

MARCH 20, 2019

A special meeting of the Board of Trustees of the Village of Lakewood was held Wednesday, March 20, 2019, 10:00 AM, with Deputy Mayor Edward J. McCague presiding. Trustees present were Ellen E. Barnes and Randall G. Holcomb. Also present was Village Clerk Joseph M. Johnson. Absent were Trustee Douglas L. Schutte & Village Attorney John I. LaMancuso.

Deputy Mayor McCague indicated that this morning's special meeting was called so the Board of Trustees could further review and consider additional documents related to the permit process to allow aquatic herbicide application in targeted areas off of and from Village of Lakewood shorelines. Deputy Mayor McCague indicated that Trustee Douglas L. Schutte is out of town, but may call in. He also noted that Village Attorney John I. LaMancuso is on his way to an appointment out of town, but will be providing legal counsel, if needed, via cell phone.

Deputy Mayor McCague indicated per the agenda, #1 under old business is to review/approve the Technical Memorandum related to the Chautauqua Lake Partnership's (CLP) NYS DEC Permit application in connection with planned aquatic herbicide application in targeted areas of Chautauqua Lake, specifically in areas off of and from Village of Lakewood shorelines.

Mr. Jim Wehrfritz, Chautauqua Lake Partnership Vice President, indicated that the Technical Memorandum Mr. McCague noted was approved by the Town of Ellery March 1<sup>st</sup>, as the project's Lead Agency. He said the Amended Findings Statement before the Board of Trustees this morning is Lakewood specific and references the Technical Memorandum that was approved. Mr. Wehrfritz said it isn't necessary for the Village Board of Trustees to approve the Technical Memorandum, because it is approved already.

When asked by Deputy Mayor McCague if the Village of Lakewood is required to approve the Technical Memorandum, Village Attorney LaMancuso answered, no it isn't.

Deputy Mayor McCague then moved onto the second item on the agenda, which asks the Board of Trustees to review/approve an Amended Findings Statement related to the CLP's NYS DEC permit application in connection with planned aquatic herbicide application in targeted areas of Chautauqua Lake, specifically in areas off of and from Village of Lakewood Shorelines. He then asked if anyone in attendance would like to comment.

Mr. David Card, 38 Chautauqua Ave., asked if there are specific areas off Lakewood's shoreline that are targeted for aquatic herbicide application.

Deputy Mayor McCague told Mr. Card there is a map depicting those areas on the Village of Lakewood web site.

With a map in hand, Mr. Wehrfritz showed Mr. Card and others what areas off Lakewood's shoreline are being considered for herbicide treatment. The entire treatment area totals 222 acres. He went on to say that the CLP has asked the NYS DEC if the permits could be issued by April 1<sup>st</sup>, which will allow the lake organization to carry-out some pre-treatment activities.

Mr. David G. Bargar, 11 Sunset Ave., asked how does the Village of Lakewood go about budgeting for the cost of the herbicide treatment, if it is still unknown how many acres will be included in the permit and what is even affordable to the taxpayers. (222 acres @ \$ 600.00 acre) He also asked if actions by Chautauqua County Executive George Borrello could play a part from a funding point of view.

Deputy Mayor McCague said flat out the Village of Lakewood can't afford it, and whether there is financial assistance out there somewhere, we don't know. He wanted to make it very clear that the Board of Trustees hasn't yet decided on whether to approve the application of aquatic herbicides off of and from Lakewood's shoreline.

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Rather, the Board of Trustees is proceeding with the NYS DEC Permit process and if approved, will afford the Board of Trustees that option. He added, right now there is no room in the Village budget for this expense, both this year and next.

Trustee Barnes indicated she has been told there are organizations out there working hard to find funding to assist in paying for the herbicide treatments.

Mr. Wehrfritz said funding becomes a challenge for each of the six participating municipalities. He said after a couple of years of going through this permit process, municipalities should become more comfortable in what to expect and people will be more clearly lined up with funding. Mr. Wehrfritz said what is being done this year is very similar to last year's program. The steps include a weed survey, herbicide treatment plan, and submittal of the NYS DEC Permit application & SEIS, along with supporting documents. Until it is determined by the DEC what is covered by the permit there is an unknown about the potential cost and available funding.

The newly formed Chautauqua Lake Protection & Remediation Agency, (CLPRA) under the direction of County Executive Borrello, has hinted that there might be funding through the agency in the future. Mr. Borrello is also working on a Weed Management Consensus Strategy wherein funding might be available through Chautauqua County for both weed harvesting operations and aquatic herbicide applications.

Mr. Wehrfritz said the CLP greatly assists the municipalities with the NYS DEC Permit application process and with the Village of Lakewood approving the accompanying Amended Findings Statement isn't considered a final action by the Village Board of Trustees. Rather, it will be when they decide how much or how little they are willing to participate in the aquatic herbicide application program. Ideally, late April or early May is the best time to apply aquatic herbicides.

Mr. Wehrfritz said a recent quote by the Chautauqua Lake Association (CLA) stating that it costs \$5,000.00/ acre to treat Chautauqua Lake with aquatic herbicides is laughable. He understands how they might have arrived at that figure, but it is laughable. In that figure, the CLA probably has included the \$250,000.00 cost to prepare the SEIS. He then stressed the beauty of the aquatic herbicide application program is that the same targeted areas of the lake should only require new treatments every two to three years.

Mr. Rich Fischer, 43 West Fairmount Ave., asked if there is more than one company that applies aquatic herbicides and if CLP sought bids for the work.

Mr. Wehrfritz said there are multiple companies that do this work but the CLP wasn't in a position to seek bids last year or this year. Once the program becomes more established the CLP intends to seek bids for the work, noting competition is good.

Mr. Robert Yates, Supervisor for the Town of North Harmony, indicated that like most municipalities, North Harmony has limited funds for aquatic herbicide treatments. What he and the Town Board intend to do is select "hot spots" within the targeted areas and treat only those. Mr. Yates said through the efforts of County Executive Borrello and County Legislator Pierre Chagnon, Chautauqua Lake is now one of twelve projects on the list for the Army Corps of Engineers, which could result in receiving some federal funding. He said whether one is for or against the use of aquatic herbicides, this is a great stepping stone in efforts to improve Chautauqua Lake and it is the best way for North Harmony in moving forward. He then thanked the CLP and its partners for their efforts in taking care of the jewel of Chautauqua County.

Mr. Wehrfritz said there was a study done by the EPA and the DEC in 2012 which measured the phosphorus load in Chautauqua Lake, and identified the various sources. The study revealed that 55% of the phosphorus in the lake derived from the decaying weeds and vegetation on the lake bottom, which was termed internal loading.

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The CLP has partnered with ten universities to conduct measurements and develop a phosphorus contour map of Chautauqua Lake noting where the highest concentrations of it are located. He said this is where the Army Corps of Engineers could come in and dredging operations is some of the phosphorus "hot spots".

Mr. Wehrfritz said another subject that needs to be looked into is control of the water level of Chautauqua Lake. He said from a lake weed management perspective, the water level should be low in the winter months and high in the summer months. Unfortunately, the elevation of the bedrock in the Chadakoin River, which acts as a dam, doesn't allow the lake level to be lowered beyond a certain elevation. He suggested that a hydrologic study be done which could offer some engineering solutions as how to better be able to control the water level of Chautauqua Lake.

Trustee Barnes asked Village Attorney LaMancuso if the Amended Findings Statement strengthens the NYS DEC Permit application process for the participating municipalities.

Mr. LaMancuso answered, yes it does in that it goes into much more detail and relies on the information contained in the Technical Memorandum that wasn't available to the Board of Trustees previously. He noted it is the Trustees' prerogative to decide whether the findings statement fairly and reasonably consider the adverse environmental impacts and consider whether those impacts are minimized to the maximum extent practicable. It is his opinion that the Amended Findings Statement does indeed strengthen the Village of Lakewood's position with respect to its NYS DEC Permit application. Mr. LaMancuso wondered if Mr. Wehrfritz would care to add anything.

Mr. Wehrfritz indicated that the proposed targeted areas of the lake for aquatic herbicide treatment this year are very similar in size and location to what was proposed to be treated last year. The Town of Ellery prepared a lake-wide SEIS last year which was used to evaluate the proposed treatment areas in 2018. The proposed treatment areas last year totaled 989 acres, while this year's proposed treatment areas total 1,224 acres. Forty-five percent of the proposed acreage for 2019 overlaps last year's proposed acreage. Mr. Wehrfritz said there is only 5% of the proposed treatment area for 2019 that wasn't connected to areas that were proposed for treatment in 2018. He said the Technical Memorandum justifies the continued use of the 2018 SEIS for evaluation in 2019.

The one difference this year from last year for planned herbicide application off Village of Lakewood and Town of Busti shorelines is that the herbicide Renovate will not be applied. The two herbicides that will be used are Aquathol-K and Navigate.

Mr. Wehrfritz said the CLA was asked not to harvest weeds in Bemus Bay last year and it was found that the amount of shoreline clean-up was about 10% of what residents had to do the year before. If aquatic herbicides are applied killing the invasive weeds early in their life cycle and harvesting isn't done, it just makes sense that there will be less unrecovered weed fragments washing up onto the shoreline. He said what the CLP would like to see is a combined weed treatment, which includes harvesting with aquatic herbicide treatment in the future. This year to improve/maximize shoreline clean-up, two new pieces of equipment, called Mobi-Tracs, one purchased by Chautauqua County, the other purchased by the Town of Chautauqua, will be placed into service.

Deputy Mayor McCague indicated needless to say, the lake weed issue is very complicated which requires a lot of input in order to sort it all out. The Board of Trustees wants to know what the residents of the Village of Lakewood think about this issue, so Trustee Barnes has arranged an open discussion on lake weeds and planned aquatic herbicide application, to be held at 6:00 PM, Wednesday, March 27<sup>th</sup>, at the Lakewood American Legion Post #1286. A final decision by the Board of Trustees on whether the Village of Lakewood elects to have aquatic herbicides applied to areas of Chautauqua Lake off of and from its shoreline will be guided by opinions voiced by its residents.

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Deputy Mayor McCague indicated the Amended Findings Statement, per the opinion of Village Attorney LaMancuso, contains a few inaccuracies and has suggested that they be stricken from the document prior to it being approved.

RESOLUTION #51-2019 – APPROVE SEQR AMENDED FINDINGS STATEMENT

Motion by Trustee Barnes, seconded by Trustee Holcomb, for the Board of Trustees to approve the SEQR Involved Agency Amended Findings Statement, subject to the suggested edits on page three (3) of the document, related to the Chautauqua Lake Partnership's (CLP) 2019 NYS DEC Permit application in connection with planned aquatic herbicide application in targeted areas of Chautauqua Lake off of and from the Village of Lakewood's shoreline and to authorize Deputy Mayor McCague to execute the same.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #52-2019 – ADOPT SUPPLEMENTAL RESOLUTION RE: NYS DEC PERMIT PROCESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, the Board of Trustees of the Village of Lakewood, New York, hereby resolves:

WHEREAS, the Town Board of the Town of Ellery (Ellery Town Board, serving as the Lead Agency in the State Environmental Quality Review Act) process, issued a final supplemental impact statement (SEIS) for the application of herbicides to target areas of Chautauqua Lake on April 5, 2018; and

WHEREAS, the Ellery Town Board, serving as Lead Agency, issued SEQRA Findings regarding the application of herbicides to Chautauqua Lake on April 17, 2018; and

WHEREAS, herbicides were successfully applied to Chautauqua Lake on June 11, 2018 pursuant to permits issued by the New York State Department of Environmental Conservation (NYS DEC); and,

WHEREAS, the Towns of Busti, Ellery, Ellicott, and North Harmony and Villages of Celoron and Lakewood have proposed to undertake the application of herbicides to areas of Chautauqua Lake bordering their respective jurisdiction in 2019; and,

WHEREAS, the 2019 proposed treatment areas are not identical to the 2018 proposed treatment areas; and,

WHEREAS, the Ellery Town Board, serving as Lead Agency, executed a Full Environmental Assessment Form and issued a Technical Memorandum studying the 2019 proposed treatment area and concluding that a supplemental environmental impact study was not required; and,

WHEREAS, the Lakewood Village Board has proposed to undertake the application of herbicides to areas of Chautauqua Lake bordering its jurisdiction and has applied for a permit from the NYS DEC to apply herbicides to areas of Chautauqua Lake bordering its jurisdiction; and,

WHEREAS, as an Involved Agency in the SEQR process, the Lakewood Village Board has the authority to issue SEQRA Findings that consider all relevant environmental impacts, facts, and conclusions disclosed in the SEIS and Technical Memorandum; that weigh and balance the relevant environmental impacts with social, economic, and other considerations; that provide a rationale for the Village Board's decision; that certify that the requirements of SEQRA have been met; and that certify that, among the reasonable alternatives available, the application of herbicides to areas of Chautauqua Lake bordering the Village of Lakewood's jurisdiction avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

WHEREAS, the Lakewood Village Board has considered all relevant environmental impacts, facts and conclusions disclosed in the SEIS and Technical Memorandum that are relevant to the application of herbicides to areas of Chautauqua Lake bordering the Village of Lakewood's jurisdiction; has weighed and balanced the relevant environmental impacts with social, economic, and other considerations; and has found that the SEIS has provided a rationale upon which the Village Board may rely in making any final decisions on whether to undertake the application of herbicides to target areas of Chautauqua Lake; and,

WHEREAS, the Lakewood Village Board reviewed the Amended Findings; and,

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WHEREAS, the Lakewood Village Board is reserving its decision on whether to undertake the application of herbicides to Chautauqua Lake until after its receipt and review of an and all relevant permits from the NYS DEC.

We now RESOLVE, therefore:

- To certify that the requirements of SEQRA have been met.
- To certify that, among the reasonable alternatives available, the proposed treatment plan and mitigations set forth in the SEIS regarding the application of herbicides to targeted areas of Chautauqua Lake avoids or minimizes adverse environmental impacts to the maximum extent practicable;
- To incorporate to this resolution by reference and attached Amended Findings;
- To accept and issue the said Amended Findings;
- To provide the Amended Findings to all Involved and Interested Agencies (as those terms are defined in 6 NYCRR Section 617.20 and Interested Parties);
- After issuance and review of any permit(s) from the NYS DEC, to consider the SEIS, SEQRA Findings, and permit requirements to make a determination whether to approve a resolution to apply herbicides to Chautauqua Lake.

**ADOPTED**, this 20th day of March, 2019 at a special meeting of the Village of Lakewood Village Board following a motion made by Trustee Holcomb and seconded by Trustee Barnes, and accrued with the following Roll-Call vote: 3 ayes, (Barnes, Holcomb, McCague), no nays

Motion by Trustee Barnes, seconded by Trustee Holcomb, and unanimously carried, the Board adjourned at 10:58 AM.

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Joseph M. Johnson  
Village Clerk