

REGULAR MEETING
October 20, 2014

A regular meeting of the Town Board of the Town of Busti was held on October 20, 2014 at 6:45 p.m., at the Busti Lakewood Recreational Center, 9 W. Summit St, Lakewood, New York with the following members present:

Supervisor Jesse M. Robbins
Councilman Richard B. Thor
Councilman Kenneth J. Lawton
Councilman Todd M. Hanson - absent
Councilman Brett A. Muccheck

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: Mary Griffin, Betsy Johnson, Tim Young, David Bargar, Jim Dahlie, Jim Loomis, Edward McCague, Deputy Town Clerk Susan Huffan, Randy Fill, Cara Birrittieri, Nick Bradish, Kyle Voty, Elijah McIntosh, Mike Voty, Michael Volpe, David O. Crandall Jr., Matt Stafford, John Crandall, Jack Knowlton, Kurt Hallberg, Highway Superintendent Melvin Peterson, Busti Lakewood Recreation Director Diana Peterson, and Attorney Joel H. Seachrist.

Residents present were given the opportunity to be heard. Betsy Johnson inquired as to the progress of any decisions regarding the new recreation center. Councilman Thor shared that he and Councilman Hanson met with the ad hoc committee last Wednesday, October 15th at an open meeting; at that time the ad hoc committee presented the councilmen with a 16 page document of recommendation - copies were distributed to the remaining board this evening for their review. Dave Bargar, ad hoc committee representative, stated that three members of the committee were present at the said meeting; the committee presented power point slides along with the multi-page document which included a recommended floor plan for 125 Chautauqua Avenue. Mr. Bargar thanked the councilmen for their time and their future consideration of the recommendation. Councilman Lawton thanked the committee for their time and input; he wanted to acknowledge the proposed floor plan and questioned what the board's plan is for addressing the ad hoc recommendations. Cara Birrittieri voiced her concern regarding the timing of the Community Center closing/reopening and the fear that the programs may commit to other locations if there isn't a quick turn around. Discussion followed.

Supervisor Robbins noted it was 7:00 p.m. and time to open the Public Hearing for Rodney Swanson to renew an existing Special Use Permit to allow him to continue to operate an automobile service and repair shop and body shop at 652 Busti-Sugar Grove Road in the Town of Busti, on a parcel owned by James A. Ellis and David R. Ellis. Upon roll call vote, all aye.

Proof of publication was placed on file.

Supervisor Robbins moved to close the public hearing which was duly seconded by Councilman Lawton: Upon roll call vote, all aye.

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

WHEREAS, Rodney L. Swanson (hereinafter, the "Applicant") has submitted an application to re-new a Special Use Permit that allows him to operate an automobile service and repair shop and body shop at 652 Busti-Sugar Grove Road, on a parcel owned by James A. Ellis and David R. Ellis and designated on the Chautauqua County tax map as Section 437.00, Block 1, Lot 4 (formerly 11-1-9.10), and

WHEREAS, the proposed use 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 short 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 use, and

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby approves Parts I and II of the Environmental Assessment Form, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to complete and sign the Environmental Assessment Form accordingly.

Upon roll call vote, all aye. Carried.

**TOWN OF BUSTI
SPECIAL USE PERMIT #2014-2**

Action of the Board:

To consider the application of Rodney L. Swanson to continue an existing Special Use Permit last renewed in July 2011 to allow him to continue to operate an automobile service and repair shop and body shop at 652 Busti-Sugar Grove Road in the Town of Busti, on a parcel owned by James A. Ellis and David R. Ellis and designated on the Chautauqua County tax map as Section 437.00, Block 1, Lot 4 (formerly 11-1-9.10).

Resolution moved by: Councilman Thor

Seconded by: Councilman Muccheck

WHEREAS, Rodney L. Swanson (hereinafter, the “Applicant”) has requested the renewal of a Special Use Permit authorizing him to continue to operate an automobile service and repair shop and body shop he has operated at 652 Busti-Sugar Grove Road since 2000, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held October 20, 2014 and finds justification to approve the application subject to the qualifications hereinafter set out,

NOW, THEREFORE, BE IT RESOLVED, that the application to renew the Special Use Permit to permit the continued operation of an automobile repair and service shop and body shop at 652 Forest Avenue (the “Use”), be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the Use in accordance with prior applications submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit and any Special Use Permit issued heretofore in relation to the same property, including as follows:

(a) Any signs to be used at the premises shall be limited to the size of the current signs with no flashing lights; and

(b) No more than ten vehicles shall be parked outside the building at any time, excluding those being used employees of the business.

2. The terms, conditions, and requirements of this permit bind and obligate the Applicant, his successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town, except as otherwise herein noted.

3. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.

5. THIS SPECIAL USE PERMIT SHALL BECOME EFFECTIVE AFTER THE APPLICANT APPROVES EACH AND EVERY PROVISION HEREOF AND AGREES TO BE BOUND BY ALL OF THE TERMS HEREIN CONTAINED IN CONSIDERATION OF THE GRANTING OF THIS SPECIAL USE PERMIT.

Dated: October 20, 2014

Vote:	Aye	Nay
<u>Supervisor Robbins</u>	<u> X </u>	<u> </u>
<u>Councilman Muecheck</u>	<u> X </u>	<u> </u>
<u>Councilman Thor</u>	<u> X </u>	<u> </u>
<u>Councilman Lawton</u>	<u> X </u>	<u> </u>
<u>Councilman Hanson - absent</u>	<u> </u>	<u> </u>

* * * * *

The Applicant, Rodney L. Swanson, agrees to abide by all the terms of this Special Use Permit.

Dated: October __, 2014

Dave Bargar noted that communication has served its process very well with the ad hoc committee and the board members. He encouraged the board to continue the line of communication with the community. Councilman Muecheck noted that the board agreed to address any new changes and/or ideas at board meetings ensuring that it would be public knowledge. This will address the communication issue.

Edward McCague, ad hoc member, noted that the Village of Lakewood needs to be approached with the recommendations from the ad hoc committee to verify what they are interested in and what space would be needed if their offices were to move to 125 Chautauqua Avenue. He noted that the floor plan presented by the ad hoc committee has the court in the back and the community center at the front. He encouraged everyone to stop, wait for the final report from the ad hoc committee, and take a good look at that plan; allowing the group to explain the plan. Councilman Thor noted that updates would be made as part of councilman reports of where the town stands with the various projects.

Jim Dahlie reported a follow-up from the previous meeting - 1. The smells from the digester have become considerably less. 2. The smells coming from the brewery, Mr. Dahlie has canvassed the neighbors regarding the smells. All the neighbors could smell the brewery smell, only one could smell the digester smell. He did write a certified letter to Mr. Demink which was received October 14th according to post office records, stating that he believed the brewery was out of compliance with the Town of Busti code due to the fact that the odors from the brewery pass beyond the property line and asked what steps were being made to reduce the smells of the brewing process; what new techniques would be applicable to reduce the smell even further. He did note that the brewing odor has seemed to be reduced.

Supervisor Robbins noted that the odor issue on Erlfrd was fixed; it was not an issue from the brewery but rather a Chautauqua County South & Center Sewer District problem.

Mr. Dahlie asked how the second issue will be addressed in the long term. Supervisor Robbins stated that he did not

ask that question as he was addressing the digester issue immediately.

Tom Vavala thanked Supervisor Robbins and Inspector Swanson for their response. However, he is still concerned about the process. He wants assurance that there will be no addition to the brewery until there is a plan to address the odor issue. Attorney Joel Seachrist stated that every expansion of Southern Tier Brewery Co, Inc. has been brought before the town's Planning Board for approval and then proceeded through the building permit process. Going forward the town will need to determine what odor is acceptable and how that will be evaluated. Supervisor Robbins stated that the Comprehensive Plan Oversight Committee will be going through the Town Code and addressing these issues. Tim Young suggested that Mr. Demink be invited to attend the next board meeting and explain what steps he is taking to address these issues.

Town Clerk, Darlene Nygren noted that she had received information from the Community Foundation on a free continuing education seminar. It will be held on Tuesday, October 28th from 8:30 am – 12:45 pm at the Robert H. Jackson Center, with a luncheon to follow. There will be two sessions: 1. "Tinkering with the Law: A Conversation on First Amendment Rights" and 2. "Do's and Don'ts for Municipal Officials". If any board member is interested in attending they should contact her and she will make the appropriate reservations.

Highway Superintendent Melvin Peterson reported that the bush hog is still out trimming for the 6th week. There are about 13 dangerous trees that will be taken down in the next couple weeks. Work is being done in the shop on a truck in need of repair. The department is getting ready for winter.

The Comprehensive Plan Oversight Committee has been established. Members will be David Paterniti, Linda Anderson, Supervisor Robbins, Councilman Muccheck, Robert Whitman, Tim Young, Todd Saracki, and Don McCord. Supervisor Robbins moved to appoint the committee members as stated, which was duly seconded by Councilman Thor. The purpose of the committee is to implement the suggestions that were made through the Comprehensive Plan.

All aye, carried.

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

RESOLVED, that a public hearing be scheduled on November 3, 2014 at 7:00 p.m. on the 2015 preliminary budget.

All aye, carried.

Supervisor Robbins noted that Town Clerk, Darlene Nygren and bookkeeper Sue Williams will be participating in the Property Tax Cap Review and Tax Freeze Details – Local Governments webinar on October 23, 2014.

Supervisor Robbins moved the following resolution 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, the Public Library Fund, the Drainage District #2 Fund and the Water District #8-South Main Fund for Abstract No. 21 from warrant #751 to and including warrant #791 in the amount of \$104,267.37.

Upon roll call vote, all aye. Carried

Supervisor Robbins moved to accept the minutes of October 6, 2014 which was duly seconded by Councilman Muccheck.

All aye.

Councilman Lawton reported that the LoCo Trail is waiting on a decision for the TAP grant. He noted that there is an event scheduled for Tuesday, October 21st to ride the rail on an old railroad car with foundation representatives that have been approached for donations for the trail.

Tim Young, Busti Hamlet Committee representative, reported that the committee would like to donate three solar LED lights to be placed in the triangle in the hamlet. The lights would be 8 feet tall, all aluminum, and powder coated. He and Randy Sargent, from the hamlet group, would install the lights at no expense to the town.

Supervisor Robbins moved to accept the donation of lights from the Busti Hamlet Committee, which was duly seconded by Councilman Thor.

Upon roll call vote, all aye, carried.

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

RESOLVED, the board will enter Executive Session to discuss contract issues at 7:50 p.m.

Upon roll call vote, all aye.

Councilman Thor moved the following motion, duly seconded by Councilman Muccheck:

RESOLVED, the board close the Executive Session at 9:07 p.m.

Councilman Muccheck moved to adjourn the meeting at 9:08 p.m., which was duly seconded by Councilman Thor.

All aye.

Respectfully Submitted,

Darlene Nygren, Town Clerk