

REGULAR MEETING  
June 21, 2010

A regular meeting of the Town Board of the Town of Busti was held on June 21, 2010 at 6:45 p.m., at the Town Administration Building, 121 Chautauqua Avenue, Lakewood, New York with the following members present:

Supervisor Kathleen A. Sullivan  
Councilman Jessie M. Robbins  
Councilwoman Marsha L. Hern  
Councilman Kenneth J. Lawton  
Councilman Richard A. Sanders - absent

Supervisor Sullivan 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, Dan Butera, Highway Superintendent Melvin J. Peterson, Attorney Joel H. Seachrist and Lakewood-Busti Police Chief John Bentley.

Dan Butera, 2844 Garfield Road, appeared before the board regarding proposed retention pond behind his property. This was referred to Councilman Robbins and Highway Superintendent Melvin J. Peterson.

Angelo and Diane Terrano thanked Councilman Robbins for the dedication ceremony.

Highway Superintendent Melvin J. Peterson thanked the board for allowing him to attend highway school. He reported that the Shadyside Road Debris Basin/constructed wetland project is completed.

Lakewood-Busti Police Chief John Bentley reported 4,628 incidents to date.

Attorney Joel H. Seachrist will look into the town ownership of the Busti Triangle.

Supervisor noted the following agreement with the Busti Sewer District No. 1 and the Family Church of the Southern Tier:

TOWN OF BUSTI, CHAUTAUQUA COUNTY, NEW YORK	AGREEMENT BETWEEN THE TOWN OF BUSTI SEWER DISTRICT NO. 1 AND THE FAMILY CHURCH OF THE SOUTHERN TIER, AN OUT OF DISTRICT USER, RELATING TO THE PROVISION OF WASTEWATER COLLECTION SERVICES
---	--

This AGREEMENT, made this 21st day of June 2010, by and between the Town of Busti Sewer District No. 1 (the "DISTRICT"), a municipality organized and existing pursuant and to the laws of the State of New York, whose principal office is located at

121 Chautauqua Avenue, Lakewood, New York, and an out-of-District user, the Family Church of the Southern Tier, 3105 Garfield Road, within the Town of Busti (the "USER"), witnesseth

WHEREAS, the DISTRICT currently collects and transports wastewater produced in the DISTRICT to the wastewater treatment plant and collection system operated by the City of Jamestown's Board of Public Utilities, and

WHEREAS, the USER has constructed a new auditorium facility on a parcel designated as Section 403.08, Block 2, Lots 2 and 49, being situated just outside the DISTRICT, and has requested permission to connect to the DISTRICT's municipal wastewater collection system pursuant to Section 198(f) of the Town Law, and

WHEREAS, the Town Board constituting the Sewer District Board, pursuant to a resolution adopted at a regular meeting of the Town Board held on April 19, 2010, has authorized the Supervisor to execute this AGREEMENT on behalf of the DISTRICT; and

NOW, THEREFORE, the parties hereto, for the consideration hereinafter named, do agree as follow:

#### ARTICLE I – SCOPE OF WORK

A. The project shall be the design and installation of a duplex grinder pump system, forcemain, and gravity sewer line to convey sewage from the church facility of the USER to the existing collection system in the DISTRICT in accordance with the Town's Sewer Law.

B. The system shall consist of approximately 425 linear feet of six-inch gravity sewer line, an 8,000 gallon concrete tank, a duplex grinder pump system (installed within the 8,000 gallon concrete tank), a cleanout, and approximately 970 feet of 2-inch forcemain. The wastewater would flow from the church facility of the USER by gravity to the concrete tank where it would be stored, then pumped from the tank to the eight-inch gravity sewer main on Park Meadow Drive, over the Walrod property, between 2:00 a.m and 4:00 a.m. each day at a proposed rate of approximately 60 gallons per minute.

C. The project shall be built in accordance with the following documents provided to the Town Engineer by Potter Engineering and Jay Eckert Construction, except as they hereafter may be modified at the request of the Town Engineer:

- (1) Sanitary Sewer Report dated March 23, 2010;
- (2) Three drawings (A-100, A-101 and A-103) dated March 20, 2010;
- (3) Easement Agreement dated March 30, 2010;
- (4) Chautauqua County Department of Health Letter dated March 23, 2010;
- (5) Jamestown BPU letter dated February 23, 2010; and
- (6) Electronic mail from Paul Potter, P.E. dated April 1, 2010.

D. The TOWN ENGINEER shall certify that the USER has complied with the following conditions before the USER may connect to the DISTRICT system:

(1) The proposed gravity sewer and 8,000 gallon tank shall be tested for the infiltration/exfiltration in conformance with the Ten State Standards and Paul Potter, P.E., shall submit to the Town a letter certifying that the results of the test were adequate;

(2) The forcemain will be pressure tested to at least 60 p.s.i. for two (2) hours and Paul Potter, P.E. shall submit to the Town a letter certifying that the result of the pressure test was adequate (i.e. no pressure drop);

(3) The pump control shall contain a timing device that allows wastewater to be pumped only between the hours of 2:00 a.m. and 4:00 a.m., unless the high-level float is tripped;

(4) The USER shall install a forcemain cleanout on the proposed forcemain and the forcemain termination shall include a drop and cleanout similar to that depicted in the drawings attached as Exhibit A; and

(5) The USER shall submit to the Town a drawing depicting the easement on the Walrod property and shall submit a letter signed by the Walrods stating that they agreed to the horizontal directional drilling plan proposed by the USER.

## ARTICLE II- PAYMENT

A. The USER shall be responsible for paying all costs associated with the work to be performed by the USER pursuant to ARTICLE I hereof.

B. The USER shall also be responsible for reimbursing the DISTRICT for its reasonable expenses in performing, or having performed, the engineering services necessary to review the design described in Article I of this Agreement, along with the legal services required to put the town in a position to sign this AGREEMENT, in a combined amount not to exceed \$5,000.00.

C. The USER shall also be responsible to pay as a one-time connection fee to the DISTRICT the amount of \$30,000.00, which amount shall be held in and used as part of the DISTRICT's operations and maintenance fund, and which shall be paid in twelve (12) monthly installments of \$2,500.00, payable on the fifteenth of each month beginning June 15, 2010.

D. In addition, following the commencement of wastewater service to the USER, the USER shall pay the DISTRICT annually wastewater service charges in the amount of \$2,500.00, which amount shall escalate 3%, or \$75.00, per year for so long as the USER receives wastewater service from the DISTRICT.

E. The DISTRICT reserves the right to in the future establish an alternate rate structure for out-of-district users and agrees that if the USER is switched to such a new structure, the rates charged to the USER for wastewater service shall not exceed the rate that (1) would otherwise be applicable in the year the alternative structure is implemented

and (2) would apply to other out-of-district users of like quantities of wastewater, as those rates may from time to time be amended.

### ARTICLE III – OWNERSHIP, OPERATION AND MAINTENANCE OF GRINDER PUMP AND PIPING

Upon completion and acceptance by the DISTRICT of the duplex grinder pump unit and main, title thereto shall remain with the USER except that the USER agrees to perform all ordinary and customary maintenance of the system and to perform such other maintenance as may be requested from time to time by the Town. The DISTRICT reserves the right to disconnect USER temporarily or terminate this AGREEMENT altogether pursuant to Article V if USER fails to maintain its system in good repair.

### ARTICLE IV – PROVISION OF WASTEWATER SERVICES

Upon completion of the system as described above, the DISTRICT shall furnish wastewater collection services to the USER for so long as the USER deems necessary. The DISTRICT warrants that: (1) the DISTRICT's collection system has the capacity to transport the wastewater discharges produced by USER as set forth in ARTICLE I hereof and (2) the DISTRICT is legally empowered to provide wastewater collection services to the USER as an out-of-district USER. The DISTRICT agrees that the USER shall be liable only for wastewater service charges as provided in ARTICLE II hereto, and not for any other charges or fees including, but not limited, to any taxes or assessments.

### ARTICLE V – CANCELLATION

Each party hereto shall have the right to cancel this AGREEMENT as it applies to the provision of wastewater collection services upon 120 days written notice to the other party. USER shall not be entitled to the refund of the connection fee no matter when this AGREEMENT is terminated, but shall be entitled to a pro-rated refund of the annual wastewater service charge.

### ARTICLE VI – COMPLIANCE WITH LAWS

The parties shall comply with all federal, state and local statutes, rules, regulations, orders and ordinances applicable to the performance of this AGREEMENT.

### ARTICLE VII – MERGER CLAUSE AND MODIFICATIONS

This AGREEMENT, with its exhibits, contains the entire agreement between the USER and the DISTRICT, and any agreement hereafter made between the USER and the DISTRICT shall be ineffective to change this AGREEMENT, unless such agreement is signed by the authorized representatives of the USER and the DISTRICT.

### ARTICLE VIII – ADDITIONAL PROVISIONS

This AGREEMENT shall be binding upon the USER, its successors and assigns, and shall be incorporated by reference into any deed by USER transferring its title in the premises to a third party.

IN WITNESS WHEREOF, each party has caused this AGREEMENT to be signed by its duly authorized officer on the day first above written.

By: Family Church of Southern Tier

By: Town of Busti

Upon roll call vote, all aye.

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

RESOLVED, that the Vukote Drainage District bond interest payment of \$4,484.40 be made retroactive June 15, 2010.

Upon roll call vote, all aye.

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

RESOLVED, that the town apply for a \$40,000 grant for the 2011 Occupancy/Bed Tax Lakes and Waterways Version to install a dry swale/stormwater storage structure along the north portion of Dr. Peter Robinson's property on Winch Road.

Upon roll call vote, all aye.

Supervisor Sullivan offered the following resolution for Maplecrest Avenue which was duly seconded by Councilwoman Hern:

WHEREAS, Kelly SanFilippo has offered to the Town of Busti a 50' by 250' section of her property within the Town that abuts Maplecrest Avenue at its current terminus at the Village of Lakewood boundary for dedication to the Town for highway purposes, and

WHEREAS, the parent parcel for said section is designated on the official tax map of Chautauqua County as Section 285.04, Block 1, Lot 26.1, and

WHEREAS, the Town's Highway Superintendent has recommended acceptance of said parcel for dedication for highway purposes, and

WHEREAS, the applicant has proposed a deed for the said road which is acceptable to the Town Attorney as to form

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Busti in regular session duly convened that the Town (1) agrees to accept the proposed deed of dedication of the said parcel for highway purposes, to be known within the Town as Maplecrest Avenue, and (2) authorizes the Town Supervisor to execute any and all documents necessary to complete the conveyance upon the delivery of the deed, and (3) authorizes the Town Attorney to record and pay the costs of recording of the same in the Chautauqua County Clerk's Office.

Upon roll call vote, all aye.

Supervisor Sullivan noted letter from Rebecca Anderson on the purchase of town property in Cottage Park which was tabled for further review.

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

RESOLVED, that June 19<sup>th</sup> be declared Busti/Lakewood Firemen & Auxiliary Member Day each year.

Upon roll call vote, all aye.

Supervisor Sullivan noted the following reports and correspondence:

Assessor's Report for Busti Grievance Day, Thursday, May 27, 2010.

Chips Funding for SFY 2010-11 enacted June 7, 2010.

Supervisor noted the following bids received on June 19<sup>th</sup> 12:00 Noon for highway road materials.

Russell Standard Corporation CRS2 \$1.769 CRS2P \$1.889

Midland Asphalt Materials Inc. CRS2 1.80 CRS2P \$1.889

Suit Kote Corporation CRS2 1.523 CRS2P \$1.923

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

RESOLVED, that upon the recommendation of Highway Superintendent Melvin J. Peterson the town accept the bid from Russell Standard Corporation for CRS2P 1.889.

Upon roll call vote, all aye.

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

RESOLVED, that upon the recommendation of Highway Superintendent Melvin J. Peterson the town accept the bid from Suit Kote Corporation for CRS2 1.523 and all other county bids for road materials.

Upon roll call vote, all aye.

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

RESOLVED, that Supervisor Sullivan be authorized and directed to pay the presented General Fund, Highway Fund, Joint Recreation Fund and the Hazeltine Public Library for Abstract No. 11 from warrant #403 to and including #447 in the amount of \$50,601.23.

Upon motion made by Supervisor Sullivan the meeting adjourned at 7:25 p.m.

---

Diane M. VanDewark, Town Clerk

