

AUGUST 14, 2017

The fifteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, August 14, 2017, 6:30 PM, with Mayor Cara Birrittieri presiding. Trustees present were Ellen E. Barnes, Susan F. Drago, 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, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg and Building Inspector Jeffrey A. Swanson. Absent was Trustee Randall G. Holcomb.

APPROVAL OF MINUTES

Motion by Trustee Drago, seconded by Trustee McCague, to approve the minutes of the last regular meeting of the Board of Trustees, held July 24, 2017.
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

AUDIT OF CLAIMS

Motion by Trustee Barnes, seconded by Trustee McCague, that the claims as audited by the Auditing Committee of the abstract dated August 14, 2017, be approved and that the Clerk shall execute said abstracts (#9 & #10) and direct payment by the Treasurer. Trust & Agency Fund: \$ 62,686.99, (Checks #4173 thru #4186), General Fund: \$ 58,870.94, (Checks #14009 thru #14062)
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

REPORTS

Mayor Birrittieri began her report by noting she recently received some very important information from the Chautauqua Alcohol & Substance Abuse Council urging individuals to recognize the signs of overdose and to take the appropriate action. The program which is entitled "Friends Take Care of Friends" encourages young adults to make themselves aware of the signs of an overdose and when in doubt about the wellbeing of a friend or acquaintance, dial 911 and save a life.

Mayor Birrittieri then reported that the Village of Lakewood received an update from the Chautauqua County Department of Health & Human Services in connection with the Blue Green Algae Blooms that have been spotted in the south basin of Chautauqua Lake. She said the public bathing beach at Richard O. Hartley Park therefore remains closed to swimming and that individuals recreating on and in the lake should use caution.

Mayor Birrittieri indicated, via a memo Ms. Christine Schuyler, Director of Health & Human Services has emphasized not all blooms are hazardous but the public should use common sense and take the following precautions to protect themselves:

- When swimming, wading or boating, avoid areas with blooms or surface scums, or water that is noticeably discolored.
- Do not allow young children or pets to play in water where an algal bloom is present.
- Don't fish or eat fish caught from areas with blooms or surface scums, or water that is noticeably discolored.

- Pay attention to beach closures, advisory signs, press releases and websites. Never swim at beaches that have been closed.
- Never drink, prepare food, cook, or make ice with untreated surface water, bloom or no bloom.

Mayor Birrittieri indicated Ms. Schuyler also said if people or pets are accidentally exposed to a bloom use clean water to rinse off as soon as possible. Consider medical attention if symptoms such as diarrhea, nausea, or vomiting, skin irritation, allergic reactions or breathing difficulties occur after exposure to surface waters with active blooms.

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Mayor Birrittieri indicated as area officials and local organizations continue to tackle Chautauqua Lake water quality issues, the Village of Lakewood will be holding a "kick-off" meeting this Thursday afternoon as the starting point of Lakewood-Busti Stormwater Management Engineering Study. The project's primary goal will be to evaluate existing conditions, identify problem areas, develop solutions and seek funding opportunities for future infrastructure improvements. She said, while this project is being spearheaded through the efforts of the Chautauqua Lake & Watershed Management Alliance the actual study will be carried out by the engineering firm Barton & Loguidice, D.P.C., Rochester, New York.

On a very somber note, Mayor Birrittieri wished to remember the three lives that were lost as a result of an extremely hate filled rally in Charlottesville, Virginia this past weekend. She said angry crowds displaying confederate flags and swastikas are extremely disturbing to the vast majority of the nation. While we must all protect the right to free speech, we must also speak out when others in the community are disturbed or harmed by it. Mayor Birrittieri then took the opportunity to condemn what happened in Charlottesville, Virginia and said thankfully we rarely see such images here in Lakewood.

To more upbeat news, Mayor Birrittieri wanted to personally thank Ms. Lisa Schmidfrerick-Miller, Health Communities Consultant from the Chautauqua County Department of Health, for providing a "hands-on" CPR training session to members of the Department of Public Works and office personnel, Wednesday, August 2nd. The training session was part of the Chautauqua 250 Program, which set a goal to save two hundred fifty people from suffering a stroke or heart attack in 2017.

Mayor Birrittieri then reported she received correspondence from National Grid, informing the Village of Lakewood that the New York State Public Service Commission has approved a proposed increase in its electric delivery rates. The PSC is currently soliciting public comments concerning the rate hike and they may be submitted via their website or by calling 1-800-335-2120.

Mayor Birrittieri was very pleased to report the first annual "Kid's Night" at "Live on the Lake", Thursday, August 10th, was a huge success and it was so wonderful to see all the young families out enjoying a fun-filled evening of entertainment, exercise and food.

Mayor Birrittieri concluded her report by noting this Thursday will be the final "Live on the Lake" concert featuring "The Bogarts" and that the next meeting of the Events & Marketing Committee will be held Tuesday, September 19th at 6:30 PM.

Department of Public Works Supervisor Thomas R. Pilling reported that the drainage project at the former canal property between Gerald Ave. and Olive Ave. is nearly completed and that the D.P.W. will soon begin additional stormwater drainage work on Mall Blvd. Mr. Pilling also reported that R. Patti Concrete Excavating, LLC, Jamestown, N.Y. will soon begin replacing sections of sidewalk on East Third Street.

Trustee McCague asked Mr. Pilling about a recent e-mail wherein it was noted he received one quote to repaint the clock tower.

Mr. Pilling indicated to Trustee McCague that he has reached-out to two other painting contractors and is awaiting their quotes.

Ms. Karen Dennerlein, 1 Winchester Road, wanted to thank Mr. Pilling and the Village of Lakewood's tree contractor for the tree work that was recently done in front of her house along West Lake Street.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has handled six thousand two hundred forty-two incidents year-to-date, five hundred twelve of which occurred during the past three weeks. Chief Bentley also reported he sent Police Investigator Reed to Public Information Officer School, which will come in handy when disseminating information to the media and general public.

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Then Chief Bentley wished to publically thank Mr. Scott Farrell, 108 Sunset Ave., for his very generous donation of \$ 1,000.00 to the L-BPD K-9 Unit.

Chief Bentley indicated to Mayor Birrittieri and members of the Board of Trustees that part-time Police Officer Nicholas Anderson, recently accepted a full-time position with the Chautauqua County Sheriff's Department and as of September 4th, part-time Police Officer Justina L. Preston will be leaving the L-BPD to accept a full-time position with the Westfield Police Department.

Chief Bentley then asked the Board of Trustees for permission to interview and hire one (1) new part-time Police Officer, to fill the void created by Officer Anderson's resignation. Chief Bentley also indicated that newly hired part-time Police Officer Moya is in the process of completing his field training and should be ready to alone within a week or two.

RESOLUTION #130-2017 - AUTHORIZE THE HIRING OF A NEW PART-TIME POLICE OFFICER

Motion by Trustee McCague, seconded by Trustee Barnes, authorizing Police Chief John R. Bentley to interview and hire one (1) new part-time Police Officer to fill the void created by the recent resignation of part-time Police Officer Nicholas S. Anderson.

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

REPORTS (CONTINUED)

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to five hundred fifteen alarms year-to-date. Chief

Hallberg indicated two of the recent alarms, a car/pedestrian accident on July 25th and a stroke victim on August 7th required Star Flight to respond. In both cases a landing zone was established at the Vukote soccer field. Chief Hallberg said most of the other alarms were routine Emergency Medical Service (EMS) calls.

Chief Hallberg also reported the Firefighters' Memorial Park at the fire station is complete except for a couple trees yet to be planted. Chief Hallberg said the park is dedicated to past members of the Lakewood Volunteer Fire Company and the former Lakewood Hose Company and Lakewood Chemical Company.

Mayor Birrittieri indicated the Memorial Park looks fantastic and asked if a date has been set for its dedication.

Chief Hallberg indicated members of the LFD have talked about having the dedication ceremony sometime during fire prevention week in October.

Chief Hallberg wished to thank D.P.W. Supervisor Pilling and his crew for all of the work they did to make the park project happen and Lakewood Fire Company President Jack Knowlton for all of his contributions.

Village Treasurer Andrea J. Windoft submitted the following written report. The Village of Lakewood recently received \$ 171,040.65 as its share of N.Y.S. Sales Tax for the period of May, June & July. Ninety-one percent of the 2017-2018 Village Tax levy has been received. Mrs. Windoft also reported that the audit for the fiscal year 06/01/16 - 05/31/17 has been filed with the State Comptroller's Office and asked for the Auditing Committee to set-up a convenient time to review the Treasurer's records/books for the previous fiscal year. Village Treasurer Windoft also noted that \$ 10,000.00 has been appropriated for Fire Inspector Services, (A3620.11). Mrs. Windoft's report concluded with a question about the potential real property transfer between the Village of Lakewood and the owner of the property at 519 East Terrace Ave., at a cost of \$ 5,000.00.

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Mayor Birrittieri asked Village Attorney LaMancuso if he could shed any light on real property transfer.

Mr. LaMancuso said as he recalls the Board of Trustees asked him to talk with the property owner's attorney to see if he would be willing to incur the cost of the survey. Mr. LaMancuso did not hear back from the attorney, but would be happy to follow-up on the matter.

Village Attorney John I. LaMancuso indicated to Mayor Birrittieri that he would ask that the Board of Trustees enter into executive session at the close of this evening's regular meeting so as to provide them with an update on the cell tower litigation.

Building Inspector Swanson reported there has been a hold-up with the demolition of the single-family residence at 208 Elmcrest Ave., due to a delay in getting the electric service disconnection. Mr. Swanson did say he expects the demolition project to move forward within the next two weeks. He concluded his report by saying it has been a very hectic construction season and that he is busy with numerous plan reviews.

Mayor Birrittieri noted the Village Treasurer's report mentioned the Fire Inspector position and asked Mr. Swanson if he has any information about the process of selecting a Fire Inspector for the Village and Township.

Mr. Swanson said the position needs to be discussed in more detail by both municipal boards but he will try to do everything he can to move the process forward.

RECESS

Motion by Trustee Barnes, seconded by Trustee Drago, to recess the regular meeting so as to conduct a previous scheduled public hearing.

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

PUBLIC HEARING: 6:45 PM
CABLE TELEVISION FRANCHISE AGREEMENT RENEWAL

Mayor Birrittieri opened the public hearing in connection with the renewal of the Cable Television Franchise Agreement by and between the Village of Lakewood and Time Warner Cable Northeast, LLC, locally known as Charter Communications, and asked if a representative from Time Warner Cable is present.

Mr. Mark Meyerhofer, Director of Government Affairs, Western New York, introduced himself and indicated that the Franchise Agreement as presented is a standard fifteen year contract, with the Village of Lakewood receiving a 5% franchise fee over its term.

Mr. Willaim Chandler, 207 West Summit Street, asked Mr. Meyerhofer if there are going to be any changes in the services provided by Time Warner Cable.

Mr. Meyerhofer, wished to note that the local cable service is also referred to as Spectrum, but to answer Mr. Chandler's question, the only foreseeable change in service is going to be an increase in the speed of the internet service.

Mayor Birrittieri asked Mr. Meyerhofer if a fifteen year contract is standard.

Mr. Meyerhofer indicated that fifteen years is the maximum term of a cable franchise contract agreement per New York State law.

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Trustee McCague asked Village Attorney LaMancuso if he has had a chance to review the document.

Village Attorney LaMancuso indicated he did review the contract agreement and didn't have any questions concerning it.

Trustee McCague then asked Mr. Meyerhofer if the cable itself is fiber-optic.

Mr. Meyerhofer indicated that the current set-up is what is referred to as a hybrid system, wherein it is made up of both fiber-optic and co-axial cable. He said fiber-optic is typically available along commercial corridors, such as Rt. 394, where businesses tend to require it more than residential

districts, where co-axial cable is utilized.

Trustee McCague indicated to Mr. Meyerhofer he is asking these questions from a future planning standpoint. With fiber-optic being the current state-of-the-art cable, is there a possibility that fiber-optic will someday be available throughout the Village of Lakewood.

Mr. Meyerhofer indicated that currently the focus of TWC is providing fiber-optic service for commercial customers, but if the Village of Lakewood feels there is also need for fiber-optic service for residential customers, it is certainly something that can be discussed and how TWC would approach that as a company.

Trustee McCague said there has been talk of improving the area's infrastructure and being able to provide free wi-fi along Chautauqua Ave. He asked Mr. Meyerhofer if that is something TWC would consider providing.

Mr. Meyerhofer said the topic of being able to provide expanded wi-fi service has been discussed at the corporate level and he will be happy to check what might be in the works down the road for areas around Chautauqua Lake, in particular Lakewood.

Mayor Birrittieri indicated to Mr. Meyerhofer she would like more time to review the franchise contract agreement and be able to discuss it in more detail with the Village Attorney.

Mr. Meyerhofer said he understands Mayor Birrittieri's position and would be willing to discuss a change in the term of the contract/agreement.

With no one else to be heard, Mayor Birrittieri closed the public hearing at 6:55 PM and proceeded to reopen the regular meeting.

COMMITTEE REPORTS

Trustee McCague said he was pleased to represent the Village of Lakewood at Governor Cuomo's rally at the National Comedy Center in Jamestown, August 3rd and on August 7th attended a panel meeting on the Governor's Shared Services Initiative, headed-up by County Executive Vince Horrigan.

Mayor Birrittieri thanked Trustee McCague for making the time to attend both of those events.

Mayor Birrittieri then asked Trustee McCague if he has any news on the progress to develop the Village of Lakewood's new web-site.

Trustee McCague indicated the Implementation Committee has laid out the mapping of the site and has passed it along to the site designer. Also, there is a lot of data entry that will need to be done before it is up and running.

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ANYONE TO BE HEARD

Mr. Michael Looker and his wife Judy, 15 Owana Way, TH #7, appeared before Mayor Birrittieri and members of the Board of Trustees to discuss the issue of the 6 ft. fence which Dr. & Mrs. Jonathan Blasius, 19 Owana Way had

erected along their common boundary line. Mr. Looker apologized for taking-up the Board of Trustees' valuable time but said he had no choice but to return. Mr. Looker indicated he and his wife have prepared statements they would like to share with Mayor Birrittieri, the Board of Trustees and Village Attorney LaMancuso.

Mrs. Judy Looker said good evening to everyone and said she was born in Canada, grew-up in Lakewood and in 1970, at the age of 18 chose to become a United States citizen. Mrs. Looker said the Pledge of Allegiance is most important to her and the last words state "Liberty and Justice for All". She believes in upholding and defending these rights and she believes it is the Board of Trustees' duty, as individuals and public officials to do the same for all taxpayers of Lakewood. Thank You.

Mr. Looker said their request to have the fence repaired properly on their side, which could have been accomplished within fifteen minutes, back in May, was pushed to the Board of Trustees and on June 26th, we were told the matter must go before the Zoning Board of Appeals for an interpretation. Mr. Looker said he then appeared at the regular date and time that the Zoning Board of Appeals were to convene for their July meeting and was told for some reason it was pushed to their August meeting.

Mr. Looker said he and his wife attended the August 10th meeting of the Zoning Board of Appeals. The fence issue was the first item on the agenda, but got pushed to the last item on the agenda, so we had to sit for over two hours before it was our turn to speak. All with no resolution. Mr. Looker said with the majority of the Zoning Board of Appeals recusing themselves no action could be taken. Board member Mr. Louis S. Drago, Jr., was the only one that said he could make an impartial interpretation regarding the Blasius' fence. Three separate meetings and nothing about the fence was resolved. Mr. Looker said if this matter were to be referred back to the Zoning Board, the members would recuse themselves again and we'd be no closer to a resolution. Therefore the Board of Trustees is the only avenue to receive some help.

Mr. Looker said he and his wife believe a decision on this matter has been delayed because it has become obvious there have been behind the scenes political pressure put on members of this Board, the Zoning Board of Appeals and Village of Lakewood employees to keep from offending another Village of Lakewood political official. What it means is that average citizens like my wife and I can't get justice and the local elected officials are giving unfair and biased favor to the politically connected.

Mr. Looker said this particular case has been fully researched and no further delays can be justified. Mr. Looker indicated Building Inspector Swanson has all the facts of the code requirements, code violations and remedies required and that Village Attorney LaMancuso has all the legal questions researched and answered. Members of the Board of Trustees know the facts of the case and Mr. Swanson has provided you a full package of details.

Mr. Looker said he and his wife are respectfully requesting a vote by the Board of Trustees to resolve this matter tonight. But before you vote on the matter, we need to know if each member of the Board of Trustees is willing to fulfill his or her elected, moral, ethical and legal responsibility to vote fairly and honestly on the facts of this case and stand-up to the behind-the-scenes political pressure. Mr. Looker said if members of the Board of Trustees feel they can vote fairly to please raise your hand.

Mayor Birrittieri indicated to Mr. & Mrs. Looker that the Board of Trustees

does not have the authority to vote on the matter and would prefer to have it referred to the Village Attorney for his review and comment, adding it is a very unique situation.

Mrs. Looker interjected saying the situation is unique because it involves Myra V. Blasius.

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Mayor Birrittieri said it is a unique situation because Ms. Blasius is the Deputy Chairperson of the Zoning Board of Appeals, and therefore a majority of the ZBA felt they needed to recuse themselves.

Mr. Looker said following the meeting of the Zoning Board of Appeals held August 10th he was told to call the Mayor. He said he called the Village Offices Friday morning and left a message for the Mayor to give him a call. Here it is Monday evening and Mr. Looker said he never received a call from the Mayor.

Mr. Looker then asked why was a memo prepared for members of the ZBA by the Village Attorney listing the various reasons for recusal.

Village Attorney LaMancuso asked if he could interject some comments on the matter. He first thanked Mr. & Mrs. Looker for being here this evening and for having the courage for speaking out publically. Although you were hoping this matter could be solved quickly, there is a saying, the wheels of justice turn slowly. Legal disputes of this nature cannot be worked out overnight. Mr. LaMancuso said he respects Mr. & Mrs. Looker for coming before the Board of Trustees for help because they are charged with governing the Village of Lakewood. Unfortunately the Village of Lakewood, like our country are governed by laws, such as the Zoning Law, that must be abided by. The Zoning Law states disputes of this nature must be interpreted by the Zoning Board of Appeals. The Board of Trustees does not have the authority to resolve the dispute.

Mr. LaMancuso said it appeared to him there was some suspicion cast on a memo he prepared for members of the Zoning Board of Appeals. He indicated to Mr. & Mrs. Looker that it is his job, as Village Attorney, to look out for the best interests of the Village of Lakewood. He said it is also his job to make sure the various review boards are not voting on issues where there are conflicts of interest or an appearance of impropriety. For example, if the Board of Trustees were to vote on something and a certain Trustee had a conflict of interest, everyone would say where was the Village Attorney, didn't they ever discuss the rules for recusal.

Mr. Looker asked Mr. LaMancuso if the memo was his idea or was he requested to do so.

Mr. LaMancuso indicated to Mr. Looker that the memo was his idea. What happened last Thursday evening, each member of the ZBA reflected on the situation and made the decision to or not to recuse themselves. If a quorum of the ZBA becomes an impossibility, then the Village of Lakewood can ask another Zoning Board of Appeals to rule on the matter by providing their interpretation of the pertinent sections of the local zoning law. This situation happens all the time in the criminal and civil justice systems, because a judge cannot hear a particular case for one reason or another.

Village Attorney LaMancuso said because the Deputy Chairperson of the Zoning Board of Appeals is right in the middle of this dispute, perhaps it is best that a neighboring ZBA makes the ultimate interpretation.

Mrs. Looker said if this matter dealt with anyone else other than Myra V. Blasius, it would not have gone this far.

Mr. Looker said any decent neighbor would have responded to his initial call, looked at our side of the fence, oh my God that looks horrible. A decent neighbor would have apologized and say let me get that fixed for you. The contractor could have returned and made the appropriate repairs in a short time.

Mrs. Looker said instead of answering us, Ms. Blasius reported us to the police, and we were subsequently interrogated by an Officer from the Lakewood-Busti Police Department. She then indicated that they are not afraid to fight this.

Mr. Looker indicated the fence contractor used some scrap wood in trying to piece together the fence sections on their side and there are screws sticking out from where they tried to cobble it together.

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He then urged a member of the Board of Trustees to make a motion to find Dr. & Mrs. Blasius in violation of several code violations, that they remedy the code violations promptly (within two weeks), that the remedies meet the satisfaction of Mr. & Mrs. Looker and that the tops of all the fence posts be cut-off evenly.

Mayor Birrittieri indicated to Mr. & Mrs. Looker, we need to move on.

Trustee Drago asked Village Attorney LaMancuso, can't he make a decision on this matter. In the past all 6 ft. fence applications eventually came to the Board of Trustees for their review and comment, but apparently some consider it an existing fence. Trustee Drago said it is her opinion that the fence erected between 15 & 19 Owana Way is a new fence.

Village Attorney LaMancuso indicated the local zoning law is very clear in stating any interpretation of the zoning code becomes the responsibility of the Zoning Board of Appeals.

Mr. LaMancuso said the next logical step would be for the Zoning Board of Appeals to conduct a special meeting if need be and make a motion to refer the matter to a neighboring Zoning Board of Appeals to render a decision.

Building Inspector Swanson said he has spent a lot of time on this particular issue and feels sorry for Mr. & Mrs. Looker that it has taken so long to resolve this matter.

Mr. Looker said he believes the fence was erected improperly on purpose to satisfy themselves knowing they would receive special favors and get away with it. As Deputy Chairperson of the Zoning Board of Appeals Ms. Blasius knows what the code is. Mr. Looker said he can't understand why the Board of Trustees can't make a decision on this matter tonight.

Trustee Barnes agreed with Village Attorney in stating the Board of Trustees doesn't have the authority to do so.

Trustee McCague wanted to make it clear that any decision made by the local Zoning Board of Appeals or a neighboring Zoning Board of Appeals is binding.

Mrs. Looker then questioned Village Attorney LaMancuso on a reason given by a member of the Zoning Board of Appeals for recusing himself on this matter.

Village Attorney LaMancuso said he doesn't have any authority to question why one would recuse himself or herself.

Mrs. Looker said anyone with any intelligence and integrity would be able to take the facts in this case and make an appropriate decision on this matter.

Mr. Looker asked Mayor Birrittieri why wasn't he informed at the June 26th meeting of the Board of Trustees that they weren't the appropriate review board to hear their complaint. All we are looking for is a fair shake. Any decent neighbor would have fixed that fence four months ago. Mr. Looker again apologized for taking-up so much of the Mayor's and Board of Trustees' time.

Mayor Birrittieri said at that point it was new territory for her and the Board of Trustees and that she understands Mr. & Mrs. Looker's frustrations. She, members of the Board of Trustees and Village Attorney LaMancuso have tried very hard to ensure we are doing the right thing concerning this issue. As soon as the Zoning Board of Appeals can schedule a special meeting, Mr. & Mrs. Looker will be notified. Mayor Birrittieri wanted to make it clear to Mr. & Mrs. Looker that no one has purposely delayed action on this matter. It has nothing to do with Ms. Blasius being in the center of this issue, other than the fact that she is the Deputy Chairperson of the Zoning Board of Appeals.

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Mrs. Looker retorted, that is your opinion.

Mayor Birrittieri said that is why she has stated it. Everyone is welcome to his or her own opinion.

Trustee Drago said it was her understanding that the Zoning Board of Appeals in interpreting the zoning law, was to decide if the fence in question was considered a new fence or an existing/grandfathered fence. If the neighboring Zoning Board of Appeals determines it is a new fence it would then require a special use permit, which would eventually end up in front of the Board of Trustees.

Building Inspector Swanson said he has been against 6 ft. fences going before the Planning Board and then the Board of Trustees. Although he believes 6 ft. fences should go before the Zoning Board of Appeals, for right now they require a special use permit. Mr. Swanson said he has own opinion regarding the fence in question, and is reaching out for some guidance from the Village Attorney.

Mr. LaMancuso indicated if there is a fence that is already erected, that violates the local zoning law, then it would become an order to remedy, that would be carried out by the Building Inspector.

Building Inspector Swanson indicated Dr. & Mrs. Blasius considers their fence project as a repair and maintenance of an existing fence. Because his opinion regarding the fence is different than theirs, it prompted him to request an

interpretation from the Zoning Board of Appeals.

Trustee McCague indicated to Mr. & Mrs. Looker, that although he has been kept informed about the fence issue, there has been no political pressure put on him by anyone regarding this matter. Also, if and when a decision is made on the matter, it will be binding and they'll have to live by that decision, win or lose. Trustee McCague therefore suggested that it might be a good idea for Mr. & Mrs. Looker to try to work out the issues between the other party before going to an extreme route.

Mrs. Looker found that Trustee McCague's comments were very insulting.

Mr. Looker said instead of sending a letter to him, Ms. Blasius sent a letter to the Packard Garden Homeowners Association asking for a written waiver as to the direction the fence is facing. Mr. Looker said he would be happy to negotiate with her if she would ever call us. Mr. Looker believes the only thing that will get Dr. & Ms. Blasius to negotiate will be the pressure of a violation.

Zoning Board of Appeals Chairman William Chandler wished to take a minute to read a memo he and other ZBA members received from Village Attorney LaMancuso on guidelines for recusal. "Before you begin your deliberations, it would be wise for each of you to consider whether recusal is appropriate for you. If you believe you cannot be impartial on this matter because of a personal relationship with any of the parties to the dispute, it is my advice that you recuse. If you believe that your voting upon this matter, given Myra's position on the Zoning Board of Appeals, gives the public an appearance of impropriety, it is my advice to that your recuse. If you have spoken out publically in favor of or in opposition to the position of one of the sides in this dispute, such as speaking out at a meeting of the Planning Board or the Board of Trustees, you should recuse. If any parties in this dispute is your client, you should recuse."

Mr. Chandler said if anyone had a question about recusal, the memo was extremely clear on how to respond.

Mr. Tom Marlinski, 36 Ohio Ave., appeared before Mayor Birrittieri and the Board of Trustees and voiced a concern about the amplified/loud music that now takes place on the new deck of Craft Burgers & Brews, 60 Chautauqua Ave. He asked does the music have to be amplified. The musicians are only playing to twenty to thirty patrons.

Mayor Birrittieri indicated to Mr. Marlinski, if the music is too loud, it is too loud and that she will be happy to contact the owner.

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RESOLUTION #131-2017 - APPROVE NEW LAKEWOOD FIRE DEPT. MEMBERS

Motion by Trustee Drago, seconded by Trustee Barnes, for the Board of Trustees, acting as the Board of Fire Commissioners, to approve Mr. Brandon Fardink, 140 Franklin Street, and Mr. Colin Melquist, 2377 West Lake Road, as new members of the Lakewood Volunteer Fire Department.

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

RESOLUTION #132-2017 - AUTHORIZE PLANNING & ZONING TRAINING SEMINAR ATTENDANCE

Motion by Trustee McCague, seconded by Trustee Drago, to authorize members of the Board of Trustees, Planning Board, Zoning Board of Appeals and other officials to attend the Fall Planning & Zoning Training Seminar to be held 6:00 - 8:00 PM, Wednesday, September 27, 2017, at Jamestown Community College. This training seminar is being sponsored by Southern Tier West Regional Planning & Development Board, Salamanca, New York.
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

RESOLUTION #133-2017 - APPROVE SHORT ENVIRONMENTAL ASSESSMENT FORM

Motion by Trustee Barnes, seconded by Trustee McCague, for the Board of Trustees approve Part 2 and Part 3 of the Short Environmental Assessment Form, executed by Mayor Cara Birrittieri, which pertains to the proposed commercial development at 386-390 East Fairmount Ave. Based on the answers given on Part 2 of the Form, it was determined that the proposed action will not result in any significant adverse environmental impacts.
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

RESOLUTION #134-2017 - AUTHORIZE SUBMITTAL OF A CDBG APPLICATION

Motion by Trustee McCague, seconded by Trustee Barnes, authorizing the Village of Lakewood to submit an application for funding via a Community Development Block Grant (CDBG), being offered through the Chautauqua Home Rehabilitation & Improvement Corporation (CHRIC), Mayville, New York. The deadline for application submittal is September 22, 2017.
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

RECESS

Motion by Trustee Barnes, seconded by Trustee Drago, to recess the regular meeting of the Board of Trustees at 7:38 PM, so as to enter into executive session to discuss litigation in connection with the cell tower law suit.
Adopted: 3 ayes, no nays (Barnes, Drago, McCague)

EXECUTIVE SESSION

Present at the executive session were Mayor Cara Birrittieri, Trustee Edward J. McCague, Trustee Susan F. Drago, Trustee Ellen E. Barnes, Village Attorney John I. LaMancuso, and Village Clerk Joseph M. Johnson. Motion by Trustee Drago, seconded by Trustee McCague, to adjourn the executive session at 8:07 PM.

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Motion by Trustee Barnes, seconded by Trustee Drago, and unanimously carried the Board adjourned at 8:08 PM.

Joseph M. Johnson
Village Clerk