

## Town Board Minutes July 10, 2002

REGULAR TOWN BOARD MEETING      TOWN HALL

JULY 10, 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.

A motion was made by Councilman Mead and seconded by Councilman Wiktor to schedule a Public Hearing for August 7, 2002 at 7:45 p.m. for Proposed Local Law No. 4 of the Year 2002 ? A Local Law to Establish a Special Permit Requirement for the Employment of Live Entertainment at Eating or Drinking Establishments.

five (5) Ayes    Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor to schedule a Public Hearing for August 7, 2002 at 7:50 p.m. for Proposed Local Law No. 5 of the Year 2002 ? A Local Law to Amend Local Law No. 9 of the Year 1990.

five (5) Ayes    Carried

A motion was made by Councilman Simmeth and seconded by Councilman Edington to adopt the minutes of the June 19, 2002 regular meeting with the following correction:

A motion was made by Councilman Wiktor and seconded by Councilman Edington, on the recommendation of Recreation Director Clesse, to approve the following appointments to the Summer Recreation Day Camp 2002, term effective immediately and to expire 8/31/02:

FROM:

NAME TITLE HOURLY WAGE

Andy Smith Site Supervisor \$8.00

Jennifer Olivieri Counselor \$6.60

Kelly Murphy Craft Supervisor\$6.00

Melissa Dzikowski Site Supervisor \$7.60

Jesse Hess Substitute Counselor \$5.25

TO:

NAME TITLE HOURLY WAGE

Andy Smith Site Supervisor \$8.00

Jennifer Olivieri Counselor \$5.60

Kelly Murphy Craft Supervisor\$6.00

Melissa Dzikowski Site Supervisor \$7.60

Jesse Hess Substitute Counselor \$5.25

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Supervisor Eagan, upon review by the Town Board, that Fund Bills on Abstract #7, dated July 10, 2002 in the amount of \$193,494.43 be paid.

five (5) Ayes Carried

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

Received and filed notification from Adelphia Cable of proposed rate changes effective August 1, 2002.

Received and filed a Town of Brant Resolution in support of the Town of Boston Resolution designating US Route 219, as a "Scenic Byway."

Received and filed an acknowledgement from NYS Senator Mary Lou Rath of receipt of the Town of Boston Resolution designating US Route 219, as a "Scenic Byway."

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Received and filed an update from Adelphia Cable regarding the formation of a Special Committee to stabilize and strengthen the Company's financial foundation.

REQUESTS FROM THE FLOOR

Donald Wesp, 5589 Northside Drive: I read that many towns and cities never received their fees from Adelphia Cable and I was wondering if Boston did?

Supervisor Eagan responded that the Town of Boston did receive payment from Adelphia Cable earlier this spring.

Town Attorney Perley noted Adelphia pays the Town of Boston every six months. The franchise has not been renewed so Adelphia is operating on an extension with NYS Commission on Cable Television and therefore the renewal has not been finalized.

Donald West inquired that if the fees haven't been paid and the company was purchased by someone else will the town pursue the collection of fees owed?

Town Attorney Perley responded that approval of each franchising authority such as Boston, is necessary for a transfer of ownership. An audit and payment of a franchise fee can be insisted upon. In the prior transfer of Prime Cable to Adelphia Cable the Town of Boston required an audit and received an additional commission payment from Adelphia of \$36,000.

Orville Ziecker, Fairlane Drive: I am requesting the Board contact the police in charge of taking care of our neighborhood. We need an increase of police presence. There has been recent vandalism and the police know who the vandals are. Something has to be done such as a patrol car every hour.

Councilman Simmeth responded that he will contact the State Police and request an increase in police presence in the area.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to refer to the Town Engineer notification from ECWA to consider the installation of pressure reducing valve (s) along Zimmerman Road north of Keller Road due to increased water pressure on Hywood/Maple Grove Drives and Zimmerman Road.

five (5) Ayes Carried

Referred to the Dog Control Officer a request for the Town of Boston to proceed with appropriate dangerous animal proceedings from Attorney Michael Menard, representing a client attacked by a dog owned by Michael Prusak, 7963 Feddick Road. EC Health Department records concerning two incidents with said dog was submitted.

Received an Inspection Report from Deputy Code Enforcement Lisowski for the Boston Hills Homes and Estates and the Sprague Mobile Home Parks dated June 5, 2002.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to grant the Boston Hills Homes and Estates a Mobile Home Park license to expire 6/30/03.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor to extend the Sprague Mobile Home Park License until 9/4/02.

five (5) Ayes Carried

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Town Attorney Perley will forward the Code Enforcement Officer Inspection report for the Sprague Mobile Home Park to Mr. Boyd's Attorney.

A motion was made by Councilman Wiktor and seconded by Councilman Edington, on the recommendation of Recreation Director Clesse, to approve the appointment of Jill Thomas as Craft Supervisor for the Summer Recreation Program, hourly wage of \$6.25, term effective immediately through August 31, 2002.

five (5) Ayes Carried

RESOLUTION 2002-34 DESIGNATING SUPERVISOR WILLIAM A. EAGAN AS SIGNATORY FOR THE ACCOUNT VOLUNTEER FIREFIGHTERS' SERVICE AWARD PROGRAM

Received a Soil Removal Permit Application from Greg Dake, 7825 Back Creek Road.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth, on the recommendation of Code Enforcement Officer Kramer, to approve the Soil Removal Permit Application for Greg Dake, 7825 Back Creek Road.

five (5) Ayes Carried

Received a request from Boston Youth Baseball and Boston Girls Softball for use of the Lions Shelter and ball diamonds on July 27, 2002 for the all-star games and picnic. A \$50 deposit has been received.

A motion was made by Councilman Mead and seconded by Councilman Edington to grant the Boston Youth Baseball and Girls Softball use of the Lions Shelter and ball diamonds on July 27, 2002 for the all-star games and picnic.

five (5) Ayes Carried

Received three requests for proposals for the emergency repair to the Town Hall Front Steps and Vault as follows:

Frontier Concrete, Inc. \$8,672.00

Landmark Construction, Inc. \$8,815.00

Vinwell Construction, Inc. \$9,128.00

Supervisor Eagan noted the Landmark Construction, Inc. proposal is for repair work vs. replacement. The Frontier Concrete, Inc. proposal is based on capping the vault area, replacing the stairs and an additional handrail. The Vinwell Construction, Inc. proposal replaces the cap over the vault area and adds a handrail.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to award the contract for the emergency repair to the Town Hall Front Steps and Vault to Vinwell Construction, Inc. for \$9,128.00.

five (5) Ayes Carried

Town Attorney Perley clarified that this is not a pure bid situation. Specifications were not required to be drafted. A request for proposals was put forward and the contractors were responsible to develop the particulars of the proposal. The Town Board is entitled to vote not just on the amount but on the scope of work proposed by the contractor.

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Received and filed a Planning Board recommendation of approval for the co-location application submitted by Devon Mobile Communications subject to all documents legally required to be in order, the need verified by RFP Specialist William Johnson, and receipt by the Planning Board of documentation for verification of prior approval/placement of all existing antennas on this tower.

Town Attorney noted that Devon Mobile Communications requested the co-location application be tabled.

#### SUPERVISOR REPORT

Received and filed Supervisor's Financial Report for June 2002.

Supervisor Eagan reported that the Boston Hillfest is July 13th and 14th and the Town Board worked diligently to have the Town Park restrooms complete for the event but due to the EC Sewer approval process and the contractor schedule, the new restrooms will not be open. Supervisor Eagan apologized for any inconvenience during the Hillfest.

Supervisor Eagan thanked Sean Green, G & W Plumbing and David Dix, Dix Electric, for donating their services to the town and giving something back to the community. Supervisor Eagan noted the Highway Department should also be applauded.

Supervisor Eagan referred a letter from the Boston Fire Company to Councilman Simmeth regarding the new traffic light to be installed on the corner of Boston State/West Tillen Roads. The Boston Fire Company requests a switch and plug to allow a generator to power the light in the event of a power outage. Also noted, a "stop-a-head" sign with flashing yellow lights on the approach from east of Boston Colden Road would slow traffic at the intersection.

Supervisor Eagan reported that Erie County Commissioner of Public Works Lehman advised him that Town Attorney Perley will be contacted to draft a Memorandum of Understanding between the Town of Boston and Erie County for reimbursement of funds regarding the installation of traffic devices on Boston State/West Tillen Roads.

Supervisor Eagan received notification on July 10, 2002 that costs for metal poles would be approximately \$25,000 and wooden poles \$18,000, not including design costs between \$10,000-\$15,000. The time frame would be between four to six weeks. Assemblyman Smith has offered to help fund this project when accurate costs have been determined.

#### TOWN CLERK REPORT

A motion was made by Councilman Simmeth and seconded by Councilman Wiktor to accept the Town Clerk Monthly Report for June 2002.

five (5) Ayes Carried

A motion was made by Councilman Wiktor and seconded by Councilman Eagan to accept the Tax Collector Monthly Report for June 2002.

five (5) Ayes Carried

Town Clerk Shenk announced that the Town of Boston received Local Government Records Management Improvement Fund Grants in the amounts of \$4,500 for a web page and E-mail and \$4,489 for inventory and planning of Highway records.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to accept the Local Government Records Management Improvement Fund Grants in the amounts of \$4,500 and \$4,489.

five (5) Ayes Carried

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Town Clerk Shenk announced he will be on Military Leave July 15th through July 26th.

#### HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that the road program is going well and over 7 ½ miles of road has been paved. There is two miles left to do in the Chestnut Ridge Road area.

Highway Superintendent Kreitzbender reported that he applied for reimbursement of CHIPS funds and the \$5,000 grant from Assemblyman Smith for drainage.

Highway Superintendent Kreitzbender reported that he has received calls regarding the waterline restoration work that needs to be completed in the Chestnut Ridge Road area. A list has been compiled for the contractor who will begin work next week.

Highway Superintendent Kreitzbender reported that the restrooms are installed in the Town Park and final grading and seeding will be done for the Hillfest event.

#### TOWN ATTORNEY REPORT

Town Attorney Perley reported that he and Code Enforcement Officer Kramer are working with the SBA (Sprint Tower owner) Zoning Officer to identify additional co-locations for approval.

Town Attorney Perley reported that regarding the drainage issues in the Creekside Subdivision, the Town Engineer has concluded that the drainage system is inter-related between the Creekside Subdivision and Meadow Drive. A letter was sent to Gayle Hanley with petitions to circulate in the area to determine interest for a feasibility study. Residents may call Town Attorney Perley for an explanation of the significance of signing the petition.

Town Attorney Perley reported that he presented to Supervisor Eagan the closing documents for Resolution 2002-31, Issuance of Serial Bonds to Finance the Resurfacing/Reconstruction of Certain Highways, adopted on June 5, 2002. The period in which to contest, on bonds issued over five years, has passed and the documents will be sealed and delivered to Evans National Bank.

Town Attorney Perley reported that on July 10, 2002 a complaint/lawsuit was filed by Paul and Dawn Walczak and the matter was referred to the Town Insurance Consultant.

#### COUNCILMAN REPORT

Councilman Wiktor reported that the Summer Recreation Program began July 1, 2002 with an enrollment of 314 children.

Councilman Wiktor thanked the Highway Superintendent for paving and extending the Town Hall parking lot.

Councilman Wiktor reported that he has received calls from residents concerned with the paving of the aprons of their driveways to the road. The Highway Department will repair and complete the aprons when the highway roadwork is complete.

Councilman Simmeth reported that he contacted Highway Superintendent Kreitzbender regarding a request to Town Attorney Perley to draft a proposal for timber harvesting in town.

Town Attorney Perley noted that he will work with the Town Board, Zoning Review Committee and other interested agencies in town that wish to have a procedure in place to regulate timber harvesting.

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#### COUNCILMAN REPORT (CONT.):

Councilman Simmeth will meet with the Erie County Traffic Engineer regarding speed limit issues on Omphalius, Rockwood, Hillcroft, Back Creek and Boston Cross Roads. There is also a problem with pedestrians crossing Boston State Road near the Park and Ride facility.

Councilman Simmeth reported that regarding the signal at Boston State/West Tillen Roads, the NYS DOT is willing to give the Town of Boston the necessary aluminum poles and materials from their surplus equipment upon receipt of required specifications. Councilman Simmeth requested Town Attorney Perley investigate compiling a design/engineering study bid package.

Supervisor Eagan noted that it is his understanding that Erie County is going to use the consultant who did the initial study and incorporate the Memorandum of Understanding which will speed things up.

Town Attorney Perley commented that he will call Erie County Highway Department Traffic Engineer Sickler.

Councilman Simmeth wished the Hillfest Committee a successful weekend.

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

Received and filed the Dog Control Officers monthly reports for June 2002.

Received and filed the Town Engineer's monthly report for June 2002.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to adjourn the meeting at 8:19 p.m.

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DAVID J. SHENK, TOWN CLERK