

REGULAR MEETING
February 12, 2014 (Amended)

A regular meeting of the Town Board of the Town of Busti was held on February 12, 2014 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 Richard B. Thor
Councilman Brett A. Muccheck
Councilman Kenneth J. Lawton
Councilman Todd M. Hanson

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: Attorney Joel H. Seachrist, Highway Superintendent Melvin J. Peterson, Lakewood-Busti Police Chief John Bentley, Busti-Lakewood Recreation Director Diana Peterson, Court Clerk Elizabeth Davis, Deputy Court Clerk Nancy Jordan, Hart Jordan, John Siggins, Ron Brands, Kaie & Mike Smith, Jean & Jerry Holmes, George & Laurie Meier, Village of Lakewood Mayor Dave Wordelmann, Sharon Wordelmann, Shirley & Merrill Robbins, Eugene Archer, Nick Balderi, Rudy Mueller, Sara & Dick Vail, Bill & Jennifer Wohler, Cole Robbins, Town Justice Walt Dahlgren, Joyce Dahlgren, Town Justice Lyle Hajdu, Joe Siperek, Beth Green, Bob & Judy Schultz, Mary Griffin, Margaret Swanson, Jon Pearson, Marian & Diane Anderson, Samuel Whirmore Legislator P.J. Wendell, David Bargar, Nancy Bargar, Tillie Samuelson, Jeff Swanson, Herb Hern, Marion & Bob Gibbon, Village of Lakewood Trustee Susan F. Drago, Jose Troche, Susan Fiedler, Timothy Rudd, Village of Lakewood Trustee David DiSalvo, Tom Danielson, Gary & Nancy Padak, Paul DeFrisco, Joyce Rose, David Menzies, Joan Peterson, Betsy Johnson, Hans Biekert, Ted & Nancy McCague, Kathleen & Charles Anderson, Myra V. Blasius, Terry Garfield, Terry Jenkins, Don & Wendy Whittington, Village of Lakewood Trustee John Jablonski III, John Rovegno, Michael Volpe, Charles Barlow, Barb Hanson, Bill Evans III, Cara Birrittieri, Gary Simon, Josiah DuBois, Michael Nygren, Warren & Diane VanDewark, and Post Journal Reporter Mallory Diefenbach.

Supervisor Robbins informed those in attendance that each member of the public would be given one opportunity to hold the floor and allotted three minutes to speak to the board. Each person attending was given an opportunity to speak. Many residents shared their opinion of the sale of 121 Chautauqua Avenue and/or the purchase of 125 Chautauqua Avenue which included those in favor of the town selling the current Administration Building and purchasing the adjacent building, making it cost effective for the town as well as the courtroom being compliant to the ADA standards; and those opposed to the purchase of 125 Chautauqua Avenue, allowing it to remain available for a possible retail business, asking for more information regarding the cost of all options and encouraging consolidation with the Administration offices of the Town of Busti and the Village of Lakewood.

Supervisor Robbins presented four options regarding the sale of 121 Chautauqua Avenue and relocating the Administration Offices, Courtroom, and Recreation Center. Option One included building a single floor addition behind the Caprino Building, 4000 sq. feet, approximate cost of \$1,032,000, cost per sq ft - \$258, with the Recreation Center remaining at its current location; Option Two included renovating the second story of the Caprino Building, available sq feet – 4,600, cost of \$719,000, cost per sq ft - \$156, Recreation Center would remain at its current location; Option Three included demolishing the current Recreation Center Building and building a new Municipal Building for Busti/Lakewood Offices and Community Center, required sq feet – 5,000, cost of \$820,000, cost per sq ft - \$164, Courtroom would remain at current location; Option Four included purchasing 125 Chautauqua Avenue for \$329,285, available sq feet – 11,500, renovation cost - \$250,000 with a two year plan, with the sale of 121 Chautauqua Avenue, various grants, and using fund balance from the Recreation Center, the cost per sq ft - \$51, with annual rental income of \$10,800.

Councilman Thor read the following review of deficiencies of the present Busti Town Court facilities submitted by Town Justice Walter H. Dahlgren and Town Justice Lyle T. Hajdu:

February 12, 2014

Dear Busti Town Board Members:

Pursuant to your request, we have outlined for your review some of the deficiencies of the present Busti Town Court facilities:

- The second-floor courtroom is inaccessible to citizens unable to traverse the steep flight of stairs. During the February calendar call, the Court had to make special arrangements to accommodate three defendants unable to access the courtroom. Similar arrangements are made during

arraignments. These conditions are incompatible with Federal and State laws ensuring equal access to public facilities.

- The stairs also pose a potential hazard to citizens, court personnel, attorneys, police, interpreters, and others who must walk up and down the steep flight of steps. This hazard is especially of concern when police are transporting unruly and allegedly intoxicated defendants to the courtroom.
- The present facilities are unsecure and vulnerable to unauthorized intrusion. Specific deficiencies will not be identified for security reasons.
- The present facilities do not comply with the Guidelines for New York State Court Facilities, which include specific provisions to safeguard and protect court personnel while also promoting the efficient administration of justice.
- The present facilities are inefficient and dysfunctional, since the courtroom is housed in a different building than the court clerk's office. As a result, the Judges on the bench have no direct access to court dockets, files, research materials, and computers that are located in the office of the court clerk. In fact, all courts dockets and files must be carried by hand to and from each court appearance. Moreover, the Judges must make decisions regarding bail and release of defendants without the benefit of accessing criminal histories and prior court orders.
- The present court facilities do not contain judicial chambers, attorney-client conference rooms, a clerical station, or a holding cell for incarcerated prisoners. Without chambers, the Judge's cannot conduct private pretrial conferences with parties, cannot conduct closed proceedings with youthful offenders, and have no private working area to research the law and write decisions. Without conference rooms, attorneys are compelled to meet with clients in public places, which undermines confidentiality and creates disturbances. Without a holding cell, inmates are escorted into the courtroom in close proximity to adults and children seated in the public area.

We previously provided the Board with a copy of the *Guidelines for New York State GOvt Facilities*, together with a memorandum of the Office of Court Administration regarding general court facility construction, to facilitate your assessment of existing court facilities and to assist you in evaluating alternative designs.

We remain committed to the fair and efficient administration of justice, and sincerely appreciate your efforts to bring the Busti Town Court into compliance with Federal and State laws.

Walter H. Dahlgren, Town Justice
Lyle T. Hajdu, Town Justice

Councilmen shared their opinions regarding the Options presented: Councilman Thor stated that the board has been looking at options to relocate the Administration Building and Court System for two years, looking at property on Gleason Road and considered building at other locations. The recent offer to purchase the current Administration Building and the availability of an adjacent building that fits the town's requirements ideally and economically has forced the town board to take action. The first priority was moving the court system off the second floor of the Caprino Building. The adjacent building is easily code compliant; the conceptual court plan meets or exceeds state court requirements. The ability to do that anywhere else with any other options is not possible for comparable cost. One option for the Recreation Center is to demolish the current building and put up a pavilion allowing for the green space there which would satisfy the Kiwanis requirements. Councilman Lawton shared that he is concerned in regard to the presentation of the options. He wants the board to not only consider cost but also benefit including lower maintenance cost and economical development on the street that we all call home, which could generate tax revenue that would lessen town residents' tax burdens. The community is sensitive because the town is looking at taking the best retail property available and turning it into a government office. The board should clearly explain what the options are and look at the benefits, the biggest one being the potential of exponential growth and development, generating tax revenue of a vibrant business community. Councilman Hanson reiterated that the board has been looking at options for nearly two years, even though the sale of the Administration Building and the opportunity to purchase of the adjacent building has developed recently it should not be a detriment that the timing is good. All Town of Busti residents, including the board, want to see the development of the Village of Lakewood. The Comprehensive Plan has many points in such development. This move does not have to be forever, but for the short term to put a bank in this building, increasing the traffic in the Village, as would an improved town office building and community center. It is a sign that things are moving forward and may stir development. As far as consolidation goes, consolidating both municipalities into one building but remaining separated does not really save the tax payers money; the town

and village already does a lot of shared services – highway, potential Code Enforcement, and the Assessor’s office and the town is working at other areas of shared services with the village. The public concept that the Village and Town boards are at odds is a misconception. The mayor and supervisor talk almost daily, there may be citizens that don’t agree with what happens with the village and the town but that is not the case with the boards. The town does not have control over tax cost of the village such as the police contract and other services, but we can help share services. There is not a lot more that the town and village can do to consolidate as far as personnel. It is up to village residents if they want to consolidate with the town, the town has no say in that what so ever. He stated that he saw the sale of the current Administration building and the purchase of the building next door as an opportunity to invest in downtown Lakewood. Councilman Mucheck thanked everyone for coming out and showing their concern for the community. The board, as a whole, has the best intentions for this town. We all may have varied opinions but he sees them as an opportunity to learn. The board has put a lot of thought, time, energy and effort in to taking care of the issues regarding the court system and recreation center. There are a lot of grants and money available and he is researching what grants may be available to the town. Initially he was against the purchase of the building next door, as it is a great real estate location. However, after seeing how much the move can save the tax payers he is in favor of the move. The sale of this building and the move next door will bring more traffic to the village; increasing business for the local merchants and generating more interest for new merchants to open businesses in the village. This is not a hasty or an easy decision but looking at the numbers it is what makes sense for the town and the tax payers. The board wants nothing but good for the community. In the future, if a business shows an interest in purchasing 125 Chautauqua Avenue he would be in favor of selling the building and relocating the town offices and court. At this time, to save everyone money and do what is best for the community this is the right thing to do. Councilman Mucheck noted that he has talked to many residents regarding the move, even knocking on doors; it has been four weeks since it was tabled and the community has had time to share their concerns.

Councilman Lawton moved the following resolution; there was no second to the motion:

RESOLVED to sell 121 Chautauqua Avenue to the credit union and accept the offer that they have given us.

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

**AUTHORIZING SUPERVISOR TO SIGN DOCUMENTS
FOR PURCHASE OF 125 CHAUTUAQUA AVENUE**

RESOLVED, that Supervisor Robbins is hereby authorized to negotiate for the purchase of 125 Chautauqua Avenue, Lakewood, New York, at a maximum purchase price of \$329,285.00 plus ordinary and incidental costs of the transaction, and is thereafter authorized to execute any and all documents required to complete the transaction.

Attorney Joel Seachrist clarified that there is a contingency in the contract to purchase the said property that the town is under no obligation to purchase if the sale of this building, 121 Chautauqua Avenue, does not go through or if the results of the referendum vote it down.

Upon roll call vote, Supervisor Robbins – aye, Councilman Muchek – aye , Councilman Thor – aye, Councilman Hanson – aye, Councilman Lawton – nay. Carried.

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

**RESOLUTION AUTHORIZING SALE OF SURPLUS PROPERTY TO JAMESTOWN AREA
COMMUNITY FEDERAL CREDIT UNION, SUBJECT TO PERMISSIVE REFERENDUM**

WHEREAS, the Town own and has used the property at 121 Chautauqua Avenue, Lakewood, New York, designated on the official tax map as Section 385.07, Block 2, Lots 1 and 78, as and for town offices, and

WHEREAS, the Town wishes to purchase an adjoining property and re-locate the town offices to a building located thereon, so that it is no longer necessary for the Town to retain the property at 121 Chautauqua Avenue, and

WHEREAS, Jamestown Area Community Federal Credit Union have proposed to purchase 121 Chautauqua Avenue for \$300,000.00,

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 Jamestown Area Community Federal Credit Union such instruments as are necessary to convey the said property for \$300,000.00, all being subject to permissive referendum as permitted by law.

Upon roll call vote, all aye. Carried.

Town Clerk Darlene Nygren reported that \$4,961,241.81 has been collected for 2014 County Town Taxes and there is \$1,587,216.33 still outstanding.

Lakewood-Busti Police Chief John Bentley reported that he has recently applied for a grant to purchase a canine unit for the Lakewood-Busti Police Department. The grant was approved for \$59,800 that will pay for purchasing the dog, the training of the dog, purchasing the car, back filling the shifts while the dog handler officer was being trained with the dog. The dog handler is currently an officer in the department, so no additional officers would be hired. The grant comes with an annual stipend. The vet service and food is free. This grant would allow the department to develop a canine unit. This is a bomb, tracking and patrol dog, as well as a crime scene dog. Chief Bentley would like to purchase a second dog, in the future. That dog would be trained as a narcotics dog. He has some funding set aside and more funding that would be made available for such a purchase. A reminder that on February 22, 2014 there will be a drill by the U. S. Coast Guard centered out of the Lakewood area, involving local fire departments and hospitals.

Court Clerk Elizabeth Davis reported that in 2013 the court started over 2,200 cases, closed 27 DWI cases - with 74 pending, closed 34 aggravated unlicensed which are misdemeanors – 103 pending, 1, 600 defendants, collected in fines over \$96,000 and over \$39,000 surcharges. The Town of Busti is a large court, which at one time was the fourth largest in the county behind Chautauqua County Court, Jamestown City Court, and Dunkirk City Court. When a defendant can not access the court because of their inability to use the stairs, the village will accommodate and make arrangements to open an area that is handicap accessible, even when it is after village business hours.

Highway Superintendent reported that highway workers are now healthy, trucks are in good shape and there was a delivery of one load of salt from American Rock Salt, the village also received a salt delivery. Salt is hard to come by right now so the town is very fortunate.

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

RESOLVED, the Deputy Code Enforcement Officer be authorized to attend training on February 25-27, March 18-20, April 22-24, June 24-36 and July 29-31 all in Rochester, New York.
Upon roll call vote, all aye.

Supervisor Robbins moved the following resolution:

RESOLVED to ensure that Village of Lakewood, Code Enforcement Officer, Charlie Smith is covered under the town's liability insurance.
Councilman Thor spoke with our NYMIR agent and was assured that Mr. Smith is covered under our liability insurance that takes effect February 15, 2014.
Supervisor Robbins retracted the motion.

Supervisor Robbins noted the following reports & correspondence:

Supervisor Robbins noted Melanie Eddy, Code Enforcement Officer, has resigned effective immediately.
Time Warner Programming Rates

Supervisor Robbins made the following motion which was duly seconded by Councilman Muckeck:

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. 4 from warrant #049 to and including #059; and Abstract No. 5 from warrant #60 to and including warrant #76 in the amount of \$12,465.44.
Upon roll call vote, all aye.

Councilman Lawton shared a simulated picture of a bike trail along side Cummins Engine Plant. He spoke with the City of Olean in regards to the bike trail located there and the funds that they have received towards that trail. The Western New York and PA Railroad seems to be open to working towards creating a bike trail. There is grant money available that would help with such a project.

Upon motion duly made by Supervisor Robbins the meeting adjourned at 9:08 p.m.
All aye.

Darlene H. Nygren, Town Clerk