

Town Board Minutes July 19, 2000

REGULAR BOARD MEETING TOWN HALL

JULY 19, 2000 7:30 P.M.

Present were Councilman Damian P. Wiktor, Councilman Stephen K. Tills, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead,

Supervisor Lisa M. Rood, Highway Superintendent Wayne C. Kreitzbender and Town Attorney Michael F. Perley.

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

A motion was made by Councilman Simmeth and seconded by Councilman Tills to adopt the minutes of the June 21, 2000 monthly meeting.

five (5) Ayes Carried

A motion was made by Councilman Tills and seconded by Councilman Mead, upon review by the Town Board, that the General Fund and Special District Bills on Abstract #7, dated July, 19, 2000 in the amount of \$25,294.23 be paid.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Simmeth, upon review by the Town Board, that the Highway Bills on Abstract #7, dated July 19, 2000, amount of \$38,178.66 be paid.

five (5) Ayes Carried

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to accept the Town Clerk's Report for June 2000.

five (5) Ayes Carried

Received and filed notification from the NYS Education Department of a 2000-2001 Local Government Records Management Improvement Fund Grant for \$3,415 for the Town of Boston.

Town Clerk Shenk commented this grant will dovetail the active court records system with the inactive records, which was completed with a previous grant. When finished our court records filing system will mirror the state retention schedule.

Received and filed notification from People Inc, of the interest and intent to establish an Individual Residential Alternative, (IRA), for the developmentally disabled adults in Boston. Land on Mill Road has been identified as suitable for construction of a group home.

Supervisor Rood reported that the Town Board met with Rhonda Frederick, People Inc. Director of Program Development and attended a neighborhood meeting with area residents. Concerns were voiced that the nearby creek may pose a problem for unsupervised developmentally disabled adults but People Inc. assured residents that there is 24 hour staffing. Supervisor Rood expects that this project will move forward quite rapidly.

Received and filed Erie County Sheriff's Report for June 2000.

REQUESTS FROM FLOOR

Burdett Rust, 4720 Edgewood Terrace: I would like to thank Supervisor Rood for her assistance with regards to the National Fuel situation within the Taylor-Eckhardt Roads area. Basically I am here to give you an update. National Fuel does have licensed landscape architects on their staff but I have yet to meet with them to discuss the entire restoration of my property. Some restoration work has been done with regards to drainage on Eckhardt Road.

Supervisor Rood read an update on the restoration project received from National Fuel on July 19, 2000.

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Burdett Rust: My son is here and has questions that I would like him to bring to the attention of the Town Board. We have some concerns on the recreational use of our land. Now we have a four-lane highway for four wheeling and snowmobile vehicles. This restoration project for the next three years is going to take time to recover and we are concerned about our liabilities for people who get injured on our property and what are the rights of right-a-ways. Maybe Mr. Perley can lend some information to this effect. Do I have the right as a homeowner to place fences to slow these recreational vehicles down? Has this depreciated the value of my property?

Jeremy Rust, 4720 Edgewood Terrace: My questions concern what my father has said about the possibility of having to take out more liability insurance and do we put up fences to stop snowmobiles from using the property? Is this really our property? What is this right-a-way? Is it an easement? How do they differ and can we plant in it? Does National Fuel have the right to tell us what we can and cannot plant? Are there waivers that if we feel that vegetation, natural barriers, would stop these people from coming through, would help to decrease our liability, is that something that we can do? I am a landscape architect student. Do we work with National Fuel to try and come up with a vegetative master plan for this easement? These are the questions that I have brought to the Town Board. We would like some feedback both verbally and written for our file in regards to liability on the right-a-way. We would like an answer tonight or by the next Town Board meeting because it is a big liability for our property.

Supervisor Rood: I am not an attorney and I don't know what your easement states but I can tell you that I met with National Fuel, the State Police and the Sheriff's Department representatives several months ago because the Town of Concord was experiencing problems with four wheelers and snowmobiles on the right-a-way. National Fuel made it very clear that no one may trespass on their right-a-way and if you call them they will prosecute to the full extent of the law. They ask homeowners to make them aware of problems. I cannot answer the question of your personal property and your easement. I don't believe that is a town matter. I believe that you and National Fuel have entered into an agreement and the town has no intervention.

Town Attorney Perley: I can't give you legal advice as a private citizen. My responsibility to the Town of Boston is to the Town of Boston as a corporate body. Many of the questions you have asked me, you would ask a private attorney and I can't answer in the capacity as Town Attorney but I can address one item. With regard to the fence, as far as our zoning laws are concerned, you are allowed to put up a fence within your property boundary. There is a height restriction. You mentioned liability. If you take a look in the General Obligations Law there is a section that the town and the state have relied upon, but it has universal application, that if you don't improve your property for any recreational purpose and you don't charge a fee, there is a potential exemption for liability. If you mention General Obligations Law to your attorney he can discuss this with you in greater detail.

Councilman Simmeth: Mr. Rust, did they replace the drainpipe?

Town Attorney Perley: With the Board's permission I will give Mr. Rust a copy of this letter from National Fuel.

Burdett Rust: They (National Fuel) mentioned to me that they were going to be at my property at 7:30 a.m. They wanted to know about this particular piece of drainpipe. They did come out but they haven't formally met with me to talk about the complete restoration of the property.

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A motion was made by Supervisor Rood and seconded by Councilman Simmeth to forward Speed Limit reductions requests on Trevett, Eddy, and Hillcroft Roads to the Highway Safety Committee for review and recommendation:

five (5) Ayes Carried

A motion was made by Councilman Tills and seconded by Councilman Simmeth to approve the following General Fund and Special Districts Transfer of Appropriations:

Approp: A 960 \$5000.00

From: Attorney A1420.1 \$5000.00

To: Attorney A1420.4 \$5000.00

Approp: A960 \$ 398.25

From: Cont. A1990.4 \$ 398.25

To: Tax&Assm A1950.4 \$ 398.25

five (5) Ayes Carried

A motion was made by Supervisor Rood and seconded by Councilman Simmeth to issue a Mobile Home Park License to John & Katherine Falkides for Boston Hills Homes and Estates effective 7/1/00 to 6/30/01.

five (5) Ayes Carried

Supervisor Rood commented that regarding the Mobile Home Park owned by Richard & Joy Boyd, a license was not granted for the 1999-2000 period because many items needed to be rectified. Many improvements have been made.

A motion was made by Supervisor Rood and seconded by Councilman Tills to issue a Mobile Home Park License to Richard & Joy Boyd for Sprague Mobile Home Park effective 7/1/99 to 6/30/00.

five (5) Ayes Carried

Supervisor Rood commented that regarding the 2000-2001 Mobile Home license for Richard & Joy Boyd, in her opinion Mr. Boyd has shown he is willing to work with the Town Board and improve the

environment but he has not gone far enough. Upon issuing the 2000-2001 license Supervisor Rood wishes Mr. Boyd to know that she would like to see more improvements.

A motion was made by Supervisor Rood and seconded by Councilman Mead to issue a Mobile Home Park License to Richard & Joy Boyd for Sprague Mobile Home Park effective 7/1/00 to 6/30/01.

five (5) Ayes Carried

Supervisor Rood noted that she directed the Town Clerk to forward to the Mobile Home Park owners a flyer announcing a program by the Erie County Department of Environment & Planning, funded by HUD, for residents of Mobile Home Parks in Boston to apply for financial assistance up to \$5000 based on income.

Town Attorney Perley suggested that the letter of transmittal on the license renewal be sent to Mr. Boyd's attorney, Brian Attea.

Received and filed letters from Joy Woodrow, 7600 Lower East Hill Road and Debra and Ray Morin, 7744 Lower East Hill Road regarding Patchin Fire Company's lack of a water pumper truck for fire protection.

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Town Attorney Perley commented that the town enters into a contract with the three (3) fire companies. A condition of the contract is that the town has an obligation to compensate each company to a level that would permit them to adequately provide fire protection. The obligation of the fire company thereafter is to adequately provide fire protection. It is appropriate that these concerns be brought to the attention of the Patching Fire Company for review and to address the Town Board. The Town Board can then take appropriate action in the discharge of its obligation under town law to provide fire protection to the citizens.

A motion was made by Supervisor Rood and seconded by Councilman Tills to forward the letters of Joy Woodrow and Debra and Ray Morin to the Patchin Fire Company and request they respond to them and copy the Town Board any correspondence and send a representative to the next Town Board Meeting August 16, 2000 to discuss this matter.

five (5) Ayes Carried

A motion was made by Councilman Wiktor and seconded by Councilman Mead to approve the following Summer Recreation Department appointments, term retroactive to 7/5/00 through 8/31/00:

Julie Elhers Supervisor Associate \$6.25 per hr.

Alexandria Hess Crafts Supervisor \$6.10 per hr.

Tina Mussleman Crafts Supervisor \$6.10 per hr.

Doris Pilato Crafts Supervisor \$6.10 per hr.

Tammy Rockwood Counselor \$5.45 per hr.

Andrew Smith Site Supervisor \$7.60 per hr.

five (5) Ayes Carried

Supervisor Rood reported that the Sewer District No. 3 Board of Managers announced that the flat charge in the Boston Valley Extension will decrease \$30.00 per unit per year. The estimated assessed value charge would decrease \$.07 per MAV.

Received and filed a letter from Congressman Jack Quinn thanking the Town of Boston for use of the Town Hall for the Outreach Program in June and again on August 25, 2000.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to grant Jerome Schunk permission to use the South Boston Park on August 6, 2000 for a birthday party. No alcoholic beverages will be served.

five (5) Ayes Carried

Councilman Mead thanked family members and friends for joining him in honoring his mother, Margaret E. Mead, for the dedication of her watercolor painting titled, "A Creek in Boston" to be on public view in perpetuity in the Boston Town Hall for all to enjoy.

RESOLUTION 2000-22 MARGARET E. MEAD DEDICATION

Councilman Wiktor read a Resolution presented by Erie County Legislator Frederick Marshall and adopted by the Erie County Legislature in honor of Margaret E. Mead.

Town Attorney Perley read a NYS Assembly Resolution sponsored by Sam Hoyt in honor of Margaret E. Mead.

Councilman Mead thanked Deputy Town Clerk Karen Ellis who worked hand in hand with Gerald Mead. Councilman Mead presented his brother Gerald, the family historian, with the resolutions for safekeeping.

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Supervisor Rood noted that she spoke with Karen Ellis today and she wishes to extend her thanks to the Mead family for the painting and regrets that she cannot be here to share in this dedication. Supervisor Rood also thanks the Mead family for the beautiful painting and noted that earlier this evening the Boston Welcome Wagon planted a tree near the bocce court in memory of Margaret Mead. There is a plaque with Margaret's name at the base of the tree and although she is not here, she is here in spirit.

SUPERVISOR REPORT

Supervisor Rood announced that she attended the Rural Transit Service Volunteer Recognition Day on June 23, 2000 at Chestnut Ridge Park to honor the volunteers that work for Rural Transit. Awards were given to eight (8) volunteers from the Town of Boston who also serve the Town of Colden. The Town of Boston was given an award for dedication and support of the Rural Transit Service.

Supervisor Rood reported that Tom Lanham, Girls Softball Leader, informed her that the snack shack in the town park has been broken into. Between forty and fifty dollars plus all the candy was stolen. The recreation department is requesting that the community cooperate in apprehending the persons responsible and that a reward will be given for information leading to the arrest and conviction of the guilty party. Councilman Mead has offered a motion detector light for added security. Supervisor Rood asks the residents to please keep an eye open and report any incidents.

Supervisor Rood reported that hopefully the Meals on Wheels program will be available in the Town of Boston. Presently a volunteer coordinator, officers, Board of Directors and volunteer drivers are needed. If anyone is interested please contact Supervisor Rood.

TOWN CLERK REPORT

Received and filed the Tax Collector Monthly Report for June 2000.

Town Clerk Shenk thanked Deputy Town Clerk Karen Ellis for covering the office during his June military leave.

Town Clerk Shenk reported that the Safety Committee met on June 27, 2000. The Town of Boston received a 20% Loss Control Certificate for 1999 allowing the discount for Workers Compensation to be as high as possible.

Town Clerk Shenk announced that hunting and fishing licenses will go on sale August 14, 2000.

Town Clerk Shenk announced that he will be in the Hillfest dunk tank immediately following the parade and he will be wearing his tax collector shirt.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender reported that the CHIPS projects are about 90% done. He is waiting for the oil company to micro-pave and then the reimbursement of about \$4,800 can be applied for. The work is ahead of schedule.

TOWN ATTORNEY REPORT

Town Attorney Perley reported that he met with Mr. Ganey (Real Estate Broker) regarding the land acquisition of the Harold Frantz property. Mr. Ganey is in the final stages of preparing the appraisal on the property. Next week Town Attorney Perley will meet with one of the property owners and the Nussbaumer & Clarke Engineers regarding the potential pump station site.

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TOWN ATTORNEY REPORT (CONT.)

Town Attorney Perley thanked Deputy Town Attorney Terrizzi for looking after the town during the ten days he was out of town.

COUNCILMAN REPORT

Councilman Mead reported that he attended a meeting this morning with Supervisor Rood, Councilman Wiktor and Patricia Watson, Supervisor of Case Management Services for Erie County. Kristin DeMartino, our local representative and case manager was also present and offered good information on the Meals on Wheels program along with other senior services that are offered to our residents. Ms. DeMartino offered to attend the senior meetings and explain the services available.

Councilman Wiktor congratulated the Boston Youth Softball Association for another successful season. Congratulations also to the Softball Association who had eighteen (18) teams participating in their tournament.

Councilman Wiktor thanked Highway Superintendent Kreitzbender and his Parks Crew for the job done on the fields this season. Many people who attended the Softball Tournament complemented the grounds and the facilities in Boston.

Councilman Simmeth reported that he is working on drainage problems on Pinehurst and Taylor Roads.

Councilman Tills reported that regarding the Hillfest event there will be a new feature called the "Hole in One, Closest to the Hole" competition sponsored by the Boston Chamber of Commerce for aspiring golfers.

CODE ENFORCEMENT OFFICERS REPORT

A) Code Enforcement Officers monthly report for June 2000 was received and is on file in the Clerk's Office.

DOG CONTROL OFFICER MONTHLY REPORT

A) Dog Control Officers monthly report for June 2000 was received and is on file in the Clerk's Office.

TOWN ENGINEER REPORT

A) Town Engineer's monthly report for June 2000 was received and is on file in the Clerk's Office.

Supervisor Rood invited everyone to attend the Hillfest on Saturday and Sunday in the Boston Town Park.

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to adjourn the meeting at 8:33 p.m.

DAVID J. SHENK, BOSTON TOWN CLERK