

Town Board Minutes February 3, 2010

Present: Supervisor Martin A. Ballowe, Councilmen James E. Pluta, Jeffrey A. Genzel, Jay P. Boardway and Councilwoman Cathy A. Maghran.

Also Present: Highway Superintendent Telaak, Town Attorney Kobiolka and Code Enforcement Officer Ferguson.

Rev. Bonnie Bates, Faith United Church of Christ opened the meeting with a prayer.

RESOLUTION 2010-03 NYSERDA GRANT FOR ENERGY EFFICIENCY

RESOLUTION 2010-04 NYSERDA GRANT FOR SOLAR PANELS

A motion was made by Supervisor Ballowe and was seconded by Councilwoman Maghran to appoint James Maxwell as a Friday Night Recreation Counselor at the rate of \$8.00 per hour. Term will be effective February 3, 2010 through April 17, 2010.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to adopt the minutes of the January 20, 2010 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Pluta and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract dated January 28, 2010 in the amount of \$162,277.13 be paid.

five (5) Ayes Carried

Received and filed letter from Frank P. Rosiek, 6900 Boston Cross Road in regards to property damage due to storm water flooding.

Supervisor Ballowe noted that Councilman Pluta, Highway Superintendent Telaak, Town Attorney Kobiolka and himself will check out the drainage situation on Boston Cross Road.

Received and filed a letter from William McGirr, 9929 Trevett Road indicating he would not seek reappointment to the Planning Board.

A motion was made by Councilman Genzel and was seconded by Councilman Boardway to appoint Joseph Litwin as a Regular Member of the Planning Board. Term will be effective February 3, 2010 and will expire on February 1, 2017.

five (5) Ayes Carried

Sam Butera, 6233 Wildwood Drive noted that he was there to discuss the Darling Rezoning/Creekfield Subdivision issue on the agenda. He stated that this project has been going on for approximately seven years and this is the third Town Board to review this information. Based on the time frame, he feels that the previous boards' decisions should stand. However, if this board decides otherwise, the developer should have to start from square one. The application should be resubmitted to the town. He stated that a lot of things have changed since the last time this was addressed. He stated that growth is good as long as it is done correctly. He feels that for the benefit of the Town of Boston he urges this Town Board to look very seriously at this proposal and urge the developer to start from square one.

Town Attorney Kobiolka stated that the last time this project was active was July 17, 2007. He stated that he has requested the Town Board as well as the Engineering Department to take a total review of this project so that this board is up to speed. We intend to look at the whole project. It's been pending for a number of years and has previously been reviewed by two Town Boards. Once we get up to speed with all the engineering reports and public comments, than we will be in a better position to respond.

Sam Butera asked for a clarification of the word 'pending'. He asked if that means that the previous Town Board's decision is not being considered.

Town Attorney Kobiolka stated that this Town Board is reviewing the previous Town Board's decision. He stated that in his reference to "pending" meant that it was on the agenda for today.

Sam Butera asked when the Town Board's refusal of the development was and stated that he thought it was before 2007.

Town Attorney Kobiolka stated that he would look into that.

Garrett Hoffman, 7956 Boston State Road stated that he has spoken with three different supervisors on this same subject. He noted that this has been talked about since as far back as 1994 and he was going to reiterate the same very valid issues of traffic, accidents, hydrology and drainage. He stated this proposed development is in the middle of a farm field that is the perfect drainage for the town. None of the water flows into 18-Mile Creek, it just absorbs into the farmland because it's an open, sandy area that sucks the water in. The proposal intends to build pavement, manicured lawns and everything that drains fast and regardless of the retention they would propose it's not as good as the current drainage situation. None of that water goes into 18-mile creek, it absorbs into the ground. He agreed with Town Attorney Kobiolka to make sure that this current board reviews all the information as far back as 1994. He stated that there have been numerous special meetings just for this subject and asked that the Town Board become educated on this subject before making a decision.

Councilwoman Maghran stated that the town board agrees with him and will look into this completely. No decisions are being made right now and wanted the public to know they were looking at it again. Councilwoman Maghran noted that the residents will be given the opportunity to voice their opinions and concerns.

Councilman Boardway noted that this subject will be tabled tonight. It appeared on the agenda because the developer's attorney had requested to meet with the Town Board. There was a volume of information that was presented and the Town Board needs to find out the current status of the project; the legalities and how it rests with the residents. There are questions on the previous board's decisions on how that project was halted.

Garrett Hoffman asked if a Draft Environmental Impact Statement will be re-submitted to this Town Board.

Councilman Boardway stated that the Town Board has asked that the DEIS be put off until they can determine where the process is at. The previous Town Board put a moratorium on building which no

longer exists. He stated that development will be encouraged in this town but it will be done with the concerns of the residents. He stated that to do this job correctly the Town Board needs to be up to speed on where this project currently stands.

Councilman Pluta: When Councilman Boardway states that they want to encourage development, I want to make sure that; I'm for development, but I also want to make sure it's smart development. I'm not here to encourage just any development in the Town of Boston. I moved out here because I enjoy the rolling hills the way they are and the scenery. I certainly will not be promoting huge developments.

Supervisor Ballowe: None of us are. There is no room to put huge developments. We will make sure that it is done right.

Councilman Pluta: I'm speaking in general. I'm not talking about his particular sub-division and I don't want anyone to get any misconceptions. This is the first time I've really been brought up to speed on this. I have not formed an opinion on this yet. The developer's attorney has asked us to rescind the previous Town Board's decision and I think that it was prudent for us to table this and try to come up to speed as to what is going on. I certainly was not in favor and won't do that without proper information and knowledge of what is going on. I encourage the residents to come forward and tell us what was going on back then. I wasn't on the Town Board at that time, so I'm thankful that residents are coming forward and expressing your concerns.

Town Attorney Kobiolka: With the volume of information that we were presented with and it spans back over a period of seven years, we need to get up to speed to be sure that we are handling the process properly and that we know exactly where they are in the process and that we know exactly what the impact was of the past Town Board's actions. Once we are up to speed than we will set time tables and give plenty of notice to all the residents. Everyone will have their chance to have a say.

Tracy Meissner, 6210 Wildwood Drive: We have been presenting this information for many years now and many of us have built our homes and have been paying taxes with the understanding that that property was not zoned to be residential. We live in a rural area and we like it that way and want to keep it that way. There are numerous issues that Garrett Hoffman is much more up to speed on the traffic and the size of the elementary school in the area, with the proposal to close a road and open another one and different access routes. I'm not sure which proposal is being contemplated right now because there have been several changes to this plan over the last few years. I would like to reiterate the openness and be aware of what the next plan would be. Previously this has been voted down so I'm not sure why we are back at this again. We appreciate being kept informed.

Barbara Moore, 7004 Liebler Road: This issue encompasses so many more things that what is being talked about, including the safety of not only the people that will be allowed to build these homes

where there are obviously drainage and run off problems, but if any of you were around for the flood last fall, the rescues that had to be done on similar land at similar levels, you are putting your fire department and your rescue squad people in danger and you are making a decision to do that if you allow that development to go in that location. I am not opposed to good development but, am opposed to development for the sake of development. We had to spend thousands of dollars last year for collecting leaves because there was an excess amount that Highway Superintendent Telaak couldn't handle without an extra truck and extra hours. Have we considered that? Is the increase in the tax base from this development going to cover all the additions that you're going to have to make? I would answer that with a "no".

Sandy Hoffman, 7956 Boston State Road: This issue has been brought forth at least four times that I've been aware of, so every time there is a change in boards, there seems to be an opportunity to revisit this. As you know Omphalius Road has a steep grade and comes down to Boston State Road. Over the years the speed limit has changed to try to alleviate concern. We live across the street from Omphalius Road, and a many years ago a dump truck full of asphalt was coming down Omphalius Road, lost its breaks and could not stop at the intersection, went through Boston State Road and went airborne into the field. The dump truck driver happened to have a recollection that there was water back there so as he slowed down he turned to avoid going into the creek. What would have happened if there were homes and people right there. A few years later a pick up truck carrying a trailer detached at that intersection. There have been a lot of accidents. We don't have side walks and I walk my children on Boston State Road trying to get to the surrounding neighborhoods and when people are going southbound and making a left onto Omphalius Road, there are cars going around on the right side of the shoulder. That is a key place for accidents. If that becomes a cross intersection that is going to be increase and then a signal light will have to be considered or a further reduction in speed. It was proposed in the past to connect this development with Wildwood Drive, so they are going to have to deal with additional traffic. Another concern for Boston residents is the school district. Our Boston Valley Elementary School is small. It is already maxed out. If you had to put three grade levels, there aren't enough rooms to do so. At certain points if there is a small enough class of students they are reduced to two teachers because there aren't enough rooms to go around.

Sandy Hoffman Cont'd: When we added the homes in Hickory Meadows, twelve of those families have children in Boston Valley School. If you add another subdivision, you add more and more weight to that. Even though you are increasing tax base you are going to increase expenditures one way or another. Another issue is housing. Right now the people who want to sell home and have to leave the area, there is an issue with economics. You put these desirable new homes, how does that impact your current residents.

Received and filed notice from the Conservation Advisory Council that their meetings will now be the third Tuesday at 7:30 p.m.

On the recommendation of the Conservation Advisory Council a motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to reappoint Raymond Kent to the Conservation Advisory Council. Term commences on February 3, 2010 and expires on March 1, 2013.

five (5) Ayes Carried

On the recommendation of the Conservation Advisory Council a motion was made by Councilman Pluta and was seconded by Supervisor Ballowe to appoint Jeffrey Szudzik as a member of the Conservation Advisory Council. Term commences on February 3, 2010 and expires on February 1, 2013.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Councilman Pluta to approve the Use of Facility application from St. John the Baptist Church for June 12, 2010.

five (5) Ayes Carried

Town Attorney Kobiolka noted that he has spoken to the applicant in regards to the rezoning of Boston Valley Commons. He stated that there is additional information that the applicant needs to include in his application as well as a survey.

A motion was made by Councilman Pluta and was seconded by Supervisor Ballowe to upon the recommendation of Town Attorney Kobiolka to table the application for rezoning from C-1 to C-2, Boston Valley Commons, 7074 Boston State Road until further information is received from the applicant.

five (5) Ayes Carried

Councilman Boardway clarified that this particular parcel is located behind the Tim Horton's property. He noted that there is additional planning and two stages that are not completed yet and additional work that needs to be done there.

A motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to table the application for Darling Rezoning/Creekfield Subdivision until further review of the Town Board.

five (5) Ayes Carried

Received and filed monthly reports from the Town Clerk, Assessor and Dog Control Officers.

Supervisor Ballowe noted that within the next three weeks, the Hillcroft Drive, Eighteen Mile Creek Bank Stabilization project should be started.

Town Clerk Shenk noted that Town and County Tax bills are anticipated to be mailed on Friday, February 12th. Taxes are due on March 15th.

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe to allow Town Clerk Shenk to include the town information insert in the mailing of tax bills.

five (5) Ayes Carried

Highway Superintendent Telaak requested the reappointment of Scott Fellows and Barry Decker as Parks Employees from January 1, 2010 through December 31, 2010 although they do not work during the winter months.

A motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to appoint Scott Fellows at a rate of \$11 per hour and Barry Decker at a rate of \$10 per hour as Parks employees, terms to expire 12/31/2010.

five (5) Ayes Carried

Highway Superintendent Telaak noted that he didn't feel it was right to only allow Scott and Barry to work for so many hours and so many weeks. He stated they start in the spring taking down the Christmas decorations and work all summer. He stated that these two employees will be working more than 26 weeks. He noted that the other two parks workers can be part time.

Councilman Pluta asked Highway Superintendent Telaak if he's proposing that Scott and Barry become full time employees.

Highway Superintendent Telaak stated no, but does feel they will need to work more than 26 weeks. He stated that these two workers have been working for the town for a long time. He also noted that in the spring they are cleaning up plow damage, getting equipment ready, prepping fields for summer usage. They start this work first thing in the spring once the snow is melted.

A motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to withdraw the motion to appoint Scott Fellow and Barry Decker as Parks Employees at the rate of \$10 and \$11 per hour until the Town Board can further discuss the hours to be worked by each of these employees.

five (5) Ayes Carried

Town Attorney Kobiolka noted that he finished his review of the Article 7 proceedings against the Town of Boston and have concluded that he will pick up on any subsequent Article 7 proceedings filed against the town, in addition to completing the Article 7 from CVS. He stated that he believes the town will save several thousands of dollars in legal fees if the Article 7's are done internally.

Town Attorney Kobiolka noted that on Sunday, Boy Scout troop #491 is having a pancake breakfast at the Boston Fire Company at 8 a.m.

Councilman Genzel noted that he and Supervisor Ballowe did a walk through with the contractor for the Hillcroft Drive Bank Stabilization and Erosion Control project. Bids for this project are due by February 9th. A grant of \$250,000 will be used for that project. The bridge replacement is slated for 2011.

Councilman Genzel also met with Nussbaumer and Clarke concerning the West Hillcroft Drive water line project and the two different options that have been bounced back and forth concerning this area. One is a pump house at the bottom and the other is bore underneath the 219 expressway. There are still some unanswered questions concerning this project. We have the money and would like to start the project. The Erie County Water Authority is investigating these two options.

Councilman Genzel noted that the Town Board is looking for members for the Ethics Committee. Members of the Town Board and employees of the town can not be members of this committee.

Councilman Boardway noted that Sean Crotty and Gene Wieckowski will be attending an Emergency Preparedness Conference in March. He noted that Sean Crotty with his connection with Erie County and

sponsored through the Office of Emergency Preparedness and in conjunction with the Hamburg School District are able to put together an H1N1 Swine Flu vaccine. He noted that Councilwoman Maghran was instrumental in helping organize this also. This will be held on February 10, 2010 from 1 p.m. to 8 p.m. at the North Boston Fire Hall.

Councilwoman Maghran noted that if the Erie County Health Department is conducting this free vaccine. Councilwoman Maghran noted that CVS will also be giving out the H1N1 vaccine.

A motion was made by Councilwoman Maghran and seconded by Councilman Boardway to adjourn the meeting at 8:19 p.m.

five (5) Ayes Carried

DAVID J. SHENK, TOWN CLERK