

REGULAR MEETING

June 18, 2007

A regular meeting of the Town Board of the Town of Busti was held on June 18, 2007 at 6:45 p.m., at the Town of Busti Administration Building, 121 Chautauqua Avenue, Lakewood, New York, with the following members present:

Supervisor Kathleen A. Sullivan
Councilman Lyle T. Hajdu
Councilman Richard a. Sanders
Councilman Paul R. Hazzard
Councilwoman Marsha L. Hern

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

Supervisor Sullivan noted e-mail from Colten Swan volunteering for cleanup on Vukote and Lakeside Canals which will be referred to Chautauqua Lake Association and John Jablonski with Chautauqua Watershed Association.

Supervisor Sullivan offered the following motion which was duly seconded by Councilman Sanders:

RESOLVED, that a public hearing be held on July 16th at 7:00 p.m. for Local Law No. 1 of 2007 "A Local Law to Adopt an Unsafe Buildings and Collapsed Structure Law".

Upon roll call vote, all aye.

Supervisor Sullivan offered the following motion which was duly seconded by Councilman Hazzard:

RESOLVED, that the following employees be hired for the Summer Youth Program:

Nicole Frangione	Playground Supervisor	\$7.75/hr.
Amanda Frangione	Counselor	7.30/hr.
Tara Flinchbaugh	Counselor	7.25/hr.
Lara Mikoleit	Counselor	7.15/hr.
Nick Madden	Counselor	7.15/hr.
New	Tennis instructor	7.15/hr.

The playground program is a 9 week program that runs 5 days/wk from 8am-5pm for youth ages 6 to 14 years old. The program will start Monday, June 25th and run through Friday, August 24th.

Upon roll call vote, all aye.

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

RESOLVED, that the town apply for 2007 Justice Court Assistance Grant Program for court equipment security.

Upon roll call vote, all aye.

Town Clerk Diane M. VanDewark and Highway Superintendent Eugene A. Johnson reported on trees falling down in the Vukote Canal District. Discussion followed regarding this, no action was taken.

Supervisor Sullivan noted it was 7:00 p.m. and time to open the public hearing for South Main Street water extension project which was duly seconded by Councilman Sanders:
Upon roll call vote, all aye.

Proof of publication was placed on file.

Several comments made by residents on Orr Street were:

Timothy Wirsen, 1575 South Main, go ahead with the project since grant money is available.

Timothy Sagurney, 1597 South Main Street, questioned on amount he would be paying based on assessment. He has a good well.

Robert Taber, 1747 South Main Street, he doesn't want the water the line to go by his house, against it.

Barb Griswold, 1747 South Main Street, the project sounds good with grant money she feels she is being pushed into. She is not in favor of it.

Richard Slater, 1711 South Main Street, he questions the construction along the road; he is in favor of it.

Michelle McIntyre, 1498 Orr Street, owns the corner of the Labarte property. She noted the ph level is 11.2 at her greenhouse.

Angelo & Diana Terrano, 1463 & 1471 South Main Street, good opportunity, 60% funded.

Donald Guarnieri, 1769 South Main Street, concerned about having to pay for it, against it.

Dan Nelson, 1754 South Main Street, what are his options on being on the Kiantone side and hooking up to it.

Discussion followed regarding the project costs and bonding the project with Engineer Rex Tolman and Attorney Joel Seachrist.

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

Attorney Joel Seachrist presented the negative declaration and bond resolution authorizing the issuance of \$202,650 bonds for the South Main Street water extension project.

Councilman Hazzard offered the following negative declaration for the South Main Street Extension water project which was duly seconded by Councilman Sanders:

WHEREAS, the Town of Busti desires to make certain improvements within Water District #5 and Water District #7, including the installation of 8" diameter water main on South Main Street Extension for approximately 4,200 linear feet, and

WHEREAS, the proposed improvements have 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 improvements, and

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

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

Upon roll call vote, all aye.

The following public interest resolution for the South Main Street water extension project was offered by Councilman Hazzard, who moved its adoption, seconded by Supervisor Sullivan, to-wit:

RESOLUTION DATED JUNE 18, 2007.

A RESOLUTION MAKING CERTAIN DETERMINATIONS WITH RESPECT TO A PROPOSED INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE TOWN OF BUSTI ERNEST LEVIN WATER DISTRICT NO. 5 AND THE TOWN OF BUSTI HELEN P. ANDREWS WATER DISTRICT NO. 7 IN THE TOWN OF BUSTI, CHAUTAUQUA COUNTY, NEW YORK.

WHEREAS, the Town Board of the Town of Busti, Chautauqua County, New York, has had under consideration the joint increase and improvement of the facilities of Water District No. 5 and Water District No. 7, in said Town (together, the "Districts"), consisting of the construction of approximately 4,200 feet of water Main along South

Main Street, beginning at the City of Jamestown boundary, and other improvements to the water system of said Districts, including land or rights-in-land, original furnishings, equipment, machinery, apparatus and other costs incidental thereto; and

WHEREAS, said capital project has been determined to be an Unlisted Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, the Town Board has determined will not result in any significant environmental effects; and

WHEREAS, a map, plan and report and estimate of cost are on file in the office of the Town Clerk for public inspection; and

WHEREAS, the maximum estimated cost of such increase and improvement is \$202,650, which is expected to be further reduced to \$87,650 when grant funds and private donations are applied; and

WHEREAS, said Town Board duly called a public hearing to consider the aforesaid increase and improvement of facilities and the estimate of cost relating thereto, in order to hear all persons interested in the subject thereof, concerning the same; and

WHEREAS, notice of such public hearing was duly published and posted in the manner and within the time prescribed by Section 202-b of the Town Law, and proof of such publication and posting has been duly presented to said Town Board; and

WHEREAS, such public hearing was duly held at the time and place set forth in the notice of such public hearing, at which all persons desiring to be heard were duly heard; and

WHEREAS, said Town Board has duly considered said increase and improvement;
NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Busti, Chautauqua County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improve the facilities of the Town of Busti Ernest Levin Water District No. 5 and the Town of Busti Helen P. Andrews Water District No. 7 in the manner described in the preambles hereof, at a maximum estimated cost of \$202,650.

Section 2. The Town Clerk is hereby authorized and directed to cause a certified copy of this resolution to be duly recorded in the office of the Clerk of Chautauqua County, New York, within ten days after the adoption by this Town Board.

Section 3. This resolution shall take effect immediately.
The question of the adoption of the foregoing resolution was duly put to a vote on roll, which resulted as follows:

<u>Supervisor Kathleen A. Sullivan</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Lyle T. Hajdu</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Paul R. Hazzard</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Richard A. Sanders</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilwoman Marsha L. Hern</u>	<u>VOTING</u>	<u>aye</u>

The resolution was thereupon declared duly adopted.

Supervisor Sullivan offered the following bond resolution for South Main Street water

extension project which was duly seconded by Councilwoman Marsha Hern:

BOND RESOLUTION DATED JUNE 18, 2007.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$202,650 BONDS OF THE TOWN OF BUSTI, CHAUTAUQUA COUNTY, NEW YORK, TO PAY THE COST OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE TOWN OF BUSTI ERNEST LEVIN WATER DISTRICT NO. 5 AND THE TOWN OF BUSTI HELEN P. ANDREWS WATER DISTRICT NO. 7 IN SAID TOWN.

WHEREAS, pursuant to proceedings heretofore duly had and taken in accordance with the provisions of Section 202-b of the Town Law, and more particularly a resolution dated June 18, 2007, said Town Board has determined it to be in the public interest to increase and improve the facilities of the Town of Busti Ernest Levin Water District No. 5 and the Town of Busti Helen P. Andrews Water District No. 7 in the Town of Busti, Chautauqua County, New York, consisting of the construction of improvements to the water system of said Districts, including land or rights-in-land, original furnishings, equipment, machinery, apparatus and other costs incidental thereto; and

WHEREAS, it is now desired to provide funding for such capital project; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Busti, Chautauqua County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the increase and improvement of the facilities of the Town of Busti Ernest Levin Water District No. 5 and the Town of Busti Helen P. Andrews Water District No. 7 in the Town of Busti, Chautauqua County, New York, consisting of the construction of improvements to the water system of said Districts, including land or rights-in-land, original furnishings, equipment, machinery, apparatus and other costs incidental thereto, there are hereby authorized to be issued \$202,650 bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$202,650, and that the plan for the financing thereof is by the issuance of the \$202,650 bonds of said Town herein authorized, to later be reduced by the application of grant funds and private donations.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Busti, Chautauqua County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. There shall annually be assessed upon the taxable real property in said Town of Busti Ernest Levin Water District No. 5 and the Town of Busti Helen P. Andrews Water District No. 7 in the manner provided by law, an amount sufficient to pay said principal and interest as the same become due and payable, but if not paid from such source, all the taxable real property within said Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said bonds.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law.

Section 8. The Supervisor is hereby further authorized, at his or her sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Health and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and, or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 9. The intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and, or notes without resorting to further action of this Town Board.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 12. This resolution which takes effect immediately shall be published in summary in the *Jamestown Post Journal* which is hereby designated as the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<u>Supervisor Kathleen A. Sullivan</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Lyle T. Hajdu</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Paul R. Hazzard</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilman Richard A. Sanders</u>	<u>VOTING</u>	<u>aye</u>
<u>Councilwoman Marsha L. Hern</u>	<u>VOTING</u>	<u>aye</u>

The resolution was thereupon declared duly adopted.

Chief John Bentley Reported on Lakewood-Busti police investigations

Highway Superintendent Eugene A. Johnson reported on highway activities. Discussion followed regarding letters from residents on Keller Road and signs to be installed for "Children at Play". The police department will monitor – speed limit cannot be lower than 30 mph.

Councilman Hazzard offered the following motion which was duly seconded by Councilman Hajdu:

RESOLVED, that the town highway department be the deferred builders for the South Main Street Extension water project with funding being available which will benefit the town.

Upon roll call vote, all aye.

Supervisor Sullivan noted the following reports & correspondence:

2007 Busti Grievance Day Report

Orr Street Pump Station and Other Projects: copies: Tolman Engineering, PLLC letter dated November 14, 2006. Memorandum and Invoice from Jamestown BPU, Randy Peterson's e-mail documenting additional work – tabled.

Building applications permit fees – tabled.

Property maintenance letter to be mailed out to residents in the town.

NYS Department of Environmental Conservation information on third part in a three year water week series.

Planning & Zoning Summer Schools for 2007

Supervisor Sullivan offered the following motion which was duly seconded by Councilman Hajdu:

RESOLVED, that supervisor Sullivan be authorized and directed to pay the

presented General Fund, Highway Fund, Joint Recreation and Hazeltine Public Library bills for Abstract No. 12 for warrant #416 to and including #444 in the amount of \$84,016.64.

Upon roll call vote, all aye.

Upon motion duly made by Supervisor Sullivan the meeting adjourned at 8:25 p.m.

Diane M. VanDewark, Town Clerk

