

July 7, 2022

A special meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held, Thursday, July 7, 2022, 7:00 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, Deputy Clerk/Treasurer Julie C. Toennis, Village Attorney John I. LaMancuso and Fire Chief Kurt Hallberg. Absent were Village Treasurer Apryl L. Troutman, Police Chief Christopher A. DePonceau, DPW Supervisor Thomas R. Pilling and Building Inspector Jeff Swanson.

Mayor Randall Holcomb opened the special meeting by saying the reason for the meeting is to consider billing options for Emergency Medical Services (EMS) for the Lakewood Volunteer Fire Department.

Mayor Holcomb said per the recommendation of the Lakewood Fire Company, he would like to enter into a temporary agreement with Chautauqua County EMS until such a time the Village can pursue a billing firm permanently.

Trustee Barnes read a statement expressing her thoughts on the subject saying at the June 27th village board meeting, the board discussed EMS billing and then moved into executive session for further discussions. We are here this evening to make a decision on which direction the village will take for EMS billing. (Whether the village will remain independent and hire a private billing company or sign a contract with Chautauqua County, as our billing agent) and that is a simplified overview. Our job as Trustees is to do what is in the best interest of the village and our fire department. It is the job of the village board to fund the fire department and EMS. I have looked extensively into this issue. After talking with ambulance billing CEO's, municipalities using private EMS billing, members of other fire departments and EMS captains from a number of departments, Mr. LaMancuso and Mr. Butler, proceeding on our own will give our fire department and village the most benefit. All of them have reiterated the same fact: That billing for EMS will allow the village to access revenue that is available by billing insurances. This revenue can be utilized by our fire department EMS. To be clear, none of this money goes into the village's general fund. It gets deposited in a specific fire department account. I believe I am showing my support for our fire department because I want them (you) to get the maximum benefit. And, with this independent billing, you will get the maximum benefit. Everyone I have spoken with has offered to attend a meeting and to speak to the board, the fire department and the public about their particular area of expertise and/or their business and will answer questions. This revenue will be a tremendous help to the fire department and our residents. Any advanced life support (ALS) intercept bills for reimbursement received during the time period the village is establishing our billing service, will be the responsibility of the village if we do not sign a contract with the county. The Fire Company and fire department will not incur any financial obligation from our decision. We have been assured that when the revenue starts coming in, the village will have the money to pay for those intercept bills. At this moment, we do not know when the county will start billing for their intercepts and what the fair market value (FMV) of those intercepts to be billed will be. As a little history for the public. The New York State legislature passed a law that volunteer departments can start billing their EMS calls. They put this law in the budget bill that they passed in April of this year. Up until this law was passed, it was a complicated and involved process of forming an ambulance service, independent of the fire department in order to be able to bill for EMS. There is now a lot of fear and panic among the volunteer fire members across the state due to a section of the law that states the EMS ALS intercept providers shall bill the respective fire department they are responding with beginning July 9th. Most volunteer departments have not made their final decisions on billing for their departments or do not have their EMS billing fully in place at this time, with this July 9th deadline just 2 days away. This fear has pushed some in our fire department to want to protect the village from these bills from getting billed by our ALS intercept provider, the county, by signing a contract with the county while we, the village, implement private billing for EMS, independent of the county. There are details about contracts I cannot share with you at this time due to legal considerations on this issue. I will leave that to our attorneys. However, in my consideration of this issue, entering into a contract with the intent to get out of that contract within the opt out period, does not seem like a good faith decision that is in the best interest of the village and fire department. I have many questions about the wisdom of doing this and what it takes to leave a contract. Decisions made hastily because of fear and in some instances panic, usually have some unintended consequences that present themselves later.

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I think that rather than enter into a contract we intend to leave, we need to put our energy and resources into hiring a private ambulance billing service, getting set up with that and all the details necessary for the village and the fire department. I offer to the mayor, this board, the fire department members and our residents to reach out at their request to the individuals and experts who have offered their time to attend our meetings to give us information and to answer any questions. These are my reasons and I am putting my reasons on the record. At our last meeting it was strongly intimated to me by a few, that how we, board members, vote on this matter will show if we support our fire department or not. I was taken aback by the anger, vitriol, attempts to denigrate me and discredit me and the information I have brought forward and the incorrect characterizations of what I said, from different sources including a village employee not in the fire department. My vote on this matter is in no way an indication of my support or lack thereof of our fire department. I have had almost 35 years of unwavering support of our fire department and no issue can deter me from that support to this day. I have the utmost respect and admiration for the men and women who chose to serve their community and become a member of our fire department. When they make that decision to join the fire department, they become part of an exclusive group of individuals that when the siren sounds and duty calls, no matter what time of day or night, they respond to assist those who need their help, whether it is a medical emergency, fighting a fire, helping a resident with their carbon monoxide (CO) alarm or a flooded basement. They run toward the situation and in many instances, put themselves in danger to save lives and property. And, they do this on a volunteer basis. The sacrifices they make put these heroes in a class by themselves and it is only a small percentage of our population that are willing to do this, much like those who join the military. For the members that do not know, I have worked very hard on issues for the fire department over the years I have been on this board and I am still working hard, gathering information, in order to make the best, informed decision for the fire department and the village. I believe the work I have done on this issue to bring forth information for everyone actually shows how much I do support our fire department. That being said, I think it is in everyone's best interest to not enter into a contract with the county. Signing a contract with the intent to leave that contract within 120 days is not good for anyone. It takes a lot of work to generate a contract that is satisfactory for both sides.

Trustee Jones said three weeks ago everyone was all for temporarily going with the county, now two weeks later some have changed their minds. She said she doesn't think there has been enough time since the law was changed for everyone to know enough about it and to make a good decision. She also said the county could decide to change the percentage at any times, she doesn't want to do anything hasty and make a poor decision for the village. She said she is against signing the contract with the county.

Trustee Fischer said he is bothered by the July 9th deadline and the uncertainty of what could happen after that. He said he would prefer to sign with the county temporarily, giving the village time to get things worked out with a professional billing company and then go with them.

Trustee Troche asked Fire Chief Hallberg how many years the Fire Department and Fire Company has been looking into billing for EMS and how much time and effort has been put into it over the years.

Fire Chief Hallberg responded by saying he thinks it has been about eight to ten years they have been discussing it. He said they have had several meetings with billing companies and fire departments that are already billing. He said the research has not been easy. Chief Hallberg said the Fire Company has always felt they would like to go with the village billing. He said once the July 9th deadline came out they thought it would be safer to get under the counties umbrella and temporarily go with them until a contract could be secured with a billing Company.

Trustee Troche said he agrees the village should do long term billing with a professional company. He said he would rather not pay the county 15% of the revenues received and indicated he would not want to stay with the county for more than eight months.

Trustee Troche said the county will not make money off this program and have said they would rather not have fire companies sign up, but they feel safety comes first and are willing to take the hit. He said the fire company has been very transparent about going with the county temporarily, not long term.

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Trustee Troche said he has seen the resolution which was written by Attorney Mark Butler and thinks it is great one, but by no means is the contract finished. He said Mr. Butler has been busy working on a contract with the county, so we couldn't possibly have a contract ready by July 8th.

Trustee Troche said he would like to see Mayor Holcomb sign a contract with the county, knowing the village can pull out at any time. By doing so, there will be no retro-active billing and anyone with a village address cannot be taken to collections.

Mayor Holcomb asked if it would look poorly on the village should they pull out of a contract with the county early.

Trustee Troche said he had a conversation with County Executive PJ Wendel and he indicated to him that the county would not look negatively on the village if they were to back out early. He said he is fearful the county will lose money through the contract.

Trustee Jones asked Trustee Troche if he knows if Falconer has received any money yet.

Trustee Troche said last he knew, Falconer had not, however it usually takes about three months to generate a bill and then within thirty days the patient should receive the bill. He said it took Silver Creek and Jamestown approximately eight months to be up and running.

Trustee Barnes said she was given information from the billing company that Medicare will be the quickest revenue coming in. Trustee Barnes said she sent Mr. Butler a copy of the contract and Mr. Butler strongly advised against signing it, saying it is flawed. He said to sign the contract this evening would be untimely, ill-advised and would mitigate the financial exposure while resolving this and setting up our own billing.

Trustee Barnes said Mr. Butler presented the Board of Trustees with a resolution to adopt this evening. She said the village would still have to pay but it would protect the village from the county setting the reimbursement rate.

Trustee Troche said he likes the resolution provided by Mr. Butler but it doesn't really protect the village from getting billed in that we will still have to pay. He said Mr. Butler is working on fixing the contract and indicated he would never vote for a draft version of a contract.

Village Attorney John LaMancuso said it is not customary for a board to approve a contract they do not have in front of them. He said he has looked at the contract and also has a few questions and concerns, especially where they have changed the wording from "can" to "shall" bill the local municipality. He said the deadline is so short, it's not likely anyone would be up and running by the 9th and there is nothing saying they will start billing as of then.

Mr. LaMancuso said because of the deadline there needs be ongoing conversations with the county about the ALS interception issue right away. He said he would advise against authorizing the Mayor to sign the contract at this point.

Trustee Troche said he would like to have put on the record that Mr. Butler quoted something that was said in a private meeting but chose not to say what it was. He said he had a lot of sources when he was briefed on the meeting and it is very disheartening to him.

Chief Hallberg said this is a village contract and the village will make the decision. He said the Fire Company has made their recommendation as a Company and Board of Directors. He said the Fire Department will continue to serve the village and the district as they have done for many years. The decision is strictly up to the Board of Trustees and the Lakewood Fire Department will do their best to support whatever decision they make.

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Fire Company President Jack Knowlton said the company has made their recommendation and has agreed to go forward with whatever the village decides they would like to do.

**RESOLUTION #106-2022 –AUTHORIZE ADVANCED LIFE SUPPORT (ALS) AGENCY TO BILL
THE VILAGE OF LAKEWOOD FIRE DEPARTMENT**

Motion by Trustee Barnes, seconded by Trustee Jones, to let it be resolved that based on the authorization in Part KK of Chapter 55 of the Laws of 2022 (the law) permitting an ALS agency to bill the Village of Lakewood Fire Department for ALS intercept services (ALS claim), the Board of Trustees of the Village of Lakewood hereby sets the maximum reimbursement rate to be paid for any such ALS claim to be the lesser of the Medicaid or Medicare reimbursement rate(s) in effect at the time of such ALS intercept service, for such service. This resolution shall take effect immediately.

Adopted: 5 ayes, no nays (Holcomb, Barnes, Fischer, Jones, Troche)

Trustee Troche said he still thinks a short term contract is a good one but he will wait to see how Mr. Butler makes it. He also thinks before the Board of Trustees meets with any billing companies the members of the Fire Department should meet with the companies to make sure they will meet their needs.

Mr. Tom Allen, LFD member, said he was told the Dunkirk Fire Chief spends approximately three hours a month submitting patient care reports (PCR), and asked if someone will be hired to do the clerical work that will be involved.

Trustee Barnes said she knows Silver Creek hired someone on a part-time basis.

Motion by Trustee Troche, seconded by Trustee Fischer and unanimously carried the Board adjourned at 7:50 PM.

Mary B. Currie
Village Clerk