

Town Board Minutes June 2, 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 Genzel and was seconded by Councilman Boardway to direct Highway Superintendent Telaak to dig test pits on the East Hill, Water District #3 to verify the stone and that everything has been put together correctly.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Genzel to adopt the minutes of the May 5, 2010 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to adopt the minutes of the May 19, 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 May 27, 2010 in the amount of \$75,740.30 be paid.

five (5) Ayes Carried

Barbara Moore, 7004 Liebler Road inquired as to when the Summer Concert schedule would be available.

Councilman Boardway noted that Recreation Director Clesse is finalizing the sponsors and will have the schedule available within the next week or so.

Joseph Lichtenthal, 6528 Hillcrest Drive: This is concerning brush pick up. My wife had called several times and was told we had too much. What is the point of having a brush pick up especially when the individuals that we have picking the stuff up are useless. I think it should be looked at as far as sub contracting it out, it has been out there for three and a half weeks.

Highway Superintendent Telaak: As you know, on the brush flyer it says no complete tree takedowns. You had five complete trees taken down.

Joseph Lichtenthal: In the old days they would come up with a high lift and take it away. I wish the old days would come back

Highway Superintendent Telaak: I have seen them work, they do a fine job. Years ago the town did try to bid it out. As you know the general fund reimburses the highway department. It is not our Highway duty to chip brush. It is a courtesy to town residents. Many towns do not have this service. These are not highway trees; they are from people's private property. The flyer states for tree trimmings and if someone has a tree blow over, we are glad to pick it up. We spent over two hours on one pile that was stacked with a high lift. It is supposed to be stacked neatly and it was not.

Richard Hawkins, 6892 Pin Oak Drive inquired about the status of the installation of a Town Park water fountain and the repair of the scoreboard for baseball.

Supervisor Ballowe noted that the water fountain will be installed soon. We are confirming that the fountain is handicapped accessible and stainless steel. We have not moved forward on the Scoreboard yet, we wanted to get the water fountain in first. We are going to get prices on it because we are working on trails and some other items. We are making sure we do not cross any lines with digging and we do not compromise any grants we may be working on.

At 7:40 p.m. a Public Hearing was held to hear comments regarding Proposed Local Law No. 2 of the year 2010 entitled "A Local Law to amend Section 118-2A of the Code of the Town of Boston to Prohibit Parking or Standing of any Vehicle on Boston Cross Road.

Supervisor Ballowe read the legal notice.

There were no public comments.

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

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Pluta to adopt Local Law No. 2 of the Year 2010 (Proposed Local Law #2) Entitled A Local Law to amend Section 118-2A of the Code of the Town of Boston to Prohibit Parking or Standing of any Vehicle on Boston Cross Road

five (5) Ayes Carried

Councilman Boardway noted that these local laws are to resolve some of the parking issues that have come up around the current Boston Hotel.

Councilman Boardway noted that he will abstain from the following vote because he has a relative that is being appointed.

Councilwoman Maghran noted that she will abstain from the following vote because she is being appointed as the Health Director for the Summer Recreation season.

A motion was made by Councilman Pluta and was seconded by Councilman Genzel upon the recommendation of Recreation Director Clesse, to appoint the following to the Summer Recreation Day Camp terms to expire August 12, 2010.

Name	Title	Hourly Wage
Mandi Burns	Counselor	\$7.25
Grant Fiegl	Counselor	\$7.25
Jenna Bloom	Substitute Counselor	\$7.25
Daniel Borodzik	Substitute Counselor	\$7.25

Sabree Gamel Substitute Counselor \$7.25
Julie Hagner Substitute Counselor \$7.25
David Kleis Substitute Counselor \$7.25
Jake Lesinski Substitute Counselor/Lifeguard \$8.00
Alicia Poblocki Substitute Counselor \$7.25
Kailey Regan Substitute Counselor \$7.25
Kacie Rich Substitute Counselor \$7.25
Sarah Telaak Substitute Counselor/Lifeguard \$8.00
Cathy Maghran, R.N. Health Director at a season stipend of \$600.00

Supervisor Ballowe Aye Councilman Boardway Abstain
Councilman Genzel Aye Councilman Pluta Aye
Councilwoman Maghran Abstain

three (3) Ayes two (2) Abstain Carried

At 7:45 p.m. a Public Hearing was held to hear comments regarding Proposed Local Law No. 3 of the year 2010 entitled ?A Local Law to amend Section 118, Article 1, Truck Traffic and Parking of the Code of the Town of Boston to Provide a Limited Time Parking on Short Road in the Town of Boston.

Supervisor Ballowe read the legal notice.

There were no public comments.

A motion was made by Councilman Pluta and seconded by Councilman Boardway to close the public hearing at 7:47 p.m.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Pluta to adopt Local Law No. 3 of the Year 2010 (Proposed Local Law #3) entitled "A Local Law to amend Section 118, Article 1, Truck Traffic and Parking of the Code of the Town of Boston to Provide a Limited Time Parking on Short Road in the Town of Boston.

five (5) Ayes Carried

A motion was made by and was seconded by Councilwoman Maghran and was seconded by Councilman Boardway upon the recommendation of Parks Superintendent Telaak to appoint Adam Reichert to the Parks Department beginning June 7, 2010 at an hourly rate of \$9 per hour.

five (5) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Boardway to refer the Rezoning Application from BMH Community, LLC, Deanna Drive and Boston State Road from R-2 and R-A to R-4 to the Planning Board for review and recommendation.

Supervisor Ballowe Aye Councilman Boardway Aye

Councilman Genzel Aye Councilman Pluta Nay

Councilwoman Maghran Aye

four (4) Ayes one (1) Nay Carried

Councilman Pluta noted that he voted no because this proposal was one that was submitted in the mid 1990's and was overwhelmingly rejected by the town board. He feels that there could be better uses for 58 acres in the valley.

Councilman Boardway noted that the Town Board has been presented an application for rezoning and all the supporting documentation from the applicants. This Town Board is essentially obligated to at least let the Planning Board review it on behalf of the potential applicant.

Town Clerk Shenk noted that a copy of this application is on the home page of the Town of Boston website for review.

RESOLUTION 2010-08 OUT OF DISTRICT WATER CUSTOMER

Received and filed a monthly report from the Recreation Director.

Supervisor Ballowe reported that the Memorial Day celebration was a great success. He thanked Town Clerk Shenk and the Parks Department for all their help. He noted that the additional flags that were hung added a nice touch to the celebration

Town Clerk Shenk noted that Vets HERD a newly formed not for profit WNY organization dedicated to coordinating and fostering veterans services and outreaches in the Buffalo Niagara Region will be at the home of Staff Sgt. Stanz for a shovel breaking and press conference Friday, June 4 at 10 a.m.

Highway Superintendent Telaak asked the Town Board to approve the purchase of a shoulder (berming) machine which is a conveyer that attaches to the back of a dump truck for putting shoulders on the side of the road. The following bids were received:

Valley Fab and Equipment \$7,437.88

H.T.C. Inc. \$7,773.00

Gator Equipment \$6,880.00

A motion was made by Councilman Boardway and was seconded by Councilman Genzel upon the recommendation of Highway Superintendent Telaak to award the bid for a new Shoulder (berming) machine to Gator Equipment at a cost of \$6,880.00.

five (5) Ayes Carried

Parks Superintendent Telaak noted that some of the islands at the new trooper's barracks have been removed and black top has been put in at the request of the NYS Police. He noted also that some drainage work has been done on the outside of the parking lots.

Parks Superintendent Telaak noted that landscaper Stone Creek submitted a bid for planting trees and shrubs around the building for \$2,800.

A motion was made by Councilman Pluta and was seconded by Supervisor Ballowe upon the recommendation of Parks Superintendent Telaak to approve StoneCreek Landscaping, LLC to plant the trees and shrubs around the Building at a cost of \$2,800.

five (5) Ayes Carried

Councilwoman Maghran asked if this included the privacy fencing between the trooper?s barracks and residential houses.

Councilman Boardway noted that per the contract with the State Police, the Town of Boston is obligated to cover these costs being discussed.

Parks Superintendent Telaak noted that once these plantings are completed, the Parks and Highway Departments will assist with the hydro seeding and landscaping.

Parks Superintendent Telaak noted that he has obtained one quote on sealing the pavement underneath the Lions Shelter. He is still waiting for a couple more but would like to try to complete it before the BBQ Fest.

Parks Superintendent Telaak noted that he needs to rent an excavator to complete some jobs around town. Some drainage work needs to be done at North Boston Park and behind the Town Hall by the Ponds and some work at the North Boston Playground.

A motion was made by Councilman Pluta and was seconded by Councilwoman Maghran to allow Parks Superintendent Telaak to rent an excavator to complete some drainage work at the North Boston Park and the Town Park.

five (5) Ayes Carried

Parks Superintendent Telaak noted that beginning Monday morning the Collins Correctional Facility Prisoners will be assisting us in eighteen-mile creek removing logs.

Parks Superintendent Telaak thanked Suburban Maintenance for the donation of pressure washing the monuments for Memorial Day.

Highway Superintendent Telaak: As far as the trees and the brush, we do four pick ups per year. The Highway Department is working with two men less now than we were 20 years ago. The line has to be drawn somewhere. When that much brush is put out, it is just way beyond our scope of work.

Councilman Genzel noted that the Police Barracks never went through the town's planning process, so the islands that were put in; there were no places for snow storage. It is tough to get to the garbage facility. So at the request of the State police, the islands were removed for better access.

Town Attorney Kobiolka noted that he has been working with Town Engineer Hannon on the grant application for the North Boston Town Park. I have forwarded the title to Grant Writer Connie Miner.

Town Attorney Kobiolka noted that he attended a free seminar hosted by Hodgson Russ in regards to Town Law.

Town Attorney Kobiolka noted that there was a Class Action Law Suit in regards to riding and push lawn mowers. Those who purchased a riding or push lawn mowers between April, 1994 and April 2010 can apply for a rebate of up to \$35 for a push mower and \$75 for a riding mower. Forms and applications are available. The reason for the law suit is that companies like Briggs and Stratton, Honda, Kawasaki, Kohler, Tecumseh and Toro were selling engines with a higher rated horse power than they actually were.

Town Attorney Kobiolka noted that Boy Scout Troop 491 will be holding a Flag Day celebration at the Lion's Shelter on Monday, June 14 from 7 p.m. to 8:30 p.m. to include The Lake Effect Harmony Choir. All residents are invited to attend.

Councilman Pluta noted that the plans for the State Trooper's Barracks were approved by the State Police all the way up to Albany approved those plans. If they did not want the islands, than the plans should not have been approved to begin with.

Councilman Pluta noted that in May 20 edition of the Sun, under "No Water Services cause some residents to complain"; the Supervisor is quoted as criticizing the previous Board for not telling the residents about Nussbaumer and Clark's letter in November. I have spoken to Supervisor Ballowe and I want on the record that at no time has Supervisor Ballowe at a public hearing or in private has ever said such statement. He asked Supervisor Ballowe if that was a correct statement.

Supervisor Ballowe stated that it was correct.

Councilman Pluta stated that he believed it was misquoted or just an error. He stated that the Nussbaumer and Clarke report from November 17, which was sent to the Town Board and the newly elected officials, stated that this goes back to when it was originally designed, and it comes from a report prepared by TVGA Engineers, which was reviewed by Nussbaumer and Clarke clearly states that these facilities were intended solely for Keller and Zimmerman Roads as well as portion of the apparent District #2. This observation is shared by the Erie County Water Authority. Apparently, when Ext. #2 is formed, that tank was never intended to carry the whole district. So, unfortunately, there are residents that are paying from when it was installed until now who will never get water. Also, these Engineering things and the problems that we are having, are not from Nussbaumer and Clarke, but are actually from previous Engineering. If we are going to place blame, we have to go all the way back to when the District was originally designed.

Councilman Pluta asked Town Clerk Shenk when the deadline was for Agenda submittal.

Town Clerk Shenk noted that the last Resolution adopted by the Town Board stated Thursday at noon, but for the last year, the practice has been if items come in before the Supervisor's office and his office meet to agree on the final agenda and the folders are not done we have been including any items received.

Councilman Pluta asked when that practice started.

Town Clerk Shenk noted he would have to check to be sure, but stated that it has been that way for some time.

Councilman Pluta stated that since he has been on the Town Board it has always been the rule it has to be in before noon on Thursday. We have here an item that is time stamped the Friday after and it should not have been on the agenda according to the rule.

Town Clerk Shenk noted that he does not have final say over the agenda, the Supervisor's office does. With that being said, if it is the consensus of this Town Board to make a hard line on agenda items and the Supervisor agrees than that is what will be.

Town Clerk Shenk noted that the only reason it was set for Thursday at noon and the folders to be done by the close of business on Friday, is depending on absences of his staff or the Supervisor's staff it gave us a day and a half to get the folders done.

Supervisor Ballowe noted that we are here for the community and this Town Board or any Town Board has to be a little bit lenient with times.

Councilman Pluta asked if the folders will be ready by the end of business day Friday.

Town Clerk Shenk noted that he does not leave on Friday until the folders are in their mailboxes. Town Clerk Shenk noted that this Town Board should review the past resolution in its entirety and involve the town attorney.

Supervisor Ballowe requested Town Clerk Shenk to get a copy of the previous resolution to the Town Board for review.

Town Clerk Shenk noted that since these folders were completed, five more items have come in for the next meeting. Once the supervisor completes the agenda, a majority of the Town Board can alter it at that point forward.

Frank Lisowski, 5461 Shero Road: (Resident is speaking from the audience and not at the microphone) asked if Councilman Pluta has a copy of the original design of Water District #2 and a copy of the (inaudible) because the original design was supposed (inaudible) and now your saying it is changed.

Councilman Pluta: I am not saying there was a change; according to the report that I have the design was never built large enough to handle the whole district.

Councilman Pluta asked Bruce Shearer from Nussbaumer and Clarke if that statement was correct.

Bruce Shearer, Nussbaumer and Clarke: Yes.

Frank Lisowski: So the original design was never large enough?

Councilman Pluta: According to the report, yes.

Discussion ensued between audience members Frank Lisowski and Bruce Shearer of Nussbaumer and Clarke in regards to Water District #2.

Councilman Pluta asked Councilman Genzel to forward to him information of everyone that applied for the Ethics Committee.

Councilman Genzel noted that three people applied and Supervisor Ballowe appointed Reverend Bonnie Bates as the Chairperson.

Councilman Pluta asked if there was a reason why the other people were not appointed.

Councilman Genzel noted that he did not feel the other applicants were ethically responsible enough to be on that board.

Councilman Pluta asked if their information could be shared with him.

Councilman Genzel noted that information was handed over to the Chairman of the Committee. He stated that he received one written and two verbal requests.

Councilman Pluta asked if the one in writing was the one that was appointed.

Councilman Genzel noted that a written letter from Richard Hawkins was forwarded to the Chairman of the Ethics Committee. The Ethics Committee is not for politicians or former politicians. It is for a group of citizens to get together to keep an eye on the politicians.

Councilman Pluta stated that he was not questioning Councilman Genzel's thought process; he was just requesting the names. People have asked him about it and he did not have any answers.

Councilman Genzel reported as Engineer Liaison he met with Town Engineer Hannon who recommended approval of an out of district water user at 7026 Liebler Road.

Councilman Genzel noted that a public meeting was held for Hillcroft Residents. The Town Board, several attorneys, Nussbaumer and Clarke representatives, John Alessi also attended to discuss the Water installation issue. He noted that resolutions are being worked on and are hoping for a positive outcome for everyone. He noted that he is adamantly opposed to putting any water underneath the 219, that it is bad government. There is a limited amount of water and feels that that the people in that district should be served before the Hillcroft residents. There is water available at the bottom of Hillcroft and feels it can be pumped up the hill.

Councilman Genzel noted as Planning Board Liaison the revisions to the Preliminary Final site plan checklist and is ready to bring before the Town Board for review and implementation.

Councilman Genzel noted as Drainage Liaison he and Supervisor Ballowe met behind Nick Charlaps where he has done some grading to try and hold the bank of the creek back. He noted that the town is looking at innovative ways to have our own Bank stabilization and erosion control.

Councilman Boardway noted as Fire Company and Emergency Services Liaison he and Supervisor Ballowe are putting together a preliminary list of items needed to start the contract negotiations by the end of June. Supervisor Ballowe has met with Penflex, the company that manages the Volunteer Fire Fighters Benefit Program. The costs of this program are going up enormously, so some negotiations taking place.

Councilman Boardway: In response to the comments that Joseph Lichtenthal made earlier; I have been on this board for five months and have had the opportunity to meet every single employee, aside from recent hires. I do not find any of them useless.

Joseph Lichtenthal: The people in front of my house were.

Councilman Boardway: I take offense to you calling any of our town employees useless, so I ask that if you feel something is unacceptable that you call me directly. I will investigate it. Your opinion certainly counts. I cannot pick out one single person that I would call useless. The Town Board gave the Highway Department some guidance as to what we thought would be an appropriate amount of time to spend at individual residences. Highway Superintendent Telaak?s department only has a limited amount of time in which to do the brush pick up and there comes a time when they have to switch over those vehicles for roadwork.

Joseph Lichtenthal: I called several times. If they just called me back and told me they me they could not pick the pile up because, it is too much, I will move it instead of leaving it for three weeks.

Councilwoman Maghran noted that the Brinkerhoff 5K Run will be held on Saturday, June 19. She noted that there are 129 children signed up for the Summer Recreation Program and registration is still open for another week. Applications are available on line.

A motion was made by Supervisor Ballowe and seconded by Councilman Genzel to adjourn the meeting at 8:26 p.m.

five (5) Ayes Carried

DAVID J. SHENK, TOWN CLERK