

Town Board Minutes December 4, 2002

REGULAR TOWN BOARD MEETING TOWN HALL

DECEMBER 4, 2002 7:30 P.M.

Present were Councilman Damian P. Wiktor, Councilman Thomas A. Edington, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Supervisor William A. Eagan, Highway Superintendent Wayne C. Kreitzbender and Town Attorney Michael F. Perley.

On November 30, 2002 the Boston Varsity Football Team, representing NYS in the National Youth Football Championship Playoffs held in Daytona Beach, Florida, defeated the representatives of the State of Florida, in the 155 Pound Division, earning the title of Eastern United States Youth Football Champions.

Councilman Wiktor read a congratulatory letter from Erie County Legislator McCarville and presented the Boston Varsity Football team and coaches with official scroll certificates and a Town of Boston Proclamation.

The Boston Varsity Football Team presented the Eastern United States Youth Football Championship trophy to the Town of Boston.

PROCLAMATION ? BOSTON PATRIOTS VARSITY FOOTBALL TEAM DAY

WEDNESDAY, DECEMBER 4, 2002

At 7:45 p.m. a Public Hearing was held

to hear public comments regarding proposed Local Law No. 6 of the Year 2002, entitled, A Local Law to Amend Local Law No. 6-1990 (As Amended) regarding establishing late filing fees or surcharges with respect to building permits, applications for Special Permits, or applications for site plan approval.

Supervisor Eagan read the legal notice.

Code Enforcement Officer Kramer: I feel we need to implement something along these lines. We do have a provision for fines in our present zoning law but it is a lengthy process. This would be considered a fee rather than a fine. Many people feel it is to their advantage if they build something and we don't find it. This would send a message that if they get caught they are going to pay a stiff penalty. I think this law is very beneficial.

Town Attorney Perley: The reason we have to adopt this local law is that although there is a schedule of fees there is no authority for the Board to adopt a penalty provision within the zoning law. When I was approached by the Town Board concerning this I initially looked to see whether or not this could be handled as an addition to the schedule of fees. It is my opinion that we did need to incorporate the authority for

the Board to institute a penalty
or surcharge on late applications.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to close the Public Hearing at 7:47 p.m.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor to adopt Local Law #6 (Proposed Local Law #6).

five (5) Ayes Carried

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At 7:48 p.m. a Public Hearing was held to
hear public comments regarding
an application by Mobiletech
Communication Corp. for a Special Permit
for Co-Location to a Telecommunication
Facility at 6405 Ward Rd.

Supervisor Eagan read the legal notice

noting that a copy of the Public Hearing Notice, an Assessor's map outlining the Property and a copy of the Special Permit Application was sent to the applicant, Orchard Park Town Clerk, 26 Boston and 13 Orchard Park neighboring property owners.

There were no comments.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to close the Public Hearing at 7:49 p.m.

five (5) Ayes Carried

Town Attorney Perley noted that two issues need to be addressed, proof of need and the fact that SBA Towers has not provided documentation on the number of co-locations.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to table a decision on the application by Mobiletech Communication Corp. for a Special Permit for Co-Location to a Telecommunication Facility at 6405 Ward Rd for two weeks.

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Edington to adopt the minutes of the November 20, 2002 Regular Town Board meeting.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor, upon review by the Town Board, that fund bills on Abstract #12, dated December 4, 2002 in the amount of \$29,663.83 be paid.

five (5) Ayes Carried

Received and filed Erie County Sheriff's Report for October 2002.

Received notification from Adelphia Cable of a Commercial Business Rate Change effective with January 2003 billing statements.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to amend the January 2003 meeting schedule as follows:

Agenda Review ? January 6th ? 6:00 p.m.

- January 22nd - 6:15 p.m.

Town Board Meeting - January 8th - 7:30 p.m.

- January 22nd - 7:30 p.m.

five (5) Ayes Carried

Received a request for a Site Plan Review for a Child Care Center at 7346 Boston State Road, from Theresa M. Beltz.

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A motion was made by Councilman Mead and seconded by Councilman Simmeth to refer to the Planning Board a request for a Site Plan Review for a Child Care Center at 7346 Boston State Road, from Theresa M. Beltz.

five (5) Ayes Carried

Received a Contingency Agreement for Acceptance of a Roadway Dedication of Hickory Meadows Sub Division ? Phase 2 from Roy L. Emerling, President Hickory Meadows.

Town Attorney Perley noted that the Developer (Emerling) and Highway Superintendent Kreitzbender determined that the asphalt-paved portion of the road is satisfactory. The developer proposed a list of items to be completed by approximately June 30, 2003 which include work around the shoulder, ditches and soil stabilization. A limited consent for a highway dedication may be considered that would pertain specifically to the asphalt-paved portion of the road and reserve final approval with regard to the remaining work contingent upon the Developer executing a security agreement to substitute for the performance bond (\$15,000 or an amount agreed by the Town Engineer) to complete the work as cited in a letter dated November 26, 2002. The effect of acceptance of the limited roadway dedication for Pearl Street and Hickory Meadows Road, in Phase 2 of the Hickory Meadows Subdivision, would be to relieve the Developer of any obligation with regard to the security, a letter of credit filed with the Town for the performance of the work and would require the Developer to complete the signage on the roadway in an expeditious fashion, and to file a maintenance bond effective at or near the time of roadway dedication. The date of the deed is November 27, 2002 and will be filed with the Developer paying recording costs.

Supervisor Eagan inquired if the deposit could be a letter of credit and if there has been discussion with the Developer and/or their attorney.

Town Attorney Perley noted he requested that the Developer forward a check with the agreement to be held in the Town Clerk's safe in the event of non-performance under the agreement.

Town Clerk Shenk noted he believed the names of the streets should be Pearl Street and Maurice Court. Hickory Meadows Road is already dedicated.

Town Attorney Perley noted that it remains Hickory Meadows Road on the subdivision map. The legal description of the road is defined by the subdivision map. The Developer has conveyed the title to Roy Place but the Town Board is not accepting this as a dedicated highway at this time because it is an undeveloped area where easements have been granted to the two adjoining property owners for driveways.

Councilman Simmeth inquired that under the limited order of dedication, the developer refers to addressing problems in phase 2 but if it causes problems in phase 1, will he fix those problems?

Highway Superintendent Kreitzbender responded that he has an agreement with Kevin Maxwell, Vinwell Construction Inc., Construction Manager that if there was a problem in phase 2 that affects phase 1, he would correct the problem.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the limited Contingency Agreement for Acceptance of the Roadway Dedication of Pearl Street and Hickory Meadows Road, Hickory Meadows Sub Division ? Phase 2 from Roy L. Emerling, President Hickory Meadows.

five (5) Ayes Carried

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SUPERVISOR REPORT

Town Attorney Perley commented that there is a discreet area in Water District #3 that is bounded by Herman Hill Road, to Ward Road, to Cole Road, to Omphalius Road, to Boston State Road, to Abbott Road, back to Herman Hill Road. In this area the Town Board has re-established a moratorium on the construction of new homes due to the fact that there is limited municipal water service in the area. The Town Board has formed a committee to review the application of any individual for a building permit for a structure requiring the digging of a well in any area within this area including those properties that front on the outside of this area.

The Water District #3 Advisory Committee shall consist of:

Code Enforcement Officer

Town Engineer

Chairman of the Planning Board

One Town Board Member

*Five citizens in the geographic area (3 may vote)

* Only three of the citizens selected participate in the decision: the citizen residing closest to the project is eliminated. A lot is drawn from the remaining four citizens to eliminate one citizen, leaving three citizens remaining to vote.

Supervisor Eagan appointed the following to the Water District #3 Advisory Committee:

Deputy Code Enforcement Officer Lisowski

Town Engineer Harris

Planning Board Chairman Hacker

Councilman Wiktor

WD#3 Citizens: Joseph Noack

Jeff Genzel

Gene Wallace

David Early

Penny Grinsell

Supervisor Eagan announced that the Erie County Department of Environment & Planning inspection for the Community Development Block Grant (CDBG) request for the stabilization of erosion in the Irish Gulf/Wildwood Drive area was re-scheduled to 9:00 a.m., December 5, 2002.

Supervisor Eagan thanked Assemblyman Smith for his generous grant of \$25,000 toward the installation of the traffic signal at the intersection of Boston Colden/Boston State Roads. The project contractor expects to have the traffic signal operational in approximately six weeks.

Supervisor Eagan noted that he received a donation from the Boston Valley School children and PTA for \$6,000 toward the restoration of the Creative Playground. There will be another fundraiser soon to raise additional funds for this project.

Tim Nizialek, 7706 Omphalius Road, reported that he just returned from the Orchard Park Town Board meeting and the Orchard Park Town Board unanimously approved an agreement between the Town of Orchard Park and the Erie County Water Authority.

Supervisor Eagan thanked Tim Nizialek and Bill Kollatz for attending the Orchard Park meeting on behalf of the Boston residents and noted that he is appreciative of their agreement with the ECWA.

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HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that a main truck, a 1987 Oshkosh, has a two broken frames and cannot be permanently repaired. Proper snow removal for residents on the west hill cannot be made without this type of truck so an emergency purchase of a Oshkosh MPT-Series Truck Chassis at a cost of \$121,000 is requested.

Town Attorney Perley noted that based upon the finding of an emergency, the requirement for competitive bidding, pursuant to General Municipal Law #103 to obtain a replacement truck is eliminated.

RESOLUTION 2002-55 AUTHORIZING THE EMERGENCY PURCHASE OF AN OSHKOSH MPT-SERIES TRUCK CHASSIS

Highway Superintendent Kreitzbender congratulated the Boston Youth Varsity Football team for winning the Eastern United States Youth Football Championship.

COUNCILMAN REPORT

Councilman Mead reported that the Firefighter Newspaper awarded the "Excellence Through Teamwork" 2002 award to the Boston, North Boston, Patchin Fire Companies and the Boston Chamber of Commerce for their efforts associated with the fire at B-Kwik Market.

Councilman Mead announced that the Boston Chamber of Commerce Sharing Tree is in the Town Hall Lobby and there are still ornaments on the tree with the name and age of a child. Please return by December 15, 2002.

Councilman Mead commended the Christmas Lighting Committee on the wonderful holiday decorations on the Boston State Road.

Councilman Wiktor congratulated our Boston Youth Football team for their achievements on the field and also for their behavior that was complementary throughout their stay in Florida.

Councilman Wiktor reported that the Friday Night Recreation Program is well attended. The Ski Program is off to a great start and Kissing Bridge is open and ready to go.

Councilman Wiktor commented that thanks to the Christmas Lighting Committee we have a nice atmosphere in the Town of Boston for the Holiday Season. We look like Mayberry TV.

Councilman Wiktor reminded residents to clear the snow from fire hydrants.

Councilman Simmeth thanked Assemblyman Smith for the \$25,000 grant toward the installation of the signal at the intersection of Boston State and Boston Colden Roads. Councilman Simmeth is waiting for a commitment from Erie County Legislator McCarville

toward the project before requesting funds from Senator Volker.

Received and filed the Code Enforcement Officers monthly reports for November 2002.

Received and filed the Recreation Director's monthly report for October 2002.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to adjourn the meeting at 8:23 p.m.

DAVID J. SHENK, TOWN CLERK