

REGULAR MEETING

April 9, 2012

A regular meeting of the Town Board of the Town of Busti was held on April 9, 2012 at 6:45 p.m., at the Town Administration Building, 121 Chautauqua Avenue, Lakewood, New York with the following members present:

Supervisor Jesse M. Robbins
Councilman Richard B. Thor
Councilman Kenneth J. Lawton
Councilman Richard A. Sanders

Supervisor Robbins 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, Warren VanDewark, Loren & Gloria Parker, Todd & Collin Hanson, Judy Schultz, Rosemarie Keefe, Dennis Brown, Lee & Sharon Fischer, Ray Aldrich, David & Roberta Chapman, Richard Kinne, Burt Anderson, Geoff Bond, Busti-Lakewood Recreation Director Diana Peterson, Lakewood-Busti Police Chief John Bentley and Highway Superintendent Melvin J. Peterson.

Highway Superintendent Melvin J. Peterson reported on highway activities. His department has been ditching, replaced the bathroom roofs at Lawson Park and handling Vukote Canal concerns.

Councilman Sanders make the following motion which was duly seconded by Councilman Lawton:

RESOLVED, that upon the recommendation of Highway Superintendent Melvin J. Peterson the proceeds from the trade-in of a 2000 4200 Compact Tractor he be authorized to purchase a new John Deere Z925 Z-Track mower at a net cost to the town of \$100.

Upon roll call vote, all aye.

Councilman Sanders made the following motion which was duly seconded by Supervisor Robbins:

RESOLVED, that Highway Superintendent Melvin J. Peterson be authorized to advertise for bids for a 20 ton equipment trailer returnable May 7, 2012 at 6:45 p.m.

Upon roll call vote, all aye.

Councilman Lawton presented a proposal for a sign to be placed at Vukote in memory of George A. Simpson.

Supervisor Robbins made the following motion which was duly seconded by Councilman Sanders:

RESOLVED, that the following budget transfers be approved to close the financial year of December 31, 2011.

TOWN OF BUSTI
BUDGET TRANSFERS
DECEMBER 31, 2011

To adjust budget for A Fund

<u>Transfers to Account (credit):</u>		<u>Transfers from Account (debit):</u>			
A1010.400	Town board - contractual	580.27	A1010.100	Town board - pers svcs	4,172.95
A1100.100	Justice - pers svcs	4,799.67	A1220.100	Supervisor - pers svcs	199.95
A1110.400	Justice - contractual	1,474.94	A1355.200	Assessors - equip	500.00
A1220.100	Supervisor - equipment	199.99	A1355.400	Assessors - contractual	3,417.82
A1220.400	Supervisor - contractual	1,038.30	A1910.400	Unallocated insurance	5,000.00
A1355.100	Assessor - pers svcs	5,087.61	A5010.400	Supt of Hwys - contractual	18.02
A1410.100	Town clerk - pers svcs	5,714.39	A6410.400	Publicity - contractual	266.76
A1410.400	Town clerk - contractual	905.09	A7110.100	Parks - pers svcs	3,257.39
A1420.400	Lawyer - contractual	1,840.00	A7110.400	Parks - contractual	38,802.47
A1620.400	Buildings - contractual	8,058.24	A7550.400	Celebrations - contractual	2,250.00
A3310.200	Traffic control - equip	1,885.53	A8160.400	Refuse, garbage - contract	4,133.33
A3310.400	Traffic control - contractual	549.78	A9055.800	Disability	351.75
A3510.400	Control of dogs - contractual	893.31	A9090.800	Hospital & medical ins	372.16
A5132.400	Garage - contractual	6,243.98	A9092.800	Retirement - other	2,265.66
A5182.400	Street lighting - contractul	811.97	A9950.600	Capital Fund Project	5,700.00
A7110.200	Parks - equipment	2,106.57	A2210	Tax & asses - other gvt	19,207.16
A9010.800	State retirement	44,072.26			
A9030.800	Social security	1,931.60			
A8810.100	Cemeteries - pers svcs	2,661.60			
		<u>88,713.42</u>			<u>88,713.42</u>
A9901.900	Transfers to other funds	<u>2,661.60</u>	A8810.100	Cemeteries - pers svcs	<u>2,661.60</u>

To adjust budget for B Fund

B8010.100	Zoning - pers svcs	2,405.19	B9730.700	BAN interest	11,466.11
B8010.400	Zoning - contractual	2,073.66			
B8020.100	Planning - pers svcs	300.00			
B8020.400	Planning - contractual	170.00			
B9010.800	State retirement	6,220.31			
B9030.800	Social security	296.85			
		<u>11,466.11</u>			<u>11,466.11</u>

To adjust budget for DB Fund

D85110.400	Genl repairs - contractual	11,463.17	D85110.100	Genl repairs - pers svcs	14,385.63
D85112.200	Improvements - capital outlay	2,922.46	D85130.20	Machinery - equip	12,893.65
D85130.400	Machinery - contractual	4,283.63	D85142.100	Snow removal - pers svcs	7,041.21
D85142.400	Snow removal - contractual	7,041.21			
D89010.800	State retirement	8,610.02			
		<u>34,320.49</u>			<u>34,320.49</u>

To adjust budget for J Fund

J1620.200	Joint rec buildings - equipment	1,671.41	J1620.400	Joint rec buildings - maint	2,544.45
J1910.400	Contractual - insurance	188.20			
J9010.800	NYS Retirement	688.84			
		<u>2,544.45</u>			<u>2,544.45</u>

TOWN OF BUSTI
BUDGET TRANSFERS
DECEMBER 31, 2011

To adjust budget for L Fund

L7410.100	Library - pers svcs	5,468.75	L2401	Interest & earnings	59.65
L9010.800	State retirement	2,290.85	L7410.400	Library - contractual	4,619.96
L9030.800	Social security	44.41			
L9055.800	Disability insurance	34.50	L599	Appropriated fund balance	3,158.88
		<u>7,838.51</u>			<u>7,838.51</u>

To adjust budget for SD Fund

SD8710.7	Bond interest payment	0.04	SD2401	Interest & earnings	0.04
		<u>0.04</u>			<u>0.04</u>

To adjust budget for SL1 Fund

SL1-5182.400	Street Lighting #1 - contractual	101.21	SL1-2401	Interest & earnings	4.11
			SL1-599	Appropriated fund balance	97.10
		<u>101.21</u>			<u>101.21</u>

To adjust budget for SL3 Fund

SL3-5182.400	Street Lighting #3 - contractual	480.22	SL3-2401	Interest & earnings	4.71
			SL3-599	Appropriated fund balance	475.51
		<u>480.22</u>			<u>480.22</u>

To adjust budget for SL6 Fund

SL6-5182.400	Street Lighting #6 - contractual	138.30	SL6-2401	Interest & earnings	1.05
			SL6-599	Appropriated fund balance	137.24
		<u>138.30</u>			<u>138.30</u>

To adjust budget for SW3 Fund

SW3-9710.800	Serial bond interest	0.05	SW3-9710.800	Serial bond principal	1,142.69
SW3-9951.800	Water dist - other uses	1,142.64			
		<u>1,142.69</u>			<u>1,142.69</u>

TOWN OF BUSTI
BUDGET TRANSFERS
DECEMBER 31, 2011

To adjust budget for SW5 Fund				
SW5-9710.200 Serial bond interest	165.92	SW5-9710.100	Serial bond principal	165.92
	165.92			165.92

To adjust budget for SW7A Fund				
SW7A-9710.10 Serial bond principal	2,213.82	SW7A-599	Appropriated fund balance	4,623.85
SW7A-9710.20 Serial bond interest	2,410.03			
	4,623.85			4,623.85

To adjust budget for SW7B Fund				
SW7B-9710.10 SW7B Serial Bond Principal	1,558.12	SW7B-599	Appropriated fund balance	3,370.04
SW7B-9710.20 SW7B Serial Bond Interest	1,811.92			
	3,370.04			3,370.04

To adjust budget for SW8 Fund				
SW8-9730.600 BAN Principal	38,688.00	SW8-599	Appropriated fund balance	38,688.00
	38,688.00			38,688.00

To adjust budget for TE1 Fund				
TE1-8810.400 Bentley Burial Expense	720.00			
	720.00			-

To adjust budget for TE2 Fund				
TE2-8810.400 Busti Burial Expense	2,275.00	TE2-2192	Busti cemetery services	700.00
		TE2-2401	Interest & earnings	3.40
	2,275.00			703.40

To adjust budget for TE3 Fund				
TE3-8810.400 Wellman Burial Expense	370.00			
	370.00			-

Board Resolution needed to execute interfund transfers from the General Fund (A) to the Bentley Cemetery (TE1) in the amount of \$720.00; from the General Fund (A) to the Busti Cemetery Fund (TE2) in the amount of \$1,571.60; and from the General Fund (A) to the Wellman Cemetery Fund (TE3) in the amount of \$370.00. By definition, interfund transfers are transfers intended to subsidize the receiving funds and will not be repaid.

Upon roll call vote, all aye.

RESOLVED, that the town accept the resignation of Douglas Hoisington from the Hazeltine Library Board with regret.
All aye.

Councilman Thor made the following motion which was duly seconded by Councilman Lawton:

RESOLVED, that Highway Superintendent Melvin J. Peterson be authorized to attend highway school June 11-13th, 2012 and expenses to be paid by the town.

Supervisor Robbins noted the following reports and correspondence:

2011 Annual Financial Report.

Hazeltine Public Library Annual Report to the Community 12/31/11.

Building Report for March, 2012.

Time Warner Cable Internal Restructuring & Agreements with programmers.

Zoning Board of Appeals Minutes March 28, 2012.

Western New York Rural Economic Development Workshop April 24th at Jamestown Community College, Olean, New York/

Chautauqua County foreclosed properties by resolution 171-11.

Chautauqua County Workers' Memorial on May 5, 2012.

Supervisor Robbins noted it was 7:00 p.m. and time to open the public hearing which was duly seconded by Councilman Sanders for Lee & Sharon Fischer as owners of certain junked vehicles.

Upon roll call vote, all aye

Proof of publication was placed on file.

Discussion followed by residents in attendance with their concerns regarding the junk vehicles.

Supervisor Robbins moved to close the hearing which was duly seconded by Councilman Thor:

All aye.

Supervisor Robbins moved the following resolution which was duly seconded by Councilman Thor:

WHEREAS, the Town of Busti Code Enforcement Officer issued a Notice of Apparent Violation to Lee Fischer and Sharon Fischer on or about January 18, 2012, pursuant to the Town's Junked Vehicles Law, requiring them to remove thirteen (13) junked vehicles located on several properties belonging to them in the Cottage Park area within fifteen (15) days of their receipt of the Notice of Apparent Violation, and

WHEREAS, the Code Enforcement Officer reported to this Board by letter dated February 6, 2012, that the Fischers had made no substantive effort to remove the cited vehicles, and

WHEREAS, this Board set a public hearing for April 9, 2012 at 7:00 p.m. for the purpose of giving the Fischers an opportunity to be heard as to why the cited junked vehicles have

not been moved and to determine whether the continued presence of such vehicles constitutes a public nuisance and/or a threat to the health, safety, and general welfare of the community, and

WHEREAS, notice of said public hearing was duly published in the *Jamestown Post-Journal*, posted in the Town Clerk's office, and sent to the Fischers by certified mail, and

WHEREAS, said public hearing was duly held on April 9, 2012 at the said time and place and all parties in attendance were permitted an opportunity to speak, and

WHEREAS, the Town Board, after due deliberation, finds that the continued presence of the thirteen (13) cited vehicles would be a public nuisance and a threat to the health, safety, and general welfare of the Cottage Park community,

NOW, THEREFORE, the Town Board of the Town of Busti hereby determines:

1. That any of the thirteen vehicles cited in the Notice of Apparent Violation dated January 18, 2012, still located on the Fischer properties in the Cottage Park area must be removed by April 20, 2012, failing which the Town may contract for the removal of such junked vehicles; and

2. That, in accordance with the Procurement Policy of the Town of Busti, the Code Enforcement Officer and/or Highway Superintendent are hereby authorized to solicit requests for proposals for the removal of such vehicles by the Town if the Fischers fail to timely accomplish their removal; and

3. If the Town removes the vehicles, any expense of such removal in excess of the junk value of the vehicles shall be assessed on the real property from which the vehicles were removed and shall constitute a lien and charge upon the property until paid or otherwise satisfied by the Fischers.

Upon roll call vote, all aye.

Supervisor Robbins moved to open the public hearing on Local Law No. 1 of 2012 which was duly seconded by Councilman Sanders:

Proof of publication was placed on file.

Residents had concerns regarding outside storage which this local law does not permit.

Supervisor Robbins moved to close the public hearing which was duly seconded by Councilman Lawton:

Upon roll call vote, all aye.

Councilman Robbins moved to adopt the following Negative Declaration which was duly seconded by Councilman Thor:

WHEREAS, the Town of Busti has proposed Local Law No. 1 of 2012, which would allow self-storage facilities by special use permit on certain properties in the Conservation-Agricultural District, and

WHEREAS, the proposed law has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a long Environmental Assessment Form, and

WHEREAS, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed local law, and

WHEREAS, the Board has determined that the proposed law will not have a significant environmental impact,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby issues a Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed Local Law No. 1 of 2012 and authorizes the Supervisor to complete Part III of the EAF accordingly.

Upon roll call, all aye.

Supervisor Robbins moved to adopt the following local law regulating self-storage facilities which was duly seconded by Councilman Thor:

Town of Busti
Local Law No. 1 of 2012

A LOCAL LAW REGULATING SELF-STORAGE FACILITIES IN THE
CONSERVATION-AGRICULTURAL (C-A) DISTRICT

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

SECTION 1. AUTHORITY.

This local law is promulgated pursuant to the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(10);
2. New York Statute of Local Governments, §10(1) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);

4. New York Town Law §130 (11)(peace, good order and safety), (15)(promotion of public welfare); and
5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

SECTION 2. SELF-STORAGE IN THE C-A DISTRICT.

Section 91-420(2) shall be amended to read as follows:

2. Permitted uses subject to securing a special use permit from the Town Board of the Town of Busti:
 - Self-Storage Facility, provided that such facility shall be located on a parcel (or on contiguous parcels under common ownership) comprising not less than 100 acres, shall be secondary to and in support of an existing commercial use on the same parcel, shall comply with Section 91-805 hereof, and shall not be used for the storage of toxic, radioactive, or other substances harmful to the health, safety, and welfare of the general public, nor for the outside storage of any items.

SECTION 3. VALIDITY AND SEVERABILITY

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or 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. EFFECTIVE DATE.

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

Upon roll call vote,
Supervisor Sullivan, aye
Councilman Thor, aye
Councilman Lawton, aye
Councilman Sanders, nay.
Carried.

Supervisor Robbins made the following motion which was duly seconded by Councilman Sanders:

RESOLVED, that Supervisor Robbins be authorized and directed to pay the presented General Fund, Highway Fund, Joint Recreation Fund and the Hazeltine Public

Library for Abstract No. 5 from warrant #196 to and including warrant #253 in the amount of \$33,838.87.

Upon roll call vote, all aye.

Lakewood-Busti Police Chief John Bentley reported 940 incidents for March with 3,143 to date.

Upon motion duly made by Supervisor Robbins the meeting adjourned at 8:30 p.m.

All aye.

Supervisor Robbins moved to reopen the meeting which was duly seconded by Councilman Thor:

All aye.

Supervisor Robbins moved to schedule our next board meeting to April 23, 2012 at 6:45 p.m.

All aye.

Diane M. VanDewark, Town Clerk