

Town Board Minutes September 4, 2002

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Present were Councilman Damian P. Wiktor, Councilman Thomas A. Edington, Councilman Karl J. Simmeth Jr., Supervisor William A. Eagan, Highway Superintendent Wayne C. Kreitzbender and Town Attorney Michael F. Perley.

Absent: Councilman Dennis J. Mead.

Town Attorney Perley reported that Local Law No. 1 of the Year 1993 established a moratorium for building on the East Hill due to significant water problems. Proposed Resolution 2002-43 extends the moratorium on the East Hill that is not currently served by water. There is a disagreement as to the terms under which the Town of Boston should be allowed access to Erie County Water Authority water through Water District #17, a lease managed district in the Town of Orchard Park. Currently the Town of Orchard Park requires Water District #3 to incur an expense of over \$80,000 to obtain service. In consultation with Project Engineer, Nussbaumer & Clarke, if Water District #3 incurred the cost, additional Public Hearings must be held to increase the maximum amount to be expended and reapply to Audit & Control. With the current cost of water and the bond amortization the application would not pass Audit and Control.

Councilman Simmeth inquired that if water was brought to the areas not currently served on the East Hill, could the proposed Resolution 2002-43 be amended or would the moratorium on building stand.

Town Attorney Perley responded that if water service is available the moratorium is automatically lifted.

RESOLUTION 2002-43 EXTEND MORATORIUM IMPOSED BY

LOCAL LAW NO. 1 OF THE YEAR 1993

A motion was made by Councilman Simmeth and seconded by Councilman Edington to adopt minutes of the August 7, 2002 regular meeting.

four (4) Ayes Carried

A motion was made by Councilman Wiktor and seconded by Supervisor Eagan, upon review by the Town Board, that fund bills on Abstract #9, dated September 4, 2002 in the amount of \$246,581.87 be paid.

four (4) Ayes Carried

Received and filed Erie County Sheriff's Report for July 2002.

Received and filed from Erie County Department of Personnel an excerpt of the Law Governing Creation and/or Addition of Civil Service Positions and the procedures to follow.

Received a letter from Tim and Tricia Kirst commending Code Enforcement Officer Kramer.

REQUESTS FROM THE FLOOR

Theresa Gresco, 5545 Ripple Drive: I heard that someone is circulating a survey for a new drainage system. Who is going to pay for this survey?

Town Attorney Perley: If the Town Board determines that it is appropriate to go forward with a feasibility study, the study is paid for out of the General Fund.

Theresa Gresco: How many people would have to sign this petition before you would go ahead?

Town Attorney Perley: That is entirely within the discretion of the Town Board.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Theresa Gresco: If this goes through, would we have a guarantee that we would have a good drainage system?

Town Attorney Perley: It is difficult to tell you we would have a guarantee without a study.

Theresa Gresco: After living in that subdivision for forty-six years I have a few complaints about what has been done. The Town took the sewer over but did not maintain it which meant the residents had to pay to have the sewer rebuilt. We had two beautiful Creekside signs. The Town decided they did not want to do maintenance. My husband asked for a gallon of paint when the signs got rusty. The neighbors put flowers in and we mowed it. The next thing we knew our lovely signs were gone. We all bought our own gaslights. We had a gaslight community. The Town entered into a contract with National Fuel and decided they didn't want two contracts for gas and electric. We didn't have a telephone pole in our community because all our power came from the back. Then we got the unsightly telephone poles with the streetlights. Once we had a manhole overflow. It was pouring rain and my cellar was flooding and so were others. I said to the then Town Supervisor, "Can't you get somebody to help us out?" He said it would cost the town money. It seems everything we had the town took away from us and cost us money. If I have another sewage tax I don't know how much longer I can afford that. It seems like we are the orphans in this town. Our road is bad. I've been told they have no money to put a new road in after the sewer system. Why? I want to go on record that I don't think the town has had a very good interest in the Creekside residents in the past forty-six years.

Received from Erie County Department of Personnel the qualifications and duties of the new position(s) anticipated to be established, titled, a (40) Recreation Attendant PT (seasonal) (Labor Class). Town Attorney Perley noted that he reviewed the outline and it appears to be in order.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to approve the Erie County Department of Personnel qualifications and duties for the position(s) titled, a (40) Recreation Attendant PT (seasonal) (Labor Class).

four (4) Ayes Carried

Received a request from Boston Patriots Little League Football & Cheerleading for use of the Lions Shelter on September 7, 2002 from 8:00 a.m. to 8:00 p.m. for their first annual Chicken Barbecue.

A motion was made by Councilman Wiktor and seconded by Councilman Edington to grant the Boston Patriots Little League Football & Cheerleading use of the Lions Shelter on September 7, 2002 from 8:00 a.m. to 8:00 p.m. for their first annual Chicken Barbecue.

four (4) Ayes Carried

Received notification from the Boston Patriots Little League Football & Cheerleading organization that Recreation Director Clesse performed a National Youth Sports Coaches Association Seminar for the entire Southtowns Youth Football & Cheerleading Association on August 19, 2002. This NYSCA offers more insurance and helps protect the organization from liabilities.

Supervisor Eagan noted that he attended the class Recreation Director Clesse taught on coaching and she did an outstanding job.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Received and filed a memo from Stephen Tills, Boston Adult Soccer Coordinator, in response to Town Clerk Shenk's notification that the Town Board is seeking proof of the soccer field appropriation in the 2002 budget. According to Mr. Tills, review of the Culture & Recreation ? 2002 Budget, Code 7110.4 breaks down as follows:

\$60,000 bathrooms
\$30,000 soccer fields
\$10,000 fencing
\$ 6,000 back stop

The total amount is consistent with the listed budget appropriation.

Received and filed a letter from Jon Gruchala and Karen Miller, Boston Adult Co-Ed Soccer requesting the Town Board direct Parks Superintendent Kreitzbender to put the design work for a Proposed Recreational Facility and Soccer Fields out to bid according to the specifications outlined by Peter J. Smith & Co., to be reviewed by the Town Engineer and Town Attorney.

At 7:45 P.M. a Public Hearing was held to consider the application of Sharco Enterprises for a Special Use Permit for Topsoil Screening at 6752 Mill Street.

Supervisor Eagan read the legal notice and noted that thirty-seven (37) neighboring property owners were notified. An Assessor's map outlining the property and a letter of intent was included.

Joseph Hines, Boston State Road: Is this a new process or is it the same process?
From what I understand, you already have a permit. You are just dropping dirt into a screen, right?

Sharon Clark: We have been doing it for a long time.

Joseph Hines: I have no problem with that.

Susan Lanham, 9339 Boston State Road: I'm the owner of the Boston Deli and I have no objections to them doing this process.

Michael McCloud, Boston Fire Company: The President of the Fire Company asked me to tell you that we border right up to them and we have no problem with it.

Heidi Monin, Olde Liberty Tavern, 9368 Boston State Road: We live across the street and we don't have a problem with what they are doing.

Received a Planning Board recommendation of approval of the application submitted by Sharco Enterprises for topsoil screening at 6752 Mill Street contingent on strict adherence to the newly added 'topsoil' section of the Boston Town Code, specifically: Chapter 123, Section 71, Subsection B, Paragraph 5.

Councilman Simmeth: Sharon in your letter received at the Town Hall on May 30th, you made reference to the piles of dirt in the rear yard, please note the survey. When we talked to your husband Bob last night he said there would be no topsoil, or piles, or anything stocked piled there. You can stockpile them there, a certain amount.

Sharon Clark: If there are any that happen to be there that is where they will be.

Councilman Simmeth: And it will be in accordance with the code?

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Public Hearing (Cont.):

Sharon Clark: Yes.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to close the Public Hearing at 8:51 p.m.

four (4) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Edington to grant Sharco Enterprises a Special Use Permit for topsoil screening at 6752 Mill Street to expire 12/31/02.

four (4) Ayes Carried

At 7:50 p.m. a Public Hearing was held to consider the application of Verizon Wireless for a Special Permit for Modification to a Telecommunication Facility at 8881 Cole Rd.

Supervisor Eagan read the legal notice and noted that thirty-two (32) neighboring property owners were notified. An Assessor's map outlining

the property and a letter of intent
was included.

Received a Planning Board recommendation
of approval of the application submitted
by Verizon Wireless for modifications
to the telecommunication facility at
8881 Cole Rd.

Diane M. Lattin, Site Acquisition

Manager, WFI ? for Verizon Wireless,

133, Calkins Road, Rochester: I have

with me this evening John Englebert,

also with Verizon Wireless and Thomas Greiner, Verizon's Attorney. As you know we have been through a Planning Board review and that has been approved. Our application is for replacement of the existing four Omni antennas with a sectorized array of panel antennas. The purpose of the modification is to improve area coverage. The capacity just isn't sufficient at this time. The new antennas are shorter in length than the existing so the span of the installation will be reduced by approximately eight feet. We are happy to respond to any questions or comments that anyone might have and we would appreciate that opportunity.

Councilman Wiktor: Are these antennas whip model or cone shape?

Diane Lattin: These are panel antennas. They are rectangular.

Joseph Hines, Boston State Road: Do they go on an existing tower or a new tower?

Diane Lattin: These would be on the existing structure. They would be located at the same height as the existing antennas but because they are shorter they won't go quite as high in the air.

Town Attorney Perley: I have some questions for Mr. Greiner. For those Board members that haven't met Mr. Greiner in the past, Mr. Greiner was the attorney that represented Verizon Wireless during the original application process. Mr. Greiner I received correspondence yesterday from Town Justice Debra Bender that indicated there are legal proceedings currently pending in the Justice Court in this town that pertain to the lease arrangement between Verizon Wireless and the owners of the property. Is that correct?

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Public Hearing (Cont.):

Thomas Greiner: That is correct.

Town Attorney Perley: I haven't had an opportunity to review the court file. I also understand that the court file is somewhat substantial.

Thomas Greiner: Yes. The complaint in the action was fairly substantial and the answer was equally substantial.

Town Attorney Perley: Do you agree that if the plaintiff in that proceeding is successful, that one of the remedies would be to extinguish any lease rights that Verizon or Upstate Cellular has on the site?

Thomas Greiner: If the plaintiff were successful and if there was no redemption which is permitted in the Real Property Actions and Proceedings Law, then ultimately as in any eviction proceeding, if it is successful the tenant might have to vacate. There is a warrant for eviction.

Town Attorney Perley: I have heard some indication that there is a lease but the lease may not be fully executed. Is there a lease on this property?

Thomas Greiner: Yes there is a lease that was executed by both of the landlords. This property is jointly owned. Both landlords, and it is also executed by the tenant Upstate Cellular Network that is doing business as Verizon Wireless.

Town Attorney Perley: Is there some dispute as to whether or not this lease is fully and completely executed? To your knowledge?

Thomas Greiner: There are allegations in the complaint which we think have been refuted very adequately but there are allegations that there is no valid lease.

Town Attorney Perley: I don't want to try this lawsuit. I don't want these Town Board members to become the justices in a lawsuit but I do have concern that this Board may be asked to decide on an issue may not appropriately be before it. I would suggest to you that it would be appropriate for me to make arrangements with Justice Bender to review the court file with your permission, to at least give the Board some indication as to what the issues are between the parties, before we ask this Board to vote on the application. I see the plaintiff is here as well.

Thomas Greiner: I certainly think that is the prerogative of the Board to ask you to do that.

Town Attorney Perley: I suggested to the Board in our Agenda review last night that I would like that opportunity. It is up to the Board to determine whether or not they agree with me. Mrs. Killeen is here. I would like an opportunity before anything starts or before I make arrangements to go to Justice Bender's office, to review any lease documents or other documents that may be available to me. Now if you have any documents that you would like to present to me and if Mrs. Killeen has any documents that she would like to present to me, on a preliminary basis, I'll review those but I will review the court file in detail.

Thomas Greiner: I didn't bring the file with me, however I do happen to have with me a copy of the lease and some supporting documentation. I would be happy to give it to you.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Public Hearing (Cont.):

Allithea Killeen: I am co-owner of the property in question. I do not want, as Mr. Perley has indicated, I don't want to bring the merits of this litigation before this Board. I think it was previously instituted in the Town of Boston Justice Court and that is where it belongs. I will add that the merits of the claim were not lightly considered by myself. This controversy has been going on since the original application for the cell tower was made before the Town Planning Board. I want to point out that application was made four months before they had any permission to be on my property. They made it calling themselves the owners of the property. They made it without my knowledge. They made it on the wrong SBL number. They have caused the wrong school tax to be collected. My property splits between Orchard Park and Springville. They put it on the SBL for Springville although it was supposed to be Orchard Park. I had to have my property surveyed at my own expense. I had to have the taxing authorities change the designation because the wrong school district was getting it and through out all of this the cell tower authorities claimed it as was the fault of the Town of Boston. They blamed it on Mr. Kramer. It wasn't his fault. It was a mistake made by them and it has been a rats nest untangled. There is nothing specious or incidental about the claims that I have brought and this afternoon the process server came to my office in response to the fact that I had called Town Attorney Perley asking for council about the basically joint jurisdictions of the Town Board and the Town Justice Courts. Frontier's response was to send a process server to my office. Mr. Greiner neglects to tell you that I was sued this afternoon by Frontier Cellular. I will also tell you that for two years I personally have been paying Frontier Cellular's property taxes and they are far richer than I am. I am hoping that we get a fair and judicious hearing before the Town Justice Court. This set of papers I have here represents the claim against me today. I would encourage the Town to forestall it's hearing on this matter until the Town Justice Court has had a chance to understand whose property it is and who has a right to be there because it is our position that Frontier Cellular is in possession improperly of this property and there is no fully executed lease to this day. Standing before this body I can tell you quite honestly there is no site plan approval and never was. I never signed anything and it has never been approved and they are also required to give me notice of construction under the lease that they claim exists and that I claim does not. So even if you listen to them on the merits of their claim in the Justice Court they would be tonight, violating their own obligations under the lease agreement they feel is in place because how I heard

about this was a letter from the town officials saying, "Dear adjoining property owner". I would ask that the Town not consider this matter until it is decided in the Justice Court. Thank you.

Thomas Greiner: My previous remarks were limited to simply answering Mr. Perley's questions. I will not try this case here. I think it is perfectly appropriate for Mr. Perley to look at what's on file in the court. By the way, our answer has been on file in the court for many weeks. It is not as though this happened today. Let me just say one thing however. The company has never ever blamed the Town of Boston for creating a problem. The simple matter is that all the company has said about the issue of the SBL, the tax map number, is simply that the company, when it filed its building permit application, put in the correct tax map number, there is only one, and that's all. When I said I had the lease and some supporting documentation, one thing I copied for the town is a copy of our building permit application that may have inadvertently triggered a tale of woe if ultimately the property was put into the wrong school district but there is no place on the form for that. There is a place for the tax map number, the SBL number. The company filled out the proper tax map number on the building permit application. The building permit

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Public Hearing (Cont.):

Thomas Greiner (Cont.): application was granted. There was no ill will. There was no mistake made by the company. If it ended up that it was put into the wrong school district, it was not the company's fault. We are sorry that Mrs. Killeen had to go through whatever she went through to correct it. However, it really wasn't the company's fault. I would like to give this to Mr. Perley. I categorically deny and reject everything that Mrs. Killeen has said tonight but I will stand on the papers as they are reviewed by the Town Attorney.

Town Attorney Perley: I will accept it.

Thomas Greiner: The final thing that I would like to say as Ms. Lattin has said, the purpose of the antenna change is to provide better wireless telephone service to the people and users in that area of the Town of Boston. That is why we are here. This is a zoning matter. There is a private real estate dispute. We expect that either we will win, Mrs. Killeen will win or we will settle it. One of those three possibilities is certainly likely to happen. Whatever possibility will happen we expect to continue to be

able to provide a good wireless service to the town and that is the only reason for this application tonight. Thank you.

Supervisor Eagan: Town Attorney Perley, will you be sure we all get a copy of that building permit application?

Town Attorney Perley: Yes.

Councilman Simmeth: Diane, could I just ask a couple of questions? In your letter here it has the proposed modifications will not exceed structural loading requirements.

Diane Lattin: That is correct.

Councilman Simmeth: I am assuming with these new panels that the ice test and the wind test and what have you were done? Not just the panels on the structure?

Diane Lattin: At my original Planning Board meeting, the one that was cancelled due to lack of quorum, Mr. Perley specifically asked about the loading. I informed him at that time that the structure, when it was designed, was designed with future considerations in mind. Those future considerations for Verizon actually turned out to be more than what we were proposing at this time. At last month's meeting, when I was here before this Board, I did submit the structural verification to that fact and I hope that you have all had an opportunity to review that.

Town Attorney Perley: I did forward it to the Town Engineer and asked him to advise me if there were any problems and I've not heard from him but I will verify that before the next Board meeting.

Diane Lattin: I do have another copy of that with me if you would like it.

Councilman Simmeth: No, I will get it from Mr. Perley. Where you have the four existing and now there is going to be nine, are the nine bigger than the four that are there?

Diane Lattin: They are panel antennas as opposed to Omni so that they would be wider but they are shorter in length. They are only eight feet long.

Councilman Simmeth: As far as the area, I am looking at a co-location. Is it going to hurt a co-location down the road?

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Public Hearing (Cont.):

Diane Lattin: No it won't. In fact it will allow more space for additional carriers on the site because our span vertically is reduced significantly. So there would be room for an additional carrier to squeeze in a lot easier than with the Omni's that took up twice as much vertical space.

Joseph Hines: I would like to second the motion made by Mrs. Killeen that this not be voted on tonight.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to close the Public Hearing at 8:10 p.m.

four (4) Ayes Carried

Town Attorney Perley: The disposition and legal proceeding may or may not happen. There is a return date I think in October.

Allithea Killeen: September 30th.

Town Attorney Perley: Ok, September 30th. There may or may not be a disposition. I would certainly like the opportunity to review the court filings and confer with the Board about the propriety and the feasibility of approving a permit under these circumstances. There are competing interests here that I believe should be weighed by this Board. I would like the opportunity to report back to this Board in two weeks. Not necessarily to indicate that the Board will vote in two weeks but in two weeks to report to the Board for its further consideration as to how it wants to proceed. I would suggest that would be an appropriate way. It makes no representation that you will vote on the merits of the application at that time. Certainly so that all the parties here understand that this application will continue to be processed by the Board. And it may be our recommendation in two weeks that you wait until there is a decision by the courts. And it may not but certainly I think the parties are owed at least some further review of this application before the Board commits to that. I would suggest to you to table it for two weeks and ask me to review the court file.

A motion was made by Councilman Wiktor and seconded by Supervisor Eagan to table the application of Verizon Wireless for a Special Permit for Modification to a Telecommunication Facility at 8881 Cole Road until September 18, 2002.

four (4) Ayes Carried

Received an application for a Special Use Permit for Dumping of Material from Warren Steinberg, 7812 Eddy Road.

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to refer to the Planning Board an application for a Special Use Permit for Dumping of Material from Warren Steinberg, 7812 Eddy Road.

four (4) Carried

Received an Inspection Report from Deputy Code Enforcement Officer Lisowski regarding a complaint by James J. King, 8219 Fisher Drive of the fence along the Sprague Mobile Home Park (SBL#227.00-6-33. Declared a nuisance due to its rotted and deteriorated condition and in its present condition is

dangerous and unsafe and must be removed by September 3, 2002. Mr. Boyd will be responsible for replacement of a buffer and its maintenance. A Cease and Desist Order was issued on August 8, 2002.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Councilman Wiktor reported that the Town Board did a re-inspection of the Sprague Mobile Home Park on Tuesday, September 3, 2002. Mr. Boyd, Park owner, his attorney, Deputy Code Enforcement Officer Lisowski and James King were present. Mr. Boyd's attorney acted as a go-between for Mr. Boyd and Mr. King on the question of the fence separating the two properties. Councilman Wiktor noted that many of the issues noted by the Town Board have been addressed and there is a marked improvement.

A motion was made by Supervisor Eagan and seconded by Councilman Simmeth to grant a Mobile Home Park License to Sprague Mobile Home Park, to expire on June 30, 2003.

four (4) Carried

A Public Hearing was held on August 7, 2002 regarding Proposed Local Law No. 5 of the Year 2002, entitled, A Local Law to Amend Local Law No. 9-1990 Regarding the Installation of Storm Sewer Pipe in Open Drainage Ditches.

Town Attorney Perley commented that Proposed Local Law No. 5 of the Year 2002 concerns the application of a Public Improvement Permit procedure. The purpose of this law is to incorporate the construction specifications for the installation of the pipe.

Supervisor Eagan noted that he has concerns regarding Proposed Local Law No. 5 of the Year 2002. There is vagueness and he doesn't feel he has enough detail for a favorable vote.

A motion was made by Councilman Simmeth and seconded by Councilman Edington to adopt Proposed Local Law No. 5 (Filed as Local Law #3) of the Year 2002, entitled, A Local Law to Amend Local Law No. 9-1990 Regarding the Installation of Storm Sewer Pipe in Open Drainage Ditches.

Councilman Wiktor	Voting	Aye
Councilman Edington	Voting	Aye
Councilman Simmeth	Voting	Aye
Councilman Mead	Voting	Absent
Supervisor Eagan	Voting	Nay

three (3) Ayes one (1) Nay one (1) Absent Carried

A Public Hearing was held on September 3, 2002 as a result of an inspection of the property owned by Gerald Mazur at 6449 Willow Drive made by the Deputy Code Enforcement Officer, which resulted in a determination of an unsafe deck.

Town Attorney Perley noted that Gerald Mazur indicated that he believed the situation could be addressed with the existing deck material.

Councilman Wiktor commented that he inspected the deck at 6449 Willow Drive today and found the structure to be beyond repair.

RESOLUTION 2002-44 ORDERING REMOVAL OF CERTAIN STRCUTURES

OWNED BY GERALD MAZUR (SBL# 226.02-3-14)

A Public Hearing was held on September 3, 2002 as a result of an inspection of the property owned by Kevin and Susan Kamuda at 9424 Boston State Road made by the Deputy Code Enforcement Officer, which resulted in a determination of an unsafe barn.

Town Attorney Perley noted that the property owners did not appear at the Public Hearing. The Code Enforcement Officer reported that the owners lacked sufficient funds to arrange for private removal of the structure.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

A motion was made by Councilman Simmeth and seconded by Supervisor Eagan to table removal of certain structures owned by Kevin and Susan Kamuda at 9424 Boston State Road until the October 2, 2002 Town Board meeting.

four (4) Carried

Town Attorney Perley reported that a final draft of specifications and notice to bidders for the Solid Waste and Refuse Contract was presented to the Town Clerk.

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to schedule a bid opening for the Solid Waste & Refuse Contract for September 25, 2002 at 10:00 a.m.

four (4) Ayes Carried

Town Attorney Perley thanked the members of the Refuse Committee, Councilman Edington, Supervisor Eagan and Town Clerk Shenk for their participation in the meeting to review the original draft for the Solid Waste & Refuse Contract.

Received a request from Tracy Hirsch, 8171 Cole Road, for appointment as an Alternate to the Zoning Board of Appeals.

Councilman Wiktor reminded the Town Board that on April 3, 2002 a request was received from Frederick J. Pike Jr. for appointment to the Zoning Board of Appeals and he was also interviewed.

Councilman Edington inquired if there were two vacancies on the Zoning Board of Appeals.

Town Clerk Shenk reported that there is one vacancy as an Alternate to the Zoning Board of Appeals, term to expire 12/31/04.

A motion was made by Councilman Simmeth and seconded by Supervisor Eagan to appoint Tracy Hirsch as an Alternate to the Zoning Board of Appeals, term to expire 12/31/04.

Councilman Wiktor	Voting	Nay
Councilman Edington	Voting	Aye
Councilman Simmeth	Voting	Aye
Councilman Mead	Voting	Absent
Supervisor Eagan	Voting	Aye

three (3) Ayes one (1) Nay one (1) Absent Carried

Received a proposal from Mark D. Alianello, P.E. for Professional Engineering Services for PIP Inspection Services for Hickory Meadows Subdivision ? Phase 2A.

Town Attorney noted that a prior proposal was received from R&D Engineering Inc. for Professional Engineering Services for Hickory Meadows Subdivision ? Phase 2A. R&D Engineering requests to be removed from consideration if Mr. Alianello is to be considered due to questions of a conflict of interest pertaining to the Project Design Engineer inspecting installations of Phase 2A on behalf of the Town of Boston. Town Attorney Perley noted that he shares these concerns. He reminded the Town Board that he recommended Mark Alianello be interviewed for Town Engineer at appointment time which expresses his regard for Mr. Alianello's professional ability. Mr. Alianello has agreed that as town inspector/engineer for the Hickory Meadows project, material changes from current drawings will be

referred to R&D Engineering and close contact with the Highway Superintendent and Town Officials will be maintained. With these caveats in agreement, he has no legal objection to the appointment of Mark Alianello as inspector for the Hickory Meadows Project, pursuant to the terms and conditions cited, subject to an amendment to the contract.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

Supervisor Eagan noted to clarify and Town Attorney confirmed that if there are changes in the field design, Mr. Alianello must refer the changes to R&D Engineering for review and opinion.

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to appoint Mark Alianello, P.E. for Professional Engineering Services for PIP Inspection Services for Hickory Meadows Subdivision?Phase 2A, pursuant to terms/conditions cited.

four (4) Ayes Carried

PROCLAMATION KYLE KREIGBAUM ? EAGLE SCOUT

RESOLUTION 2002-42 PASTOR GARY V. BURDICK ANNIVERSARY

SUPERVISOR REPORT

Supervisor Eagan reported that Lake Effect Harmony will sponsor, ?A Day of Remembrance? on September 11, 2002 at the Boston Valley School.

Supervisor Eagan reported that James Reichert, Boston Football/Cheerleading President requested clarification, and the protocol in writing for the Boston Ambulance Service so that the EMS may respond to calls in a timely fashion.

Supervisor Eagan commented that he attended the game cited in Mr. Reichert's letter when a player was injured. Boston EMS has a fine squad and they need more members but no one lacks in responsibility for their care and interest. Boston is protected seven days a week, 24 hours a day. Arrangements through a Mutual Aid program assures that all calls are responded timely. EMS President Wendy O'Bryant will talk to the membership about members on call and the possibility of other venues to explore.

Lisa Gandy, 6714 Redwing Drive: On Sunday I was camping on Rice Road and there were Patchin Firemen, North Boston Firemen, and an EMT from Rural Metro camping with us. My husband had a heart attack at 2:50 p.m. and we called 911 at 3:00 p.m. 911 called back to ask if anyone came and no one had. Forty-five minutes later Colden came, then Rural Metro. I'm not blaming anyone. I heard that a lady tried to get the squad out and she couldn't get in without a key. She did make a second call to the dispatcher. I don't understand why Rural Metro isn't here on stand-by if there is no one on call? There is the EMS and three fire companies. Why can't they work together?

Town Attorney Perley commented that the Boston Emergency Squad responds to about three hundred calls a year. The Town Fire Companies are not authorized under the contract with the Town to provide medical service. Any member of the Fire Company may assist an individual but they have no protection, based upon their status as a fireman, when they render medical assistance in an emergency medical situation.

Lisa Gandy: Why can't they work together?

Town Attorney Perley: The EMS has invited qualified people to join. We have two separate structures in Boston. That is the way it was formed and that is the way it operates. We have an Ambulance District and a Fire District. I've been involved with this government for more than twenty years and this is the first time I've heard that the EMS hasn't responded. This is a new issue for the Town Board and the EMS to look at.

Supervisor Eagan commented that it wasn't a question that the EMS didn't respond but rather a situation where a squad member had the wrong key in her rush to respond. She kept a clear head, called dispatch and Rural Metro was already dispatched.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

SUPERVISOR REPORT(CONT.)

Lisa Gandy: If you have enough fireman that are qualified to go out, and if they can respond just as fast, why not have them under the insurance?

Town Attorney Perley: The Town of Boston established an Ambulance District to provide emergency benefit services. Town law provides that you can only do that when the firemen don?t.

TOWN CLERK REPORT

Town Clerk Shenk reported that hunting licenses are now on sale and the new NYS DEC program is very challenging. There are numerous issues and delays. Deer Management Permit applications are due October 1, 2002.

Town Clerk Shenk announced that school taxes will be mailed approximately September 13, 2002.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that September 16, 2002 is the first fall brush pick-up and the last pick-up will be in October.

Highway Superintendent Kreitzbender reported that the new sewer and water lines were installed for the new restrooms in the Town Hall Park. Highway Superintendent Kreitzbender thanked the Town of Concord for the use of their small backhoe and operator. Bids from two contractors were over \$5,000 and with the Mutual Aid program the total cost will be about \$700.

COUNCILMAN REPORT

Councilman Wiktor reported that Erie County was requested to cut the grass and shrubs growing along guardrails on the State Road.

Councilman Wiktor reported that brush growing on the west side of the road exiting St. John's Cemetery restricts visibility.

Highway Superintendent Kreitzbender commented that St. John's Cemetery is in Erie County's right-of-way and he will report this.

Supervisor Eagan noted Back Creek Rd has visibility problems also.

Councilman Wiktor complimented Leo Jensen, Town Hall Laborer, and Highway Superintendent Kreitzbender for preparations for the nine Summer Concerts in the summer series.

Councilman Wiktor reported that David Measer resides at 179 East Main Street, Hamburg, which is approximately 2.4 miles outside Boston Town limits. Mr. Measer is a paramedic and former resident of the Town of Boston and a former member of Boston EMS. In the by-laws of the Boston Emergency Squad approval is required for him, as a member of the Boston Emergency Squad, to respond to call time from his residence.

A motion was made by Councilman Wiktor and seconded by Supervisor Eagan to grant David Measer, 179 East Main Street, Hamburg, as a member of the Boston Emergency Squad, permission to respond to call time from his residence.

four (4) Ayes Carried

Councilman Simmeth reported that the Boston Patriots Little League Football and Cheerleading chicken barbecue is September 7, 2002 from 11:00 a.m. to 8:00 p.m. Tickets are \$7.00 and available in Supervisor Eagan's office.

REGULAR TOWN BOARD MEETING TOWN HALL

SEPTEMBER 4, 2002 7:30 P.M.

COUNCILMAN REPORT(CONT.):

Councilman Simmeth noted that regarding Theresa Gresco's complaints concerning the Creekside Subdivision, the survey being circulated for the drainage issue is for the betterment of the community. The Creekside residents saved money by having Erie County Sewer Authority take over the sewer system in Creekside.

Theresa Gresco commented that her main complaint is the roads. She noted that Councilman Mead assured her that there would be new and good roads in the subdivision when the sewer project was done.

Councilman Simmeth responded that plans are ongoing to restore the roads in the subdivision.

Highway Superintendent Kreitzbender commented that on August 1, 1999 the road in the Creekside Subdivision was restored by his predecessor who would not have done the project if he knew that a sewer restoration was planned. R&D Engineering accepted fault for not specifying that a new road be installed after the sewer restoration project. Highway Superintendent Kreitzbender has been in contact with Erie County regarding new roads in the Creekside Subdivision.

Councilman Edington reported that an AARP "55 Alive" Defensive Driving Course will be held at the Boston Town Hall October 1st and 3rd.

Received and filed the Code Enforcement Officers monthly reports for August 2002.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to adjourn the meeting, in memory of those who perished in the September 11, 2001 tragedy, at 9:10 p.m.

DAVID J. SHENK, TOWN CLERK