

MARCH 27, 2023

The sixth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held, Monday, March 27, 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, Fire Chief Kurt Hallberg and Building Inspector Jeff Swanson. Absent was DPW Supervisor Thomas R. Pilling. A work session was held with no action taken.

APPROVAL OF MINUTES

Motion by Trustee Fischer, seconded by Trustee Barnes, to approve the minutes of the last regular meeting of the Board of Trustees held March 13, 2023.

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

AUDIT OF CLAIMS

Motion by Trustee Jones, seconded by Trustee Troche, that the claims as audited by the Auditing Committee of the abstracts dated March 27, 2023, be approved and that the Clerk shall execute said abstracts and direct payment by the Treasurer. Abstracts (#44 & #44) Trust & Agency Fund: \$ 67,099.18, (checks #7366 thru #7368), General Fund: \$ 68,378.49 (checks #19627 thru #19657),

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

RESOLUTION #57-2023 – AUTHORIZE USE OF HARTLEY PARK & VILLAGE STREETS FOR E2M RUN EVENT

Motion by Trustee Fischer, seconded by Trustee Barnes, to authorize the use of Richard O. Hartley Park & the village streets for an E2M Eager2Run event, the morning of July 30, 2023.

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

RESOLUTION #58-2023 – AUTHORIZE CLOSING CHAUTAUQUA AVE. FOR BAGS TO BADGES FUNDRAISING EVENT

Motion by Trustee Barnes, seconded by Trustee Troche, to authorize Group Ther Happy, 103 Chautauqua Ave., to close Chautauqua Ave. between Summit St. and Third St., on July 2, 2023, for approximately two (2) hours in order to conduct a Bags to Badges Cornhole tournament fundraising event. This fundraiser will support the Lakewood Volunteer Fire Department and the Lakewood-Busti Police Department.

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

RECESS

Mayor Holcomb recessed the regular meeting of the Board of Trustees at 6:35 PM, so as to conduct two (2) previously scheduled public hearings.

**PUBLIC HEARING – 6:35 PM
SPECIAL USE PERMIT APPLICATION
SHORT TERM RENTAL
32 CHAUTAUQUA AVE.**

Mayor Holcomb opened the public hearing at 6:35 PM for the Special Use Permit requested by Mr. and Mrs. Joshua Pike, 2000 Winch Rd. Lakewood, NY, regarding their proposal to utilize the multi-family residence at 32 Chautauqua Ave. as a short term rental property. Mayor Holcomb said at the March 9, 2023 meeting of the Zoning Board of Appeals/Planning Board, the recommendation was made for the Board of Trustees to grant Mr. & Mrs. Pike a Special Use Permit for 32 Chautauqua Ave.

MARCH 27, 2023 (continued)

RESOLUTION #59-2023 – APPROVE SPECIAL USE PERMIT FOR SHORT TERM RENTAL

Motion by Trustee Barnes, seconded by Trustee Jones, to approve a Special Use Permit, whereby Mr. and Mrs. Joshua Pike, will be permitted to establish a short term rental at 32 Chautauqua Ave. Mr. and Mrs. Pike will be required to follow all village regulations pertaining to short term rentals.

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

**PUBLIC HEARING
SPECIAL USE PERMIT APPLICATION
SHORT TERM RENTAL
6 WEST SUMMIT STREET**

Mayor Holcomb said it was also recommended at the March 9, 2023 meeting of the Zoning Board of Appeals/Panning Board that the Board of Trustees grant Mr. Eric Lindquist, 32142 Corte Gardano, Temecula, CA, a Special Use Permit regarding his proposal to utilize the single family residence at 6 W. Summit St., as a short term rental property.

Mayor Holcomb closed the public hearing at 6:43 PM and re-opened the regular meeting of the Board of Trustees.

RESOLUTION #60-2023 – APPROVE SPECIAL USE PERMIT FOR SHORT TERM RENTAL

Motion by Trustee Barnes, seconded by Trustee Fischer, to approve a Special Use Permit, whereby Mr. Eric Lindquist will be permitted to establish a short term rental at 6 W. Summit St. Mr. Lindquist will be required to follow all village regulations pertaining to short term rentals.

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 fifty-six incidents from March 13, 2023 to March 27, 2023 which included eighty-nine business checks, nine check well beings, four disorderly people, three domestic disputes, two larceny complaints, four motor vehicle accidents, forty-nine property checks, six suspicious people or situations, forty vehicle stops, and twenty-six warrants that were served and/or entered into the system. He added the L-BPD has handled two thousand one hundred twenty incidents year to date.

Chief DePonceau also said one of the brackets on the new swings at the playground came loose while kids were swinging on it. He said the kids have been told to stay off the swing and asked if the parks department could rope it off until such a time it can be fixed.

Chief DePonceau said the L-BPD will be getting another canine dog on April 13th and Officer Casselman will remain the canine handler. He said Officer Casselman will begin schooling with the dog the third week in April. He added the dog will be trained in the detection of explosives and searching.

Chief DePonceau said Ms. Michelle Turner, owner of Group Ther-happy, 103 Chautauqua Ave., had a raffle over the weekend and collected \$400.00 which she donated to the L-BPD Canine Unit.

Fire Chief Kurt Hallberg reported the Lakewood Fire Department has responded to two hundred twenty-six alarms year to date.

Chief Hallberg also reported that over the weekend the LFD only had one call due to the severe winds and accompanying thunderstorm that rolled through Chautauqua County this past Saturday. He said overnight a power pole on New York Ave., between E. Summit St. and E. Terrace Ave., snapped causing downed power lines and electric services to be pulled off three homes.

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Chief Hallberg noted that LFD Lieutenant Troche, with flashlight in hand, walked a couple of streets making sure there were no other properties impacted. Chief Hallberg added power was restored and individual electric service was repaired by the next day.

Chief Hallberg also asked for permission from the Board of Trustees to send out specifications and prices on a new pumper. He said the companies are about 900 days out and approximately 800 pumpers behind, so it won't be anything to worry about for a while.

Building Inspector Jeff Swanson reported that he has completed his annual Finger Lakes Building Officials Association training in Rochester, NY. He said in the classes they talked about two (2) things that could trigger an audit and they might be something the village will want to consider. One of the things talked about was Municipalities issuing Operating Permits. He said he thinks these permits are unrealistic, permits would have to be issued for pretty much anything anyone would want to do, including putting up a tent and having a bon fire.

Mr. Swanson said the other thing discussed were Roofing Permits and suggested adding them to the building permit application with a small fee, if any at all, since there really isn't much of an inspection like a building permit or fire inspection has.

He said by issuing permits for roofing, people will be agreeing to only go over one layer of shingles or they will be required to remove it. He said the big problem is when people have multiple layers of shingles on their roof and then you put the snow load on top of that, it is not good.

Trustee Barnes also asked if other municipalities issue Roofing Permits.

Mr. Swanson said there are some, there is a section in New York State Building Code, which the village has adopted and we should be enforcing, but there are a lot of municipalities that don't enforce it because they don't agree with it.

Mr. Swanson said the Village of Lakewood has never required roofing permits but thinks it would be a good idea.

Mayor Holcomb asked Mr. Swanson if he would put some information together on the two permits and bring it to the board in the future.

Mayor Holcomb reported that several months ago the Village of Lakewood along with the Town of Busti agreed to sell a piece of land they owned together on Hoag Rd. in the Town of Harmony. He said the deal is final and as of today the village has been paid in full.

Mayor Holcomb said he received a letter from Mr. Dan Imfeld, President of the Lakewood Fire Company saying the Fire Department would like to express their sincere thanks to the Lakewood Busti Police Department and the Department of Public Works for all their assistance during the funeral detail on Saturday, March 18, 2023. Mr. Imfeld said there was a large turnout to honor one of the LFD's past Chiefs, Mr. Jackson Knowlton and both department's participation helped to ensure that the transfer of the casket and the procession went without any issues.

Trustee Troche reported the new website is coming along and said he has received the first draft of the initial page. He said he and the Clerk's Office have reviewed it and he will send it to the Board of Trustees for their review. Mr. Troche said right now we are waiting for the village departments to submit pictures and any ideas they may have for the site.

RESOLUTION #61-2023 – AUTHORIZE LFD TO REQUEST PRICING FOR PUMPER TRUCK

Motion by Trustee Mayor Holcomb, seconded by Trustee Barnes, to authorize the Lakewood Volunteer Fire Department to proceed with requesting specifications and quotes for a new pumper.

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

MARCH 27, 2023 (continued)

RESOLUTION #62-2023 – AUTHORIZE SOLITUDE LAKE MANAGEMENT TO ACT ON VILLAGE’S BEHALF

Motion by Trustee Barnes, seconded by Trustee Troche, for the Board of Trustees to authorize SOLitude Lake Management to prepare and submit the NYS DEC herbicide permit application on behalf of the Village of Lakewood for the 2023 treatment of Aquathol k and ProcettaCOR to designated portions of Chautauqua Lake, in coordination with the Town of Busti, and authorize the application of the specified herbicides to designated areas of the Lakewood shorelines by SOLitude Lake Management pending NYS DEC permit approval.

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

RESOLUTION #63-2023 – AUTHORIZE GRANT APPLICATION SUBMISSION FOR LAKES AND WATERWAYS

Motion by Trustee Troche, seconded by Trustee Jones, that the Board of Trustees of the Village of Lakewood, New York, hereby resolves:

WHEREAS, Chautauqua Lake is an invaluable asset to Chautauqua County and the municipalities that border it including the Village of Lakewood, but has been designated as an impaired water body and its health and usability are threatened; and

WHEREAS, the Village of Lakewood (Village), the Chautauqua Lake and Watershed Management Alliance (Alliance), and the Chautauqua Watershed Conservancy (CWC) are partnering to complete a stormwater management project consisting of the rehabilitation and enhancement of a stormwater basin on a Village-owned property near the intersection of West Fairmount Avenue and Spruce Street that will have a positive impact on the environmental health of Chautauqua Lake and runoff conditions in the Village; and

WHEREAS, the Village’s engineering consultant EcoStrategies Engineering & Surveying, PLLC has completed a New York State Department of Environmental Conservation-compliant Feasibility Study that recommends the Project; and

WHEREAS, the Chautauqua County 2024 Occupancy Tax Program for Grants for Lakes and Waterways offers a funding opportunity for the Project with no local match requirement, and as a Member of the Alliance, the Village is entitled to lake and watershed-related grant application preparation services at no additional cost to the Village; therefore be it

RESOLVED, that the Village of Lakewood authorizes a grant submission to the Chautauqua County 2024 Occupancy Tax Program for Grants for Lakes and Waterways for the Fairmount Stormwater Basin and Watershed Improvement Project, and if the grant application is successful, that the Mayor is authorized to execute the grant contract, submit project documentation, and act in all matters related to Project and County funding assistance.

Adopted: 3 ayes, no nays (Fischer, Jones, Troche) 1 abstain: (Barnes)

Mr. Taylor West, Chautauqua Lake and Watershed Management Alliance, Inc., Project Manager, said this project is by the viaduct on W. Fairmount Ave., just east of the Save a Lot plaza and has been nicknamed “The Triangle Property”. He said there is a small detention basin on an old village parcel that is approximately .39 acres and contains one inflow and one outflow pipe which drains about 109 acres.

Mr. West said this project is very close to the Grandview Watershed Project and receives water from approximately 139 acres of watershed, the two come together then go in completely different directions. He said this tributary empties into the lake at the end of Brook St., where there have been some questions about deposit of sediment.

Mr. West said with this project there would be a shallow wetland pond system created with a four bay and three micro-ponds to settle and filter pollutants and provide volume rate control to reduce downstream flight that occurs. He said the run off storage volume would be approximately 39,200 cubic feet.

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Mr. West said the current flow path is just a straight pipe that goes into the basin, which has filled in since it was created, and then straight out. He said the proposal would create 160 linear feet using some curves to slow the water down, allowing the sediment to precipitate out and allow the vegetation in the basin to bio-filter nutrients and other pollutants to discharge down the lake.

Mr. West said this project would be similar in design to the Grandview and Crescent Creek designs and indicated the Alliance will be taking care of the grant submission on the Village's behalf.

RESOLUTION #64-2023 – AUTHORIZE AMBULANCE BILLING PROCEEDS AGREEMENT

Motion by Trustee Barnes, seconded by Trustee Jones, to authorize the Ambulance Billing Proceeds Agreement between the Village of Lakewood and the Lakewood Fire Company, pursuant to General Municipal Law 209-b(4)(a). This agreement, effective as of January 1, 2023, by and between the Lakewood Volunteer Fire Company, Inc. ("Fire Company") a special not-for-profit corporation with its address 116 Pleasantview Ave., Lakewood, New York 14750 and the Village of Lakewood ("Village") a municipal corporation with its address 20 West Summit Street, Lakewood, New York 14750.

WHEREAS, the Village holds an Ambulance Service Certificate ("Operating Certificate") issued by the New York State Department of Health pursuant to Public Health Law Article 30 and as otherwise provided in law and the Village operates and provides fire protection and emergency medical services including an emergency ambulance service pursuant to Town Law Article 176; and

WHEREAS, the Village is the authority having control of a Fire Company or fire company, namely the Lakewood Volunteer Fire Company, Inc. ("Fire Company") pursuant to Village Law Article 10 and the Not-for-Profit Corporation Law and as otherwise provided by law; and

WHEREAS, General Municipal Law 209-b was amended effective July 8, 2022 whereby the authorities having control of a Fire Company or fire company that have authorized such Fire Company or fire company to provide such service or services may fix a schedule of fees or charges to be paid by persons requesting such service or services; and

WHEREAS, General Municipal Law 209-b(4)(a) also specifically provides that when fees and charges are authorized pursuant to such subdivision, the fees and charges collected shall be disbursed in accordance with a written contract entered into between the authority having control of a Fire Company or fire company and the Fire Company or fire company itself; and

WHEREAS, the Village, as the authority having jurisdiction over the Fire Company, has previously authorized, by Resolution, the billing for ambulance services pursuant to General Municipal Law 209-b and as otherwise provided by law, and has also fixed a schedule of fees or charges to be paid by the insurance carriers of such persons so served; and

WHEREAS, the Village and Fire Company now desire to enter into an agreement for the disbursement of such fees and charges collected pursuant to General Municipal Law section 209-b(4)(a).

NOW, THEREFORE, the parties hereby agree as follows:

1. Billing Proceeds: All fees and charges received for ambulance services ("Billing Proceeds") shall be received, kept and maintained by the Village exclusively in a separate, discrete banking account from all other Village funds in the name of the Village ("Ambulance Billing Proceeds Fund"). No other funds shall be commingled with such Billing Proceeds.

2. Disbursements of Billing Proceeds: Pursuant to General Municipal Law 209-b(4)(a) the Billing Proceeds collected by the Village's ambulance billing service shall be disbursed as follows: 33.34% of the net Billing Proceeds to the Fire Company and 66.66% of the net Billing Proceeds to the Village on a monthly basis, after first deducting the Village's service fees paid to the Village's ambulance billing service.

- a. By way of example, if Billing Proceeds received in any month total the amount of \$1,000, and the billing service rendered a statement to the Village for four (4) Prehospital Care Reports ("PCRs") at \$35 per PCR, three checks will be issued by the Village from the Ambulance Billing Proceeds Fund:
 - \$140.00 to the Village (4 PCRs at \$35 each);
 - \$286.72 to the Fire Company; and
 - \$573.28 to the Village.

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- b. All disbursements from the Ambulance Billing Proceeds Fund shall be made by the Village treasurer at the next regular or special meeting of the Village Board of Trustees immediately following receipt of such Billing Proceeds.
 - c. The Village Treasurer shall submit a written report to both the Fire Company and the Village Board of Trustees each month showing, at a minimum, the Billing Proceeds received and all disbursements as required herein.
 - d. No other disbursements shall be made from such Billing Proceeds or the Ambulance Billing Proceeds Fund without the prior, written agreement by the Village and the Fire Company.
- 3. Term:** This Agreement shall be effective upon the commencement of billing services and thereafter for a five (5) year period beginning January 1, 2023 through and until December 31, 2027, unless sooner terminated or modified by the mutual agreement of the Parties.
- 4. Assignment:** This Agreement may not be assigned by either party without the prior, written consent of the other party.
- 5. Changes:** This Agreement shall be changed only by an agreement in writing signed by the parties to the Agreement.
- 6. Counterparts:** This Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding Agreement.
- 7. Entire Agreement:** This Agreement is the entire agreement between the parties: there are no other writings or agreements other than as contained in this Agreement.
- Adopted: 3 ayes, no nays (Barnes, Fischer, Jones) 1 abstain: Troche

RESOLUTION #65-2023 – AUTHORIZE MID-YEAR BUDGET TRANSFER

Motion by Trustee Jones, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L. Troutman to make the following mid-year budget transfer for a budget shortfall: \$ 422.83 from A-1620.40 {Buildings - Contractual}, to A-1620.42 {Buildings – Contractual National Grid}, \$ 163.15 from A-3410.42 {LFD - National Grid Electric} to A-3410.41 {LFD – Utilities}, \$ 44.27 from A-5110.42 {Street Maintenance – National Grid Electric} to A-5110.41 {Street Maintenance – National Fuel} and \$ 2,023.14 from A-5110.40 {Street Maintenance – Contractual} to A-5110.43 {Street Maintenance – Vehicle Maintenance}.

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

RESOLUTION #66-2023 – AUTHORIZE BUDGET MODIFICATION

Motion by Trustee Troche, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L. Troutman to make the following mid-year budget modifications for budget shortfalls: \$ 1,000.00 from A-3120.10 {Police – Salaries} to A-3120.11 {Police – Salaries – Overtime} and \$ 3,000.00 from A-3410.43 {LFD – Equipment Maintenance/Testing} to A-3410.49 {LFD – EMS Supplies}.

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

RESOLUTION #67-2023 – AMENDMENTS TO THE 2023-2024 TENTATIVE BUDGET

Motion by Trustee Barnes, seconded by Trustee Jones, that the Village of Lakewood Board of Trustees moves to amend the Village of Lakewood 2023-2024 tentative budget dated 3/20/2023.

WHEREAS, the Village of Lakewood Budget officer released the Village of Lakewood 2023-2024 tentative budget on March 20, 2023.

WHEREAS, it is desired to amend said tentative budget.

Therefore, be it resolved, by the Board of Trustees of the Village of Lakewood the following amendments to the 2023-2024 tentative budget:

	<u>FROM</u>	<u>TO</u>	
1. Treasurer - Personal Services	\$ 70,100.00	\$ 69,100.00	A1325.10 (change: - \$1000)
2. Clerk – Personal Services	\$ 79,800.00	\$ 74,800.00	A1410.10 (change: - \$5000)
3. Clerk – Contractual	\$ 7,750.00	\$ 7500.00	A1410.40 (change: - \$250)
4. Buildings – Contractual	\$ 39,000.00	\$ 36,500.00	A1620.40 (change: - \$2500)
5. Police-Sal-Overtime	\$ 18,000.00	\$ 20,500.00	A3120.11 (change: + \$2500)

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6. Police-Boot Allowance	\$ 2,700.00	\$ 2,450.00	A3120.44	(change: - \$250)
7. Police-Clothing Allowance	\$ 2,250.00	\$ 2,000.00	A3120.45	(change: - \$250)
8. Street Maint/Personal Services	\$300,000.00	\$ 298,500.00	A5110.10	(change: - \$1500)
9. Street lighting Contractual	\$ 57,000.00	\$ 52,000.00	A5182.40	(change: - \$5000)
10. Clerk Advertising	\$ 2,500.00	\$ 1,500.00	A1420.42	(change: - \$1000)
11. Law Personal Services	\$ 17,500.00	\$ 20,000.00	A1420.10	(change: + \$2,500)

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

Treasurer Troutman said for quite some time now the village has been without an AFLAC representative and now we have one. The new representative would like to have the opportunity to come to the village and speak with employees that are currently enrolled and/or employees that would like to enroll in the program. However the open enrollment date is currently January 1st so anyone wishing to join would have to wait until January 2024. Ms. Troutman said if the village would consider changing the open enrollment date to April 1st that would give employees the opportunity to meet with the representative immediately and get enrolled or make changes.

RESOLUTION #68-2023 – CHANGE OPEN ENROLLMENT DATE FOR AFLAC

Motion by Mayor Holcomb, seconded by Trustee Barnes, for the AFLAC open enrollment date to be changed from January 1st to April 1st so that any employee that would like to sign up or make changes will have the opportunity.

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

ANYONE TO BE HEARD

Mr. Peter Ochocki, 8 W. Summit St., said he lives next door to 6 W. Summit St. which was just granted a Special Use Permit to run a short term rental. He said there have already been renters there and he and his wife are concerned because there has been profanity, drinking and fighting in the back yard. He said he has two small children and doesn't want to have to put up with that all the time.

Trustee Barnes said the village is in the process of making some new short term rental laws that will hopefully take care of the nuisance properties. She also said when things like that happen you should call the police.

Building Inspector Swanson said the nice thing about short term rentals is they are only allowed with a Special Use Permit and if there are repeat violations the permit can be pulled from the owners.

Mr. Ochocki said he is happy to hear the L-BPD will be getting another canine dog. As Commander of the Lakewood American Legion Post #1286, he is hopeful the legion will consider making a donation towards the L-BPD canine program.

Mr. Ochocki also said he has been thinking about the open position as Village Historian and might be interested in filling that position in the fall.

Motion by Trustee Troche, seconded by Trustee Jones and unanimously carried the Board adjourned at 7:16 PM.

Mary B. Currie
Village Clerk