

MAY 28, 2019

The tenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Tuesday, May 28, 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, and Assistant Treasurer Apryl Troutman. Absent were Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Steve Smouse and Building Inspector Jeffrey A. Swanson.

#### APPROVAL OF MINUTES

Motion by Trustee Schutte, seconded by Trustee Holcomb, to approve the minutes of the last regular meeting of the Board of Trustees, held May 13, 2019.

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

#### AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Schutte, that the claims as audited by the Auditing Committee of the abstracts dated May 28, 2019, be approved and that the Clerk shall execute said abstracts (#53 & #54) and direct payment by the Treasurer. Trust & Agency Fund: \$ 58,439.66 (Checks #4726 thru #4737), General Fund: \$ 101,167.53 (Checks #15830 thru #15885) NOTE: Checks #15835, #15843 & #15862 were voided.

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

#### REPORTS

Deputy Mayor McCague said he wanted to take a moment to read a letter he received from the local Tim Hortons franchise announcing Wednesday, June 5<sup>th</sup> as Tim Hortons Camp Day, where a portion of the hot and iced coffee sales that day will be donated to the Tim Horton Children's Foundation. Since 1974 more than 250,000 children have enjoyed an enriching camping experience away from home, thanks to money raised through this foundation. The letter also urged the local community to support this worthwhile event any way it can.

Trustee Barnes said it is her understanding that some local children in the past have participated in the camp experience.

Village Treasurer Andrea J. Windoft reported that the Village of Lakewood has received a check in the amount of \$ 10,000.00 from the Town of Busti that will be put towards payment of the invoice for the aquatic herbicide application, as carried out by Solitude Lake Management.

Deputy Mayor McCague noted that Chautauqua County will soon be remitting to the Village of Lakewood a check in the amount of \$ 9,000.00, also to be used towards Lakewood's aquatic herbicide application expenses.

Trustee Holcomb suggested that the Village of Lakewood send a letter to Town of Busti Supervisor Robbins, thanking him and the Town council for their generosity in helping fund the application of aquatic herbicides off Lakewood's shoreline.

Deputy Mayor McCague, said although he has publicly thanked the Town of Busti a number of times for their generosity, a letter to Supervisor Robbins would certainly be appropriate.

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### COMMITTEE REPORTS

Mr. Dave Card, 38 Chautauqua Ave., indicated that the formation of a Lakewood Area Business Association is gaining momentum, with the election of officers, plus a planned fundraiser. Mr. Card said they hope to sell stickers, promoting the Village of Lakewood. He also wished to note that the grand opening of the new gift shop, (Gifts of Grace), at 102 Chautauqua Ave., will be Saturday, June 1<sup>st</sup>.

Trustee Holcomb commended Village of Lakewood Historian Susan Lane and the History Committee for purchasing the new bench for Lowe Park. He said it is a nice addition to the park.

Village Historian Susan Lane indicated that the Town of Busti was pleased to learn that the History Museum would be funding the purchase of new signage for the Bentley Cemetery, located at the corner of Shadyside Ave. and East Fairmount Ave.

### RECESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, to recess the 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  
SITE PLAN REVIEW  
TACO BELL RESTAURANT  
310 EAST FAIRMOUNT AVE.

Karpinski Engineering, Cleveland, Ohio, has submitted an application for Site Plan Review regarding a proposal by Taco Bell, to construct a 2,550 sq. ft. restaurant on an out-parcel at the Chautauqua Mall, between Ruby Tuesday and Olive Garden restaurants. Per Section #25-89, [Site Plan Review] of the Village of Lakewood Zoning Law, although the total square footage of the proposed restaurant is under the threshold for site plan review, Building Inspector Jeff Swanson believed it was a significant enough project to warrant review.

Mr. Christopher Bednar, PE, representing Karpinski Engineering, appeared before the Board of Trustees, to briefly explain Taco Bell's proposal and to answer any questions they, and/or anyone else might have. He said their client for this project is Charter Foods, Talbot, TN and they currently operate Taco Bell restaurants throughout New York, Pennsylvania, Ohio and Indiana. Mr. Bednar indicated Charter Foods has entered into a twenty-five year lease agreement, regarding the proposed restaurant site, with the Chautauqua Mall.

Mr. Bednar said, per one of the comments made by the Chautauqua County Division of Planning & Community Development, the developer has agreed to add a pedestrian walkway from the public sidewalk along Rt. 394, to the restaurant site. To maintain an approximate 25% percent reduction in impervious surfaces within the site, Mr. Bednar indicated they had to remove four parking spaces.

He indicated another key element of the project is lighting for the site, including the parking lot. Mr. Bednar said although the local zoning code doesn't require "dark sky" the project's lighting fixtures will be LED fixtures and "dark sky" compliant, adding it is just good practice. He then pointed out the location of the proposed dumpster which will be a three sided masonry wall construction, with access gates, matching the exterior of the restaurant.

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Changing subjects, Mr. Bednar said the utility plan was approved by the various utility companies servicing the site. Also, any stormwater generated on the site will be directed into the existing 48 inch underground stormwater drainage system which traverses the northerly half of the project site.

Mr. Bednar then noted that a grease trap will be incorporated into the waste water discharge system before entering the sanitary sewer. Also, in reviewing the overall site plan with members of the Board of Trustees, it was noted that the handicapped parking spaces will comply with the Americans with Disabilities Act, (ADA) and will be van accessible.

He indicated with a tributary to Lake Chautauqua just east of the project site, stormwater pollution prevention will be taken very seriously. During the construction phase, silt fencing and silt socks will encircle the site preventing any soils from entering the stormwater system. Also, during construction the project site will be surrounded by a chain link fence, eight feet high.

Mr. Bednar said during the Planning Board's review of the project there was a concern raised about possibly treating the stormwater entering the catch basin located within the dumpster enclosure. They are therefore proposing a filter, much like a heavy duty coffee filter for that particular catch basin, which will catch or draw-in any type of debris.

Continuing the project review, Mr. Bednar indicated the lighting plan meets the foot-candle requirements for safety. A question that was asked during the Planning Board's review of the project, was how many kelvins will the lighting be, with a suggestion to consider between 2,700 – 3,000. In checking with the electrical engineers for the project, 3,000 kelvins is being proposed, creating a yellowish hue. The light poles will be 25 ft. tall.

Mr. Bednar then reviewed the proposed landscaping plan noting it will be comprised of low level vegetation, that include various bushes, flowers and grasses. Another request from the Planning Board, was for the developer to consider adding more trees to the site. Mr. Bednar said they took that request back to the landscape architect, however, for visibility reasons, they will not be including any additional trees to the landscape plan as proposed. Finally, the advertising sign, which will be located in front of the restaurant along Rt. 394, will be a monument type sign, 6 ft. 6 inches in height.

Mr. William F. Chandler, 207 West Summit Street, said as a member of the local sanitary sewer board, asked if the South & Center Chautauqua Lake Sewer Districts, have approved their plans.

Mr. Bednar said the local sewer district has indeed approved the plans as submitted for "hook-up" to their sanitary sewer system.

With no one else to be heard, Deputy Mayor McCague closed the public hearing at 6:52 PM, and proceeded to reopen the regular meeting.

He noted the mandatory referrals regarding this project have been made and asked if any member of the Board of Trustees have any questions.

Trustee Barnes asked Mr. Bednar when will construction begin and when is the new Taco Bell restaurant expected to be open for business.

Mr. Bednar indicated the developer hopes to break ground by the end of June and they hope to open by the end of September.

Trustee Schutte asked a question pertaining to the face of the proposed dumpster enclosure, and when compared with the existing parking lot, will there be less stormwater run-off after the site is developed.

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Mr. Bednar said the gate side of the dumpster enclosure will consist of decorative panels and with the addition "green space" to the site there will indeed be less stormwater run-off. Reducing the amount of impervious surface will make for an improved stormwater management plan.

Trustee Holcomb asked Mr. Bednar if Building Inspector Swanson had presented any questions regarding the project and proceeded to thank him and his staff for bringing this proposal to the Village of Lakewood.

Mr. Bednar said, so far any questions posed by Building Inspector Swanson have been addressed and that he will soon be receiving a complete set of revised drawings, which will include the additional sidewalk.

Deputy Mayor McCague indicated he was very impressed with the overall plans for the new Taco Bell restaurant and how detailed they were. The proposal was also in compliance with the local zoning code and certain Village of Lakewood policies, namely "dark sky" and stormwater management. He then thanked Mr. Bednar and his colleagues from Karpinski Engineering for all their time and energy, that they and their client, Charter Foods have put into this project. Also, while reviewing the minutes of the May 15th Planning Board meeting, Deputy Mayor McCague indicated some very thoughtful ideas in connection with this project were brought up that might want to be reconsidered.

Trustee Barnes wanted to make it clear to Mr. Bednar that although the Planning Board may have made some recommendations or suggestions, the Board of Trustees cannot require the developer to embrace them.

#### RESOLUTION #90-2019 – APPROVE PROPOSED TACO BELL SITE PLAN

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees to approve the site plan for a new Taco Bell restaurant as presented by Karpinski Engineer, Cleveland, Ohio, whereby Charter Foods, Talbot, TN, will be permitted to construct a 2,550 sq. ft. Taco Bell restaurant on a Chautauqua Mall "out-parcel" at 310 East Fairmount Ave.

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

#### RESOLUTION #91-2019 – APPROVE CHAUTAUQUA LAKE MAINTENANCE AGREEMENT

Motion by Trustee Schutte, seconded by Trustee Holcomb, for the Board of Trustees to approve the 2019 Lake Maintenance Agreement between the Village of Lakewood and the Chautauqua Lake Association, Inc., (CLA), and to authorize Deputy Mayor McCague to execute the same. The Village of Lakewood agrees to make a contribution in the amount of \$ 4,000.00 towards the Chautauqua Lake Association's Lake Maintenance Program for 2019, with the condition that the CLA provide the Village of Lakewood with a Certificate of Insurance (COI).

#### DISCUSSION

Trustee Barnes indicated that she is very reluctant to ok the \$ 4,000.00 donation to the CLA for the fact that they have not been very forthcoming with the Village of Lakewood in connection with water sample tests that were conducted last year. She was hopeful our friends at the CLA would clear that question up, once and for all. Trustee Barnes said she will however vote to approve the donation on behalf of Lakewood residents and because Lake Chautauqua and its shorelines are very important to the community. Trustee Holcomb said he still questions how the water testing saga played out and the CLA should have been more transparent. Deputy Mayor McCague indicated to Trustee Holcomb that one of the terms of the contract/agreement allows the Village of Lakewood to examine the records of the CLA.

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

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RESOLUTION #92-2019 – AUTHORIZE YEAR-END BUDGET TRANSFERS

Motion by Trustee Schutte, seconded by Trustee Barnes, authorizing Village Treasurer Andrea J. Windoft to make all necessary year-end budget transfers for the fiscal year 06/01/2018 – 05/31/2019.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #93-2019 – APPROVE 2019 DOCK PERMIT APPLICATION

Motion by Trustee Barnes, seconded by Trustee Schutte, to approve the 2019 Dock Permit Application as submitted by William F. Chandler, 207 West Summit Street, for the Division St. right-of-way.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #94-2019 – APPROVE NYS FIRE CHIEF'S SHOW ATTENDANCE

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees, acting as the Board of Fire Commissioners, approve Fire Chief Steve Smouse, First Asst. Chie Kurt W. Hallberg, Second Asst. Chief Todd Gilbert and LFD Safety Officer Jack Knowlton, to attend the New York State Fire Chief's Show in Syracuse, N.Y., June 12<sup>th</sup> – June 15<sup>th</sup>. Those attending will be reimbursed for any authorized expenses incurred.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #95-2019 – APPROVE NON-UNION EMPLOYEE PAY RAISES

Motion by Trustee Barnes, seconded by Trustee Schutte, to approve an annual cost of living allowance (COLA) of 2.13% in wages for all non-union employees, plus a \$ 1.00/hr. increase for DPW employees Ryan B. Vik, Tanner L. James, Jeffrey R. Wadsworth and James D. Fye. The wage increases will be valid for the period of 06/01/2019 – 05/31/2020, unless otherwise amended.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #96-2019–APPROVE HOURLY WAGE INCREASE FOR DEPUTY CLERK/TREASURER

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the fact that Deputy Clerk/Treasurer Mary B. Currie is taking on extra work and responsibilities, in addition to the 2.13% cost of living allowance (COLA), wage increase, she shall receive and extra \$ 2.00/hr., for the period of 06/01/2019 – 05/31/2020, unless otherwise amended.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

RESOLUTION #97-2019 – APPROVE DONATION TO THE CHAUT. WATERSHED CONSERVANCY

Motion by Trustee Barnes, seconded by Trustee Schutte, per the recommendation of Deputy Mayor McCague, to approve a 2019 contribution to the Chautauqua Watershed Conservancy (CWC) in the amount of \$1,000.00, in support of their pollution prevention, watershed education and watershed conservation activities in the Village of Lakewood and throughout Chautauqua County.  
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

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RESOLUTION #98-2019 – APPROVE DONATION TO THE CHAUT. LAKE PARTNERSHIP

Motion by Trustee Barnes, seconded by Trustee Holcomb, per the recommendation of Deputy Mayor McCague, to approve a 2019 contribution to the Chautauqua Lake Partnership (CLP) in the amount of \$ 1,000.00, in support of their lake management services and their mission, "To improve the water quality and enjoyment of Chautauqua Lake."

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

ANYONE TO BE HEARD

Mr. Lauren Collins, 318 Elmcrest Ave., appeared before Deputy Mayor McCague and members of the Board of Trustees, to voice a concern regarding the empty lot abutting his property. He said the lot next door has a number of dead trees on it and over time, some have been felled by the wind causing damage to his private property. Mr. Collins said he has sent a letter to the property owner about the situation, however hasn't had a response. He wondered what his next step might be, because the situation has become very dangerous.

Deputy Mayor McCague indicated to Mr. Collins we can ask DPW Supervisor Tom Pilling to take a look at the situation, adding it may not be something the Village of Lakewood can get involved with. He said it sounds like a neighbor to neighbor issue, but we are here to help as much as we can.

Village Clerk Johnson indicated to Deputy Mayor McCague, as a courtesy, the Village of Lakewood, previously in a similar situation, advised the property owner accordingly.

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

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Joseph M. Johnson  
Village Clerk