

OCTOBER 9, 2018

The nineteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, October 9, 2018, 6:30 PM, with Deputy Mayor Edward J. McCague presiding. Trustees present were Ellen E. Barnes, Randall G. Holcomb, and Douglas L. Schutte. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, and Fire Chief Steve Smouse. Absent were Police Chief John R. Bentley, Village Attorney John I. LaMancuso, Department of Public Works Supervisor Thomas R. Pilling, and Building Inspector Jeffrey A. Swanson.

APPROVAL OF MINUTES

Motion by Trustee Barnes, seconded by Trustee Schutte to approve the minutes of the last regular meeting of the Board of Trustees, held September 24, 2018.
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

AUDIT OF CLAIMS

Motion by Trustee Schutte, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstracts dated October 9, 2018, be approved and that the Clerk shall execute said abstracts (#18 & #19) and direct payment by the Treasurer. Trust & Agency Fund: \$ 60,417.67, (Checks #4536 thru #4548), General Fund: \$ 79,902.21, (Checks #15220 thru #15259)
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

REPORTS

Deputy Mayor McCague indicated that although there is no Mayor's Report this evening, he wanted to share with those present, how tonight's meeting is going to proceed. Deputy Mayor McCague indicated he will first read Mayor's Birrittieri's letter of resignation, the Board of Trustees, under new business will vote to accept her resignation, hear comments relating to the Mayor's resignation, followed by the Anyone to be Heard portion of the meeting.

Deputy Mayor McCague indicated the letter he is about to read was dated and received by Village Clerk Joseph M. Johnson, Friday, October 5, 2018.

Dear Mr. Johnson:

It is with great regret that I am informing you I have decided to resign my position as Mayor of Lakewood, NY, as of the end of the day today. This decision is based solely on personal and medical reasons.

I wish you and all the staff, elected officials, and countless volunteers who dedicate themselves to this village, the very best in the future.

It is my sincere hope that the Village of Lakewood will continue to improve and prosper in the days, months and years ahead.

Please call on me for any reason as this transition takes place.

Thank you for your kind and unwavering support and professionalism.

Sincerely,
Cara Birrittieri
Mayor

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Below is a letter, dated September 24, 2018, addressed to Village Clerk Joseph M. Johnson and the Board of Trustees, that Mayor Birrittieri wanted entered into the public record.

Dear Mr. Johnson, and Board of Trustees:

Given the recent controversy over the vote regarding the CLA payment, I feel it is important to clarify my position. I voted in favor of helping the CLA by reimbursing sample testing and mailing, not because the village was obligated to pay, but because it was the right thing to do for their willingness to help concerned Lakewood citizens in a timely manner, and in a potentially dangerous situation. In addition, since it was clear to me in Mr. Conroe's letter that he did not expect payment, but "hoped" the village would help out the organization, my yes vote was in the spirit of a donation, and not a payment for services rendered.

In retrospect, the request from the CLA should have been for a donation, rather than sent as an invoice. While that is now hind-sight, it is clear that this request was indeed a request for a contribution, since it is my understanding the CLA was not demanding payment, they were asking for help, and had already paid the bill.

Also, it is important to note, that this controversy has had no part in my decision to resign my position. In fact, nothing could be further from the truth.

Please enter this into the public record.

Thank You,
Cara Birrittieri
Mayor

Fire Chief Steve Smouse reported that the Lakewood Volunteer Fire Department responded to ninety-four alarms during the month of September 2018 and a total of seven hundred twenty-eight year-to-date. Chief Smouse said he is pleased to announce that LFD member Alex Hallberg has passed the necessary training and testing to become a Paramedic. Chief Smouse concluded his report by reminding everyone that the LFD will be having an open house this Saturday, October 13th from noon to 4:00 PM.

Deputy Mayor McCague encouraged those who haven't yet seen the inner workings of the Lakewood Fire Department and/or their wonderful facility to try to attend this Saturday's open house.

Village Treasurer Andrea J. Windoft reported that the third quarter payroll taxes have been completed and submitted to the appropriate New York State and Federal agencies. She also reported that the dollar amount of unpaid 2018-2019 Village Taxes sent to the Chautauqua County Division of Taxation for collection totaled \$ 65,669.53.

Village Treasurer Windoft said the Village of Lakewood received a gift back in the fall of 2016 from the Ralph C. Sheldon Foundation, Inc. in the amount of \$ 150.00. She said the funding could to be used at our discretion towards a worthy project and suggested that a new pet waste station be installed on Linwood Ave., near LaGrega & Firemen's Field.

Mrs. Windoft also reported that the newly appointed Fire Inspector Michael Gleason, started working today with Building Inspector/Code Enforcement Officer Swanson. Village Treasurer Windoft concluded her report stating that the NYS Comptroller's Office questioned the location of some of the figures within the annual audit and it will be just a matter of repositioning those numbers in different accounts.

COMMITTEE REPORTS

Deputy Mayor McCague reported that the Zoning Committee has submitted the Noise Code/Ordinance edits to the Village Attorney for his review and comment.

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Deputy Mayor McCague indicated that the Parks & Recreation Committee, under the direction of Ms. Ruth Wahl have put together a Lakewood Parks Survey which has already produced forty-six results. Mr. McCague said twenty-one of the surveys included some excellent comments and said surveys will be accepted through the end of October.

Tree Committee Chairman Richard Rose was pleased to report that a \$ 2,000.00 grant was applied for and received from the Chautauqua Region Community Foundation, which will be used toward the purchase of some new trees in the near future.

Mr. Rose also reported that the Village Tree Committee has applied for a National Arbor Day Tree City USA designation, which has already received approval from the Western New York representative for the National Arbor Day Foundation. The application has since been sent on to the New York State and National Arbor Day groups for their review. Mr. Rose said the Village of Lakewood won't know if they receive this Tree City USA designation until next February.

Deputy Mayor McCague noted \$ 3,000.00 has been budgeted for the Tree Committee and with this recent grant of \$ 2,000.00, they were able to leverage a 66% return on village tax dollars budgeted. He said kudos go out to Mr. Rose and members of the Tree Committee.

Deputy Mayor McCague also reported that last Thursday, he travelled to Ithaca, New York to attend the New York Upstate Chapter of the American Planning Association's annual conference. While there, he received on behalf of the Village of Lakewood, the American Planning Association's 2018 Award for Comprehensive Planning. He said residents can take a great deal of pride in the comprehensive plan, in that it has been recognized by the American Planning Association. Mr. McCague then presented the framed award to Village Clerk Johnson for display in the Clerk's/Treasurer's office.

Deputy Mayor McCague wished to take a minute to thank and acknowledge the following individuals who were involved and instrumental in the development of the new comprehensive plan. Mayor Cara Birrittieri, Trustee Holcomb, Trustee Barnes, former Mayor David T. Wordelmann, and former Trustees Susan F. Drago, and David J. DiSalvo.

Deputy Mayor McCague, as the former Chairman of the Comprehensive Plan Steering Committee then thanked members of his committee, including Vice Chairman Craig Seger, William F. Chandler, David J. DiSalvo, John Jablonski, III, Joseph M. Johnson, Richard Rose, Kaie Smith and local high school representative, Jared Yaggie, for their contributions and for the fabulous job they did.

RESOLUTION #127-2018 – ACCEPT THE RESIGNATION OF MAYOR CARA BIRRITTIERI

Motion by Trustee Holcomb, seconded by Trustee Schutte, for the Board of Trustees to accept the resignation of Mayor Cara Birrittieri, effective as of Friday, October 5, 2018, per her letter dated and received October 5, 2018.

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

RESOLUTION #128-2018 – APPROVE COLLECTION OF UNPAID TAXES

Motion by Trustee Barnes, seconded by Trustee Schutte, authorizing Village Treasurer Andrea J. Windoft to forward any and all unpaid 2018-2019 Village Tax Bills, to the Chautauqua County Division of Taxation for collection. The dollar amount of unpaid taxes totals \$ 65,669.53

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

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RESOLUTION #129-2018 – SET HALLOWEEN TRICK OR TREATING HOURS

Motion by Trustee Holcomb, seconded by Trustee Barnes, to set 5:30 PM – 7:30 PM, as the hours for Trick or Treating within the Village of Lakewood on Halloween, Wednesday, October 31st.
Adopted: 4 ayes, no nays (Barnes, Holcomb, McCague, Schutte)

ANYONE TO BE HEARD

Deputy Mayor McCague indicated members of the Board of Trustees are very interested in your comments about the recent resignation of Mayor Birrittieri and how the Village of Lakewood moves forward from here. He said as was noted earlier, Village Attorney John I. LaMancuso is not in attendance this evening, however he will lead the Board of Trustees through the process to have a new Mayor in place. Deputy Mayor McCague said he intends to meet with each Trustee individually, to discuss the matter while making sure, we as a Board, are on the same page in moving forward.

Chautauqua County Legislator P.J. Wendel, appeared before Deputy Mayor McCague and the Board of Trustees to report that the County of Chautauqua has finished its budget deliberations and for the first time in nearly twenty years Chautauqua County has a structurally balanced budget. So for the first time in nearly twenty years Chautauqua County will not have to access its fund balance in order to balance the budget. Mr. Wendel said with some good fortune, Chautauqua County is now projecting a 2019 budget with nearly a 6 cent/1,000 assessed value reduction in the tax rate. Having a structurally balanced budget in place a huge step for Chautauqua County.

Legislator Wendel indicated that although Chautauqua County's "fly-car" system, (24/7 EMS), [Emergency Medical Service] has been a success, it plans to move forward in developing an ambulance system. Mr. Wendel said with the one ambulance in service, Chautauqua County will be allowed to bill Medicaid, which would help the "fly-car" system financially.

Changing subjects, Legislator Wendel indicated County Executive Borello has met individually with the various lake groups and Chautauqua County is reaching out to powerful groups that could provide some assistance when it comes to improving the current issues facing Lake Chautauqua.

Deputy Mayor McCague thanked Legislator Wendel for his report and asked if he could briefly explain the term, structurally balanced budget.

Legislator Wendel said in short, in a structurally balanced budget, each expense in the budget is covered or paid for by corresponding revenue. In past years Chautauqua County has been forced financially to withdraw funds from its fund balance in order to balance its budget. In doing so, it limits the County's ability to borrow funds for projects outside the budget.

Ms. Carol Jablonski, 213 Spruce Street, said she is compelled to speak on the matter of Mayor Birrittieri's recent resignation. Ms. Jablonski said she is sorry for this period of transition the Board of Trustees and the Village of Lakewood is going through. She would like however to bring some background information forward that has most likely been overlooked by the general public with regard to Mayoral absences. Ms. Jablonski said although it may seem insignificant in the current state of governance, it needs to be mentioned that in the past year Mayor Birrittieri lost, not one, not two, but three family members. Her mother-in-law, sister and mother died within a short period of time. Mayor Birrittieri has also been dealing with family medical issues which required an out-of-state specialist. With all of this happening, the Village of Lakewood had a Mayor who was continuing to fulfill her responsibilities while attending funerals, settling estates, and travelling out of town to seek medical care for a family member. Ms. Jablonski said she was disappointed the The Post-Journal failed to publish a Mayoral response to the inquiry about absences, but hopes that residents can empathize with the unfortunate string of events Mayor Birrittieri was going through.

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Ms. Jablonski said she has no doubt that former Mayor Birrittieri was pushing through to attend to matters of the Village of Lakewood and has a great deal of respect for her as she identifies the priorities in her life as family and their health. Ms. Jablonski said she is certain the Village of Lakewood will move forward, building on the great things that have been put in motion already.

Ms. Jablonski said she has a great deal of respect for Deputy Mayor McCague and Trustee Schutte for their professionalism and how they've handled themselves during Village Board meetings. With the experience and expertise that they've brought to the Board of Trustees, that there is hope for continued success for the betterment of Lakewood.

Ms. Joyce Rose, 42 Gifford Ave., indicated that she and her husband moved to Lakewood twenty years ago. She said most people living in small communities have in place large extended families. Those who move into an area from outside don't have that luxury. For what Ms. Birrittieri has gone through the past year or so, and with her husband out of town for extended periods of time, she didn't have that support system in place. Ms. Rose said it is wonderful for those who have that support system in place and they lean on it when necessary without giving it much thought. For those moving into an area from outside, that local support system is difficult to attain. Ms. Rose said it took her mother-in-law nearly forty years to feel part of her small town. Unfortunately, that is just the way it is. It is when people experience what Ms. Birrittieri has the past year that a community as a whole must be kinder and more empathetic to what people are going through. In closing, Ms. Rose said her heart went out to her, because she could understand what the former Mayor was going through.

Ms. Mary Seger, 31 Winchester Road, asked Deputy Mayor McCague and the Board of Trustees, having accepted the resignation of Mayor Birrittieri, is there not a predetermined path that can be taken, and if there is anything in question that needs to be decided by the Village Attorney.

Deputy Mayor McCague indicated there is a very definite process ahead of the Board of Trustees going forward, however there are some specific circumstances and some gray areas we will need input from Village Attorney LaMancuso on. He said members of the Board of Trustees will be working with the Village Attorney to receive some clarity with respect to those specific circumstances that face the Village of Lakewood within the next couple of weeks.

Mr. Craig Seger, 31 Winchester Road, indicated earlier in tonight's meeting when Deputy Mayor McCague thanked those who helped with the development of the Comprehensive Plan, he left someone out. Mr. Seger said without the hard work of Ted McCague, it is likely the Comprehensive Plan for the Village of Lakewood wouldn't have happened. He started the work as Chairman of the Steering Committee and kept the momentum up in seeing the project through. Mr. Seger said ever since Mr. McCague arrived in Lakewood he has been able to encourage a number of individuals to volunteer on various committees. Mr. Seger said without the efforts of Mr. McCague a lot of what has been accomplished in recent years wouldn't have happened. He then personally thanked Mr. McCague for all he has done for the Village of Lakewood, and as far as he is concerned the 2018 American Planning Association Award recently received for Comprehensive Planning is Mr. McCague's award.

Deputy Mayor McCague indicated that it was an honor to have worked on the Village of Lakewood's Comprehensive Plan project. He said it had been a very long time since the Village of Lakewood had developed a comprehensive plan. Mr. McCague said he was blessed with a wonderful committee and we all learned a great deal during the process. He said the input received from residents was very important and it provided a vision for the community, which was articulated into the plan by the committee and planning consultant's team. Mr. McCague said the finished product is literally the residents plan for the community and is just pleased to have been a part of it.

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Mr. Richard Rose indicated that former Mayor David T. Wordelmann was responsible for initiating work on the Comprehensive Plan and he too deserves a round of applause. Mr. Rose said rather than always being negative, he encouraged residents to consider joining a committee and do some positive things for the village instead.

Ms. Lisa Schutte, 104 Winchester Road, said she wholeheartedly agrees with the words spoken by Mr. Rose and added there are a lot of positive things going on in Lakewood with so many people contributing. Ms. Schutte said she is hopeful The Post-Journal can publish some of the good things that are going on in the community. She then thanked Mr. McCague for all he has done for the Village of Lakewood.

Deputy Mayor McCague agreed, although they don't get the attention, there are a lot of good things going on in the Village of Lakewood.

Ms. Nancy Jones, 215 Locust Street, asked Deputy Mayor McCague when are we as residents of the Village of Lakewood, going to find out who is going to be Mayor.

Deputy Mayor McCague indicated to Ms. Jones to be fair to each member of the Board of Trustees, we will need to confer with each other under the direction of the Village Attorney.

Ms. Lynn Gruel, 110 Winchester Road, said as Deputy Mayor, maybe Mr. McCague could provide an overview of what he is empowered to do in the absence of a Mayor. Ms. Gruel said she doesn't think there is a rush, because of what Mr. McCague is already able to do as Deputy Mayor.

County Legislator Wendel said although Mr. McCague is the Deputy Mayor, it doesn't necessarily mean he is automatically promoted to the Office of Mayor. He said the Deputy Mayor is empowered to conduct the Village Board of Trustees meetings in the absence of a Mayor. From what he has been told, Mr. Wendel said it is his understanding that the Office of Mayor cannot be vacant for more than one year. If Mayor Birrittieri had resigned prior to September 20th, an election for Mayor of the Village of Lakewood could have been placed on the ballot in the upcoming November 6th General Election.

County Legislator Wendel said at this juncture he believes a Special Election will be required to fill the Office of Mayor for the Village of Lakewood.

Trustee Holcomb said according to legal counsel at the New York State Conference of Mayors, the Village of Lakewood could function, having a Deputy Mayor and three Trustees through the balance of former Mayor Birrittieri's term, which would have expired January 1, 2020.

Trustee Barnes indicated that she did speak with Village Attorney LaMancuso earlier in the day and he is currently researching this particular situation, so as to guide the action of the Board of Trustees moving forward.

Deputy Mayor McCague indicated, because there are still questions as to how best to move forward in filling the Office of Mayor, he has recommended to allow Village Attorney LaMancuso some time to look into the options the Village of Lakewood may take.

Deputy Mayor McCague did say a Deputy Mayor does not have all the powers or authority of a Mayor. He said the Village of Lakewood is somewhat at risk in that a Mayor has the authority to declare an emergency and serves as a tie-breaker on a vote before the Board of Trustees. For these and other reasons it will be important for the Board of Trustees to act quickly on this matter.

Motion by Trustee Holcomb, seconded by Trustee Barnes, and unanimously carried, the Board adjourned at 7:17 PM.

Joseph M. Johnson
Village Clerk

