

## **Town Board Minutes September 2, 2009**

Present: Supervisor Richard K. Hawkins, Councilmen James E. Pluta and David Ruzzine and Cathy A. Maghran.

Excused: Councilwoman Cathy Dobson

Also Present: Town Attorney Downey and Deputy Code Enforcement Officer Juda.

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

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran to approve the minutes of 08/05/09 and 08/13/09.

four (4) Ayes Carried

A motion was made by Councilman Pluta and seconded by Councilwoman Maghran, upon review by the Town Board, that fund bills on the Abstract dated August 27, 2009 in the amount of \$589,879.48 be paid.

four (4) Ayes Carried

Received and filed Resolutions from the Towns of Concord and Holland in regards to New York State Bid Pricing for Salt.

Town Clerk Shenk noted that this resolution was adopted at the August 5, 2009 meeting it was forwarded to Senator Volker's office. We did get a letter back stating he received it.

Clive Rucker, 6910 Boston Cross Road: Thanked Highway Superintendent Telaak for his help with the flooding. He stated that the "Hamburg Sun" quoted him as having three inches of water in his house when he had three foot of water in his back yard, not in his building. He also inquired if the town has attempted to get any money from FEMA.

Supervisor Hawkins stated that everyone who could be contacted in regards to the floods, were. There is a process that we have to follow. FEMA is supposed to be assisting municipalities first. The next process will be businesses and homeowners. I'm told this is going to take place in the next couple of weeks. We realize that there are a lot of residents that have suffered some type of damage. Letters have been sent out by Legislator Reynolds?, Congressman Higgins? and Assemblyman Quinn?'s offices asking the National Guard come in to clean up Eighteen Mile Creek. Every time we have a storm there are more and more trees down which causes more blockages. Emergency Services told me today that when FEMA comes in they will have someone walking Eighteen Mile Creek to pinpoint the areas that they feel need to be taken care of first.

Clive Rucker: Let's hope we can get some help on Boston Cross Road.

Supervisor Hawkins: The Town Engineer, Councilman Pluta, and myself are working on it.

Clive Rucker announced that there will be a fundraiser benefiting Angel Flight on Saturday, September 12th from 4-11 p.m. at the Erie County Fairgrounds. Tickets can be purchased through tickets.com or by calling (716) 667-0815.

Joseph Terrizzi, 6535 Fairlane Drive: I have lived here for the past 39 years. I would like to talk about the block in the Town of Boston that is represented by this topography map (copy of map submitted to Town Board). There are 1.2 miles along Boston State Road, 1.6 miles along Liebler Road, 1.1 miles on Cole Road and 1.8 miles on Omphalius Road that unfortunately are all drained into one area. That means this is like a funnel coming out at one small point. In 1981, Supervisor Zimmerman, on behalf of the town applied for a grant and permit to change the course of the creek and establish a new course and put in gabions where the creek came down and made a right turn at the culvert at the bottom of the hill. Unfortunately, my house is right there. At the time, all they needed from me was permission to take some of my land in order to change the course of the creek. Unfortunately, with the previous rains, those gabions have been washed down behind the Patchin Fire Company. I lost about eight feet of land. I'd like to put the town on notice that the people downstream from me on Valley View Lane are going to be in serious trouble when that creek changes course again. We have lost about half of the three foot

gabions, the four foot ones are still in place. So all we have is that one part of the curve to contend with. It should be part of the municipal problem because the municipality had put in this project.

Supervisor Hawkins: I have had Erie County Soil and Water to your place as soon as yesterday. If you look across the street where it starts up the power line you will see the garage that does not have anything under the corner of it. The whole width of that creek has probably doubled in size. They have closed down the bridge through the fire company that comes off the power line because the bridge is ready to drop into the creek. The snowmobile club had to close it for safety. I called Erie County Soil and Water to come out and look at that also. There aren't too many areas in this town that I haven't looked in town since this flood.

Councilman Pluta: Another point to bring up is that back in 1981 the rules and regulations governing those waterways were not as stringent as they are now. We can't do anything without DEC permits or Erie County Soil and Water being involved. So, to simply repair it isn't as easy as it sounds. Things have gone so overboard with protecting the fish, crabs and spiders that are in there that they have forgotten about the homeowners.

Supervisor Hawkins: We've asked them to try to bring back some of the permits that they took away. The Highway Department used to have a permit to remove gravel and the sandbars as well as some other people in town. The creeks used to be cleaned out regularly. Legislator Reynolds and Assemblyman Quinn have been told about this and will inquire as to how to get some of these DEC Regulations lifted and permits can be issued and these areas cleaned. They don't know where the creek bed really runs because it has changed so many times.

Joseph Terrizzi: Are you saying, yes, you are going to make this part of the municipal requests from FEMA as being as replacement of what was done in 1981? On behalf of all the downstream neighbors, I'm concerned that FEMA be made aware that this is a municipal request.

At 7:56 p.m. a Public Hearing was held to hear comments regarding Proposed Local Law No. 2 of the year 2009 to Rezone 7.44 Acres from R-2 (Single Family Residence District) to R-A (Residential Agricultural District), Proposed Local Law No. 2 of the year 2009.

Supervisor Hawkins read the legal notice.

Town Clerk Shenk noted that twenty of the neighboring property owners were notified along with the applicant.

William Williams, 6377 Boston State Road: We currently own 7.44 acres on West Tillen Road and also 15 acres behind that zoned R-A at this time. We would like to make maple syrup at the front address and because we are zoned R-2 we are unable to do that.

Town Attorney Downey: So you are actually asking to make it more restrictive, being R-A versus R-2.

William Williams: That's correct.

A motion was made by Supervisor Hawkins and seconded by Councilman Pluta to close the public hearing at 7:59 p.m.

four (4) Ayes Carried

A motion was made by Councilman Pluta and was seconded by Supervisor Hawkins upon the recommendation of the Town Engineer, TVGA, the Town Board has classified Proposed Local Law #2 of the Year 2009 Entitled A Local Law to Consider the Rezoning Application of William & Suzanne Williams, 6800 West Tillen Road to Rezone 7.44 Acres from R-2 (Single Family Residence District) to R-A (Residential Agricultural District) as an Unlisted Action under SEQR and therefore declares lead agency status.

four (4) Ayes Carried

A motion was made by Councilman Pluta and was seconded by Supervisor Hawkins upon the recommendation of the Town Engineer, TVGA, that Town Board as lead agency has determined that after taking a long hard look into the Proposed Local Law #2 of the Year 2009 Entitled A Local Law to Consider the Rezoning Application of William & Suzanne Williams, 6800 West Tillen Road to Rezone 7.44 Acres from R-2 (Single Family Residence District) to R-A (Residential Agricultural District) finds that the

proposed action will not have a significant impact on the environment, and declares a Negative Declaration and that no further action is required per 6 NYCRR part 617.

four (4) Ayes Carried

A motion was made by Councilman Pluta and seconded Councilwoman Maghran to adopt Local Law No. 2 of the Year 2009 (Proposed Local Law #2) Entitled A Local Law to Consider the Rezoning Application of William & Suzanne Williams, 6800 West Tillen Road to Rezone 7.44 Acres from R-2 (Single Family Residence District) to R-A (Residential Agricultural District).

four (4) Ayes Carried

Nick Doyle, 8702 Maplelawn Drive: I am getting everybody's trash on Pinehurst Drive coming down the ditch. That is just one situation. I have the feeder creek on the other side of my property. We are getting inundated with shale, stone and rocks. That creek has come up at least four to six feet (photos were submitted to the Town Board). It is getting beyond what the creek can handle. I called the Town of Hamburg to come out and try to clear out the log jam down on Rt. 391 near the bridge. There is a tree growing right in the middle of the creek so it's catching everything. We are losing the swale of our yard. What was quite high at one time is almost level now. We really need to look at this and see what can be done about it. I have asked and looked into having a drain line right in front of my property across to the creek. I understand that a while ago that was an original ditch in front of our house and it used to go into the creek.

Steve Lingle, 6662 Hillcroft Drive: Has any progress been made with cleaning out the ditch on Hillcroft Drive? I know a lot of it has to do with easements on the properties, unfortunately, those people that we need easements from do not get flooded and I do. It's not my part of the ditch that needs to be cleaned out. Similar to the other gentleman, I get everyone else's trash also. The ditch up the road is completely level. I don't know if we can get that dredged out and put some debris traps in there as well.

Supervisor Hawkins: I was out there this past week and I did speak to several of the residents on Hillcroft Drive. One of the residents said they needed to check to see if it were permissible to go in next to his garage to clean the ditch. I know its level and everything drops right there. He said once its dry he may grant a temporary easement.

Steve Lingle: I'm hoping that after it is dredged out I'm hoping there can be some traps installed so if somebody throws trash in there it ends up in their yard not mine. He thanked Highway Superintendent Telaak and his crew for cleaning out the storm sewer on the corner of his property when it should have been the county doing it.

A motion was made by Supervisor Hawkins and seconded by Councilwoman Maghran, on the recommendation of Code Enforcement Officer Ferguson, to approve an Additional Accessory Building for Dale and Judy Schroeder, 8121 Zimmerman Road.

four (4) Ayes Carried

Town Attorney Downey noted that the Schroeders had a second accessory building but it was demolished. This building is a replacement for that one.

Town Clerk Shenk noted that The North Boston Volunteer Fire Company requests to reserve July 11, 2010 on the calendar and then will follow up with an application.

A motion was made by Councilwoman Maghran and seconded by Councilman Pluta to appoint Samuel Smolarek to the Boston Emergency Squad and will continue until such time as resignation, removal, or replacement.

four (4) Ayes Carried

A motion was made by Supervisor Hawkins and seconded by Councilman Pluta to approve the Use of Facility Application for Jennifer Cavarello for September 13, 2009.

four (4) Ayes Carried

A motion was made by Councilwoman Maghran and was seconded by Councilman Pluta upon the recommendation of the Planning Board to appoint to the Planning Board Mike Cartechine as a Regular Member term to expire 2/1/2016 and Joseph Litwin as an alternate member term to expire 12/31/2012.

four (4) Ayes Carried

Received and filed monthly reports from the Town Clerk, Code Enforcement Officers and Dog Control Officers and Recreation Director.

Supervisor Hawkins reiterated to the public that there has been a lot of work done by the Town Board members in regards to the flooding. Our Engineering firm has been out looking at Boston Cross Road for the possibility of retention ponds being installed at South Boston Park. He stated that he has also been in contact with Emergency Services and believes that FEMA will be coming here to help us. Erie County Soil and Water will be working on the Moran property. That went out to bid on August 31, 2009. Bids are due by September 14th. We are waiting for one more easement from a Hillcroft resident and as soon as we get that to allow entry into Eighteen Mile Creek from his property that will also start.

Highway Superintendent Telaak noted that the town has officially taken over the roads and drainage for Hickory Meadows Subdivision. Starting this fall, we will begin doing some work on the dams. He also noted that the retention pond on the power line is filled up with gravel. This is why the gravel comes down off the hill to the subdivision. He asked for Town Board permission to clean that retention pond.

A motion was made by Supervisor Hawkins and was seconded by Councilman Pluta to allow Highway Superintendent Telaak to rent an excavator for approximately two days to clean out the retention pond on the power line behind Hickory Meadows Subdivision and also where the water dumps out behind the apartment buildings.

four (4) Ayes Carried

Highway Superintendent Telaak noted that brush pick up starts September 7th. He noted that there is a lot of fill available from ditch cleaning. Highway Superintendent Telaak noted that some of the driveway

culverts on Liebler Road should be increased in size due to the amount of water. If the residents buy the pipe the Highway Department will install it and put the stone in.

Councilman Pluta noted that this Town Board and the Highway Department have been out walking and inspecting the town after the floods. We have gone through some preliminary proposals with the town engineer on how to control the water on Pin Oak Drive, Liebler, Boston Cross, and Hickory Meadows Roads.

A motion was made by Councilman Pluta and was seconded by Supervisor Hawkins to approve TVGA to proceed with the Engineering proposals for Pin Oak Drive, Liebler, Boston Cross, and Hickory Meadows Roads in the amount \$25,500.

four (4) Ayes Carried

Councilwoman Maghran requested all residents to report any street light outages to the Town Clerk's office. She also announced that school is now in session and Boston Valley Elementary is celebrating their 50 years anniversary with a year long celebration. She stated that a website is being set up and will report more information at future meetings.

Councilwoman Maghran reported on behalf of Councilwoman Dobson who was excused from this meeting. On 8/6/09 Councilwoman Dobson met with town engineers in regards to the tennis courts. She has also met with Assemblyman Quinn and Supervisor Hawkins to tour the flooding sites. Construction of the North Boston playground began on Sunday, August 16th. There was some damaged equipment which prevented the completion of the 5-12 year old section, but the 2-5 year old is complete. The Parks Department will finish with the woodchips. She thanked all the volunteers and all the businesses that donated food and drink.

Councilman Ruzzine noted that FEMA has announced that there will be aid for counties, towns, and villages to reimburse them for their response and damage due to the devastating storms. This is the first step in this process. This does not extend to homeowners or businesses as of yet. Washington officials have said they are going to keep fighting for the additional federal disaster aid and the state will have to apply again for a declaration that covers them. Until that time, we must collect as much information on the damages. Please call the Town Hall and arrange to drop off pictures and estimates of your damages. If they do come back and we do get the aid to be extended to homeowners, we want to be ready.

Councilman Ruzzine encouraged Boston residents to send letters of thanks to our Federal, State and County representatives.

Councilman Ruzzine noted that he received a petition from Thornwood and Park Drives property owners, requesting that the ditch be cleaned out on the southside of Thornwood Drive and the back of the properties from Park Drive to Eighteen Mile Creek. He stated it will need to be determined, whether this is a town issue or something FEMA aid will take care of.

A motion was made by Supervisor Hawkins and seconded by Councilwoman Maghran to adjourn the meeting at 8:26 p.m.

four (4) Ayes Carried

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DAVID J. SHENK, TOWN CLERK