

Town Board Minutes July 16, 2003

REGULAR BOARD MEETING TOWN HALL

JULY 16, 2003 7:30 P.M.

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

Pastor Kwiatowski, Good Shepherd Lutheran Church, opened the meeting with a prayer.

The following proposals were received for landscaping the front of the Boston Town Hall:

Boston Hill Nursery \$5,235.00

Water Valley Nursery \$7,989.00

A motion was made by Supervisor Eagan and seconded by Councilman Mead to accept the Water Valley Nursery proposal dated 12/31/02 for the Town Hall landscaping project at a cost of \$7,989.00.

five (5) Ayes Carried

Councilman Simmeth announced that the following committee was formed to promote a healthy community: Councilman Simmeth, Grants Consultant Connie Miner, United Way Representative Larry Goble, Evans Bank Manager Lori Kuczka and Boston United Way Committee Member Herb Klein. The United Way of Buffalo and Erie County assists communities promoting a healthy community. A survey will be distributed July 19, 2003 to Boston residents to determine how much effort the Boston community should make in various areas.

A motion was made by Councilman Eagan and seconded by Councilman Simmeth to accept the offer of the United Way of Buffalo and Erie County to survey Town of Boston residents.

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Wiktor to adopt the minutes of the June 18, 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 #7, dated July 16, 2003, amount of \$387,146.32 be paid.

five (5) Ayes Carried

Received and filed Erie County Sheriff Report for May 2003.

Received a thank you to the Town of Boston from the Boston Community Days Committee for helping to sponsor the event.

Supervisor Eagan thanked the Boston Community Days Committee noting that they did a fantastic job and is looking forward to the event next year.

Received notification from Erie County Highway Department of a road closure on Eckhardt Road from Boston State Road to Heinrich Road for reconstruction of the Bridge over Eighteen Mile Creek from July 11 to December 5, 2003.

Received a letter of complaint from Donna Huson, 7104 Boston State Road regarding loud noise from the Boston Grille at 7115 Boston State Road.

Supervisor Eagan noted that Deputy Code Enforcement Officer Lisowski is addressing the complaint from Donna Huson of the loud noise at the Boston Grille.

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Councilman Mead announced that a "Turning Back the Clock Committee" has been formed to begin fundraising efforts to install a clock in front of the Boston Town Hall to create a "Town Commons". Sponsorships will be offered to entitle the sponsor's name to be engraved on a brick walkway or base of the clock. Plans of the project are available for public viewing in the Planning Board Room.

Jennifer Warnes, President of the Boston Chamber of Commerce, detailed the fundraising effort for the community clock project.

A Public Hearing was held at 7:45 P.M.

to consider an application for

rezoning of vacant land,

SBL# 241.08-1-11.1 from C-1 to R-2,

owned by Brian and Rochelle Wendling,

8350 Boston State Road.

Supervisor Eagan read the legal

notice and noted that 39

neighboring property owners and

the applicant were notified.

There were no public comments.

A motion was made by Councilman
Mead and seconded by Councilman
Simmeth to close the Public
Hearing at 7:48 p.m.

five (5) Ayes Carried

A motion was made by Councilman
Mead and seconded by Councilman
Wiktor to approve the application
of Brian and Rochelle Wendling,
to rezone vacant land,
SBL# 241.09-1-11.1 from C-1 to R-2.

five (5) Ayes Carried

REQUESTS FROM THE FLOOR

Gayle Hanley, 5622 Northside Drive:
I was here a couple of months ago
and I am looking for an update
on the Northside and Meadow

drainage issue. I understood
there was supposed to be an
engineering study conducted and I
haven't been informed as to what is
going on.

Supervisor Eagan: Foit-Albert

Associates, Engineering Consultants,

were requested to investigate the

entire subdivision and determine where the problem area is, how to correct it and the costs.

Gayle Hanley: Have they started that survey yet?

Supervisor Eagan: I can't tell you if they have.

Gayle Hanley: I thank Highway Superintendent for the paving.

Highway Superintendent Kreitzbender: Michael Pohl, Foit-Albert Engineering contacted me and next week we will walk the entire area including the Meadow Drive area. You should get a report by the next meeting.

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REQUESTS FROM THE FLOOR (CONT.):

Donna Felger, 7024 Boston Cross Road: I have had an ongoing issue with the Town regarding the ditch behind my house in South Boston Park. It has been an issue every year that the weeds get very high

bordering my entire property. It is not maintained and has not been cut once this year. I have pictures. It is very unsightly.

If you stand in the park, my house is the only one not maintained

in the back. I know it is a ditch but there are ditches and fences everywhere in this park. They are all properly maintained and there is not a weed in sight. I think this is becoming a personal issue because I have spoken with Superintendent Kreitzbender many times and he told me his park is his business and my property is mine. I am sorry but I pay taxes and I think it should be maintained properly. The weeds come into my yard and the vines are killing my trees. There is water back up and last year they did half a job of cleaning the ditches leaving sticks in the ditch. You can't get water through the ditch. I want to know why this has become such a problem.

Supervisor Eagan noted the problem will be addressed tonight and requested Ms. Felger's phone number.

A motion was made by Councilman Mead and seconded by Councilman Simmeth, on the recommendation of the Recreation Director, to approve the following appointments to the Summer Recreation Day Camp, term effective immediately and to expire 8/31/03:

Emily Lundberg Craft Supervisor \$6.15

Kristen Partridge Assistant Site Supervisor \$6.25

Kate Barbati Counselor/Lifeguard \$5.95/7.25

Joseph Clesse SMART Program Assistant \$5.25

Kevin Steffan Substitute Counselor \$6.25

five (5) Ayes Carried

A Public Hearing was held at 7:55 P.M.

to consider an application for

rezoning of vacant land, SBL# 241.08-1-10

from C-1 to R-2, owned by Ronald Wierzba,
8338 Boston State Road.

Supervisor Eagan read the legal notice
and noted that 39 neighboring property
owners and the applicant were notified.

There were no public comments.

A motion was made by Councilman Mead
and seconded by Councilman Wiktor to
close the Public Hearing at 7:58 p.m.

five (5) Ayes Carried

A motion was made by Councilman Mead
and seconded by Councilman Simmeth to
approve the application of Ronald
Wierzba to rezone vacant land,
SBL# 241.08-1-10 from C-2 to R-2.

five (5) Ayes Carried

Received a request from the Boston
Youth Baseball organization for

use of the Lions Shelter and bathroom facilities on July 26, 2003.

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A motion was made by Councilman Wiktor and seconded by Councilman Mead to grant the Boston Youth Baseball organization use of the Lions Shelter and bathroom facilities on July 26, 2003.

five (5) Ayes Carried

Supervisor Eagan reported that the Town Board has been working on a Snack House/Storage Building project with the Capital Improvements Committee.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to award the contract for the Snack House/Storage building to Morton Buildings Inc. for a cost of \$53,300, contingent upon Town Attorney approval for form and proficiency and with reference to prevailing wage.

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Hawkins to approve the following Transfer of Appropriations ? July 10, 2003:

GENERAL FUND

From: Appropriations A960 37,000.00

Contingency 1990 37,000.00

TOTAL 37,000.00 37,000.00

TO: Appropriations A960 37,000.00

Engineer-Contractual 1440.4 25,100.00

Judgement & Claims 1930 200.00

Traffic Cntrl-Contractual 3310.4 9,500.00

Celebrations-Contractual 7550.4 2,000.00

Worker?s Compensation 9040.8 200.00

TOTAL 37,000.00 37,000.00

HIGHWAY FUND

FROM: Appropriation D960 2,520.00

Social Security 9030.8 1,260.00

Dental/Medical Ins 9060.8 1,260.00

TOTAL 2,520.00 2,520.00

TO: Appropriation D960

Workman?s Compensation 9040.8 520.00

Unemployment Ins 9050.8 2,000.00

TOTAL 2,520.00 2,520.00

five (5) Ayes Carried

Received a proposal from Drumm Construction Corp. to sell the Town of Boston six sets of plans that could be used for the Trooper's Barracks for a cost of \$1,000.

Supervisor Eagan reported that Scott Kinsman, Foit-Albert Engineering Representative, noted that the minimum hourly rate for an Architect Engineer is \$100 per hour, so the cost of \$1,000 for the set of plans is fair and reasonable.

A motion was made by Councilman Mead and seconded by Councilman Simmeth purchase from Drumm Construction Corp. six (6) sets of plans to be used for the Trooper's Barracks for a cost of \$1,000.

five (5) Ayes Carried

Received notification from the Planning Board that their Summer Meeting schedule is July 22 and August 19, 2003.

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Received a request from Maurice Emerling, Hickory Meadows, LLC. to establish ownership of a right-of-way of 75 feet for access to land east of the subdivision above the power line and for use of National Fuel to service their gas wells.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to refer a request from Maurice Emerling, Hickory Meadows, LLC. to establish ownership of a right-of-way to the Planning Board for review and recommendation.

five (5) Ayes Carried 7:30 P.M.

Received a request from Wireless Solutions LLC for AT&T Wireless to co-locate up to six (6) wireless communication panel antennas and related equipment on the existing tower at 6405 Ward Road.

A motion was made by Councilman Mead and seconded by Councilman Wiktor to refer the request from Wireless Solutions LLC for AT&T Wireless to co-locate up to six (6) wireless communication panel antennas and related equipment on the existing tower at 6405 Ward Road to the Planning Board for review and recommendation.

five (5) Ayes Carried

Received a request from AT&T Wireless to co-locate up to six (6) wireless communication panel antennas and related equipment on the existing tower at 8881 Cole Road.

Town Attorney Vacco noted that included in the AT&T Wireless application was the Engineer's report of issues with additions to the structure and inadequate information regarding the tower base foundation.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to deny the request from AT&T Wireless to co-locate up to six (6) wireless communication panel antennas and related equipment on the existing tower at 8881 Cole Road.

five (5) Ayes Carried

Received a quote from Tri-R Cooling for replacement of a condenser unit for the NYS Police Barracks for \$1,485.00.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to authorize the purchase of a replacement condenser unit for the NYS Police barracks for \$1,485.00 from Tri-R-Cooling.

five (5) Ayes Carried

Received recommendations from the Conservation Advisory Council regarding revision of the Boston Town Code for Chapter 95, Signs.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to table a request from the Conservation Advisory Council regarding revision of the Boston Town Code for Chapter 95, Signs for further review.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor to renew the Boston Hills Homes and Estates Mobile Home Park license, term July 1, 2003 ? June 30, 2004.

five (5) Ayes Carried

Received a Planning Board recommendation to approve the changes to the Boston Town Code submitted by Code Enforcement Officer Kramer.

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A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the changes to the Boston Town Code submitted by Code Enforcement Officer Kramer.

five (5) Ayes Carried

Received a Planning Board recommendation of approval for the Richard Emerling application for an addition to 9776 Trevett Road.

Mrs. Becony, 9766 Trevett Road inquired as to what Mr. Emerling intended to store in the proposed addition at 9776 Trevett Road.

Supervisor Eagan responded that the proposed addition at 9776 Trevett Road will be used for cold storage of parts and equipment as stated by the applicant.

A motion was made by Councilman Simmeth and seconded by Supervisor Eagan, on the recommendation of the Planning Board, to approve the Richard Emerling request for an application for an addition to 9776 Trevett Road.

five (5) Ayes Carried

A Public Hearing was held on June 18, 2003 to hear public comments on the rezoning application for a proposed subdivision by Dana Darling to rezone a multi zoned vacant land on the west side of Boston State Road across from Omphalius Road intersection, SBL# 226.00-2-31.1,& SBL# 226.00-2-33 from R-A to R-1.

Supervisor Eagan read a letter from applicant Dana Darling attempting to address the concerns of neighbors on the proposed rezoning request for a subdivision on Boston State Road across from Omphalius Road intersection.

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to table the rezoning request of Dana Darling until the August 13, 2003 Town Board meeting.

five (5) Ayes Carried

Received a Planning Board notification of non-compliance for Nick Charlap's, 7264 Boston State Road.

Councilman Simmeth noted he discussed the situation at Nick Charlap's with Councilman Wiktor, Traffic and Safety Liaison

Supervisor Eagan noted Nick Charlap appears to have attempted to address the parking situation.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to refer the Planning Board notification regarding Nick Charlap's, 7264 Boston State Road, to Code Enforcement Officer Kramer.

five (5) Ayes Carried

SUPERVISOR REPORT

A) Supervisor's Financial Report for June 2003 was received and is on file in the Town Clerk's office.

Supervisor Eagan reported that there has been a constant flow of complaints concerning the Town of Boston contract with Waste Management. Supervisor Eagan and Deputy Town Clerk Ellis met with representatives of Waste Management. WM agreed to send out a mailing and advertise in the local papers informing residents of the program. Supervisor Eagan directed Town Attorney Vacco to review the Waste Management contract and report to the Town Board.

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SUPERVISOR REPORT (CONT.):

Supervisor Eagan reported that John Wiedemann, 7432 Boston State Road requested "no parking or no standing" signs installed near his driveway.

Supervisor Eagan reported that Town Attorney Vacco has reviewed the Fireman's Service Award Program and recommends the program be effective as originally proposed, from January 1, 2002 with payments to begin January 1, 2003.

A motion was made by Councilman Mead and seconded by Councilman Hawkins, on the recommendation of Town Attorney Vacco, to confirm that the Service Award Program, as originally proposed, is effective January 2002, with payments to begin January 1, 2003.

five (5) Ayes Carried

TOWN CLERK REPORT

A motion was made by Councilman Wiktor and seconded by Councilman Mead to accept the Town Clerk Monthly Report for June 2003.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to accept the Tax Collector Monthly Report for June 2003.

five (5) Ayes Carried

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that a FEMA Grant was received for Stabilization of the Eighteen-Mile Creek project behind the Salt Barn. Bids were less than anticipated and remaining funds can be requested to be available to the town.

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to authorize Grants Consultant Connie Miner to determine the remaining funds in the FEMA Grant for the Eighteen-Mile Creek Stabilization Grant and to file for an extension.

five (5) Ayes Carried

Highway Superintendent Kreitzbender reported that Erie County has given notification that Boston State Road will be closed in two locations within the next month. A culvert will be replaced between LuDon and May Drive and Holiday and Redwing Drives.

Highway Superintendent Kreitzbender reported that the Road Rehabilitation program has begun this week. Creekside Subdivision has been paved and Erie County Sewer Authority has agreed to pay forty percent of the cost due to the damage caused by the sewer line installation.

Highway Superintendent Kreitzbender reported that roadwork will continue this week in the subdivisions of Thornwood, Willow, Park, Allen and Tanglewood Drives.

TOWN ATTORNEY REPORT

Town Attorney Vacco reported that regarding the Service Award Program, after considerable research, it is her opinion that the Town Board is well within their rights to have the Service Award Program retroactive to 2002 with payments commencing January 1, 2003 as was originally intended in the referendum.

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TOWN ATTORNEY REPORT (CONT.):

A motion was made by Councilman Mead and seconded by Supervisor Eagan to authorize the Town Attorney to direct Penflex Inc. to have the Service Award Program retroactive to 2002 with payments commencing January 1, 2003.

five (5) Ayes Carried

Town Attorney Vacco reported that the Article 78, Southtowns Rural Preservation Company Inc. vs. Town of Boston was held in NYS Supreme Court before the Honorable Judge Nataro. The Town Board decision to deny the Site Plan Review was reversed allowing the nine additional units to be added to 9441 Boston State Road.

Councilman Simmeth asked why Judge Nataro reversed the Town Board decision.

Town Attorney Vacco responded that Judge Nataro deemed the application met all of the code qualifications after the property was rezoned.

COUNCILMEN REPORT

Councilman Mead inquired as to why Boston State Road has a wider shoulder in North Boston than in front of the Town Hall.

Highway Superintendent Kreitzbender responded that Route 391 from North Boston to Hamburg is a State Road and Boston State Road is a County Road.

Supervisor Eagan noted that on County roads another crew follows and does the shoulders. At some point Boston State will be done.

Highway Superintendent Kreitzbender noted it is more cost efficient to do all the paving at one time and the shoulders at another.

Councilman Wiktor announced that the Empire Games will be holding another bicycle race in Boston on July 25th using the same route and facilities. They thanked the State Police, Erie County Highway, Boston Town Highway, North Boston, Colden Fire Departments and Councilman Simmeth.

Councilman Wiktor reported that "no parking signs" need to be installed at the intersection of Abbott and Herman Hill Roads in front of 7239 Abbott Road, the intersection of Patchin and Boston State Roads, and on both sides of road in front of 7264 Boston State Road. Councilman Wiktor requested a meeting with Town Attorney Vacco and Highway Superintendent Kreitzbender to review the wording of the resolution to be forwarded to Erie County.

RESOLUTION 2003-23 REQUEST COUNTY PERMISSION TO PLACE

"NO PARKING SIGNS" ON COUNTY ROADS

Councilman Mead requested a copy of Resolution 2003-23 be forwarded to the Planning Board.

Councilman Wiktor reported that regarding the Ann Burkhardt property at 9356 State Road, the home is being vandalized and a demolition order needs to be issued.

Town Attorney Vacco noted that she and Code Enforcement Officer Kramer have been working on this issue but the Social Services guardian for Ms. Burkhardt has changed a number of times slowing the progress of this case.

Councilman Wiktor inquired if the town could board up the doors and windows.

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COUNCILMEN REPORT (CONT.):

Town Attorney Vacco responded that she will have an answer in the future.

Councilman Wiktor thanked the Highway Superintendent and crew for moving signs on Eckhardt Road that caused visibility problems.

Councilman Wiktor has received numerous complaints on the condition of Omphalius Road.

Highway Superintendent Kreitzbender responded that a new snowplowing agreement has not been signed. Omphalius Road from Eddy to Cole Road will not be rebuilt this year. National Fuel and the Phone Company have to move their lines. A Highway truck broke plowing Omphalius Road last year. The Town Board must decide if we are going to plow Omphalius Road this winter. Two \$6,000 front plows have been ruined. The Town Board can put Erie County on thirty-day notice that unless something is done, the Town will not snow plow Omphalius Road.

Supervisor Eagan reported that Erie County sent him a draft of a letter that will be sent to residents on Omphalius and Eddy Roads and asked for his comments. It appears that part of the problem is dealing with the utilities and the County is not looking to finish the road until 2004. Supervisor Eagan told the county they should give Omphalius Road residents a schedule and stick to it.

Highway Superintendent Kreitzbender noted his question to the Board is, do we want to damage more equipment plowing Omphalius Road? He suggests the Town Clerk send a letter to the County stating a date, September 1st, October 1st.

Councilman Wiktor proposed that he, the Town Attorney and the Highway Superintendent meet tomorrow and draft a letter to Erie County and forward copies to the Town Board for future reference.

Supervisor Eagan reported that Erie County is resurfacing Cole Road from the north end in Orchard Park to the south end and is requesting that the Town of Boston do the rough work concerning our water line crossings. This would prevent potential problems on future repaving.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to authorize Supervisor Eagan to enter into a contract with Sergi Construction to do the rough work on water line crossings on Cole Road to accommodate the future water project.

five (5) Ayes Carried

Councilman Simmeth reported that on Sunday, July 13, 2003, there was a dedication ceremony in the North Boston Town Park as per Resolution 02-36, naming the North Boston Park in memory of David Finger for giving his life in the Vietnam War. Councilman Simmeth thanked the Board Members that attended, David Smolinski who organized the entire event and Tom Lanham for input on improvements to the field.

Councilman Hawkins thanked Councilman Simmeth for his work and dedication for the David Finger Memorial ceremony noting that it was a great event and will be remembered for a long time.

CODE ENFORCEMENT OFFICERS REPORT

A) Code Enforcement Officers Monthly Reports for June 2003 were received and are on file in the Town Clerk's office.

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DOG CONTROL OFFICERS REPORT

A) Dog Control Officers Monthly Reports for June 2003 were received and are on file in the Town Clerk's office.

RECREATION DIRECTOR REPORT

A) Recreation Director Monthly Report for June 2003 was received and is on file in the Town Clerk's office.

ENGINEER'S REPORT

A) Engineer's Monthly Report for June 2003 was received and is on file in the Town Clerk's office.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to adjourn the meeting at 8:50 p.m.

KAREN A. ELLIS, DEPUTY TOWN CLERK