

Town Board Minutes June 16, 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 and Highway Superintendent Telaak.

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

five (5) Ayes Carried

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran, upon review by the Town Board, that fund bills on the Abstract dated June 10, 2010 in the amount of \$164,583.60 minus voucher #393 in the amount of \$3.50 be paid.

five (5) Ayes Carried

Received and filed Resolution from Erie County Government Association Regarding Dog Micro Chipping and Obedience Training.

Tom Steinegle, 5540 Maple Grove Drive, inquired about the several political signs posted. He stated that he believed the Town of Boston had a code about posting these signs 30 days before an election. Why isn't it being enforced by the town? He also noted that there are 4' x 3' wooden Got Scrap signs on Zimmerman and Rice Roads and Boston Colden and Rt. 391.

Councilwoman Maghran noted that the Town of Boston is part of the scenic by-way and should not have signs.

Supervisor Ballowe stated that he has not seen Got Scrap signs but will have it addressed by the Code Enforcement Officer right away.

Christopher Ast, 6855 Liebler Road: I noticed there was a 30-minute parking sign on Short Road in front of the Boston Hotel. There is not 30 minute parking on any other road in the Town of Boston. I have an 83-year-old mother who likes to eat dinner at that Hotel who will now have to worry about moving her car after those 30 minutes. I understand the no parking from November 1 to April 1 because of plowing, but does this constitute all the roads in the Town of Boston?

Town Attorney Kobiolka: The parking change was passed by two local laws and was used to accommodate the businesses in that area.

Christopher Ast: What you are doing is hurting the business by enforcing the 30-minute parking. Everyone knows that you cannot eat a full dinner in 30 minutes.

Town Attorney Kobiolka: The restaurant should be allowed three spaces because there are two other businesses.

Christopher Ast: Any lady that gets her hair done knows that it takes more than 30 minutes.

Councilman Boardway: The limited parking begins primarily after 5 p.m. and there were safety issues that the Town Board had to address. There are three businesses sharing a very small space.

Christopher Ast: So for safety, I should have 83-year-old women park across the street where the old Boston Hotel was and walk across a busy highway instead of parking in front.

Councilman Boardway: No, not at all. What it comes down to is the fact that the business owner that is most affected had been asked to make reasonable accommodations for the problems we were experiencing from the beginning of this year and after repeated requests a local law was passed. That local law was advertised in our local papers, a public hearing was held at our last Town Board meeting and anyone in attendance was given an opportunity to address their concerns. No one approached the Town Board.

Christopher Ast: Will there be tickets written?

Councilman Boardway: Yes, we had the NYS Police at our agenda review meeting.

Christopher Ast: So my 83-year-old mother is going to get a ticket for eating dinner at the Boston Hotel.

Councilman Boardway: No, not at all. She just cannot violate the parking laws that we have to enforce.

Bill Dellamore, Owner Boston Hotel: I am unfamiliar with what you just got done saying. Are you an at large Board member?

Councilman Boardway: Yes, we are all at large with equal standing on this board.

Bill Dellamore: I was unaware there was a problem at all. I met with you in January and you said something about parking and I said whatever I have to do, I'll do for you. Supervisor Ballowe asked me to put a sign up at the restaurant and I did. Unbeknownst to me, I did what you asked and was penalized. I was told it was going to be for handicapped parking only. Did any of you call me to say there was a problem? We tried to make calls, but no one would return my call. I am one of the largest business owners in the Town of Boston. I have been here for twelve years and have never had a problem. I called Town Attorney Kobiolka on Tuesday and asked me to explain why and how you put a 30 minute parking stipulation from 5 p.m. to midnight. I still have not gotten an answer.

Town Attorney Kobiolka: I tried to explain it to you, but you were not willing to accept it. Your attorney never wrote me a letter asking me. We have three businesses in a small area and we are trying to accommodate all three of them

Bill Dellamore: Are you willing to put me out of business with 18 employees?

Town Attorney Kobiolka: This Town Board does not want to put you out of business. We are just trying to address this issue. The parking flows off of Short Street onto Boston Cross Road.

Bill Dellamore: I do not have a problem with Boston Cross. I have a problem with the way you tried to solve it, without me being involved. I have been in the Restaurant Association for 14 years. A full service restaurant takes an hour and 15 minutes to have dinner. How did you come up with 30 minutes? I am going to close as soon as you put the 15 minutes up on the other side.

Councilman Boardway: These are all valid issues that should have been brought up at the public hearing, but no one showed up.

Bill Dellamore: I could do what the other two businesses did and bring you tons of people and complain.

Lisa Dellamore, Owner Boston Hotel: We are a landmark in Boston. Because of what you have done to us, we are going to the media; we are going to write letters. We are looking at other buildings outside of Boston to move the Boston Hotel because of this. I think you are hurting the community by doing this. You are taking the Deli's side for 30 minutes.

Mitch Perry, Patron of the Boston Hotel and Boston Deli: Why is it not 6:30 a.m. to 1:00 in the afternoon when the deli does most of its business? There has never been a time that I could not find a parking spot in front of the Deli. Why don't the sign say "if you are going to spend more than a half hour in the Boston Hotel, park across the street"?

Councilman Genzel asked Mitch Perry because he frequents both the Boston Hotel and The Boston deli, does he park in front of the Deli and go into the Hotel?

Mitch Perry: Sometimes. I park in front of the Hotel most of the time because I am considerate to the patrons of the deli. If there is not a spot in front of the hotel, I will park across the street.

Councilman Genzel: There are four possible parking spots for patrons of the Hotel and the rest of the spots are for the other two businesses there, correct? There has been parking problems there in the past and we decided that we are going to put up signs.

Councilman Boardway asked Bill and Lisa Dellamore if they are aware of the scheduled public hearing on July 7th to declare the other building as unsafe?

Barbara Moore, 7004 Liebler Road, asked Supervisor Ballowe if he had a status report on their discussion of May 24th.

Supervisor Ballowe noted that he gave a copy of her letter to the Town Board.

Barbara Moore: Feels that there was something omitted from the minutes of May 5th Regular Town Board meeting. She feels it is very important that when people address the Town Board and are laughed at should be a matter of public record. She feels it completely goes against Article 126-5 of the town code and would like it to be included in those minutes.

Councilman Pluta stated that what she just stated will now be part of this meetings record.

Supervisor Ballowe stated that the minutes are done by the Town Clerk.

Barbara Moore: Why can't these minutes be changed?

Councilman Pluta stated that once the Town Board approves the minutes, they are final. But if she feels there was something forgotten, the speaker has the right to speak up.

Town Clerk Sherk noted that it is important that everyone realize that minutes are not a verbatim account of a meeting.

Barbara Moore: (inaudible)? that Richard Hawkins stood at the microphone, asked a question, and was rudely laughed at, and when he said, and I quote "this is not a laughing matter, I want an answer. One, no answer was given, and two the laughter did not cease, because nobody forced it to be ceased.

Supervisor Ballowe: When someone asks a question, if I do not know the answer, I will wait and address it at the next meeting. Richard Hawkins asked a question about why the Town Board meeting was cancelled. Is that correct?

Barbara Moore, Yes, but that is not the issue. The issue is Article 126.5. The citizens of this town that come to this meeting and try to participate in what goes on in this town deserve respect from the people who are being paid to represent them.

Supervisor Ballowe: I had the all the information for him, and presented it to the Town Board. I could have answered it if he asked me again, but we just did not deem it necessary.

Brian O'Keefe, Boston Hotel employee for 6 years: We have never had any problems with the parking. People do not come in just stay for half an hour that might be at the deli. A few of our patrons have mentioned to me that they were hassled by employees of the store for parking out in front.

Councilman Genzel asked when the Boston Hotel burned.

Bill Dellamore: January 28, 2009.

Councilman Genzel: That is why you did not have any problems with parking because that facility was open. There is not enough room out there for everyone to park.

Bill Dellamore: I bought that business in 1998, a month later I bought the other building, and there was no parking, and I knew that, as did Marge (former deli owner) and the gentleman who owned the salon building. I never expected to get into this type of situation because I bought a restaurant with no parking. For 70 years there has been no parking and all of a sudden because I do business and because I was a victim of a fire. I did not start the fire; I did not want the fire. The banks made me continue to make the payment of \$4,600 a month for 13 more months. Thank God I had another business or I would have lost my house. Congestion is not a bad thing. You have to hope people come to this town. I try to bring people here. I have a good business and good employees. I have never offended anyone. Do not penalize me. I do not want to hurt the guy next door. Why are you doing this? Why not ask the guy how much his business is up from the years before? Financially, his business is way up because of us. That is what you should have based your decision on.

Mary Matyas, 6444 Willow Drive, asked for the status of the Deanna Drive proposed rezoning and what to expect in the future.

Town Attorney Kobiolka noted that the proposal was presented to the Town Board at the last regular Town Board meeting and was by law referred to the Planning Board for review at their next meeting of June 22.

Mary Matyas: What happens after that and when can we expect to know?

Town Attorney Kobiolka: They have to review the project thoroughly and then make a recommendation back to the Town Board. I cannot put a time limit on it. We can keep you informed.

Councilwoman Maghran stated that many residents are concerned about this project and that the Town Board guarantees that there will not be any decisions made without the input from all residents affected.

Bob Bugman, Boston Hotel employee for 17 years, asked what happens to the older people who come into the hotel. They will not be able to get in and out in a half hour.

Councilwoman Maghran asked if there are any handicapped parking spots there.

Bob Bugman: How is anyone going to get in and eat and get out in 30 minutes? I don't understand what you are doing here.

Terry Spors, Boston Hotel employee for 23 years, stated that she works the lunch crowd and 30 minute parking is not enough time. She stated that there has never been a problem with parking.

Councilwoman Maghran stated this was done because we received numerous complaints. This was not something dreamed up by the Town Board. There were numerous reasons and the Town Board took all of those into consideration. This was a safety issue.

Tom Smith, 6267 Hillcroft Drive: It seems a large part of the meeting tonight is about communications. I think that we all agree that failure to communicate is a large part of the problem. A few weeks ago, we asked this Town Board to get back to us relative to our water situation. We talked to the Town Attorney about forming a homeowners association. We also spoke relative to the grant from rural development and have heard nothing.

Supervisor Ballowe: At the last meeting we provided good information and that we are working on it. We work on the Hillcroft project every single meeting. Usually after these meetings we discuss it with the residents and say this is where we are progressing and we will do that again after this meeting.

Pat McCarthy, Boston Hotel Employee for 22 years: There has never been a problem as far as people complaining. There should be signs for handicap.

Councilman Boardway: There is an obvious misconception that this Town Board is out to hurt the Boston Hotel. That is so far from the truth. The problem that this Town Board is charged with responding to complaints, we get written issues that come to us from residents. We have never met with the deli or salon owners. They did not come to us and say you have to do something about this. There have been various complaints. This Town Board recognizes the Boston Hotel as an asset to this town. This town board is trying to be business friendly. We recognize that assets such as yours are a benefit to this town and the people in it. We can only respond to what we hear of. When there are complaints, it is suggested that a local law be created. Your employees know which customers who walk in the door can park and walk across the street. When I come in I sometimes have my 83-year-old mother in law with me. I drop her off and park across the street. Doing that can alleviate some of the problems you are having. This Town Board, representing 7,986 other residents in this town and as a public safety issue had to respond to the complaints we received.

Bill Dellamore: I respect everyone up there. You are going to put me out of business. I am a full service restaurant.

Councilman Boardway: The problem is no one was here for the public hearing.

A motion was made by Councilman Pluta and was seconded by Supervisor Ballowe to appoint Donald Buckley as a regular member of the Conservation Advisory Council term to expire 03/01/12.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and was seconded by Councilman Boardway upon the recommendation of Recreation Director Clesse, to appoint Philip Prynne as a Tennis Instructor to the Summer Recreation Program at \$10.00 per hour term to expire August 11, 2010.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to appoint Eugene Wieckowski to the Boston Emergency Squad and will continue until such time as resignation, removal, or replacement.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and seconded by Councilman Boardway to approve the Use of Facility Application for Three Girls Café for July 12, 2010.

five (5) Ayes Carried

Town Clerk Shenk noted that this is the clean up day for the North Boston Grand Gala. As in the past, this applicant has been in contact with the North Boston Fire Chief and has worked out this arrangement.

Supervisor Ballowe stated that a letter from Sherrie Pluta, President Boston Historical Society, regarding the disarray of the cemetery on the west side of Feddick Road in North Boston. He stated that the Town Board has had time to review this letter and have taken the appropriate steps to solve some of the issues. Supervisor Ballowe stated that he and Parks Superintendent Telaak have been there and the Parks Department will begin cleaning this very old cemetery.

A motion was made by Councilman Genzel and seconded by Councilman Pluta on the recommendation of Code Enforcement Officer Ferguson, to approve an Additional Accessory Building for James Staub, 4700 Haag Road.

five (5) Ayes Carried

The following bids (s) were received for the sale of one (1) 2000 John Deere Comm. Walk Behind Mower 48? Cut:

C.J. Lawn Care \$805

Gary Hartloff \$426

Paul Reinecke \$354

A motion was made by Supervisor Ballowe and was seconded by Councilwoman Maghran upon the recommendation of Parks Superintendent Telaak to award the sale of One (1) 2000 John Deere Comm. Walk Behind Mower 48? Cut to C. J. Lawn Care with the highest bid of \$805.

five (5) Ayes Carried

The following bids (s) were received for the sale of one (1) 2001 Douglas Walko Pull Behind Mower 90? cut.

Gary Hartloff \$1,026.50

Paul Reinecke \$1,132.00

A motion was made by Supervisor Ballowe and was seconded by Councilwoman Maghran upon the recommendation of Parks Superintendent Telaak to award the sale of One (1) 2001 Douglas Walko Pull Behind Mower 90? cut to Paul Reinecke with the highest bid of \$1,132.

five (5) Ayes Carried

Supervisor Ballowe noted that Town Attorney Kobiolka will prepare the sold as is receipt.

Received and filed a monthly report from the Supervisor, Town Clerk, Tax Collector, Code Enforcement Officer, and Dog Control Officer.

Supervisor Ballowe reported that letters were sent out to residents on Valley Circle and Heinrich Road in regards to the Erie County Sewer Project.

Supervisor Ballowe noted that Colonial Drive and the Lewis? near Emerling Chevrolet have been chosen to receive help with the Eighteen Mile Creek bank stabilization.

Town Clerk Sherk noted that the next Blood Drive will be on Tuesday, July 13, from 2 p.m. to 7 p.m.

Highway Superintendent Telaak noted that it will cost approximately \$11,000 to oil and stone the parking lots around the town hall and emergency squad. The Highway workers will be doing the work.

A motion was made by Councilman Boardway and was seconded by Councilman Pluta to allow Highway Superintendent Telaak to purchase the materials necessary to oil and stone the parking lots around the Town Hall and Emergency Squad in the amount of \$11,000.

five (5) Ayes Carried

Highway Superintendent Telaak noted that it would be a general fund charge and not a Highway Fund charge.

Councilman Pluta asked if labor was included in the \$11,000.

Highway Superintendent Telaak stated it was just materials. The labor will be donated by the Highway Department.

Town Attorney Kobiolka noted that an adjournment was granted for the Public Hearing for the Unsafe Building at 9378 Boston State Road.

A motion was made by Councilman Pluta and was seconded by Supervisor Ballowe to reschedule the Public Hearing for the Unsafe Building at 9378 Boston State Road for July 7, 2010 at 5:30 p.m.

five (5) Ayes Carried

Councilman Pluta reminded the public of the Brinkerhoff 5K Run will be on Saturday, June 19th and the Boston Hill BBQ festival will begin on June 25th. Councilman Pluta noted that all licenses and certificates required for this event will be turned in before it begins.

Councilman Genzel asked what the admission price was for the BBQ Festival.

Councilman Pluta noted a \$2 coupon distributed to all residents in town can be used on Saturday and Sunday and he encouraged all to use it. He noted that admission for Friday night is \$3 and \$5 on Saturday and Sunday. Councilman Pluta noted that the cover charge to get into the beer tent has been eliminated. Councilman Pluta noted that all the entertainment has been expanded to all day performances. The reason for these charges is because the costs of these bands are very expensive. Children 12 and under are free.

Councilman Genzel asked if the committee for BBQ Fest was a legal entity. Where does the money go from this event? Does the town receive any of this money?

Councilman Pluta noted that this is a fundraiser for the Patchin Fire Company. Just as the Gala is a fundraiser for the North Boston Fire Company. It is included in the 990 form.

Councilman Genzel asked if the town gives the committee \$2,000 toward fire works.

Councilman Pluta stated that the town does supply \$2,000 toward the fireworks. That money is not used for anything but the fire works. The cost of the fireworks is \$4,000. The money donated by the town is not used to fund the Patchin Fire Company; it is strictly used for fireworks.

Councilman Genzel noted North East Power Alliance met with Edward Carey and solved the drainage issue that was eroding his corn crop.

Councilman Genzel noted he spoke with a Valley Circle resident in regards to a logjam in the eighteen-mile creek. The resident will get back to him on where the DEC stands as far as cutting trees that are half in the creek.

Councilman Genzel noted that Town Engineer Hannon worked on some costs to extend the waterline to twenty residents on Cole Road who were not originally included in Water District #3. Councilman Pluta also noted that Tom Lucas from Nussbaumer and Clarke is working on getting the Town Board information on Water District #2 Ext. #2.

Councilman Genzel noted he met with the Capital Improvement Committee in regards to the use of the old Trooper's Barracks.

Councilman Genzel noted that Herb Klein has presented the Town Board maps from the Erie County Water Authority showing where all the water lines are in town and what districts they are in.

Councilman Genzel noted the Ethics Committee is still accepting applications for committee members. Politicians, old or new, no town employees, need not apply. This is going to be a completely unbiased board.

Councilman Genzel noted that the check list for the site plan have been handed out to Code Enforcement and Town Board members for review and comments after which a public hearing will be scheduled. The next meeting for the Variance process checklist will be on June 22 at 4 p.m.

Councilman Genzel thanked the Boy Scouts for a wonderful Flag Day celebration. They demonstrated how to dispose of old flags.

Councilman Boardway noted that bids for a new air conditioning system were reviewed at the agenda review meeting. He noted that it may be cost effective for the Town Board to replace both the furnace and the air conditioning at once. The two bids received were not complete and the Town Board is requesting additional information from those companies and is soliciting additional bids.

Councilman Boardway noted that the Erie County Comptroller's Office published a report that briefly discusses the Fire Companies in Erie County and has suggestions on consolidation. Funding is being requested for a countywide study on a more thorough basis regarding the vast number of fire companies. This is relevant to us because this is a contract year for the fire companies.

Councilwoman Maghran noted that the Summer Concert Schedule is now available. They will begin on July 6th and will take place every Tuesday through July an August.

Councilwoman Maghran noted there the Chamber of Commerce will hold their antique car show and concert on July 7.

Councilwoman Maghran noted that she will be doing a walkthrough at the old trooper's barracks to get pricing on what it may cost to remodel the interior of the building for use as a boys and girls club.

Councilwoman Maghran noted that some of the parents of students of the Boston Valley Elementary school were upset to see Erie County Correction Prisoners working near the school. She requested prior notification be given when the prisoners are working near the elementary school.

Supervisor Ballowe noted that Back Creek Road is a county road and that she should contact Erie County Legislator Dixon.

Councilman Pluta commented that although the BBQ festival is a fundraiser for the Patchin Fire Company, it is also an event that has helped many organizations within town and out. In the past, all three-fire companies in town have benefitted from it. This event does raise a tremendous amount of money for other groups. He stated there is a new group participating this year with horses that provides therapy for handicapped children.

Councilwoman Maghran noted that two scholarships from the Brinkerhoff 5K run are being offered allowing two children to attend the Summer Recreation Program.

A motion was made by Supervisor Ballowe and seconded by Councilman Genzel to adjourn the meeting at 8:46 p.m.

five (5) Ayes Carried

DAVID J. SHENK, TOWN CLERK