

REGULAR MEETING
May 20, 2013

A regular meeting of the Town Board of the Town of Busti was held on May 20, 2013 at 6:45 p.m., at the Town Administration Building, 121 Chautauqua Avenue, Lakewood, New York with the following members present:

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

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: Legislator P. J. Wendel, Richard Rose & Robert Lannon, Chautauqua Conservancy, Joan Erickson, Lakewood Women's Club, Lori Robbins, Warren VanDewark, Deputy Clerk Darlene Nygren, Highway Superintendent Melvin J. Peterson, Busti-Lakewood Recreation Director Diana Peterson, Attorney Joel H. Seachrist, Lakewood-Busti Police Chief John Bentley and Post Journal Reporter Dennis Phillips.

Legislator P. J. Wendel appeared before the board giving them an update on the radio system for the county in the coming year.

Joan Erickson on behalf of Lakewood Women's Club requested that the town not charge for use of the recreation building for their club meetings. Supervisor Robbins will review the present fees and notify her of the board's decision.

Richard Rose & Robert Lannon on behalf of Chautauqua Conservancy presented plans for a walkway to Goose Creek in the Town of Busti. The board thanked them for their volunteer work.

Supervisor Robbins noted the following reports and correspondence:

Clerk's Monthly Report for April 2013.
Supervisor's Monthly Report for April 2013 on file.
June 9th Busti Historical Society dedication of the grinding mill.
Time Warner Cable information on Off STEM in Sports Campaign.
Approved agreement from Southwestern Central School for tax collection 2013-2014.
Southern Tier Extension Railroad Authority re: Pilot Agreement Deviation Notice.

Lakewood-Busti Police Chief John Bentley reported 3,851 incidents to date and Buckle Up New York is on through June 2nd.

Highway Superintendent Melvin J. Peterson requested to advertise for bids to sell a 2001 8 Ton Interstate Equipment Trailer.

Councilman Thor offered the following motion which was duly seconded by Councilman Hanson:

RESOLVED, that upon the recommendation of Highway Superintendent Melvin J. Peterson he be authorized to advertise for bids for a 2001 8 Ton Interstate Equipment Trailer with a minimum bid of \$3,500. Bids will be received at the office of the Town Clerk, 121 Chautauqua Avenue, Lakewood, no later than 12:00 Noon, June 17, 2013.

Upon roll call vote, all aye.

Town Clerk Diane M. VanDewark reported that she has obtained two quotes for a phone system for the administration building.
 DFT Communications \$4,899 and Windstream Communications, Inc. \$4,766.57.

Councilman Hanson made the following motion which was duly seconded by Supervisor Robbins:
 RESOLVED, that the town accept the bid from Windstream Communications, Inc. in the amount of \$4,766.57.
 Upon roll call vote, all aye.

Supervisor Robbins moved the following resolution which was duly seconded by Councilman Lawton:
 BE IT RESOLVED, that the Town of Busti, Location code 30123 hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the time keeping system records or the record of activities maintained and submitted by these officials to the clerk of this body.

Title/Name	Standard Work Day (hrs/day)	Term Begins/ Ends	Participates in Employer's Time Keeping System Y/N	Days per month (Based on record of Activities)
Councilman Todd M. Hanson	6	4/23/12-12/13	N	2.61

Upon roll call vote, all aye.

Supervisor Robbins moved the following Lakewood-Busti Police Agreement which was duly seconded by Councilman Thor:

AGREEMENT

THIS AGREEMENT is made and entered into this 20th day of May, 2013, by and between:

VILLAGE OF LAKEWOOD, a municipal corporation as defined by General Municipal Law, Section 119-n (a.) of the State of New York, party of the first part, and hereinafter referred to as LAKEWOOD, and the

TOWN OF BUSTI, a municipal corporation as defined by the aforesaid statutes, party of the second part, and hereinafter referred to as BUSTI,

WITNESSETH:

WHEREAS, Busti is empowered to operate and maintain a police department in accordance with the provisions of the Town Law, Section 150, of the State of New York; and

WHEREAS, Lakewood is empowered to operate and maintain a police department pursuant to Section B-800 of the Village law of the State of New York and presently operates and maintains such a department by assessment on property in Lakewood; and

WHEREAS, Busti is empowered to enter into an agreement on a contractual basis with Lakewood for the provision by Lakewood of police and law enforcement services to Busti pursuant to Section 119-o of the General Municipal Law of the State of New York, subject to approval of both the Town Board of Busti and the Village Board of Trustees of Lakewood; and

WHEREAS, the following provisions have been duly approved by a majority vote of the Town Board of Busti on May 20, 2013 and by a majority vote of the Board of Trustees of Lakewood on May 6, 2013.

THE PARTIES HERETO AGREE AS FOLLOWS:

- (1). STATEMENT OF AGREEMENT: Lakewood agrees to provide law enforcement and police protection to Busti during the term of this Agreement and Busti agrees to engage Lakewood by and through its police department to provide such service in accordance with and subject to the terms of this Agreement.
- (2). LEGAL BASIS: This Agreement is authorized pursuant to and by Article 5-G, Section 119-o,

of the General Municipal Law of the State of New York.

(3). DELIVERY OF SERVICES:

(A). Service Area: Lakewood shall provide law enforcement protection within the corporate limits of Busti.

(B). Enforcement Responsibilities: The Police Department of Lakewood shall enforce state statutes, and all other laws and/or ordinances within the corporate limits of Busti including Town laws and ordinances.

(C). Quality of Service: The Lakewood Police Department shall deliver twenty-four (24) hours of law enforcement protection and police protection during each and every day that this Agreement is in effect.

(D). How Delivered: The Lakewood Police Department shall provide such police officers and patrol cars as are necessary to maintain an adequate patrol for Busti and shall provide service to Busti equivalent and comparable to that provided to Lakewood.

(E). Reporting: The Chief of Police of Lakewood shall provide to Busti a monthly report of activities generated as a result of this Agreement. The report shall include the number of calls for service, reported crimes, arrests, crimes cleared by arrests, traffic citations, court appearances, and items of recovered property and all other statistics and/or management information that may be requested by the Town Board of the Town of Busti. Lakewood's Chief of Police, or such person or persons as he designates shall attend Town Board meetings of Busti for the purpose of making such reports and answering inquiries of the members of the Town Board of Busti and/or of the general public as may be present at the first regularly scheduled Town Board meeting of each month and when otherwise requested by Busti.

(F). Service Management: Except as provided in Subsections (d) and (e) hereof, the planning, organization, scheduling, direction, and supervision of the Lakewood Police Department and all other matters in and to the delivery of law enforcement services to Busti shall be determined by the Chief of Police of the Village of Lakewood and the Village Board of the Village of Lakewood. The Chief of Police of the Village of Lakewood shall retain exclusive authority over the activities of this personnel working in Busti.

(G). Responsiveness: The Police Department of Lakewood shall give prompt and adequate consideration to all requests of Busti regarding the delivery of law enforcement services. The Chief of Police of Lakewood shall comply with these requests if they are consistent with law enforcement practices and within the scope of this Agreement.

(H). Dispute Resolution: Any conflict between the parties regarding the extent or manner of the performance of the law enforcement services delivered to Busti shall be referred to the Chief of Police of Lakewood, or her or his designee, for resolution. In the event the decision is unsatisfactory to either party, the dissatisfied party, will notify the Mayor of Lakewood or the Supervisor of Busti, as the case may be, and such dispute shall then be referred to a meeting of Lakewood's mayor, Busti's supervisor and such other party as shall be jointly designated by the Mayor and Supervisor for a final determination.

(I). Name: The Police Department of Lakewood shall be known as Lakewood-Busti Police Department; and all references to such police department including stationery, phone calls answered by such department, markings on motor vehicles identifying such police department, and any and all references to such department whatsoever shall also characterize such department in such manner.

(J). Court Facilities: Lakewood shall provide to Busti on a nonexclusive basis facilities to utilize for purposes of holding Town Court. Lakewood shall be responsible for maintenance, insurance and utilities with respect to the same.

(4). RESOURCES:

(A). Responsibilities: Except as otherwise stipulated, Lakewood shall furnish all labor,

equipment, facilities, and supplies required to provide law enforcement services to Busti.

(B). Individual ownership: Lakewood shall retain title to all property which it has acquired in the operation of its department, and which it hereafter acquires during the term of this Agreement, to fulfill its obligations under this Agreement.

(C). Liability: Lakewood shall assume liability for, defend against, and secure the Town of Busti from all costs or damages or injury, to persons or property caused by any employees of Lakewood and arising out of the performance of this Agreement, and hold Busti harmless with respect thereto.

(D). Personnel:

((1)). Employment Status: For purposes of this Agreement only, all persons employed by Lakewood providing law enforcement services and police services to Busti shall be Lakewood officers or employees and they shall not have any benefit, status, or right to Busti employment.

((2)). Payment: Busti shall not be liable for the direct payment of salaries, wages, or other compensation to Lakewood officers or Lakewood employees providing law enforcement services to Busti.

((3)). Indemnity: Any police officers performing services under this Agreement shall be deemed employees of Lakewood for the purposes of the unemployment laws, Worker's Compensation Laws and disability benefits laws and Busti shall not be responsible for any benefits there under.

((4)). Municipal Agency: For the sole purpose of giving official status to their acts when performing municipal functions within the scope of this Agreement, every Lakewood officer or employee engaged in providing law enforcement services to Busti shall be considered a law official of Busti in accordance with a local law previously adopted by Busti.

(5). FEES:

(1) Busti Fiscal Year 2014: Busti shall pay Lakewood the sum of Three Hundred Ninety Thousand (\$390,000) dollars.

(2) Busti Fiscal Year 2015: Busti shall pay Lakewood the sum of Four Hundred Fifteen Thousand (\$415,000) dollars.

(3) Busti Fiscal Year 2016: Busti shall pay Lakewood the sum of Four Hundred Forty Thousand (\$440,000) dollars.

(4) Busti Fiscal Year 2017: Busti shall pay Lakewood the sum of Four Hundred Sixty Five Thousand (\$465,000) dollars.

(5) Busti Fiscal Year 2018: Busti shall pay Lakewood the sum of Four Hundred Ninety Thousand (\$490,000) dollars.

(B). Manner of Payment: Payments from Busti to Lakewood shall be made in semi-annual installments, one half of the amount so due to be paid on or before February 15th of each year and the remaining sum to be paid on or before August 15th of year.

(6). TERMINATION OF AGREEMENT:

(A). Delinquency: In the event that Busti does not make payment within thirty (30) days after the date due, Lakewood may terminate this Agreement. Busti shall be liable for general enforcement services rendered to the time of termination.

(B). Termination by Notification: The term of this Agreement shall be for five years (January 1, 2014 through December 31, 2018). Prior to April 1, 2016, the Town Board of Busti shall notify the Village Board of Lakewood in the event that Busti does not wish to continue this Agreement for the remaining portion of the term (19 months). Failure to so notify Lakewood by April 1, 2016 will automatically result in this contract continuing in full force and effect for the full term. Lakewood maintains reciprocating rights. In the event that Busti does decide to opt out of the agreement then the contract will remain in force until May 31, 2017 and Busti will be liable for the semi-annual payment due on February 15, 2017.

(C). Review of Fees. Both parties agree to mandatory review of the status of this Agreement in the second year (between June 1, 2015 and October, 2015) to determine if the level of service and schedule of fees is commensurate to the percentage of calls and equitable to both parties. Both parties agree that if either party is not satisfied that the proposed schedule of fees is not commensurate with the level of service or reflects any change in the costs associated with providing Police Services, then discussions will be had to modify the Schedule of Fees for the remainder of the contract.

(D) Payment upon Termination. If Busti cancels this Agreement with an effective date other than December 31, 2018, Busti shall pay to the Village of Lakewood the pro rata share of pension costs of Police officers incurred by the Village of Lakewood as a result of the provision of services pursuant to this Agreement. The Town of Busti's pro rata share of the pension costs will be determined to be equal to 37% of the Village of Lakewood's pension cost for those officers who are laid off as a result of the termination of this Agreement in the Village's fiscal year following the Town's last year of contracted service.

(7). AUTHORIZATION: This Agreement is made and executed pursuant to a resolution of the Town Board of the Town of Busti adopted and pursuant to a resolution adopted by the Village Board of Trustees of the Village of Lakewood.

(8). EXECUTION: The parties hereto have executed this Agreement the date and year first above written.

Village of Lakewood
Upon roll call vote, all aye.

Town of Busti

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

RESOLVED, that a public hearing be held on the application of Phineas & Sara Demink, d/b/a Southern Tier Brewing on June 17, 2013 at 7:00 p.m. for a special use permit for a Empty Pint Pub, Tasting Room and Tours in the Industrial District. Said property is known as Section 385.00, Block 1, and Lot 44.2 of the official tax map of the Town of Busti.

Upon roll call vote, all aye.

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

RESOLVED, that Supervisor Robbins be authorized and directed to pay the presented General Fund, Highway Fund, Joint Recreation Fund and the Hazeltine Public Library for Abstract No. 10 from warrant #309 to and including warrant #347 in the amount of \$67,581.31.

Upon roll call vote, all aye.

Supervisor Robbins moved to accept the minutes of May 6, 2013.

All aye.

Councilman Lawton reported that he is continuing to organize a committee for research the possibilities of walkways and trails in the Town of Busti.

Councilman Hanson reported that there will be a Comprehensive Plan Meeting at Busti Church of God at 6:30 p.m.

Councilman Thor reported on the history of town water districts.

Upon motion duly made by Supervisor Robbins the meeting adjourned at 7:40 p.m.

All aye.

Diane M. VanDewark, Town Clerk

