

Town Board Minutes August 13, 2003

REGULAR BOARD MEETING TOWN HALL

August 13, 2003 7:30 P.M.

Present were Councilman Richard K. Hawkins, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Highway Superintendent Wayne C. Kreitzbender, Supervisor William A. Eagan and Town Attorney Kelly A. Vacco.

Absent: Councilman Damian P. Wiktor.

Rev. James Laun, Churchill Memorial United Methodist Church, opened the meeting with a prayer.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to adopt the following corrections to the minutes of the July 16, 2003 regular meeting:

PAGE 2: Wendling Public Hearing to include the following and correct the motion:

Received a Planning Board recommendation of approval for the rezoning (C-1 to R-2) request of Brian and Rochelle Wendling.

Received a determination from Foit-Albert Engineering that upon review of the SEQR, the proposed rezoning will not have a significant impact.

A motion was made by Councilman Mead and seconded by Councilman

Wiktor to approve the application of Brian and Rochelle Wendling,

to rezone vacant land, SBL# 241.09-1-11.1 from C-1 to R-2, declare the Town Board Lead Agency and to issue a Negative Declaration in regard to the SEQR process.

PAGE 3 - CORRECT SUMMER CAMP APPOINTMENTS MOTION:

FROM: Joseph Clesse SMART Program Assistant \$5.25

TO: Joseph Clesse SMART Program Assistant \$6.25

PAGE 3: Wierzba Public Hearing to include the following and correct the motion:

Received a Planning Board recommendation of approval for the rezoning (C-1 to R-2) request of Ronald Wierzba.

Received a determination from Foit-Albert Engineering that upon review of the SEQR, the proposed rezoning will not have a significant impact.

A motion was made by Councilman Mead and seconded by Councilman

Wiktor to approve the application of Ronald Wierzba to rezone vacant land, SBL# 241.09-1-10 from C-1 to R-2, declare the Town Board Lead Agency and to issue a Negative Declaration in regard to the SEQR process.

PAGE 9 CLARIFICATION OF MOTION:

Supervisor Eagan reported that an emergency/hardship situation necessitates the immediate action of entering into a contract with Sergi Construction to do the rough work on the water line crossing on Cole Road to accommodate the Erie County schedule on the future water project.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to authorize Supervisor Eagan to enter into a contract with Sergi Construction to do the rough work on water line crossings on Cole Road to accommodate the future water project, at a cost of \$53,000.

four (4) Ayes Carried

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A motion was made by Councilman Simmeth and seconded by Councilman Hawkins to adopt the minutes of the July 16, 2003 regular meeting.

four (4) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth, upon review by the Town Board, that the fund bills on Abstract #8, dated August 13, 2003, in the amount of \$307,141.70 be paid.

four (4) Ayes Carried

Received and filed Erie County Sheriff Report for June 2003.

Received a Certificate and Notice of Highway Closure from Erie County Highway for Feddick Road, from North Boston Road to Mayer Road, August 18th until completion for emergency inspection and repair of Tennessee Gas Pipe Line.

REQUESTS FROM THE FLOOR:

Kevin Reilly, 6304 Patchin Road: I have been living here for about twenty-three years and ever since they built the 219 expressway the Eighteen Mile Creek that borders our property has not been a friend to us.

We have lost an acre of land maybe more. We started out with just under ten acres. I have seen surveys and I have one from Soil and Water Conservation on the Eighteen Mile Creek Stabilization Program. I am trying to find out if there is anything really happening, actually happening. I know this is extraordinarily expensive and at a difficult time for everybody, but I am starting to think I am going to wind up with a postage stamp.

Supervisor Eagan: There is a report that came out earlier this year from the Soil and Water Conservation Department. Information on financing and prerequisites for the program has just been received from the Federal Government. The Town Board committed \$10,000 plus in kind services as a part of our match in order to qualify for funds when they are available. Today I spoke with Mark Gaston at Erie County Soil and Water Conservation and there is a plan and it is just a matter of getting the funding.

Kevin Reilly: That is exactly what I heard and my question is, is there ever going to be anything that is actually going to happen?

Supervisor Eagan: We made a commitment of funds and are happy to see that a study has been done that details the problems along Eighteen-Mile Creek in our community. Of all the communities that Eighteen-Mile Creek runs through, we have the highest number of priority sites with regards to erosion. Soil & Water Conservation is going to begin inspections to identify areas that will address the first round of funding. There will be a Public Hearing once the package is put together and the first phase is identified. Your particular area was mentioned today as I requested that everything south of the stop sign around Shero and Patchin on Back Creek Road be investigated. Riprap was placed north of that area.

Kevin Reilly: There was also riprap placed south of there on Back Creek. This is my tax dollars putting riprap in that then puts more water against me.

Supervisor Eagan: At Hillcroft they put riprap to save the bridge but the water hits the turn, causes erosion of the embankment and it is caving in when the water rises.

Robert Laskowski, 6654 Omphalius Road: What is going on with Omphalius Road? Is the Town taking it over after the construction and is there anything we can do to speed up the construction?

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REQUESTS FROM THE FLOOR (CONT.):

Highway Superintendent Kreitzbender: Since our last Board meeting when we officially dropped the snowplowing of Omphalius Road, the County has been eager to talk.

Robert Laskowski: You are making a bad situation worse.

Supervisor Eagan: No he is not. What we are trying to do is accelerate the County's lack of getting the job done. We are trying to get the road completed this year not in 2004.

Highway Superintendent Kreitzbender: I have ruined two snowplows and taken the rear end out of one truck. The only way to get the attention of Erie County is to drop the snowplowing. Since then a County official has called every day asking what they can do to have us take back the road. We now have an agreement to be signed with the contractor to put a skim patch on the road from your driveway to Boston State Road so we can plow without ruining equipment or possibly injuring our crew.

Robert Laskowski: There are more survey marks on the road which leads me to believe they are going to tear up more road.

Highway Superintendent Kreitzbender: Not until the utilities are moved. The contractor will pull off the job in a few weeks.

Robert Laskowski: Is he going to fill in the holes in front of my house first?

Highway Superintendent Kreitzbender: He is going to pave everything that is crushed concrete right now. He can't go any further legally.

Robert Liskowski: Whose responsibility is it to use calcium on the road to hold the dust down? Isn't it the inspector's job. He is not doing his job.

Highway Superintendent Kreitzbender. We have no control over him because he is hired through the County. The DEC could also make him put calcium down.

Gary Hoffman, 7956 Boston State Road: I am interested in the progress of the Emerling-Darling request for rezoning.

Supervisor Eagan responded that the Emerling-Darling rezoning request has been tabled.

Received a request from Alternate Zoning Board Member Tracy Hirsch, 8171 Cole Road for appointment as member of the Zoning Board of Appeals.

Received a request from Jennifer Warnes, 7821 Back Creek Road for appointment to the Zoning Board of Appeals as an Alternate Member.

Received a request from Alternate Zoning Board Member Eugene Wallace, 7458 Chestnut Ridge Road for appointment as a member of the Zoning Board of Appeals.

Supervisor Eagan reported that no official resignation has been received by the Town Clerk from the Zoning Board of Appeals.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to table the requests for appointment to the Zoning Board of Appeals until such time as a resignation is received.

four (4) Ayes Carried

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Received notification from the Boston Football and Cheerleading Association of use of the Boston Town fields during the months of August, September, October and the first week in November, Monday ? Friday 5:30p.m. to 8:30p.m. and Saturdays 8:00 a.m. to 7:00 p.m.

Received notification from Mariano?s Restaurant, 8163 Boston State Road of a Liquor License Renewal.

Supervisor Eagan directed the Town Clerk to forward a notice to Mariano?s and the NYS Liquor Authority of the Town of Boston Live Entertainment Permit requirement for licensed establishments.

Received a request from Hickory Meadows, LLC., for a return of a security deposit.

Supervisor Eagan noted there will be a meeting between Foit-Albert Engineers and the designer of Hickory Meadows Subdivision.

Highway Superintendent Kreitzbender reported that he met with Foit-Albert Engineers and the designer of Hickory Meadows Subdivision and the issues are being worked out satisfactorily.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to refer a request from Hickory Meadows, LLC. for a return of security deposit to Foit-Albert Engineers to address drainage issues.

four (4) Ayes Carried

SUPERVISOR REPORT

A) Supervisor's Financial Report for July 2003 was received and is on file in the Town Clerk's office.

Supervisor Eagan reported that regarding the complaints received concerning our refuse program, Waste Management Inc. will be mailing an information sheet to residents of Boston.

Supervisor Eagan received a letter from Cathleen Wilson, 6472 LuDon Drive in Boston thanking the Town Board for addressing the drainage issue in the neighborhood and voicing concerns over junk vehicles in the neighborhood.

Supervisor Eagan referred the letter from Cathleen Wilson, 6472 LuDon Drive, complaining of junk vehicles to Code Enforcement Officer Kramer.

Supervisor Eagan referred to Town Attorney Vacco a complaint from David Speich, 7221 Elmtree Place for reimbursement of \$4,865 for a tree damaged during the 2002 Sewer Project.

Received a complaint from Donna Huson on the live music on August 8, 2003, 11:20 p.m. from the Boston Grille, 7115 Boston State Rd.

Supervisor Eagan requested the Code Enforcement Officers contact the State Police and address the new code on Live Entertainment.

Deputy Code Enforcement Officer Lisowski noted that a Cease and Desist Order was issued regarding the noise and the lack of a permit for live entertainment. There is a court appearance set and all illegal noise and live music is to cease as of August 15, 2003.

Supervisor Eagan directed Deputy Clerk Ellis to send a letter to the Boston Grille, 7115 Boston State Road, reminding them to apply for a Live Entertainment Permit.

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TOWN CLERK REPORT

A motion was made by Councilman Hawkins and seconded by Councilman Simmeth to accept the Town Clerk Monthly Report for July 2003.

four (4) Ayes Carried

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that today a meeting regarding Hickory Meadows with the Emerlings and contractor Kevin Maxwell went well.

Highway Superintendent Kreitzbender reported that the paving in the Creekside Subdivision has been completed and figures will be submitted to the Erie County Sewer Authority for a forty- percent reimbursement.

Supervisor Eagan inquired if the damages in the Creekside Subdivision such as mailboxes, shrubbery etc. have been addressed.

Highway Superintendent Kreitzbender responded that he did not believe the damages have been addressed. The EC Sewer Authority did agree to replace the tree for David Speich, 7221 Elmtree Place and the Boston Highway Department is correcting some of the problems.

TOWN ATTORNEY REPORT

Town Attorney Vacco reported that regarding Water District #3, the application for an increase in the minimum has been received and is being reviewed by the NYS Comptroller's Office, Department of Audit and Control.

Town Attorney Vacco reported that Erie County Department of Social Services has moved to be discharged as a Conservator and appointed as a Receiver to the funds of Ann Burkhardt, 9356 Boston State Road, so that the issue of the unsafe porch can be addressed. Yellow tape has been secured around the property and bids are being taken so the porch can be repaired before the end of summer.

COUNCILMEN REPORT

Councilman Simmeth reported that the Empire State Games were held on July 25, 2003 and the bicycle races went through Boston. Councilman Simmeth thanked the fire police from Boston and Colden, the Boston EMS, and the Erie County Highway District Engineer.

Councilman Simmeth noted that it is his understanding that the paving of Omphalius Road is a temporary paving.

Highway Superintendent noted that next year Erie County will reconstruct Omphalius Road.

Councilman Simmeth addressed Kevin Reilly noting that it will be one or two years before anything takes place on the Eighteen-Mile Creek Stabilization Program. Erie County is hoping to receive more money from the Federal government. Congressman Quinn will commit money to help municipalities in the watershed district. He noted that Erie County Soil and Water should be able to help Mr. Reilly with engineering and set him up with contractors. It may be a fifty-fifty split at \$100 a foot.

Councilman Hawkins reported that two months ago Erie County Water Authority was contacted concerning problems with hydrants in the Town of Boston and there has been no response. Councilman Hawkins contacted the ECWA again and is waiting for a response.

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COUNCILMEN REPORT (CONT.):

Councilman Hawkins reported that the shoulder in front of 6314 Pfarner Road is completely gone. Councilman Hawkins recommends sending a letter to EC Highway Department concerning this situation.

Highway Superintendent Kreitzbender noted that it is not only the shoulder on Pfarner Road but also the pavement in the driving lanes has broken pieces.

Supervisor Eagan requested Highway Superintendent Kreitzbender send a letter to EC Highway Department.

CODE ENFORCEMENT OFFICERS REPORT

A) Code Enforcement Officers Monthly Reports for July 2003 were received and are on file in the Town Clerk's office.

Code Enforcement Officer Kramer reported that the Site Plan Modification of Charlap's, 7264 State Road, does not conform to the plan submitted and recommends that Nicholas Charlap present the Planning Board with an as built site plan for approval.

Deputy Town Clerk Ellis was directed to send a letter and copy of Code Enforcement Officer Kramer's report to Nicholas Charlap.

DOG CONTROL OFFICERS REPORT

A) Dog Control Officers Monthly Reports for July 2003 were received and are on file in the Town Clerk's office.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to adjourn the meeting at 8:10 p.m.

KAREN A. ELLIS, DEPUTY TOWN CLERK