

**REGULAR BOARD MEETING
MAY 20, 2015**

**TOWN HALL
7:30 P.M.**

Present: Supervisor Martin A. Ballowe, Councilmen Jay P. Boardway, Jeffrey A. Genzel, Lawrence A. Murtha and Gary E. Vara.

Also Present: Town Attorney Kobiolka and Highway Superintendent Telaak.

A motion was made by Councilman Boardway and was seconded by Councilman Vara to approve the Application for Use of Town Facility from Buffalo Wings Baseball for use of town fields beginning May 18, 2015 through July 31, 2015.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Vara to adopt the minutes of the May 6, 2015 regular meeting.

Supervisor Ballowe	Aye	Councilman Boardway	Aye
Councilman Genzel	Nay	Councilman Murtha	Aye
Councilman Vara	Aye		

four (4) Ayes (1) one Nay Carried

A motion was made by Councilman Murtha and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract dated May 14, 2015 in the amount of \$79,828.66 minus voucher #3507 in the amount of \$510.00 be paid.

five (5) Ayes Carried

The following persons were heard:

Althea Killeen, Cole Road made several comments regarding the issues around the proposed group home at the corner of Cole and Omphalius Roads. She stated that she has talked to the Department of State and has encouraged the supervisor's office to contact them also. Her concern is that the Mental Hygiene and Legal Services Commissioner's office has been asked to conduct a hearing, and she believes that it needs to be quickly conveyed to the Commissioner's office that the town is in the process of correcting an error or evaluating the possibility of correcting an error. We need to stop this train very quickly. We don't want these people who are good public servants, who are doing a job that is rendered mute because of the mistake our town has made. She explained that as she understood it, because it is a non-conforming lot, they can apply for a variance. That puts the decision back where it belongs, which is with the municipality

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Althea Killeen Cont'd: She feels very strongly that the Padavan Law was designed for good reason. She feels there was just an abuse of the law by Community Services. They didn't take into consideration any colloquy with the Town of Boston in a meaningful way. Because if you don't act quickly, once you realize your mistake, the laches or doctrine of sitting on your hands works against you. The Town needs to convey this responsibly and articulately to both the Commissioner and to Community Services.

Daniel Kurek, Chestnut Lane wanted to answer Councilman Boardway's question on the email to him. CSX did not email him; Mr. Kurek emailed him for the quotes for the removal of the fill on Chestnut Lane. He also wanted to make the councilman aware that he has received a bid of \$4,500 to remove the 27 loads of fill that was illegally dumped and asked that it be compared with the rest of the bids once received.

Kathy Bender, Cole Road stated she was concerned that no Town Board member responded to Althea's comments.

Supervisor Ballowe stated they already responded to it.

Kathy Bender asked if another letter would be mailed out reiterating the information Althea just researched.

Supervisor Ballowe stated the letter has been emailed to him and was given to the magistrate when she was here.

Town Attorney Kobiolka stated that the town made their opposition pretty clear. We did take the position that it was not a buildable lot.

Supervisor Ballowe stated we also sent them alternative sites.

Councilman Genzel reiterated to the public that the property was purchased based on the letter sent out to the realtor saying that the lot was buildable. The land was purchased based on that letter.

Althea Killeen stated that she believes they signed contracts before they ever received a letter from the town. The contract was signed last September.

Supervisor Ballowe stated they were given very minimal time to prepare for the hearing.

Councilman Genzel stated the only resolution is that the town buys a piece of land that is better suited for them and we trade.

Althea Killeen: That isn't the only resolution. Municipal Estoppel protects the town entirely from the first letter that was sent. So the current position of the town is that it is an unbuildable lot. So no building permit can be granted at this point in time.

Supervisor Ballowe: It can't even be rezoned.

Althea Killeen: Stated that there was an Article 78 in Skaneateles Lake where the town building inspector issued a building permit for a 3.1 million addition that was torn down because it was a mistake on the building inspector's part.

Councilman Genzel asked if the builder was the state.

Supervisor Ballowe stated it was a private individual.

Althea Killeen commented the applicant is using the licensure of the State of New York to get the permission under the mental hygiene law. But the purchase and sale of land has nothing to do with the state of New York. It is a private entity.

Councilman Genzel: But they are going to be paid by the State of New York for the residents to live there.

Althea Killeen: No.

Councilman Genzel: Then where does their income come from?

Althea Killeen: They are funded, not paid by the State of New York. That is a funding arrangement is that separate in terms of their operations, just like a doctor's office is paid through certain insurances. You need to distinguish that the purchase of the land is separate and apart from anything to do with the State of New York. Turns out, it is not buildable. So they do exactly what the last owners did and the ones before, which is to put it up for sale because it is not buildable or apply for a variance, which comes back to the zoning power here at the Town of Boston.

Councilman Genzel: Their letter to us actually stated that they weren't required to abide by the Town of Boston zoning law.

(Some of the discussion is inaudible due to speaker not being close enough to the microphone)

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Althea Killeen: That is true, if the election is under the Mental Hygiene Law. But it is not true with respect to buildable or not buildable. That is a separate distinction. There are very distinct environments. This issue of buildable or not buildable is well within the local zoning jurisdiction in the Town of Boston. It has nothing to do with the Mental Hygiene Law. It has to be a buildable lot first. If it's not a buildable lot, it's the end of the story unless they file for a variance. But if it is a buildable lot, and that is why Mr. Foley was so delighted, he had the letter from the town building inspector saying it is a buildable lot, then you guys are mute.

Kathy Bender: I still don't understand. What happens now? Something has to happen right away. Obviously that letter did not say the town made a mistake in saying it was a buildable lot.

Town Attorney Kobiolka: I think I put the State as well as the provider on notice that the town is taking the position that it is not a buildable lot. We can't tell them anymore than that.

Kathy Bender asked if the residents of the area can send a letter to the Commissioner, stating this was a mistake by the town?

Town Attorney Kobiolka stated, yes she could.

Althea Killeen: If it's not a buildable lot we procedurally (inaudible) beginning of the hearing. So the Commissioner's office may not be grasping that. There should be some follow up correspondence from the town attorney to the Commissioner's office. I know that you asked for an adjournment, but it's probably confused at the time.

Town Attorney Kobiolka: I also told them that if it is not a buildable lot, than there is no reason to have the hearing.

Althea Killeen: And they didn't get it.

Kathy Bender: So you are not going to send another letter?

Town Attorney Kobiolka: No, not at this point, but if you would like to send a letter you are more than free to do so.

Kathy Bender: I think It would be better from the Town Attorney.

Town Attorney Kobiolka: I've already sent them letters.

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Supervisor Ballowe: We sent them emails, we sent them letters, we sent them alternative spots, all which he asked for and his reply was asking for all of the realtors in charge of them. I'm not here to do his job.

Barbara Bender-Suto, Cole Road requested copies of the Code Enforcement Officer's letter and the letter from the Town Attorney Kobiolka stating the town had made a mistake and it is not a buildable lot.

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to close the floor.

five (5) Ayes

Carried

A motion was made by Councilman Genzel and was seconded by Supervisor Ballowe to schedule the annual mobile home park inspections for Boston Hills Homes and Estates for June 25 at 5 pm and Sprague Park June 24, 2015 at 1 pm.

five (5) Ayes

Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Vara to table the Special Permit for Dumping of Material from Loren Bowers, 8978 Boston State Road.

five (5) Ayes

Carried

A motion was made by Councilman Boardway and was seconded by Councilman Vara to approve the Use of Facility Application for Boston Youth Soccer beginning July 20, 2015 through October 3, 2015 (schedule to be determined).

five (5) Ayes

Carried

A motion was made by Councilman Vara and was seconded by Councilman Murtha to approve the Use of Facility Application from John Hine for August 1, 2015 from 9 am to 9 pm.

five (5) Ayes

Carried

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A motion was made by Councilman Murtha and was seconded by Councilman Vara to approve the 2014 Water District Audit conducted by Mark I. Adamchick, CPA & Associates.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to table the Assessor's request to attend the 2015 Assessor State Certification Class at Cornell University from July 12 through July 17, 2015.

five (5) Ayes Carried

A motion was made by Councilman Vara and seconded by Supervisor Ballowe to appoint Frank Mrugala to the Boston Emergency Squad and will continue until such time as resignation, removal, or replacement.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to set the summer schedule as follows:

July 1	Wednesday	6:30 PM	Agenda Review
		7:30 PM	Town Board
August 5	Wednesday	6:30 PM	Agenda Review
		7:30 PM	Town Board

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to reschedule the bid opening for the removal of raw topsoil and fill at 8555 Boston State Road, Boston, NY 14025 from June 9, 2015 at 10 a.m.

five (5) Ayes Carried

Town Clerk Mulé had no report.

Highway Superintendent Telaak reported on the following:

- Brush pick up is over until September.
- Any additional leaves should be bagged and thrown out for garbage Pick up.
- Highway employees are working on cleaning ditches and changing pipes.
- Highway department still has fill available.

Town Attorney Kobiolka had nothing to report.

Councilman Murtha reported on the following:

- Videotaping some drainage problems throughout the town.

Councilman Genzel had no report.

Councilman Boardway reported on the following:

- Thanked Althea for her insight in regards to the housing project and also commented on the proposed project at Cole and Omphalius Roads.
- Congratulated and thanked all of the Town's EMS providers for EMS week.
- Summer recreation registration has begun.
- Boston Free Library fundraiser sponsored by Legislator John Mills. 100% of the proceeds are donated back to the Library. This event will be Thursday, June 11th from 5:30pm-7:00pm. There will be a fantastic magician to entertain the children.

Councilman Vara reported on the following:

- Received on South Boston basketball court.
- Household Hazardous Drop off Day - ECC South - June 13th from 9 am to 2 p.m. check Town of Boston website for more information.

Supervisor Ballowe reported on the following:

- Received monthly reports from the Town Clerk, Code Enforcement officer and Dog Control Officer.
- Thanked all those involved in the preparations for the Memorial Day Celebration.
- Constantly working on the proposed housing project at Cole and Omphalius Roads.

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to adjourn the meeting at 8:12 p.m.

five (5) Ayes

Carried

JENNIFER A. MULÉ, TOWN CLERK