

## Town Board Minutes September 15, 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 Deputy Town Attorney Michael M. Metzger.

Excused: Town Attorney Kelly A. Vacco

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

A motion was made by Councilman Hawkins and seconded by Councilman Simmeth to approve the request from Highway Superintendent Poore to attend the New York State Association of Towns, Superintendent of Highways meeting in Alexandria Bay, NY on September 21-24, 2004. The Town will reimburse mileage and registration fees.

five (5) Ayes    Carried

Councilman Mead stated that because the old snack shack was not always up to code that Code Enforcement Officer Kramer inspect the new snack shack to make sure that the electrical and plumbing was up to code.

Supervisor Eagan noted that the town does have volunteer licensed electricians doing the wiring on the snack shack. In the future the names of all the volunteers would be recognized for their help.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to instruct Town Clerk Shenk to send a letter to the different sporting organizations stating that they will need to contact the Code Enforcement Officer and Parks Superintendent if any updates, improvements, changes or alterations are to be made to Boston Town Park structures and/or grounds.

five (5) Ayes    Carried

Supervisor Eagan requested the Town Attorney Vacco to draw up a document stating the do's and don'ts of using the snack shack and have an agreement signed by each of the leagues stating they understand the rules.

Supervisor Eagan noted that there would be a dedication to the memory of Jody Metzger scheduled for Saturday, September 18, 2004. Anyone who would like to join this dedication should arrive at the Town Park around 1:00 p.m.

A motion was made by Councilman Simmeth and seconded by Councilman Mead to adopt the minutes of the September 1, 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 September 9, 2004 in the amount of \$173,955.54 be paid.

five (5) Ayes Carried

#### REQUESTS FROM FLOOR

Alfreda Koza, 9299 Back Creek Road: I have a problem with Eighteen Mile Creek and want to know what is going to be done about it.

Supervisor Eagan: The Highway Superintendent and I have both been out to see you. We have spoken to the Department of Soil and Water, which is the lead agency in helping us remove these dams. We were informed that the money they were waiting for has come in. Both Highway Superintendent Poore and I informed Mr. Gaston from the Department of Soil and Water that this is a new dam.

Supervisor Eagan Cont'd: We don't believe that he has physically seen this one.

Highway Superintendent Poore: After I was made aware of this, I immediately checked it out. We are doing everything we can. I think this will be taken care of a little faster because this is a very serious dam.

Supervisor Eagan: We will keep in contact with you.

Rick Hayden, Couzins Bar/Restaurant, 7115 Boston State Road: I was just wondering if a decision has been reached on my Special Permit or if there have been any complaints?

Supervisor Eagan: Yes, I have received a written complaint from Amy Campbell, 5557 Ripple Drive. There still seems to be an issue with the base. It doesn't seem that the steps you have taken have cured this according to them. I thought that our intention was to see if your ideas for remedying the problem would work and if it wasn't, you would go back to your consultant and see what else can be done.

Rick Hayden: I've already done that.

Supervisor Eagan: At this point, I think we need to take more information into consideration as we receive it. None of your neighbors have ever said that you haven't made an effort to rectify the problem. But, most of them are all in agreement that it hasn't been resolved.

Councilman Mead: What more have you done since the last meeting?

Rick Hayden: I bought a decibel meter and have taken random readings throughout the night. When the traffic goes by it actually spikes my decibel meter. On the recommendation of my lawyer, I took ambient noise readings around my property line and compared them to when I have music. It is actually quieter then you and I talking here.

Councilman Simmeth: Is the ambient noise reading and what is taken with the decibel meter read the vibration or base levels also?

Rick Hayden: I don't know if it reads vibration. I don't feel a vibration when I'm at my property line. I don't feel it on my fence. I don't have anything to compare that to.

Supervisor Eagan: Is the person using the decibel reader qualified to use it and was it calibrated?

Rick Hayden: Calibrated or not, it reads random readings, and whether the music coming from my building is 100 decibels, it's still compares it to the ambient noise around it at the time. So, if it's reading wrong it's going to read the ambient noise wrong as well. Which means the traffic going by still spiked my meter. It's a fair question.

Councilman Mead: I guess I go back to all the comments that the other residents have made to us. I don't think it's a noise issue, but more of the vibration/base issue. I think the tendency of the Board is to lean towards a restriction on either the amount of bands that are played every week or the times or the reduction in the base.

Rick Hayden: I totally understand. I don't feel the base noise. I walked all the way over to a couple of people's driveways. The farther you get away, the less you can hear the music.

Supervisor Eagan: Rick, I've sat in Pat and Tom Needell's house. It's there. Deputy Code Enforcement Officer Lisowski has done the same thing. I can tell you that I stood outside in your parking lot once in a snowstorm. I couldn't sense anything physically. But, when you go into their house, it's totally different. The base permeates through the walls and the windows.

Rick Hayden: Have you heard it since I put the plywood in. The plywood does make a difference in the vibration.

Councilman Mead: I would appreciate conversations with some of the other residents since you put the plywood in.

Rick Hayden: I had a phone call from my immediate neighbors to the South the very day I finished putting them in and she said it was better. But all of a sudden at 11:45 p.m. it got loud. I thanked her for

the phone call, went down, and talked to the band. They said they got carried away on the last set and did stop.

Councilman Hopkins: You did the windows that your consultant told you to but said there could still be an issue with the ceiling?

Rick Hayden: She said it would be very unlikely that it's base vibration, but if I had to go farther she would instruct me. My next step was to buy the decibel meter.

Councilman Mead: Have you talked to the bands about turning the base down?

Rick Hayden: I did. This past weekend I told the band to set up for what they thought was a good volume for the room and turn it down a notch. That is when I went outside with my meter.

Councilman Simmeth: What nights are you having music?

Rick Hayden: Thursday's is open mic from 8 pm till midnight and Friday and Saturday are the regular bands. They play until 1:00 am. We are open until 4:00 am.

Councilman Simmeth: Do you plan on staying with that schedule through the winter?

Rick Hayden: Yes. We have football specials on Sunday's.

Supervisor Eagan: Perhaps between now and our next meeting we'll see if we receive any additional complaints and we will notify you accordingly as to when we will take action.

Supervisor Eagan read a letter of opinion from Town Attorney Vacco regarding the request from Highway Superintendent Poore to purchase road signs from Richard Cin Signs.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to keep the request from Highway Superintendent Poore to purchase signs from Richard Cin Signs on the table.

five (5) Ayes Carried

Councilman Hawkins: On the question, in the letter from Town Attorney Vacco, I believe she states that she sees a conflict of interest because Highway Superintendent Poore is the sole proprietor of that business. I'm not sure that is a correct statement. I think he is partial owner at 25%. I'm just saying that this may make a difference not being the sole proprietor but in a joint ownership of the business.

Supervisor Eagan: I did have a discussion with Town Attorney Vacco and if you read our Code of Ethics, it doesn't gauge one's ownership on percentage. It just clearly says that if there is an interest.

#### RESOLUTION 2004-23 APPROVE RENEWAL OF ADELPHIA FRANCHISE AGREEMENT

#### SUPERVISOR REPORT

- Supervisor's Report for August 2004 was received and is on file in the Town Clerk's Office.

Supervisor Eagan noted that the volunteers for the snack shack have been doing an outstanding job. It's a great compliment to our parks and our volunteer programs and gives them a safe facility to work within. Supervisor Eagan stated the hoped of have the snack shack open by this coming Saturday, but will probably be another week before it opens.

#### TOWN CLERK REPORT

A motion was made by Supervisor Eagan and seconded by Councilman Mead to accept the Town Clerk's report for August 2004.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Supervisor Eagan to accept the Tax Collector's 2004 final report.

five (5) Ayes Carried

Town Clerk Shenk announced that the 2004-2005 School Tax Bills will be mailed on 9/16/04. The office will be open Saturday, October 2nd and October 9th from 9 am to 3 pm.

Town Clerk Shenk stated that the Deer Management Permit application deadline is October 1st.

#### HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Poore stated with the last rainfall that there was no significant road damage.

Highway Superintendent Poore stated that the 5ft walkway near the snack shack approaches are finished and the landscaping has been started.

Highway Superintendent Poore noted that brush pickup has begun and will continue until the job is completed.

Highway Superintendent Poore noted that there are two other logjams that are being taken care of.

Highway Superintendent Poore has been working with Niagara Mohawk Right-of-Way Forestry Engineer's to try and solve the drainage problem on Pin Oak Drive.

Highway Superintendent Poore stated that the majority of the easements have been signed for cleaning the drainage ditch on Hillcroft and Rollin Drives. He is hoping to start that project within the next couple weeks.

Highway Superintendent Poore: The next project will be replacing culverts on Park and Thornwood Drives. We are going to increase the culvert size from 30" to 36" and then continue the underground culvert approximately 220' between two properties to prevent any more erosion.

Highway Superintendent Poore discovered the last storm created a few problems at the bottom of Liebler Road. He has worked with engineers and resident Mr. Duffy on how to solve this problem.

Highway Superintendent Poore stated that Deputy Highway Superintendent Mye has worked out very well in his position.

#### COUNCILMAN REPORTS

Councilman Mead stated that the Town is in the process of a revaluation and not to become alarmed of people taking pictures of their homes. If anyone has any questions they should contact the Assessor's Office.

Councilman Mead stated that he was upset with an article written by the Citizen regarding the Recreation Program. Councilman Mead has since written a letter and thanked the Citizen for publishing it.

Councilman Simmeth stated that the Boston Emergency Squad is looking for driver membership and are asking the Town residents for their help.

Councilman Hawkins asked Highway Superintendent Poore if any of the excess items in the Highway Department were purchased.

Highway Superintendent Poore stated that nothing has been purchased.

Councilman Hawkins stated that he was glad to report that the speed limit signs on Zimmerman Road have been posted.

#### ASSESSOR'S REPORT

- The Assessor's Report for August 2004 was received and is on file in the Town Clerk's Office.

#### TOWN JUSTICE REPORT

- The Town Justice Report for August 2004 was received and is on file in the Town Clerk's Office.

#### CODE ENFORCEMENT OFFICER'S REPORT

- The Code Enforcement Officer's Report for August 2004 was received and is on file in the Town Clerk's Office.

#### DOG CONTROL OFFICER'S REPORT

- The Dog Officer's Reports for August 2004 were received and are on file in the Town Clerk's Office.

A motion was made by Councilman Hawkins and seconded by Councilman Simmeth to adjourn the meeting at 8:04 p.m.

five (5) Ayes Carried

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DAVID J. SHENK, TOWN CLERK