

SEPTEMBER 10, 2018

The seventeenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, September 10, 2018, 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, Randall G. Holcomb, Edward J. McCague and Douglas L. Schutte. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Department of Public Works Supervisor Thomas R. Pilling and Fire Chief Steve Smouse. Absent were Village Attorney John I. LaMancuso and Building Inspector Jeffrey A. Swanson.

#### APPROVAL OF MINUTES

Motion by Trustee McCague, seconded by Trustee Schutte, to approve the minutes of the last regular meeting of the Board of Trustees, held August 27, 2018.

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

#### AUDIT OF CLAIMS

Motion by Trustee Holcomb, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated September 10, 2018, be approved and that the Clerk shall execute said abstracts (#14 & #15) and direct payment by the Treasurer. Trust & Agency Fund: \$ 61,358.97, (Checks #4511 thru #4526), General Fund: \$ 149,579.74, (Checks #15148 thru #15183), with the exception of Voucher #252, the \$ 3,500.00 contribution to the Chautauqua Lake Association, Inc. and Voucher #253, the invoice in the amount of \$ 853.40, as received from the Chautauqua Lakewood Association, Inc., for the water sample testing done, subsequent to the application of aquatic herbicides in areas outside of Lakewood shorelines, until it is known who ordered the water test. Trustee Holcomb said voucher #253 should not be paid by until it is authorized by the Board of Trustees.

Mayor Birrittieri indicated that at the last regular meeting of the Board of Trustees, a motion was adopted to pay this particular invoice.

Trustee Holcomb said although a resolution was previously adopted approving payment of the \$ 853.40 invoice, he and Trustee Barnes have since been advised not to approve its payment until it is known who ordered the water sample to be taken and tested.

Trustee Barnes indicated that she and Trustee Holcomb aren't implying by his motion that the invoice will never be paid, but rather hold-up payment until such a time proper authorization is received.

Disapproved: 2 ayes, (Barnes, Holcomb), 3 nays (Birrittieri, McCague, Schutte)

Mayor Birrittieri then asked for a motion to approve the audit of claims of the abstracts dated September 10, 2018, to include Vouchers #252 and #253 and direct payment by the Treasurer.

Motion by Trustee McCague, seconded by Trustee Schutte, that the claims as audited by the Auditing Committee of the abstracts dated September 10, 2018, be approved and that the Clerk shall execute said abstracts (#14 & #15) and direct payment by the Treasurer. Trust and Agency Fund: \$ 61,358.97, (Checks #4511 thru #4526), General Fund: \$ 149,579.74, (Checks #15148 thru #15183)

Adopted: 3 ayes, (Birrittieri, McCague, Schutte), 2 nays (Barnes, Holcomb)

#### REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the project to replace the large elliptical sluice pipe under Oak Street is going to begin tomorrow, Tuesday, September 11<sup>th</sup>. He noted Oak Street will therefore be closed to thru traffic between Mapleview Ave. and Rt. 394.

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Mr. Pilling also reported that the new fuel tank for the shared refueling station is expected to be delivered Wednesday, September 12<sup>th</sup>. Once the 10,000 gallon tank is situated, work on the joint refueling facility can continue.

Mr. Pilling concluded his report with news that Ecostrategies Civil Engineering, Falconer, N.Y., will soon be submitting the appropriate permits to the NYS Department of Environmental Conservation, which will allow the Crescent Creek Wetland Project to finally move forward. Mr. Pilling added that the Village of Lakewood will be applying for an extension of the grant associated with this worthwhile project.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has handled six thousand two hundred ninety-four incidents year-to-date, three hundred twenty of which occurred within the past two weeks.

Fire Chief Steve Smouse reported that the Lakewood Volunteer Fire Department has responded to eighty-four alarms during the month of August and a total of six hundred thirty-two alarms year-to-date. He also reported that the LFD recently assisted the Jamestown Fire Department by sending two trucks to help them get a structure fire under control.

Chief Smouse said he has a concern with where vehicles are allowed to park at the intersection of Chautauqua Ave. and E. Summit Street. While responding to alarms, when fire trucks are making a right turn onto East Summit Street from Chautauqua Ave., the vehicles parked in front of the former Wilson Farms store make it very challenging for the drivers. Chief Smouse asked the Village of Lakewood or Chautauqua County to consider establishing a NO PARKING zone along the length of the former Wilson Farms store property on the north side of East Summit Street/County Highway #110.

Mayor Birrittieri suggested that a letter be sent to the Chautauqua County Department of Public Facilities for their input.

Trustee Barnes asked Fire Chief Smouse about the Volunteer Firefighter Enhanced Cancer Disability Benefits Program and if a list of qualifying interior firefighters has been prepared and/or submitted.

Chief Smouse indicated a preliminary list of qualifying interior firefighters was submitted to Chautauqua County and he has heard there might be some monies available to help fund this benefits program.

Village Treasurer Andrea J. Windoft began her report by first thanking the Auditing Committee, made up of Trustee Barnes and Trustee Holcomb for conducting an audit of the financial records last week.

Mrs. Windoft said she also filed the NYS Main Street Technical Assistance Grant information collected and provided by LaBella Associates, Buffalo, New York, and in turn has received funding in the amount of \$ 19,949.99.

Treasurer Windoft then reported that Barton & LoGuidice, Rochester, New York are very close to completing their work on the Joint Lakewood-Busti Stormwater Management Engineering Study and that there likely will be only one or two more invoices to pay.

In closing Mrs. Windoft said she is totally confused in that the Board of Trustees has asked her to pay one bill in particular, knowing, as the Treasurer for the Village of Lakewood, it is wrong to do so. Treasurer Windoft said she cannot pay an invoice that is unsigned/unauthorized. She said the Board of Trustees has put her in an unenviable position, especially when it comes time for an audit and the auditor asks why did you pay that particular invoice. Mrs. Windoft said she will write the check and mail it out, but if it comes back, why was that done, she will refer the auditor to members of the Board of Trustees for an explanation. She stated it is not a question of what account the invoice will be paid from, but rather the principal of the matter.

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Trustee Schutte indicated that there was a resolution, with a motion by Trustee Holcomb, seconded by Trustee Barnes and unanimously carried to pay the invoice in question to the Chautauqua Lake Association, Inc. (CLA).

Trustee Barnes said the big question is who ordered the water sample and test. To remit payment of an invoice because of a concerned citizen is wrong. Until "we" know who ordered the water test, it would be best not to pay for the water test.

Trustee McCague indicated to Village Treasurer Windoft, by introducing the motion to pay the CLA invoice, wasn't meant to put her on the spot and if we need to correct the motion we can do so.

Village Treasurer Windoft said what the Board of Trustees is asking her to do is against the law.

Trustee Holcomb indicated that NYCOM's (New York State Conference of Mayor's) General Counsel is providing guidance to him and Trustee Barnes with their questions.

Mayor Birrittieri said she believes there has been some miscommunication surrounding this invoice from the CLA, that she will address later in tonight's meeting. The fact of the matter is that no one on this Board ordered the water sample and subsequent test. The Chautauqua Lake Association is asking for help from the Village of Lakewood to take care of this invoice, because the testing of the water sample taken, was done for the benefit of the Village of Lakewood. Mayor Birrittieri said she doesn't have any more information on this matter and reiterated she will address the issue later on during tonight's meeting. The fact of the matter is, I don't know and it wasn't me. Mayor Birrittieri said she has a prepared statement she would like to make later in the meeting.

She said the Village of Lakewood received an invoice and the Board of Trustees can decide to pay it or don't pay it. Mayor Birrittieri said it seemed to her that at the last meeting it was decided by the Board of Trustees to pay the bill. As a non-profit the CLA saw to it that a sample was taken and tested to help out the Village of Lakewood. From what she heard, although she has no firsthand information, there were several village residents involved. Mayor Birrittieri said we will get to the bottom of this, because it has taken up too much time and energy.

## COMMITTEE REPORTS

Trustee McCague indicated to Mayor Birrittieri that a few members from the Parks & Recreation Committee are in attendance this evening and they would like to make a few comments on their committee's activities.

Ms. Ruth Wahl, Chairperson of the Parks & Recreation Committee indicated they are working on putting together a comprehensive plan for Lakewood Parks. The Parks Committee has also fashioned a Parks survey which can be found on Lakewood's website, in paper form, available at the Village Clerk's office and the Lakewood Memorial Library and via a quick response code. Ms. Wahl said there will be a press release and posters put up encouraging residents to complete the survey.

Trustee McCague said, as with any survey, the more information gathered the better.

Ms. Bernadette M. van der Vliet, who stepped forward to take over as interim Chairperson of this year's Farmers' & Artisans' Market indicated that the market was in a new location beginning this year, going from Chautauqua Ave. down to West Terrace Ave., adjacent to Richard O. Hartley Park.

Ms. van der Vliet indicated a vendor survey was conducted which generated responses from eleven vendors. Overall the vendors liked the new location, while at the same time, disliked it.

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Vendors enjoyed the beautiful setting of the market, however most indicated that it wasn't visible enough to attract customers. Ms. van der Vliet said there was some discussion about possibly locating the market in a more central location where there is more traffic and changing the day of the week the market is to be open. She noted that several of the vendors have already committed to participating next year.

There was some discussion between Mayor Birrittieri and members of the Parks committee about the possibility of including an ad for the Farmers' & Artisans' Market with the Village of Lakewood's ad for the 4<sup>th</sup> of July Summerfest and Live on the Lake series.

Ms. Nancy Jones, 215 Locust Street, indicated there was a lack of parking near the Farmers' Market location and there was no handicapped parking available.

RESOLUTION #114-2018 – AUTHORIZE MID-YEAR BUDGET ADJUSTMENT

Motion by Trustee Barnes, seconded by Trustee McCague, authorizing Village Treasurer Andrea J. Windoft to make a midyear budget adjustment due to a \$ 775.43 overage in the Lifeguard Salaries, by approving the transfer of \$ 775.43 from Parks Salaries, [Account A7140.10], to Lifeguard Salaries, [Account A7140.11].

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

RESOLUTION #115-2018 – APPROVE USE OF LFD EQUIPMENT

Motion by Trustee Schutte, seconded by Trustee Barnes that the Board of Trustees, acting as the Board of Fire Commissioners, approve the use of LFD fire trucks to provide short complimentary rides during the Lakewood Volunteer Fire Department's "Open House", to be held Saturday, October 13<sup>th</sup>, per the request of Fire Chief Steve Smouse.

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

RESOLUTION #116-2018 – APPROVE 2019 CHAUTAUQUA COUNTY TRAVEL GUIDE ADS

Motion by Trustee Barnes, seconded by Trustee McCague, approving two (2) ads in the 2019 Chautauqua County Travel Guide, showcasing the Village of Lakewood, the 4<sup>th</sup> of July Summerfest and Live on the Lake concert series. The cost of each ad will be \$ 382.50 for a total cost of \$ 765.00. Trustee Barnes indicated because the Village of Lakewood faces this issue each year, she suggested that a line item for this expense be established in next year's budget. Ms. Barnes said for this year, the ads could be paid from revenue left over in the 4<sup>th</sup> of July Trust & Agency account. Village Treasurer Windoft said there is \$ 5,600.00 in the 4<sup>th</sup> of July Trust & Agency account that this bill could be paid from. In addition to approving the two (2) ads in the 2019 Chautauqua County Travel Guide, Resolution #116-2018 also authorizes Village Treasurer Windoft to transfer \$ 765.00 from Trust & Agency Account #1093.40 [4<sup>th</sup> of July Celebration] into Account A-8510.40, [Community Beautification], in connection with payment of this invoice, plus authorizes Mayor Birrittieri to execute the Advertising Contract with the Chautauqua County Visitors Bureau.

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

RESOLUTION #117-2018 – ACCEPT THE RESIGNATION OF L-BPD OFFICER RILEY

Motion by Trustee McCague, seconded by Trustee Schutte, for the Board of Trustees to accept, with regret, the resignation of Lakewood-Busti Police Officer Timothy M. Riley effective September 14, 2018. Officer Riley worked as a part-time Police Officer for the L-BPD from 06/26/2013 to 11/12/2013 before working full-time from 11/13/2013 to the present.

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

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RESOLUTION #118-2018 – APPOINT FULL-TIME POLICE OFFICER

Motion by Trustee McCague, seconded by Trustee Barnes, per the recommendation of Police Chief John R. Bentley, to appoint current part-time Police Officer Antonino C. Calimeri, 19 Lowe Ave., as a full-time Police Officer for the Lakewood-Busti Police Department effective September 10, 2018. Officer Calimeri, who has worked as a part-time Police Officer since March 6, 2013, will be compensated at an annual salary of \$ 52,265.00, (STEP I), per the current Labor Contract-Agreement. NOTE: Officer Calimeri fills the vacancy created by the resignation of Officer Riley.

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

RESOLUTION #119-2018 – ACCEPT RESIGNATION OF THE DEPUTY CHAIRPERSON OF THE ZBA

Motion by Trustee Barnes, seconded by Trustee Schutte, for the Board of Trustees to accept with regret, the resignation of Ms. Myra V. Blasius as Deputy Chairperson of the Village of Lakewood Zoning Board of Appeals effectively immediately. Ms. Blasius has served as a member of the Zoning Board of Appeals since September 2004 and as Deputy Chairperson since January 2016. Mayor Birrittieri said Ms. Blasius has served the Village of Lakewood very well and played a key role during the hearings on the application for the cell tower by Up State Tower Co., LLC.

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

RESOLUTION #120-2018 – APPROVE RENEWAL OF THE SNOW & ICE CONTROL AGREEMENT

Motion by Trustee Holcomb, seconded by Trustee McCague, for the Board of Trustees to approve the renewal of the Snow & Ice Control Agreement between the Village of Lakewood and the County of Chautauqua, regarding ice control and snow removal along a 3.3 mile section of County Highway #110, (Summit Street) for a term commencing November 1, 2018 and ending April 30, 2021, and to authorize Mayor Birrittieri to execute the same.

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

ANYONE TO BE HEARD

Ms. Laurie Shults, 6 Alta Way, and owner of the Fitness Bunker, 9 West Summit Street, appeared before Mayor Birrittieri and members of the Board of Trustees, to express her concerns about the lack of parking within the business corridor along Chautauqua Ave. Because there is so little parking, people are parking in the private lot adjacent to the Fitness Bunker so there is no parking available for our customer base. She said the problem becomes worse during the wintertime because few people living along Chautauqua Ave. have off-street parking. In addition, the parking lot gets clogged with cars which makes it difficult to plow. Ms. Shults asked if the Village of Lakewood considered an odd & even parking scheme during the winter months, like the City of Jamestown does.

Trustee Barnes agreed with Ms. Shults saying parking can be a problem, especially during the winter months, but said there is a public parking lot located behind the Village Hall.

Trustee McCague indicated the DPW crew recently improved the parking area behind the Village Hall and believes there are plans to have it striped and new signage put up. It serves as a public parking area for those residents who don't have off-street parking during the winter months.

Mayor Birrittieri indicated that the Board of Trustees needs to revisit this matter and try to come up with a possible solution.

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Mr. Greg Carr, 2 Crystal Ave., appeared before Mayor Birrittieri and members of the Board of Trustees to reiterate his concerns regarding the weed and alga problems in front of his house. He said other lakes across New York State are being treated with aquatic herbicides and voiced his disappointment that the weeds in front of his house weren't treated. Mr. Carr said certain fish hatcheries within Chautauqua Lake were protected from being treated with herbicides, however when the Chautauqua Lake Association harvests the weeds they also harvest a lot of small fish.

Trustee Schutte indicated that there is a map noting where certain fish hatcheries are located that should be considered off-limits.

Chautauqua County Legislator P.J. Wendel appeared before Mayor Birrittieri and members of the Board of Trustees and said according to Congressman Reed's office, because Chautauqua Lake is considered an in-land lake or waterway, it isn't eligible for any federal funding when it comes to improving the lake's water quality.

Legislator Wendel said New York State has appropriated 60 million dollars to address certain water quality issues in five lakes across New York State, with Chautauqua Lake being one of the five. The problem is, how to access the funding.

He said there has been enough studies and therefore we don't need any more studies to tell us what ails Chautauqua Lake. Mr. Wendel believes there should be a three pronged attack against the invasive lake weeds and the harmful alga blooms (HAB) plaguing Chautauqua Lake; weed cutting and harvesting, controlled treatment with aquatic herbicides and the dredging of certain areas of the lake. Like everything else, it comes down to funding

Legislator Wendel noted the Chautauqua Lake Partnership (CLP) has tried to break down barriers with its aquatic herbicide application program, while the Chautauqua Lake Association, Inc., (CLA) continues to concentrate on weed cutting, harvesting and shoreline clean-up and the Chautauqua Watershed Conservancy (CWC) pushes to continue to preserve and enhance the water quality of the lakes, streams and watersheds of the Chautauqua region. Unfortunately, it appears to be a challenge for the various lake groups to work together towards a common goal. Legislator Wendel said the formation of the Chautauqua Lake & Watershed Management Alliance (CLWMA) has done its best to assist in this area, but it is his opinion the CLWMA needs to leverage more funding to address the Chautauqua Lake's water quality issues. He said a comprehensive plan needs to be drafted which presents the best possible solution to the lake's problems.

Trustee Barnes said doing what is being done continues to add to the bio-mass on the lake bottom, and therefore suggested it is time for a better plan.

Mayor Birrittieri said each lake group is working hard toward their specific goals and it is just a matter of coming together with their different focuses in addressing the problem.

Mr. Rich Fischer, 43 West Fairmount Ave., indicated to Mayor Birrittieri that he personally talked with Mr. Douglas Conroe, Executive Director of the Chautauqua Lake Association, Inc., and asked him who ordered the water sample and test. He responded, the water sample and test was ordered by Mayor Birrittieri. Three weeks later he asked Mrs. Virginia "Ginny" Anderson, CLA Secretary who confirmed it was the Mayor that ordered the water sample and test. Mr. Fischer said the way things were done and how it was done doesn't make any sense.

Mayor Birrittieri thanked Mr. Fischer for his comments and said it was time for her to make her report and read her prepared statement.

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### MAYOR'S REPORT

Mayor Birrittieri indicated the Events & Marketing Committee has tentatively set December 8<sup>th</sup> for this year's Christmas in the Village, however, the event is in need of a coordinator. She said we also need volunteers to help with organizing this wonderful community event. Those who would like to see the tradition of Christmas in the Village in Lakewood continue, and help with the event, should contact her by the end of next week.

She also reported that the dates for next year's Live on the Lake concerts have been set. The first concert will coincide with the 4<sup>th</sup> of July Summerfest, which next year falls on a Thursday. The remaining Live on the Lake concerts will be held on the five Thursdays following the 4<sup>th</sup> of July, (July 11<sup>th</sup>, July 18<sup>th</sup>, July 25<sup>th</sup>, August 1<sup>st</sup>, August 8<sup>th</sup> with August 15<sup>th</sup> as a rain date.

Finally, Mayor Birrittieri said she wants to address the whole absurd accusation that unfortunately took up way too much time at the last meeting two weeks ago and ended up on the front page of The Post-Journal. The fact is, she had nothing to do with the lake water testing back in June. She didn't even know the testing had taken place until after it was done. If anyone "thought" she had something to do with it, they were making an assumption. One doesn't make accusations based on assumptions.

Mayor Birrittieri reiterated, she never obligated the Village of Lakewood to pay any part of the invoice that was received from the Chautauqua Lake Association. She wasn't even here when the Board of Trustees voted unanimously to pay it. How The Post-Journal came up with that headline, is beyond her. She did agree however, with the Board of Trustees, that it was a good idea to help out the CLA, given they did the Village of Lakewood a public service in a critical situation.

She said, when it was suggested the CLA send the bill to the Village of Lakewood, her response was, well, you can try, knowing the bill would come before the Board of Trustees and they would either decide to pay it, help them pay it, or not pay it. Again, she never obligated the village in any way whatsoever with regard to the water testing.

Mayor Birrittieri said therefore, she is demanding a public apology from both Trustee Barnes and Trustee Holcomb for making the false accusation, and demanding they withdraw their letters submitted to the Village Clerk stating the false accusation, and in the future she would hope that rather than looking for wrongdoing, where none exists, they would put their time and efforts into more positive work for the Village of Lakewood.

Mayor Birrittieri then asked for a motion to adjourn this evening's Board of Trustees meeting.

Motion by Trustee McCague, seconded by Trustee Schutte and unanimously carried, the Board adjourned at 7:39 PM.

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Joseph M. Johnson  
Village Clerk

