

Town Board Minutes December 17, 2003

REGULAR TOWN BOARD MEETING TOWN HALL

December 17, 2003 7:30 P.M.

Present were Councilman Damian P. Wiktor, Councilman Richard K. Hawkins, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Supervisor William A. Eagan, and Highway Superintendent Wayne C. Kreitzbender.

Excused: Town Attorney Kelly A. Vacco.

Florence Wendling, St. John's Roman Catholic Church, opened the meeting with a prayer.

PROCLAMATION ? DAMIAN P. WIKTOR - RETIREMENT

Councilman Hawkins presented Warren Berger with a plaque in recognition his thirty-six years of dedicated service to the Boston Emergency Squad.

A motion was made by Councilman Simmeth and seconded by Councilman Wiktor to adopt minutes of the December 3, 2003 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor, upon review by the Town Board, that the fund bills on Abstract #12A, dated December 17, 2003, in the amount of \$145,918.50 be paid.

five (5) Ayes Carried

Received and filed Town of Colden Resolution 2003-32 ? Seneca Nation of Indians.

Received and filed Amendments to the Erie County Water Authority Tariff.

Supervisor Eagan announced that Deputy Town Attorney/Prosecutor Terrizzi will not be seeking re-appointment in 2004.

Received and filed a request for appointment to the position of Town Prosecutor/Deputy Town Attorney from Michael M. Metzger.

Received and filed request for appointment to the position of Town Prosecutor/Deputy Town Attorney from Brian W. Downey.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to appoint Michael M. Metzger as Town Prosecutor/Deputy Town Attorney, term effective January 1, 2004.

five (5) Ayes Carried

Received and filed a request for appointment to the Zoning Board of Appeals from Tracy Hirsch.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to table the request for appointment to the Zoning Board of Appeals from Tracy Hirsch.

five (5) Ayes Carried

REQUESTS FROM THE FLOOR

Edward Mye, 9235 Dunn Road: In September I requested the school bring a school bus down our road. I've had many conversations with Supervisor Eagan and Highway Superintendent Kreitzbender. Highway Superintendent Kreitzbender told the school that our road is unsafe for a school bus to travel. I want to see what we can do to make the road safe for the school bus to travel because I am

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REQUESTS FROM THE FLOOR (CONT.):

Edward Mye (cont.): concerned for the safety of our children walking this road. The Town Engineers, Foit-Albert, stated the road is in sub-standard condition.

Highway Superintendent Kreitzbender: I did not tell the school it was unsafe. I told them there wasn't a turn-a-round adequate enough for them. I turned it over to Foit-Albert Engineers. I cannot determine if a road is safe or not.

Edward Mye: The letter from the school states that the town will not guarantee or is confident that suitable and safe conditions will prevail for the school bus.

Highway Superintendent Kreitzbender: They wanted me to guarantee that the road is safe. I can't guarantee that any road is safe. According to Foit Albert Engineers this would be a complete road reconstruction because there is no base.

Councilman Hawkins: How many miles is that and how much would it cost?

Highway Superintendent Kreitzbender: One mile and close to a million dollars. A DEC Special Permit is required because the swamp is dedicated wet lands.

Councilman Simmeth: How many children on the road?

Edward Mye: There are six children on the road. Four get picked up by the bus and two travel to a private school. My children have to walk on the road with no shoulder. You can barely pass two vehicles.

Councilman Simmeth: Where do the snow plows turn around?

Highway Superintendent Kreitzbender: We turn around at the very end of the dirt part in Bronstien's barn driveway.

Edward Mye: I gave them permission to turn the bus around in my driveway. It is in writing through the engineer's letter that I sent to the school. If the road is unsafe for a school bus, how are ambulances and fire trucks going to get up that hill?

Highway Superintendent Kreitzbender: Emergency vehicles are not an issue. When Bronstien's house burned last year there were all kinds of emergency vehicles there. We had a sander there in five minutes but we can't have a sander stand by every single day. We need to look at updating the road.

Edward Mye: I don't know where the children are expected to walk. This is a major concern now with winter conditions. In years past we drove our children to the Colden school but now at 6:30 a.m. my son has to walk up that road to get the bus and it is dark and the hill is steep. I don't know how the town wants to handle the issue of safety for my children walking this road.

Supervisor Eagan: I ask your indulgence to give the Town Board, Highway Superintendent and Foit Albert Engineers time between now and our meeting in January to discuss this issue.

Edward Mye: Could we set up a meeting to involve the school?

Highway Superintendent Kreitzbender: If the School District chooses to bring a smaller bus down there and let me know the times they are there, I could be there before them. I could also take a small truck and apply pure sand so the salt doesn't deteriorate the roadbed.

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REQUESTS FROM THE FLOOR (CONT.):

Supervisor Eagan: We would need to contact Waste Management Refuse to reschedule their time on the road so there is no conflict with the bus schedule.

Burt Feltz, 9339 Dunn Road: I am also a resident of Dunn Road. The Town did work on this road about fifteen years ago when the fire trucks were unable to pass on the road. The Town Board received a letter then so I think the town has been notified of the condition of the road for many years. Is this road going to be safe enough from tonight on that the town of Boston does not have a responsibility to my family for the liability? Putting this off for a month is a long-term answer and I don't accept that as a responsibility to maintain this road in a safe and adequate manner. I am a past member of the Boston Fire Company and the fire trucks do go down that road. If it is an unsafe road by an Engineering firm, I think they need to have a letter stating that. I am sure the Insurance Company that carries my homeowners insurance would not appreciate that letter. There are quite a few issues here of safety and concern for my family. I am a past employee of the town and I know the town put considerable money in materials for the turnaround. If you go back through the records, Highway Superintendent Ruchalski cut the knobs down and put gravel in. The town has put work into the road and if the engineer says it is unacceptable then that was a waste of taxpayer money. We pay taxes on highway use just like everyone else does and with substandard road conditions I don't get substandard highway taxes. I hope we address this soon. If we have an accident tonight that is an issue with me.

Supervisor Eagan: If we agreed tonight to fix the road we would have to obtain engineering specifications etc. This is a serious issue but realistically this issue cannot be resolved overnight.

Burt Feltz: There is a lot of work done by Highway Departments without going to the engineering firms.

Supervisor Eagan: Not here. We wouldn't want to rebuild a road that is already sub par.

Burt Feltz: Was Hunn Road done by Engineers?

Highway Superintendent Kreitzbender: On Hunn Road the ditches were pulled back and gravel was put there and just oiled and stoned.

Burt Feltz: Well that is extensive work. My concern is that this will be followed through.

Herb Klein, 7690 Back Creek Road: Councilman Hawkins I understand you are proposing to revisit the speed limit on Back Creek Road by the school. Could you tell me what you are proposing and why.

Councilman Hawkins: In 1998 the town adopted a resolution requesting a fifteen mph speed zone before and after the school for the safety of the children. I was notified that the County approved the speed reduction and the issue was addressed in 2002. The school principal and several families in the area requested that the speed limit be lowered.

Herb Klein: Would that fifteen mph speed limit be twenty four hours a day, seven days a week?

Councilman Hawkins: That is something that would have to be looked into. The school is utilized after school hours also and my concern is for the safety and well being of the children of this community. A few weeks ago they televised the school busses

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REQUESTS FROM THE FLOOR (CONT.):

Councilman Hawkins (cont.): pulling out of the school driveway when a car was clocked coming down the road at forty mph. My concern is a bus will be hit by a car and a child will be seriously injured or killed. It is more important to me to see a sign there than having a injured child.

Herb Klein: If the School Board had a different plan you wouldn't have the concern of the busses pulling out on the road. I would suggest to you, that the School Board purchase property to the north of the school so that the driveway could come out at a ninety-degree angle to Back Creek Road. In the Getzville School District they have flashing signs during the time buses are coming and going. I suggest you further your investigation and look into the other ways of doing this rather than putting a fifteen-mile speed limit twenty-four hours a day where people will break the law and you will have a speed trap.

Councilman Hawkins: Many schools have fifteen mph speed zones and I believe that wherever there is a school we should have reduced speed. If the County will agree to flashing lights at certain periods of time to reduce speeds, I am for anything that will save our children. I will recommend to the School District your suggestion to buy the land to install a driveway at a ninety-degree angle to improve sight.

Received a recommendation from Bookkeeper Selby to appoint Toski, Schaefer & Co., P.C. as the Town of Boston Accounting Firm.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to appoint Toski, Schaefer & Co., P.C. as the Town of Boston Accounting Firm.

five (5) Ayes Carried

Received a letter of resignation from the Planning Board from Kevin Maxwell effective November 29, 2003.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to accept the resignation of Kevin Maxwell from the Planning Board effective November 29, 2003 and direct the Clerk to send a letter of appreciation for his years of service.

five (5) Ayes Carried

Received a letter requesting appointment as a regular member of the Planning Board from Jeff Mendola.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to appoint Jeff Mendola as a regular member of the Planning Board, term to expire 2/1/08.

five (5) Ayes Carried

RESOLUTION 2003-34 STOP DWI GRANT PROGRAM

Local Law No. 2 of the Year 2003, entitled, "A Local Law to Amend Section A-127, Street and Highway Specifications" remains tabled.

Local Law No. 3 of the Year 2003, entitled, "A Local Law to Amend Chapter 104, Subdivision of Land" remains tabled.

Received a recommendation of approval from the Planning Board on 7/16/03 and the Town Board on 7/16/03 to approve the changes to the Boston Town Code recommended by Code Enforcement Officer Kramer on May 29, 2003.

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A motion was made by Supervisor Eagan and seconded by Councilman Mead to refer to Town Attorney Vacco changes to the Boston Town Code to be put into local law format.

five (5) Ayes Carried

Received a Planning Board recommendation of approval for the site plan and application submitted by Douglas and Karen Schunk, 6986 Brown Hill Road.

A motion was made by Councilman Mead and seconded by Councilman Simmeth, upon the recommendation of the Planning Board, to approve the site plan and application submitted by Douglas and Karen Schunk, 6986 Brown Hill Road.

five (5) Ayes Carried

Received a request from Richard Boyd for renewal of a Mobile Home Park License for Sprague Mobile Home Park.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to refer to Town Attorney Vacco a request from Richard Boyd for renewal of a Mobile Home Park License for Sprague Mobile Home Park.

five (5) Ayes Carried

Richard Boyd inquired if there was a reason that his request for renewal of a Mobile Home Park License for Sprague Mobile Home Park was referred to the Town Attorney.

Supervisor Eagan responded that due to the Town Attorney's absence this evening she has not had an opportunity to read his letter of request.

Residents of Sprague Mobile Home Park spoke on behalf of Richard Boyd.

Supervisor Eagan noted that the Mr. Boyd, as the landlord is responsible for the upkeep of the Mobile Home Park.

Richard Boyd noted that the Park has never been better and he is disappointed in the town because the park looks nice and there have been improvements and the Code Enforcement Officers are dragging their feet.

Councilman Mead stated that he agrees that the Park has never looked better and the reason it looks better is because of our Code Enforcement Officers who notified Mr. Boyd and his attorney each and every year to make the park better.

Richard Boyd stated that he bought an existing park and each year made improvements. On the issue of the fence, the fence is not on my property.

Code Enforcement Officer Kramer: I've been through your park on a weekly basis. The issues are for your own safety. In June we listed thirteen items for Mr. Boyd to correct. As of yesterday we are down to two items, those being stairs which are for your own safety. In November Mr. Boyd asked me how to build these stairs. I took the time to copy the State Code Book and highlighted the tread widths, riser heights, stair rail heights etc. I went the full route to help him out. Yesterday I inspected the stairs, the top riser on the top stair is 3 ½ inches wide, and the rest of the risers are seven, seven, seven and then six ½. The code allows a variance of 3/8th of an inch. Whoever he hired to build the stairs did not do so correctly. In good faith I can't approve it. It is a safety issue. It doesn't meet code. There are other items. Deputy Code Enforcement Officer Lisowski and I inspected

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Code Enforcement Officer Kramer (cont.): the Park about a month ago and you were putting siding on and you said you were sick. Deputy Code Enforcement Officer Lisowski told you to sit down and don't worry about the siding until you feel better. You came in my office for a permit and were treated with the same respect that everyone else who walks through my office door was. Other people in the Mobile Home Park have been treated the same way.

Deputy Code Enforcement Officer Lisowski: I blame the Town Board because for years they bent over backwards to make sure you get your license. They have been letting you get away with this for years. You did make improvements but where is your office? Where is the list of the ownership of the mobile homes? There is still a lot lacking and has been for years.

Richard Boyd: You make stuff up. You never asked me about an office.

Deputy Code Enforcement Officer Lisowski: Look on the list of thirteen items.

Supervisor Eagan: The law states that it is the owners responsibility to maintain the code requirements of rental properties. There are permits and requirements and part of the license process is that an inspection must be made. No one wants to live in an area where there are code violations that may put you or your family at risk. This is all about making it safer and a better climate for you and Mr. Boyd.

SUPERVISOR REPORT

A) Supervisor monthly financial reports for November 2003 received and on file in Town Clerk's Office.

Supervisor Eagan thanked the Boston Chamber of Commerce for the Sharing Tree and Fisher Price for donating a toy to each child.

Supervisor Eagan thanked Herb Klein and the Christmas Lighting Committee for an outstanding job with the holiday decorations.

Supervisor Eagan announced that the Echardt Road Bridge is open.

TOWN CLERK REPORT

Town Clerk Shenk congratulated Councilman Wiktor noting that they spent many wonderful years together and enjoyed a good working relationship.

Town Clerk Shenk announced that he is glad to be home and that the Town Board was very supportive of his family and the Town Clerk's office during the ten months he was gone.

Deputy Town Clerk Ellis noted that Councilman Wiktor will truly be missed, that it has been wonderful working with him, and he is wished continued success in his future.

Deputy Town Clerk Ellis reported that the outpouring of support for the Sharing Tree this year more than ever, when it was so needed, was absolutely overwhelming. It took two carloads to bring all the gifts to Boston Valley School. Fisher Price donated a toy for each child. Cash donations and a new bicycle were also donated. Deputy Town Clerk Ellis thanked everyone who contributed to the Sharing Tree noting it speaks volumes for our community.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender welcomed Town Clerk Shenk and congratulated Councilman Wiktor on his retirement and wished him well.

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HIGHWAY SUPERINTENDENT REPORT (CONT.):

Highway Superintendent Kreitzbender reported that a 2004 Oshkosh, which replaced two vehicles in our vehicle replacement plan this year, was put into service.

COUNCILMAN REPORT

Councilman Mead welcomed Town Clerk Shenk back and wished all a happy Holiday.

Councilman Wiktor welcomed Town Clerk Shenk noting that they spent many a year together and he appreciates all the help and assistance.

Councilman Wiktor thanked Deputy Town Clerk Ellis noting that she filled in admirably making the transition very well.

Councilman Wiktor thanked the Town Band and the Choir Group for the wonderful Christmas Concert on December 11th.

Councilman Wiktor congratulated Warren Berger on his dedicated years of service on the Emergency Squad.

Councilman Wiktor reported that he had a number of complaints from residents concerning Waste Management putting recyclable and cardboard in with the regular trash. Councilman Wiktor will work on a letter with Town Clerk Shenk to notify the company of this problem.

Councilman Wiktor: I would like to quote the words of Grantland Rice, author of the Fourth Horsemen of Notre Dame, who stated "When the One Great Scorer comes to write against your name ? He marks down not that you won or lost ? but more importantly, how you played the game." It has been an honor and a privilege to serve on the Town Board of our community. Residents placed their trust and faith in me for 8 years to make a decision that have a direct effect upon them. Being a Town Board member is not a position of politics, it is a position of being available, attentive and responsible to the needs of our community. I have always practiced these ideals and placed myself in the position of a resident whenever they made a request to the Town Board to assist me in gaining a better understanding of their request.

I certainly will miss the activity of a Board Member, but more importantly, the people who are associated with Boston's Town Government. I have had the pleasure to be associated with three Town Supervisors, seven Council Members, two Highway Superintendents, four Town Attorneys, two Town

Clerks, four Town Justices, two Assessors and two Recreation Directors. Also, eleven various Town Hall Staff Members, and Highway employees whose dedicated services have never gone unnoticed. Included are numerous residents who served on various Town Committees who performed admirable volunteer service to our community.

Thank you for all your help and assistance. I wish the present Board and the newly elected Board Member the very best wishes to continue to do the best that they are able for Boston. As the Greek philosopher said, "A man's wealth is not measured by the number of coins that are in his purse, but by the number of persons he can call friend." My eight years on the Boston Town Board have made me a very wealthy person."

Councilman Wiktor gave his best wishes for a healthy and happy New Year to all.

Councilman Simmeth noted that Deputy Town Clerk Ellis did a great job with the Sharing Tree.

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COUNCILMAN REPORT (CONT.):

Councilman Simmeth welcomed Town Clerk Shenk back.

Councilman Simmeth wished Councilman Wiktor the best of luck in his future endeavors.

Councilman Simmeth reported that he gave NYSEG a list of streetlights that were out and most of them are now lit.

Councilman Simmeth reported that there was a drainage problem on Omphalius Road between Cole Road and Lower East Hill Road. Erie County Highway was notified and a lawn drain was installed.

Councilman Simmeth reported that there is a Erie County recycling program for Christmas trees and computers on January 10, 2004 from 9:00 a.m. to 12:00 p.m. at ECC South.

Councilman Hawkins thanked Councilman Wiktor for all the work he has done on the Town Board and it has been a pleasure working with him.

Councilman Hawkins thanked Herb Klein for his comments on the speed limit reduction issue on Back Creek Road noting that he will see if an agreement can be reached to accommodate everyone.

Councilman Hawkins wished everyone a Merry Christmas and a Happy New Year.

CODE ENFORCEMENT OFFICERS REPORT

A) Code Enforcement Officers monthly reports for November 2003 received and on file in Town Clerk's Office.

DOG CONTROL OFFICERS REPORT

A) Dog Control Officers monthly reports for November 2003 received and on file in Town Clerk's Office.

RECREATION DIRECTOR REPORT

A) Recreation Director monthly reports for November 2003 received and on file in Town Clerk's Office.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to adjourn the meeting at 8:59 p.m.

DAVID J. SHENK, BOSTON TOWN CLERK