

SEPTEMBER 7, 2021

A Special meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Tuesday, September 7, 2021, 9:00 AM, with Mayor Randall G. Holcomb presiding. Trustees present were Ellen E. Barnes and R. Richard Fischer. Trustees Douglas L. Schutte and Edward J. McCague participated through Zoom.us. Also present were Village Clerk Mary B. Currie, Village Treasurer Apryl L. Troutman, Village Attorney John I. LaMancuso and Department of Public Works Supervisor Thomas R. Pilling. Absent were Police Chief Christopher A. DePonceau, Fire Chief Kurt Hallberg and Building Inspector Jeffrey A. Swanson.

Mayor Holcomb explained the reason for the special meeting is to review and discuss Change Order #5 and Change Order #6 as submitted by Kingsview Enterprises, Inc. and for the Barton & Loguidice, D.P.C. Buffalo, NY, (B & L) Amendment #3, for the Chautauqua Ave. Green Street Retrofit Project.

Mayor Holcomb said Kingsview Enterprises Change Order #5 is for lowering the elevation of the underdrain and increasing the amount of stone at the intersection of Chautauqua Ave. and Third St. The cost for this will be \$6,922.00. Mayor Holcomb asked Ms. Nicole Cleary and Mr. Dave Hanny, representing Barton & Loguidice, D.P.C., Buffalo, N.Y., if they would explain what this is all about.

Ms. Nicole Cleary, indicated during the pre-casting of the drainage structures at that intersection it was brought to their attention that the elevation of the existing storm pipe was lower than they originally thought it would be. Based on how it was tied into that structure, to the left on the survey, we had to put the underdrain lower to tie into the structure. We had to excavate lower and add more stone in there to accommodate the change in elevation of the under drain.

Ms. Cleary said B & L has reviewed the cost rate, as submitted by Kingsview, and said everything seemed to be in line for what they are asking.

Trustee Barnes asked where we (Village of Lakewood) are getting the money from.

Mr. Dave Hanny, indicated the village will be responsible.

Trustee Fischer said this is one thing that has to be done, how can you fight what has to be done?

Trustee Barnes asked where are getting the money from?

Mr. Randall Perry, Executive Director of the Chautauqua Lake & Watershed Management Alliance, said there have been four change orders that have been required up to this point, which were relatively inexpensive. The village maintained a small contingency fund at the time of the bid which was able to absorb those first four change orders and indicated they have pretty much exhausted any remaining grant funds as well. Sometimes when excavation begins on a project unanticipated configurations occur which is what happened requiring more stone. This is not an uncommon occurrence in this situation. There has been discussions about other roadway funds that may be available to help cover the cost.

DPW Supervisor, Tom Pilling said there should be enough money in the CHIPS fund to cover the \$ 6,922.00 extra cost.

RESOLUTION #152– 2021 – APPROVE KINGSVIEW ENTERPRISES CHANGE ORDER #5

Motion by Mayor Holcomb, seconded by Trustee Barnes, for the Board of Trustees to approve the Kingsview Enterprises, Inc. Change Order #5 for lowering the elevation of the underdrain and increasing stone at the intersection of Chautauqua Ave. and Third Street in the amount of \$6,922.00. The funding for this Change Order will come from the CHIPS money awarded to the Village of Lakewood for work to be done on village streets.

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

September 7, 2021 (continued)

Mayor Holcomb said Kingsview Enterprises Change Order #6, is for modifications and time extension for substantial completion to August 6, 2021 in the amount of \$103,157.00.

Ms. Cleary said after the pavers were installed at the intersection of Chautauqua Ave. and Summit St. there was a problem with some settling of the pavers and sub-base stones. Based on the original design and discussions with the manufacturers the design should have been fine to hold the loads of trucks passing through that intersection. Ms. Cleary said they aren't really sure what happened but it is their recommendation to have a Geocell Confinement System installed in the three intersections which should provide increased support underneath the pavers and should reduce any settling. She said they are recommending this in all three intersections since they are all in different stages of the project. This is included in the change order as well as the costs.

Mr. Hanny said the Geocell Confinement System is a composite system that looks kind of like a honeycomb and is placed within the stone. He said it tightens everything up, gives better structural integrity and provides longevity.

Mr. Hanny said they believe the rutting in the intersection began when the different levels of the stone were compacting and some of the stones spread laterally. He said the rutting happened the first weekend after the bricks were in place. He said at that point they measured the ruts and since then there hasn't been much change.

Mr. James Triglia, 126 Chautauqua Ave., asked when the last time the ruts were measured because he can see a visual difference from six (6) weeks ago.

Ms. Cleary said it was last done about two (2) weeks ago.

Mr. Hanny said it comes back to the initial compaction, but with this revised plan, it should alleviate all of that. He said they think the Geocell system is a better option since it is meant to confine and contain the stones, not letting them spread.

Mr. Hanny indicated they have never used this system before but other companies that have used the Geocell system have had good success.

Ms. Cleary mentioned the company they have been in contact with has been using this system or one very similar to it for approximately 8 years and they are very happy with it.

Ms. Robin Grubbs, 18 Lakeview Ave., asked who the company or village is that has used the Geocell system so she can reference on the system or see it.

Ms. Cleary said it was on the website for the Geoweb material, they didn't actually visit the locations but has had conversations with the manufacturer.

Mr. Triglia said initially they were told this system would last for years and years and it failed after one week and now we have something else that is lagging, he would like to know who will be responsible for paying the difference.

Mr. Randall Perry, said right now the village holds the contract with Kingsview, who is the general contractor for the construction, any change orders for work that needs to be performed, does need to be added to the existing Village/Kingsview contract. The amount of this Change Order is \$103,157.00 and is for the labor and materials for the modifications of the three intersections. In terms of a breakdown of that cost, B & L has proposed, to the village, to cover approximately 85% of the costs. So \$87,647.00 of the \$103,157.00 would be reimbursed to the village by B & L.

September 7, 2021 (continued)

Mr. Hanny said B & L will be covering the cost of all the labor and the work that will need to be done at the intersection of Chautauqua Ave. and Summit St. The only expense the Village would need to incur will be the actual material cost of the Geocell which is \$15,510.00. Mr. Hanny indicated B & L would issue a check to the village for their costs. He said between these two change orders the total should lead to a successful and substantial completion by Kingsview possibly within the next four weeks.

Mr. Hanny said two weeks ago Kingsview was estimating mid-October for completion and thinks mid-October is still a realistic expectation for substantial completion.

Mr. Perry said that although these changes were unanticipated, they were absolutely necessary to see this grant through to its conclusion. Furthermore, it will lead to closing out the grant project with the State of New York completely and fully opening a new re-done Chautauqua Avenue for the Village of Lakewood.

Mayor Holcomb asked if parts of Chautauqua Ave, will be open at different times. He said the merchants are taking this on the chin and they have got to get some resolution to it, they just cannot continue on much longer.

Mr. Hanny said all we can do is go off of Kingsview's construction schedule, which indicates they should be opening up the intersections at different times.

Mayor Holcomb asked if there is any way you can hold Kingsview to these dates.

Mr. Hanny said the village reserves the right to enforce the contract. There are clauses within the contract that can be pursued. Liquidated damages could be one to pursue, additional engineering fees that extend beyond what we are proposing, the new completion date of August 6th, which is already in the past.

Trustee Barnes said she has many concerns. These are designs that didn't work and now have to be redone and there's a cost from that. I am not overly comfortable passing that along to the tax payers. I understand certain things change. Personally I wish when grants are put out there, they would say you need \$50,000.00-\$100,000.00 in escrow money. Which would make more sense because it's something we can plan for. We just put our new budget into effect on June 1st. I am just hoping that the village has the funds for this. She said she is extremely worried about the length of time. Green Infrastructure is still relatively experimental and we are finding out that certain things work and some things don't, which is what we are finding out on Chautauqua Ave. Her main concern is the burden on the village taxpayers. She said she is also very concerned about the merchants. This was supposed to be over for them by the end of June. Now we are into September and looking out into October. I do not have enough apologies to them in my book.

Trustee Fischer said he hates the whole project. He said he would like to see someone take a backhoe and hoe all the bricks out of the intersection, blacktop the whole thing and have it done in a week. He said that is what is going to happen in the long run, it will end up having to be replaced at some point and then costing the village more in the end.

Mr. Triglia said that is what is going to end up happening in the long run and asked how long will B & L be held liable for this lasting.

Trustee Fischer said he would like to know if there are any other municipalities that have done a project like this and still have it in place.

Trustee Barnes said the main concerns obviously are, is it going to be lasting and what kind of money will have to be put into it to maintain it. She said we have to figure out a way to get it finished without a big cost to the taxpayers. She said we just need a timeline of when this can all be finished and we're going to pay this share just to get it done.

September 7, 2021 (continued)

Mr. Triglia asked why it took so long to figure out you needed the Geocell system when the intersection collapsed a week after it was open.

Mr. Hanny said there was a lot of discussion between Kingsview and us, there was re-working designs and working with the different manufacturers.

Mr. Triglia said the intersection of Chautauqua Ave. and Third St. has been ready to brick for 6 weeks. This has dragged on for months. We've been blaming Kingsview because they only have two guys out there working, however, they are really waiting for B & L to give them directions on how to move forward. This should have been figured out as soon as Chautauqua Avenue collapsed.

Trustee Schutte said he would like it to be on the record that what Trustee Fischer said about the project is not him speaking on behalf of the entire board and said he disagrees 100% with what Mr. Fischer was saying.

Trustee Schutte said he thinks the bricks look great and the village hasn't looked this good in forever. He thinks when this is done, it's going to be a positive for everyone.

Trustee Fischer said at this point it looks like the only choice we have is to complete the project.

Trustee Barnes said she would like to know where the \$ 15,510.00 will be coming from.

Village Attorney LaMancuso asked if there is a reason B & L isn't offering to cover the whole cost.

Mr. Hanny said if the cost of these materials had been in the contract from day one then they would have been covered by the village, they were not in the original grant or final design.

Mr. Perry said with these grants you never have final design because the cost of getting final design is significant so if you were to get it completed before going for the grant you would be accruing a lot of cost up front, at the local level, to have a polished project to give to the State.

Mr. Perry said the village has done a lot with this team to create a hybrid roadway that originally was the vision of the grant. The original plan was to have coarse pavers over much of the travel lane as well as the side areas and intersections. He said the team worked hard to come up with ways that a hybrid roadway could maintain the traditional pavement travel lanes but still needing the pavers in order to be eligible for this grant program. The whole grant program is dedicated on being green infrastructure practices and the fact is the village worked hard at scaling things back as much as possible but still keep things that were much needed to treat the stormwater below the surface.

Mr. Pilling said this Change Order could also be paid out of his CHIPS money.

Mr. Paul DeFrisco, owner of 119 Chautauqua Ave., asked if there will be a letter in writing between B & L and the Village noting B & L will be paying the 85%.

Village Attorney John LaMancuso said it would have to be in writing and signed by both the parties.

Mr. Triglia said having a 5 ft. pit to retain water seems like a big overkill but at the same time they say they have spoken to people who have used this material and have had problems with the gravel and wondered why this wasn't incorporated in the original design.

Ms. Cleary said the initial calculations, that were part of the original contract drawing, show the depth of the stone were based on the amount of water the intersections would be taking on from the surface and any ground water that would be going into the system. She said they also accounted for storage space in heavy rains allowing for the water to rise up and eventually get into the underdrains and go back to the storm system.

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Ms. Cleary said when we did the depth of stone and also the cross sections of the different types of stone, based on our calculations at that time, and conversations with the manufacturers of the pavers, the stones were going to work for this instance but with the size of the intersection, there was lateral shifting that occurred which caused the problem. She said the Geocell system will hold the stones in place and shouldn't cause that to happen again.

Mr. Triglia asked how much water the intersections are supposed to hold.

Mr. Perry said it should hold about 34,000 gallons per inch of rain that falls on the entire project area, with emergency drains still in place for large events that aren't in the design of the green infrastructure so water would still route to the traditional drainage structure in the event that the rainfall is too much in one period of time.

Ms. Robin Grubbs said she is not encouraged by this solution, she doesn't think it will be sustainable enough and afraid it will fail again and end up falling on the tax payers. She also said she is not happy with Kingsview because every time she is on Chautauqua Ave. there is never any workers there.

Ms. Grubbs said she is at the meeting representing Ms. Mandy Duvall, who owns a shop on Chautauqua Ave. and couldn't be at the meeting. Ms. Duvall would like to know why on the west side of the street there are handicap parking spots but not a ramp and on the east side of the street there are no handicap parking spots but there is a ramp.

Motion by Trustee McCague, seconded by Trustee Barnes, to recess the special meeting at 9:40 AM, so as to enter into executive session to discuss a legal matter.

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

EXECUTIVE SESSION

Present at the executive session, were Mayor Randall G. Holcomb, Trustee Ellen E. Barnes, Trustee Douglas L. Schutte, Trustee Edward J. McCague, Trustee R. Richard Fischer, Village Attorney John I. LaMancuso, Village Clerk Mary B. Currie, Village Treasurer Apryl L. Troutman and DPW Supervisor Thomas R. Pilling.

EXECUTIVE SESSION (Adjournment)

Motion by Trustee Fischer, seconded by Trustee Barnes and unanimously carried to adjourn the executive session and re-open the special meeting of the Board of Trustees at 10:32 AM.

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

RESOLUTION #153– 2021 – APPROVE KINGSVIEW ENTERPRISES CHANGE ORDER #6

Motion by Trustee McCague, seconded by Trustee Barnes, for the Board of Trustees to approve Kingsview Enterprises, Inc. construction Change Order #6 (intersection modifications and time extension for substantial completion to August 6, 2021), for \$103,157.00, per B & L letter dated September 8, 2021. B & L will cover all costs except the cost of the Geocell material itself, (this equates to approximately 85% for B & L and 15% for the village). This is to be contingent on an executed agreement between B & L and the Village of Lakewood specifying on B & L share and Village share as \$ 87,647.00 and \$ 15,510.00, respectively.

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

Attorney LaMancuso said the Village of Lakewood would like to have an agreement in writing that reflects the August 27, 2021 letter and the offer that was made from B & L.

September 7, 2021 (continued)

Trustee Barnes asked B & L if they know where the village stands right now with the contract and the maximum of what the village has paid thus far.

Mr. Hanny said we have exhausted all the inspectional work, there is the remaining post construction, he said he doesn't have the dollar amount that is remaining on him, but can get it to the board.

Trustee Barnes said until we can get those numbers she would like to table B & L Amendment #3 until the next regular meeting of the Board of Trustees on September 27, 2021.

RESOLUTION #154-2021 – TABLE APPROVAL OF B&L AMENDMENT #3

Motion by Trustee Barnes, seconded by Trustee Fischer, to table B & L Amendment #3 (additional construction admin/inspection) for \$ 28,320.00, until the September 13, 2021 regular meeting of the Board of Trustees.

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

Motion by Trustee Barnes, seconded by Trustee Fischer, to recess the special meeting at 10:37 AM, so as to enter into executive session on a legal matter.

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

EXECUTIVE SESSION

Present at the executive session, were Mayor Randall G. Holcomb, Trustee Ellen E. Barnes, Trustee Douglas L. Schutte, Trustee Edward J. McCague, Trustee R. Richard Fischer, 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 McCague and unanimously carried to adjourn the executive session and re-open the special meeting of the Board of Trustees at 10:48 AM.

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

RESOLUTION #155-2021 – APPROVE COLLECTIVE BARGINING PROPOSAL

Motion by Mayor Holcomb, seconded by Trustee McCague, for the Board of Trustees to approve proposal one, dated August 30, 2021, for the Village of Lakewood to CSEA Unit #6320, Lakewood-Busti Police Department, that has already been signed by Matthew DeAngelo, Esq., Labor Relations Specialist and Officer Matthew Lundsten, President of CSEA, Unit #6320.

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

Motion by Mayor Holcomb, seconded by Trustee Barnes, to recess the special meeting at 10:50 AM, so as to enter into executive session on a legal matter.

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

EXECUTIVE SESSION

Present at the executive session, were Mayor Randall G. Holcomb, Trustee Ellen E. Barnes, Trustee Douglas L. Schutte, Trustee Edward J. McCague, Trustee R. Richard Fischer, Village Attorney John I. LaMancuso, Village Clerk Mary B. Currie and Village Treasurer Apryl L. Troutman.

September 7, 2021 (continued)

EXECUTIVE SESSION (Adjournment)

Motion by Mayor Holcomb, seconded by Trustee Fischer and unanimously carried to adjourn the executive session and re-open the special meeting of the Board of Trustees at 11:04 AM.

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

Motion by Mayor Holcomb, seconded by Trustee Barnes and unanimously carried to adjourn the special meeting of the Board of Trustees at 11:04 AM.

Mary B. Currie
Village Clerk