

REGULAR MEETING
May 2, 2011

A regular meeting of the Town Board of the Town of Busti was held on May 2, 2011 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 Jesse M. Robbins
Councilwoman Marsha L. Hern
Councilman Richard A. Sanders
Councilman Kenneth J. Lawton

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, Lorie Robbins, Lakewood-Busti Police Chief John Bentley, Assessor Randall G. Holcomb and Highway Superintendent Melvin J. Peterson.

Supervisor Sullivan noted letter received from Jamestown Board of Public Utilities stating that their next step is to meet with the Town of Kiantone Board.

Highway Superintendent Peterson stated that he received a phone call from Cheryl Burns, 1230 Big Tree Road who is doing road side cleanup on Big Tree Road from Cowing Road to Mead Road. Town Clerk Diane M. VanDewark will send her a letter of thanks on behalf of the town board.

Lakewood-Busti Police Chief John Bentley reported 762 incidents for April. He also stated that he has received a grant for \$20,279 from United States Department of Justice administrated by the State of New York replacing their live scan finger printing unit.

Assessor Randall G. Holcomb along with the town board reviewed a town owned property listing. A committee of Supervisor Sullivan and Councilman Sanders will visit the properties and report back to the board.

Highway Superintendent bid for asphalt.

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

The Town Board of Town of Busti, upon recommendation of Highway Superintendent Melvin J. Peterson will receive sealed bids for the following items for the year 2011.

- (1) CRS - 2
- (2) CRS - 2P

The above to be applied with Bear Cat application.

Prices should be based on asphalt posted refinery price for May, 2011 per English Ton.

Bids will be received at the office of the Town Clerk, 121 Chautauqua Avenue, Lakewood, New York, 14750, no later than May 16, 2011 at 12:00 p.m. (Noon) which time they will be opened and read.

Upon roll call vote, all aye.

Highway Superintendent Peterson reported that he has received three bids for the sale of the used 2003 Ford New Holland Tractor:

Gordon Lund, 2910 Donelson Road, Jamestown, NY \$15,551.52

William Simpson, 4593 Kortwright Road, Jamestown, NY \$13,787.00

Tim Covey, Hoag Road, Ashville, NY \$12,151.71.

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

RESOLVED, that upon the recommendation of Highway Superintendent Peterson the town accepts the bid from Gordon Lund in the amount of \$15,551.52.

Upon roll call vote, all aye.

Supervisor noted the 19th Legislative Breakfast Saturday, May 7th at 8:30 a.m.

Supervisor Sullivan noted the New York State Local Retirement System allowance for unused sick leave for 41J.

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

RESOLVED, that the Town of Bust under Subdivision (j) of Section 41 and Subdivision (j) of Section 341 of the Retirement and Social Security Law elects to provide additional service credit toward retirement for its employees who are entitled to accumulate sick leave to all tiers of membership

BE IT FURTHER RESOLVED, that the maximum additional service credit allowed under subdivision (j) is one hundred sixty five days (165). The additional service credit is applied on a workday basis (260 days = one year)

Upon roll call vote, all aye.

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

RESOLVED, that the public hearing on Local Law No. 2 of 2011 at 7:15 p.m. be declared open.

Upon roll call vote, all aye.

Supervisor Sullivan stated that Local Law No. 2 of 2011 would add the following use in the Highway Commercial District to Section 91-470 (I);

“Establishments selling water recreation goods including bait, tackle, water recreational equipment and supplies, boats and boat equipment, but not including the outdoor storage of boats other than those for sale”.

Proof of publication was placed on file.

No comments were heard from those present regarding this local law.

Supervisor Sullivan offered the following SEQR negative declaration which was duly seconded by Councilwoman Hern:

WHEREAS, the Town of Busti has proposed Local Law No. 2 of 2011, which would permit the sale of marine recreational goods in the Highway-Commercial District, and

WHEREAS, the proposed law 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 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 local law, and

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

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby issues a Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed Local Law No. 2 of 2011 and authorizes the Supervisor to complete Part III of the EAF accordingly.

Upon roll call vote, all aye.

Supervisor Sullivan moved to close the public hearing which was duly seconded by Councilwoman Hern:

Upon roll call vote, all aye.

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

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Busti for a public hearing to be held by said Board on May 2, 2011 at the Town Hall, 121 Chautauqua Avenue, Lakewood, to hear all interested parties on a proposed Local Law to permit the sale of marine recreational goods in the Highway Commercial District, and

WHEREAS, notice of said public hearing was duly published in the *Jamestown Post-Journal* and posted in the Town Clerk's office, and

WHEREAS, said public hearing was duly held on May 2, 2011 at the said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the County Planning Department by letter dated April 29, 2011, sent in

response to a referral made pursuant to Section 239-m of the General Municipal Law, has advised that the proposed Local Law is of local option, and

WHEREAS, the Board has determined that the adoption of the local law is a Type I action for purposes of the State Environmental Quality Review Act, has prepared an Environmental Assessment Form, and has duly adopted a Negative Declaration finding that the proposed Local Law will not have significant adverse environmental impacts, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interests of the Town to adopt said Local Law,

NOW, THEREFORE, by motion made by Supervisor Sullivan and duly seconded by Councilman Sanders the Town Board of the Town of Busti hereby adopts said Local Law as Local Law No. 2 of 2011, a copy of which is attached hereto and made a part hereof, and the Town Clerk hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Busti, and to give due notice of the adoption of the Local Law to the Secretary of State.

**A LOCAL LAW TO PERMIT RECREATIONAL MARINE GOODS
IN THE HIGHWAY-COMMERCIAL DISTRICT**

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. AUTHORITY.

This local law is promulgated pursuant to the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(10);
2. New York Statute of Local Governments, §10(1) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);
4. New York Town Law §130 (11)(peace, good order and safety), (15)(promotion of public welfare); and
5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

SECTION 2.

The following use is hereby added to the list of uses permitted by right in the Highway-Commercial District pursuant to Section 91-470(1):

- Establishments selling water recreational goods including bait, tackle, water recreational equipment and supplies, boats and boat equipment, but not including the outdoor storage of boats other than those for sale.

SECTION 3. VALIDITY AND SEVERABILITY

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. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Upon roll vote:

Supervisor Sullivan, aye
Councilman Robbins, aye
Councilwoman Hern, aye
Councilman Sanders, aye
Councilman Lawton, aye.

Supervisor Sullivan noted receipt of a letter from New York State Town Clerks Association informing them that Town Clerk Diane M. VanDewark has been awarded the Association's certification as a Registered Municipal Clerk. This prestigious award recognizes the professional competency of her fulfilling the responsibilities of her office.

Supervisor Sullivan noted the following reports and correspondence:

Building Reports August 2010 – March 2011.

2011 Tax Collection Report

Chautauqua County Department of Finance re: Certificate of Satisfaction for 2011 County/Town Taxes.

2010 AUD

State of New York Department of State receipt of Local Law No. 1 for 2011.

Notice of Completion of Tentative Assessment Roll.

Mike Saar re: South Main Street Extension water hookups.

Time Warner Cable re: agreements with programmers.

Town of North Harmony re: SEQR and Public Hearing on a proposal for the subdivision on Leased lots known as Goose Creek Corporation (formerly a part of Loomis Bay Shores LLC).

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. 7 from warrant #251 to and including warrant #290 in the amount of \$97,867.93.

Upon roll call vote, all aye.

Upon motion duly made by Supervisor Sullivan the meeting adjourned at 7:30 p.m.

Diane M. VanDewark, Town Clerk