

APRIL 25, 2011

The third regular meeting of the Board of Trustees of the Village of Lakewood, NY, was held Monday, April 25, 2011 at 6:30 PM, with Mayor David T. Wordelmann presiding. Trustees present were Gale A. Denn, Joseph M. Troche and P.J. Wendel. Also present were Village Clerk Joseph M. Johnson, Village Treasurer Andrea J. Windoft, Police Chief John R. Bentley, Department of Public Works Supervisor Thomas R. Pilling, Fire Chief Kurt W. Hallberg, and Building Inspector Charles L. Smith.

APPROVAL OF MINUTES

Motion by Trustee Denn, seconded by Trustee Troche, to approve the minutes of the last regular meeting of the Board of Trustees held April 11, 2011.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

AUDIT OF CLAIMS

Motion b Trustee Denn, seconded by Trustee Wendel, that the claims as audited by the Auditing Committee of the abstract dated April 25, 2011, be approved and that the Clerk shall execute said abstract (#49) and direct payment by the Treasurer. General Fund: \$ 20,840.38

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

REPORTS

Department of Public Works Supervisor Thomas R. Pilling reported that the sidewalk on Case Ave. and a section of sidewalk on Lakeview Ave. are slated for replacement during this construction season. Mr. Pilling also asked for the Board of Trustees to consider setting the times and dates for the Village of Lakewood to receive bids on a new backhoe and a dump box with accessories for a new cab and chassis that will be purchased at the New York State bid price. Mr. Pilling indicated that although a new backhoe can be purchased at the New York State bid price, it could actually cost considerably less by going out to bid.

Police Chief John R. Bentley reported that the Lakewood-Busti Police Department has responded to three thousand three hundred five reportable incidents year-to-date and are currently staying busy. Chief Bentley indicated the Lakewood-Busti Police Department recently received a grant from the New York State Department of Criminal Justice Service in the amount of \$ 20,279.00. Chief Bentley indicated the money will be used to update the police department's livescan/fingerprinting equipment. He then wished to publicly thank Village Treasurer Andrea J. Windoft for all her help with the grant application process. Chief Bentley said it was the second grant the police department has received so far this year, adding we are on a roll.

Trustee Denn congratulated Chief Bentley in applying for and receiving the latest grant.

Fire Chief Kurt W. Hallberg reported that the Lakewood Volunteer Fire Department has responded to two hundred six alarms year-to-date and that the fire company has taken possession of the new 2011 Chevrolet Silverado which will be the Fire Chief's command vehicle. Chief Hallberg indicated the new truck is getting outfitted and lettered but he will be sure to drive to the next board meeting so members of the Board of Trustees, acting as the Board of Fire Commissioners, may inspect it. Chief Hallberg said the new truck will be the fire department's command vehicle for the next five years before it becomes a station vehicle replacing a truck that will then be seventeen years old. By doing so, we will eliminate the purchase of a second vehicle at that time.

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Village Treasurer Andrea J. Windoft reported that the grant received by the Lakewood-Busti Police Department previously reported by Chief Bentley, was one hundred percent funded by New York State and that the Lakewood-Busti Police Department has also applied for a C.O.P.S. grant. Treasurer Windoft explained that a C.O.P.S. grant if awarded, would pay the salary of a full time police officer for a three year period while the municipality agrees to include the officer's salary in the budget the fourth year.

Building Inspector Charles L. Smith reported that based on activity thus far this year, it looks like it is going to be a busy year. Mr. Smith added there are some good projects on the horizon.

Mayor Wordelmann told Mr. Smith that he has taken a few walks around the village recently and noticed there are some property maintenance issues out there that need addressing.

Building Inspector Smith told Mayor Wordelmann he has a couple of active property maintenance violations in the works but would be happy to get together to tour the village and take a look at some of the questionable properties.

RESOLUTION #16-2011-2012—AUTHORIZE HGWY. SUPERINTENDENTS SCHOOL
ATTENDANCE

Motion by Trustee Wendel, seconded by Trustee Troche, authorizing Department of Public Works Supervisor Thomas R. Pilling to attend the New York State Highway Superintendents School to be held in Ithaca, New York, June 6th – June 8th. D.P.W. Supervisor will be reimbursed for all legal expenses incurred.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

RESOLUTION #17-2011-2012 – AUTHORIZE PURCHASE OF DOCK RAMPS

Motion by Trustee Denn, seconded by Trustee Wendel, per the recommendation of Mayor David T. Wordelmann, authorizing Department of Public Works Supervisor Thomas R. Pilling to purchase ramps for the two docks at Community Park at a cost not to exceed \$ 1,400.00

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

RECESS

Motion by Trustee Wendel, seconded by Trustee Denn, to recess the regular meeting so as to conduct a previously scheduled public hearing.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

APRIL 25, 2011 (CONTINUED)

PUBLIC HEARING – 6:40 PM
SITE PLAN REVIEW
LAKEWOOD VILLAGE CENTER
279 EAST FAIRMOUNT AVE.

Mayor Wordelmann opened the public hearing at 6:40 PM and asked the Clerk to read the notice of public hearing as it appeared in the Village of Lakewood's official newspaper. He then asked if anyone would care to speak for or against the proposed project to redevelop the Lakewood Village Center, 279 East Fairmount Ave.

Mr. William J. Andris, Director of Pre-Construction with The Widewaters Group, Inc., appeared before Mayor Wordelmann and the Board of Trustees to briefly explain the proposal by Widewaters Lakewood Village Center Company to re-tenant a good share of the plaza. Mr. Andris said plans call for the former Quality Markets store to be divided into a TJ Maxx store and Michael's craft store. He said the former Rite –Aid drug store will be converted into a Pet Smart store. Mr. Andris said there are additional proposals being considered for the plaza including a Five Below store going in where the former Advance Auto Parts store was located adding they hope to fill all the empty storefronts in the plaza within six to twelve months.

Mr. Andris said of the 42,000 sq. ft. which made up the Quality Markets store, TJ Maxx would occupy about 24,000 sq. ft. while Michael's would take up about 17,000 sq. ft. He added Pet Smart will occupy the entire former Rite-Aid drug store. Mr. Andris did add some capital improvements would also be made to the property namely the parking lot and some sidewalk repairs.

Trustee Joseph M. Troche asked Mr. Andris if Bob's Liquor store and Little Caesar's Pizza are remaining as tenants.

Mr. Andris said yes, they and other existing tenants will be staying on.

Trustee Troche asked Mr. Andris a question about façade improvements and asked if the number of lights in the parking lot would remain the same.

Mr. Andris said there are no plans to increase the number of light poles and light fixtures that currently illuminate the parking lot.

Mayor Wordelmann asked Mr. Andris if there are any plans to change or add to the existing pylon sign at the main entrance.

Mr. Andris said there has been some discussion to modify the existing sign with the addition of some new panels.

Trustee Denn asked Mr. Andris how the ingress and egress at the two new stores occupying the former Quality Markets store is going to work.

Mr. Andris said part of the vestibule in front of the former Quality Markets store will be utilized by Michael's while the part in front of TJ Maxx will be removed. Mr. Andris said each store will have its own entrance/exit.

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When asked by Trustee Denn, what are the lease terms of the prospective tenants, Mr. Andris said he wasn't positive, but the leases are likely a minimum of ten years.

Trustee Denn then asked Fire Chief Hallberg if he has any concerns from a fire fighting standpoint about the proposal to subdivide one large commercial space into two separate spaces.

Fire Chief Hallberg indicated that Building Inspector Smith will review the plans and make sure they are in compliance with the New York State Fire Code.

Building Inspector Smith interjected saying the building is presently equipped with a full sprinkler system which makes a big difference.

Trustee Denn said the reason he asked those particular questions is his concern for public safety for those individuals working and/or shopping at the plaza.

Police Chief Bentley indicated he has some issues with traffic flow in front of the plaza and asked Mr. Andris if the main entrance to the Lakewood Village Center could be widened to better accommodate truck traffic and make the ingress/egress at the west end of the plaza, next to Tim Hortons, an exit only.

Chief Bentley indicated to Mr. Andris that he has asked the New York State Department of Transportation to consider changes to the traffic patterns on Rt. 394 in front of the plaza, to no avail.

Mr. Andris indicated to Chief Bentley that the lease agreements with the tenants do not allow the property owner to make any site changes without their permission and approval. He said the tenants would likely object to any site changes in that tenants generally don't like to give up things they already have.

Mayor Wordelmann indicated to Mr. Andris that the owner of Wing City Grille contacted Widewaters to see if a driveway could be established between the two properties. The driveway would allow customer access from the plaza and allow patrons make use of a traffic control device when exiting onto Rt. 394.

Mr. Andris said Widewaters likely asked the owner of Wing City Grille to share in the common area maintenance (CAN) cost, which could have been significant.

Trustee Troche agreed, saying the proposed driveway between the properties boiled down to money. He then suggested that once the new retail stores open, traffic in and around the plaza will increase considerably.

Chief Bentley said he will again ask for the New York State Department of Transportation to take a look at the problem where the road narrows in front of the plaza, but asked if Widewaters had any control over entrances and exits from/onto Rt. 394.

Mayor Wordelmann indicated as a former employee of Quality Markets, one of the biggest problems on the site is truck traffic and how it is able or unable to maneuver. The way the parking lot is configured there is only one way to enter and exit the plaza.

Trustee Wendel asked Mr. Andris that from a local fire department standpoint is there anyway Widewaters would consider removing that first "island" as traffic enters the plaza. Also, if the westerly entrance/exit were converted to an exit only, it would reduce the amount of congestion at the main entrance.

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Mr. Wendel said driving fire apparatus into the plaza is a challenge due to the quick turn necessary as one approaches the initial “island”. Trustee Wendel added it is also somewhat confusing for motorists wanting to exit the plaza not knowing what the best approach is around the “island” to the exit.

Mr. Andris said that there has been some discussion about the possibility of replacing the “island” in question with pavement markings which would allow larger trucks to make the turn without driving up onto the curbing.

Trustee Troche mentioned that one thing the Board of Trustees has been insistent on is maintaining as much green space as possible in front of commercial buildings. Removing the “island” would eliminate precious green space.

Mayor Wordelmann if the main entrance is widened and the “island” is removed, would it be possible for truck traffic to enter the plaza via the main entrance and use the westerly entrance/exit as an exit only.

Mr. Andris noted the loading docks on the back of the building are set up to take deliveries from trucks that enter the plaza in a clockwise direction. He added there really isn't enough room behind the building for large semi tractor-trailer trucks to turn around.

Building Inspector Smith indicated the location of “islands” are designed to slow traffic down as it enters a plaza or mall.

Treasurer Andrea J. Windoft said she has a comment or suggestion that she and others have made and that is if Widewaters has ever given any thought to establish a sidewalk from the street to the store canopy along the west end of the property. A sidewalk from the sidewalk near Tim Hortons to the west of the proposed Pet Smart store would be very helpful. Mrs. Windoft said there are a lot of walkers in the area and it appears there is room to do so along the west end of the parking lot.

Mr. Andris said there is really no way to do that without losing parking, plus there is a grade change between the properties.

With no one else to be heard Mayor Wordelmann closed the public hearing at 6:58 PM.

RESOLUTION #18-2011-2012 – APPROVE PROPOSED SITE PLAN – LAKEWOOD VILLAGE CENTER

Motion by Trustee Troche, seconded by Trustee Wendel, for the Board of Trustees to approve the application for site plan review as submitted by Widewaters Lakewood Village Center Company, DeWitt, N.Y., regarding their proposal to sub-divide the former Quality Markets store, 279 East Fairmount Ave., into two new retail businesses, (TJ Maxx & Michael's) and to re-tenant the former Rite-Aid drug store into a Pet Smart store, plus modify the front canopy /façade and to carryout some site improvements. Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

APRIL 25, 2011 (CONTINUED)

PUBLIC HEARING – 6:45 PM
P.I.L.O.T. PROGRAM PROPOSAL
LAKEWOOD VILLAGE CENTER
279 EAST FAIRMOUNT AVE.

The Chautauqua County Industrial Development Agency, (“ the Agency”) 200 Harrison Street, Jamestown, New York has introduced a proposed P.I.L.O.T. (Payment in Lieu of Taxes) Program with respect to the following project: Widewaters Lakewood Village Center, a general partnership existing under the laws of the State of New York (the “Applicant”), presented an application (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately 6.5 acre parcel of land located at 279 East Fairmount Ave., Village of Lakewood, County of Chautauqua, New York (collectively, the “Land”), (2) the renovation of an existing approximately 82,000 square foot building located on the Land (collectively, the “Building”), together with parking and related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the “Equipment”), all of the foregoing for use by the Applicant as a multi-tenant commercial facility (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease (with obligation to purchase) or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency. The Project Facility would be initially owned, operated and/or managed by the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency (the Applicant or such other entity, the “Company”). Interested parties may present their views both orally and in writing with respect to the Project. Copies of the Application, including an analysis of the costs and benefits of the Project are available for review by the public at the offices of the Agency at 200 Harrison Street, Jamestown, New York 14701.

Mayor Wordelmann asked the Clerk to read the notice of public hearing as it appeared in The Post-Journal, April 11, 2011. He then asked if there was anyone present to speak for or against the proposed P.I.L.O.T. Program.

Ms. Carol Rasmussen, a representative from the Chautauqua County I.D.A., appeared before Mayor Wordelmann and the Board of Trustees and indicated if there are any comments concerning this program they can be made at this time or written comments may be sent to the attention of Mr. William J. Daly, Administrative Director/CEO of the C.C.I.D.A., 200 Harrison St., Jamestown, N.Y. She noted that since the publication of the public hearing notice in The Post-Journal April 11, 2011, the C.C.I.D.A. hasn’t received any comments or phone calls concerning the proposed P.I.L.O.T. program. She said if anyone wishes to speak for or against the program please give their name and affiliation. Ms. Rasmussen then asked everyone present to take a moment to note their name and affiliation on a sign-up sheet.

Ms. Rasmussen stated that at the next board meeting of the C.C.I.D.A., to held April 27, 2011, two resolutions associated with the P.I. L.O.T. program will be presented. One of the resolutions will address S.E.Q.R. while the other resolution will address Sales Tax Exemption.

Trustee Troche asked Ms. Rasmussen if the C.C.I.D.A. has talked with representatives from the local school district, Town of Busti and County of Chautauqua, if so, how do they feel about the program.

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Ms. Rasmussen said they have been in conversation with the respective officials and they appear to be for the project. She added that the C.C.I.D.A. has not stipulated any concise details with respect to sales tax and mortgage tax exemptions.

Mayor Wordelmann said he would like to welcome to the public hearing two distinguished guests, Ms. Kathy A. Sullivan, Supervisor, Town of Busti and Mr. Daniel George, Superintendent of the Southwestern Central School District.

Trustee Wendel wished to confirm with Ms. Rasmussen that the sales tax exemption would only apply to materials purchased to make building upgrades and renovations and not anything to do with sales tax the retail stores collect.

She said that is correct.

Trustee Denn asked Ms. Rasmussen if there is a total amount of sales tax relief the applicant is seeking.

Ms. Rasmussen said she would have to refer to the application. She believes it is around \$ 20,000.00.

Trustee Denn said he is new on the Board of Trustees and acknowledged he is playing catch-up. He asked Ms. Rasmussen if the prospective tenants are obligated to maintain their respective businesses for minimum number of years. For example, if the business climate isn't what they expected, he would hate to see the businesses leave ending up with a shuttered building at the tax payers expense. Some I.D.A. projects start out with the best intentions but unfortunately fail to flourish. Trustee Denn said he is just trying to look out for the taxpayers.

Ms. Rasmussen explained a sales tax exemption will be in place for the purchase of materials used for the planned renovations but there is no property tax exemption.

Mayor Wordelmann then briefly reviewed the highlights of the proposed P.I.L.O.T. Program for those in attendance. He said ultimately if the program is approved, the taxing entities are protected to some degree on the property tax dollars received during the fifteen year term of the program. Mayor Wordelmann said because Widewaters is willing to invest 3.5 million dollars into the redevelopment of the plaza, it is his opinion that the Village of Lakewood should do what it can do to assist in this endeavor.

Trustee Denn said he is not being adversarial but fifteen years is a long time for the taxpayers to fund this project. He said he agrees with Mayor Wordelmann that no one wants an empty building, but more importantly no one wants an empty building following significant concessions.

Mr. Andris said the prospective tenants are nationally known and are considered good credit risks.

Trustee Troche said one concern he has about the project is how busy and congested the plaza could become with the opening of TJ Maxx.

Chief Bentley echoed Trustee Troche's concerns regarding the increased traffic in front of the plaza and with it the potential for more multiple car traffic accidents.

Trustee Wendel said it is important for the public to know what the P.I.L.O.T. Program is all about so the respective entities can act on it to allow the project to go forward. He said it is a plus plus situation for the Village of Lakewood and Town of Busti from a sales tax revenue standpoint.

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He then asked Mr. Daniel George if the school board has been supportive of the program.

Mr. George said a subcommittee of the overall Board of Education has met with Mr. Daly and Mr. Dixon of the Chautauqua County I.D.A., and tomorrow (April 26, 2011) the school board will be holding its regular meeting at the Busti Fire Department. Mr. Daly and Mr. Dixon are expected to attend and address the school board on the proposed P.I.L.O.T. Program. To answer Trustee Wendel's question, Mr. George said there is a positive feeling about the program however the proposal has not yet been presented to the full board.

Mayor Wordelmann indicated the projected sales at the redeveloped Lakewood Village Center are estimated at 16 million per year, which would generate approximately \$ 560,000.00 more per year in sales taxes which would be shared by the Village of Lakewood, Town of Busti and County of Chautauqua. He said what the Village of Lakewood may lose by freezing the tax rate it would more than make that up via the increased sales tax revenue. He said this project, lead by the three anchor stores, will likely create more commercial business opportunities in the immediate area.

With no one else to be heard, Mayor Wordelmann closed the public hearing at 7:17 PM, and proceeded to reopen the regular meeting of the Board of Trustees.

RESOLUTION #19-2011-2012 – APPROVE P.I.L.O.T. PROGRAM

Motion by Trustee Troche, seconded by Trustee Wendel, per the recommendation of Mayor Wordelmann, to approve the proposed P.I.L.O.T. Program which was developed and introduced by the Chautauqua County Industrial Development Agency, 200 Harrison Street, Jamestown, New York, so as to provide Widewaters Lakewood Village Center Company, DeWitt, New York, owners of the Lakewood Village Center, 279 East Fairmount Ave., some financial relief in connection with a proposal to redevelopment and re-tenant the existing plaza at a cost of 3.5 million dollars. Mayor Wordelmann encouraged the other involved entities to follow the Village of Lakewood's lead by approving this program.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

RESOLUTION #20-2011-2012 – APPROVE PROMOTION OF D.P.W. EMPLOYEE JOHN C. CERTO

Motion by Trustee Denn, seconded by Trustee Troche, per the recommendation of Department of Public Works Supervisor Thomas R. Pilling, approve the promotion of Laborer John C, Certo to the position of Motor Equipment Operator effective June 1, 2011. Also effective June 1, 2011 will be a pay rate increase for Mr. Certo from \$ 19.80/hr. to \$ 21.98/hr. Mr. Certo has worked for the Village of Lakewood since January 2, 2003.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

RESOLUTION #21-2011-2012 – APPROVE DOCK PERMIT APPLICATIONS

Motion by Trustee Troche, seconded by Trustee Wendel, to approve the dock permit applications as submitted by William F. Chandler, 207 West Summit St., for the Division St. right-of-way and Steven P. Johnson, 26 Harlem Ave., for the Harlem Ave. right-of-way.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

APRIL 25, 2011 (CONTINUED)

RESOLUTION #22-2011-2012 – APPROVE DOCK PERMIT APPLICATIONS

Motion by Trustee Troche, seconded by Trustee Wendel, to approve the dock permit application as submitted by David Doan, 127 Erie St., for the Lowe Ave. right-of-way, Todd Anderson, 180 Front St. for the Woodlawn Ave. right-of-way and John Hickey, 147 W. Summit St., for the Gifford Ave. right-of-way, with the condition that if the length of any of the docks becomes an issue for the abutting property owners along the respective rights-of-way, the dock owner(s) will be requested to remove one or more dock sections so as to mitigate the problem.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

RESOLUTION #23-2011-2012 – AUTHORIZE REQUEST FOR BIDS

Motion by Trustee Troche, seconded by Trustee Wendel, authorizing Department of Public Works Supervisor Thomas R. Pilling to request sealed bids for a ten (10) ft. dump box, reversible plow, (less the wing) and hydraulics to be mounted/installed on 4x2 cab and chassis. Bids will be received at the Office of the Village Clerk at or before 11:00 AM, Thursday, May 19, 2011.

Adopted: 4 ayes, no nays (Wordelmann, Denn, Troche, Wendel)

MAYOR'S REPORT

Mayor Wordelmann noted that the minutes of the Board of Trustees meetings and agendas for upcoming meetings are now posted on the Village of Lakewood's web site for viewing.

Motion by Trustee Wendel, seconded by Trustee Troche, and unanimously carried, the Board adjourned at 7:28 PM.

Joseph M. Johnson
Village Clerk