

JANUARY 27, 2020

The second regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, January 27, 2020, 6:30 PM, with Mayor Randall G. Holcomb presiding. Trustees present were Ellen E. Barnes, R. Richard Fischer, Edward J. McCague and Douglas L. Schutte. Also present were Village Clerk Mary B. Currie, Village Treasurer Apryl L. Troutman, Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt Hallberg and Building Inspector Jeffrey A. Swanson.

APPROVAL OF MINUTES

Motion by Trustee McCague, seconded by Trustee Fischer, to approve the amended minutes of the last regular meeting of the Board of Trustees held January 13, 2020.

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

AUDIT OF CLAIMS

Motion by Trustee Schutte, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated January 27, 2020, be approved and that the Clerk shall execute said abstracts (#35 & #35) and direct payment by the Treasurer. Trust & Agency Fund: \$ 46,824.85, (Checks #4971 and #4972), General Fund: \$ 191,390.49, (Checks #16533 thru #16573), NOTE: Voided Check #16539, (ACH payment)

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

REPORTS

Mayor Holcomb began his report by saying he is hopeful the Board of Trustees will be able to accomplish a lot this evening by bringing the four year cell tower and related lawsuit issue to a conclusion. Mayor Holcomb reported that Judge William K. Sessions, III, United State District Court, filed his order on January 2, 2020 for the Village of Lakewood to issue the Special Use Permit, Variance and any other permits or licenses needed to install the 180 foot tower on the property owned by the Lakewood Fire Company.

Mayor Holcomb is hopeful that after spending well over \$ 90,000.00 of Lakewood tax payer's money, the Board of Trustees will be able to put it all behind us and move forward.

Mayor Holcomb read a letter he had received from Ms. Karen Cotton, 166 Bentley Ave. in regards to a 40 foot pine tree that had fallen during the wind storm on January 12, 2020. Ms. Cotton wanted to express her deepest appreciation to the Village of Lakewood DPW for what a great job they did in cleaning up the tree and removing it in a timely manner.

Department of Public Works Supervisor Thomas R. Pilling reported on the condition of the parking lot behind the Anthony C. Caprino Municipal Building. At this time there are unregistered vehicles, trailers and now even a washer and dryer. Mr. Pilling feels since the purpose of the parking lot is for overflow parking for village residents it should not be used as storage space for "junk".

Police Chief John Bentley indicated that any vehicle that is not registered or inspected and parked in the parking lot behind the Village Hall is against village code. His department will be instructed to have the vehicles towed away after four days of the owner being notified.

DWP Supervisor Pilling asked the Board of Trustees if they have made a decision on what they would like to do about closing times and signs for the village parks.

The Village Board decided the best thing to do would be to have signs that just say, park closes at 10:00pm.

Mr. Pilling also reported that he had been questioned by a mail carrier earlier in the day about flyers that had been placed in some mailboxes. He said if anyone knows who was doing it, the USPS would like to talk to them.

Police Chief John R. Bentley distributed his Analysis Report for 1/13/20-1/27/20 and reported the Lakewood-Busti Police Department has had three hundred six calls since the last meeting on January 13, 2020.

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Chief Bentley also reported that he and Village Attorney John I. LaMancuso have been working together to try and move forward with the insurance companies, regarding the settlement, on the burned police patrol car. He does not believe they should settle for what Sentry Ins. Company, which is Dave Warren Auto's Insurance carrier, wants to pay.

Fire Chief Kurt Hallberg reported the Lakewood Fire Department has responded eighty-six alarms so far in January.

Trustee McCague asked Chief Hallberg if he could get a copy of a map which would show the geographic boundaries of the Busti Fire District.

Trustee McCague asked Village Attorney John I. LaMancuso if he had reviewed the Fire Protection and Emergency Service Contract prior to the meeting of January 13, 2020.

Village Attorney LaMancuso felt that wasn't something that should be discussed in a public meeting.

Code Enforcement Officer Jeff Swanson wondered if the Board of Trustees would like to select a few people to start looking into the fee schedule and aesthetics of the 5G antennas before it becomes a problem.

Trustee Ellen Barnes asked Mr. Swanson if he has any idea when they will start installing the antennas.

Mr. Swanson said he did not but he knows they have already been out assessing poles for them. He thinks the village could soon receive applications. He just wants to be prepared.

Trustee Doug Schutte said the village needs to find out what the needs will be of a cell tower in order to support the 5G antenna system.

Mayor Holcomb asked Mr. Swanson if he would be willing to work on a committee for the fee schedule and aesthetics of the 5G system and asked if there was anyone in attendance that would be willing to work on the committee with Mr. Swanson.

Mr. & Mrs. George Hendrix, 12 Lakeview Ave., indicated they would be willing to be part of that committee.

Trustee McCague wished to thank Code Enforcement Officer Swanson for his annual report, which he had submitted at the board meeting on January 13, 2020, and for his efforts of bringing that kind of revenue into the village.

Code Enforcement Officer Swanson also reported that he is still in the process of finding a Fire Inspector for the Village of Lakewood and the Town of Busti.

Trustee Edward McCague presented the Board of Trustees with a letter he had written as a response to some questions Trustee Barnes had for him in regards to the Grandview Stormwater Management Project. Trustee McCague read the letter and explained what has gone on up to this point, including the village being awarded a \$ 20,000.00 grant from the Chautauqua Lake & Watershed Management Alliance, Inc.

Trustee Barnes thanked Trustee McCague for bringing the board up to speed on the project and asked if he will be presenting final plans and final costs to the board before each phase.

Trustee McCague indicated he would and explained that what is taking place right now is just for the full engineering on the project. The grant money from the Alliance needs to be expended by the end of the year 2020.

RESOLUTION #24-2020 – ACCEPT RESIGNATION OF L-BPD POLICE OFFICER

Motion by Trustee Barnes, seconded by Trustee McCague, for the Board of Trustees to accept the resignation of L-BPD Police Officer Joshua Eddy who has taken a full time job with the Chautauqua County Sheriff's Office. Adopted: 4 ayes, no nays (Barnes, Fischer, McCague, Schutte)

JANUARY 27, 2020 (continued)

RESOLUTION #25-2020 – APPOINT NEW PART-TIME POLICE OFFICER

Motion by Trustee Schutte, seconded by Trustee Barnes, per the recommendation of Chief Bentley, for the Board of Trustees to appoint Mr. Andrew J. Shilling, to the vacated part-time position created by the recent resignation of Officer Joshua Eddy.

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

RESOLUTION #26-2020 – APPROVE USE OF VILLAGE STREETS

Motion by Trustee Barnes, seconded by Trustee Fischer, to approve the use of Village streets, as a portion of the route for the second annual 5K run/walk by the Library Ambassadors Youth Group on Saturday, June 6, 2020.

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

RESOLUTION #27-2020 – ACCEPT THE ORDER BY UNITED STATE DISTRICT COURT AND NOT APPEAL COURT CASE 1:17-CV-00047-WKS

Motion by Trustee Barnes, seconded by Trustee Fischer, that in the case of Up State Tower, Co., LLC, and Buffalo-Lake Erie Wireless Systems, Co., LLC as Plaintiffs v. The Village of Lakewood, New York; and the Zoning Board of Appeals of the Village of Lakewood, New York as Defendants in court case 1:17-cv-00047-WKS. Whereas, the Village of Lakewood New York, having received the opinion of William K. Sessions, III, District Court Judge, United State District Court for the Western District of New York, in the above stated case, by this resolution of the Village Board of Trustees in Lakewood, New York, accepts said Federal Court decision in this case and will not appeal this decision, or enter into any other legal action in this case.

NOTE: Town of Busti Supervisor Jesse Robbins asked what the total cost to the village tax payers is up to on trying to fight the cell tower from going up.

Mr. David Menzies, 68 E. Terrace Ave., along with other residents in attendance, voiced their concerns with the cell tower, should it go up. Some of the concerns were the health effects it will have on village residents, will the property values decrease, who will financially benefit from it and asked what can be done to stop it from going forward.

Trustee Barnes touched on the history and the expense of trying to oppose the proposed cell tower. She explained the financial benefits to the Lakewood Fire Company as well as the revenue to the village through the assessment to be placed on the cell tower. Ms. Barnes also explained the difference between the Lakewood Fire Company and the Lakewood Fire Department.

Trustee Barnes referred to an article by the American Cancer Society on the health effects of cell towers and suggested the National Institute of Health would be a good place to look for more information.

Trustee Doug Schutte thought with so many questions on the cell tower height, aesthetics, financial benefits/stress, what will be needed for the 5G system, health concerns, and home values, maybe it is time to hold out for the best deal we can get for the village and all concerned.

Trustee Ted McCague said his phone has been ringing all weekend with calls from concerned citizens and wondered if Attorney LaMancuso could look into if there could be a viable appeal and if so how long would it take and how much would it cost.

Trustee McCague also questioned how the tower would be assessed when it is on a tax exempt parcel of land.

Mayor Holcomb explained that the tower itself is taxable on its value, which will also depend on how many dishes are on it, however the land will remain tax exempt.

With no one else to be heard Mayor Holcomb asked Village Clerk Mary B. Currie to please take a roll call.
Adopted: 3 ayes, 2 nays (Barnes, Fischer, Holcomb) (McCague, Schutte)

JANUARY 27, 2020 (continued)

Ms. Kimberly Pannes, 95 E. Summit St., asked if there was an appeal couldn't the board request certain things for the cell tower such as height, looks and rent. She feels there needs to be more information on the tower before you vote to appeal.

Trustee Schutte said, that if the village were to appeal then maybe it would have some ability to negotiate.

Lakewood Fire Company President, Jackson Knowlton, explained that the proposed tower location is in the wooded area on the west end of the Fire Company property, behind over 100 foot trees, over 900 feet away from the newly installed ball field and two blocks away from Southland Ave. He also explained what the Fire Company plans on using the income from the lease for.

Trustee Barnes asked Village Attorney John LaMancuso what would be the timetable and expense involved if the Village of Lakewood were to file an appeal.

Mr. LaMancuso indicated just filing the appeal would not be a large expense, it would buy them some time. If you wanted to engage in perfecting your appeal with negotiations it could take several months and that's where it could get expensive.

RESOLUTION #28-2020 – RESCIND RESOLUTION

Motion by Trustee Schutte, second by Trustee Barnes, to rescind Resolution #27-2020 whereas the Village of Lakewood, Board of Trustees, accepts the decision by Judge William K. Sessions, III, in case 1:17-cv-00047WKS and will not appeal the decision or enter into any legal action in the case.

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

RESOLUTION #29-2020 – APPEAL COURT CASE 1:17-CV-00047-WKS

Motion by Trustee Schutte, seconded by Trustee McCague, to appeal the decision by William K. Sessions, III, District Court Judge, United State District Court for the Western District of New York, in court case 1:17-cv-00047-WKS. Which will be for a short term.

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

RESOLUTION #30-2020 – APPROVE AGREEMENT WITH CHAUTAUQUA COUNTY FOR BORDER PATROL AUGMENTATION

Motion by Trustee McCague, seconded by Trustee Schutte, to approve the Agreement between the Village of Lakewood and the County of Chautauqua regarding Border Patrol Augmentation/Homeland Security that commenced on June 1, 2019 and shall terminate on August 31, 2020.

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

RESOLUTION #31-2020 – APPOINT NEW PART-TIME DEPUTY CLERK/TREASURER

Motion by Trustee Barnes, seconded by Trustee Fischer, for the Board of Trustees to appoint Ms. Jacquelyn M. Hyser as part-time Deputy Clerk/Treasurer. Ms. Hyser's work hours will begin with four hours a day, five days a week and she will be compensated at an hourly rate of \$ 13.00 per hour.

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

Motion by Trustee Barnes, seconded by Trustee Schutte and unanimously carried the Board adjourned at 8:15 PM.

Mary B. Currie
Village Clerk