

## Town Board Minutes April 18, 2012

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

Also Present: Highway Superintendent Telaak, Town Attorney Kobiolka.

A motion was made by Councilman Genzel and was seconded by Councilman Murtha to refer the Rezoning Application for 2 acres +/- behind 5659 Herman Hill Road from

C-1 Local Retail Business to C-2 General Commercial to the Planning Board for review and recommendation.

five (5) Ayes Carried

Supervisor Ballowe reported that there was a skunk living in one of the sheds in the Town Park area.

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe to hire a wild life nuisance trapper to remove the skunk.

five (5) Ayes Carried

Councilman Boardway stated that in the Minutes of March 21, 2012 Supervisor Ballowe stated that when the Highway Superintendent took over, the Highway Department was \$100,000 in debt. After review of the recording he actually said \$800,000. The Highway Department is now debt free. This will be corrected for the final approved minutes.

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to approve the minutes of the April 4, 2012 regular meeting with the corrected change noted above.

five (5) Ayes Carried

A motion was made by Councilman Murtha and seconded by Councilman Vara, upon review by the Town Board, that fund bills on the Abstract dated March 30, 2012 in the amount of \$36,422.93 be paid.

five (5) Ayes Carried

Michael Gilcrest, 6882 Boston Cross Road: I live next to the Boston Hotel and currently the business is blowing smoke and fumes into my yard up to 12 hours a day. I am not sure if this can be resolved by having the owners duct it upwards and out, but it is fifteen feet from my fence line and five feet off the wall. It actually has been redirected so that it blows down at the ground and I am concerned about the sanitary issue of the grease on the ground and smoke and fumes blowing through my yard. I cannot use my garage and my kids cannot play in the driveway without being affected by it.

Councilman Boardway: Was this changed recently?

Michael Gilcrest: No, it is just something that has compounded.

Supervisor Ballowe: I will have Code Enforcement Officer Ferguson inspect that and if there is a sanitary issue, the NYS Department of Health should also be called.

Councilman Vara asked if this could be a code violation.

Michael Gilcrest: Is that something that is grandfathered in that I have to accept this?

Supervisor Ballowe: I am sure there are health codes that should be followed. We will make sure that these pipes are up to Town of Boston code.

Kathy Praczkajlo, President, Boston Historical Society noted that Councilman Murtha and some of his family members assisted with the cleanup and display set up at the Museum. She also thanked Mike McLeod for helping with the electrical in the loft. May 15th there will be a potluck dinner held in the Community Room.

Ron Yormick of Deanna Drive requested the status of the valid zoning petition he submitted at the March 7th meeting and asked when the Town Board would take a vote on the rezoning.

Town Attorney Kobiolka stated that Town Engineer Hannon had reviewed the signatures of the adjacent homeowners and it did not meet the 20 percent needed. It was somewhere between 12 to 14 percent.

Ron Yormick: I disagree with that, I got everyone that adjoins that property. Where he gets his figures from is beyond me. The only person I did not get to sign that petition was the person who owns the storage facility on Boston State Road. I do not know why you would take his word.

Town Attorney Kobiolka: Because he is the Town Engineer and if six months down the road I am standing in front of the Supreme Court Judge and he says I should have sent this to the Town Engineer for his opinion that is exactly what I want.

Ron Yormick: But that is his opinion. Whose signature didn't I get? I do not understand how I only got 11 percent.

Town Attorney Kobiolka: I believe you lost the trailer park.

Ron Yormick: No I did not. I got Mr. Dunham's signature.

Town Attorney Kobiolka: I believe it was later withdrawn.

Ron Yormick: I believe it cannot be withdrawn unless he withdraws it at a meeting. He cannot just take his name off after it has been submitted to the Town Board.

Deputy Town Clerk Mulé noted that Mr. Dunham did submit a letter to the Town Clerk's office and that letter was attached to the petition.

Ron Yormick: I still had everyone else that adjoins that property.

Town Attorney Kobiolka: But you still need 20 percent. With those small lots of 75 or 100 feet, it did not meet the criteria. I would be happy to sit down with you and discuss this.

Ron Yormick: NYS law says I only have to get the adjoining property owners.

Town Attorney Kobiolka: You have to get 20 percent of the adjoining property owners that have property around the property to be rezoned. Not 20 percent of the neighbors.

Ron Yormick: I would like a lawyer for the New York State Town Law to look at that petition. We are relying on one engineer that does not even live in this town and has no bearing on what is going on.

Town Attorney Kobiolka: Because he does not live in the town, he has an unbiased opinion.

Ron Yormick: I would like to know whose signature I did not get.

Town Attorney Kobiolka: I would be happy to sit down with you and discuss it.

Ron Yormick: Thank you.

Councilman Vara: Is it 20 percent of the property or of the people around the property?

Town Attorney Kobiolka: No, 20 percent of the people who border the property.

Councilman Vara: So you are talking acreage then. It is by area. So if one person has 150 acres and the other nineteen people have less, is this what we are talking about.

Town Attorney Kobiolka: Yes.

Ron Yormick: That is not what the law states. I got signatures from everyone on Wildwood, Boston State and Deanna Drive.

Councilman Vara asked if Charlie Dunham's name is on the petition would it total the 20 percent needed.

Supervisor Ballowe noted that Town Engineer Hannon would have to do that calculation.

Ron Yormick: Town law states 20 percent of the adjacent property owners.

Town Attorney Kobiolka: Who occupy 20 percent of the area around the property. You could have 20 property owners around this huge parcel and have everyone sign it and it still would not qualify, because they do not own 20 percent around the border of the property.

Councilman Vara noted that Eric Curtis, Empire Classic Road Race promoter with Buffalo51 Cycling Promotions is requesting permission to stage a bicycle race within the Town of Boston on June 30 between the hours of 9 a.m. and 2 p.m. Part of their proceeds will be donated to the Boston Fire Department.

A motion was made by Councilman Vara and was seconded by Supervisor Ballowe to allow Buffalo51 Cycling Promotions to hold their Empire Classic Road Race in the Town of Boston on June 30th between the hours of 9 a.m. and 2 p.m. with the stipulation that they contact the Boston and Patchin Fire Companies and the New York State Troopers and make the appropriate traffic safety arrangements.

five (5) Ayes Carried

Councilman Boardway noted that Robert Telaak has withdrawn his application for a Special Permit for Dumping of Material.

A motion was made by Councilman Boardway and was seconded by Councilman Genzel due to the withdrawal of Robert Telaak's Special Permit application that his application fee of \$150 be refunded by the Town Clerk.

five (5) Ayes Carried

#### RESOLUTION 2012-06 WILLIAM STREET POSTAL FACILITY CLOSURE

Supervisor Ballowe noted that David Bowen has requested appointment to the Planning Board.

Councilman Vara asked if Mr. Bowen was related to any of the Town Board members.

All the Town Board members noted they were not.

Councilman Vara asked if there was a list of possible candidates for these positions in case they ran into an issue of filling these positions.

Supervisor Ballowe stated that anyone that puts in a resume or application goes to the Town Clerk's office and is kept on file.

A motion was made by Councilman Vara and was seconded by Councilman Murtha to develop a list of Planning Board applicants in anticipation of any future openings.

The vote was interrupted and no roll call was made.

A motion was made by Councilman Genzel and was seconded by Councilman Boardway upon the recommendation of the Planning Board to appoint David Bowen as an Alternate Member term to expire December 31, 2015.

Supervisor Ballowe Aye      Councilman Boardway Aye

Councilman Genzel    Aye      Councilman Murtha Nay

Councilman Vara      Nay

three (3) Ayes two (2) Nays Carried

Councilman Vara asked if his motion was still open.

Town Attorney Kobiolka noted that his request was not on the agenda.

Councilman Vara noted that there were many times that things were discussed that were not on the agenda.

Supervisor Ballowe noted that if Councilman Vara wanted to discuss an issue it should have been discussed at the Agenda review to be brought up under preliminary matters, just as it was done for the skunk issue and Hamburg Overhead Door.

The motion made by Councilman Vara neither passed nor failed due to vote being incomplete.

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to approve the Use of Facility Application for Boston Recreation Summer Day Camp Monday through Friday, July 9 ? August 17, 2012.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe on the recommendation of Recreation Director Clesse, to appoint the following to the Summer Recreation Program, terms to expire 8/24/12:

Name	Position	Hourly Rate
Taylor Janak	Counselor	\$10.50
Amanda Patrone	Counselor/Lifeguard	\$ 8.50
Katelin Selby	Counselor/Lifeguard	\$ 8.50
Sarah Telaak	Counselor/Lifeguard	\$ 8.50
Neil Byrne	Counselor	\$ 8.00

Motion Cont?d:

David Diefenbach	Counselor	\$ 8.00
Courtney Gorrell	Counselor	\$ 8.00
Elizabeth Janak	Counselor	\$ 8.00
Daniel Selby	Counselor	\$ 8.50
Julie Hagner	Counselor	\$ 8.00
Nicholas Janak	Counselor	\$ 8.00
David Kleis	Counselor	\$ 8.00
Kaelyn Gamel	Counselor	\$ 8.00
Jenna Bloom	Substitute Counselor	\$ 8.00
Brianne Peterson	Substitute Counselor	\$ 8.00
Cathy Maghran, R.N.	Camp Health Director	\$600.00/season

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Supervisor Ballowe to upon the recommendation of the Zoning Board to appoint Bethany Pryor as a Regular Member term to expire on April 1, 2017.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Murtha upon the recommendation of Code Enforcement Officer Ferguson to grant the request for an additional accessory building from Paul Reinecke at 7737 Feddick Road.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to table the Highway Department Collective Bargaining Agreement until the May 2, 2012 regular Town Board meeting so that the Town Board members can further review it.

five (5) Ayes Carried

Councilman Boardway noted that the Boston Fire Company has been in need of new facilities for storage of trucks and essentially a new fire hall. Town Attorney Kobiolka did receive a fax with satisfactory proof that this matter is in fact fully resolved. Original documents are still needed and he asked Russ Metcalf to see him after the meeting.

A motion was made by Councilman Boardway and was seconded by Councilman Vara upon the recommendation of the Planning Board and Town Engineer Hannon to approve the revised site plan for the Boston Fire Company at 6746 Mill Street.

five (5) Ayes Carried

Received and filed monthly reports from the Supervisor, Assessor, Code Enforcement Officer, and Dog Control.

Supervisor Ballowe noted that pea gravel has replaced the rotting wood chips that were in the playgrounds. They also looked at some properties with drainage issues.

Parks Superintendent Telaak noted that Highway Department delivered stone and red baseball clay and helped the parks workers install it on the playgrounds and ball diamonds.

Highway Superintendent Telaak noted that the new energy efficient lights and fire alarms have been installed in the Highway garage.

Highway Superintendent Telaak noted that they are still working on Liebler Road drainage, moving the ditches back and installing larger pipes. Brush pick up continues and there are still wood chips and fill available.

Highway Superintendent Telaak noted that Erie County Highway should be made aware that there are dead trees hanging over almost every county road in the Town of Boston. This needs to be taken care of.

Highway Superintendent Telaak noted that he has rescinded his application for Dumping of Material. The Town Board had determined that it was not necessary due to the fact that he is using dirt that comes from within the town and dumping it within town. It is no different from any town resident requesting fill.

Russ Metcalf noted that he believed that was a violation of town law.

Highway Superintendent Telaak noted that dirt will be delivered by the highway department just as they do anytime town residents fills out the request.

Russ Metcalf asked if there was a cost to the resident.

Supervisor Ballowe stated there was not.

Supervisor Ballowe noted that the NYSERDA energy efficient grant work has begun and lights and Emergency exit signs have been updated.

Councilman Murtha noted that he met with Legislator Mills and Mark Gaston from Erie County Soil and Water regarding the flooding near the old North Boston Fire Hall. They are trying to obtain a larger culvert to be installed there. Mr. Gaston will conduct research regarding this situation and possibly get FEMA involved.

Councilman Genzel as Engineering Liaison met with Town Engineer Hannon regarding the Cole Road, Water 3, Ext. #1 project and there was an issue with the pressure testing and sections had to be resealed and retested. Town Engineer Hannon has received the topographic survey for the Boston Cross Drainage Relief which encompasses Boston Cross, Mill and Boston State Roads. We are hoping to start construction this fall from Boston Cross Road toward Eighteen Mile Creek.

Councilman Genzel as Planning Board Liaison noted that the Boston Fire Company Site plan was approved. The next meeting is May 8th at 7:30 p.m. pending an agenda, otherwise they will hold a work session. Volunteers for all the boards are needed. Letters of interest can be submitted to the Town Clerk's office.

Councilman Genzel as Boston Community Foundation Liaison noted that donations will continue to be accepted for the Fireworks display. As stated previously, tax dollars will not be used to fund this event. Councilman Genzel congratulated the Town Board for having received the A1 rating. They are always looking for ways to save money and lower taxes.

Councilman Genzel noted that he attended the Boston Fire Company Gun raffle this past weekend.

Councilman Boardway noted that he also attended the Boston Fire Company Gun raffle.

Councilman Boardway noted that Summer Recreation preparation is in full swing. We are looking forward to expanding our programs this year. Recreation Director Clesse puts a lot of time and effort into organizing this program. We are confident in the staff that she has selected. Most of these appointees are return counselors which benefits the town in the way of not having to extensively train them and we know we can trust them with our children.

Councilman Boardway noted that this is statewide recruitment week for Volunteer Fire Services. He believes that our volunteer fire departments have open houses scheduled. He noted that statistically, Erie County has lost approximately 5,000 volunteer fire fighters over the last ten years. Please visit one of our fire departments in town if you would like to become a volunteer in the Town of Boston.

Councilman Vara reported that there was a problem at the emergency squad with a cut cable. Time Warner repaired the line but stated that the line must have been damaged when a gas line was installed.

Councilman Vara noted that the one solar dumpster was delivered, but we are still waiting for a second one.

Councilman Vara attended the Conservation Advisory Council meeting and there will a Fishing Derby on May 12 from 10 a.m. to 12 p.m. The ponds will be supplied with Bass, Perch and Catfish. The Walleye association will monitor the catch.

Councilman Vara noted that the Conservation Advisory Council will be holding an Environmental awareness event on September 22, 2012. Hawk Creek will attend with animals on display and the SPCA will be ready to adopt out some dogs and cats.

A motion was made by Supervisor Ballowe and seconded by Councilman Murtha to adjourn the meeting at 8:20 p.m.

five (5) Ayes Carried

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JENNIFER A. MULÉ, DEPUTY TOWN CLERK