

AUGUST 28, 2017

The sixteenth regular meeting of the Board of Trustees of the Village of Lakewood, N.Y., was held Monday, August 28, 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 Barnes, to approve the minutes of the last regular meeting of the Board of Trustees, held August 14, 2017. Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

AUDIT OF CLAIMS

Motion by Trustee McCague, seconded by Trustee Barnes, that the claims as audited by the Auditing Committee of the abstract dated August 28, 2017, be approved and that the Clerk shall execute said abstracts (#11 & #12) and direct payment by the Treasurer. Trust & Agency Fund: \$ 61,013.08, (Checks #4187 thru #4203), General Fund: \$ 85,711.24, (Checks #14063 thru #14098) Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

REPORTS

Mayor Birrittieri indicated that the hearts and prayers from folks across the country are with our fellow Americans in the Houston area who are experiencing the devastating effects of Hurricane Harvey.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has handled six thousand five hundred sixty-two incidents year-to-date, three hundred twenty-six of which have occurred within the past two weeks. Chief Bentley also reported that earlier this afternoon officers apprehended a burglar in the act on the Big Tree-Sugar Grove Road.

Chief Bentley then indicated that he has hired Jacob N. Pilling, 29 Harlem Ave., as a Part-Time Police Officer. Also, on August 18th the L-BPD's K-9 Unit was requested to assist the Jamestown Police Department in locating a firearm used in a recent shooting.

Chief Bentley then took the opportunity to thank Mr. Calamungi from C & A Auto & Marine, Celoron, N.Y., for his generous donation of \$ 1,500.00 to the L-BPD's K-9 Unit. Chief Bentley said he is actively seeking another K-9 dog for the department. Chief Bentley also thanked Chautauqua County for a grant which will allow local law enforcement agencies to upgrade their radio system.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to five hundred forty-seven alarms year-to-date. He also reported that the LFD ladders recently passed their annual inspection and that although the LFD Rescue Boat is out of the water it is in service as

needed.

Mayor Birrittieri indicated to Chief Hallberg that she experienced roily water over the weekend and was told by a Customer Service Representative from the Jamestown B.P.U. Water Division that it could have been caused by a fire hydrant being opened. She then asked Chief Hallberg if the LFD had reason to open any fire hydrants recently.

Mayor Birrittieri suggested if residents do experience roily water conditions they should call the Jamestown B.P.U. to report the situation.

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Mayor Birrittieri reassured residents that although the water may be slightly discolored it is safe to drink.

COMMITTEE REPORTS

Trustee Holcomb indicated he has received word that the Village of Lakewood's New York Energy Research & Development Authority (NYSERDA) grant application has been accepted making the Village of Lakewood eligible for \$ 100,000.00 for qualifying as a Clean Energy Community.

Trustee McCague reported that the Comprehensive Plan Implementation Committee, with assistance from the Lakewood Post Office, has, on a trial basis, placed a United States Postal Service mail receptacle at the southwest corner of Summit St. and Chautauqua Ave. Trustee McCague said the new mail box is an added amenity for the Chautauqua Ave. business corridor.

ANYONE TO BE HEARD

Chautauqua County Legislator P.J. Wendel wanted to let people know that Chautauqua County is piggy backing with Suffolk County in a lawsuit against pharmaceutical companies, in particular those who manufacture opioid painkillers. Mr. Wendel said some folks may remember that Chautauqua County sued the tobacco companies twelve years ago, where Chautauqua County was on the receiving end of around ten million dollars. Legislator Wendel said preliminary reports indicate the settlement with the pharmaceutical companies could be much larger. He then made it clear that this law suit is being conducted at no cost to the taxpayers of Chautauqua County. Legislator Wendel indicated the basis of the law suit is that although patients follow dosage instructions to the letter, some become addicted to painkillers. There is a question whether or not Doctors and/or the pharmaceutical companies themselves are providing enough information to patients on how addictive the opioid painkillers can be.

Trustee Barnes asked Legislator Wendel if Chautauqua County is awarded a monetary settlement will the funding be use for treatment of those suffering from opioid addiction.

Legislator Wendel said any monies received via a settlement will likely be earmarked for different drug educational and treatment programs.

Dr. Jonathan Blasius, 19 Owana Way, asked Mayor Birrittieri and the Board of Trustees, if it would be possible to extend the hours on the brush and yard

waste dump site on Packard Ave.

Mayor Birrittieri indicated the site tends to be abused when left unmonitored, however she will check with D.P.W. Supervisor Thomas R. Pilling to see if the hours it is open can be adjusted.

Mr. Michael Looker, 15 Owana Way, appeared before Mayor Birrittieri and the Board of Trustees and apologized for having to come back in an effort to once and for all settle the dispute he has with his neighbor regarding the 6 ft. privacy fence they had erected between their properties. Unfortunately, he said nothing has happened in the past two weeks since the last meeting of the Board of Trustees.

Mr. Looker said he has learned from Village Attorney LaMancuso that there is a mediation and settlement service in Jamestown, N.Y., which he and his wife would be interested in exploring. Apparently Village Attorney LaMancuso also contacted Mrs. Blasius about utilizing the service and was told she will think about it. Mr. Looker said it has been two weeks and he hasn't heard a thing. Stonewalled again.

Mr. Looker said he then revisited the possibility of a different zoning board of appeals interpreting the local zoning law with respect to Section #25-49, [Fences], but has since found out from the New York State Conference of Mayors, that process is deemed illegal.

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Mr. Looker said a third option was to take the matter to court. When he checked with the Town of Busti Court, he was told they only handle monetary and small claim cases. Mr. Looker said his final court option would be to hire a lawyer and file a law suit against his neighbors in Chautauqua County Court, however he has already decided not to go that route.

After speaking with Building Inspector/Code Enforcement Officer Jeff Swanson, he would like to go back to where we were in May in an effort to settle this whole thing. When the fence was first put up, we asked Dr. & Mrs. Blasius to have their contractor fix the fence on his side to make it look presentable. Over the course of two months we received no reply to our request to have the fence fixed right.

Mr. Looker indicated Code Enforcement Swanson came to a quick conclusion that the fence as erected violated the local zoning law. Mr. Looker said he believes Mr. Swanson has the right to independently issue an Order to Remedy to those in violation of the zoning law, however for some reason he wasn't able to do so back in May. Mr. Looker said he asked Mayor Birrittieri, members of the Board of Trustees and Village Attorney LaMancuso, may Building Inspector Swanson issue an Order to Remedy to Dr. & Mrs. Blasius.

Mayor Birrittieri indicated that there is a reason this matter has gone on as long as it has because there is a lot more to this dispute than just a 6 ft. privacy fence. We've all been working very hard in an effort to resolve this matter.

Mr. Looker said back in May, all he asked was for the fence behind his townhouse to be repaired properly. If it had been repaired, he would have been happy. Unfortunately his request was ignored. If an Order to Remedy is issued to his neighbors, then they will have to figure out what to do. Mr.

Looker said he would be willing to sign a waiver, which would allow the fence to stay put where it is as long as his side is repaired to his liking.

Mayor Birrittieri told Mr. Looker she can understand his frustrations.

Mr. Looker said, just let Mr. Swanson issue his neighbors an Order to Remedy.

Village Attorney LaMancuso indicated it isn't up to the Board of Trustees to decide when the Code Enforcement Officer Swanson issues an Order to Remedy. In his position, Mr. Swanson is charged with deciding when or when not to file a citation.

Trustee Barnes indicated that Building Inspector Swanson works independent from the Board of Trustees.

Mr. Looker indicated that if Mr. Swanson does issue an Order to Remedy to Dr. & Mrs. Blasius, he would like to be reassured that there will be no repercussions against him.

Mayor Birrittieri asked why would there be any repercussions against someone that is doing their job to the best of their ability.

Attorney LaMancuso indicated it is his understanding that Mr. Swanson hasn't made a decision one way or the other because he believes the zoning code is somewhat unclear regarding this particular dispute.

Mr. Looker said to him the way the fence was erected is a clear violation of the zoning law.

Dr. Blasius said he hates to go through this whole thing again, but after receiving a complaint from Mr. Looker about how the fence looked, they contacted professional fence contractor to prepare an estimate, and proceeded to contact the President of the Packard Homeowner's Association to let everyone know the fence is going to be repaired.

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Having received no objections from the homeowners association on the planned fence repairs they were completed May 22nd. The evening of May 22nd Dr. Blasius said he received an e-mail from Mr. & Mrs. Looker complaining about the work done by the fence contractors. On May 30th Dr. Blasius said he received another e-mail from Mr. & Mrs. Looker stating that if the fence isn't done right, it will be torn down, reconstructed properly and a bill will be mailed to him.

Dr. & Mrs. Blasius said they considered this a threat and reported the incident to the police.

Dr. Blasius said he then contacted the Code Enforcement Officer and although he had no complaints or concerns on how the fence was erected, he had an issue with the use of new materials and therefore thought the fence should be considered a new fence. Dr. Blasius said he and Mr. Swanson had a discussion about the local zoning law and came away with different opinions on how it is interpreted as it pertains to this dispute. Dr. Blasius said that is the reason why Mr. Swanson subsequently requested an interpretation from the Zoning Board of Appeals.

Mayor Birrittieri said she and Village Attorney LaMancuso are trying to

follow proper procedures in this matter and asked if there is anything each party can agree on in order to settle this dispute.

Dr. Blasius indicated Mr. LaMancuso has contacted them about going before a mediator and it is something that we would be willing to consider with certain conditions. They would also like some assurances from the neighbors and the Village of Lakewood that if the fence is repaired this matter can be put to rest for good. Because our issue is with Mr. Swanson as to questions of whether the fence should face our property or our neighbor's property.

Mr. Looker said he and his wife are more than willing to have the fence be fixed properly as is to his satisfaction.

Village Attorney LaMancuso indicated that Mr. Swanson would need to be involved in the mediation process and approve any final resolution reached by the two parties. Mr. LaMancuso said he will be happy to reach-out to the mediator and move forward if everyone is agreeable to do so.

Mayor Birrittieri said if both parties agree, we can have Village Attorney LaMancuso begin the process to set-up a mediation session.

Mr. Looker said he is agreeable to having a mediation session, with the condition that Mr. Swanson issue Dr. & Mrs. Blasius an Order to Remedy in connection with the fence they had erected, so it is in place while the mediation session is conducted.

PRESENTATION/DISCUSSION - FUNDING OPTION FOR LIBRARIES

Ms. Karen Peterson, 1 Winchester Road, as a representative of the Lakewood Memorial Library, wished to discuss the topic of sustainable funding with Mayor Birrittieri and members of the Board of Trustees. Currently the Village of Lakewood and the Town of Busti provide funding on an annual basis in support of the Lakewood Memorial Library while the Town of Busti also provides funding to the Hazeltine Library located in the hamlet of Busti. She said the trend in recent years by both political subdivisions has been to cut funding to the respective libraries. Ms. Peterson indicated with less financial support the Lakewood Memorial Library has been unable to extend operating hours and expand its various programs to meet some of the current demands of the community.

Ms. Peterson indicated the New York State Education Law #259 provides a funding initiative for libraries to consider by way of the local school district. In short, if adopted, it would take the funding issue out of the hands of the local municipalities and place it on the taxpayers within Southwestern Central School District.

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With approval of the SWCS School Board, a proposition regarding NYS Education Law #259 could be placed on the annual school budget ballot and presented to the voters.

Ms. Peterson said by adopting the proposition, taxpayers would be providing the necessary sustainable funding for the two local libraries. She said that although each library is continuing to explore their funding options, funding from the Village of Lakewood and the Town of Busti will still be necessary for the fiscal year 2018. Assuming this funding initiative is approved and

adopted, funding through it will not be in place until 2019.

Ms. Peterson indicated the Town of Busti and Ms. Maureen Donahue, Superintendent of SWCS have provided positive feedback to library officials regarding this funding initiative.

Mayor Birrittieri asked Ms. Peterson if the funding initiative were to be approved, would there be mutual cooperation between the school library and the local libraries.

Ms. Peterson said each year system wide the cooperation and interaction between school libraries and local libraries increases.

Trustee Holcomb asked Ms. Peterson a question on how the funding initiative would charge the school district's tax payers, would the two libraries total their respective annual budgets and put that figure on the ballot. Also, because portions of the Town of Ellicott and the Town of Harmony, are located with the SWCS district, how interested are the taxpayers living in those townships going to be in funding the Lakewood Memorial Library and the Hazeltine Library.

To answer Trustee Holcomb's first question, Ms. Peterson said probably so, but these are the type of details that will have to be worked out yet. As far as the interest of SWCS taxpayers living outside the Town of Busti, supporting neighboring libraries, has not yet been tested. She added it goes without saying that everyone, regardless where they live are welcome to utilize the Lakewood Memorial Library and the Hazeltine Library. Ms. Peterson noted that the money earmarked for the local libraries will be listed as a separate line item on one's school tax bill.

Ms. Peterson concluded her presentation by saying this sustainable funding initiative is very important in keeping the local libraries viable and would like to count on the support for it from the Village of Lakewood's elected officials.

RESOLUTION #135-2017 - SET TIME & DATE FOR PUBLIC HEARING

Motion by Trustee Holcomb, seconded by Trustee McCague, for the Board of Trustees to set, 6:40 PM, Monday, September 11, 2017, as the time and date to conduct a public hearing to review a Special Use Permit application as submitted by Ms. Michelle M. Turner, 18 W. Terrace Ave., regarding plans to establish a family friendly Restaurant/Bar at 103 Chautauqua Ave., per Section #25-13, (C-2), [Retail Business (B-1) District], of the Village of Lakewood Zoning Law.

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

RESOLUTION #136-2017 - APPROVE USE OF VILLAGE STREETS

Motion by Trustee Barnes, seconded by Trustee Holcomb, to approve the use of Village of Lakewood streets for Kallie's Crusade Run/Walk fund raiser to be held from 10:00 AM - 2:00 PM, Monday, (Labor Day), September 4, 2017.

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

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RESOLUTION #137-2017 - APPROVE USE OF VILLAGE STREETS

Motion by Trustee Barnes, seconded by Trustee Drago, to approve the use of Village of Lakewood streets for Lakewood Family YMCA sponsored "Battle of the Businesses" 2 mile run to be held 9:00 AM, Saturday, September 16, 2017.
Adopted: 4 ayes, no nays (Barnes, Drago, Holcomb, McCague)

Motion by Trustee Holcomb, seconded by Trustee Barnes and unanimously carried the Board adjourned at 7:38 PM.

Joseph M. Johnson
Village Clerk