

**REGULAR BOARD MEETING
MARCH 6, 2013**

**TOWN HALL
7:30 P.M.**

Present: Supervisor Martin A. Ballowe, Councilmen Jeffrey A. Genzel, Jay P. Boardway, Lawrence A. Murtha and Gary E. Vara.

Also Present: Town Attorney Kobiolka.

Supervisor Ballowe noted the following estimates were received for removal and installation of drop ceiling tiles in the Highway Department:

Patrick White Construction	\$5,350	Big Little Construction	\$ 5,800
Owczarczak Enterprises, Inc.	\$5,825		

A motion was made by Supervisor Ballowe and was seconded by Councilman Murtha to accept the estimate of Patrick White based on the Town Attorney's approval of the contract which will include complete removal of the old ceiling and all debris and the installation of a new ceiling.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to adopt the minutes of the February 20, 2013 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Murtha and seconded by Councilman Boardway, upon review by the Town Board, that fund bills on the Abstract dated March 14, 2013 in the amount of \$298,299.43 be paid.

five (5) Ayes Carried

Received and filed resolution from the Town of Lancaster regarding the Governor's proposal to increase fines for traffic violations.

Received and filed letter from Governor Cuomo unveiling "NY Open for Fishing and Hunting" with plan to Reduce Cost of Hunting and Fishing Licenses.

A motion was made by Councilman Vara and was seconded by Councilman Boardway to approve the 2012 Service Award Points for the Boston Emergency Squad.

five (5) Ayes Carried

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A motion was made by Councilman Genzel and was seconded by Councilman Boardway to reappoint Dennis Mead as a regular member of the Zoning Board and as Chairman, term to expire April 1, 2018.

five (5) Ayes

Carried

At 7:40 p.m. a Public Hearing was held for the purpose of allowing public input and opinion regarding the State of New York's new Gun Control Legislation and for possible adoption of a resolution regarding the new law.

Supervisor Ballowe read the legal notice.

Councilman Boardway thanked everyone that showed up for this hearing regarding the resolution this Town Board proposes to pass requesting that Governor Cuomo to rescind and amend the NY Safe Act. He opposes this legislation on the recommendation of multiple people who want Town of Boston residents to be given the opportunity to be heard either for or against the resolution.

The following persons spoke against the NY Safe Act and in favor of passing Resolution 2013-06

Steve Aldstadt
Tom Winters

Linda Kaczka

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

five (5) Ayes

Carried

RESOLUTION 2013-06 TO AMEND NY SAFE ACT

Councilman Boardway presented the following Resolution and moved its adoption:

WHEREAS, the Town of Boston located in the South West Corner of Erie County in the State of New York objects to the infringement of the 2nd Amendment of the Constitution of the United States of America by the governing body of New York State, and

WHEREAS, On Monday, January 14th, 2013 the rights under the second Amendment of our Constitution was infringed upon without due process, and

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Motion Cont'd:

WHEREAS, The Gun Control Bill (S.2230) known as NY SAFE ACT was rushed through the Senate & Assembly without a single Public hearing or input from the various Law Enforcement agencies located around our State, and

WHEREAS, Even the State Lawmakers did not have time to review the bill as presented leaving questions about implementation and regulation of this new law, and

WHEREAS, this law should focus on increasing penalties for criminals who use firearms to harm and threaten law abiding citizens and address the issues of mental illness related to violence, and

WHEREAS, the Town of Boston realizes that the NY SAFE Act, gun control law must be repealed and must replace the restrictive parts of the enacted law, and

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Boston urgently asks Governor Andrew M. Cuomo & the Legislative leaders to suspend this law as soon as possible and to look at all the aspects of Gun control using the proper legal procedure to bring about a law that will address gun control in a more logical manner, focusing on the real issue related to gun control – a law that will strengthen the effect on public safety and not infringe upon our constitutional rights.

BE IT FURTHER RESOLVED; That a certified copy of this resolution be forwarded to: Honorable Governor Andrew M. Cuomo, Honorable Senate Majority Leader Dean Skelos, Majority Leader of Independent Democratic Caucus Jeff Klein, Honorable Senate Minority Leader John Sampson, Honorable Speaker of the Assembly Sheldon Silver, Honorable Minority Leader of the Assembly Brian Kolb, and the Western New York Delegation and Erie County Legislators.

Seconded by **Councilman Vara** and put to a vote which resulted as follows:

five (5) Ayes

Carried

Councilman Boardway noted that the forms for NYS Firearms License Request for Public Records Exemption are located on the table in the hallway for anyone wishing to have their name withheld from the Pistol Permit licensing database that NY State maintains.

Martin Rejewski of Back Creek Road presented the Town Board with a letter from himself and two neighbors requesting that municipal water be extended from the corner of Back Creek and Shero/Patchin Road towards Hillcroft Drive.

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Tom Steinagle inquired if Legislator John Mills responded to any of the speed limit reduction requests in the Town of Boston.

Councilman Murtha noted that he spoke with Mike Asklar from the county and was informed that the issue is in the hands of the state. He noted that Senator Gallivan sent a letter to Darryl Kaminski, Regional Director, of the NYS Department of Transportation encouraging their assistance. Councilman Murtha noted that it was his understanding that the study will take three to four months to complete.

Supervisor Ballowe noted that Legislator Mills and the County representatives actually walked underneath the Hillcroft Bridge to see the defects and issues first hand and also requested that the speed limit from the 219 entrance ramp down past Tops be lowered to 35 MPH.

Bill Schwab, member of the Patchin Fire Company distributed to the Town Board copies of the completed fire study and noted that both of the other fire companies also received it on a CD.

Bill Schwab also noted that on Saturday, March 16 at 11 a.m. there will be a presentation held on the fire study at the Patchin Fire Company.

Bill Schwab commented that the article in the Hamburg Sun incorrectly reported that Patchin Fire Company has 50 members and/or 50 active members. He noted that the truth is there are 28 active members and 23 of those members made their points. He requested that a retraction and an apology be made. He noted that someone must have said it in order for the reporter to report these numbers.

Councilman Boardway noted that he read the numbers off a piece of paper in front of him.

Supervisor Ballowe noted that maybe the reporter typed it wrong or heard it wrong. He requested that the reporter correct this error for Mr. Schwab.

Rich Hawkins questioned the status of the repair of the Hillcroft Drive Bridge.

Supervisor Ballowe noted that Councilman Murtha conducted a tree removal from the creek and is constantly removing debris from the creek.

Councilman Murtha stated that Supervisor Ballowe, county representatives and himself toured that area of the creek and inspected the bridge. He noted that he understood that the money was scheduled to meet those repairs but was diverted to another town. We are trying to get assistance from Legislator Mills to get this done. There are litigation probabilities there.

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Supervisor Ballowe commented that it was scheduled to be done in 2010 at a cost of \$1.2 million dollars, but was removed and has been every year since including 2013.

A motion was made by Councilman Vara and was seconded by Councilman Murtha to approve the Use of Facility Application from the Conservation Advisory Council for their annual Town Fishing Derby for Saturday, May 11, 2013 from 7 a.m. to 3 p.m.

five (5) Ayes

Carried

Supervisor Ballowe noted that fishing poles and tackle boxes would be donated again this year.

A motion was made by Councilman Genzel and was seconded by Councilman Boardway to approve the Use of Facility Application from Michael Brinkerhoff for the annual 5K/10K race in honor of Trooper David C. Brinkerhoff for Saturday, June 15, from 7 a.m. to 2 p.m.

five (5) Ayes

Carried

**RESOLUTION 2013-04 ESTABLISHMENT OF BOSTON STATE ROAD SPEED
LIMIT**

Councilman Murtha presented the following Resolution and moved its adoption:

WHEREAS, the Boston Town Board has been made aware of the traffic safety concerns of its residents with respect to the section of Boston State Road between the intersection of Boston State Rd. and Zimmerman/Herman Hill and 7550 Boston State Road and

WHEREAS, residents have reported to the Town Board excessive speed and otherwise imprudent and unsafe operation on this section of Boston State Road, and

WHEREAS, this section of Boston State Road has proven to be hazardous due to several vehicle accidents, and

WHEREAS, this section has developed over the last two decades fostering more pedestrian traffic and

WHEREAS, there are no sidewalks, very narrow shoulders, and guardrails which force pedestrian traffic onto the highway and

WHEREAS, the Boston Town Board is requesting that the speed limit on this section of Boston State Road be established at 35mph, and

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Motion Cont'd:

WHEREAS, under current provisions of the Vehicle and Traffic Law, Section 1662 (a), the establishment of speed limits and other traffic regulating provisions for this local roadway fall outside the jurisdiction of the Town of Boston.

THEREFORE BE IT RESOLVED that the Boston Town Board hereby formally request a traffic speed and safety study be conducted for this section of Boston State Road between the intersection of Boston State Rd. and Zimmerman/Herman Hill and 7550 Boston State Road.

BE IT FURTHER RESOLVED, that the Town Clerk shall transmit a TE-9 and this resolution to the proper agency.

Seconded by Supervisor Ballowe and put to a vote this resulted as follows:

five (5) Ayes

Carried

**RESOLUTION 2013-05 GOVERNOR'S PROPOSAL TO INCREASE FINES AND
ALLOW FEWER PLEA DEALS FOR TRAFFIC
VIOLATIONS**

Councilman Genzel presented the following Resolution and moved its adoption:

WHEREAS, towns, villages and cities throughout the State of New York are dependent upon the fine revenues collected in their courts, to cover a large share of Justice Court and Police enforcement budgets and;

WHEREAS, the proposal put forth by New York Governor Andrew Cuomo, if passed would increase the fines and would provide that if certain vehicular and traffic violations are reduced to a lower penalty, portions of the fines that are now retained by the municipalities in these cases would be given to the State of New York, and;

WHEREAS, if these State and Assembly Bill should pass, it is most likely few plea bargains would be reached which would lead to more trials which would clog the Courts and mean more expenses, not only to the local municipalities but to the State of New York, and

WHEREAS, in many instances overtime would have to be paid to enforcement personnel to testify as more case go to trial, and;

WHEREAS, the Town Board of the Town of Boston deems it in the public interest to oppose this proposed legislation;

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Motion Cont'd:

NOW, THEREFORE, BE IT resolved that the Town of Boston opposes Governor Andrew Cuomo's proposal to increase Traffic fines upon our citizens and further opposes the State of New York attempt to take the portion of the fines which are currently retained by the municipalities;

BE IT FURTHER RESOLVED; That a certified copy of this resolution be forwarded to: Honorable Governor Andrew M. Cuomo, Honorable Senate Majority Leader Dean Skelos, Majority Leader of Independent Democratic Caucus Jeff Klein, Honorable Senate Minority Leader John Sampson, Honorable Speaker of the Assembly Sheldon Silver, Honorable Minority Leader of the Assembly Brian Kolb, and the Western New York Delegation and Erie County Legislators.

Seconded by **Councilman Murtha** and put to a vote which resulted as follows:

five (5) Ayes

Carried

A motion was made by Councilman Vara and seconded by Councilman Boardway to approve the annual refuse licenses for Allied Waste Services of North America, LLC, Modern Disposal Services, Inc. and Waste Management of NY, LLC.

five (5) Ayes

Carried

Supervisor Ballowe noted that the 2012 Annual Financial Report was recently filed with the Office of the State Comptroller and filed in the Town Clerk's Office.

Supervisor Ballowe: I am happy to say that the report demonstrates the favorable sound fiscal ground that our town is in. This administration can take credit for good government decisions. We have taken advantage of the favorable interest rates by refinancing all of our short-term loans and locking in long-term rates and eliminating annual legal and refinance fees. We have also utilized some of our excess reserves in order to pay down debt, saving hundreds of thousands of dollars in interest for future generations. Looking at the report, we still currently have 1.4 million dollars unreserved fund balance, nearly 10% higher than when I took office.

Over the past several years, we have completed numerous capital improvements, utilizing grants for energy efficiency, drainage, parks and water projects. In addition, we have lowered your town taxes three years in a row. This was possible by renegotiating contracts in areas such as dispatch, insurance, waste management, school tax collection and town hall consolidation of services and cross training, saving over a hundred thousand dollars.

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Supervisor Ballowe Cont'd: By setting up special reserves for additional anticipated improvements, we can responsibly plan and complete the future needs of Boston, without raising taxes. It is important for town government to maintain the adequate unreserved fund balance in order to prepare for the unexpected rise of state mandates. This is the responsible way to run government.

A motion was made by Councilman Boardway and was seconded by Councilman Vara upon the recommendation of Town Attorney Kobiolka to table the request for Use of Town Facilities from Kristie Paxson until additional required information is submitted by the applicant.

five (5) Ayes

Carried

Received and filed monthly reports from the Code Enforcement Officer.

Councilman Murtha had nothing additional to add.

Councilman Genzel reported on the status of the Keller Road project. The Contractor is now waiting for at least five days of good weather to be able to get underneath the pipeline.

Councilman Genzel noted that Town Engineer Hannon received and is reviewing a packet from the developer for the patio homes.

Councilman Genzel reported the February 26 Planning Board meeting was cancelled due to lack of agenda, next meeting is March 12 at 7:30 p.m. The Zoning Board of Appeals meeting for March 7th has also been cancelled due to lack of agenda. Next meeting will be April 4 at 7:15 p.m.

Councilman Genzel as Boston Community Foundation Liaison reported the July 4 fireworks fundraiser is going well. A donation of \$500 was received from Supervisor Ballowe and Matt Shaw, owner of Sky Lighter of New York.

Councilman Genzel as Affirmative Action and Fair Housing Officer he received a review of the Fair Housing and Zoning techniques Handbook that is provided by The Erie County Department of Environmental and Planning and asked if the information can be placed on the Town of Boston's website.

Councilman Genzel noted that he is working on receiving quotes for the restoration of the Lions' Shelter. So far one quote has been received for the painting and two quotes for the pillar rehabilitation.

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Councilman Genzel noted that Town Historian Keith Kaszubik had an article recently published in the Am-Pole Eagle Newspaper on February 7.

Councilman Genzel reported the Boston Fire Company's Chicken BBQ is Sunday March 10 and Patchin Fire Company's Spring Meat Raffle is Saturday, March 16 at 8 p.m.

Councilman Genzel noted that Boston Youth softball and baseball signups are now underway.

Councilman Boardway stated his appreciation for the support of Resolution 2013-06 to amend NY Safe Act. He stated that NYS Supreme Judge directed Governor Cuomo to prove why they felt the message of necessity in that law was necessary. They have until March 11th to do that. This will be an ongoing process.

Councilman Boardway commented to Mr. Schwab that if he said something that was misquoted he would correct it. He stated that he doubts the Sun reported something incorrectly.

Councilman Boardway commented that Mr. Hawkins is correct about the Hillcroft Bridge. He noted that funds have been removed from the County's budget for improvements so the Town of Boston will probably not see this bridge fixed in the near future.

Councilman Boardway noted that he met with Mark Flaherty and Ed Halloran to discuss the Service Award Program. He noted that after changing the management of the funding of the plan, the return on it was a positive 12.33%. The plan value last year gained \$307,492.80. Unfortunately, last year paid out more money than we were able to put into it. Contributions from the town were \$190,000, but \$223,840 was paid out. We have asked Penflex for some options to get this plan on stable financial ground.

Councilman Vara reported that he continues to work on the resurfacing of the tennis courts. The changes have been made on the Scenic By-Way plaque and will now determine the placement of it and hope to have it taken care of at the next Town Board meeting.

Councilman Vara reported that Time Warner has a 2-year contract remaining. He hopes to meet with Town Attorney Kobiolka to review the old and new contract and hope to finalize it early May.

Councilman Vara noted that Erie County has increase the cost of the lunch through the Stay Fit dining for the seniors to \$3.50. In addition, a Nutritionist will be visiting with the senior groups to work with them on proper diet.

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Supervisor Ballowe reported that the fence that was damaged by the truck this past summer was taken down and is being replaced.

Supervisor Ballowe noted that their chairs have been recovered. The chairs themselves are 35 years old.

Supervisor Ballowe also commented that formal letters will be sent to Patchin Fire Company requesting coverage for this year's 4th of July Celebration. He noted all the fire companies were present last year.

A motion was made by Supervisor Ballowe and seconded by Councilman Vara to adjourn the meeting at 8:30 p.m.

five (5) Ayes

Carried

JENNIFER A. MULÉ, BOSTON TOWN CLERK