

Town Board Minutes November 3, 2004

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

Reverend James Laun, Churchill Memorial United Methodist Church opened the meeting with a prayer.

RESOLUTION 2004-30 NORTH BOSTON ROAD SPEED LIMIT REDUCTION

A motion was made by Councilman Simmeth and seconded by Councilman Mead to adopt the minutes of the October 20, 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 October 28, 2004 in the amount of \$59,393.60 be paid.

five (5) Ayes Carried

Supervisor Eagan read a letter from Assessor Hornberger informing the Town Board of a Public Informational meeting regarding the Town Reval. The meeting will be held on Thursday, December 9th at 7:00 p.m.

REQUESTS FROM THE FLOOR

Joe Santonocito, 7519 Valley Circle Lane stated that there is a drainage problem on Valley Circle Lane. The Highway Department has been aware of the problem and it has not been fixed. There has been a

lack of maintenance over the last several years. The excessive amount of water is saturating the driveways and is causing the blacktop to break up and deteriorate. Mr. Santonocito requests this drainage problem to be taken care of as soon as possible.

A motion was made by Councilman Mead and seconded by Councilman Hawkins to authorize Supervisor Eagan to enter into an agreement and sign the lease amendment for the New York State Police Barracks.

five (5) Ayes Carried

RESOLUTION 2004-29 COLLATERAL SOURCE BILL

Supervisor Eagan read a petition containing 16 signatures from surrounding neighbors requesting the Live Entertainment license renewal for Couzins Bar be denied.

Councilman Mead stated that the Board does not want to hinder a business and does not want neighbors to be encumbered with noise. The board made a decision there be a motion to renew the live entertainment permit for a period of one year with the following conditions; the live entertainment to be held on Thursday, Friday and Saturday with music to cease at 11 p.m. This permit would be revoked after a public hearing if any of the conditions stated are not adhered to or violated.

Councilman Simmeth asked if the motion was passed, Mr. Hayden complied, and the neighbors are happy with the results, can the board extend the hours?

Town Attorney Vacco stated that there are provisions that would allow the Board to revisit the conditions placed on the renewal of the live entertainment permit. If to the board's satisfaction an appropriate sound engineer could supply concrete proof that the issues of sound and/or bass had been addressed adequately. At that time, the board could readdress the conditions placed on the permit. The license would expire on June 30, 2005.

Joe Antos, 5554 Northside Drive: I respect the comments of Councilman Mead, but I don't see where it's going change. It's already been one year. The music doesn't bother me. What does bother me is the noise in the parking lot. The patrons should have a little more respect for the neighbors so Cousins can stay in business. I don't see this getting any better. If it hasn't improved in the last 6 months, I can't see it getting any better.

Supervisor Eagan asked Town Attorney Vacco if the license is granted, could it be revisited based on the way the live entertainment law is written.

Town Attorney Vacco stated that the license can be revoked at any time if the conditions placed on it have been disregarded or any of the sections of Code 123-176 have not been adhered to.

Supervisor Eagan asked if Mr. Hayden substantiated the fact that they have resolved these problems, in conjunction with their neighbors would there have to be something in writing from both parties that are involved.

Town Attorney Vacco stated that it would be at the board's discretion.

At 7:49 p.m. a Public Hearing was held to review and hear any persons for or against the Tentative 2005 Budget as compiled.

Supervisor Eagan read the legal notice.

Supervisor Eagan asked if there were any questions or comments from the public regarding the budget process.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to close the public hearing at 8:51 p.m.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the 2005 General Fund Budget as follows:

| | |
|------------------------------|-----------|
| Appropriations | 1,487,903 |
| Less Estimated Revenue | 821,200 |
| Less Unexpended Balance | 486,500 |
| Amount to be raised by Taxes | 180,203 |

ive (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Hawkins that the 2005 Highway Fund Budget be approved as follows:

| | |
|------------------------------|-----------|
| Appropriations | 1,101,196 |
| Less Estimated Revenue | 403,300 |
| Less Unexpended Balance | 45,000 |
| Amount to be raised by Taxes | 652,896 |

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Councilman Mead that the 2005 Fire Protection Budget be approved as follows:

| | |
|----------------|---------|
| Appropriations | 670,000 |
|----------------|---------|

Less Estimated Revenue 0
Less Unexpended Balance 10,000
Amount to be raised by Taxes 660,000

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Hawkins that the 2005 Light District Budget be approved as follows:

Appropriations 20,000
Less Estimated Revenue 0
Less Unexpended Balance 0
Amount to be raised by Taxes 20,000

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Councilman Hopkins that the 2005 Ambulance Budget be approved as follows:

Appropriations 92,538
Less Estimated Revenue 0
Less Unexpended Balance 10,000
Amount to be raised by Taxes 82,538

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Mead that the 2005 Refuse and Garbage Budget be approved as follows:

| | |
|------------------------------|---------|
| Appropriations | 370,000 |
| Less Estimated Revenue | 0 |
| Less Unexpended Balance | 20,000 |
| Amount to be raised by Taxes | 350,000 |

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Hawkins that the 2005 Water District #1 Budget be approved as follows:

| | |
|------------------------------|--------|
| Appropriations | 72,910 |
| Less Estimated Revenue | 0 |
| Less Unexpended Balance | 10,000 |
| Amount to be raised by Taxes | 62,910 |

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded Councilman Hawkins that the 2005 Water District #2 Budget be approved as follows:

| | |
|------------------------------|--------|
| Appropriations | 51,318 |
| Less Estimated Revenue | 0 |
| Less Unexpended Balance | 10,000 |
| Amount to be raised by Taxes | 41,318 |

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Councilman Mead that the 2005 Water District #1 Extension #1 Budget be approved as follows:

| | |
|------------------------------|-------|
| Appropriation | 6,423 |
| Less Estimated Revenue | 0 |
| Less Unexpended Balance | 0 |
| Amount to be raised by Taxes | 6,423 |

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Councilman Simmeth that the 2005 Water District #2 Extension #2 Budget be approved as follows:

| | |
|------------------------------|--------|
| Appropriations | 30,557 |
| Less Estimated Revenue | 0 |
| Less Unexpended Balance | 0 |
| Amount to be raised by Taxes | 30,557 |

five (5) Ayes Carried

A motion was made by Councilman Hawkins and seconded by Councilman Hopkins that the 2005 Water District #3 Budget be approved as follows:

Appropriations 176,943
Less Estimated Revenue 0
Less Unexpended Balance 0
Amount to be raised by Taxes 176,943

five (5) Ayes Carried

Town Clerk Shenk read the 2005 Budget totals:

Appropriations 4,079,788
Less Estimated Revenue 1,224,500
Less Unexpended Balance 591,500
Amount to be Raised by Taxes 2,263,788

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins that the 2005 schedule of proposed salaries for the elected Town Officials be approved as follows:

Supervisor 27,470
Councilman 7,325
Councilman 7,325
Councilman 7,325
Councilman 7,325
Town Clerk 38,130
Town Justice 12,900
Town Justice 12,900
Superintendent of Highways 43,500

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth to approve the application for renewal of Live Entertainment permit for a period of one year (retroactive from 7/1/04 and expires on 6/30/05) with the following conditions: Live Entertainment to be held only on Thursday, Friday and Saturday; Live Entertainment to cease on the said stipulated days at 11 p.m., noting section 123-176 that this permit may be revoked after a public hearing if any of the conditions stated are not adhered to or any said conditions are violated; and the conditions set forth in the renewal of the live entertainment permit may be addressed to the town board before the expiration of the license if the permit holder has proof that the said issues have been taken care of.

(5) Ayes Carried

Richard Hayden asked where the proof comes from.

Supervisor Eagan suggested that he get a sound expert and then concur with his neighbors. If the complaints cease, that would answer the question itself.

Richard Hayden asked if the Town Board would come out and meet with neighbors and him to come to an agreement in order to reinstate his time curfew.

Supervisor Eagan stated that when the neighbors can confirm that they are no longer annoyed by the problems there, then the board could entertain revisiting this situation.

Richard Hayden asked if everyone could meet on Thursday.

Supervisor Eagan stated that Mr. Hayden should continue what he is doing and in accordance to what the board suggests tonight. In order to confirm if the complaints stop is by seeing if the renovations he made to the building rectify the problem. This should be done in a natural setting without setting up an appointment. The neighbors are the best judges of that.

Richard Hayden said that he needs to know. He needs to have his bands in there. This is where the money comes from to pay his bills. Mr. Hayden asked Supervisor Eagan if he has heard the music.

Supervisor Eagan stated that he has but not since the improvements were made.

Councilman Hopkins stated that he went to Cousins this past weekend. He said that he could hear noise out of the building. Councilman Hopkins stated that he didn't think it was that bad, but he does not live there. He felt the noise isn't so much the problem as the parking lot issue.

Richard Hayden stated that when impartially proven that these problems have been solved.

Scott Kubiszyn, 7102 Boston State Road stated that he appreciated what Mr. Hayden is trying to do, but there is a constant rumble coming from the building when you are trying to sleep at night. He doesn't want to drive away a business, but this isn't going to work. What is the difference?

Councilman Mead stated that Mr. Hayden made note that he corrected the noise issue as of last weekend.

Councilman Hopkins asked Mr. Kubiszyn if he heard anything this past weekend.

Mr. Kubiszyn stated that he did not.

Councilman Mead stated that the issue of the live entertainment permit isn't just a noise issue, it's also contingent on people drinking outside, activity anywhere on your premises that is a nuisance. It isn't just the noise level.

Councilman Mead encouraged the neighbors to contact the Town Board if they feel these issues have been corrected.

Supervisor Eagan stated that a call should be placed on the night of the incident. Supervisor Eagan stated that he can be contacted at home at any time in addition to any of the Councilman or Code Enforcement officers.

Joe Antos stated that the problem in the parking lot has not been resolved. Councilman Hawkins asked Mr. Hayden if there was a bouncer at the door.

Mr. Hayden replied that there is a bouncer at the door every band night.

TOWN CLERK REPORT

Town Clerk Shenk announced that flu shots would be given on November 19, 2004, from 10 a.m. ? 2 p.m. by appointment only. Certain criteria must be met. Interested parties should contact the Town Clerk?s office.

TOWN ATTORNEY REPORT

Town Attorney Vacco noted that in consideration of the Town of Boston purchase of Mr. May?s property for the Water #2 Extension, the title company received the title for update and subsequently lost it.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins, upon the recommendation of Town Attorney Vacco, to authorize payment of a title search for Mr. May?s property.

five (5) Ayes Carried

Town Attorney Vacco noted she will draft a letter to Mr. May?s attorney regarding the authorization of the title payment.

Town Attorney Vacco reported that the Cronmiller Article 7 tax matter has been resolved by court order for one taxable year.

COUNCILMAN REPORTS

Councilman Mead thanked the Eden Students in attendance for participating in the governmental process.

CODE ENFORCEMENT REPORT

· Code Enforcement Officer reports for September and October 2004 were received and are on file in the Town Clerk's office.

TOWN ENGINEER REPORT

· Town Engineer report for September 2004 was received and is on file in the Town Clerk's office.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to adjourn the meeting at 8:52 p.m.

five (5) Ayes Carried

DAVID J. SHENK, TOWN CLERK