

## **Town Board Minutes April 1, 2009**

Present: Supervisor William A. Eagan, Councilmen James E. Pluta and Richard K. Hawkins, Councilwomen Cathleen M. Dobson and Cathy A. Maghran.

Also Present: Town Attorney Downey, and Code Enforcement Officers Ferguson, Lisowski and Juda.

Sister Dolores Ryan, St. John the Baptist Church, opened the meeting with a prayer.

A motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to appoint Alex McGann 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 Councilwoman Maghran and seconded by Councilwoman Dobson to approve the minutes of 03/18/09.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and seconded by Councilman Hawkins, upon review by the Town Board, that fund bills on the Abstract dated March 26, 2009 in the amount of \$320,700.13 be paid.

five (5) Ayes    Carried

Received a letter from Susan Braen in regards to open fires in the Town of Boston. Supervisor Eagan invited her to address the Board on the issue.

Susan Braen, 6145 Butternut Road, requested that a greater effort be made to encourage Boston residence to utilize the brush pick-up service. She noted that open burning sometimes becomes very significant on her daily walks. She noted that because of the smoke, she could not open her windows during the fall. She requested that brush pick-up notices be printed on colored paper. She also requested that these flyers discourage residents from burning.

Supervisor Eagan recognized Erie County Legislator Reynolds in the audience.

Scott Fellows, 6316 Patchin Road, thanked the Town Board for their consideration in appointing him as Parks Superintendent. He also noted that there is a lot of work that needs to be done in the Parks and asked the Town Board to consider the reappointment of Barry Decker, as a seasonal employee at the rate of \$10 per hour.

Supervisor Eagan noted that the Town Board would consider his request.

Erie County Legislator Reynolds passed out to the Town Board draft copies of the Revised Strategic Development Act in regards to the proposed legislation for an Erie County Planning Board. He noted that Erie County Legislator Maria Whyte is running this project. He noted that they are trying to work with the towns and villages to make sure they are represented. However, the most important thing is that we want the understanding that this is strategic development, it's not a come in, home rule, take things away from the towns and villages as the perception started out to be. He noted that he appreciates any feedback from the Town Board and if they still feel strongly that they are not in agreement with this proposal let him know and that it will affect how he votes in the Legislature.

Legislator Reynolds summarized the County's Capital Borrowing. 2009 Capital Borrowing affects road projects, and we still have not had 2007 or 2008 approved because the administration and the Control Board still have not come to an agreement. He wants to make sure that everyone understands that if he is called for road projects, he will do what he can for the minor fix.

Legislator Reynolds also noted that the 21st Century Commission Report, which is an overview of our legislative body, comes out in June. If the Legislature reaches an agreement there may be a referendum in November in regards to the Legislature size, term limits, etc.

Legislator Reynolds noted the Erie County Public Library has been approved for a grant to install Radio Frequency ID (RFID) to be installed in all the downtown library books. Once this is complete they will be coming out to the Boston and outside libraries. He noted that the library funding is the same as it was last year.

Legislator Reynolds noted that the Legislature is working on the Distressed Property Tax Board and is applying for an Efficiency Grant of \$250,000. This is to centralize data. This data would be very good for GIS Mapping.

Legislator Reynolds noted that the Flying Knights Airplane Club is working on finalizing a contract with Erie County Commissioner of Parks Hornung to go onto county property on Feddick Road to fly these model airplanes and use the grass area for landing them. The Town of Hamburg does not want them flying these planes on Hamburg Town Property.

Supervisor Eagan inquired as to why the Town of Hamburg does not want them there anymore.

Legislator Reynolds noted that the Town of Hamburg uses that area for Soccer and there was an incident where one of the planes got loose when there was a game in progress. He noted that on the property in Boston there is an open field and houses. Legislator Reynolds asked if there are any regulations about model airplanes flying in Boston. This club had to get a contract with the Parks Commissioner first and if they get it, then they continue to the next step.

At 7:48 p.m., a Public Hearing was held to hear comments regarding Proposed Local Law No. 1 of the Year 2009 entitled: A Local Law for an Additional Extension of a Moratorium on Applications for the Approvals of Subdivisions, Planned Unit Developments, Cluster Developments, and Multiple Dwellings over Two Units.

Supervisor Eagan read the legal notice. He noted that this should be the last extension before we finalize our codes and have our public hearing.

There were no public comments.

A motion was made Supervisor Eagan and seconded by Councilman Hawkins to close the public hearing at 7:49 p.m.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded Councilwoman Maghran to adopt Local Law No. 1 of the Year 2009 (Proposed Local Law #1) Entitled A Local Law for the Additional Extension of a Moratorium on Applications for the Approvals of Subdivisions, Planned Unit Developments, Cluster Developments, and Multiple Dwellings over Two Units.

five (5) Ayes Carried

Supervisor Eagan noted that there have been some requests from individuals who like to use those 600 acres for recreational use in the winter. He asked Legislator Reynolds if the county will open up that land to Town of Boston residents.

Legislator Reynolds stated that it can be opened up to Town of Boston residents through user fees and/or permits. The Flying Knights Club is attempting to get a one year permit.

County Executive Collins was asked if they could use this land on Feddick Road and he said yes. Right now it looks like they are going to get a one year use permit. He noted that if the Town of Boston has zoning issues, he will bring those issues back to the club and let them know and try to mitigate any problems that may arise.

Supervisor Eagan noted that this is why he opposes a countywide planning board. This is the county making a deal with someone on land use without any consideration of Boston residents. I would like the county to allow a public hearing on this issue regardless of what our codes say and let our residents who are going to have to listen to this come in and voice their opinion. This club will be infringing on the peace and quiet of this community without asking our permission and that is where we lose our identity.

Legislator Reynolds stated that he would take the request for a public hearing back to the appropriate people. He stated that it is county property and it is available for everyone.

Supervisor Eagan stated this is the first time we are hearing about it, the county is on the verge of signing this use permit, and no one has asked the neighbors what they think about it.

Legislator Reynolds noted that the club did talk to the neighbors. It is their responsibility to do some things in the community.

Councilman Hawkins noted that it would have been nice for the club to come to the Town Board and stated that they were going out to the residents.

Legislator Reynolds noted their first step was to see if they could get a user contract, which they haven't signed yet. If you use county land this is how it is done. I will make the proposal to have a public hearing and make sure the group is here to answer questions and I will try to get the commissioner of parks out here also.

Councilman Pluta asked Legislator Reynolds if the county normally talks to the residents or sends out a questionnaire in regards to these types of issues.

Legislator Reynolds stated, No, not normally. It's usually in parkland and certain requirements have to be met. However, it is still county owned, taxpayer land. There has to be special insurance for these types of things.

Councilman Pluta stated that he believes the county should have set up a process to question the residents and not the group itself in order to get an unbiased report back.

Legislator Reynolds stated that is why he will bring Commissioner of Parks Hornung in to answer these questions. It looks like they are close to an agreement and the next step is to know the concerns of the Town of Boston. I have things mitigated with the county, now I have to come over to the town. If I cannot get them mitigated with the town then they will not go there.

Town Attorney Downey noted that it would not have hurt at the beginning of this process to send a letter to the town stating what was being planned, and asking for our comments. In all fairness to this group they do all this work and then they don't realize that we may have some concerns and they may have to change it.

Legislator Reynolds noted that he agreed with Town Attorney Downey. The main discussion was between the Commissioner of Parks and this group.

Supervisor Eagan inquired if the county would sell that property to the Town of Boston.

Legislator Reynolds noted that a letter of request could be sent to Erie County Executive Collins.

Councilwoman Maghran asked if the membership for the Erie County Planning Board been set up yet?

Legislator Reynolds stated that the law has not been drafted yet. Legislator Whyte has been working on this because of the framework of regional growth. She was asked by the legislature unanimously and County Executive Collins to establish a County Planning Board. She is trying to change it to Strategic Development Board.

Councilman Pluta asked if this was the same horse, just a different color.

Legislator Reynolds stated, No, they want more input from the community. Right now there is not any input from the Southtown's or other outside communities coming in to the Environment and Planning Community. It is run by Commissioner of Economic Development Environment & Planning Sinnott. Stormwater Coalition is coming and they are talking about stormwater districts and Boston has many stormwater issues. That is what they are trying to look at to help districts. We are trying to be a little more progressive as a legislative body.

Councilwoman Maghran noted there should be representation from the town.

Legislator Reynolds noted that there is representation from the Southtown?; Mark Gaston will be on the board that is from Erie County Soil and Water.

Supervisor Eagan asked who represents us.

Legislator Reynolds noted that they thought about every town having a representative, but that would be 25 people.

Councilman Hawkins noted Mark is not a Town of Boston resident. He may know Eighteen Mile Creek, but he doesn't know how the residents of this community think and feel about certain things. If we are going to agree to this development board, then there should be someone on that board that lives in Boston that cares about Boston.

Councilman Pluta noted that there is a board of 18 members and you are restricting membership.

Legislator Reynolds asked Councilman Pluta if he thought the Planning Board members was the way to go instead of everyone meeting and having your Planning Board chairperson meet once a month.

Councilman Pluta noted that he thought that would be better. I do not think we are getting representation on this board.

Supervisor Eagan noted that if the issue is with what the Erie County Department of Environment and Planning is or is not doing, that is something the Legislature should find another way of dealing with it.

Supervisor Eagan cont?d: When we receive a permit that requires SEQR review, we send a letter requesting Lead Agency Status. This Planning Board could jeopardize that. I still hold reservation until I review this.

Legislator Reynolds: I do not think it?s so much the Planning Board; Legislator Whyte is trying to look for some strategic development from the frame of the regional globe. Whether you are putting windmills in Lackawanna, strategic development affects every community. Strategic planning needs consideration for the development of county owned property. She is not trying to come in and say this is how to do it. I

am Chairman of the Prime Land Protection Board, which is against putting water lines in Agricultural Districts because it would encourage subdividing of farms. We could forget the planning board and just bring the planners in.

Supervisor Eagan: Bring them in for a voting position, because just to be there to take up seats does not add anything to the benefit.

Legislator Reynolds: If this is how you want to go, I will mention it to Legislator Whyte. This way the Southtown's and rural communities feel represented.

Town Attorney Downey: I think there are just two things to follow up. One, if the county is not taking care of the roads, how can it carry out strategic planning if people don't have a way to get there? I am saying there is a concern as to the level of trust. The other thing is Legislator Whyte may have the greatest goals, but the next person who is doing this may not, and they use that as a power grab, so the towns that look at this are saying how will this be used against us? That is why we responded the way we did. Therefore, that is something that maybe they should look at. Please bring this back to her.

Legislator Reynolds: I will. I brought it out personally because I seen your resolution and I will take these remarks back to Legislator Whyte.

Councilman Pluta asked Legislator Reynolds what the status of Omphalius Road is. Is there any timetable to finish up the bottom half of that Road? We get more complaints about that road being incomplete.

Legislator Reynolds: I am working with Erie County Highway on that. We did some work last year. The County Highway Department and I have restricted communications right now. That is how this administration is handling some of the highway issues right now. I do not have a complete list of road projects because we do not have the 2009 Capital Borrowing done. We are looking at chipping.

Councilman Pluta: Was that road ever on a time line to be completed?

Legislator Reynolds: Not in my three years.

Supervisor Eagan: That bottom part was never part of the original plans when they put that last project together it took three years. The only problem is when they put the gutter aprons in and the water is flowing downhill faster. Where it is not flowing into the gutters, it is eroding the shoulders. When the water gets down to the base of the road the Drainage Intake's cannot take it. The silt then fills them and then they flood.

Legislator Reynolds: The Stormwater Coalition is meeting monthly. I do not know if you want to send a representative. Part of their job is to control the silt flow, sewers and drainage. This is why they are looking into stormwater districts to see what they can do and how they are going to fund this. However, this is something mandated by NYS. I'm actively trying to stay on top of that.

A motion was made by Supervisor Eagan and was seconded by Councilwoman Dobson to concur with the Code Enforcement Office the request for a storage addition to Bella's Pizza, 5699 Herman Hill Road, does not require Planning Board approval and the application is referred back to the Code Enforcement officer for further action.

five (5) Ayes    Carried

Supervisor Eagan requested that Recreation Director Vara be contacted to clarify the start date of the other appointees on his March 24, 2009 memo.

A motion was made by Supervisor Eagan and was seconded by Councilman Pluta on the recommendation of Recreation Director Vara, to appoint Mary Lou Zeis, Senior Site Coordinator, effective immediately at \$12 per hour, term to expire 8/10/09.

five (5) Ayes    Carried

RESOLUTION 2009-09    AUTHORITY TO SIGN LEGAL DOCUMENTS

A motion was made by Councilman Pluta and seconded by Supervisor Eagan to approve the Use of Facility Application for Jaclyn Campfield for June 6, with a rain date of June 7, 2009.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilwoman Maghran to approve the Use of Facility Application for the Trooper David C. Brinkerhoff Foundation for June 20, 2009.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilman Pluta to approve the Use of Facility Application for the Conservation Advisory Council annual Fishing Derby for May 2, 2009.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and was seconded by Councilwoman Dobson to appoint Scott Fellows as Town of Boston Parks Superintendent, seasonal employee.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and was seconded by Councilman Hawkins to appoint Barry Decker as a part time, seasonal, Parks? Employee at \$10 per hour.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and was seconded by Councilman Hawkins to authorize Supervisor Eagan to execute agreements with Hodgson Russ for the Increase and Improvement of Facilities of Water District No. 3, the Increase and Improvement of Facilities of Water District No. 2 and the Establishment of Extension No. 3 to Water District No. 2 projects.

five (5) Ayes Carried

Supervisor Eagan stated that the town's 2008 Annual Financial Update Document was filed with the Town Clerk and NYS Comptroller.

Supervisor Eagan commented that in the general fund, we have over \$80,000 decreased revenues, including less mortgage tax and interest income. 2008 budget appropriations were \$1.658 million and actual expenses were \$1.599 million, which is under budget. Engineering expenses are up due to various projects. The archeological study for the Trooper Barracks was almost \$90,000. Many of these projects will be partially reimbursed by grants in 2009. In the Highway Fund, 2007 revenues are down and expenditures are up. Increases in street maintenance costs were evident in all seasons. Asphalt, salt, sand and the new highway contract all contributed to an over \$80,000 increase. We established a \$200,000 Equipment Reserve, to minimize possible tax increase. By continuing to closely monitor ongoing expenses in all departments and funds, and by accurately estimating budget information, we can stay on track with the town's finances. By taking advantage of matching grants, we can improve our facilities and obtain needed equipment for the future.

Highway Superintendent Telaak asked the Town Board for permission to authorize Rich Emerling, Valley Fab to take the new truck to Rochester for a truck show next week. He noted that Rich Emerling is insured.

Supervisor Eagan requested that a certificate of insurance be given to Town Clerk Shenk.

Councilman Pluta noted that it is Highway Superintendent Telaak's decision.

Town Board members do not have a problem with the truck being taken to Rochester.

Highway Superintendent Telaak noted that every street in town has been swept once. Brush pick up started early this year due to the weather, but doesn't officially start until April 6. Ditch dirt is available for anyone needing fill.

A motion was made by Councilman Pluta and was seconded by Supervisor Eagan to authorize Highway Superintendent Telaak to rent a trencher and an excavator to complete some projects on Colonial Drive, Liebler Road and Kevington Place.

five (5) Ayes Carried

Highway Superintendent Telaak noted that a property on Dunn Road is in need of a larger culvert due to flooding.

Councilman Pluta noted that the Fishing Derby is May 2nd at 10 a.m.

Councilman Pluta asked Highway Superintendent Telaak why winter coats are being purchased for the highway workers.

Highway Superintendent Telaak stated that the coats are lime green with safety stripes. It is a safety issue. Many of the other towns supply them.

Councilman Pluta noted that safety vests were purchased last year and could be worn over their own winter coats. If it is not stipulated in the Highway contract that we provide these coats, then I see it as a waste of taxpayers' money.

Councilman Hawkins noted that the Annual Easter Egg Hunt is April 11th at 1 p.m.

Supervisor Eagan noted that Thursday, April 23rd at 3 p.m. would be the groundbreaking ceremony for the New York State Police Barracks.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to adjourn the meeting at 8:43 p.m.

five (5) Ayes Carried

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DAVID J. SHENK, TOWN CLERK