

## Town Board Minutes April 2, 2008

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

Also Present: Highway Superintendent Telaak, Town Attorney Downey, Deputy Code Enforcement Officers Lisowski and Juda.

Supervisor Eagan noted that a request was received from Kevin Osmanski of 4891 Eckhardt Road. This property is directly across from the Eckhardt Road Water line. Supervisor Eagan stated that he spoke with Tom Wick from Erie County Water Authority and he said that with Town Board approval they would allow Mr. Osmanski to run the waterline across the street and tap in for water service.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to allow Kevin Osmanski, 4891 Eckhardt Road to proceed with the tap in to Erie County Water as long as there is no cost to the Town of Boston.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and seconded by Councilman Hawkins to approve the temporary Certificate of Occupancy of Southtown • s Feeds and Needs at 7380 Boston State Road pending the installation of exit signs and smoke detection throughout the building as per NYS Fire Code.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and was seconded by Councilwoman Dobson to approve the minutes of 3/5/08.

five (5) Ayes    Carried

A motion was made by Councilwoman Dobson and was seconded by Councilman Hawkins to amend the 3/19/08 minutes as follows:

Current motion:

A motion was made by Councilwoman Dobson and seconded by Councilwoman Maghran to authorize Deputy Town Clerk Mule • to attend the NYS Town Clerk • s Association Conference in Saratoga Springs, NY, April 27th-30th, all appropriate expenses to be paid.

five (5) Ayes Carried

Proposed change:

A motion was made by Councilwoman Dobson and seconded by Councilwoman Maghran to authorize Deputy Town Clerk Mule • to attend the NYS Town Clerk • s Association Conference in Saratoga Springs, NY, April 27th-30th, hotel costs \$639, registration fee \$60, and approximately 600 miles and miscellaneous travel costs to be paid.

five (5) Ayes Carried

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran, upon review by the Town Board, that fund bills on the Abstract dated March 27, 2008 in the amount of \$533,298.33 be paid.

five (5) Ayes Carried

Received and filed Town of Collins resolutions opposing the elimination of the position of elected assessor and elected tax collector.

Received and filed Town of Wales resolution opposing consolidation/dissolution of fire districts & fire protection districts.

Received and filed Town of Alden resolution to memorialize NYS to enact legislation relating to text messaging while driving.

Received and filed Town of Marilla resolution to retain school resource officer assignments of NYS police.

Robert Telaak, 7900 Feddick Road stated that he received a letter regarding his windmill application and would like clarification about the requirements stated therein. He noted that he can not find anything in the Town Code about the 50' height requirement, the noise level, the color and the RPM's of the windmill. He stated that the applications were filed about five months ago and haven't heard anything one way or the other if he will be able to put them up. He stated that the letter only allows twelve days to comply. He feels that it's not a sufficient amount of time to complete the request.

Supervisor Eagan stated that time wasn't a problem. He stated that he did not have a chance to read that letter before it went out. He stated that usually permits are not obtained until construction is ready to be started. The assumption was that everyone was ready to act upon getting the windmill permit and building it. He stated that if applicants are not ready it will be readdressed by the Town Board.

Robert Telaak stated that applicants came in before hand because the Town Board was talking about the 500 feet from property lines and 1,000 feet from the road. That makes it really hard for 90 percent of the people in this town to do that.

Supervisor Eagan stated that in the past the Town Board agreed that something needed to be put into place, not to hurt the residents that may want to put these up, but to safeguard if commercial windmill companies come into town. Most of the conditions apply to the commercial entities that may come into this community. The Planning Board was sent a draft copy of the proposed zoning changes and asked them for their opinions and comments. Part of what was addressed was what the codes will be for residential people.

Robert Telaak stated that his concern with the letter is that it stated that if we didn't complete these things in twelve days our old applications were going to be void.

Supervisor Eagan stated that this issue does need to be discussed and something will be done to rectify the time frame.

Town Attorney Downey clarified that the policy has been that if you are applying for something that needed rezoning, obviously you are not going to get a variance within the 12 days, but you would then need to make your application. We didn't expect that you would have that approved by the Zoning Board of Appeals by that time.

Jason Collard, 7880 Feddick Road noted that the Town Board stated that they were trying to prohibit wind farms.

Supervisor Eagan stated that the Town Board wasn't trying to prohibit them, but to set some sort of gauge if they do come in. Years ago a lot of communities didn't have codes that addressed communication towers, and the towns were caught off guard because they didn't have codes to control this. He stated that he has been involved with some wind mill development and have heard pros and cons from across the state because we researched all the complaints people had.

Jason Collard asked if there were codes in place for residential windmills.

Supervisor Eagan stated not yet, but there will be soon. In the interest of accommodating and getting everyone that has applied moving on this, we are scheduling special work sessions to go over the

proposed zoning changes and will come up with something on the residential issue in a couple months. There will be zoning regulations that guide the location and any of the safety issues.

Jason collard asked if the public will have any input. He stated that from what he has heard some of the restrictions would prohibit him from putting one up and he has 17.5 acres.

Supervisor Eagan stated there will be a public hearing and all those residents who have made application for a windmill will be sent a separate letter stating the time and date.

Bill Forness, 9534 West Hill Road stated that he spoke last month in regards to the windmills, would like to see a large separation between commercial and residential and asked if there will be a committee set up of people who may have interest or knowledge.

Supervisor Eagan stated that there are already people involved that have knowledge of these windmills and some of the dos and don'ts. Everyone in the community will be able to speak on this. We will be consulting with people that have knowledge on this subject and with other communities.

Bill Forness stated that he knows there is already a residential windmill in town.

Supervisor Eagan stated that is possible and that he understands Mr. Forness's concerns.

Bill Forness inquired about the permit requirement for fill (Proposed Local Law No. 2 of the Year 2008, A Local to Remove the Permit Requirement for Fill Received from the Town of Boston). He asked if : fill received from the Town of Boston ; would that be from the town being a separate entity from the Highway Department or should that be read as : from within the town ; ?

Town Attorney Downey stated that initially the term : Town of Boston ; meant the municipality, but some had raised questions that it might be confusing. So the Local Law itself basically says that : a municipality including any of its divisions or departments ; , so it's clear it's talking about the municipal corporation or its departments, for example the Highway or Parks Departments, etc. So if someone receives it from the Town, the municipality, then the town code does not apply.

Bill Forness asked if your neighbor is building on Back Creek Road can you haul fill anywhere else?

Town Attorney Downey stated that they can, but they have to apply for a permit. He stated that is the law now and hasn't changed. If you dump or receive, you need a permit. The code does not apply to the town.

Bill Forness stated so Erie County Highway Dept. can not dump anywhere in this town.

Town Attorney Downey stated there are other legal issues because Erie County and Town of Boston are divisions of NY State.

Bill Forness asked if Erie County Highway Department can dump fill at his property without a permit.

Town Attorney Downey stated that this law only speaks to the town if someone wants to receive fill from the town. All we are doing is amending our code, which says that if you receive fill that you have to obtain a permit.

Bill Forness reiterated that right now, our code says that you can not receive fill from Erie County unless you have a permit. Is that correct?

Supervisor Eagan interrupted and asked Town Attorney Downey to find an answer to Mr. Forness's question and to have it within the next week.

Bill Forness asked if the county dumped yesterday, would the code enforcement officer be sent to cite someone.

Supervisor Eagan asked Mr. Forness if he knew of any dumping being done by the county in this town yesterday.

Bill Forness stated not yesterday, but they did last week and the day Mr. Telaak was cited.

Supervisor Eagan stated that his questions would be addressed at a later time.

Town Attorney Downey stated that there are situations where you have other legal entities that have certain rights whether we want to do it or not. NYS has rights in our town. We can write numerous codes, for example on farms. NYS has superseded our code, so I need to check and see if the county has superseded us in that particular area. This question has never come up before. But as to the Town as a municipality we can deal with and we can give you an answer. This is why we are writing this particular law now. I will research your questions, and by the next board meeting I will have answers for you.

Bill Forness asked if the Lion • s shelter has lightning protection. He asked that if that could be verified before town residents allow their children to attend the summer recreation program. He stated he was concerned about the children being under the shelter during a thunder and lightning storm.

Councilman Pluta stated that it is grounded. He stated that it does not have lightning rods on it. He stated that there are ground rods driven into the columns.

Bill Forness asked if the shelter would be safe if there were a lightning strike.

Supervisor Eagan asked Town Clerk Shenk to check with the Boston Lion • s Club, the builders of the shelter.

Supervisor Eagan stated that for the record, there will not be any children under that shelter during a storm. This is a temporary situation because Boston Valley School is having building construction this year.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to approve the Use of Facility Application for the following organizations and dates:

Betty Hermann June 28, 2008

Boston Clergy Assoc. of Churches August 10, 2008

Patchin Fire Co. /Boston Community Days June 25-30 2008

five (5) Ayes Carried

A motion was made by Supervisor Eagan and was seconded by Councilman Pluta to appoint Justin Smolinski and Micheal Billi as North Boston Fire Police and will continue until such time as resignation, removal or replacement.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and was seconded by Councilman Hawkins to schedule the bid opening for the Recreation Department Yellow Bus Transportation for Monday, April 28, 2008 at 10 a.m.

five (5) Ayes Carried

RESOLUTION 2008-04 SUPPLEMENTAL RESOLUTION AND ORDER OF THE TOWN OF BOSTON, NEW YORK CONCERNING EXTENSION NO. 3 TO WATER DISTRICT NO. 2, ADOPTED APRIL 2, 2008.

A motion was made by Supervisor Eagan and was seconded by Councilman Hawkins to appoint the following as Seasonal Laborers in the Parks Department: Melissa Dotzler, Jason Telaak and Berry Decker at \$10 per hour and Scott Fellows at \$11 per hour.

five (5) Ayes Carried

A motion was made by Supervisor Eagan Mead and seconded by Councilwoman Dobson to schedule a Public Hearing for May 7, 2008 at 7:45 p.m. on Proposed Local Law No. 2 of the Year 2008, A Local to Remove the Permit Requirement for Fill Received from the Town of Boston.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and was seconded by Councilwoman Maghran upon the recommendation of the Planning Board to re-appoint Richard Brox as the Town Planner, term to expire December 31, 2008.

five (5) Ayes Carried

Received and filed monthly reports from the Town Justices.

Supervisor Eagan noted that SHPO has approved the Phase 3 data collection/recovery plan. We will start the Request for Bids stage of the project soon. He stated that the town has agreed with SHPO to focus only on the area of land where the barracks will be including the parking lot, the road leading up to it and the drainage area. Supervisor Eagan hopes this will start within the next 30-40 days. He stated that if Phase 3 does not turn up any significant findings, they will release the town to begin building the police barracks.

Town Clerk Shenk stated that Erie County Comptroller Poloncarz is coming to the Town Hall on May 7th at 7 pm for one of his Town Hall Meetings. His goal is to reach out to all communities and give a brief overview of the financial state of Erie County.

Town Clerk Shenk announced that he and Deputy Town Clerk Mule?V are finishing the LUCA review for the 2010 Census. This is the first major portion of the Census process. We have been reviewing all the addresses in town and will be submitting updates to the Census Bureau to help it prepare for their first mailing.

Highway Superintendent Telaak stated that brush pick up starts Monday, April 7th and will be going around town the whole month. If residents don't have their brush out this week, we will be around again. He stated that if any residents have any special needs to call the Highway Department. Street sweeping will begin again when the sweeper is returned. The machine is shared between three towns.

Highway Superintendent Telaak requested that yield signs be placed on Colonial Drive at and Hillcroft Drive and on John's Terrace at Homestead Road. He also suggested that a sign at the intersection of Boston State and West Tillen Roads stating that cross traffic does not have to stop.

Councilwoman Maghran noted that the same sign should be erected at the intersection of Abbott and Herman Hill Roads.

Highway Superintendent Telaak stated that he had been instructed by the Town Board to have the frame fixed on his Deputy's truck until such time bids can be put out. The Town Board suggested that after the truck is fixed it be switched with the Parks Department truck because it's not used as heavily.

Town Attorney Downey noted that at the 3/19/08 meeting a motion was made by Councilman Pluta to authorize Supervisor Eagan on behalf of the Town Board to approve any lending or borrowing of equipment from surrounding municipalities. At that time Town Attorney Downey was asked to make sure that motion was appropriate and legal. He noted that he has spoken to the Association of Towns and determined that the Town Board is allowed to make such a motion and delegate such authority. However, they do recommend that there be some limitation on it. Town Attorney Downey recommends that the Town Board make a motion to supersede the past motion with some limits.

A motion was made by Councilman Pluta and was seconded by Councilwoman Dobson to supersede the previous motion made at the 3/19/08 Town Board meeting to authorize Supervisor Eagan to act on behalf of the Town Board to approve any lending or borrowing of equipment from surrounding municipalities for three days with the authority to approve an additional three days. Any lending or borrowing over six days will require Town Board approval.

five (5) Ayes Carried

Councilman Pluta stated that he has been working with the veteran groups and the CAC on improving the Boston Commons. He noted that he has had discussion with Grant Writer Connie Miner who will

give him the appropriate paperwork to apply for a grant to replace the sidewalks in that area. He noted that he will be going to residents' homes to talk about this project.

Councilwoman Maghran stated that a press release was sent out requesting letters from concerned residents regarding traffic safety. She stated that she has received quite a few concerns on county and state roads. She stated that she has been making calls.

Councilwoman Dobson asked Deputy Code Enforcement Officer Juda if he received any responses from residents on Trevett and Powerline Roads in regards to posting house numbers.

Deputy Code Enforcement Officer Juda stated he did not receive any responses yet. He plans on visiting each resident on those roads and if they do not comply he will issue a notice of violation.

Councilwoman Dobson noted that the Boston Chamber of Commerce is seeking nominations for Citizen of the Year for 2008. Nominations should be received by April 15th.

Councilman Hawkins stated that he has meetings with Legislator Reynolds, National Grid and Mark Gaston, Erie County Soil and Water, later this week.

Highway Superintendent Telaak stated that he received a phone call inquiring about new playground equipment. He asked Councilwoman Dobson if she had any information on that.

Councilwoman Dobson stated the funds for the equipment are tied up with the NYS Police Barracks. She stated that she spoke with Connie Miner and is waiting to hear from the state as to whether or not the money can be separated so that she can start ordering on the park equipment.

Supervisor Eagan asked if Highway Superintendent Telaak was talking about the park behind the town hall. He stated that he spoke with Connie Miner today and she verified that we can go ahead and order the equipment.

Councilwoman Dobson stated that the equipment is already picked out off of state bid and the fire companies are willing to install it.

A motion was made by Supervisor Eagan and was seconded by Councilman Hawkins upon the recommendation of the Zoning Board to appoint Ralph Gibson as Chairman for 2008.

five (5) Ayes    Carried

Received and filed a memo from Assessor McSkimming requesting that the Town Board appoint someone to the Board of Assessment Board soon.

Supervisor Eagan requested Town Clerk Shenk to advertise for members for the Board of Assessment Review.

Town Clerk Shenk noted that he would prepare a press release to advertise for positions for all the Boards.

A motion was made by Supervisor Eagan and seconded by Councilwoman Dobson to adjourn the meeting at 8:17 p.m.

five (5) Ayes    Carried

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DAVID J. SHENK, TOWN CLERK