

APRIL 8, 2019

The seventh regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, April 8, 2019, 6:30 PM, with Deputy Mayor Edward J. McCague presiding. Trustees present were Ellen E. Barnes, Randall G. Holcomb, and Douglas L. Schutte. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, and Fire Chief Steve Smouse. Absent was Building Inspector Jeffrey A. Swanson.

APPROVAL OF MINUTES

Motion by Trustee Barnes, seconded by Trustee Schutte, to approve the minutes of the last regular meeting of the Board of Trustees, held March 25, 2019.

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

AUDIT OF CLAIMS

Motion by Trustee Holcomb, seconded by Trustee Schutte, that the claims as audited by the Auditing Committee of the abstracts dated March 25, 2019, be approved and that the Clerk shall execute said abstracts (#45 & #46) and direct payment by the Treasurer. Trust & Agency Fund: \$ 59,379.85 (Checks #4684 thru #4695), General Fund: \$ 25,164.20 (Checks #15708 thru #15740)

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

REPORTS

Deputy Mayor McCague indicated he doesn't have a report this evening other than to alert those in attendance that tonight's agenda includes two public hearings. The first one at 6:40 PM, will be on the proposed noise ordinance and the second public hearing at 6:50 PM, is on the proposed Tentative Village Budget for the fiscal year 06/01/19-05/31/20, as amended.

Department of Public Works Supervisor Thomas R. Pilling reported that the DPW crew is continuing to pick-up leaves and that the annual brush pick-up will begin Monday, April 29th. Mr. Pilling also reported that National Grid employees have been seen inventorying street lighting fixtures throughout the Village, which suggests that the planned street lighting fixture conversion project is moving forward.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has handled two-thousand five hundred forty-four incidents year-to-date, three hundred fifty-five of which occurred during the past two weeks, adding things are steady and the officers are very busy.

Fire Chief Steve Smouse reported that the Lakewood Volunteer Fire Department has responded to eighty-three alarms during the month of March making for two hundred fifty-two answered alarms year-to-date. He also indicated that so far in April there have been two motor vehicle accidents (MVs) that required emergency medical service (EMS).

Village Treasurer Andrea J. Windoft reported that she recently opened an account with WellNow Urgent Care, 390 East Fairmount Ave. that will conduct pre-employment physicals and certain tests for members of the Lakewood Volunteer Fire Department. Like the L-BPD, it has been a very busy time for the Treasurer's office.

APRIL 8, 2019 (CONTINUED)

RESOLUTION #59-2019 – APPROVE AMENDMENT TO BORDER PATROL AGREEMENT

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees to approve an amendment to paragraph #2 of the current Border Patrol Augmentation Agreement with Chautauqua County, which raises the maximum amount payable to the Village of Lakewood, from \$ 2,000.00 to \$ 2,497.00.

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

RESOLUTION #60-2019 – AUTHORIZE USE OF HARTLEY PARK FOR YMCA SUMMER PROGRAMS

Motion by Trustee Barnes, seconded by Trustee Schutte, authorizing the Jamestown YMCA to utilize Richard O. Hartley Park as the site for their Fitness in the Parks programs this summer. The programs include bodyweight training, Zumba, Tai Chi and Pilates.

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

RESOLUTION #61-2019 – AUTHORIZE BUDGET TRANSFER

Motion by Holcomb, seconded by Trustee Schutte, authorizing Village Treasurer Andrea J. Windoft to transfer \$ 1,000.00 from Account A3410.45, [LFD Diesel Fuel], to Account A3410.44, [LFD Gasoline], to cover a shortage in that line item.

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

RESOLUTION #62-2019 – AUTHORIZE CREATION OF A NEW BUDGETARY EXPENSE ACCOUNT

Motion by Trustee Barnes, seconded by Trustee Holcomb, authorizing Village Treasurer Andrea J. Windoft to create a new budgetary expense account, A8510.43, [Lake Management Services], segregating Account A8510.42, which is specifically for various Lake Association fees.

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

RESOLUTION #63-2019 – AUTHORIZE CREATION OF NEW TRUST & AGENCY ACCOUNT

Motion by Trustee Barnes, seconded by Trustee Schutte, authorizing Village Treasurer Andrea J. Windoft to create a new Trust & Agency Account, T1037.35, [Chautauqua Lake Donations], for any and all future donations made to lake organizations.

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

RESOLUTION #64-2019 – APPROVE 2019 DOCK PERMIT APPLICATIONS

Motion by Trustee Barnes, seconded by Trustee Holcomb, to approve the following 2019 Dock Permit Applications as submitted by Mr. Mark Ramsey, 8 Oakland Ave., for the Oakland Ave. right-of-way and Mr. David Doane, 127 Erie St., for the Lowe Ave. right-of-way.

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

APRIL 8, 2019 (CONTINUED)

RESOLUTION #65-2019 – APPROVE PAYMENT

Motion by Trustee Holcomb, seconded by Trustee Barnes, authorizing the Village Treasurer to remit payment in the amount of \$ 2,375.00, to Clinton Brown Company Architecture, pc, Buffalo, N.Y., for Grant Administrative Services, in connection with the Main Street Grant project for Chautauqua Ave. NOTE: The amount owned represents 10% of their overall quote of \$ 23,750.00, an expense that is also included in the \$ 340,492.00 reimbursable grant.

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

RESOLUTION #66-2019 – APPROVE VILLAGE ATTORNEY'S RETAINER AGREEMENT

Motion by Trustee Schutte, seconded by Trustee Barnes, for the Board of Trustees to approve a new Retainer Agreement for legal counsel provided by Village Attorney John I. LaMancuso, Esq., in the amount of \$ 15,000.00, for the period of June 1, 2019 thru May 31, 2020, and to authorize Deputy Mayor McCague to execute the same.

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

RESOLUTION #67-2019 – SET TIME & DATE FOR SPECIAL BOARD MEETING

Motion by Trustee Schutte, seconded by Trustee Holcomb, for the Board of Trustees to set 9:00 AM. Tuesday, April 16, 2019, as the time and date to conduct a Special Meeting of the Board of Trustees to review and consider approving the Memorandum of Agreement, (MOA), as presented by Chautauqua County Executive George Borrello, in regards to the Chautauqua Lake Weed Management Consensus Strategy.

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

RECESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees to recess its regular meeting so as to conduct a previously scheduled public hearing.

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

PUBLIC HEARING: 6:40 PM
RE: LOCAL LAW #1-2019
VILLAGE NOISE ORDINANCE

Deputy Mayor McCague opened the public hearing at 6:40 PM, and said he and members of the Board of Trustees welcome input on the proposed amendment to the Local Zoning Law that addresses excessive or unreasonable noise.

Mr. Rich Fischer, 43 West Fairmount Ave., asked Deputy Mayor McCague if the proposed local law addresses the noise caused by fireworks.

Trustee Barnes indicated to Mr. Fischer that fireworks are illegal in New York State.

Deputy Mayor McCague said the intent and purpose of the new noise ordinance is to set policy for the Village of Lakewood on a wide range of noises that could be excessive and/or unreasonable. He added the new ordinance isn't just for Chautauqua Ave. He noted the committee that worked on the draft of the local law wanted to make that clear. He told Mr. Fischer that the timeframes of when the noise ordinance is in effect and examples of various excessive and/or unreasonable noise are found in Section C of the document.

APRIL 8, 2019 (CONTINUED)

Deputy Mayor McCague indicated to Mr. Fischer that Village of Lakewood sponsored events such as the 4th of July Summerfest, the Live on the Lake concert series, etc. would be exempt from complying with the newly proposed local law. However, if a neighbor is setting off fireworks at 2:00 AM, or causing some other excessive and/or unreasonable noise to occur, then the local law would be enforceable.

Mr. Tom Marlinski, 36 Ohio Ave., said he has a question about item #8 of in Section C of the document. Number eight states that sound from any sound reproduction device that produces sound in such a manner as to be heard more than 100 feet from the sound reproduction device, would be an example of excessive and/or unreasonable noise. Mr. Marlinski asked if this also applied to unamplified music. He is concerned about the potential for loud music from un-amplified instruments.

Deputy Mayor McCague said #8 only applies to amplified music.

Mr. Marlinski said people enjoy living in the Village of Lakewood for its peacefulness, but asked why the new local law extends the times when music is allowed on weekends from 10:00 PM to 11:00 PM. He then asked Mr. McCague and the other members of the Board of Trustees if they would like to have live music being played across from their houses up until 11:00 PM on weekends.

Deputy Mayor McCague said the hours allowing music was extended to 11:00 PM on weekends to accommodate the businesses on Chautauqua Ave., which are open until midnight.

Ms. Michelle Turner, co-owner of Group Ther-Happy, 103 Chautauqua Ave., indicated that their music will never go beyond 11:00 PM, on a Friday or Saturday night, with last call at 11:45 PM. She said we will do our best to abide by the rules as set forth by the Village of Lakewood. She encouraged each member of the Board of Trustees to stop-by on a Friday or Saturday to get a first hand look at what goes on and what type of music is being played. Ms. Turner indicated with good weather, the overhead garage door will be open, and the outside seating area will be crowded with people enjoying the music, which wasn't loud. She said as a businesswoman we want to encourage folks to come to Lakewood, while stressing we aren't what the previous bar (Yesterdays) was. Ms. Turner said she and her partner run a respectful business and they will be happy to address any complaints if and when they surface.

Trustee Schutte wanted to make it know that when the overhead garage door is shut, hardly anything can be heard from outside the establishment.

Deputy Mayor McCague indicated the zoning committee worked very hard on the proposed local law and the struggle was to ensure the peace and quiet for area residents while trying to balance the spirit of the local law so as to nurture local businesses that have music to draw in customers. Drafting the local law was carefully thought out and not without some debate. Mr. McCague indicated the local law as drafted was sent to each of the review boards for their review and comment. He and members of the Board of Trustees are hopeful that the document will serve both the residents and businesses well.

Mr. Ryan Thayer, proprietor of Craft Burgers & Brews, 60 Chautauqua Ave., said he generally has music on Saturday nights, which ceases at around 9:00 PM. He said Section E 1a (Amplified Music) of the document states that no amplified live music or music from a sound reproduction device is permitted outdoors at any time. Mr. Thayer asked what is meant by the term outdoors, because he and his customers really enjoy the covered deck on the north side of the restaurant.

Deputy Mayor McCague indicated to Mr. Thayer that in accordance with the local law as proposed, amplified music must be staged inside the building, adding that particular regulation was a difficult decision to make.

When asked by Deputy Mayor McCague if that particular regulation posed a hardship for him, Mr. Thayer said he and his customers like to have music on the deck. The musicians themselves enjoy performing on the deck, but understands the line had to be drawn somewhere. He just wanted some clarification on the terminology.

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Ms. Turner asked if Group Ther-Happy should schedule any special music events, would the Village of Lakewood issue special permits for them.

Deputy Mayor McCague indicated that music events that might fall outside the regulations set forth in the proposed local law, will indeed require a special zoning permit for that specific event.

Ms. Bernadette van der Vliet, 21 Stoneman Ave., said she and the Farmers' & Artisans' Market committee are considering having live entertainment on occasion. She asked Mr. McCague if a special zoning permit will be required.

Deputy Mayor McCague said he would recommend that the committee also apply for a special zoning permit each time music is part of the Farmers' & Artisans' Market, which is scheduled for 10AM-2:PM, Thursdays, from July 11th – September 27th.

With no one else to be heard, Deputy Mayor McCague closed the public hearing at 6:58 PM.

PUBLIC HEARING – 6:50 PM
TENTATIVE VILLAGE BUDGET AS AMENDED
FISCAL YEAR: 06/01/2019-05/31/2020

Deputy Mayor McCague opened the public hearing on the proposed Tentative Village of Lakewood Budget as amended for the fiscal year June 1, 2019 – May 31, 2020 at 6:59 PM. Mr. McCague indicated he put together a power point presentation as an introduction to the budget process, which is detailed in Article 5, Section 5-500-5-508 of Village Law. Deputy Mayor McCague said being without a Mayor, the Board of Trustees appointed him as the Budget Officer and in turn worked closely with the Chief Fiscal Officer, Village Treasurer Andrea J. Windoft in the preparation of a Tentative Budget. The Tentative Budget was then submitted to the Village Clerk by March 20th for distribution to the remaining members of the Board of Trustees for their review and comment. The Board of Trustees then has until May 1st to adopt the Tentative Budget as amended.

Deputy Mayor McCague said he had a few goals when putting together the Tentative Budget, one being having a structured budget in place, wherein recurring expenses are covered by the recurring revenue. He also wanted to present a budget that stayed within the New York State Tax Cap guidelines, which this year is 1.02%. He noted revenue was estimated conservatively while expenses were estimated as realistically as possible. Other goals of his was not to use any of the fund balance to assist the budget, prioritize financing for essential services such as police, EMS, fire, and DPW, and lower the tax rate. Deputy Mayor McCague said currently, inflation is greater than the tax cap figure of 1.02%, which in his opinion presents a problem. A few things have been accomplished or occurred in the past year to improve efficiencies, increase revenue and decrease expenses, some of which haven't come to fruition just yet.

Mr. Rich Fischer, 43 West Fairmount Ave., asked Mr. McCague questions pertaining to garbage collection costs budget figures, street lighting figures and the new fuel facility costs.

Deputy Mayor McCague said although the garbage collection contract cost is down \$ 10,000.00/year from last year, there are other costs that make up the total budget figure for that line item. He said although there is the potential for savings in both street lighting costs and overall fuel costs, it was unknown when the street light conversion was going to be completed and it is going to take time to realize the overall savings with respect to fuel costs.

Deputy Mayor McCague said arriving at a final tax rate per \$ 1,000.00 assessed value hinges on a variety of factors such as total assessment, grant budgets, revenue, and appropriated surplus.

APRIL 8, 2019 (CONTINUED)

Mr. Michael Looker, 15 Owana Way, TH#7, indicated to Mr. McCague that he said earlier the fund balance was not going to be used in balancing the budget, and kindly asked for an explanation.

Deputy Mayor McCague reiterated that money in the fund balance was not to be used to lower the tax rate rather the \$ 139,000.00 acts as a savings account within the budget. The final tax rate per \$ 1,000.00 assessed value was reduced by \$.10/1,000, \$ 7.99/1,000 to \$ 7.89/1,000. Because there are generally unknown expenses that crop-up during the course of a fiscal year, expenses need to “padded” to some degree.

Deputy Mayor McCague, with the help of Trustee Barnes then took a couple of minutes to note the final revised budget numbers which ultimately represents the Tentative Budget as amended.

Deputy Mayor McCague noted that when the Tentative Budget was drafted, it was unclear if Governor Cuomo was going to continue funding municipalities through the AIM, (Aid & Incentives for Municipalities) program, plus adjusting the amount of money appropriated for medical insurance. Other adjustments to the Tentative Budget included the appropriation of additional monies for a new roof on the Beach House, cost of living allowance (COLA) for non-union employees and aquatic herbicides. In concluding his budget presentation Deputy Mayor McCague showed a graph of the history of the Village tax rate over the past eighteen years, which revealed it to be very flat.

Dr. Rudy Mueller, 7 Sunset Ave., thanked Deputy Mayor McCague and members of the Board of Trustees for lowering the tax rate on Village taxes. He said taxpayers need to be mindful that their school tax is expected to increase by \$.31/1,000, while in the township, those inside the Village, their town tax will go down by 16%. This decrease will be off-set by the school tax increase. He said the town taxpayers outside the Village aren't so fortunate in that their town tax rate is only being lowered by \$.01/1,000.

With no one else to be heard, Deputy Mayor McCague closed the public hearing at 7:28 PM, and proceeded to re-open the regular meeting.

RESOLUTION #68-2019 – ADOPT LOCAL LAW #1-2019 – NOISE ORDINANCE

Motion by Trustee Schutte, seconded by Trustee Barnes, for the Board of Trustees to adopt Local Law #1-2019, as proposed, amending the Village of Lakewood Zoning to include Section #25-55, [Excessive or Unreasonable Noise is Prohibited], pending review and comment by the Chautauqua County Department of Planning & Economic Development.

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

ANYONE TO BE HEARD

Dr. Mueller asked for some clarification on funding for lake related matters.

Village Treasurer Windoft indicated that there are separate line items in next year's budget for various lake association dues/fees, (\$ 6,000.00) and aquatic herbicide treatment, (\$ 20,000.00).

Deputy Mayor McCague said the Village of Lakewood and others are compelled to do something to improve the condition of Lake Chautauqua. Also, the Village of Lakewood and its lakefront residents need the services currently provided by the Chautauqua Lake Association, (CLA), one of which includes shoreline clean-up.

Chautauqua County Legislator, P.J. Wendel, asked Deputy Mayor McCague why is the Village of Lakewood waiting until Tuesday morning to take action on County Executive Borrello's Memorandum of Agreement (MOA), regarding the Chautauqua Lake Weed Management Consensus Strategy.

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He believes doing so could limit the number of people wishing to speak in favor or opposition to this “hot topic” matter. Mr. Wendel said the County Legislature believes the memorandum is a good draft, which has been unanimously passed the County, Town of Busti and the Village of Celoron.

Deputy Mayor McCague indicated residents who might not be able attend next Tuesday morning’s special meeting of the Board of Trustees are welcome to offer comments or opinions via phone calls or e-mails.

Dr. Mueller encouraged members of the Board of Trustees to approve the MOA, because it is the right thing to do.

Legislator Wendel indicated he would like to second Dr. Mueller’s comment, and said last year when the Chautauqua Lake Partnership (CLP) was looking for some leadership in dealing with the lake issues, Chautauqua County Executive Borrello and the Legislature stepped in. Mr. Wendel said the MOA is a step moving forward and as Chairman of the Legislature his position is if participants are unwilling to approve and sign the MOA, those participants, unfortunately, aren’t willing to compromise and work together for the betterment of Chautauqua Lake. In closing Legislator Wendel strongly encouraged the Village Board of Trustees to approve the MOA as presented.

With no one else to be heard, Deputy Mayor McCague indicated because the Board of Trustees need to discuss a few personnel matters he would welcome a motion to adjourn the regular meeting so as to enter into executive session.

Motion by Trustee Holcomb, seconded by Trustee Barnes, to adjourn the regular meeting of the Board of Trustees, at 7:35 PM enter into executive session.

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

EXECUTIVE SESSION

Present at the executive session were Deputy Mayor Edward J. McCague, Trustee Ellen E. Barnes, Trustee Randall G. Holcomb, Trustee Douglas L. Schutte, Village Attorney John I. LaMancuso, Village Clerk Joseph M. Johnson, and Village Treasurer Andrea J. Windoft. Motion by Trustee Barnes, seconded by Trustee Schutte, to adjourn the executive session at 9:05 PM, and to reopen the regular meeting. Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #69-2019 – APPROVE THE HIRING OF A PART-TIME TREASURER

Motion by Trustee Schutte, seconded by Trustee Holcomb, for the Board of Trustees to approve the hiring of Ms. Apryl L. Troutman, 8 Winding Way, as Part-Time Treasurer, with an effective date of hire of April 11, 2019. Ms. Troutman’s Standard Work Day will be 6 hrs./day and her regular work week shall not exceed 30 hrs. She will paid an annual salary of \$ 28,000.00, plus awarded an annual Health Savings Account (HSA) in the amount of \$1,000.00. Ms. Troutman will also receive her allotted personal days and holidays.

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

Motion by Trustee Holcomb, seconded by Trustee Barnes, and unanimously carried the Board adjourned at 9:06 PM.

Joseph M. Johnson
Village Clerk

