

Town Board Minutes December 1, 2004

Present were Councilman Brien M. Hopkins, Councilman Karl J. Simmeth Jr., Councilman Richard K. Hawkins, Supervisor William A. Eagan, Highway Superintendent Richard A. Poore and Town Attorney Kelly A. Vacco.

Excused: Councilman Dennis J. Mead

Reverend Sprehe, St. Martin's Lutheran Church, opened the meeting with a prayer.

RESOLUTION 2004-32 FEDDICK ROAD SPEED LIMIT REDUCTION

A motion was made by Councilman Simmeth and seconded by Councilman Hopkins to adopt the minutes of the November 17, 2004 regular meeting with the correction of the word "absent" at the top of page #1 being changed to "excused".

four (4) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Hawkins, upon review by the Town Board, that fund bills on the Abstract dated November 24, 2004 in the amount of \$166,695.94 be paid.

four (4) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Hawkins to approve a request from Larry Reade to hold a bike race in the Town of Boston contingent upon coordinating the safety of traffic with the New York State Police and Boston Fire Company.

four (4) Ayes Carried

Received and filed a letter from Senator Volker regarding the distribution of traffic fines contained in Budget Bill S.6056.

Supervisor Eagan read a letter from Paul Speich, Boston Conservation Advisory Council member, recommending the Town use a portion of the Block Grant monies to install and repair sidewalks in the hamlet areas of the Town.

REQUESTS FROM THE FLOOR

Kent Iggulden, 4792 N. Boston Road stated that he has been a resident on N. Boston Road for thirty years and detailed another possible dangerous situation about to take place on N. Boston Road. Mr. Iggulden commented that the Hamburg Snowmobile Club has had a major trail through the area of N. Boston and Taylor Roads for a number of years. He talked to members of the Snowmobile Club in the past regarding the noise from the snowmobiles and they moved the trail further back in hopes of reducing the noise levels. Now the Snowmobile Club wants to bring the trail out onto N. Boston Road. Residents are concerned about safety. Most of the residents who cross the road to get their mail will now have to cross a snowmobile trail. The club wants to use 875 feet of N. Boston Road. Westbound snowmobiles will be traveling with traffic and Eastbound will be traveling against traffic. Mr. Iggulden noted that there was a small reflective 12-inch square stop sign erected for the snowmobiles to stop and people are stopping for that stop sign on N. Boston Road. Eight of the residents approached do not want this trail.

Supervisor Eagan commented that N. Boston Road is a county road and Councilman Hawkins, Chairman of Traffic Safety and Roadways Committee, will contact Erie County to try and resolve the issue.

Burt Feltz, 9339 Dunn Road commented on his displeasure with the lack of enthusiasm shown by the Town Board in regards to the misappropriation of money in the Highway Department. Mr. Feltz is not happy that the Highway Superintendent is driving around in a \$40,000 pickup truck bought with taxpayer dollars and the town now has to reimburse an employee involved in wrongdoings in the Highway Department.

Supervisor Eagan commented that employees in the Highway Department took it upon themselves to find work when there were three days without a Highway Superintendent. Supervisor Eagan also stated that the town highway truck was purchased through a state bid.

Mr. Feltz asked Town Attorney Vacco if the town hired outside legal council to do investigations.

Town Attorney Vacco stated that the Town hired outside counsel because it was a collective bargaining agreement union grievance and is very specialized. Both parties agreed to an arbitrator and the Town of Boston was not victorious.

Mr. Feltz said that he was a member of that same union and we would be terminated.

Supervisor Eagan informed Mr. Feltz that he could also file a grievance and have his union defend him as other employees have done.

Mr. Feltz stated that there is a proper procedure for termination of an employee.

Town Attorney Vacco commented that the Town Board properly terminated that employee. The union grieved the termination, and the arbitrator found in favor of the union member. Town Attorney Vacco stated that the Town Board did not believe there would be a reinstatement of that employee given the nature of the crime. Arbitration cases are not overturned. This Town Board did exactly what they should have done in regards to this employee.

Mr. Feltz said that he feels that the Town has spent numerous dollars and nothing in return. This person was off for 8 months and the town received nothing for it.

Supervisor Eagan stated that the town did what was in the best interest of the taxpayers and tried to defend the town from a violation of public trust. This board was in agreement with the action that we took and we hired the best counsel we saw fit. Unfortunately, the results were not in our favor. That is the chance you take when you challenge something like this. Supervisor Eagan stated that the tax rate in the Town of Boston is at the lowest it has been in over a decade. Parks and playgrounds have been

improved, roads have been paved, and town officials are turning in budgets that are lower than they were the year before. Yes, there are costs that we cannot affect like retirement or utility costs. We are doing a good job of managing the finances of this community. This community is getting its dollars worth.

Mr. Feltz: My second issue is Dunn Road. This road is still unsafe. There is no way that blacktop will be put down in December. It's been more than a year from the first talks of this safety issue and hasn't been addressed yet.

Supervisor Eagan: We explained before that the Board brought in an Engineering consultant to work with the previous Highway Superintendent. The events that took place after we got the ball rolling, speaks for it. We were without a Highway Superintendent. I was told the stone was ordered. When Highway Superintendent Poore was appointed, we were hit with severe rains. It was a chase to try and catch up for about four months. It's not that anyone intentionally left Dunn Road untouched. This project fell victim to the lack of leadership in the Highway Department. The Board couldn't change what has happened but hopes that the newly elected Highway Superintendent can address this issue as early as possible next year.

Mr. Feltz stated that he hopes the new Highway Superintendent looks at all the aspects of the problems in the Highway Department and reflects in the best interest of the town residents. He feels that the Highway Department has not acted in the past in the best interest of the town residents.

Town Attorney Vacco explained to Mr. Feltz that the Town of Boston Board Members are not happy with the decision made by the courts.

Received and filed a summons in a civil case regarding Patricia Curto vs. Debra Bender. A copy of the summons was also forwarded to the Town Insurance Consultant for review.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to schedule the bid opening for the Irish Gulf Stabilization project on Wildwood Drive for December 10, 2004, 11:00 a.m.

four (4) Ayes Carried

A motion was made by Councilman Hopkins and seconded by Supervisor Eagan to approve the Site Plan Review for 5647 Herman Hill Road contingent upon drainage recommendations from Foit-Albert Associates as stated in the letter dated November 9, 2004, a landscape plan is submitted by January 11, 2005 for preliminary discussion, and the approved landscaping be completed by July 1, 2005.

four (4) Ayes Carried

Supervisor Eagan read a letter from Rick Hayden, owner of Couzins, detailing the improvements he has made to the building and noted that Mr. Hayden submitted a petition from residents living in the vicinity of Couzins stating that the Live Entertainment Permit should be renewed without stipulations. Supervisor Eagan commented that there is a tax map showing the proximity of those who signed the petition for review.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to schedule a Public Hearing to consider revoking the Special Permit for Live Entertainment at Couzins, 7115 Boston State Road, on December 15, 2004 at 8:00 p.m.

four (4) Ayes Carried

SUPERVISOR REPORT

Supervisor Eagan read a letter from Senator Volker stating that the issue of Court Fines has been rescinded. He thanked Senator Volker for pursuing to retain these court fines in the interest of local governments. However, he noted that, although this has been rescinded this will probably will come up again in the future and local towns will not be retaining 100%, but at least the Towns efforts prevented financial harm to the community.

Supervisor Eagan stated that he received a permit from the NYS Department of Environmental Conservation allowing the Town to take care of concerns of Log Jams and tree removal from 18 Mile Creek.

Supervisor Eagan announced that outgoing Assemblyman Richard Smith would be missed greatly and has done a great job in this community. Supervisor Eagan noted that before he leaves office, Assemblyman Smith pledged to grant the Town of Boston \$100,000 toward Water District #3 to help defer the cost to those residents that are faced with the 20% increase in that project. In addition, newly elected Congressman Higgins has pledged \$50,000 towards the same. Supervisor Eagan stated that since he has been in office, this is the first time that a Congressman has stepped up to the plate. Higgins has promised to help the town with other issues such as a senior facility that the town has not been able to get financing for.

Supervisor Eagan commented on the great job the Christmas Lighting Committee did putting up all the Christmas decorations.

TOWN ATTORNEY REPORT

Town Attorney Vacco stated that a Union Representative has contacted her and the Highway Union met, voted and accepted the Collective Bargaining Agreement. The Union is preparing the final documents for our review.

Town Attorney Vacco Cont'd: Town Attorney Vacco informed the taxpayers of the town that an arbitration decision couldn't be appealed. She noted that there are certain grounds under which you can move to vacate, which are very specific and are definitely not based on merit. The Town Board did explore these avenues. But, she advised that it was not good legal strategy to go forward. It would be another extended period of time and if the Town lost, would still have to pay back wages. The Town Board is very disappointed about the decision.

COUNCILMAN REPORTS

Councilman Hopkins stated that it is disheartening when you learn something so early in life as stealing is wrong, then something like this happens.

Councilman Simmeth read a congratulatory letter written to Christmas Lighting Committee Chairman, Herbert Klein, from a resident on the wonderful job with the Christmas decorations.

Councilman Hawkins stated that a letter was mailed to the baseball, softball and football leagues asking them to remove anything remaining from the old snack shack so that the overhead door can be removed and placed on the new building.

Councilman Hawkins stated that he would work on the snowmobile issue on North Boston Road. Councilman Hawkins also stated that we should be getting new signs for North Boston Road shortly.

CODE ENFORCEMENT REPORT

· Deputy Code Enforcement Officer report for November 2004 was received and is on file in the Town Clerk's office.

A motion was made by Councilman Hawkins and seconded by Councilman Simmeth to adjourn the meeting at 8:40 p.m.

DAVID J. SHENK, TOWN CLERK