have the SOP then the board isn't doing their oversight job that they need to do and that is why it has to be in the Village Hall also. There is no problem with duplication.

Attorney LaMancuso said we have two documents that talk about the same subject but have two different requirements. He said one thing to consider is to have the fire chief create policies for the department and the firefighters and attach it to the EMS billing policy, then you can make reference to both policies. You can say every ePCR has to be transmitted to the villages billing agency in accordance to the attached policy. He said that is something that can also be stored in the Village Hall and can be revised at any time.

Trustee Troche said Chief Hallberg should be made head of the EMS department, when a change is made to a SOP it has to go through the Board of Trustees anyway.

Fire Chief Hallberg said he doesn't like hearing "the fire department and not the village, the village and not the fire department". He said he is the department head of a village department. The department heads make decisions every day that effect the village, because they are the department head. If the board tells us we have to have a safety policy, then it is up to us to talk to our guys about it and make sure they are following the policy and work out the details of the policies. The fire department's best practices are not voted on by the Board of Fire Commissioners, they are established by the department head, the chief. If you take our best practices and attach them to this EMS billing policy, then why have two sets.

Chief Hallberg also said an inspector will not go to the Village Hall, they are going to come to the fire department/EMS department because we are operating under your jurisdiction. He said he is operating as the head of the department, his office just so happens to be in another building. He said the village is in charge of this but they are going to come look for this paperwork in the EMS director/Fire Chief's office. He also said Dan Imfeld works for the Department of Health and is helping them get ready for inspections and said they are all going to the departments.

Trustee Barnes said before approving the changes she would like to see it in writing and be able to read it.

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Mayor Holcomb said the Board of Trustees need to act on this tonight so we can move on with it.

Attorney LaMancuso said he doesn't see any reason why it couldn't be acted upon tonight, changes can always be made down the road.

With the aforementioned amendments being made, the Ambulance Billing Administrative Procedures will read as follows:

### **Authority and Background**

Pursuant to the NYS Public Health Law, the General Municipal Law and other applicable law and regulations, the Village of Lakewood has established an EMS Department for the delivery of emergency ambulance care and EMS within the Village and the Town of Busti, pursuant to the authority granted to the Village by the NYS Department of Health.

The Village has also authorized the billing for such ambulance services as provided by law including General Municipal Law 209-b(4).

This Administrative Policy for Ambulance Service Billing is established to guide the general administration of billing and revenue recovery therefrom by the Village, its EMS Department and its Fire Department. Not all circumstances may be covered by this Policy and the Village Board, or its designee such as the Chief of the Village Fire Department, shall be empowered to address circumstances that may occur outside this Policy.

This policy is an overview which compliments the Village Fire Department's best practices, internal policies and ePCR best practices document.

### **Policy**

This Policy shall guide billing fees and charges for persons treated by the Village Fire Department for ambulance service and EMS.

Only persons who have health insurance such as, but not limited to, private health insurance plans, Medicaid and Medicare (hereafter "health insurance") shall have their respective health insurance billed for fees and charges for ambulance service and EMS.

Persons treated by the Village Fire Department shall not be initially billed directly by the Village or its agents for any such treatment and service except for the collection of a co-pay from non-residents.

Residents of the Village and the Town of Busti, during all such periods as a fire and EMS contract is in place between the Town and the Village, shall not be charged a co-pay for any treatment received from the Village Fire Department. Furthermore, they should not receive a bill from the Village or its agents.

Non-residents of the Village or Town of Busti shall be responsible for any co-pay or other fees and charges not covered by health insurance.

This Policy shall be subject and subordinate to any patient treatment protocols or guidelines applicable to the Village, its EMS Department and Fire Department as promulgated by the NYS Department of Health, the Regional EMS Council and Regional Medical Advisory Committee and the Department's Medical Director(s).

The Village has engaged a third-party billing agency to conduct the actual billing, revenue collection and remittance thereof to the Village through its EMS Department.

### **General Provisions**

Upon the completion of any Fire Department response requiring the completion of an electronic Prehospital Care Report ("ePCR") the ePCR shall be transmitted to the designated Village billing agency.

The ePCR shall be completed pursuant to the Village's ePCR Completion Guidelines ePCR best practices which have been created in concert with the billing agency to ensure a complete data set for revenue recovery.

All Fire Department personnel who may work on or complete an ePCR shall complete initial training and, where deemed necessary for QA/QI purposes, refresher training, to ensure collection of a complete data set on the ePCR for each person treated by the Fire Department.

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Where necessary, the completed ePCR may be reviewed for QA/QI by one or more designated Fire Department personnel to assure compliance with all PCR reporting requirements and the collection of a complete data set for billing purposes.

Every ePCR shall be transmitted to the Village's billing agent in accordance with the attached Fire Department policies and best practices as amended from time to time by the Fire Chief.

The Village Fire Department shall designate a qualified person or persons to be the contact person for the Village's billing agency for QA/QI purposes, including completed ePCRs and submit them to the Village's billing agency for billing (QA Coordinator).

Where incomplete ePCRs, ePCRs with missing or incorrect information or any other reason the ePCR does not meet the criteria necessary to be submitted for billing, the ePCR be returned by the QA Coordinator to the appropriate provider for necessary corrections and re-submission in accordance with the attached Fire Department policies and best practices as amended from time to time by the Fire Chief.

The Village Public Safety Committee, a Village Fire Department designee, a Lakewood Volunteer Fire Company Inc. designee and the Village Treasurer shall review quarterly the preceding three months of activity detailing the number of ePCR submissions to the Village's billing agency, the number of ePCRs returned for additional information, the revenue received from the Billing Company and other information as may be required by the billing agency or the Village Board and submit a report to the Village Clerk and Board of Trustees.

**Minimum Data Set Documentation**

In addition to the information required on the ePCR, Fire Department personnel shall obtain and include all necessary information for a complete data set for billing in accordance with the attached Fire Department policies and best practices as amended from time to time by the Fire Chief. Such complete data set of information shall be stipulated in the ePCR best practices document.

**RESOLUTION #27-2023 – AMBULANCE BILLING ADMINISTRATIVE PROCEDURES**

Motion by Trustee Troche, seconded by Trustee Fischer, for the Board of Trustees to approve the Ambulance Billing Administrative Procedures with the amendments made by Village Attorney LaMancuso and also have Fire Chief Hallberg provide a complete set of SOP's to the Village Clerk's Office.

Adopted: 4 ayes, no nays (Barnes, Fischer, Jones, Troche)

Motion by Mayor Holcomb, seconded by Trustee Fischer and unanimously carried the Board adjourned at 8:32 PM.

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Mary B. Currie  
Village Clerk