

REGULAR MEETING
October 6, 2014

A regular meeting of the Town Board of the Town of Busti was held on October 6, 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
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: Stephen Sellstrom, Randy Ridgeway, Mary Griffin, David Bargar, Kaie Smith, Jim Dahlie, Tom Turner, Jim Loomis, Tom & Paula Vavala, Bruce & Joanie Erickson, Judy Schultz, Rosemary Andrews, Tillie Solomonson, Bea Solomonson, Terry Turner, Rick Turner, Lorie Robbins, Phil Cammarata, Paul DeFrisco, Ted McCague, Nick Bradish, Cheryl Johnson, Lou Drago – Lakewood Kiwanis, Inspection Officer Jeff Swanson, Highway Superintendent Melvin Peterson, Busti Lakewood Recreation Director Diana Peterson, Lakewood Busti Police Chief John Bentley, Post Journal Reporter Mallory Diefenbach, and Attorney Joel H. Seachrist.

Residents present were given the opportunity to be heard. Tom Vavala, 2113 Big Tree Rd., spoke in regards to the current odor issue at Southern Tier Brewing Co., Inc. He stated that the odor became apparent around mid-August and that at times it is unbearable. He has spoken with the Chautauqua County Health Department employee by the name of Jeff, Southern Tier Brewing Co., Inc owner Phin Demink, and Inspection Officer Jeff Swanson about the odor. Mr. Demink stated that they were having problems with the new system. Mr. Vavala, also spoke with Marcia Lucarati from Buffalo, DEC, who was at the brewery today. Mr. Vavala would like to be assured that someone is working on a remedy for the issue. Supervisor Robbins responded and stated that the town has contacted DEC, who stopped the brewery from using their own treatment system and recommended that they use the Chautauqua County South & Center Sewer District until there is a solution to the current odor problem. Jim Dahlie, 2094 Big Tree Rd., made two points in regard to the Southern Tier Brewing Co Inc odor issue. First, he explained the chemical reaction of organic matter that can cause such an odor. Mr. Dahlie monitored the odor usually two times a day, after Labor Day, and ranked it between a 1(least) – 4(greatest), the majority of the time it was at 3 or 4. Ms. Lucarati had stopped at his house and stated that this was the first that she had been to the brewery and she knew nothing of a permit until this summer when she received an application from Southern Tier Brewing Co. Inc. for a permit for an Air Facility Registration Certificate.

Secondly, he stated that according to Town of Busti guidelines there are to be no smells in the Industrial District. He noted Town Code §405-20. I – Industrial District G All permitted uses and activities must be conducted in an enclosed building in such a manner that no fire hazard, radio activity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution or glare may be detected beyond the boundary lines upon which the facility is located. Storage of new materials, component parts, finished products and waste material must be within an enclosed building.

Mr. Dahlie stated that it was his understanding then that there shouldn't be any smells, whether that is sewer gas, hops, barley, sugar and yeast coming from any facility in the Industrial District.

Supervisor Robbins noted it was 7:00 p.m. and time to open the Public Hearing. Supervisor Robbins moved to solicit public comments on the sale of the Busti-Lakewood Recreation Center located at 9 W. Summit Avenue in Lakewood which was duly seconded by Councilman Thor.

Upon roll call vote, all aye.

Proof of publication was placed on file.

Dave Bargar, Busti Advisory Committee, noted that the committee is in favor of the sale of 9 W. Summit St. due the expenses of maintaining the Quonset Hut; the sale would put the property back on the tax roll, would be generate revenue and the Kiwanis Club of Lakewood intent to donate 20% of their proceeds immediately back to the Town of Busti to offset the cost associated with the building of a new community center. A sub committee for the Recreation Committee has put together recommendations for the future of the Recreation/Community Center which were handed out to the Supervisor and Councilmen for their consideration. Tillie Solomonson asked to have Mr. Turner share what his plans are for use of the building. Tom Turner stated that he and his wife, Michelle, have been looking

for a location for an upscale lounge and a brick oven pizzeria with entertainment. At this time no plans have been designed. The Turners plan on maintaining the Quonset hut appearance with necessary renovations that will be needed to maintain the business. It will be a small business with approximately 2 or 3 employees at a time. Councilman Thor moved to close the public hearing, which was duly seconded by Councilman Hanson. All aye. Carried.

Mr. Dahlie added that it was important that the Southern Tier Brewing Co., Inc. should be held accountable to follow the rules as other residents have been required to do.

Phil Cammarata, 6 Erlfrd Dr., has had odors from the brewery for two years at his residence. He has called Chautauqua County South & Center and was told that a fix was forthcoming. Now that the brewery has their own system it is no better. The smell seems to be coming from the manholes and it comes in waves three to four times a day.

Stephen Sellstrom, attorney for Southern Tier Brewing Co., Inc., stated that the brewery is located in the Industrial Park and operating consistent with the commercial purpose of the Industrial Park. They have been good stewards of the property; they provide jobs for the community and have become a tourist destination. They are sympathetic to the situation and the complaints from surrounding neighbors. The Deminks, business owners, have spent money to try to mitigate the odors. They have multiple customers and people come to their facility without a complaint. It is an ongoing process; they are trying to address the complaints of the neighbors with a timeline of approximately eight to ten weeks to further mitigate the waste water treatment facility odors. At this time the brewery has begun to use the Chautauqua County South & Center Sewer district.

Inspector Jeff Swanson, noted that he has realized that the issue is the responsibility of DEC. He confirmed that the brewery has returned to using Chautauqua County South & Center district. He explained the process of emptying the tanks of the solids that are currently in them.

Attorney Joel Seachrist stated that the situation be monitored for the next week to ten days. Mr. Swanson should stay in contact with the person from the DEC. He encouraged the residents to stay in contact with the town as to further complaints. The town should contact Chautauqua County South & Center and request that manholes be lined to alleviate some of the odor.

Town Clerk, Darlene Nygren, reported that she received the tentative 2015 budget from the Supervisor and copies have been given to the Councilmen for their review.

Chief John Bentley reported 9,600 incidents year to date, which is approximately 1,600 ahead of last year. Residents are encouraged to keep homes locked; there is an ongoing problem with home burglaries especially in the daytime. The department received a \$5,300 Traffic Safety grant from New York State. In the past two weeks the department received \$1,500 in donations for the Canine Unit.

Highway Superintendent Melvin Peterson reported that the Highway Department has blacktopped a one mile section of Orr Street, three streets in Lakewood and a mile in Kiantone. There is one highway employee that is still mowing the roadsides with the excavator and will be moving on to Cowing & Mead roads. Last Saturday there were some limbs that came down, the department has been removing and cutting up those limbs. There is no update on the bids for the tree removal for the cemetery. The last of the cheaper salt has been delivered.

Supervisor Robbins noted that he will have the names for the Comprehensive Plan Oversight Committee at the next Town Board meeting.

Inspection Officer Jeff Swanson reported that Calamar project has broke ground.

Supervisor Robbins moved to accept the amended letter from the Kiwanis Club of Lakewood to release the restrictive covenant contained in the deed for 9 W. Summit Ave., Lakewood, which was duly seconded by Councilman Thor. Lou Drago from the Kiwanis club of Lakewood noted that what the club wanted was recognition that the past and new building have been partially funded by the efforts of the club and the continuing of the members service to the community. All aye. Carried.

In regards to the sale of 9 W. Summit St., Lakewood, a negative SEQR was completed at the September 15, 2014

meeting.

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

RESOLUTION AUTHORIZING SALE OF SURPLUS PROPERTY AT 7-9 WEST SUMMIT AVENUE TO MICHELLE TURNER FOR \$107,000, SUBJECT TO PERMISSIVE REFERENDUM

WHEREAS, the Town owns and has used the property at 7-9 West Summit Avenue, Lakewood, New York, designated on the official tax map as Section 368.19, Block 2, Lots 8, 9, 10, and 48, as and for a recreation center, and

WHEREAS, the Town has purchased a nearby building and will develop space therein as a recreation facility so that it is no longer necessary for the Town to retain the property at 7-9 West Summit Avenue, and

WHEREAS, Michelle Turner has proposed to purchase 7-9 West Summit Avenue for \$107,000, and

WHEREAS, the sale of a town facility like 7-9 West Summit Avenue is not subject to the Town's policy regarding the sale of town-owned property, and

WHEREAS, the Town Board has determined that the proposed sale is an Unlisted action for purposes of the State Environmental Quality Review Act, has prepared a short Environmental Assessment Form, and has duly adopted a Negative Declaration finding that the proposed sale will not have significant adverse environmental impacts

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Busti, in regular session duly convened, does hereby authorize and direct the Supervisor to negotiate and sign a Contract of Sale, and to execute and deliver to Michelle Turner such instruments as are necessary to convey the said property for \$107,000, all being subject to permissive referendum as permitted by law.

Upon roll call vote, all aye. Carried.

Supervisor Robbins moved the following resolution, which was duly seconded by Brett Muecheck:

RESOLVED, Supervisor Robbins be authorized to submit an application for the \$50,000 Capital Improvement grant to Senator Catharine Young.

Upon roll call vote, all aye. Carried.

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

RESOLVED, Supervisor Robbins be authorized to sign a lease agreement with Extreme Marine for the cold storage area located at 125 Chautauqua Avenue, Lakewood effective November 1, 2014 through April 1, 2015.

Upon roll call vote, all aye. Carried.

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

RESOLVED, notifications be mailed to residents for unpaid water or garbage accounts for 2014 levy.

Upon roll call vote, all aye. Carried.

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

RESOLVED, that a public hearing be scheduled on October 20, 2014 at 7:00 p.m. on the application of Rodney L. Swanson to renew an existing Special Use permit to use existing building for auto service and repair, body shop. The property is owned by David R. Ellis and James A. Ellis and is known as Section 43.00 Block 1 Lot 4 of the official tax map of the Town of Busti. Property is in the Highway Commercial District.

Upon roll call vote, all aye. Carried.

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

RESOLVED, to authorize any Town Board, Planning Board, Zoning Board members, as well as Town Clerk, Deputy Town Clerk, and Code Enforcement Officer to attend Southern Tier West Fall Planning and Zoning Conference, November 6th at Chautauqua Suites, Mayville, at the cost of \$40 per person.

Upon roll call vote, all aye. Carried.

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

RESOVED, Town Clerk, Darlene Nygren be authorized to attend NYS Retirement System Employer Education Seminar on October 30th in Salamanca, NY.
Upon roll call vote, all aye. Carried.

Councilman Lawton reported that the TAP grant decision will be received soon. The LoCo Trail committee is working on matching funds for the grant. They have reached out to many of the area foundations with a letter asking if they can apply for funds. A couple of the applications are due in the next three weeks. The Town of Busti is the sponsor for these applications and needs to authorize the committee to apply for grants on behalf of the Town of Busti to any of the area local foundations for 2014-15. The grants would be submitted as the Town of Busti being the applicant.

Councilman Lawton moved the following resolution, which was duly seconded by Councilman Muccheck:

RESOLVED, that the LoCo Trail committee be authorized to apply for grants on behalf of the Town of Busti to any of the area local foundations for the years 2014 & 2015. The Town of Busti would be the applicant on the grant applications.

Recreation Director Diana Peterson reported that she has been meeting with the ad hoc committee the idea of using Facebook for advertising and getting the word out of programs that are being offered.

Councilman Lawton moved the following motion, which was duly seconded by Councilman Muccheck:

RESOLVED, that the Recreation Director be authorized to create a Facebook page for the Recreation Center.

Upon roll call vote, all aye. Carried.

Discussion followed regarding the town finding alternative locations that the current groups utilizing the Recreation Center could meet on a temporary basis until a new community center is completed. Councilman Lawton questioned who the Community Center Committee is. Dave Bargar explained that it is a spin off of the ad hoc committee and is a group of citizens who had an interest and looked at the history of the recreation center, what the current situation is, and then work towards modeling what the new community center may look like at 125 Chautauqua Avenue. Supervisor Robbins stated that the board should read through the recommendations from the Community Center Committee, draw up some notes and address it at a later date. Councilman Hanson and Thor will facilitate what the next step should be. They will look at finances; meet with the rec-sub committee, the Recreation Director, and a representative from each group and get feedback directly from them. Councilman Thor stated that it is the intent of the board to move forward as soon as the sale is approved and put a plan in place. The recreation center is phase 3, the court is phase 2; which is moving forward with quotes and waiting on the result of the grant application.

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. 20 from warrant #698 to and including warrant #750 in the amount of \$75,037.93.

Upon roll call vote, all aye. Carried

Supervisor Robbins moved to accept the minutes of September 15 & 22, 2014 which was duly seconded by Councilman Thor.

All aye.

Councilman Thor reported that attended the Mayor/Supervisors monthly meeting. Mr. Geist from the county gave a presentation on the county land bank system that has been set up and operating for approximately the last couple years. They are purchasing buildings that are up for tax foreclosure, having contractors bid and renovating them. The buildings are then sold and generating revenue from the sale. There is also a move to investigate properties that have been foreclosed on and banks own and the banks are not maintaining the property, as well investigating buildings that are in need of demolition and possible offering assistance in that process.

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

RESOLVED, the board will enter Executive Session to discuss building contracts at 8:28 p.m.

All aye.

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

RESOLVED, the board close the Executive Session at 9:19p.m.

All aye.

Councilman Hanson moved to adjourn the meeting at 9:20 p.m., which was duly seconded by Councilman Lawton.
All aye.

Respectfully Submitted,

Darlene Nygren, Town Clerk