

## Town Board Minutes May 5, 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 Code Enforcement Officer Ferguson.

Rev. Bonnie Bates, Faith United Church of Christ opened the meeting with a prayer.

A motion was made by Supervisor Ballowe and was seconded by Councilman Pluta to authorize Highway Superintendent Telaak to take care of the grading at the NYS Trooper's Barracks and having it Hydro seeded, removing the islands out of the parking lot and having it black topped. The town will be reimbursed for all fees accumulated for removing the islands. Also look into installing buffer fencing along the Trooper's Barracks

five (5) Ayes Carried

A motion was made by Councilman Pluta and was seconded by Supervisor Ballowe to instruct Code Enforcement Officer Ferguson to notify the owner of the Boston Hotel located at 9378 Boston State Road is deemed an unsafe building and schedule a public hearing on June 16, 2010 at 5:30 p.m. for the removal of said building.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to adopt the minutes of the April 7, 2010 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Pluta and seconded by Councilman Boardway, upon review by the Town Board, that fund bills on the Abstract dated April 29, 2010 in the amount of \$369,316.12 minus voucher #317 in the amount of \$10.71 be paid.

five (5) Ayes Carried

Received and filed notice of defective, dangerous, or obstructive highway, bridge, or culverts from Attorney William J. Trask in regards to the town right-of-way at 6891 Pin Oak Drive with Town Clerk Shenk, Town Attorney Kobiolka and Highway Superintendent Telaak.

Constance Crossan, 5060 Shero Road: Is it correct that the Erie County Water Authority has decided that the area of Shero, Feddick, and Rockwood Roads are no longer going to get water.

Supervisor Ballowe: We do have a letter from Water District Engineer Nussbaumer and Clarke stating that there will not be water installation at this time. We are working with the Town Attorney Kobiolka and the attorneys for the Erie County Water Authority to try and get all of the people in that district out.

Sandra Durphy 8539 Boston State Road: What is the timeframe and what kind of fencing will be installed by the State Police Barracks and how far down the property line would this fencing/berm go.

Supervisor Ballowe: We are looking at both options right now. We are considering putting a berm with some kind of shrubbery on it or a fence, whichever is more feasible. As far as the length, we have not decided on the distance yet. The landscaping will be worked on first and hope to have the entire job completed by the end of summer.

Highway Superintendent Telaak asked Sandra Durphy what she would like to see put in there as far as fencing goes.

Sandra Durphy: I do not want to speak for everyone on the street, but want to know what I can do now on my own property that will not interfere with what will be installed at the trooper's barracks.

Tara Singer Blumberg: I live in Williamsville, but own a vacant lot of Hillcroft Drive. I understand the water project was put on hold. Could you explain to us the status of the water project on Hillcroft Drive?

Town Attorney Kobiolka: Polish Hill Road was originally a dirt road. In 1989 the Town of Boston did a Qualified Abandonment of Polish Hill Road. This means that the town no longer has a responsibility for the maintenance of the road. In 1998 a developer, Gary Eckis bought most of the land in that area and redid the highway so that it could be considered a public highway again. The road was dedicated back to the town to be plowed and maintained. However, the town just accepted the road going up the hill to where Deer Run Road turns left and there is still a portion from where Hillcroft Drive starts and continuing up to the 219 Expressway, which is still a qualified abandoned highway. That being the status, the town does not have the responsibility to maintain that road. For Erie County Water Authority to put the pipeline across the 219 expressway coming down, it would have to go through that qualified abandoned highway. In order to do that the town may have to accept that highway back. We are in the process of talking with the Erie County Highway Department because the Water Authority will not put that pipeline through until that portion of the road is resolved.

Town Attorney Kobiolka: No, the town still maintains the public access going across it. We just abandoned our responsibility to maintain the road. The water authority wants to be sure that we can guarantee that the town is going to take care of that road in the event of a snowstorm or a wash out, so that the water authority will be able to get up there and fix the pipe. There is case law that states the town cannot expend funds on property or road which has been qualified as abandoned.

Tara Singer Blumberg: Are you anticipating taking back that abandonment?

Town Attorney Kobiolka: We are not sure at this point.

At 7:46 p.m. a Public Hearing was held to hear comments regarding Proposed Local Law No. 1 of the year 2010 to consider the rezoning application of North Boston Fire Company (Great American Tool Company), 7223 Boston State Road to rezone .79 Acres from C-1 (Local Retail Business District) to C-2 (General Commercial District), Proposed Local Law No.1 of the Year 2010.

Supervisor Ballowe read the legal notice.

Town Clerk Shenk noted that notices were sent to 33 of the neighboring property owners, the current owner, and the applicant. The Commercial Zoning application pending sign was also placed on the property and a favorable recommendation was received from the Planning Board.

A motion was made by Councilman Pluta and seconded by Supervisor Ballowe to close the public hearing at 7:48 p.m.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Councilwoman Maghran upon the recommendation of the Town Engineer, James Hannon, that the Town Board has classified the Rezoning application of 7223 Boston State Road from C-1 to C-2 as an unlisted action under SEQR and therefore declares lead agency status.

five (5) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Councilwoman Maghran, upon the recommendation of the Town Engineer, James Hannon, that Town Board as lead agency has determine that after taking a long hard look into the Rezoning of 7223 Boston State Road from C-1 to C-2 and find that the proposed action will not have a significant impact on the environment, and declare a Negative Declaration and that no further action is required per 6 NYCRR part 617.

five (5) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilwoman Maghran to adopt Local Law No. 1 of the Year 2010 (Proposed Local Law #1) to consider the rezoning application of North Boston Fire Company (Great American Tool Company), 7223 Boston State Road to rezone .79 Acres from C-1 (Local Retail Business District) to C-2 (General Commercial District),

five (5) Ayes Carried

Karen Lester, 6272 Hillcroft Drive: Back in 2004 was the first time we met with our neighbors because we have been delaying building because we knew so many of our neighbors had water problems. We have been through a petitioning process; we have met with Former Supervisor Eagan, and Town Engineers. We have heard it was all approved so we began talking to architects. When we received the letter stating the project was on hold. My concern is there is a lot of grant money sitting in the balance. The town board is aware there is an expiration date, correct? We are going to run out of time.

Supervisor Ballowe: We understand that. The water authority came to us and said that until this road issue is resolved they will not let the project continue. It was not the Town Board's decision to stop it. Nussbaumer and Clarke should have done their homework four years ago and found there was a problem with this road and resolved it.

Karen Lester: How long do you think it will take to resolve this issue?

Town Attorney Kobiolka: We are hoping to have it resolved within the next 30 to 45 days. But it was determined about a month ago that there was a problem with a small portion of the abandonment of Hillcroft Drive.

Karen Lester: What progress has been made in the past month?

Town Attorney Kobiolka: We have done research; we have been in contact with the water authority and we have to work out the appropriate arrangements so that they feel comfortable in terms of the Town of Boston being able to maintain the road.

Councilman Boardway: They have not yet provided us with their requirements. They have told us that we have to be able to maintain this portion of the road.

Supervisor Ballowe: Every day we work on this project. The Town Attorney is working on getting what we need from the Water Authority. There is no sense in spending any more money if the water authority is not going to approve the road.

Karen Lester: That was a debacle because it took them two years to decide that it was not feasible and it was not physically impossible. The water authority said it was not profitable. There is a big difference between not feasible and not profitable.

Councilman Boardway: We understand that. It involved a pumping station and we explored at least four different options with how that extra cost could be built in.

Supervisor Ballowe: The town would become the water authority by sending out bills to 16 residents and doing meter readings. There would be no fire protection.

Councilman Pluta: If we are going to install water than it should be done correctly.

Councilman Boardway: Ultimately, the Erie County Water Authority said that it was never a good idea trying to pump that water up the hill in the first place. Most of the members sitting before you right now were not here when a lot of this was put in place.

Supervisor Ballowe: It has nothing to do with the Town Board. The engineers, Nussbaumer and Clarke did not do their research. If they did that, the town would have known right away that they were not going to accept it.

Councilman Pluta: We are not experts. We take the information we get and make the best possible decisions. That is why we hire the engineers to tell us the best way things should be done.

Councilwoman Maghran: At the last meeting, we were not even sure if we owned that road. If we did not own that road this would be a mute point. On the positive side, we do own that still so that is one big hurdle we are over. Now it is just a matter of figuring out what is acceptable to the water authority and what is not.

Town Attorney Kobiolka: I feel it is best the town deal with the water authority because then there is just one contact. I believe the town board understands the wishes of the citizens on Hillcroft Drive.

Karen Lester: In the ten years that I have owned the property, my taxes have tripled. Frank Switek was just reappointed to the Erie County Water Authority. He really touted the fact that during his previous affiliation with the water authority, it ran profoundly in the black. So Erie County Water Authority is running in the black, but I am paying three times the taxes that I used to and I still cannot build on it.

Councilman Pluta: Do you know anything about the petition trying to stop it?

Karen Lester: I think it is a mute point because we have already gotten over that hurdle. I know there is a petition, but we have already gotten the project approved.

Tom Smith, 6267 Hillcroft drive: This has been going on too long. July 16th will be a six-year anniversary. We have gone through all kinds of gyrations getting this project put together. We have worked extensively with the Health Department, with Erie County Water Authority, the NYS Comptroller's Office. We have had signed petitions showing that we clearly have the majority and I am the ex-officio person for a group of 15 or 16 residents here who are outraged. This business about the road, you guys own it. Councilman Genzel told me a month ago he was not sure who owned it. The only thing that was given up was the maintenance of this road. This idea to bring the water from the tank down Zimmerman, down Polish Hill Road, underneath the highway and up to the continuation of Polish Hill Road was not our idea. It was Erie County Water Authority's idea. Our idea was to bring the water up the hill which Erie County Water Authority would not support. We cannot make any money that way. We have a lot of people here that do not have water. I insist that this Town Board do something about this before we lose this \$355,000 grant from Rural Development.

Supervisor Ballowe: You have the majority vote, everyone agrees with that. Engineers, Nussbaumer and Clarke, who have been on this project for six years should be here explaining why they wasted your time and money trying to fit a project going up the hill when clearly, Erie County Water Authority would say, bring it in front of us first before you waste the taxpayer's money. Erie County Water Authority did agree for it to come down hill. They do not know where it will cross the thruway or come through. But when Nussbaumer and Clarke presented to Erie County Water Authority as coming underneath the expressway to Polish Hill Road, Erie County Water Authority came to us and said it is not going to

happen, this road shows that it is abandoned. That is where Town Attorney Kobiolka stepped in. We are not trying to abandon a project or not get a project through. We have to do it the right way and the right way is to make sure they say we can put it under what type of road is there. That is what we are waiting for.

Tom Smith: I would ask them one question. Is every waterline that is controlled by the Erie County Water Authority is along side of a paved road?

Supervisor Ballowe: I know, but when it pertains to this road in this town and they have the right to stop it or go forward, all I want to know is what do they consider a serviceable road. If I had it in writing, I could give it to Nussbaumer and Clarke. Nussbaumer and Clarke say they cannot do anything because this road is not a town road and that is where the questions come in. There is no doubt the road is owned by the town. Once we know what the requirements are we can put the line underneath it.

Tom Smith: One of the ironies is that the Vice Chairman of the Erie County Water Authority is Kelly Vacco, who is a resident of Hillcroft Drive, and the town prosecutor. I would hope that her influence could speed this along so we can get some resolution from Erie County Water Authority before we give away \$355,000.

Supervisor Ballowe: We have until the beginning of October until the grants are gone. We are hoping to have it resolved before that.

Frank Lisowski, 5461 Shero Road: I agree with the comments from the last two speakers. The squeaky wheel gets the oil and I guess 183 residents on the hill were not vocal enough, so we are not going to get water if I understand it correctly. Six years with no water is a long time, but sixteen years of paying for it and not getting it is a lot longer time. How long will it be before we get water?

Supervisor Ballowe: I cannot answer that?

Frank Lisowski: Will we remain in the water district?

Supervisor Ballowe: No.

Frank Lisowski: Therefore, you are throwing us out of a water district that we have been paying for 16 years. I would like to be reimbursed for the 16 years I paid for this water in my taxes plus interest.

Supervisor Ballowe: Maybe you can talk to Nussbaumer and Clarke because they took \$147,000 of leftover money for that water district and took three years to give the town a piece of paper that said you will never get water.

Unknown Audience Member: Why are they still on the payroll then?

Supervisor Ballowe: Nussbaumer and Clarke are not doing any more work in this town. They are finishing the water project they are on and that will be the last job they work on. We are looking at trying to legally take you out of the district so you do not have to pay anymore.

Cindy Williams, Liebler Road: This pertains to the new Town Board, and some comments that are made every single meeting. Stop bashing the old Town Board. Up until the new Town Board came into office, the water project on Cole and Liebler Roads were online but now it stops at Cole. They had money to go the rest of the way.

Supervisor Ballowe: Any Town Board member, old or new will tell you that monies cannot be used from one water district to another to extend a water line; a new district has to be formed.

Scott Dinse, 8947 Deer Run Road: If the water comes down Hillcroft, what funds pay for the maintenance of that road?

Town Attorney Kobiolka: I am sure that would be a town charge and that is why the town cannot expend funds on a highway which they qualifiedly abandoned.

Scott Dinse: Councilman Pluta at the last meeting I attended you mentioned \$1,400 a year in taxes per taxpayer for this water. I believe you said if it goes over that the water authority has the right to say no, this is too much.

Councilman Pluta: You are partially right. The State Comptroller Office is who ultimately sets the bar as to what they think the expenses should be. I gave you that number as an example. The State Comptroller divides out the project cost between all those involved to try and find a cost per resident. If the project exceeds that amount, then they will not approve it. The State Comptroller set the limit at around \$1,400, so if the project continues to come in below that, it will continue.

Councilman Genzel: I see you signed the petition for not wanting the water.

Scott Dinse: That is correct. I do not want it if I have to pay that kind of money. I can see \$600 or \$700 a year. This amount could always go up, what if they have problems.

Councilman Pluta: That cost is fixed. That is built into the cost. The only reason it would escalate is because of rate increases from the water authority. When we go out to bid we will know. There is a set amount and if it comes in over that amount it would not work.

Scott Dinse: At the last meeting something was mentioned about a \$35,000 valve?

Councilman Genzel: There is a \$35,000 valve where it connects into the valley system that regulates the two different pressures. Erie County Water Authority would like the water to flow both ways in case one tank goes down.

Councilman Pluta: Also understand, when these prices go out to bid, hopefully when they set the cost it is actually too high and when it goes out bid, almost every time it is going to come in under.

Domenico Fulciniti, 6189 Hillcroft Drive: Assuming this goes through and the bids come in lower than expected. We now have \$350,000 set aside for this project. What can we do to increase that money and lower our cost? What about our elected officials?

Councilman Pluta: The grant is coming from Rural Development and the USDA. We have gone back to them several times and the USDA has increased that amount numerous times. We are at the max of what the USDA will give us? We have spoken with our Assemblyman and Legislators about it, but they are not too generous with water districts, not to mention the State of New York is busted. We have applied for as many grants as we could to get the cost down as low as we can. It can go lower, but it cannot go higher.

Patty Blatner, 6141 Hillcroft: My driveway is off of this dirt road. I am very confused with this entire project.

Paul Blatner Cont'd: The waterline is going to go under the 219 Expressway and over a series of land from the 219 to the point of this small dirt road, which obviously is not paved. I am trying to figure out what the big deal is with this small section of dirt road. What we have been doing is jumping through hoops. Every time we come up with a plan Erie County Water Authority finds something wrong with it. I was under the impression that the Erie County Water Authority approved that plan.

Supervisor Ballowe: Even the past administration did not know. Even though the water authority approves a project, it is still, until the engineers get their hands on it and say this is where it is coming through. That is where the question comes in hand.

Patty Blatner: I would like to have explained to me the difference between the lands, that if you walked from the last house, 6089 Hillcroft, there is just plain land all the way to the 219 expressway. It has to have piping put under that road so there is no difference between that road and the little part of the dirt road that we use as our driveways.

Councilman Genzel: That portion that was abandoned by the town actually extends to the right-of-way of the 219 expressway. The road technically ends at the fence.

Patty Blatner: So are they saying that you will have to put a road in all the way to the 219 past where our four homes are?

Councilman Genzel: We are waiting for Erie County Water Authority to let us know what that standard is going to be so they can access the water line at any time. The point of it is for maintenance and repairs

of that water line as it comes under the 219 exits the right-of-way of the 219 and continues down Hillcroft Drive.

Patty Blatner: But they suggested it to us.

Councilman Boardway: They do not suggest, they mandate.

Patty Blatner: And Erie County Water Authority did not know that road was not paved and is the Town Board willing to go and pave that small portion in order to get this project through? And, can this all be done before October 1 in order to save the grant money?

Supervisor Ballowe: They just look at maps and once Nussbaumer and Clarke did the engineering they found the road as abandoned.

Town Attorney Kobiolka: The Town Board will have to speak with Highway Superintendent Telaak and look at what the costs would be. It does not seem to be a monumental task; we just have to comply with what Erie County Water Authority wants.

Patty Blatner: With the vote we have the majority for the project and now I hear a little opposition. That is a mute point in that we already had the vote and the majority?

Town Attorney Kobiolka: As of right now the water district is still formed.

John Blatner, 6141 Hillcroft: I clearly see that the Town Board is working on our behalf and I want to thank you and we do appreciate it. We are here to see what we can do to keep this project moving forward. As a taxpayer and a person of interest in this project, I would like to give a few more suggestions to help this move forward. With all due respect, there have been a number of activities in the past six years that have become roadblocks in this project. Six months is not that much time when we look at this six-year project. As a taxpayer, I am glad to hear Nussbaumer and Clark are no longer working in Boston. I would support any legal action the Town Board would like to take. John Blatner Cont'd: I would help in any way I could to recover the tax dollars. Also, once the job goes out for bid, if the money come in higher than X dollars, the job is on hold. Someone commented that the project is on hold until decision A is made. I strongly recommend that someone look at this project in total and since

time is of the essence, you work on any tasks that can be done in parallel; because I am very afraid we will run out of time.

Councilman Pluta: We cannot do it yet

Councilman Genzel: We need 100 percent design. We do not have a design for that project coming under the 219 Expressway yet?

John Blatner: What will it take to get 100 percent? The Erie County Water Authority requirement is not going to impact the design is it?

Councilman Pluta: Until we resolve the issue with the road, we do not want to spend more money on engineering.

John Blatner: But it is a very minimal risk to do that. If we weigh the pros and cons and look at the total risk, what I am hearing is the risk to move forward with other critical tasks would be a much smaller risk than the risk the taxpayers that have been working on for six years.

Supervisor Ballowe: Nussbaumer and Clarke told me the engineering came up to that road. The stop point is from Polish Hill to Deer Run Road. That road is the stopper.

John Blatner: How is the design going to be changed based on the authority for maintenance of the top surface, it is going underneath the road. Nussbaumer and Clarke have not led us down the straight and narrow, correct? As a taxpayer I would recommend that be challenged. What impact does that have and how much could the design vary?

Supervisor Ballowe: They could finish the design; bill the town, which they have already billed us for trying to go up the hill at approximately \$23,000. That money came from everyone in town which usually will get reimbursed from your USDA funds, grant money, etc.

Supervisor Ballowe Contj | d: Say they want to finish the design and they want to be paid for it, and then the Erie County Water Authority says we are not going to accept whatever you put in there. Now, the town is out that money as a whole and not just the people in that district. It could be a \$100,000 risk.

John Blatner: But they have completed the design for the tank all the way through going under the 219 Expressway to the west side of Polish Hill Road? I cannot imagine that the cost to finalize that design would be of that significance.

Councilman Genzel: We have to come down Zimmerman and Polish Hill roads and bore underneath the 219 Expressway. For \$24,000 they designed up to Deer Run. Erie County Water Authority said i\$no wayj" you have to put in a master meter. So now you have almost doubled the size of the design.

John Blatner: That is precisely my point. Every time they take action, another issue pops up that puts this project in greater risk. Our time is very limited. That is the greatest risk to this project. Their history on this is terrible.

Councilman Genzel: I am in the water district on the East hill. There were residents there that were paying for water and did not get it for five years.

John Blatner: We need to look at this different because time is of the essence. It would be a travesty if we were sitting here in December listening to these people complaining because this project was stalled or went over budget and stopped because of time. We should understand that now, so we have time to take action.

Constance Crossan: What water district am I in?

Town Clerk Shenk: Water District #2, Ext. #2.

Councilman Pluta: When they drew the map, you were in that district.

Councilman Genzel: When that system was designed they made that district big. After 9-11 there were some new laws put into place. Now that tank is an inadequate size. It is an outrageous amount of money to increase those facilities to bring water up there.

Constance Crossan: Can we sue the engineers? And where will the water come from if my home catches fire?

Town Attorney Kobiolka: It would be inappropriate for me to advise the citizens of that. But I can advise you to speak with an attorney.

Councilman Pluta: There is a hydrant on the corner of Zimmerman and Shero Roads and a hydrant on the corner of Feddick Road. It would be a tanker operation. North Boston would be called in along with Patchin 2, Boston, and Concord.

Constance Crossan: Is it correct that we pay \$110 dollars for every \$80,000 taxable.

Councilman Genzel: It is based on assessed value.

Constance Crossan: If it is determined they will never do it, can these charges be taken off our taxes?

Councilman Genzel: We are looking at that option.

Richard Hawkins, 6892 Pin Oak Drive (former Supervisor): The past few months there has been a lot of criticizing about the past administration and missed meetings and how much it costs the taxpayers. Can someone explain why there was a meeting cancelled last month? It must have cost the taxpayers a few thousand dollars not to hold a meeting. There were a lot of flyers and documents distributed during elections to down grade the past administration. No one has asked the past administration what the facts are on these water projects. The only reason that project is going on is because we received \$355,000 grant money. I found out in November from the Erie County Water Authority that it was not feasible and not cost efficient. That is when Erie County said how about going across the 219 expressway. I then went to Rural Development to see if we could get any extra money to see if this

project was feasible. So let's not talk three or even six years ago and blame past administrations because we did not know about the 219 project or even look at it until November.

Supervisor Ballowe: I do not think once I have blamed you for anything. I stated that there was no way you could have known that Polish Hill had anything to do with it. I do blame Nussbaumer and Clarke.

Richard Hawkins: If they would have done their homework and known that the water authority would not have approved it, it would not have happened.

Supervisor Ballowe: Nussbaumer and Clarke wasted a lot of money. They did not present that to Erie County Water Authority and say this is our idea, what do you think?

Richard Hawkins: Water is a necessity of life and this town board and future town boards should look at all these people that do not have water.

Supervisor Ballowe: We are doing everything feasibly possible.

Richard Hawkins: I guarantee it is going to come to the point whether the town puts a road in or oil and stones it before the water comes through. It will not be the water authorities decision it will be the Town Board's decision.

Supervisor Ballowe: All we are asking the Erie County Water Authority to do is to please give us an answer as to what is a serviceable road so we can take the correct steps to proceed. We do not decide who gets water, when they get water and why they get water.

Richard Hawkins: Because the town owns that road, it will ultimately be the town's decision whether that water line goes through or not.

Councilwoman Maghran: We are just waiting to find out, dirt road, paved road, tell us what you need? We don't want to put a dirt road in have them come back in 2 months and say it needs to be paved.

Richard Hawkins: Also, during my administration, I know from my budget there was not money set aside for anyone to go to New York City Association of Towns Conference this year. I would like to know where that money came from.

Supervisor Ballowe: The money came from our 20 percent pay cuts and other cuts we put into place.

Donald & Elizabeth Schutt, 6181 Rice Road: My father was the designer of the Town of Boston seal and I asked him what was on his mind when designing it. He replied; it was the adversity the farmers met dealing with the land and the circle being unity for the town. I think that we have seen a certain degree of disruption in that. My wife and I wonder how we were included in the map, plan, and reports for the water project.

Councilman Genzel: We would have to ask the petitioner.

Donald Schutt: I duly respect the petition and those that do need the water. However, before purchasing the property we did investigate it for a sufficient supply of water and did find it to be a very good quality and reserve.

Councilman Pluta: Does your land butt up to Deer Run Road?

Donald Schutt: No.

Councilman Genzel: We could ask the lead petitioner to come up and explain how that district was arranged since none of us were here at that time.

Donald Schutt: After finding out this past March and looking into the matter we were told that we are indeed in the plan for the water district. I am at a loss as to why we were not notified.

Tom Smith: I have a copy of this proposed Extension #3 to Water District #2. I asked the then supervisor who drew it. The answer was Nussbaumer and Clarke.

Elizabeth Schutt: We are baffled, because in Nussbaumer and Clarke's own documentation they state that the parcels must front on a water alignment piece, and we are 1,200 feet away from the terminus of Deer Run Road where the proposed water project would be terminated.

Councilman Genzel: Did you receive anything notifying you of this water district?

Donald Schutt: Nothing. The boundary description is in error. It does not list our property and says that our property is owned by Paul Tuttle.

Councilman Pluta: How long have you owned it?

Elizabeth Schutt: Since 2003.

Donald Schutt: We had to actively look to see if we were in the district.

Councilman Genzel: Mr. Smith, when you were originally getting your petition signed; did you have a copy of that map?

Tom Smith: I do not think I did.

Elizabeth Schutt: In 2008, there was a FOIL submitted asking for a list of the property owners. Former Supervisor Eagan sent out two letters, one of which went out certified, and we did not receive that.

Councilman Genzel: I guess it was just figured out. A map was drawn by Nussbaumer and Clarke and apparently the Town Board was aware of the map.

Elizabeth Schutt: They certainly have taken the dollar figure of our property into account when figuring out the 50 percent and distribution. We would never use the water.

Councilwoman Maghran asked Town Attorney Kobiolka if anything can be done to rectify this situation.

Town Attorney Kobiolka asked Tom Smith if when he carried the petition were the residents presented with a plan in terms of what was being proposed and the costs.

Tom Smith: Yes, although the costs were totally up in the air. There were numbers received from the town and our instructions were to have this group of people, which did not include the Schuttj |s.

Town Attorney Kobiolka: Do you still have a copy of the list that you were given as well as the plan that you showed the residents?

Councilman Genzel stated the map was on the back of the petition. Include as much as you can because it will increase the total cost.

Donald Schutt: We do respect the original petition; however, since then there appears to be a certain contingency of folks that certainly are not happy with how the cost is now being absorbed and what they are actually getting. Again a certain contingency of residents feel it would be cost prohibitive for them to use the water. Unfortunately, it bothers me that we are put in a compromising position with our neighbors. We are now put in the position to undermine this water plan.

Councilwoman Maghran: There is a big difference between you and some of the other people that want out because there is no possibility that even if you did want to use the water, you are not going to get the water. It is more of a mistake that you were ever included in this and did not have the knowledge.

Councilman Genzel: We will have Town Attorney Kobiolka look into removing you from the district.

Town Attorney Kobiolka noted that because of the nature of this subject and the time frame of this regular meeting he asked that speakers be kept to the three-minute time frame and in the future we can dedicate a full hearing just on this subject.

Paul Tuttle, V/L Deer Run Road stated that he does not want this project and he sympathizes with the residents. He state he does this sort of work for a living and physics says this was not going to work. We

have tried countless times to contact Mr. Shear without a reply and finally former Supervisor Eagan did something and it also took him forever.

A motion was made by Councilwoman Maghran and seconded by Councilman Pluta to approve the Use of Facility Application for Cub Scout Pack 391 for May 16th for their annual rocket launch with a rain date of May 23rd.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and was seconded by Councilman Genzel to approve the special use permit renewal for Thomas Williams, 5330 Keller Road for an Amateur Radio 50 foot tower expiring 12/31/2011.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and was seconded by Councilman Boardway to waive the building permit fee for the organization VetsHerd, an organization that volunteers with remodeling projects for disabled veterans. A ramp will be constructed for Boston resident John Stanz, 5578 Ripple Drive.

five (5) Ayes    Carried

Councilwoman Maghran noted that this will be a case-by-case basis.

A motion was made by Councilman Genzel and was seconded by Supervisor Ballowe to appoint Kenneth Selby to the Parks Department starting Monday, May 10, 2010 at a rate of \$9.00 per hour.

five (5) Ayes    Carried

A motion was made by Supervisor Ballowe and was seconded by Councilwoman Maghran to appoint Carol Keller as a Nutrition Program Substitute at \$9.25 per hour term to expire 12/31/10.

five (5) Ayes Carried

A motion was made by Councilwoman Maghran and was seconded by Councilman Boardway on the recommendation of Recreation Director Clesse, to appoint the following to the Summer Recreation Program, commencing immediately and expiring 8/12/10:

Name	Position	Hourly Rate
Melissa Abbotoy	Counselor	\$7.25
Nicholas Accordino	Counselor/Life Guard	\$8.00
Tyler Ball	Counselor	\$7.25
Jennifer Boswell	Site Supervisor	\$10.00
Anita Burns	Substitute Counselor	\$7.25
Larissa Dobson	Counselor/Life Guard	\$8.00
Jillian Fitzner	Counselor	\$7.25
Megan Gill	Counselor	\$7.25
Courtney Gorrell	Counselor	\$7.25
Bridget Greene	Counselor	\$7.25
Lauren Gruchala	Counselor	\$7.25
Taylor Janak	Counselor	\$7.25
Jonathan McCloud	Counselor	\$7.75
Cody Mule?V	Counselor	\$7.25
Michelle Noack	Counselor	\$7.25
Jennifer Prackajlo	Counselor/Life Guard	\$8.00

Dan Selby      Counselor      \$7.25  
Matthew Struck Counselor      \$8.50  
Jennifer Trimm Site Supervisor \$10.00  
Mary Lou Zeis Recreation Supervisor \$12.00

five (5) Ayes      Carried

A motion was made by Councilwoman Maghran and was seconded by Councilman Pluta to table the request for Empire State Games Cycling Competition pending proof from Boston Fire Company that Fire police will be provided.

five (5) Ayes      Carried

A motion was made by Supervisor Ballowe and seconded by Councilwoman Maghran to schedule the Annual Mobile Home Park Inspections for Friday, June 4, 2010, 5:00 p.m. for the Boston Hills Homes & Estates and at 6:00 p.m. for the Sprague Mobile Home Park.

five (5) Ayes      Carried

A motion was made by Councilwoman Maghran and seconded by Councilman Pluta to set the summer schedule as follows:

July 7    Wednesday    5:30 PM      Agenda Review  
7:30 PM      Town Board

August 4      Wednesday    5:30 PM      Agenda Review  
7:30 PM      Town Board

five (5) Ayes      Carried

The following proposals were received for replacement of the main town hall copier:

Black & White    Color

Model    Monthly Cost B/W            Model    Monthly Cost Color

Kyocera 5050    \$337    NA

Current copier

Kyocera 520i    \$310.03            520ci    \$406.42 +.03

Konica Minolta\*            \$367.05            C552    542.05 +.08

Bizhub 501

Sharp MX-503N \$386.25            5001N    \$418.83 +.06

Richoh Aficio    \$386.25            MP C5000            \$446.25 +.08

MP C5001

\*No Color Scanning

A motion was made by Councilman Genzel and seconded by Councilman Pluta, on the recommendation of Town Clerk Shenk, to approve the three-year lease of the Kyocera 520i Black and White copier at a cost of \$310.03 per month.

five (5) Ayes    Carried

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran to schedule a Public Hearing for June 2, 2010 at 7:40 p.m. on 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, CR 190, on the north side, from the east side of Boston State Road easterly for a distance of four hundred and fifty (450) feet and a Public Hearing for June 2, 2010 at 7:45 p.m. on Proposed Local Law No. 3 of the Year 2010 entitled A Local Law to Amend Chapter 118, Article I, Truck Traffic and Parking of the Code of the Town of Boston to provide for Limited Time Parking on Short Road in the Town of Boston.

five (5) Ayes Carried

#### RESOLUTION 2010-05 OUT OF DISTRICT WATER CUSTOMERS

Received and filed a monthly report from the Supervisor and Recreation Director.

Town Clerk Shenk noted there will be a Household Hazardous Waste Drop-off at Erie Community College, North Campus, Saturday, May 8, from 9 a.m. to 2 p.m. The next Blood Drive will be May 18.

Highway Superintendent Telaak noted that he will not be at the May 19 Town Board meeting due to the Highway Association installation of Officers.

A motion was made by Councilman Genzel and was seconded by Councilman Pluta to allow Highway Superintendent Telaak to attend the Highway School from June 6 to 9 in Ithaca, New York, all appropriate expenses to be paid.

five (5) Ayes Carried

Highway Superintendent Telaak noted that he would like to talk with residents whose homes border the NYS Troopers Barracks about their thoughts and ideas on the fencing.

Highway Superintendent Telaak noted that the highway employees will hydro seed the areas that need grass, but the Parks Department will purchase those supplies. Highway Superintendent Telaak inquired if the Town Board would be bidding that out because he did not want to plant grass and then have it ripped up to plant trees.

Councilwoman Maghran asked if the Conservation Advisory Council has a place to put the tree seedlings they are getting.

Councilman Pluta noted they already have places for those trees.

Highway Superintendent Telaak noted that this is the last time around for brush pick up and will then begin paving.

Supervisor Ballowe noted that the Town Board is asking residents to keep their brush to a reasonable amount because it is taking up too much time to pick up all this brush and to be fair to everyone in town a half an hour per stop should be sufficient.

Councilman Pluta invited all resident to attend the Fishing Derby on Saturday, May 8. Registration begins at 9 a.m. Councilman Pluta noted that at a Fire Council meeting it was brought up that Code Enforcement Officer Ferguson was not able to answer a call, but Supervisor Ballowe did handle it, and has since issued Code Enforcement Officer Ferguson a cell phone so that he is available when needed.

Councilman Pluta noted that the Patchin Fire Company is sponsoring the Boston Hill BBQ fest the last weekend in June.

Councilman Pluta Contid: He noted that there are vendors coming in from as far away as New Jersey, Competitors from Massachusetts and Missouri and Judges from the state of Washington and Louisiana. This event has grown and it is getting national attention. He invites everyone to attend.

Councilman Genzel noted at the Planning Board meeting a site plan was received for a Salon at the old Evans Bank site. He also stated that progress is being made on revising the site plan review process.

Councilman Genzel noted that the Creekside Subdivision has been reviewed by the Town Engineer and Town Attorney and are waiting for a response from the developer.

Councilman Genzel noted that the Capital Improvements committee met and walked through the old Troopers Barracks to look at its possibility for a boys and girls club or something along those lines. They are also looking into what areas in Boston do not have water.

Councilman Genzel noted volunteers are still needed for the Ethics Committee. He also noted that he is waiting for the final list from NRCS for the Bank Stabilization erosion control hot spots throughout the Town of Boston.

Councilman Boardway noted that as the Insurance Liaison he has been trying to resolve some issues with the Youth Sporting teams in town with respect to making the insurance affordable for them. He and Town Clerk Shenk have had numerous telephone conferences with the town's insurance broker and we hope to have some answers for the Sporting Leagues soon.

Councilman Boardway noted that the Deferred Compensation Committee will be exploring some cost saving plans. Deferred Compensation is for Town Employees. There are meetings on May 17 and May 18 to go over some options on cost.

Councilman Boardway noted that the Office of Emergency Management have been working on a lot of different projects to get this office up and running. They have now been able to supply Hamburg Dispatch with all the new mile marker posts for the 219 as it comes through town which will help make emergency response more precise. The Road Closure system is now in place, which will allow the fire companies to have instant notification in the event there is an emergency they need to respond to if alternate routes have to be taken. They are also working on updating the Town's Disaster Plan.

Councilwoman Maghran noted that Friday Night recreation is now complete and thanked Boston Valley Elementary School for housing this program again this year. Councilwoman Maghran noted the Capital Improvements Committee is in the beginning stages of trying to figure out what can be done with the old State Police Barracks and are looking for volunteers to help form a committee for the development of a future recreation center.

Councilwoman Maghran noted that Highway Superintendent Telaak will reinstall the downed speed limit sign on Shero Road. She also noted that she will be meeting with Grant Writer Connie Miner to look into the possibility of developing a soccer field at the North Boston Park.

A motion was made by Supervisor Ballowe and seconded by Councilman Genzel to adjourn the meeting at 9:28 p.m.

five (5) Ayes    Carried

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DAVID J. SHENK, TOWN CLERK