

Town Board Minutes August 1, 2012

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

Also Present: Town Attorney Kobiolka and Highway Superintendent Telaak.

A motion was made by Councilman Boardway as Councilman Murtha to authorize Supervisor Ballowe to sign the Inter-Municipal Cooperation Agreement between the Town of Boston and Hamburg and Orchard Park School Districts.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to accept the resignation letter from Recreation Director Bonnie Clesse effective December 31, 2012.

five (5) Ayes Carried

Councilman Boardway as the Recreation Liaison commented that he accepts the resignation with regret.

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to approve the minutes of the July 18, 2012 regular meeting.

Supervisor Ballowe Aye Councilman Boardway Aye

Councilman Genzel Aye Councilman Murtha Nay

Councilman Vara Nay

three (3) Ayes two (2) Nay Carried

Councilman Murtha stated that Councilman Genzel's reference to the fire companies neglects to mention Patchin Fire Company completely and it does not show up in the minutes.

Town Clerk Mulé stated that the councilman reports are done word for word and that she would go back over the tape to verify it.

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 July 26, 2012 in the amount of \$126,001.11 be paid.

five (5) Ayes Carried

Received and filed letter from the Boston Emergency Squad thanking the Town of Boston for their help in applying for a grant to replace their radio equipment.

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe to appoint Tom Winters as Fire Police for Patchin Fire Company and will continue until such time as resignation, removal or replacement.

five (5) Ayes Carried

A motion was made by Councilman Genzel and seconded by Councilman Boardway, on the recommendation of Code Enforcement Officer Ferguson, to approve an Additional Accessory Building for Jay and Penelope Karb, 9517 Boston State Road.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to approve the Application for Use of Facility from the Boston Scrappers for November 3, 2012.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to approve the Application for Use of Facility from Boston Patriots Football and Cheerleading from July 31, 2012 through November 15, 2012.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Boardway to refer the Special Permit Application from Sharco Ent., Inc., to Code Enforcement Officer Ferguson for review and recommendation.

five (5) Ayes Carried

A motion was made by Councilman Genzel and seconded by Councilman Boardway, on the recommendation of Code Enforcement Officer Ferguson, to approve an Additional Accessory Building for Steven Walker, 5523 Rice Road.

five (5) Ayes Carried

A motion was made by Councilman Murtha and was seconded by Supervisor Ballowe to schedule a bid opening for the 18 Mile Creek Selective Clearing for August 28, 2012 at 10 a.m.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Genzel to accept the resignation of Kathleen A. Telaak as Assistant to the Supervisor effective August 31, 2012.

five (5) Ayes Carried

Carey Fitzgerald, Norco Propane and representing Sharon Clark stated that Code Enforcement Officer Ferguson approved the plan location for the facility and was under the impression the special permit was to be approved tonight.

Town Clerk Mulé noted that Code Enforcement Officer Ferguson did not submit a recommendation to her office and that the application for the special permit was the only documentation received from him.

Catherine Bohan expressed her disappointment in the Town Board and the Superintendent of Highway's communication with local residents regarding planning and implementation of activities in the community that have the potential to impact the residents. She stated that the installation of the walking path resulted in the unintentional severing of the Time Warner service cable. Ms. Bohan continued to cite the appropriate codes pertaining to the duties of local governing bodies and duties of excavators. Ms. Bohan also submitted a FOIL request regarding the Stream bank stabilization project being undertaken on Eighteen Mile Creek.

Supervisor Ballowe stated that he acknowledges that the cable was cut. He stated that the cable was buried on town property and it should not have been. He stated that the site plans were just redone for the soccer fields and this cable did not show on the plans. He also noted that the cable was only buried three inches beneath the soil. The company that buried it should have never put it on town property. The cable is being reburied on the other side of the fenced area where it should be. He apologized for the inconvenience of the outage and that it was fixed as soon as possible. I

Catherine Bohan stated that she works for the Federal Government and regularly with State agencies and even they have to call NYS Dig with all the engineering drawing maintained for their facilities. She stated that all the utilities for Time Warner, Verizon, everything runs right along our back property lines. She stated it is the town's responsibility to set the example of following proper procedures even though the town did not think the cable would be there.

Supervisor Ballowe stated that the town takes great measure and Councilman Murtha has worked extensively on the stream bank extensively with Erie County Soil and Water. He stated that they handle the permits through the NYSDEC. We work as a secondary party on it.

Supervisor Ballowe reiterated that NYS DIG is called whenever there is a water meter, electric poles, etc. we do call and they come out and flag. It was just done for the Ballard's that were put in the park.

Councilman Murtha requested a copy of Catherine's letter. Councilman Murtha stated that he would like to consult with Town Attorney Kobiolka and Mark Gaston from Erie County Soil and

Water to find out what the town's responsibilities are with respect to the erosion project behind the town park.

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

Town Clerk Mulé noted that the next blood drive will be Tuesday, August 14th from 2:30 p.m. to 7 p.m. held in the Community Room. All donors will receive a certificate for a small pizza from Bella Pizza.

Town Clerk Mulé noted that hunting license sales will begin on August 13th. The Town Clerk's office will open at 8 a.m. from August 13th through August 31, 2012 to accommodate those who like to come early for their licenses.

Highway Superintendent Telaak noted that fall brush pick up will begin on September 1 and will continue through October. The Highway Department will be replacing a 140-foot pipe on Holiday Drive. Wood Chips are available and there will be dirt fill available once the Mill Street project begins. Leaves will be available in October. The Highway Department has paved approximately 20 roads in town. He thanked the Town of Colden for donating two of their trucks to help with their projects and the Parks workers for helping out with the flagging.

Highway Superintendent Telaak asked Town Attorney Kobiolka to look into the legality of the Highway Department being able to remove a telephone pole down near the old North Boston Fire Hall. It is on the county right-of-way, and there is no longer any electric being run to it.

Highway Superintendent Telaak noted that the Highway Department has been helping the Parks Department. Two Hundred feet of drainage pipe was installed at the North Boston Park, a new Parking lot and new grass was planted. The sand for the volleyball court has been installed, waiting for the net. They rented a stump grinder and removed 17 tree stumps from the North Boston Park. Several concrete sidewalks were installed around the town hall. He also met with Mark Gaston regarding the 18 Mile Creek Bank Stabilization.

Councilman Murtha noted that regarding the erosion project, Mark Gaston stated the project would begin on or around August 13th.

Councilman Murtha noted his ongoing protest of the placement of comments for requests from the floor.

Councilman Murtha noted that he and Councilman Vara submitted a proposed law forbidding fracking in the town. He stated it was their second attempt and the first was the resolution that was tabled. This one will also be held off until the next meeting because Town Attorney Kobiolka needs to review it and it will be done by the September 5th meeting.

Town Attorney Kobiolka noted that this is a very broad pocket and would like at least 30 days to look at the pros and cons and try to give the Town Board an informed decision. He stated that Councilman Murtha was going to possibly bring someone in to the next agenda review.

Councilman Murtha stated he would like to bring in someone who knows what they are talking about, hopefully a teacher or professor to address the issue.

Supervisor Ballowe stated that maybe a NYSDEC representative can be brought in who actually regulates this and are the people who enforce the permits because we as a town board do not.

Councilman Vara asked if there would be a public hearing on this subject.

Supervisor Ballowe stated yes any time there is a local law. There is a lot of information involved, especially when you are dealing with something that we do not issue permits for, we do not regulate and we do not enforce. Town Attorney Kobiolka will research and bring it back to the Town Board to make sure we are following the laws.

Councilman Vara stated that he and Town Attorney Kobiolka did talk about how the State Supreme Court has actually approved the banning of Fracking in Yates County, Town of Dresden. Councilman Murtha will supply that information to the Town Board. This has been approved in our state already.

Councilman Murtha stated it was Dryden County.

Councilman Genzel asked Councilman Murtha where the Liebler Road Project stands.

Councilman Murtha stated nowhere, that it is almost an unsolvable problem.

Councilman Genzel feels we would have to move forward with some type of legal action if this cannot be resolved.

Councilman Genzel as Engineering Liaison noted that the Cole Road water line project is being closed out. Plans for the Mill Street Drainage project are available for review in the clerk's office.

Councilman Genzel noted that he received correspondence from the Town of Eden Supervisor in regards to the water line that crosses into the Town of Boston from the Town of Eden on Keller Road. There are stabilization rods there that are failing. Their town engineer has submitted a cost estimate to the Town of Boston. Historically the Town of Boston has been responsible for approximately 46 percent and the Town of Eden, 54 percent of the repair costs on the transmission line. Town Engineer Hannon is reviewing this.

Councilman Genzel as Planning/Zoning Liaison, the next Planning Board meeting will be August 14th and the next Zoning Board of Appeals meeting is August 2nd. Quality members are always needed.

Councilman Genzel as Christmas Lighting Liaison stated the ornaments ordered are now in. Town Historian Keith Kaszubik and Historical Society President Kathy Prackajlo were featured in the American Polish Eagle on July 26th for a grant that was received.

Councilman Genzel noted that the new soccer nets have been ordered and he will lay out the prep field for the soccer fields. He also noted that the Tuesday night band and ice cream social was well attended.

Councilman Genzel noted that he met with some citizens groups to discuss fracking and assured them there was not any fracking in the Town of Boston. He stated there is a moratorium in place by the state. The NYSDEC in charge of oil and gas wells have not made a decision as to allow or not allow fracking. There are some towns within the southern tier that welcome fracking and other towns that are attempting to ban it. He would like to wait for a report from New York State before we approve a law that may not affect the Town of Boston.

Councilman Boardway: The fire report for the month of July reported the following Fire/EMS calls:

Boston Fire Co. -4 North Boston Fire Co. -9 Patchin Fire Co. ? 11

Councilman Boardway noted that there is a proposal for a fire study to take place to examine the scope of what this town needs going into the future as far as fire protection. The proposal for the scope of services that study will be providing was distributed to the councilman tonight and there will be meetings scheduled over the next few weeks to discuss it.

Councilman Boardway noted that the Concert series takes place every Tuesday under the Lion's Shelter, which is completely funded by donations. He recommends everyone attend.

Councilman Boardway noted that the Lion's Club will be holding their annual rummage sale this Saturday under the Lion's Shelter, donations are still being accepted.

Councilman Vara noted that he and Councilman Murtha have been working on some issues and doing research regarding fracking which will be presented to the rest of the Town Board members for the next meeting. He also noted that he spoke with Supervisor Ballowe about the resurfacing of the tennis courts by looking into the USTA and partnering with Grant Writer Connie Miner.

Supervisor Ballowe noted that Recreation Director Clesse received a \$1,600 grant that offset the tennis program for Summer Recreation. That grant was more for instructional usage. We are applying for one that is geared more toward refurbishing the tennis courts.

Councilman Vara noted that he will be attending an open house for Waste Management.

Supervisor Ballowe noted that the Meals on Wheels program is in need of volunteers contact Nancy Marron at 941-3532.

Supervisor Ballowe noted that safety Ballard's have been installed and all the concrete sidewalks are finished.

Supervisor Ballowe also hosted a Supervisor's Roundtable with Senator Gallivan. Issues were discussed between 19 area supervisors that affect all towns.

Supervisor Ballowe also noted that the tennis court refurbishing is an ongoing project. The roof work on the town hall will begin on August 6th, please take care when entering the building.

Supervisor Ballowe commented that requests from the floor was moved to try and get different ideas. Suggestions are welcome. He reminded Councilman Murtha the Liebler Road project was assigned five months ago, and asked what his recommendation would be to the Town? The State Comptroller's audit stated that this needed to be remedied because taxpayer monies were spent on this project.

Councilman Murtha stated he can send a letter to the auditor asking for an adjustment but that Supervisor Ballowe has already informed him that cannot happen.

Supervisor Ballowe stated that he can send a letter and gave Councilman Murtha the auditor's business card. He stated he will wait for a response from Councilman Murtha's letter to the auditor before he makes a decision about Liebler Road. He hopes there will be an answer back by the next meeting on what can be done. The State auditor noted that the resident needs to reimburse the town which the town, which we do not want to have to enforce, unless we can come up with a reasonable resolution for the water that is now being directed down the hill.

Supervisor Ballowe noted that the soccer field installation at North Boston Park is going well.

Councilman Genzel noted that he believes that field will be used as the prep field because the size of the field can be made to accommodate the different groups. Four to six teams can play at once.

Supervisor Ballowe noted that just a quote for the fire study being conducted was received, nothing has been signed. This is an ongoing thing to figure out how do we take what we have and make it better? How do we run more efficiently for what we have to work with?

Councilman Boardway noted that this proposal was presented to the other Town Board members this evening so it is the first time they have had the opportunity to review it. It will be forwarded to the fire presidents and chiefs. We have been in multiple conversations with the Penflex representatives and have reviewed some of the recent financials that have come in on that. This will have to be part of the ongoing fire discussion of the overall fire protection in this town.

Councilman Vara asked if anything has moved forward on Patchin's Service Award information.

Supervisor Ballowe noted that he is working with Mike Durusky and there is still one piece of information needed which Mike is working on getting to him. He should have something by next meeting.

Supervisor Ballowe commented asked Councilman Vara if there were any updates and/or reports for the senior groups.

Councilman Vara inquired as to when the bocce ball courts will be ready. He also was informed that the nutrition program participation is down.

Supervisor Ballowe stated the bocce ball courts would be done by the 2nd week in August.

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to adjourn the meeting at 8:21 p.m.

five (5) Ayes Carried

JENNIFER A. MULÉ, TOWN CLERK