

JUNE 12, 2017

The eleventh regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, June 12, 2017, 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, Susan F. Drago, Randall G. Holcomb and Edward J. McCague. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Village Attorney John I. LaMancuso and Fire Chief Kurt W. Hallberg. Absent were Department of Public Works Supervisor Thomas R. Pilling and Building Inspector Jeffrey A. Swanson.

#### APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee Holcomb, to approve the minutes of the last regular meeting of the Board of Trustees, held May 22, 2017.  
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

#### AUDIT OF CLAIMS

Motion by Trustee McCague, seconded by Trustee Holcomb, that the claims as audited by the Auditing Committee of the abstracts dated May 31, 2017 and June 12, 2017, be approved and that the Clerk shall execute said abstracts (#53 & #54) and (#2 & #55) and direct payment by the Treasurer. Trust & Agency Fund: \$ 59,000.16, (Checks #4106 [voided] thru #4071), General Fund: \$ 8,132.26, (Checks #13799 thru #13803), General Fund: \$ 96,261.31, (Checks #13848 thru #13866), General Fund: \$ \$ 170,717.58, (Checks #13804 thru #13847)  
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

#### REPORTS

Mayor Birrittieri began her report by congratulating all those who worked on the Live, Laugh, Love Lakewood Wellness Day event that took place Sunday, June 4<sup>th</sup>. It was great turn-out despite the rainy weather in the morning. Mayor Birrittieri then thanked the Jamestown Striders for overseeing the tag team road races locally sponsored by the Southwestern Interact Club and the Rotary Club of Jamestown. She said later in the day the sailboat carving done by the Tree Guys was unveiled by the Beach House, home of the Chautauqua Lake Community Sailing Foundation.

Mayor Birrittieri indicated the biggest event of the year, the annual 4<sup>th</sup> of July Summerfest, is just around the corner and the Events & Marketing Committee is looking for more vendors as well as volunteers.

Mayor Birrittieri said she and the Board of Trustees wish to bid a fond farewell to Deputy DPW Supervisor Thomas V. Windoft who recently retired after twenty-seven years of faithful and dedicated service to the Village of Lakewood. The entire community wishes Mr. Windoft well.

Police Chief John R. Bentley reported the Lakewood-Busti Police Department has handled four thousand five hundred thirty-six incidents year-to-date, seven hundred twenty-seven of which occurred during the past two weeks. Chief Bentley indicated that the L-BPD is participating in the state-wide Buckle-Up New York seat-belt enforcement program and that the NYS Department of

Transportation is currently conducting a traffic study at the intersection of Shadyside Ave. and East Fairmount Ave. (Rt. 394).

Chief Bentley then reported a property owner interrupted a recent daytime burglary on Big Tree Road and held one of the suspects at gun point while members of the L-BPD chased down and apprehended an accomplice. It was good police work initiated by a brave citizen, followed-up by the L-BPD.

Changing subjects, Chief Bentley indicated that he will likely be losing one part-time officer, who expects to accept a full-time police officer position within the next two to three weeks.

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He then asked Mayor Birrittieri and the Board of Trustees for permission to interview and hire a new part-time police officer to fill the vacancy.

RESOLUTION #89-2017 - AUTHORIZE THE HIRING OF A PART-TIME POLICE OFFICER

Motion by Trustee McCague, seconded by Trustee Barnes, for the Board of Trustees to authorize Police Chief John R. Bentley to interview and hire a new part-time police officer to fill a part-time police officer vacancy on the roster.

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

REPORTS (CONTINUED)

Fire Chief Kurt W. Hallberg reported the Lakewood Volunteer Fire Department has responded to three hundred sixty-four alarms year-to-date. He considered most of the alarms that occurred the past two weeks as routine.

Treasurer Andrea J. Windoft wished to publically thank the Ralph C. Sheldon Foundation and its Executive Director Linda V. Swanson for two separate donations, totaling \$ 1,500.00, recently received by the Village of Lakewood. Mrs. Windoft said the funds are to be specifically used for the Chautauqua Avenue Tree Replacement Project.

Treasurer Windoft also reported that 2017-2018 Village Taxes are currently being collected and that the Village of Lakewood received \$ 5,000.00 from the Town of Busti, which represents their share of the matching portion of the Joint Lakewood/Busti Stormwater Management Engineering Study grant.

Mayor Birrittieri indicated news about the dead and dying trees along Chautauqua Ave., which were pointed out in memo from the Tree Committee contained in last month's bulk mailing, must have made its way to the fine folks at the Ralph C. Sheldon Foundation. She said their two generous donations to the Chautauqua Avenue Tree Replacement Project is a wonderful start.

ANYONE TO BE HEARD

Mrs. Josie Caprino, 25 Cherry Lane, indicated to Mayor Birrittieri and members of the Board of Trustees, she has a concern with the idea that wine and liquor will be served at the VIP area of the upcoming 4<sup>th</sup> of July Summerfest event. She then asked if it is legal to do so and who is going to

be responsible if someone is injured. Mrs. Caprino said it is her understanding that gifts will be given to those who donate money at certain dollar amounts. She also wondered if that was legal and asked who is paying for the wine and liquor.

Trustee Barnes indicated that Mrs. Caprino brings up a good point. The Village of Lakewood is advertising a VIP area whereat alcohol is expected to be served. The situation does beg the question about a potential liability as it relates to Dram Shop Laws.

Village Attorney LaMancuso said it would make sense to have a certain level of insurance coverage. Not knowing how previous legal counsel addressed this question, it is important to know what roll the Village of Lakewood plays in sponsoring the VIP area.

Mayor Birrittieri indicated to Mrs. Caprino that the Village of Lakewood needs sponsorships in order to finance the giant fireworks display on the 4<sup>th</sup> of July.

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Changing subjects, Mrs. Caprino asked everyone to leave the fire siren alone, adding there is no need to change something that has served the community well for many years.

Mayor Birrittieri indicated she, the Board of Trustees and the Village Attorney will definitely look into the questions posed by Mrs. Caprino.

Mrs. Betty Kohlbacher, 22 Webster Street, appeared before Mayor Birrittieri and the Board of Trustees and indicated she has lived in Lakewood for over sixty years and that she loves the siren. It is comforting to those in need, when they hear the siren activated, knowing that first responders are on their way. Mrs. Kohlbacher said it is a wonderful thing and supports use of the siren as it is 100%.

Ms. Kris Mercurrio, 21 Webster St., indicated to Mayor Birrittieri and members of the Board of Trustees that as a former Emergency Medical Technician (EMT), when those in a community hear a siren, they are being alerted to the fact that a fire or Emergency Medical Service (EMS) call has been reported and to be aware of volunteers and emergency vehicles responding. Ms. Mercurrio said eliminating the siren would be a dis-service to the first responders.

Ms. Tillie Solomonson, 2 Waldemere Way, said she thinks it is just ridiculous we are having this conversation about the fire siren. She believes the siren motivates area motorists to be extra alert behind the wheel when hearing the siren. Ms. Solomonson agreed with Mrs. Kohlbacher, saying when an individual is in need of assistance and is able to hear the siren, he or she knows help is on the way. In closing Ms. Solomonson said the siren provides a wonderful service to the community.

RESOLUTION #90-2017 - TABLE ACTION ON TV CABLE FRANCHISE AGREEMENT

Motion by Trustee Mayor Birrittieri, seconded by Trustee McCague, for the Board of Trustees to table any action on renewing the cable television

Agreement between the Village of Lakewood and Time Warner Cable Northeast, LLC, locally known as Charter Communications, until such a time Mayor Birrittieri and the Board of Trustees have had an opportunity to discuss the particulars of the Agreement with officials from Charter Communications.  
Adopted: 5 ayes, no nays (Birrittieri, Barnes, Drago, Holcomb, McCague)

RESOLUTION #91-2017 - APPROVE BUILDING SECURITY IMPROVEMENTS

Motion by Trustee Barnes, seconded by Trustee Holcomb, per the recommendation of Police Chief Bentley, for the Village of Lakewood to take immediate and appropriate steps to improve the security of the Anthony C. Caprino Municipal Building, in particular the Lakewood-Busti Police Department office complex. Effective immediately any and all meetings of Village of Lakewood committees and/or community groups shall be held in the Board Room rather than in the conference room, which is located adjacent to the L-BPD office complex. Chief Bentley said with non-law enforcement personnel in close proximity with officers doing their job, suspects and/or detainees is an accident, such as an assault or contamination, waiting to happen. A negative inspection report from either the New York State Division of Corrections or New York State Police Information Network could result in a huge loss in status and privileges for the L-BPD.

Fire Chief Kurt W. Hallberg said he would like to clarify the Lakewood Fire Department's position regarding use of the fire siren and dispel some misinformation and rumors that have surfaced. Chief Hallberg indicated members of the LFD are not involved in any way with boycotts of area businesses or guilty of any scare tactics. The LFD has helped and supported the local community for the past one hundred twenty-four years and will continue to do so.

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Chief Hallberg in referencing a letter he received from Mr. Julius Leone, Director of Emergency Services for Chautauqua County, said any fire department that responds to more than seven hundred fifty alarms per year is required to have two (2) forms of communication and dispatch. The LFD currently incorporates three (3) forms, which include pager, siren and cell phone.

Chief Hallberg said when it comes to ISO (Insurance Services Office) ratings cell phone messaging is not an acceptable form of communication and dispatch. Currently, the Lakewood Fire Department has the highest possible ISO rating that an all volunteer fire department can attain. He added by not using the siren, residential and commercial properties throughout the fire district would be subject to higher insurance rates.

Chief Hallberg said he would also like to make a few comments concerning the petition, opposing the 24 hr. use of the fire siren located on roof of the Anthony C. Caprino Municipal Building, recently submitted to the Board of Trustees acting as the Board of Fire Commissioners.

Chief Hallberg said of the one hundred seventeen signatures on the petition, forty-three of the petitioners live outside of the Village of Lakewood and/or fire district. Chief Hallberg said a couple comments noted on the petition included: the siren is activated at inconvenient times and it wakes me up at

night.

Chief Hallberg said he believes some of the language of the petition against the 24 hr. use of the fire siren was misleading. It noted the siren is an outdated tool, it disrupts local businesses and that it is a negative impact on nearby property values.

Trustee Barnes, Chairman of the Public Safety Committee, said on behalf of the Village of Lakewood she would like to thank all the volunteer firemen and EMS personnel for their service to the local community. She said one of the main responsibilities of all forms of government is the safety of its citizens. As elected officials we must listen to the concerns of the residents and consider all the facts. The Village Board of Trustees would like to go on record supporting the Lakewood Fire Company's unanimous decision to keep the fire siren as a means of notifying its members.

Trustee Barnes indicated the Board of Trustees is looking into a different type of siren and other options, however until ISO approves alternative means of emergency notification in its calculations, we must keep the siren.

RESOLUTION #92-2017 - ENDORSE CONTINUED USE OF THE EXISTING FIRE SIREN

Motion by Trustee Barnes, seconded by Trustee Holcomb, that the Board of Trustees, acting as the Board of Fire Commissioners, as a matter of public safety, the Lakewood Fire Department's continued use of the existing fire siren will remain as one of the two required ISO (Insurance Services Office) approved forms of notification for structure fires and/or Emergency Medical Service (EMS) alarms.

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

General Counsel for the Lakewood Fire Company, Inc., Dale C. Robbins, Esq., indicated the Village of Lakewood is a community where people have helped and supported one another over the years. He indicated when the siren is activated it reminds him of the important benefits every resident of the LFD fire district receives. Mr. Robbins indicated the fire siren represents the Village of Lakewood's voice which alerts residents there are first responders on the move to help and assist those in need. It is about time people realize what a wonderful community asset the LFD is and what they do needs to be appreciated.

Mayor Birrittieri thanked Mr. Robbins for his comments and wished to reiterate that the petitioner has the utmost respect for the Lakewood Fire Department and what each and every volunteer does for the community. Ms. Shults and Mr. Rachuna, who are very passionate about their position concerning the 24 hr. use of the fire siren, did the right thing in bringing this matter to the Board of Trustees.

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All they were asking for via the petition was that the LFD consider a few alternatives regarding use of the fire siren. Mayor Birrittieri said she is hopeful there can be some further dialog on the subject.

Lakewood Fire Company, Inc. President Jack Knowlton indicated that over the years the number of cycles that are emitted from the fire siren have been reduced to one. Mr. Knowlton noted the siren represents the second means of communication and dispatch in accordance with current ISO regulations.

Mr. Knowlton said he and his fellow volunteers are available to offer tours of the fire station as a way to educate young children about what it takes to operate a fire department.

RESOLUTION #93-2017 - AUTHORIZE YEAR END BUDGET TRANSFERS

Motion by Trustee McCague, seconded by Trustee Barnes, authorizing Village Treasurer Andrea J. Windoft to make the following year end budget transfers due to overages, for the fiscal year 06/01/2016 - 05/31/2017. \$ 128.00 from Account A1325.20 to Account A1010.40, \$ 23.68 from Account A1210.20 to Account A1210.40, \$ 720.48 from Account A1410.20 to Account A1410.40, \$ 4,050.20 from Account A1620.40 to Account A1420.40, \$ 85.76 from Account A1920.40 to Account A1910.40, \$ \$ 8.67 from Account A1680.40 to Account A1950.40, \$ 98.82 from Account A3120.40 to Account A3120.41, \$6,091.23 from Account A3410.20 to Account A3410.48, \$ 1,403.68 from Account A3410.45 to Account A3410.40, \$ 150.77 from Account A3410.44 to Account A3410.43, \$ 790.49 from Account A3410.42 to Account A3410.49, \$ 261.92 from Account A7140.42 to Account A7140.40, \$ 8.44 from Account A7140.43 to Account A7140.44, \$ 240.00 from Account A7510.20 to Account A8020.40, \$ 650.38 from Account A8160.40 to Account A8510.40, \$ 116.89 from A8160.40 to Account A8510.41, and \$ 2,902.19 from Account A9060.80 to Account A9030.80.  
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

RESOLUTION #94-2017 - APPROVE NEW DEPARTMENT OF PUBLIC WORKS HIRE

Motion by Trustee Holcomb, seconded by Trustee Drago, per the recommendation of Department of Public Works Supervisor Thomas R. Pilling, for Mayor Birrittieri and the Board of Trustees to approve the hiring of Mr. Tanner James, Ashville, N.Y., as a Laborer for the D.P.W. Mr. James' effective date of hire will be July 10, 2017 and he will be compensated at rate of \$ 17.00/hr.  
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

RESOLUTION #95-2017 - APPROVE PROMOTION OF CURRENT D.P.W. EMPLOYEE

Motion by Trustee Barnes, seconded by Trustee Holcomb, per the recommendation of D.P.W. Supervisor Thomas R. Pilling, to approve the promotion of Mr. J. Christopher Certo, as the new Deputy D.P.W. Supervisor effective June 7, 2017. Mr. Certo will be compensated at a rate of \$ 26.39/hr. NOTE: Mr. Certo will be replacing former Deputy D.P.W. Supervisor Thomas V. Windoft who retired effective June 7, 2017.  
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

RESOLUTION #96-2017 - ACCEPT REQUEST FOR PROPOSAL SUBMISSION

Motion by Trustee Holcomb, seconded by Trustee Barnes, for the Village of Lakewood to accept the Request for Proposal as submitted by Barton & Loguidice, D.P.C., Rochester, N.Y., in connection with the Lakewood/Busti Stormwater Management Engineering Study, as recommended by the Engineering Proposal Evaluation Committee and to authorize the Committee to enter into contract negotiations with Barton & Loguidice, D.P.C.

NOTE: Mr. Randall Perry, Project Manager from the Chautauqua Lake & Watershed Management Alliance, Jamestown, N.Y., indicated a total of six Request for Proposals were received and it was a unanimous decision by the Committee to award this project to Barton & Loguidice, D.P.C.

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

RESOLUTION #97-2017 - APPROVE 2017 DOCK PERMIT APPLICATION

Motion by Trustee Holcomb, seconded by Trustee Barnes, to approve the 2017 Dock Permit application as submitted by Mr. William F. Chandler, 207 West Summit Street, for the Division Street right-of-way.

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

RESOLUTION #98-2017 - APPOINTMENT OF LIFEGUARDS FOR THE 2017 BEACH SEASON

Motion by Trustee Barnes, seconded by Trustee McCague, to appoint Ms. Gabriella Hoose as Supervisory Lifeguard at \$ 10.30/hr. and the following individuals as Lifeguards, Ms. Erin VanDerzyden at \$ 10.00/hr., Ms. Megan Seeley at \$ 10.00/hr. Ms. Elaina White at \$ 9.70/hr. and Ms. Gretchen Evan at \$ 9.70/hr. per the recommendation of Village Clerk Joseph M. Johnson. NOTE: The Beach is scheduled to open Friday, June 23, 2017.

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

RESOLUTION #98-2017 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Holcomb, seconded by Trustee Drago, for the Board of Trustees to set 6:40 PM, Monday, June 26, 2017, as the time and date to conduct a public hearing to review an application for a Special Use Permit - 6 ft. Fence, as submitted by Mr. Kurt W. Hallberg, 3 Delaware Ave.

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

RESOLUTION #99-2017 - SET TIME AND DATE FOR PUBLIC HEARING

Motion by Trustee McCague, seconded by Trustee Holcomb, for the Board of Trustees to set 6:45 PM, Monday, June 26, 2017, as the time and date to conduct a public hearing to review an application for a Special Use Permit - Temporary Retail Outlet (Sheds & Out Buildings), 165 West Fairmount Ave., as submitted by Mr. Gordon S. Young, III, Warren PA.

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

RESOLUTION #100-2017 - APPROVE 2017 LAKE MAINTENANCE AGREEMENT

Motion by Trustee McCague, seconded by Trustee Drago, authorizing Mayor Birrittieri to execute an agreement between the Village of Lakewood and the Chautauqua Lake Association, Inc., Lakewood, N.Y., whereby the Village of Lakewood agrees to make a contribution in the amount of \$ 3,500.00 towards the Chautauqua Lake Association's Lake Maintenance Program for 2017.

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

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RESOLUTION #101-2017 - AUTHORIZE PLACEMENT OF NEWSPAPER DISTRIBUTION BOX

Motion by Trustee Drago, seconded by Trustee Barnes, authorizing The Lakeside Ledger, a local weekly newspaper, to place one (1) newspaper distribution box/display on Chautauqua Ave., in the vicinity of Bag & String Wine Merchants.

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

RECESS

Motion by Trustee Barnes, seconded by Trustee Holcomb, to recess the regular meeting of the Board of Trustees at 7:43 PM, so as to enter into executive session to discuss ongoing labor contract negotiations.

EXECUTIVE SESSION

Present at the executive session were Mayor Cara Birrittieri, Trustee Edward J. McCague, Trustee Susan F. Drago, Trustee Ellen E. Barnes, Trustee Randall G. Holcomb, Village Attorney John I. LaMancuso and Village Clerk Joseph M. Johnson. Motion by Trustee Drago, seconded by Trustee Holcomb to adjourn the executive session at 8:23 PM.

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

Motion by Trustee McCague, seconded by Trustee Holcomb, and unanimously carried the Board adjourned at 8:24 PM.

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Joseph M. Johnson  
Village Clerk