

JUNE 13, 2022

The eleventh regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held, Monday, June 13, 2022, 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 Troche, seconded by Trustee Jones, to approve the minutes of the last regular meeting of the Board of Trustees held May 23, 2022.

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

AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee Jones, that the claims as audited by the Auditing Committee of the abstracts dated June 13, 2022, be approved and that the Clerk shall execute said abstracts and direct payment by the Treasurer. Abstracts (#2 & #2) Trust & Agency Fund: \$ 61,235.96, (check #6610), General Fund: \$ 68,334.29 (previous year), \$ 128,938.65 (current year) (checks #18855 thru #18919).

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

REPORTS

Police Chief Christopher A. DePonceau reported the Lakewood-Busti Police Department has had four hundred fifty-two incidents from May 23, 2022 to June 13, 2022. They included one hundred business checks, one hundred thirteen vehicle and traffic violations, six shoplifting incidents and thirty warrants were applied and/or processed.

Chief DePonceau said this past week the L-BPD received numerous calls about the Facebook threats made to Walmart and Tops Grocery Store in Jamestown. Chief DePonceau said the L-BPD, the Jamestown Police Dept. as well as the FBI have been investigating the threats. So far the threats don't appear credible, however the necessary precautions will be taken.

Fire Chief Kurt Hallberg reported the Lakewood Fire Department has responded to four hundred sixty-four alarms year to date. He added during this past month of May, a record 113 alarms were answered, which surpassed the previous record of 112 set during the month of July 2019.

Chief Hallberg also reported the Lakewood Fire Company purchased a new John Deere Gator which will be used for wild land and off road firefighting as well as transporting patients. He added the new piece of equipment is expected to be in service by the 4th of July.

Village Treasurer Apryl L. Troutman reported the four new Capital Reserve accounts have been created and village tax collection has begun and is going well.

Village Clerk Mary B. Currie said the Lakewood Beach at Richard O. Hartley Park will not be able to open once again this year. She said although there were four (4) lifeguard applications submitted, only one (1) of the applicants interviewed.

Building Inspector Jeff Swanson reported property maintenance problems are out of control, the biggest problem is neighbor disputes and said all complaints will be addressed with the worst being looked into first.

He said most of the problem properties that were on the Chautauqua County tax foreclosure list have now been removed. Mr. Swanson said instead of being a one day sale, this year they will be doing a two week on-line sale.

June 13, 2022 (continued)

Trustee Barnes asked Mr. Swanson what kind of compliance does he get when visiting and reviewing properties with violations and what kind of cooperation is he getting from the court system.

Mr. Swanson said some go pretty well but some are hard to prove there is a problem and gave several examples of situations that are hard to prove.

Mr. Swanson also said since COVID there hasn't been anything going to court and said it wasn't even good before that.

Trustee Barnes said she just wants everyone to know you're out there doing your part but there are a lot of things out of your control, including the courts.

Mayor Holcomb read a report submitted by Deputy Clerk Julie Toennis on the status of Lakewood Farmers' Market. Ms. Toennis reported the Farmers' Market is up and running with six to ten vendors each week. The vendors are very happy to have the market back and are committed to making the market larger and more successful than ever before. Ms. Toennis said Mr. Matt Walczyk and Ms. Taryn Wilson Wheatley are two volunteers she has had who have been a great help and said they have learned a lot together. Ms. Toennis also indicated the Market has been advertised in the Post-Journal, the Penny Saver and the Gazette.

Mayor Holcomb thanked Mr. Walczyk & Ms. Wheatley for volunteering their time to help with the Farmers' Market.

Trustee Fischer thanked the DPW for paving East Terrace Ave., which was badly needed and for the flowers they planted on the four corners of Chautauqua Ave, and Summit St. Mr. Fischer commented on how nice both those projects look.

RESOLUTION #87-2022 – APPROVE/GRANT REVISED SITE PLAN

Motion by Trustee Jones, seconded by Trustee Barnes, per the recommendation of the Planning Board, for the Board of Trustees to approve the revised site plan as submitted by Ms. Lori Thierfeldt, 341-343 E. Fairmount Ave., Lakewood, N.Y.

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

RESOLUTION #88-2022 – AUTHORIZE THE RE-SCHEDULING OF STREET CLOSING FOR BLOCK PARTY

Motion by Trustee Troche, seconded by Trustee Fischer, to authorize the re-scheduling of Lakeview Ave., being closed for a neighborhood block party between E. Terrace Ave. & E. Summit St., July 23, 2022 between the hours of 1:00 PM - 5:00 PM. The Lakewood-Busti Police Department, the Lakewood Volunteer Fire Department and the Village Streets Department are to be notified of the street closure and the residents have agreed to notify 911 dispatch that the street will be closed for that period of time.

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

RESOLUTION #89-2022 – APPOINT NEW MEMBER TO THE ZONING BOARD OF APPEALS

Motion by Trustee Fischer, seconded by Trustee Troche, per the recommendation of Mayor Holcomb, that the Board of Trustees hereby appoint Mr. Jack McCray, 16 East Second Street, as a member of the Zoning Board of Appeals/Planning Board. Mr. McCray will fill the vacancy created by the resignation of Mr. Gerald Holmes, and his abbreviated term will end January 2023.

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

June 13, 2022 (continued)

RESOLUTION #90-2022 – AUTHORIZE L-BPD POLICE OFFICER PROMOTION

Motion by Trustee Troche, seconded by Trustee Fischer, to authorize the promotion of current part-time L-BPD Police Officer Dan Hafner to a full time position which will consist of part-time road patrol and part-time evidence technician. Per the recommendation of Chief DePonceau, Officer Hafner's full-time start date will be June 15, 2022 and will be compensated at the annual rate of \$ 60,840.00.

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

RESOLUTION #91-2022 – AUTHORIZE ESTABLISHING NEW ACCOUNT

Motion by Trustee Troche, seconded by Trustee Fischer, to authorize Village Treasurer Apryl L. Troutman to establish a new salary account for the L-BPD Evidence Technician position. The new account will be A3120.13.

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

RESOLUTION #92-2022 – AUTHORIZE FUND TRANSFERS

Motion by Trustee Troche, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L. Troutman to make the following transfers to be taken from the Fund Balance; \$ 30,420.00 transferred to A3120.13 {Evidence Technician} and \$ 14,100.00 transferred to A3120.12 {Part Time Police Officer}.

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

RESOLUTION #93-2022 – AUTHORIZE FUND TRANSFER

Motion by Trustee Barnes, seconded by Trustee Jones, to authorize Village Treasurer Apryl L. Troutman to make the following fund transfer to pay The Post-Journal for the Farmers' Market advertising invoice, \$ 122.50 from T1093.15 {Farmers Market Fund} to A1410.42 {Clerk – PJ Advertising}.

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

RESOLUTION #94-2022 – AUTHORIZE FUND TRANSFERS

Motion by Trustee Jones, seconded by Trustee Barnes, to authorize Village Treasurer Apryl L. Troutman to make the following fund transfers; \$ 21,032.50 from T1093.00 {LFD/DPW Sale of Equipment}; \$11,846.50 to A878.10 {Capital Reserve – DPW Equipment} and \$ 9,186.00 to A878.20 {Capital Reserve – LFD Equipment}.

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

RESOLUTION #95-2022 – APPROVE NYS FIRE CHIEF'S SHOW ATTENDANCE

Motion by Trustee Troche, seconded by Trustee Fischer, for the Board of Trustees, acting as the Board of Fire Commissioners, approve First Assistant Fire Chief Steve Smouse to attend the New York State Association of Fire Chiefs Conference & Expo, in Syracuse, N.Y., June 15th -18th. Mr. Smouse will be reimbursed for any and all authorized expenses incurred.

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

RESOLUTION #96-2022 – ACCEPT RESIGNATIONS OF TWO LFD MEMBERS

Motion by Trustee Barnes, seconded by Trustee Fischer, that the Board of Trustees, acting as the Board of Fire Commissioners, to accept the resignation of Lakewood. Vol. Fire Department members Ms. Tasha Davidson and Mr. Garret Swan.

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

June 13, 2022 (continued)

RESOLUTION #97-2022 AUTHORIZE REQUEST FOR PROPOSALS
RE: LWRP - PLAYGROUND PROJECT

Motion by Trustee Troche, seconded by Trustee Barnes, to authorize Village Clerk Mary B. Currie to advertise for Request for Proposals (RFP), to provide Grant Administration Services for the Village of Lakewood's NYS DOS Local Waterfront Revitalization Project (LWRP) for improvements to the newly proposed playground at Richard O. Hartley Park. The proposals are to be received at the Village Clerk's office no later than 3:00 PM, June 24, 2022.

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

Request for Proposals
Grant Administration Services for
Local Waterfront Revitalization Project
Hartley Park Playground Project

The Village of Lakewood is seeking proposals from grant administration consultants qualified to perform grant administration services for the Village of Lakewood's NYS DOS Local Waterfront Revitalization Project (LWRP #C1002020) for improvements to the playground at Richard O. Hartley Park.

All proposals (two hard copies and one electronic copy) are to be post marked in compliance with the deadline and submitted to the office of the Clerk of the Village of Lakewood, 20 W. Summit Street, Lakewood, NY 14750, and via e-mail at currie@lakewoodny.com no later than 3:00 PM EST, on Friday, June 24, 2022.

Applicants may obtain a copy of the grant Work Plan, Budget and Contract by contacting the office of the Village Clerk. All additional inquiries must be made to the Village Clerk's office via e-mail or phone at 716-763-8557.

The Village of Lakewood reserves the right to accept or reject any or all proposals. Under no circumstances will late submissions be accepted.

Minority and women-owned business enterprises (M/WBE) are encouraged to apply. This project has a combined M/WBE goal of 30%.

DISCUSSION ON BILLING FOR EMERGENCY MEDICAL SERVICES (EMS)

Mayor Holcomb read a letter he and the Board of Trustees received from Mr. Jackson Knowlton, Lakewood Volunteer Fire Company President. Mr. Knowlton said at a recent meeting the Lakewood Volunteer Fire Company, Inc. voted to endorse the Village's desire to bill for EMS services rendered by our membership. The rising financial strain on our services is threatening our future ability to provide state of the art medical care that our residents need but deserve. It is also our desire to be adequately updated by the village officials through the process and have a voice in the final decision making process. Respectfully, Jackson Knowlton.

Mr. Knowlton said they are ready to move forward with the billing process and their desire is to run it through the village instead of the county.

Trustee Barnes said the Board of Trustees are also ready to move forward. She said they have already retained Mr. Mark Butler, Esq., Buffalo, NY. and indicated they will be in contact with him shortly. Ms. Barnes also said it sounds like under the new state laws, we won't need to form our own EMS Service,

Trustee Troche said he thinks with the imaginary deadline in the new state laws, it will move fast. He also said it will change the make-up of EMS in the county but it won't change how we provide services or how we are dispatched, people will still get the same care as always.

Mr. Knowlton said there is a seminar on the new laws and indicated a few of the LFD members will be attending.

June 13, 2022 (continued)

ANYONE TO BE HEARD

Dr. Ralph G. Witchey, 2 Atlantic Ave., appeared before the Board of Trustees for clarification on a question he asked three weeks prior, which was on what supersedes what with the transfer of short term rental properties. He said the short term rental agreement currently in existence, directly states no transfer of short term rentals when a property changes ownership. However, three weeks ago he was told with a transfer of a home that had an existing short term rental allowance, that transfer would carry over to the new owner.

Dr. Witchey said people have been asking him which it is and he would like some clarification.

Mr. LaMancuso said there is a difference between a license and prior use. He said the law from 2014 says you have to have a license to operate a short term rental, if you have a license and the property transfers, the license does not transfer to the new owner. He said the new owner would have to go through the same process of receiving a license, showing they are qualified to operate a short term rental. Mr. LaMancuso said however, the use of the property would be grandfathered and that can be transferred.

Mr. LaMancuso said immediately upon the new owner purchasing the property they would need to get a license. If there is a period of time that the property isn't used as a short term rental, that prior non-conforming use can turn into an un-permitted prior non-conforming use. He said under the village zoning code that would have to go for a year. He said if the new owner gets the short term rental registered in their name within a year of purchasing the property, they will be grandfathered.

Dr. Witchey asked if a new owner takes over a short term rental on July 1st, would they be able to be a short term rental on August 1st.

Mr. LaMancuso said if they get a license they can, that would be a prior non-conforming use which was in place before the moratorium.

Dr. Witchey said the question he has is what does the new owner of a short term rental have the right to do 35 days after the property transfers. He said he hasn't talked to any short term rental owner that are against enforcement, they just want to know the plan.

Mr. LaMancuso said the moratorium specifically says," this prohibition shall not apply to short term rental occupancy uses that were determined lawfully established prior to the effective date".

Dr. Witchey said the existing law which has been in place since 2014 says the license cannot be transferred, but the moratorium says it can, all people are asking is which one is correct and which one will be enforced.

Mr. LaMancuso said he will look into it further but the moratorium, which was just passed as a local law, says the prohibition does not apply to lawful uses that were established prior to the effective date of the moratorium.

Dr. Witchey said the moratorium passed 35 days ago, to date he has not heard one word about a committee or heard of any progress being done since the meeting 3 weeks ago, the clock is ticking and we need some answers.

Trustee Barnes said the moratorium says it supersedes the previous short term rental law that was in place until a new short term rental law is put into effect. She said if someone has had a short term rental but never registered it with the village and sells the property, the new owner cannot get a license while under the moratorium because it was never recognized as a short term rental by the village. She also said if it was registered with the village and has been used as a short term rental, then it can continue to be a short term rental with the new owner, that is what the moratorium is meant to do. She also said the village is moving forward with this and will shortly be requesting proposals for a consultant to assist with the regulations for short term rentals.

June 13, 2022 (continued)

Trustee Troche said grandfathering goes with the property, not the owner, therefore if a new owner wishes to make it a short term rental it will be grandfathered.

Trustee Nancy Jones said she is very disappointed that the beach will not be able to open once again this year and asked if the village could post a sign saying “No lifeguard on duty, swim at your own risk”.

Village Clerk Currie said she would get in touch with the village insurance co. and see what they say and Trustee Troche said he will contact Chautauqua Co. Health Dept. and see what they say about it.

Trustee Fischer said he would like to know how much sediment has been saved from going into Chautauqua Lake since the \$750,000.00 project on Chautauqua Ave. has been finished. He also said three of the four corners along Chautauqua Ave. have broken or cracked cement along the edges and he also has noticed when he goes over the railroad tracks it is a smoother ride then when he is driving on parts of Chautauqua Ave.

Motion by Trustee Jones, seconded by Trustee Troche, to recess the regular meeting at 7:40 PM, so as to enter into executive session.

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

EXECUTIVE SESSION

Present at the executive session, were Mayor Randall G. Holcomb, Trustee Ellen E. Barnes, Trustee R. Richard Fischer, Trustee Nancy W. Jones, Trustee Benjamin J. Troche, Fire Chief Kurt Hallberg, Village Attorney John I. LaMancuso, Village Clerk Mary B. Currie and Village Treasurer Apryl L. Troutman.

EXECUTIVE SESSION (Adjournment)

Motion by Trustee Barnes, seconded by Trustee Jones and unanimously carried to adjourn the executive session and re-open the regular meeting of the Board of Trustees at 8:18 PM.

RESOLUTION #98-2022 AUTHORIZE REQUEST FOR PROPOSALS RE: CONSULTANT TO ESTABLISH SHORT TERM RENTAL REGULATIONS, LAND USE & ZONING

Motion by Trustee Fischer, seconded by Trustee Jones, to authorize Village Clerk Mary B. Currie to advertise for Request for Proposals (RFP) for qualified consultants to assist the Village in drafting and adopting additional short-term rental regulations, land use and zoning.

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

Motion by Trustee Troche, seconded by Trustee Fischer and unanimously carried the Board adjourned at 8:19 PM.

Mary B. Currie
Village Clerk