

## **Town Board Minutes June 2, 2004**

Present were Councilman Brien M. Hopkins, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Councilman Richard K. Hawkins, Supervisor William A. Eagan, Town Attorney Kelly A. Vacco and Highway Superintendent Richard A. Poore.

Mrs. Florence Wendling, St. John the Baptist Roman Catholic Church opened the meeting with a prayer.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to schedule a Public Hearing for July 14, 2004 at 7:45 p.m. regarding the renewal of the cable television franchise agreement by and between the Town of Boston and Parnassos, L.P. d/b/a Adelphia Cable Communications.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to advise Town Attorney Vacco to prepare the necessary paperwork for the land acquisition to be used as a turnaround on Willow Drive between Anthony Bernardi and the Town of Boston.

five (5) Ayes    Carried

A motion was made by Councilman Simmeth and seconded by Councilman Mead to adopt the minutes of the May 19, 2004 regular meeting.

five (5) Ayes    Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth upon review by the Town Board that fund bills on the Abstract dated May 26, 2004 in the amount of \$447,049.21 be paid.

five (5) Ayes Carried

#### REQUESTS FROM FLOOR

Edward & Debbie Page, 6892 Boston Cross: We were flooded two weeks ago. We have been flooded for the past eight years. This time it's either the Town's fault or the County's fault. Who is going to pay for all this damage? I just want a drain in our yard so that I don't have to pump water out every day.

Edward Page: The culvert backed up and flooded a few people on the street. I'm at the bottom of the hill. We feel this would have never happened if the culvert had been cleaned out.

Highway Superintendent Poore: I did view the property. I didn't see the damage in the house. I have made two attempts to clean the catch basins out in front. When we talked on the phone, I told you what I was going to attempt to do. There are five catch basins there that are about 1/3 full of gravel. This has been building up over the years and has not been cleaned out or addressed. Unfortunately, we have a problem with the machine that does this type of work. I have ordered new parts for it. I promise to come back and get that cleared out. I think that will take care of the majority of the problem. Is there a drain in your back yard?

Edward Page: No, it's next door. It's like they forgot this house when they did these roads.

Highway Superintendent Poore: I didn't realize there wasn't a drain at your house. I will come down and walk with you along your property with your permission. I am working very hard at correcting a lot of these drainage problems that have been neglected.

Debbie Page: Is there any way we can get help to restore our carpets and the walls that we have to tear out. There are a lot of personal items that we lost. As far as the work that has to be done now due to the neglect of a drain, we feel that we shouldn't have to flip the bill.

Highway Superintendent Poore: All I can do is come over and look and come up with some kind of recommendation. I'll help you all I can. I will be over tomorrow at 5 p.m.

James and Rhonda Davis, 6748 Hillcroft Drive: We were also flooded and it will be ten years in August since the last flood. This time has pretty much followed the same pattern where the drainage ditch across Greenbriar couldn't handle the water. Mr. Poore has been out several times and we appreciate that. It sounds like there is a plan in place to correct this. I just want to make sure this is taken care of. Ten years ago a solution was made, but it didn't work. Is there a committee that can meet to find the right solution so this doesn't happen again?

Supervisor Eagan: We do have a drainage committee. Councilman Simmeth is the Chairman.

James Davis: This problem not only affects us, but also 7-8 homes in that area. It starts at the beginning and ends up dumping at the end. You are all aware of the rains we had and I'm sure everyone in Boston were affected in a certain way. But we do have a unique problem and the correction that took place last time was not the correct one.

Councilman Simmeth: Do you live on the North or South side of Hillcroft?

James Davis: South.

Councilman Simmeth: You also have the drainage ditch behind your house.

Rhonda Davis: Right, but to get to that drainage ditch, water goes through our garage. Water broke the garage door and left a foot of water in our back yard.

Councilman Simmeth: Highway Superintendent Poore and I looked at numerous roads today. Hillcroft and Greenbriar were two of them. If I'm not mistaken, the engineers are working on Greenbriar. There will be a new culvert pipe put in under the road. It's been engineered that these culverts will handle the water. Highway Superintendent Poore will hopefully get an easement from all the neighbors and a maintenance agreement to clean that ditch behind your houses.

Supervisor Eagan: Does it have to go through their yard first to get to that ditch?

Councilman Simmeth: No water will be going through their yard. The pipe will be right near Steffen's property on Greenbriar. It will piped to there and then ditched down.

Rhonda Davis: It's the pipe that goes underneath the road.

Councilman Simmeth: That one is collapsed. That is why it didn't handle the water.

James Davis: Do we have a time frame on this?

Councilman Simmeth: As soon as it dries up. Highway Superintendent Poore has been working on it and Supervisor Eagan has been working with the Town Engineers on that. They will do the job right this time.

Rhonda Davis: Will this be discussed at future Board meetings?

Councilman Simmeth: No, this will just be done.

Rhonda Davis: It is my understanding that they are logging up the hill. Big pits are filling with water and the little drainage pipe at the end of the road isn't enough to accommodate it all.

Supervisor Eagan: Do they need a permit to log up there?

Highway Superintendent Poore: There was a permit issued by Mr. Kreitzbender.

Supervisor Eagan: I know we discussed this a year or so ago about these loggers coming in and causing ruts with their skids.

Councilman Mead: They are also going through the (Niagara Mohawk) right of way. They may be doing some detrimental damage to that right of way. I understand that Niagara Mohawk paid to have those ditches cleaned out. That whole stretch along Greenbriar will all be enclosed. I thought it was the logging myself that was causing the water to come down. But, we have pictures here that seem to be caused by a hot water tank that blocked and backed it up.

Rhonda Davis: We were some of the people who removed that water tank. I can see that contributed to it.

Councilman Simmeth: It is my understanding that the damage was done before the water tank was there.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to accept the petition from Vincent Cooley, 7659 Wohlhueter Road to tap into Water District #3 subject to cost estimates and determining parties responsible for payment from Engineer, Nussbaumer and Clark.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to reappoint Mary Alice Tocke to Conservation Advisory Council term to expire March 1, 2007.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to approve the application for use of facility from Kristen MacLean for a family party on June 26, 2004 subject to receiving a certificate of insurance.

five (5) Ayes

Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the Soil Removal Permit of Greg Duke on Back Creek Road.

five (5) Ayes    Carried

A motion was made by Councilman Simmeth and seconded by Councilman Mead to approve the summer meeting schedule as follows:

Monday July 12, 2004 - 6:00 p.m.      Agenda Review

Wednesday July 14, 2004 - 7:30 p.m.    Regular Meeting

Monday      Aug. 9, 2004 - 6:00 p.m. Agenda Review

Wednesday    Aug. 11, 2004 - 6:00 p.m.      Regular Meeting

five (5) Ayes    Carried

On Tuesday, May 25, 2004 the following bids were opened and read aloud for the 2003 Yellow Bus Transportation Program:

Summer Recreation    Ski

COMPANY      Routes 1 - 4    Program

Laidlaw Transit \$155    \$195

Fisher Bus Service        \$225    \$255

A motion was made by Councilman Mead and seconded by Councilman Hawkins, on the recommendation of Recreation Director Kummer, to award the 2004 Yellow Bus Transportation Bid to Laidlaw Transit with the following fees: Summer Recreation Routes 1-4 \$155.00 and the Ski Program at \$195.

five (5) Ayes    Carried

Councilman Mead: We were given the opportunity to finally meet with a few of the members of the Hillfest Committee at the Agenda Review. We discussed the conflict between the two events and hope it will not continue.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the application for use of facility from the Boston Hillfest Committee for July 17 and 18, 2004.

five (5) Ayes    Carried

A motion was made by Supervisor Eagan and seconded by Councilman Mead to approve the site plan of Martin Barrett, 8032-8038 Boston State Road upon the recommendation of the Planning Board with the following stipulation:

- Concrete bumpers are in place and associated with parking spaces (as labeled on site plan as) #1, #2 and #3.

five (5) Ayes    Carried

The Town Board discussed the Special Use Permit application from Marcia Baeumler and whether or not a mixed use would be created by the additional use.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to table the Special Use Permit application from Marcia Baeumler for further discussion per recommendation of Town Attorney Vacco.

five (5) Ayes Carried

Town Attorney Vacco stated that she would have a formal opinion tomorrow for the Board.

Councilman Simmeth: Could you do a telephone poll with the Board Members?

Town Clerk Shenk: In my opinion, this is something you can poll the Board on because we are not spending tax dollars. We can then ratify it at our next meeting.

#### SUPERVISOR REPORT

Supervisor Eagan stated that the Memorial Day Ceremonies went well despite the inclement weather. He thanked Town Clerk Shenk for his participation and stated that the Boston Town Band is always very professional in their performances and it was nice to see the community join together to honor past and present veterans.

#### SUPERVISOR EAGAN Cont?d:

Supervisor Eagan stated the framework for the new snack shack is being built and we are looking forward to the participation of the various athletic leagues.

Supervisor Eagan noted that the Creekside Public Information Hearing is June 9th at 7:00 p.m. to hear from the public and inform them as to what our investigation and needs are for this project.

## TOWN CLERK REPORT

A motion was made by Councilman Hawkins and seconded by Supervisor Eagan to approve the change in date for the Ellis Family Picnic from August 21st to August 14th.

five (5) Ayes    Carried

## HIGHWAY SUPERINTENDENT REPORT

At the Planning Board's request, Highway Superintendent Poore inspected the Willow Drive T-turnaround and made the following recommendations. At the expense of Mr. Bernardi, a compacted 1-inch top course of hot mix paving and 36-inch hot mix paved shoulders be placed on and around the existing new pavement; a hot mix paved water run off collection area be placed around an existing steel DI with a grate type cap installed to replace existing solid cover.

Highway Superintendent Poore stated that the baseball field rebuilding has been put on hold because of the rain and flooding.

Highway Superintendent Poore reported the Highway Department is working on twelve roads that were affected by the rain and flooding. He is using Foit-Albert and Associates when needed.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve Highway Superintendent Poore to attend the Association of Towns, Superintendent of Highways Annual School at Cornell University, Ithaca, NY on June 6-9, town to pay for registration and ½ of mileage.

five (5) Ayes    Carried

## COUNCILMAN REPORTS

Councilman Mead stated that he attended the PERMA Conference in Lake George, NY. A report for the Board will follow.

Councilman Mead attended seminars on OSHA and information will be forwarded to Highway Superintendent Poore.

Councilman Mead stated that he attended a Technology Committee meeting and the website preparation is moving along. He thanked Town Clerk Shenk and his staff for their hard work on this project.

Councilman Hopkins read a letter from Paul J. Becker, Distribution Engineer, Erie County Water Authority regarding the repair of an 8-inch main on Back Creek Road.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to refer the letter from the Erie County Water Authority to Foit-Albert, Associates for review and comment.

five (5) Ayes    Carried

Councilman Simmeth thanked Town Clerk Shenk and Supervisor Eagan for making the Memorial Day celebration memorable.

Councilman Simmeth will forward a pamphlet from Erie County Department of Environment and Planning regarding tips for a pesticide free lawn to Town Clerk Shenk.

Councilman Simmeth will address a street light out at the Park and Ride near the Mobile station.

Councilman Simmeth stated that he hopes to have all these drainage problems taken care of so that in 10 years residence won't have to worry about it.

Councilman Hawkins asked if there was an ordinance regarding the time the Town Park closes.

Town Clerk Shenk stated that the parks close at sundown unless a permit for use of facility is obtained from the Town Board.

Councilman Hawkins said that he has had several complaints that there is a lot of drinking and other activities going on after 11:00 p.m. at the Boston Cross Road Park.

Highway Superintendent Poore said he would make sure there was a sign posted stating those rules.

Town Attorney Vacco said she would write a letter to the Erie County Sheriff.

#### CODE ENFORCEMENT OFFICER'S REPORT

A) The Deputy Code Enforcement Officer's report for May 2004 was received and is on file in the Town Clerk's Office.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to adjourn the meeting at 8:34 p.m.

five (5) Ayes Carried

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DAVID J. SHENK, TOWN CLERK