

Town Board Minutes April 21, 2004

Present were Councilman Brien M. Hopkins, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Councilman Richard K. Hawkins, Supervisor William A. Eagan, Town Attorney Kelly A. Vacco and Deputy Highway Superintendent Tracy L. Hirsch.

Reverend Richard Kwiekowski of Good Shepherd Lutheran Church opened the meeting with a prayer.

A motion was made by Councilman Mead and seconded by Supervisor Eagan on the recommendation of Town Attorney Vacco that the Town Board authorize and/or recognize the Boston Emergency Squad to enter into a cooperative agreement with the Patchin Fire Company as required under New York State Public Health Law. The Town of Boston is simply recognizing and authorizing the Boston Emergency Squad to enter into this agreement.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth to adopt the minutes of the April 7, 2004 regular meeting with the following corrections:

Current motion:

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the Transfer of Appropriations as follows:

Proposed change:

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the 2003 Transfer of Appropriations as follows:

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth upon review by the Town Board that fund bills on the Abstract dated April 14, 2004 in the amount of 40,760.82 minus voucher #264 in the amount of \$50 for a new total of \$40,710.82 be paid.

five (5) Ayes Carried

Received and filed Erie County Sheriff's Report for March 2004.

Received and filed letter from Seneca Nation of Indians regarding Resolution 2004-07.

Received and filed Certificate of Attendance from Erie County Board of Assessment Review Training of Robert Ganey.

REQUESTS FROM FLOOR

Bill Fornes, 7281 Woodland Drive: I am an employee of the Town of Boston Highway Department. It is my understanding that the Town Board is appointing a Highway Superintendent at a salary of \$43,500. Recently, a Deputy Highway Superintendent was appointed at a salary of \$39,000 for a total appointment cost of \$82,500. That is a lot of money for two patronage appointments and a great disservice to the taxpayers within 4 weeks. You, as a Board, are going to tell me that this is a savings of \$15,000, but by not filling the deputy position, there would be a savings of \$50,000 plus the cost of benefits. We had a no show Highway Superintendent for the last 15 years. I feel the appointment should be held off until after the November elections. If nothing else, I would ask the Board to hold off the appointment until the next meeting. Let the taxpayers of this town get the truth of what transpired over the past 7 months. It seems a number of Board Members and Republican Party Members are more concerned over who started the investigation.

Bill Fornes cont'd: I'm telling you now, up front, I started the investigation. You can blame Toni Bernardi, Burt Feltz, and everybody else. It's been a total embarrassment to be associated with this

Highway Department and a Town Board that doesn't take the best interest of the town before their own political agendas. I haven't heard or seen any Board Member mention what was really stolen or misappropriated. There are a number of Board Members that have been made aware of illegal activities and the misappropriation of thousands of dollars of highway funds. Maybe these Board Members should consider resigning. On the note of appointments, let's take Frank Lisowski, the Republican Chairman and the Deputy Code Enforcement Officer, who is not certified by New York State. He seems to use this appointment more for what is easy for him than for the taxpayers of this town, specifically, selective enforcement. Dennis Kramer is another that is not doing his job to the full extent as Code Enforcement Officer. There are hundreds of code violations in this town that I'm sure they are aware of. Frank Lisowski's house is one of them. I would ask for their immediate resignation. If not, I would like them to at least fulfill their duties to the full extent of the law. It is not fair for the citizens to have to make a complaint and possibly upset a neighbor. The Code Enforcement Officers will drive by a number of violations to selectively enforce others, Toni Bernardi's being one of them. Twenty-four hours later the town Highway Department, under Superintendent of Highways Kreitzbender, purchases \$193 in weight limit signs. We put four of these signs posting the road in and out of Bernardi's property. The road was already legally posted at Boston State Road. Back to the Town Board, you are all concerned about the finger pointing. You talk about restitution. I don't believe that any of these Board Members have a clue about what actually happened or what restitution could be made. Before you point fingers, you should look in your own back yards first. Mr. Bernardi, has offered this Board a piece of property, with a turnaround which would save the taxpayers approximately \$20,000 - \$30,000. Foit-Albert has been there. It would take care of Toni Bernardi's frontage and his neighbor to the east, whose driveway doesn't even connect onto a town road. It could also bring future revenue to the town by opening up two building lots. I believe that he has graciously offered to donate this land. The road is already built. I know for a fact that Toni Bernardi constructed a building. There might have been some problem with the permits. I know there was a compaction test. I'd be very interested to see how many people in this town who have put pole barns in have been forced to do a compaction test. We as a town, and Town Board Members should be made aware of; we have a major problem with the State of New York and the DEC and the Army Core of Engineers with the material that has been dumped behind the Highway Garage in the creek bottom. We were told we could no longer bring material in without being cited. If what the Town has done, if another contractor would have done, they would have been fined hundreds of thousands of dollars. We installed 600 foot of riprap without the proper permits. We have illegally been in the creek and removed material from private property without proper permits, and this all seems to be overlooked. Mr. Kramer happens to go down and tell the Deputy Highway Superintendent that we can't haul fill down Willow Drive, a 4-ton road. It's a local delivery. The 4-tons means nothing. If someone is building a house or improving their property that's what it is. Mr. Kramer makes a mention of permits. The fill is coming from within. The town should be thankful that there is a place to dump the material because we have no place for it that we can legally dump it. I know when Mr. Ruchalski was Highway Superintendent there was an office built. I know a number of these Board Members were made aware of the misappropriation of funds. I know the material came from Ruckers Lumber. I built it at a cost of \$3,500. I know the material was billed as culvert pipe. I know Lisa Rood and Damian Wiktor were both made aware of this.

Bill Fornes cont'd: You are all now questioning and pointing fingers on who turned him in. As the Town Board, your concern ought to be what happened and how it happened. You worry about restitution from me or other employees. You should worry about the real restitution and where the money has gone. This Board let the Highway Superintendent buy a \$150,000 Osh Kosh truck. He came to this Board and said that the frame on his 87 Osh Kosh was broken, couldn't be used, and would cost \$50,000 to fix. Three days later and \$2,500 that truck was on the road. We drive that truck every day in the winter. We put approximately another \$12,000 into that truck, and there it sits. As a Board, who is over looking? You can ask why didn't we come forward sooner. We did, when I talked to Lisa Rood before she was elected and some councilman. I supported her. Years ago, Dick Poore, who I consider a friend, and I hope he doesn't take this personal about this appointment, eight men in the Highway Department signed a letter requesting the taxpayers and the voters in this town give us a Highway Superintendent that we could respect and work with, who is honest and trustworthy. What did this Republican Party and some of these Republican Board Members do to us? They put the big spin on us, blame it all on the Highway employees.

Supervisor Eagan: Can you please make the references you need to make, but let's try to keep the party affiliations out?

Mr. Fornes: As employees, we stuck our necks out and went against the person whom we had to work for. I want the people of this town to know why this went on so long. We stuck our necks out to Board Members, Lisa Rood and the voters. We lost by 29 votes. This stuff has been going on since I started in 1983. The Highway Department has had misappropriated funds since then. It's time the Town Board stands up and takes some responsibility for what has gone on in the past. Thank you.

A motion was made by Councilman Simmeth and seconded by Councilman Mead to authorize Supervisor Eagan to sign a one-year lease agreement with the New York State Police at a rate of \$30,500.

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Supervisor Eagan to appoint Robert Telaak as Superintendent of Highways term to expire December 31, 2004.

Councilman Mead Voting Nay

Councilman Hopkins Voting Nay

Councilman Simmeth Voting Nay

Councilman Hawkins Voting Aye

Supervisor Eagan Voting Aye

two (2) Ayes three (3) Nays Denied

A motion was made by Councilman Simmeth and seconded by Councilman Mead to appoint Richard Poore as Superintendent of Highways term to expire December 31, 2004.

Councilman Mead Voting Aye

Councilman Hopkins Voting Aye

Councilman Simmeth Voting Aye

Councilman Hawkins Voting Nay

Supervisor Eagan Voting Nay

three (3) Ayes two (2) Nays Carried

Supervisor Eagan congratulated Richard Poore on his appointment.

Town Clerk Shenk swore in Richard Poore as Superintendent of Highways.

A motion was made by Councilman Simmeth and seconded by Councilman Hopkins to authorize the Supervisor to use \$15,687.90 of the Park Land Reserve Fund to defray the cost of the Morton Recreation Building.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Supervisor Eagan to table the proposed purchasing and capital asset/inventory policies for further discussion.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Mead to forward the letter from Todd Skinner regarding Flag Football to Recreation Director Kummer and Superintendent of Highways Poore.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to accept the proposal from Connie D. Miner, Grant Consultant, to cover from May 1, 2004 to December 31, 2005 at an annual cost of \$13,000.

five (5) Ayes Carried

Town Attorney Vacco stated that the Town of Orchard Park was not willing to annex the property on Woodlee Court to the Town of Boston and therefore, the avenue for Mr. Szyszkowski to take would be to have the current land owners and/or developer approach the Planning Board and ask for modification of the subdivision.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to have Town Clerk Shenk send a letter to Mr. & Mrs. Ronald Smith instructing them to contact the Planning Board for further instructions.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth to retain Ray Stapell from Harris Beach Law Firm as special counsel for the purpose of defending the discharge decision of Highway Personnel at an hourly rate of \$200.

five (5) Ayes Carried

SUPERVISOR REPORT

PROCLAMATION MUNICIPAL CLERK'S WEEK MAY 2ND - MAY 8TH, 2004

The Supervisor's report for March 2004 was received and is on file in the Town Clerk's office.

Supervisor Eagan thanked Anna Neighbor for her years of service to the Boston Emergency Squad.

Supervisor Eagan announced that May 1st is Earth Day and will be held at the Boston Valley School. There will also be a new playground dedication.

TOWN CLERK REPORT

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to accept the Tax Collector's report for March 2004.

five (5) Ayes Carried

Town Clerk Shenk congratulated Highway Superintendent Poore on his appointment.

DEPUTY HIGHWAY SUPERINTENDENT REPORT

Deputy Highway Superintendent Hirsch thanked the entire Highway Department for working very well and hard with him during the past three weeks and looks forward to Highway Superintendent Poore to provide all the residents excellent service, communication and respect.

TOWN ATTORNEY

Town Attorney Vacco congratulated Highway Superintendent Poore and let him know that she was open and available for any information he may need.

COUNCILMAN REPORT

Councilman Mead congratulated Highway Superintendent Poore on his appointment and hopes that in the future he has the support of all the employees of the Highway Department. Councilman Mead stated that he feels Highway Superintendent Poore can do good things for the Town of Boston.

Councilman Hopkins congratulated Highway Superintendent Poore and commented that he hoped that any town employee would feel comfortable enough to come to the Board Members with any kind of questions or concerns they may have with anything that involves the town.

Councilman Hopkins stated that he felt that there would be much better service within Patchin Fire District now that Patchin Fire Company has gone on line with the PAD program.

Councilman Simmeth thanked Deputy Highway Superintendent Hirsch for stepping in to make sure the Town continued to run smoothly. He congratulated Highway Superintendent Poore on his appointment.

Councilman Simmeth announced there would be a household hazardous waste drop off on May 8th and an electronics-recycling day on May 15th at Erie Community College North Campus.

Councilman Simmeth thanked Town Clerk Shenk for his hard work on the website.

Councilman Hawkins thanked Deputy Highway Superintendent Hirsch for stepping into the position and that everyone was working together to keep things running smoothly.

Councilman Hawkins thanked Mr. Fornes for his comments and that it is a shame that politics was a factor in this appointment tonight.

Councilman Hawkins stated that the Board should check into the certification of all the Town's Code Enforcement officers.

ASSESSOR'S REPORT

A) The Assessor's monthly report for March 2004 was received and is on file in the Town Clerk's office.

CODE ENFORCEMENT OFFICER'S REPORT

A) The Code Enforcement Officer's Report for March 2004 was received and is on file in the Town Clerk's Office.

DOG CONTROL OFFICER'S REPORT

A) The Dog Control Officer's report for March 2004 was received and is on file in the Town Clerk's Office.

Supervisor Eagan thanked Deputy Highway Superintendent Hirsch for jumping into the Deputy position and that the Highway employees are greatly appreciative of his supervision.

Supervisor Eagan congratulated Highway Superintendent Poore and asked if he would like to share any comments.

Highway Superintendent Poore thanked the Town Board for his appointment and his wife Cindy for her support. He noted that he appreciated the confidence of those who voted for him and for those who didn't, he hopes he can earn their confidence.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to adjourn the meeting at 8:13 p.m.

DAVID J. SHENK, TOWN CLERK