

MEETING
March 21, 2011

A regular meeting of the Town Board of the Town of Busti was held on March 21, 2011 at 6:45 p.m., at the Town Administration Building, 121 Chautauqua Avenue, Lakewood, New York with the following members present:

Supervisor Kathleen A. Sullivan
Councilman Jesse M. Robbins
Councilwoman Marsha L. Hern
Councilman Kenneth J. Lawton
Councilman Richard A. Sanders - absent

Supervisor Sullivan called the meeting to order with the salute to the flag and a moment of silence was observed.

Present at the meeting were: Angelo & Diane Terrano, Lorie Robbins, Tim Young, Gordon & Jean Robbins, Darryl Streed, Rosemarie Keefe, Lee & Sharon Fischer, Jim & Carol Toth, Highway Superintendent Melvin J. Peterson, Attorney Joel H. Seachrist, Lakewood-Busti Police Chief John Bentley and Post Journal Reporter Dennis Phillips.

Angelo Terrano requested if the town has heard from Jamestown Board of Public Utilities on South Main Street regarding Kiantone residents being allowed to obtain water hook ups. Supervisor Sullivan will contact David Leathers.

Lakewood-Busti Police Chief John Bentley reported 2,360 incidents to date.

Highway Superintendent Melvin J. Peterson reported on highway activities including truck maintenance and the arrival of the new roadside tractor.

Darryl Streed, 4467 Fairmount Avenue, requested a zoning change in the Highway Commercial District to sell boats. Mr. Streed will submit his proposal to be referred to the Planning Board on April 5th.

Supervisor Sullivan reviewed the proposal from Donald McCord, Small Town Planning to do the comprehensive plan.

Councilman Robbins offered the following motion which was duly seconded by Councilwoman Hern:

RESOLVED, that the town accept his proposal not to exceed \$28,600 from Small Town Planning Services.

Upon roll call vote,

Supervisor Sullivan, aye
Councilman Robbins, aye
Councilwoman Hern, aye
Councilman Lawton, nay.

Carried.

Supervisor Sullivan made the following motion which was duly seconded by Councilwoman Hern:

RESOLVED, that Randall Erickson be authorized to attend the Animal Control Seminar in Webster, New York on April 12th & 13th, 2011 with room & registration, mileage and meals to be paid by the town.

Upon roll call vote, all aye.

Supervisor Sullivan offered the following motion which was duly seconded by Councilwoman Hern:

RESOLVED, that the public hearing on Local Law No. 1 of 2011 at 7:15 p.m. be declared open.

Upon roll call vote, all aye.

Attorney Joel H. Seachrist explained the proposed local law to everyone present.

Rosemarie Keefe - questioned how this local law gives the highway superintendent power for immediate removal of obstructing vehicles.

Sharon Fischer - questioned the immediate removal of obstructing vehicles.

Lee Fischer - questioned wording to be changed to road-way not the right of way.

Sharon Fischer - does this law have anything to do with the paper streets in the town?

Councilman Lawton – noted the key word here is “obstructs”.

Attorney Joel H. Seachrist – stated this local law has nothing to do with paper streets.

Further discussion followed.

Supervisor Sullivan moved to close the public hearing which was duly seconded by Councilwoman Hern:

Upon roll call vote, all aye.

Councilman Robbins moved the following resolution and local law 1 of 2011 which was duly seconded by Councilman Lawton:

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Busti for a public hearing to be held by said Board on March 21, 2011 at the Town Administration Building, 121 Chautauqua Avenue, Lakewood, New York, to hear all interested parties on a proposed Local Law to authorize the Town’s Highway Superintendent to remove vehicles obstructing town highways in certain cases, and

WHEREAS, notice of said public hearing was duly published in the *Jamestown Post-Journal* and posted in the Town Clerk’s office, and

WHEREAS, said public hearing was duly held on March 21, 2011 at the said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, a referral to the County Planning Department pursuant to Section 239-m of the General Municipal Law was not required for this action, and

WHEREAS, the Board has determined that the adoption of the local law is a Type II Action for purposes of the State Environmental Quality Review Act and no further review is required, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interests of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Busti hereby adopts said Local Law as Local Law No. 1 of 2011, a copy of which is attached hereto and made a part hereof, and the Town Clerk hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Busti, and to give due notice of the adoption of the Local Law to the Secretary of State.

TOWN OF BUSTI
LOCAL LAW NO. 1 FOR THE YEAR 2011
AUTHORIZING THE REMOVAL OF OBSTRUCTING
VEHICLES FROM TOWN HIGHWAYS

Be it enacted by the Town of Board of the Town of Busti, County of Chautauqua and State of New York, as follows:

SECTION 1.

This local law is promulgated pursuant to the authority contained in Sections 1660(18) and 1660(25) of New York's Vehicle and Traffic Law and Section 10 of the Municipal Home Rule Law.

SECTION 2.

A new Article 58-100 is hereby added to the Town of Busti Code and shall provide as follows:

ARTICLE 58-100: REMOVAL OF OBSTRUCTING VEHICLES

Section 58-101. Application of Article.

This article shall apply only to town highways in the Town of Busti located outside the incorporated Village of Lakewood and shall be in addition to any similar authority granted under Article 56-100 or other provision of the Town of Busti Code.

Section 58-105. Definitions.

For purposes of this article, the term “vehicle” shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a road, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 58-110. Authority to Remove Obstructing Vehicles.

The Superintendent of Highways shall have the power to cause the immediate removal from the right of way of any town highway of any vehicle which obstructs or interferes with the use of such a highway for public travel; or which obstructs or interferes with the construction, reconstruction or maintenance of such a highway; or which obstructs or interferes with the clearing or removal of snow or ice from such a highway; or which obstructs or interferes with any operation of the Town of Busti Highway Department during a public emergency.

Section 58-115. Release upon payment of costs.

The Superintendent shall not release any vehicle so removed until the actual and necessary costs of the removal, including towing and storage, shall have been paid.

SECTION 3.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional, unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

SECTION 4.

This Local Law shall take effect immediately upon having been filed with the Secretary of State of the State of New York.

Upon roll call vote,

Supervisor Kathleen A. Sullivan, aye

Councilman Jesse M. Robbins, aye

Councilwoman Marsha L. Hern, aye

Councilman Kenneth J. Lawton, aye.

Supervisor Sullivan noted that the town will receive Justice Court Assistance Program (JCAP) grant in the amount of \$10,595 which was tabled until our next meeting.

Councilwoman Hern offered the following motion which was duly seconded by Councilman Lawton:

RESOLVED, that any elected, office clerks, zoning or planning board members be authorized to attend the Local Government Conference at Houghton College on May 11, 2011.

Upon roll call vote, all aye.

Councilman Robbins moved the following motion which was duly seconded by Councilwoman Hern:

RESOLVED, that Highway Superintendent Melvin J. Peterson be authorized to

attend Highway School at Ithaca College June 6-8th, 2011 with registration, meals and mileage to be paid by the town.

Upon roll call vote, all aye.

Supervisor Sullivan noted the following correspondence:

Randal Brown, Sugar Grove Sewage Authority – expansion of sewer line.

Thank you – Village of Lakewood for Use of Community Center

March 29th 6:00 potluck dinner and presentation by Lyle Hajdu Watershed Comprehensive Plan.

State of New York, Department of State approval of the Chautauqua Lake Local Waterfront Revitalization Program.

Supervisor Sullivan offered the following motion which was duly seconded by Councilwoman Hern:

RESOLVED, that Supervisor Sullivan be authorized and directed to pay the presented General Fund, Highway Fund, Joint Recreation Fund and the Hazeltine Public Library for Abstract No. 4 from warrant #140 to and including warrant #174 in the amount of \$62,220.52.

Upon roll call vote, all aye.

Upon motion duly made by Supervisor Sullivan the meeting adjourned at 8:05 p.m.

Diane M. VanDewark, Town Clerk