

JULY 22, 2019

The fourteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, July 22, 2019, 6:30 PM, with Deputy Mayor Edward J. McCague presiding. Trustees present were Ellen E. Barnes and Randall G. Holcomb. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Apryl Troutman, Police Chief John R. Bentley, Village Attorney John I. LaMancuso, and Building Inspector Jeffrey A. Swanson. Absent were Trustee Douglas L. Schutte, Department of Public Works Supervisor Thomas R. Pilling, and Fire Chief Steve Smouse.

APPROVAL OF MINUTES

Motion by Trustee Barnes, seconded by Trustee Holcomb, to approve the minutes of the last regular meeting of the Board of Trustees, held July 8, 2019.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

AUDIT OF CLAIMS

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated July 22, 2019, be approved and that the Clerk shall execute said abstracts (#8 & #8) and direct payment by the Treasurer. Trust & Agency Fund: \$ 54,727.38 (Checks #4785 thru #4789), General Fund: \$ 76,536.00 (Checks #16022 thru #16061), with the exception, that per Village Clerk Johnson, the amount to be remitted to Mr. Marty Loomis, be reduced from \$ 300.00 to \$150.00.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

REPORTS

Police Chief John R. Bentley reported the Lakewood-Bust Police Department has responded to five thousand two hundred eight incidents year-to-date, two hundred ninety-nine of which occurred within the past two weeks. Chief Bentley let members of the Board of Trustees that by the end of the week there are going to be two open openings on the police force, one full-time, one part-time. Chief Bentley said he would like permission from the Board of Trustees to fill those two positions, plus another part-time position that is likely going to open up by the first week in August. He explained that by moving a current part-time officer into the full-time slot, currently held by Officer Caprino, who is retiring on July 26th, will save the Village of Lakewood money when comparing the salaries between the two. Chief Bentley concluded his report stating that the two newest part-time officers have completed a good portion of their field training and are doing very well.

Village Attorney John I. LaMancuso indicated with respect to the two public hearings scheduled this evening, he isn't sure if the Zoning Committee or the Board of Trustees can provide any hints on what direction they would like to go in developing a permanent law governing both wind turbine and solar panel farms. Mr. LaMancuso said he would be happy to work with the Zoning Committee and the Board of Trustees in drafting zoning regulations to be put in place sooner rather than later, to avoid going past the timeframe of the moratoriums.

Deputy Mayor McCague indicated that the Zoning Committee plans to meet after Labor Day and apparently the only decision yet to make is whether or not to allow wind turbine and solar panel farms, with controls in place, or to prohibit them outright.

Village Treasurer Apryl Troutman reported that the Annual Financial Report for the fiscal year ending May 31, 2019, has been completed and was filed with the NYS Comptroller's Office July 15, 2019. Treasurer Troutman also asked members of the Auditing Committee if they could give some thought as to when they would like to conduct its annual audit of the financial records for the past fiscal year.

JULY 22, 2019 (CONTINUED)

Mrs. Troutman said she received correspondence from DPW Supervisor Pilling stating that the Village of Lakewood will be receiving an additional \$ 20,000.00, through the CHIPS program, with approval of the Extreme Winter Weather Program, which provides addition funding to municipalities across New York State, when it comes to snow removal operations and ice control measures during the winter months. In closing she recommended that the revenue and expense accounts be adjusted accordingly.

Building Inspector/Code Enforcement Officer Jeff Swanson reported that the condemned single family structure at 156 East Terrace Ave. should be demolished within the next two weeks, depending on the removal and proper disposal of any asbestos that is found within the building. Mr. Swanson said he is hopeful that the condemned multi-family structure at 22 East Summit Street will be next on the Chautauqua County Land Bank's demolition schedule.

Mr. Swanson then reported that ground has been broken for the new Taco Bell restaurant at an out-parcel of the Chautauqua Mall, 310 East Fairmount Ave.

Building Inspector Swanson wished to thank Village Attorney LaMancuso for his help, via a letter he drafted, in dealing with a combination of zoning violations at 140 West Fairmount Ave., all of which have now been resolved.

RECESS

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

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

PUBLIC HEARING: 6:40 PM
PROPOSED LOCAL LAW #2-2019
EXTEND MORATORIUM ON THE PERMITTING & CONSTRUCTION
OF WINDS TURBINES & RELATED BUILDINGS, FACILITIES & SYSTEMS

Deputy Mayor McCague opened the public hearing at 6:40 PM, and with no one to be heard, proceeded to close the public hearing at 6:43 PM.

PUBLIC HEARING: 6:45 PM
PROPOSED LOCAL LAW #3-2019
EXTEND MORATORIUM ON THE PERMITTING & CONSTRUCTION
OF SOLAR PANEL FARMS & RELATED BUILDINGS, FACILITIES & SYSTEMS

Deputy Mayor McCague opened the public hearing at 6:45 PM, and asked if there was anyone to be heard regarding Local Law #3 as proposed.

Chautauqua County Legislator P.J. Wendel, said he just received a letter from a county resident, urging the Legislature to encourage the development of more wind turbine farms across Chautauqua County. He believes this stance stems from Governor Cuomo's commitment to developing renewal energy sources, and Chautauqua County should not go against the governor. Mr. Wendel said he favors a moratorium on both wind turbine and solar panel farms within the Village of Lakewood.

Deputy Mayor McCague thanked Legislator Wendel for his comments and noted that all the moratoriums will do is provide the Village of Lakewood time to make a final decision in addressing the subject of solar panel and wind turbine farms from a zoning standpoint.

JULY 22, 2019 (CONTINUED)

With input from the Planning Board, Zoning Board of Appeals and residents, the Board of Trustees is going to do the best it can to draft a good law for the Village of Lakewood.

Legislator Wendel said Chautauqua County is expected to enact a moratorium on the permitting of off-shore (Lake Erie) Wind Turbines. He said what has happened in allowing wind turbines in the Town of Arkwright is a travesty. Banning them within the Village of Lakewood is the right thing to do.

Deputy Mayor McCague indicated during his travels around the world as an international airline pilot, the size of wind farms off the coasts of Ireland and Scotland are vast with hundreds of wind turbines visible from 40,000 feet. With no one else to be heard, Deputy Mayor McCague closed the public hearing at 7:53 PM, and proceeded to reopen the regular meeting.

RESOLUTION #116-2019 – APPROVE/ADOPT LOCAL LAW #2-2019, AS PROPOSED

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees to adopt Local Law #2-2019, as proposed, to extend the Moratorium on the Permitting & Construction of Wind Turbines & Related Buildings, Facilities & Systems, within the Village of Lakewood, New York.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #117-2019 – APPROVE/ADOPT LOCAL LAW #3-2019, AS PROPOSED

Motion by Trustee Barnes, seconded by Trustee Holcomb, for the Board of Trustees to adopt Local Law #3-2019, as proposed, to extend the Moratorium on the Permitting & Construction of Solar Panel Farms & Related Buildings, Facilities & Systems, within the Village of Lakewood, New York.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

DISCUSSION ON POST-RETIREMENT EMPLOYMENT AGREEMENT

Trustee Holcomb indicated he would like to keep the post-retirement employment arrangement for retired Treasurer Andrea J. Windoft as she requested it. That is, to remain on the payroll and work on an as needed basis at a rate of \$ 30.00/hr.

Trustee Barnes said she agrees with Trustee Holcomb's take on the continued working relationship between the Village of Lakewood and Mrs. Windoft. Trustee Barnes said she isn't sure if it would be necessary to create a new position for her.

Deputy Mayor McCague asked Village Treasurer Apryl Troutman, how her on the job training was going with former Treasurer Windoft.

Mrs. Troutman indicated that her training sessions with Mrs. Windoft have gone very well. Mrs. Troutman said Mrs. Windoft assisted with the latest payroll, however doesn't foresee any prolonged training sessions with her until budget time next spring. Obviously if something out of the ordinary comes up, Mrs. Windoft is readily available to assist if needed.

Deputy Mayor McCague then asked Village Attorney LaMancuso if he would care to comment on the matter.

Village Attorney LaMancuso indicated it sounds like a couple of the Trustees would like proceed without a formal post-retirement employment agreement in place between the Village of Lakewood and Mrs. Windoft. He went onto to say that particular arrangement isn't impossible, however he personally would prefer to have any understanding between the Village of Lakewood and Mrs. Windoft about post-

retirement employment in writing.

JULY 22, 2019 (CONTINUED)

Deputy Mayor McCague wanted to point out under the set-up endorsed by Trustees Holcomb and Barnes, the Village of Lakewood would be responsible for the FICA Taxes on Mrs. Windoft's income, if she isn't considered an independent contractor for the Village. He said the maximum FICA tax incurred by the Village of Lakewood would be \$ 350.00, based on a maximum annual income of \$ 5,000.00. He said it isn't a major expense, but it would involve committing Village funds, probably unnecessarily.

RESOLUTION #118-2019 – APPROVE POST-RETIREMENT EMPLOYMENT ARRANGEMENT

Motion by Trustee Holcomb, seconded by Trustee Barnes, to approve a post-retirement employment arrangement with recently retired Treasurer Andrea J. Windoft, wherein she would remain on the Village of Lakewood payroll as a Consultant to Village Treasurer Apryl Troutman, and work on an as needed basis, at a rate of \$ 30.00/hr. up to a maximum annual income of \$ 5,000.00. NOTE: The Village of Lakewood would be responsible for any and all FICA taxes, up to a maximum of \$ 350.00/year.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #119-2019 – APPROVE NEW LFD MEMBER

Motion by trustee Barnes, seconded by Trustee Holcomb, for the Board of Trustees, acting as the Board of Fire Commissioners, approve Mr. Tyler Johnson, 224 Spruce Street, as a new member of the Lakewood Fire Department.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #120-2019 – APPOINT SEASONAL LIFEGUARD

Motion by Trustee Holcomb, seconded by Trustee Barnes, to appoint Ms. Megan Seeley, 107 Winch Road, as a Lifeguard at Richard O. Hartley Park/Beach for the remainder of the 2019 Beach season, per the recommendation of Village Clerk Johnson. Ms. Seeley will be compensated at a rate of \$ 11.30/hr.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #121-2019 – APPROVE LETTER OF SUPPORT RE: GRANT APPLICATION

Motion by Trustee Barnes, seconded by Trustee Holcomb, for the Board Trustees of the Village of Lakewood to go on record, via a letter, in support of a grant application to the NYS Consolidated Funding Application-DEC, being submitted by the Town of Ellicott in partnership with the Chautauqua Lake Partnership (CLP), as it relates to the Chautauqua Lake Harmful Algal Bloom Action Plan, the Macrophyte Management Plan and the Total Maximum Daily Load for Phosphorus in Chautauqua Lake, and to authorize Deputy Mayor to execute the same. NOTE: Based on the matching fund percentage, the Village of Lakewood hereby sets the grant amount at \$ 80,000.00.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #122-2019 – APPROVE PARTICIPANT GRANT AGREEMENT

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Board of Trustees to approve the Participant Grant Agreement in connection with the New York Main Street Grant (SHARS #2018-0100), in particular the project being proposed at 103 Chautauqua Ave., (Group Ther-Happy), owned by Ms. Michelle Turner and Ms. Mary Rapaport, and to authorize Deputy Mayor McCague to execute the same.
Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

JULY 22, 2019 (CONTINUED)

RESOLUTION #123-2019 – APPROVE PARTICIPANT GRANT AGREEMENT

Motion by Trustee Barnes, seconded by Trustee Holcomb, for the Board of Trustees to approve the Participant Grant Agreement in connection with the New York Main Street Grant (SHARS #2018-0100), in particular the project being proposed at 120 Chautauqua Ave., owned by Mr. Samuel Whitmore, and to authorize Deputy Mayor McCague to execute the same.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #124-2019 – AUTHORIZE SUBMITTAL OF APPLICATION FOR FUNDING

Motion by Trustee Holcomb, seconded by Trustee Barnes, authorizing the Village of Lakewood to submit an application for Local Funding Assistance Opportunities for Watershed and In-Lake Projects, to the Chautauqua Lake & Watershed Management Alliance, (CLWMA), who is partnering with local foundations.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

RESOLUTION #125-2019 – APPROVE SPECIAL PROJECTS FUNDING GRANT AGREEMENT

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Village of Lakewood to approve a Chautauqua Lake & Watershed Management Alliance (CLWMA), 2019 Special Projects Funding Grant Agreement, #19SPLakewood, and to authorize Deputy Mayor McCague to execute the same.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

ANYONE TO BE HEARD

Ms. Sharon Lisciandro, 140 Winch Road, appeared before members of the Board of Trustees to express her concerns about the local deer population. She said there are eight to ten deer living in a nearby wooded area and they are decimating her property by eating all her flowers and other vegetation. Being a gardener and landscaper, she said her property looks terrible. Ms. Lisciandro said she also believes a black bear visits her property on occasion, because her bird feeders have been knocked to the ground. Ms. Lisciandro said she has heard there are a couple of ways to address the deer issue.

Police Chief John R. Bentley indicated to Ms. Lisciandro that there is a bait and shoot program and a program where more permits are issued, but both would require New York State Department of Environmental Conservation review and approval.

Ms. Lisciandro said it is unfortunate because people spend a lot of money trying to make their property look nice. She has tried everything. There has to be a solution to the problem because this cannot go on.

Trustee Barnes said she would be happy to contact the NYS DEC and find out what options the Village of Lakewood might have in dealing with this problem.

Mrs. Nancy Anderson, 8 Crescent Street, said she concurs with everything Ms. Lisciandro has said and it becomes very discouraging when trying to make your property appealing.

Mrs. Anderson said another issue she would like to mention this evening deals with the willow trees and vegetation along the creek across from her house. Two or three years ago the Village of Lakewood removed a couple trees that posed the greatest danger. A couple of the trees appear to be dying and one of them has already been marked with an X. She said the only thing holding up one of the dead trees are a couple of healthy maple trees. Mrs. Anderson said in addition to the tree issues there are a couple

stumps along the creek and an old road delineator that should be tended to.

JULY 22, 2019 (CONTINUED)

She said there is also a sight-line issue at the intersection of Crescent St. and East Summit St., when looking east, caused by some overgrown brush along the creek that definitely needs some attention.

Deputy Mayor McCague thanked Mrs. Anderson for her comments and said DPW Supervisor Pilling will be notified of her concerns.

Mr. P.J. Wendel, 20 Hern Ave., said he agrees with Ms. Lisciandro, saying the deer population has become a problem in many parts of the Village of Lakewood and wouldn't be surprised if there has been an increase in deer-car accidents in the area. He said if the NYS DEC would permit a bait and shoot program, the fire training tower and property at the Lakewood Firemen's Grounds would be an excellent location to carry it out. He said the Village of Lakewood should consider doing something sooner rather than later.

Deputy Mayor McCague said unfortunately there are no easy answers to this problem.

Mr. Tom Marlinski, 36 Ohio Ave., reported that on July 12th, Group Ther-Happy had a band playing outside from 7:00 – 11:30 PM. Since then he found out that Group Ther-Happy did not apply for nor receive a special music permit from the Village of Lakewood. Although he didn't contact law enforcement that evening, he intends to call when he hears any music being played outside.

RECESS

Motion by Trustee Holcomb, seconded by Trustee Barnes, to recess the regular meeting at 7:30 PM, so as to enter into executive session to discuss ongoing litigation.

Adopted: 3 ayes, no nays (Barnes, Holcomb, McCague)

EXECUTIVE SESSION

Present at the executive session were Deputy Mayor Edward J. McCague, Trustee Ellen E. Barnes, Trustee Randall G. Holcomb, Village Attorney John I. LaMancuso, Building Inspector Jeffrey A. Swanson, and Village Clerk Joseph M. Johnson. Motion by Trustee Barnes, seconded by Trustee Holcomb, to adjourn the executive session at 8:09 PM, and to reopen the regular meeting.

Motion by Trustee Holcomb, seconded by Trustee Barnes, and unanimously carried, the Board adjourned at 8:10 PM.

Joseph M. Johnson
Village Clerk