

## Town Board Minutes July 7, 2010

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

Also Present: Town Attorney Kobiolka.

Excused: Highway Superintendent Telaak.

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to accept the minutes of the June 2, 2010 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Pluta to accept the minutes of the June 16, 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 July 1, 2010 in the amount of \$328,324.68 be paid.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Councilman Genzel to authorize Supervisor Ballowe to sign the appropriate papers showing that the Town of Boston has no objections with the Town of Orchard Park taking Lead Agency Status in the rezoning application.

five (5) Ayes Carried

Maureen Finizio, 9725 West Hill Road: I am a patron of both the Boston Hotel and The Boston Deli and have never had any problem with parking. Crossing the street is difficult because of the blind curve and cars driving too fast. I often go to the Hotel with three of my children and it is scary crossing that street. I truly do not see whom this 30-minute restriction is benefitting.

Bill Dellamore, Operator of the Boston Hotel: We would like to know if anything new was considered in regards to the parking situation in front of the Boston Hotel before someone gets killed crossing the street. Did anyone check into the restaurant association to find out how long it takes a full service dinner to be served?

Councilman Genzel: I think based on experience; we know how long it takes to eat dinner.

Bill Dellamore: Have you considered doing anything with this time limit or dead set on keeping it the way it is?

Councilman Genzel: We are hoping you will rebuild the Boston Hotel across the street so that we will not have this parking problem anymore.

Bill Dellamore: Are you planning on doing any changes with this parking across the street. Do we have to take a chance with kids crossing the street? You have a liability as a town by forcing these people to go across the street.

Town Attorney Kobiolka: I do not think that by the town imposing the parking limit creates a liability situation. There are three businesses there with approximately seven parking spaces. There will always be a problem. The 30-minute parking was put on the East side of Short Road and there are no posted parking restrictions on the West side.

Bill Dellamore: The law says both sides. Are we going to leave it just on the one side or not?

Supervisor Ballowe: It is only enforceable if it is posted. We have not posted the other side for the simple reason that we are hoping that just the one side will make the people who are able to walk across the street do so.

Bill Dellamore: Why did we put this 30-minute restriction from 5 p.m. to Midnight in? Does it take care of the Boston Deli people?

Councilman Genzel: You have two parking spots across from your business to park in. The other two businesses have two also. Your patrons are parking in the other spots and staying there for hours. Two parking spots is not going to break your business.

Bill Dellamore: I am sorry but you are wrong because the people complain. Why didn't you put handicap signs over there instead of 30-minute parking?

Councilman Genzel: Is your business handicap accessible?

Bill Dellamore: Yes. They use the side door. Why after 70 years did we change something that did not need to be changed? Was there a promise from someone?

Supervisor Ballowe: There were no promises. There is a problem with the parking for your business as well as the other two. We did not post the other side simply because if we don't post it, it's not enforceable. We posted one side, you have been into our agenda meetings twice, and you have been in my office twice.

Bill Dellamore: I have never been in your office.

Lisa Dellamore, Owner Boston Hotel: (inaudible) Not at microphone.

Councilman Boardway: Just so everyone is clear, there were two separate public hearings held for the parking on Boston Cross and Short Roads.

Councilman Boardway Cont'd: No one appeared to object, so the Local Law was passed. Now the owners want us to change it and we cannot do that.

Supervisor Ballowe: I am sure the fire fighters present here tonight can appreciate the severity of being able to get up and down our public roads without cars being parked on both sides of the road.

Tom Steinegle, 5540 Maple Grove: I walk daily down Feddick Road and a lot of cars stop me not know where they are. There are no road signs on Keller and Feddick Roads and these people are looking at how to get to Zimmerman Road.

Supervisor Ballowe: On the corner?

Councilwoman Maghran noted that she would get that taken care of and if anyone sees any street signs down or obstructions due to grass being too high or trees growing in to call or email her.

David Blank, Chief North Boston Fire Company along with Chief Mike Durusky, Patchin Fire Company and Chief Ed Kane, Boston Fire Company: As you can see, we have quite a few of our fire fighters here tonight. The reason that we are here tonight in a show of friendship and teamwork, we have concerns over the possible choice for Hazmat coverage for the Town of Boston. The three fire companies have had several meetings some of which included the fire company liaison Councilman Boardway. Boston, Patchin and North Boston Fire Companies agree and would like to recommend to the Town Board to contract with Southtown's Hazmat Team because we have dealt with them. Southtown's Hazmat is local, have a fast response time, and work with us closely. We know what we will get when we call them. After numerous discussions about the other agency, we feel that there are too many unknowns. We have heard that some of the Town Board members have already made up their minds on this matter because one of these agencies are free and we are all trying to cut and save money. Does anyone have free car insurance? If you did, what would you get if you had to call and file a claim? There is an unknown there. You pay a little more coverage to get the best coverage. If I had an issue with pests, I would go to the professional and take into account what he tells me. The town is growing. We have more truck and commercial traffic than we have ever had and we have more businesses coming into town. If we close the 219 down, all that traffic goes right through the center of town. The roads were not designed for all this heavy traffic. We are the professionals in our business. You are the professionals in your business. We are working together to make everyone safe in this town 24 hours a day, 365 days a year. We hope you consider our recommendation. We are looking to provide the town residents with the best service that we can.

Councilman Pluta: For the record, I did not know you would all be coming here tonight. I also want to disclose that I am a 25-year member of the Patchin Fire Company. I was Chief for 13 years and Assistant Chief for nine years. I know what my brother firemen go through.

Councilman Pluta: We have been dealing with this for quite a while and it is getting to a point where it is time to do our job or get off the pot.

A motion was made by Councilman Pluta and was seconded by Councilman Boardway to extent the contract with Southtown's Hazmat through December 31, 2010.

five (5) Ayes Carried

Supervisor Ballowe: No one has made up his or her mind on anything. What we were trying to do was educate ourselves. We just needed to know exactly what they were providing. We wanted to see what service they provided to our town.

Ed Kane, Chief, Boston Fire Company: In Southtown Hazmat's defense they were here. Erie County has missed three chances. So does that tell you what kind of service they will provide?

Supervisor Ballowe: This is something I know nothing about. I need to look at multiple companies and see who provides me with the best option.

Councilman Genzel: Have you worked with Erie County in the past?

Ed Kane: No. We ask that you research this and talk to some of the town's that use Erie County, for instance, the Town of Sardinia.

Supervisor Ballowe: I will research it.

Ed Kane: Supervisor Ballowe I totally agree with you on the educational process and if there is anything that comes up that you are not sure of, we are more than willing to meet with the entire Town Board at any given time on any issue.

Councilwoman Maghran: You are the professionals in this. If you did not come here and voice your opinion, we would be just basing it on money. It is very important that you are giving up your time and coming here.

Supervisor Ballowe: The state is starting to crunch our numbers and is giving us less money this coming year.

Ed Kane: I can say that never at any point were we ever dead set against Erie County. We wanted to learn also. We tried and tried.

Supervisor Ballowe: While a lot of firefighters are here tonight, there is an issue that you need to take to heart. Your Penflex is a huge issue that you have to get a grip on. Although the town will give the money and oversee it to an extent, it is your money. You need to have people who are in charge of your money and make the decisions of where your money is allocated. The relationship between all of you and Penflex is what it should be. But I think you need to be informed at least once a month as to what is happening to your money. You have lost huge amounts of money in that retirement. I believe if you were better informed you may not have lost so much money. The three fire companies should really get together to discuss your options.

Supervisor Ballowe Cont'd: Mark Flaherty is on the schedule for July 22nd at 7 p.m. You have to be prepared and decide who is coming from the fire companies and who is going to be in charge.

Ed Kane: We actually have met and discussed it. We do see the seriousness of the situation.

Supervisor Ballowe: The amounts they are asking for are absurd. He should never be coming to the town and ask for that amount of money. You are fine with the money you have in there. They are looking for it to be 100 percent. The town could not afford it at 100 percent. They are looking for \$307,000. You lost 27 percent of the money that was in there. I am not there to ask questions of him, you are.

Ed Kane: There will just be a couple representatives from each company.

Dan Howells, Vice Chairman, Southtown's Hazmat team: I commend you for doing your shopping and comparison work. It is what should be done. I heard finances mentioned. We are taking care of it. I commend you for listening to your community in order to make this decision. At any time, if you are looking for information, free services, please call the team leader, and we will gladly arrange whatever is necessary. There are a lot of services that are provided to members. Can we please get a representative from the town to come to the Board of Director's meetings? You are entitled to three votes on the board. We need that input. Typically, Town Board's have appointed a fire chief or commissioner to represent the town. Notifications for the meetings come here.

Tom Smith, 6267 Hillcroft Drive: What is the status of the Hillcroft Water project?

Town Attorney Kobiolka: We have done some exhaustive investigation. As you know, we tried to run the water up the hill and the Water Authority would not take the project. And then we tried to bring the water across the hill and we did not have the funding to do that. We have been pursuing other avenues, but we are starting to run out of avenues. We looked at perhaps turning the funding over to a small association in the Hillcroft Area, but the USDA will not allow those funds to be transferred to any other organization even though they were allocated for this specific project. We were looking at setting up a private water system similar to the one in the Colden area. They serve approximately 188 people, but they do not have a pump station and all the water runs down the hill. They employ two part time people for 10-15 hours at \$35 per hour. If we were to set up a private water system, the town would have these additional personnel at an additional cost. We were thinking about possibly advising the residents to talk amongst themselves to see if the lower residents could set up a homeowners association and work by themselves. The town would be willing to give the homeowners association a packet of the plans that Nussbaumer and Clarke had worked on. We are in the final stages of that.

Tom Smith: Would you be willing to give us copies of those plans?

Supervisor Ballowe: Yes.

Councilman Genzel: We have a preliminary set of drawings for viewing.

Tom Smith: Will you have a final set of plans?

Councilman Boardway: Nussbaumer and Clarke have been asked to turn over the files/plans for this project to the Town Board.

Tom Smith: I did not quite hear what Town Attorney Kobiolka said about the water being pumped up the hill.

Town Attorney Kobiolka: The water authority thought there were too few customers to actually take over the water system and it would not be profitable for them.

Tom Smith: Yes. Here we have a public authority whose mission, I think, is to provide water to customers and they have said they cannot make enough money so we are not going to help these people. We would like to proceed with the possibility of establishing a property owners association. Have you paid for a final set of drawings?

Councilman Boardway: We have made a demand to Nussbaumer and Clarke to hand over all documents that the Town of Boston invested in, paid for or for the services that they have already been paid.

Supervisor Ballowe: We were informed that they were putting the information into electronic format. We can make you copies once we receive them.

Supervisor Ballowe: There was a question a few weeks ago from Richard Hawkins about the water fountain installation. On the 95-degree days, you cannot imagine how mad I was that it has not been installed. I was notified today that the fountain will be installed by next week.

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran to approve the Use of Facility Application for Boston Youth Softball for July 24, 2010, Boston Community of Churches July 25, 2010 and the for Goris Family August 1, 2010.

five (5) Ayes Carried

Town Clerk Shenk noted that adopting the following resolution is to come into compliance with a new requirement of the NYS Comptrollers Office.

RESOLUTION 2010-09 STANDARD NEW YORK STATE WORK DAY REPORTING FOR ELECTED AND APPOINTED OFFICIALS

A motion was made by Councilman Pluta and was seconded by Councilman Boardway to table the Gardenville-Homer Hill #151/152 Line Tree trimming easement between the Town of Boston, Tax parcel No. 211.10-1-32.1 and Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY.

five (5) Ayes Carried

Councilman Genzel: Recently National Grid has come to the town requesting an easement 45 feet in width by approximately 550 feet adjoining the power line on the west side. It would be giving up an easement to cut trees at our North Boston Park. They have offered the town \$11,842 for this easement. We have decided to table this in order to look into it further.

Town Clerk Shenk noted that if residents have any questions regarding the easement requests from National Grid that they should contact their own attorney. The Town of Boston cannot offer legal advice to residents.

The following quotes were received for the EMS/Parks Building Heating and Air Conditioning replacement:

DWC Mechanical, Inc. \$4,431

Tri R Mechanical      \$6,186

TZ Services      \$6,817

A motion was made by Councilman Genzel and was seconded by Councilman Pluta to accept the quote from DWC Mechanical, Inc in the amount not to exceed \$4,431.00, which includes the power wiring for the new Air Conditioning outdoor condenser.

five (5) Ayes    Carried

Councilman Genzel: This is a new air conditioner and 90% efficient furnace unit for the EMS Building.

Town Clerk Shenk: Supervisor Ballowe and I have been working on this project for quite some time. It began with trying to install a new time clock with the Highway garage and the Emergency Squad had been interested in obtaining internet service. It has been determined that the best solution is to dig a trench and hard wire the EMS/Parks Building and the Highway garage. This will provide both buildings with free internet service and a conduit will be available for any future utility operations.

The following quotes were received for the Networking of town buildings:

MVP Network Consulting, LLC.      \$6,697

TCI Computers of WNY      \$8,940

Highway Superintendent Telaak has offered to dig the trench free of charge and to restore it once installation is complete.

Councilwoman Maghran asked if there will be monthly charges for this.

Town Clerk Shenk noted that this will eliminate the current time clock charges. Supervisor Ballowe had negotiated this down to a lower amount. We have not been able to fully implement it until we could get the highway garage to talk directly with the Bookkeeper's office electronically.

Supervisor Ballowe: Now we pay \$267 a month for their software usage. By getting a new time clock that charge will now be eliminated. The town will recoup that money within two years. We also eliminate the charge for the Highway Garage Internet.

Town Clerk Shenk noted this also satisfies a long-standing request from the Emergency Squad to get internet service.

Councilwoman Maghran: Does this have capability of being added on to in the future?

Town Clerk Shenk noted that an additional conduit will be installed.

Councilman Pluta asked if this type of work required RFP's.

Town Clerk Shenk noted that the procurement policy states that anything between \$5,000 and \$10,000 require two written quotes and that is what you have before you.

Supervisor Ballowe noted that it is being looked into laying out the PVC pipe ourselves.

A motion was made by Councilman Pluta and was seconded by Councilman Boardway upon the recommendation of Town Clerk Shenk to award the bid to MVP Network Consulting, LLC in the amount not to exceed \$6,997.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe upon the recommendation of Code Enforcement Officer Ferguson to approve the license for Boston Hills Homes and Estates Mobile Home Park. The license will be effective July 1, 2010 through June 30, 2011.

five (5) Ayes Carried

Councilman Boardway noted that Code Enforcement Officer Ferguson has not yet inspected the Sprague Mobile Home Park at 8229 Boston State Road; however, visual inspection by some of

the Town Board members shows obvious defects. This property also has a long history of having defects, outstanding fines, and longstanding problems which have not been acted upon to the satisfaction of the Town Board.

A motion was made by Councilman Boardway and was seconded by Councilman Genzel to deny the Mobile Home Park License Application from Richard Boyd, for the Sprague Mobile Home Park, 8229 Boston State Road.

five (5) Ayes Carried

Town Clerk Shenk noted that in the past once the inspection report is received it is then forwarded to the Park owner to give an opportunity to come into compliance. Notification to Richard Boyd will be held off until inspection is completed by the Code Enforcement Officer.

Supervisor Ballowe reported that Code Enforcement Officer Ferguson informed him that Erie County Southtown's Sewer has acquired excess fill from an excavation and can be used by property owners. The previous policy with the water line installation was the property owners could take the fill without a permit from the Town Board. The company is inquiring if there are any changes to that policy.

Supervisor Ballowe noted that this issue was discussed at the agenda meeting and the Town Board sees no problem with residents taking the fill because it is coming from within our town.

Supervisor Ballowe noted that recreation is going well and enrollment is 174 with the possibility of three more. The Town Board found it necessary to have speed bumps installed in the parking lots due to having the children in the park area.

Supervisor Ballowe noted that he received a report from Town Historian Kaszubik in regards to a Cemetery on Feddick Road. The Town of Boston has found it necessary to recognize this cemetery with a plaque. Once everyone reviews this report and discusses the options we hope to have something in place before the fall.

Town Clerk Shenk noted that the next Blood Drive will be Tuesday, July 13th from 2 p.m. to 7 p.m. Upstate New York Transplant Services has issued a challenge between the three fire companies and the Emergency Squad.

Councilman Pluta: At the last Town Board meeting, Councilman Boardway noted that Erie County Comptroller's office published a report that briefly discusses the consolidation of fire

companies within Erie County. Funding is being requested for a more thorough study. This is relevant to use because this is a contract year for the Fire Companies. This publication states that the best reason to consider consolidation is not financial in nature. The Comptroller's reason is for more volunteers. I believe the showing tonight of the members of the Town of Boston fire companies that there is no need for consolidation to increase our membership. Most of them are close or at their maximum numbers.

Councilman Pluta read a letter from County Executive Collins written to Chief John Buttino of the Eggertsville Hose Company in regards to the negative benefits of consolidating Fire Companies in Erie County.

Councilman Boardway: Because I am the liaison to the Fire Companies, I was presented with a report the day before the last Town Board meeting. I believe it is relevant because this town has three volunteer Fire Companies. It is relevant that the County Comptroller's Office made a recommendation to consider consolidation. All that report did was suggest that they study the issue further.

Councilman Pluta: Do you think that County Executive Collins is wrong?

Councilman Boardway: Absolutely not. The County Executive in that particular instance is probably correct. I do not think that letter was addressed to the Patchin Fire Company or any other Fire Company in the Town of Boston.

Councilman Pluta: It was addressed to all volunteer fire fighters. If you look at the report, the County Comptroller actually singles out the inner ring suburban districts. It does not mention anything with the Town of Boston.

Councilman Boardway: This information is relevant because this is a contract year with the Fire Companies.

Councilman Genzel: As Engineering Liaison, I corresponded with the Town Engineer and referred him to Highway Superintendent Telaak in regards to drainage issues on Rice Road and Fairlane Drive. We are still waiting on information from Nussbaumer and Clarke concerning the West Hill water projects. We would like to start some effective planning on water lines and we cannot seem to get the information we requested. As Planning Board liaison I attended the meeting and the Dana Darling Mobile Home Community project was discussed. The project was tabled until the next meeting on July 13th.

Councilman Genzel noted that the revisions to the site plan and variance application packets were finished. Upon review by the Town Board we will schedule a public hearing. As Drainage Liaison, I spoke to John Whitney from NRCS, concerning the bank stabilization and erosion control projects. There are currently three properties being surveyed to help alleviate more damage. This afternoon the Town Board met with Chairperson Bates of the Ethics Committee. We will be advertising for applicants. Town Employees, Elected Officials, past or present are not eligible. Chairperson Bates will be conducting the interviews and will make recommendations for appointment to the Town Board.

Supervisor Ballowe noted that he will meet with Erie County Legislator Dixon, a Erie County Highway Representative and Highway Superintendent Telaak to discuss opening up some of these ditches on Patchin Road North.

Councilman Genzel: It seems the BBQ Festival was quite a success. My question is last years 990's reported income was \$2,900.

Councilman Pluta: That is net income. We have to pay out a lot of money.

Councilman Genzel: That seems like very little money for all that effort.

Councilman Pluta: We agree. It is a lot of effort to do this function. We do not make a lot of money on this event, but we believe it is a good thing for the community.

Councilman Genzel: Can the Town Board request a report of income, gross, net and where it all flows? What is the entity that is controlling it?

Councilman Pluta: The Patchin Fire Company.

Councilman Genzel: I would like to request a report concerning the gross and net on that project and see if we can try to help to get that income up.

Councilman Pluta: I think you are more interested in seeing where all the money is going.

Councilman Genzel: That is exactly what I am interested in.

Councilman Pluta: It is recorded right there Councilman Genzel. It is done by an independent accounting firm, so unless you are saying that we are trying to cheat.

Councilman Genzel: No, I never said that. I am requesting a report.

Councilman Pluta: We provide the report that is required by the fire contract. Your father is on this committee. You can ask him all the questions you want. This year we made more money than in past years.

Councilman Genzel: My father has nothing to do with this. Why would you bring my father into this? I am just asking for a report showing where the money goes.

Councilman Pluta: I do not believe that is required. You have the 990 in front of you.

Councilman Genzel: I do not think that is a legitimate number. I just want to know where the money goes.

Councilman Pluta: Than you are saying that it is a lie. I think that is a serious accusation.

Councilman Genzel: I am not accusing anyone of anything. Thank you for your service.

Councilman Genzel made a motion to audit the Patchin Fire Company but died to lack of a second and was later tabled until a recommendation is received from the Town Attorney.

Councilman Pluta: You cannot do that. You have a contract with the Patchin Fire Company. We are a separate entity.

Town Attorney Kobiolka: I would have to do some research on that to see if the Town Board can actually request that.

Councilman Pluta: Why don?t you ask all the other companies about their fundraisers?

Councilman Genzel: I will be.

Councilman Boardway: Councilman Genzel, one of the interesting findings that were very significant in the Comptroller's audit was how secretive the volunteer fire companies are with their financial information and how unforthcoming they are with providing that information to the taxpayers that support them.

Councilman Pluta: He talked about Fire Companies that did not file a 990. The Patchin Fire Company files 990's every year.

Councilman Boardway commended all the Fire and EMS personnel involved in the tragic fatality we had. Unfortunately, not a lot could be done to save the victim. Internet access is going to be installed at the Emergency Squad which will assist them with being able to check their status of certifications, and give them some training avenues with this internet access.

Councilman Boardway noted that Gene Weickowski and Sean Crotty from the Office of Emergency Management attended the Erie County Disaster Coordinator's meeting and is currently working towards obtaining a grant for a lap top computer. This computer will be used to identify certain at risk people and businesses in town. They have also worked on updating all the warning files that Hamburg Fire Control Maintains. They are also in the process of updating the Disaster Plan for the Town of Boston, which is a state requirement. An incident action plan is being developed and will be implemented with the Empire State Games which will encompass all of the Fire Companies and the Emergency Squad. They attempted to utilize it at the Brinkerhoff 5K Run, but met with some resistance from the Fire Company that was primary on that particular event. I expect that for now on they will cooperate with Sean and Gene with any of these incidences.

Councilwoman Maghran noted that she submitted to Erie County Legislator Dixon regarding the traffic hazards and safety issues in front of Tim Horton's.

Councilwoman Maghran noted that Summer Recreation started with 174 applicants. The Summer Concerts have begun. The schedule is available on the Town of Boston website. Councilwoman Maghran noted that previously parents of children who attend Boston Valley Elementary School did not like the fact that Erie County prisoners were working within the vicinity of the school. She noted that these prisoners will no longer wear orange attire while working near the Elementary School during school hours.

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to adjourn the meeting at 8:47 p.m.

five (5) Ayes Carried

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DAVID J. SHENK, TOWN CLERK