

Town Board Minutes June 15, 2011

Present: Supervisor Martin A. Ballowe, Councilmen Jay P. Boardway, Jeffrey A. Genzel, Eugene S. Wieckowski, Jr. and Councilwoman Cathy A. Maghran.

Also Present: Town Attorney Kobiolka and Highway Superintendent Telaak.

Rev. James Laun, Churchill Memorial United Methodist Church opened the meeting with a prayer.

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to appoint Scott Fellows as Interim Dog Control Officer/Enumerator, PT 9,390/Yr.+\$1 per dog and Karen Miller as PT Clerk, \$12.75 per hour, term to expire 12/31/2011.

five (5) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Genzel to authorize Supervisor Ballowe to sign a contract between the Town of Boston and National Grid to upgrade drainage conditions at (5) five culvert locations within the Town of Boston.

five (5) Ayes Carried

A motion was made by Councilman Wieckowski and was seconded by Councilman Genzel to authorize the Zoning Board of Appeals and Planning Board members to attend the 2011 Planning & Zoning Summer School on Tuesday, July 19, 2011 at a cost of \$70 per member.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to adopt the minutes of the June 1, 2011 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Wieckowski and seconded by Councilman Genzel, upon review by the Town Board, that fund bills on the Abstract dated May 26, 2011 in the amount of \$140,637.32 which includes voucher # 457 in the amount of \$19,282 be paid.

five (5) Ayes Carried

Received and filed letter from The Concerned Tax Payers of Boston regarding the Boston Hills BBQ Festival.

Received and filed letter from Keith Kaszubik regarding the Dog Control Officer.

Frank Rosiek inquired as to why the Town Board has not had any contact with him in regards to his flooding issue.

Town Attorney Kobiolka: The Town Board has not been in contact with you because your attorney has filed a notice of intent to file suit against the Town of Boston. If you proposed to handle this issue through your attorney, then we will work through him. Once you have an attorney, we really should speak to your attorney.

Frank Rosiek: Okay.

Bill Schwab, President, Patchin Fire Company: What is the concern from the Boston Taxpayers versus the Boston BBQ festival?

Supervisor Ballowe: That letter was simply received and filed.

Councilman Boardway: We discussed that same letter at a previous meeting.

Bill Schwab: At the last meeting I mistakenly apologized to the town for something that I thought Patchin Fire Company did, which did not happen.

Supervisor Ballowe: That is correct, we understand that. We just received and filed that letter.

At 7:40 p.m. a Public Hearing was held to hear comments regarding the granting of a franchise to Donald Rachwal residing at 5474 Keller Road to mow, trim, and/or cultivate the vacant land owned by the Town of Boston at 8555 Boston State Road, Boston, New York, SBL #227.00-5-57.11 for the term of June 15, 2011 to October 30, 2011.

Supervisor Ballowe read the legal notice.

There were no public comments.

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to close the public hearing at 7:42 p.m.

five (5) Ayes Carried

RESOLUTION 2011 ? 05 A RESOLUTION GRANTING A FRANCHISE TO MAINTAIN
VACANT LAND AT 8555 BOSTON STATE ROAD, BOSTON, NEW YORK

A motion was made by Supervisor Ballowe and was seconded by Councilman Genzel to authorize Fairway Contracting to perform the valve replacement work on Route 391 at Meadow Drive at a cost of \$4,345.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Supervisor Ballowe upon the recommendation of Town Engineer Hannon to classify the proposed retail development of Dollar General on Boston State Road as an unlisted action under SEQR and therefore declare lead agency status.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Boardway upon the recommendation of Town Engineer Hannon that the Town Board as Lead Agency determine that after taking a long hard look into the proposed building of a Dollar General on Boston State Road, find that the proposed action will not have a significant impact on the environment, and complete page 1, part 2 of the EAF to declare a Negative Declaration and that no further action be required per 6 NYCRR part 617.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Boardway upon the recommendation of the Planning Board to approve the site plan of Dollar General on Boston State Road, with the following stipulations:

1. Complete review and acceptance of the Storm water Pollution Prevention Plan as required by Town Engineer Hannon.
2. Approval from NYS DOT for the Driveway and Storm water discharge.
3. Approval from Erie County Water Authority for service which may include a back flow prevention device.
4. Approval from the Erie County Sewer Authority for the connection.

five (5) Ayes Carried

A motion was made by Councilman Wieckowski and was seconded by Supervisor Ballowe to schedule the annual mobile home park inspections for Monday, June 20, 2011 as follows: 5 pm ? Boston Hills Homes & Estates and 6 pm ? Sprague Mobile Home Park.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and was seconded by Supervisor Ballowe upon the recommendation of the Planning Board to appoint Paul J. Ziarnowski as an alternate member term to expire 12/31/13.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and seconded by Councilman Boardway to approve the Use of Facility Application for Professionals in Transition of WNY for July 30, 2011.

five (5) Ayes Carried

Supervisor Ballowe noted that the Boston Mobile Home Community, LLC project has been tabled in order to review and discuss the project in more detail with the applicant.

A motion was made by Supervisor Ballowe and was seconded by Councilwoman Maghran to approve the service award program for the Boston Fire Company.

five (5) Ayes Carried

Received and filed monthly reports from the Town Clerk, Tax Collector, Assessor, and Code Enforcement Officer.

Supervisor Ballowe noted that he received a letter of recognition from The State Education Department, University of the State of New York which was presented to Town Historian Keith Kaszubik for his work as the Historian for the Town of Boston.

Supervisor Ballowe noted that there have been some areas of broken cement repaired and pads have been poured for new park benches. The Park and Ride in North Boston was also milled down and resurfaced.

Highway Superintendent Telaak noted that there is dirt fill and wood chips still available. This fall there will be also be leaves available.

He also noted that eleven trees on the south side of Liebler Road just above the power line need to be cut. The following quotes were received:

Modern Tree \$5,405

Tree Care of NY \$5,975

Clover Green \$6,275

A motion was made by Councilman Wieckowski and was seconded by Councilman Genzel to approve Modern Tree Services to cut eleven trees on the south side of Liebler Road just above the power line at a cost of \$5,405.

five (5) Ayes Carried

Highway Superintendent Telaak: Two years ago when they put the water line down on that road we had to cut some trees and move the ditches back, the cost was over \$5,000. These are very large Oak, Maple and Hickory trees. We try to maintain these trees when they are small because once they get this large, we cannot do it.

Highway Superintendent Telaak noted that one of his Highway workers had knee surgery and another one has a bad back and is limited at what he can do and asked the Town Board for

permission to hire someone for the summer. It would be 40 hours per week for about 6 weeks until black top is complete.

Supervisor Ballowe asked if he typically hired a part timer every year.

Highway Superintendent Telaak noted that the past 2 years they had.

A motion was made by Councilman Boardway and was seconded by Councilwoman Maghran to allow Highway Superintendent Telaak to hire a temporary worker for the summer at \$10 per hour.

five (5) Ayes Carried

Supervisor Ballowe: What is happening with the wood that is being cut?

Highway Superintendent Telaak: The homeowner wants the wood, so it will be left on site.

Councilman Boardway asked if that will save money.

Highway Superintendent Telaak noted that it would cost at least \$1,500 to remove all the wood.

Highway Superintendent Telaak thanked the Town Board for allowing him to attend Highway School. He asked a question regarding plowing of the town parks and whether it was a general fund charge or highway charge and found it is definitely a general fund charge. A few years ago the Town Board said it was a highway fund charge and that was incorrect, so he will prepare a voucher for reimbursement for the use of a Parks truck. They also charged him for two town tractors, plowing the town parks and the fuel for one of the snowplow trucks. He has a letter from the Association of Towns stating that it is a General Fund Charge.

Councilman Genzel as Drainage Liaison met with Charlie Dunham, Boston Hills Homes & Estates, because a tree fell into the Creek behind the Mobile Home Park, the bank is completely eroding away with the possibility of losing a trailer, and another tree needs to be taken down. We have called Erie County Soil and Erosion Control to try and get a permit to stabilize that Bank before any more property is lost.

Councilman Genzel also spoke with Greg Janish on Lower East Hill Road regarding drainage. His neighbor replaced a septic tank and was concerned about surface flow on his property.

Councilman Genzel also visited Joe Prentki, Cloverfield Drive about drainage in the rear of his property. He noted that more frequently we are seeing people maintaining drainage ditches, swales, and pipes that are on the private property and when that is not maintained, it backs up into neighbor's properties. In this case, the neighbor had been throwing debris over the fence for years and has filled up the ditch and now there is standing water and it has backed up four different houses. I will speak with Code Enforcement Officer Ferguson to start citing these people for not maintaining these private drainage areas. It is the landowner's responsibility to maintain them.

Councilman Genzel as Planning Liaison: As you have heard, the Planning Board approved the site plan and tabled the cycle shop. We have a proposed cycle shop at the old tractor dealership on Boston State Road, next to Buffalo Bucks. The use does conform to its current zoning but the site plan has glaring issues. The Planning Board decided to table it based on the recommendation of Town Planner Brox and Town Engineer Hannon. Councilman Genzel noted that we are very fortunate to have Paul Ziarnowski join the Planning Board as an alternate member.

Councilman Genzel as Engineering Liaison: on June 6, 2011 we held an informational meeting on Water District #3, Ext. #1 on Cole Road. There were six homeowners interested in the public water in that area. Construction will cost approximately \$300,000. The next step will be to get petitions for that district.

Councilman Boardway: I am going to address the Audit that was recently completed by the NYS Comptroller's Office. That audit covers January 1, 2007 through July 1, 2010. While this Town Board did receive a copy of the audit in March, it was confidential at that time and not publically disclosed. It gave us the opportunity to present our response to them which was published with the Audit on or about May 1, 2011. We linked that audit to our website and we encourage

everyone to read it. The audit itself was specifically geared towards the review of town finances over the last few years.

The primary reason for an audit is to provide accountability to the taxpayers of the Town of Boston for tax dollars. After the majority of this Town Board came into office we encouraged the State Comptroller's Office to look at what we had going on and what we were essentially walking into. Additionally, the audit wants to ensure that the town is complying with good business practices. A few of the concerns that were pointed out are questions on the Highway Department and the purchases of plow blades and the shoes that attached to the bottom of these plow blades. Based on their concerns, the highway employees were interviewed by members of this Town Board and we are as assured as the Comptroller's Office that although there was no paper documentation that all the items were actually purchased and used. We were assured by the employees that we interviewed that they in fact were. No other issues were found with the Highway Department other than some paperwork issues that needed to be cleaned up with respect to those purchases.

On further investigation, the primary reason for the problem occurring in the first place was issues with the previous Town Board. The previous Town Board had set the threshold for purchases for the Highway Department at \$300. As anyone knows, there is not a piece of equipment down there that you can even look at for less than \$300. Because of that, multiple purchases had to happen over the course of a winter to keep our roads clean and safe. At the direction of the Comptroller's Office, this Town Board immediately addressed those concerns and raised the threshold for the Highway Department to \$1,500 before he needs permission to purchase. We are convinced that nothing happened in the Highway Department that was not simply a matter of a nightmare of paperwork.

Another concern raised was in 2007 the Town Board did not fulfill its responsibilities to ensure that spending was in the best interest of taxpayers. The State Comptroller's Office noted that the Engineering Services of the town were not monitored by the Town Board. A contract was issued to an engineering firm in the amount of \$97,500 but they were paid \$150,000. The Comptroller's Office cannot explain that. There was a lack of documentation that showed whether the work had been completed and whether it was necessary, and the fact they left no documentation. They were questioning whether this left a void for future town boards to come in and try to figure out what they had done. The Comptroller's Office recommended more scrutiny of large contracts being issued to outside vendors.

Councilman Boardway Cont'd: They noticed specifically that a system was designed for part of the water district, that Erie County Water Authority had already told them that the water could not be accommodated, yet they went forward and spent an unaccounted for \$60,000. This Town

Board is still looking into that and it has been referred to other various agencies, the Comptroller's Office Investigative Unit and the Attorney General's Office. We cannot comment any further than that, but we are on top of it. Immediately after this Town Board was elected we recognized these problems. The former Engineering firm is no longer employed with this town. Mr. Hannon was the engineer we chose after multiple interviews. Prior to even being sworn into office we were working on creating the position of Engineering Liaison, which Councilman Genzel now holds. This was done to coordinate any Engineering requests that come into the Town Board. We now maintain a tight control on any outside contracts specifically with Engineering. Anyone who reviewed the finances of the town over the last 52 weeks can tell this Town Board has saved tens of thousands of dollars by doing that.

The State Comptroller's Office noted that the town paid an engineer and two contractors over \$15,000 in taxpayer's money to perform work on private property. Before I took office on October 21, 2009 I stood at that microphone and told the Town Board that the action they were taking was illegal. Interestingly enough, the State Comptroller's Office has agreed with my position back then. The resident caused the problem himself, there were two code violations that resident was cited for, yet the Town Board still spent \$15,000 on his property. The Comptroller's Office has put this Town Board in an awkward position asking us to look into remedies to get that money back from the citizen. We are conferring with Town Attorney Kobiolka deciding what our options are and whether or not we should pursue the taxpayer. On the other hand, there is an equitable thing we have to look at that the Town Board then acted in whatever capacity they did and this resident relied on that.

The conclusion of the audit from the State Comptroller's Office is the fact that previous Town Board's did not adopt accurate budgets for the past five years. In short, this took money out of the taxpayer's pockets and put it into this building and there it remained to a certain extent. Because of the bad budgeting that took place over five years, the fund balance did not decrease, as the published budgets would have suggested to the town taxpayers. Budgets were being published that were not accurate. They were projecting tax decreases. The Comptroller's Office stated that it was misleading to the public for the Town Board to have consistently presented budgets, that on the average, included \$474,000 to be used to reduce the excess fund balance in the general fund when in fact it did not. This audit took place and concluded prior to the presentation of this Town Board's first budget. We have already taken steps to alleviate the problems. The Comptroller's Office mandates that we be watchdogs for your money. That we do not take any more than we need and that we use what we take in an effective, cost efficient, transparent manner. What we take from this audit is unfortunately what we had expected when we were elected into office. We have taken steps to correct these problems.

Councilman Boardway Cont'd: Our budget last year reduced your taxes without hidden items, without inflating what the costs of things would be, without underestimating what we felt we were going to get from the state, and other taxing agencies. We will continue to do that. The budget processes are very long and intense and are something the supervisor knows firsthand takes up a lot of time. This Town Board feels, with the assistance from Town Attorney Kobiolka who helped prepare the response, that we have addressed all the issues in the Comptroller's report. We encourage everyone to read this report and feel free to contact the Supervisor's office directly with any questions.

Councilwoman Maghran noted a letter went out to all local area K-8 grade students regarding the new programs being offered through the Boston Summer Recreation program.

Councilwoman Maghran noted that the Recreation Center opening date will be as close to July 1st as possible.

Councilwoman Maghran attended a Historical Society meeting and noted that there are a multitude of internal issues that need to be resolved by the Historical Society before any town contracts can be issued.

Councilwoman Maghran noted that the Brinkerhoff Run will be held on Saturday, June 18 starting at 10 a.m.

A motion was made by Supervisor Ballowe and seconded by Councilman Wieckowski to adjourn the meeting at 8:16 p.m.

five (5) Ayes Carried

JENNIFER A. MULE', DEPUTY TOWN CLERK