

## REGULAR MEETING

April 15, 2013

A regular meeting of the Town Board of the Town of Busti was held on April 15, 2013 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 Todd M. Hanson  
Councilman Kenneth J. Lawton  
Councilman Brett A. Muccheck  
Councilman Richard B. Thor

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: Devon Hamby, Christopher Parker, Rudy Mueller, Angelo & Diane Terrano, Lori Robbins, Deputy Clerk Darlene Nygren, Judge Joseph Gerace, Planning Board David Paterniti, Highway Superintendent Melvin J. Peterson, Busti-Lakewood Recreation Director Diana Peterson, Attorney Joel H. Seachrist and Lakewood-Busti Police Chief John Bentley.

Planning Board Chairman David Paterniti reported on how the planning board is a branch of the town which looks at recommendations for the town zoning code and that he is also serving on the Town of Busti comprehensive plan committee.

Judge Joseph Gerace requested that the triangle at the five corners in Busti be dedicated as a park and naming it "Paul Busti Memorial Park" which was referred to Attorney Joel Seachrist for legal description and possible survey of the property.

Lakewood-Busti Police Chief John Bentley honored Devon Hamby and Christopher Parker by presenting certificates of appreciation for stopping a serious drunk driver at Forest Avenue on March 12, 2013. Chief Bentley reported 2,933 incidents to date.

Highway Superintendent Melvin J. Peterson reported on shared services with the Village of Lakewood Highway Department. They used a powered street sweeper to broom roads in Vukote Road, Cottage Park, Lakeside Dive and Loomis Bay. Discussion followed regarding the tennis courts at Earl W. Lawson Park needing repair.

Supervisor Robbins noted that it is 7:00 p.m. and time to open the hearing on Local Law No. 1 of 2013 entitled "Adopting Procurement Law with Best Value Standard" which was duly seconded by Councilman Muccheck:

Upon roll call vote, all aye.

WHEREAS, due publication of the Notice of Public Hearing upon the proposed Local Law has been presented to the Town Board; and

WHEREAS, no one was heard on behalf of this local law.

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

Upon roll call vote, all aye.

NOW, THEREFORE, BE IT RESOLVED, that upon motion duly made by Supervisor Robbins and seconded by Councilman Hanson, the following Local Law No. 1 of the year 2013 be and the same is adopted:

**TOWN OF BUSTI  
LOCAL LAW NO. 1 FOR THE YEAR 2013**

**ADOPTING PROCUREMENT LAW WITH BEST VALUE STANDARD**

Pursuant to Section 10 of the Municipal Home Rule Law and Section 103 of the General Municipal Law, 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.**

The Town of Busti hereby wishes to adopt its current procurement policy as a Local Law and to exercise the option set forth in § 103, Subdivision 1, of the New York General Municipal Law, as amended by Chapter 608 of the Laws of 2011 and Chapter 2 of the Laws of 2012, which authorizes the Town to award purchase contracts and contracts for services subject to competitive bidding under General Municipal Law § 103 on the basis of either lowest responsible bidder or "best value," as defined in § 163 of the New York State Finance Law. The "best value" option may be used if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder based on factors such as lower cost of maintenance, durability, higher quality and longer product life.

**SECTION 2.**

Accordingly, a new Chapter 10 is hereby added to the Town of Busti Code and shall provide as follows:

**CHAPTER 10. PROCUREMENT**

- [§ 10-1. Initial evaluation; documentation.](#)
- [§ 10-2. Formal bid required.](#)
- [§ 10-3. Bidding procedure; filing of information.](#)
- [§ 10-4. Award to lowest responsible bidder; best value purchasing.](#)
- [§ 10-5. Obtaining required number of proposals.](#)
- [§ 10-6. Exceptions to solicitation and documentation requirements.](#)
- [§ 10-7. Review of policy by Town Board.](#)

**§ 10-1. Initial evaluation; documentation.**

Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law § 103. Every Town officer, board, department head or other personnel with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other Town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

**§ 10-2. Formal bid required.**

All purchases of supplies or equipment which will exceed \$20,000 in the fiscal year or public works contracts over \$35,000 shall be formally bid pursuant to General Municipal Law § 103.

**§ 10-3. Bidding procedure; filing of information.**

**A.** All estimated purchases of:

- (1)** Less than \$20,000 but greater than \$3,000 require a written request for a proposal (RFP) and written/fax quotes from three vendors.
- (2)** Less than \$3,000 but greater than \$1,000 require an oral request for the goods and oral/fax quotes from two vendors.
- (3)** Less than \$1,000 but greater than \$250 are left to the discretion of the purchaser.

**B.** All estimated public works contracts of:

- (1)** Less than \$35,000 but greater than \$10,000 require a written RFP and fax/proposals from three contractors.
- (2)** Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from two contractors.
- (3)** Less than \$3,000 but greater than \$500 are left to the discretion of the purchaser.

**C.** Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.

**D.** All information gathered in complying with the procedures of this section shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

**§ 10-4. Award to lowest responsible bidder; best value purchasing.**

- A. The lowest responsible bidder shall be awarded the purchase or public works contract unless the purchaser either prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the low bidder or uses the “best value” option set out below. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.
- B. **Best Value Purchasing.** Pursuant to Section 103(1) of New York’s General Municipal Law, the Town may award certain purchase contracts and contracts for services using the “best value” standard, as follows:
- (1) **Definition.** For purposes of this section, “best value” means the basis for awarding contracts for purchases and services to the offerer that optimizes quality, cost, and efficiency, among responsive and responsible offerers.
  - (2) **Applicability.** The “best value” option may be used for purchase contracts involving an expenditure of more than \$20,000 and contracts for services involving an expenditure of more than \$35,000 but excluding purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the State Labor Law and excluding any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of General Municipal Law § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.
  - (3) **Standards for Best Value.** Goods and services procured and awarded on the basis of best value are those that the Town Board determines will be of the highest quality and most cost-efficient in the long-term. The determination of quality and cost-efficiency shall be based on a objective and quantifiable analysis, which may take into account, the cost of maintenance, proximity to the end user, durability, availability of replacement parts or maintenance contractors, longer product life, quality of craftsmanship, and any other factors deemed relevant by the Town Board.
  - (4) **Documentation.** Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

**§ 10-5. Obtaining required number of proposals.**

A good-faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

**§ 10-6. Exceptions to solicitation and documentation requirements.**

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Emergencies declared by the Town Supervisor and highway-related emergencies declared by the Highway Superintendent.
- B. Sole-source situations where the supplier provides documented verification of being the sole-source provider.
- C. Goods purchased from agencies for the blind or severely handicapped.
- D. Goods purchased from correctional facilities.
- E. Goods purchased from another governmental agency and goods purchased through state or county bid contracts.
- F. Goods purchased at auction.
- G. Goods purchased for less than \$250.
- H. Public works contracts for less than \$500.

**SECTION 3.**

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.**

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 Jesse M. Robbins, aye  
Councilman Todd M. Hanson, aye  
Councilman Kenneth J. Lawton, aye  
Councilman Brett A. Muccheck, aye  
Councilman Richard B. Thor, aye

Supervisor Robbins noted the following reports and correspondence:

Clerk's Monthly Report for March  
Supervisor's Monthly reports for January, February & March on file.  
Planning Board Minutes April 10, 2013.

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

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. 8 from warrant #216 to and including warrant #2255 in the amount of \$25,405.87.

Upon roll call vote, all aye.

Supervisor Robbins moved to accept the minutes of April 1, 2013 which was duly seconded by Councilman Lawton.

All aye.

Councilman Lawton and Councilman Muccheck reported that they will be attending a meeting on Greenway-related initiatives currently underway in the County at Chautauqua Suites on Thursday, April 25<sup>th</sup>.

Councilman Thor reported on his meeting with Terry Linamen from the Board of Public Utilities regarding town district water maps.

Councilman Hanson noted Comprehensive Meeting on April 17<sup>th</sup>.

Upon motion duly made by Supervisor Robbins the meeting adjourned at 7:20 p.m.

All aye.

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Diane M. VanDewark, Town Clerk