

Town Board Minutes May 7, 2003

REGULAR BOARD MEETING TOWN HALL

MAY 7, 2003 7:30 P.M.

Present were Councilman Damian P. Wiktor, Councilman Richard K. Hawkins, Councilman Karl J. Simmeth Jr., Councilman Dennis J. Mead, Supervisor William A. Eagan, Highway Superintendent Wayne C. Kreitzbender and Town Attorney Kelly A. Vacco.

Rev. Gary Burdick, Faith United Church of Christ, opened the meeting with a prayer.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to re-appoint Conservation Advisory Council Member Mary Alice Tock to the Erie County Environmental Management Council (ECEMC), term to expire 5/31/05.

five (5) Ayes Carried

Received a request from Highway Superintendent Kreitzbender to transfer funds for the purchase of a Chevy Pick-up Truck.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to approve the following transfer of appropriations:

From: DA5110.4 General Repairs ? Contractual \$14,955.50

DA5130.4 Machinery - Contractual 14,955.50

TO: DA5130.2 Machinery-Equipment- 29,911.00

five (5) Ayes Carried

Received a request from the Welcome Wagon Club of Boston to plant a tree on town property and have a reception in the Community Room in memory of the First Club President Florence Carroll, on June 14, 2003 at 1:00 P.M.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to grant the Welcome Wagon permission to plant a tree on town property and have a reception in the Community Room in memory of the First Club President Florence Carroll, on June 14, 2003 at 1:00 P.M. Lynn Zachmann, Conservation Advisory Council Member, is to be consulted on the placement of the tree.

five (5) Ayes Carried

A motion was made by Councilman Simmeth and seconded by Councilman Wiktor to adopt the minutes of the April 16, 2003 regular meeting.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Wiktor, upon review by the Town Board, that the fund bills on Abstract #5A, dated May 7, 2003, amount of \$171,071.92 be paid.

five (5) Ayes Carried

Received and filed Erie County Sheriff March 2003 Monthly Report.

Received an invitation to AMVETS Post 219 new building dedication ceremony and open house on May 18, 2003.

Received and filed notification of a liquor license renewal for the Olde Liberty Tavern, 9638 Boston State Road.

REQUESTS FROM THE FLOOR

Gayle Hanley, 5622 Northside Drive: Councilman Simmeth and I have discussed drainage problems in the Creekside and Meadow Drive Subdivision and I am wondering what the current status is. Last fall we submitted petitions signed by half the residents and we have not had any feedback. I talked before with Councilman Simmeth regarding the standpipe at the edge of our property and REGULAR BOARD MEETING TOWN HALL

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REQUESTS FROM THE FLOOR (CONT.):

Gayle Hanley (cont.): the possibility of having it lowered to assist in the drainage. There is concern among the neighbors that nothing has been addressed. Mr. Shea has sent Councilman Simmeth a letter with a history of problems in the area that still has not been addressed. There is a concern with standing water and the West Nile virus.

Gayle Hanley presented the Town Board with pictures of the backyards during the latest Spring rainy season and pictures of the standpipe.

Councilman Wiktor: The pictures will be forwarded to our Town Engineer.

Councilman Simmeth: R&D Engineering reviewed this last year and determined that a pipe running down Elmtree would send too much water on Boston State Road. Former Town Attorney Perley submitted the petitions to Town Attorney Vacco to structure a proposal for a Drainage District to be voted upon.

Gayle Hanley: I know things do not happen overnight but I have been talking with Councilman Simmeth for three years now. Is the contractor Greenauer going to return to do restoration work? Is there any timeframe to repave our roads?

Highway Superintendent Kreitzbender: Tomorrow at 9:30 a.m. there is a scheduled walk-through with myself and three officials from the Sewer Authority who are aware of the problems. Restoration work will be done to our satisfaction or money will be withheld and we will have someone else do the work. Repaving discussions will take place tomorrow.

Resident, 5557 Northside Drive: Since they installed the sewers, every time it rains the circle floods and the water runs down the manhole that is lower than the surface.

Highway Superintendent Kreitzbender: That will also be discussed tomorrow.

Arlene Polak, 7118 Parkside Drive: I spoke with Councilman Simmeth on Christmas Eve. Is my neighbor allowed to dump water from a hot tub into the back yard? You said you'd get back to me after the first of the year but you never did.

Councilman Simmeth: As long as people are discharging water on their property there is nothing we can do.

Code Enforcement Officer Lisowski: If the water is purposely discharged on a neighbor's property that would be a violation.

Arlene Polak: When the sanitary sewers were being installed he requested to have two receivers in his back yard. Was that the reason for it? I have an appointment tomorrow morning at 11:00 a.m. with the Greenauer Contractors.

Councilman Wiktor: This would be a question to ask the Sewer Representatives tomorrow morning at their walk-through.

Peter Walter, 7906 Lower East Hill Road: Regarding the Firefighters Service Award Program, it was voted on that we receive additional payment per month after the age of sixty if the points were acquired in the previous year. It was stated that we would receive an increase January 1, 2003. We started receiving increased payments and today I received a letter from Penflex, Inc. stopping all payments and asking for the money back. Does anyone know why this is taking place?

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REQUESTS FROM THE FLOOR (CONT.):

Supervisor Eagan: A few weeks ago there was a question as to the start of the program and whether it was retroactive to 2002. The referendum was checked and discussed with the Town Board and it was determined that it would begin 2003. I am not aware of the letter asking for the money back but I assure you that I will call them tomorrow and someone will contact you with an answer.

Peter Walter: I already called Mr. Hoolihan and he drafted the proposal and feels we are entitled to it. I called Mark Flaherty, Service Award Representative, and faxed him a copy of the original proposition and he thinks we are entitled to the money. It affects quite a few people.

Councilman Hawkins noted the Penflex letter states that the benefit starts 6/1/03 instead of 1/1/03 and that is probably the reason they are asking for the money back.

Arlene Polak: I never had a sewer in front of my home and since that sanitary sewer came in I have one on the left side of my driveway. When they paved that road they took the top two inches off now there is always water standing. They dropped the manhole.

Highway Superintendent Kreitzbender: That will be addressed tomorrow at the walk-through.

Received a request from Deputy Town Clerk Ellis to attend a PERMA Conference, Bolton Landing, New York, May 21-24, 2003.

A motion was made by Councilman Mead and seconded by Councilman Wiktor to approve a request from Deputy Town Clerk Ellis to attend a PERMA Conference, Bolton Landing, New York May 21-24, 2003, Town reimbursement for one day hotel at the single rate with three meals, and mileage.

five (5) Ayes Carried

A motion was made by Councilman Mead and seconded by Councilman Hawkins, on the recommendation of Recreation Director Clesse, to appoint the following to the Summer Day Camp, term effective immediately and to expire on August 31, 2003:

NAME TITLE HOURLY WAGE

Anna Neighbor Craft Supervisor \$6.25

Amanda Daly Camp Counselor/lifeguard \$5.25/\$7.00

Brianna Drews Substitute Camp Counselor \$5.25

Keara-Marie Eagan Substitute Camp Counselor \$5.25

Christina Evans Substitute Camp Counselor \$5.25

Heather Gressell Substitute Camp Counselor \$5.25

Allyson Muraco Substitute Camp Counselor \$5.25

Connor Reilly Substitute Camp Counselor \$5.25

Melissa Rishel Substitute Camp Counselor \$5.25

Nicholas Rosinski Substitute Camp Counselor \$5.25

Kathryn Rzesutek Substitute Camp Counselor \$5.25

Councilman Wiktor Voting Aye

Councilman Hawkins Voting Aye

Councilman Simmeth Voting Aye

Councilman Mead Voting Aye

Supervisor Eagan Voting Abstain

four (4) Ayes One (1) Abstain Carried

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On Monday, May 28, 2003 the following bids were opened and read aloud for the 2003 Yellow Bus Transportation Program:

COMPANY RT.1 RT.2 RT.3 RT.4 SKI

Laidlaw Transit \$155 \$155 \$155 \$155 \$175

Fisher Bus Service \$190 \$190 \$190 \$190 \$235

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor, on the recommendation of Recreation Director Cleese, to award the 2003 Yellow Bus Transportation Bid to Laidlaw Transit.

five (5) Ayes Carried

Received a request for a 3rd accessory building from Richard and Teresa Young, 9351 Zimmerman Road.

Code Enforcement Officer Kramer: A request for an accessory building in our zoning ordinance, section 125, states that for more than one accessory building, Town Board approval is required. Regarding the Young request it is not detrimental to the neighbors as it is a wooded parcel and the building is set back

in the trees. Regarding the Pohl request for a 2nd accessory building, he needed a variance because the building was over 725 square feet. He has an existing building 8X16 and the neighbors have no objections to this building. In my opinion both requests should be approved.

A motion was made by Councilman Mead and seconded by Councilman Simmeth, on the recommendation of Code Enforcement Officer Kramer, to approve a request for a 3rd accessory building from Richard and Teresa Young, 9351 Zimmerman Road.

five (5) Ayes Carried

Received a request for a 2nd accessory building from Michael Pohl, 6477 Hillside Drive.

Received a Zoning Board recommendation of approval of a variance for 6477, Hillside Drive contingent upon Town Board approval for a second accessory building.

A motion was made by Councilman Mead and seconded by Councilman Wiktor, on the recommendation of Code Enforcement Officer Kramer, to approve a request for a 2nd accessory building from Michael Pohl, 6477 Hillside Drive.

five (5) Ayes Carried

Received a request from Ronald Wierzba to rezone 8338 Boston State Road from C-1 to R-2.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to refer a request from Ronald Wierzba to rezone 8338 Boston State Road from C-1 to R-2 to the Planning Board for review and recommendation.

five (5) Ayes Carried

Received a request from Sharon Thompson to construct an addition for the Three Girl's Café, 8373 Boston State Road.

A motion was made by Councilman Mead and seconded by Councilman Simmeth to refer a request from Sharon Thompson for a Site Plan Review for the construction of an addition for the Three Girl's Café, 8373 Boston State Road, to the Planning Board for review and recommendation.

five (5) Ayes Carried

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Supervisor Eagan directed Deputy Clerk Ellis to request the status of the parking lot expansion project for the Three Girls Café from the Planning Board.

Tabled a request for co-location on the telecommunication tower at 6405 Ward Road from Wireless Solutions, LLC, agent for AT&T Wireless, as requested by the applicant.

RESOLUTION 2003-16 REQUESTING AN EQUITABLE AND DEDICATED SHARE OF THE NEW YORK STATE WIRELESS SURCHARGE

Request for use of the South Boston Park on May 10, 2003 from Honna Minnerup, 5466 Creekside Court #E. was withdrawn.

Received a Planning Board recommendation of approval for the Rucker rezoning request, 8889 Boston State Road, from C-1 to R-3.

A motion was made by Supervisor Eagan and seconded by Councilman Mead to schedule a Public Hearing for June 4, 2003 at 7:45 P.M. for the rezoning request of Robert Rucker, 8889 Boston State Road, from C-1 to R-3.

five (5) Ayes Carried

Received a Planning Board recommendation of site plan approval for Nick Charlap's, 7264 Boston State Road, contingent upon re-designation of parking spaces to meet Town Code size of 10' by 20' per parking space, having the blacktop parking lot area sealed, and parking spaces and 'no parking' zones striped.

A motion was made by Councilman Mead and seconded by Supervisor Eagan to approve the Site Plan for Charlap's Ice Cream, 7264 Boston State Road, contingent upon compliance with the Planning Board stipulations within thirty days. Failure to comply within thirty days will result in revocation of approval.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Wiktor to set 2003 salary of the Deputy Town Attorney/Prosecutor at \$11,520.

five (5) Ayes Carried

SUPERVISOR REPORT

Supervisor Eagan complimented Highway Superintendent Kreitzbender upon improvements in the town parks and athletic fields.

Supervisor Eagan reported that Town Attorney Vacco is reviewing the fencing ordinance for the Town of Boston.

Supervisor Eagan congratulated the Conservation Advisory Council and everyone involved in the great success of the Earth Day event on May 3, 2003 at the Boston Valley School.

Supervisor Eagan announced the Memorial Day Program, May 26, 2003.

TOWN CLERK REPORT

A motion was made by Councilman Wiktor and seconded by Councilman Hawkins to accept the Town Clerk Monthly Report for April 2003.

five (5) Ayes Carried

A motion was made by Councilman Wiktor and seconded by Councilman Simmeth to accept the Tax Collector Monthly Report for April 2003.

five (5) Ayes Carried

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TOWN CLERK REPORT (CONT.):

Deputy Town Clerk Ellis thanked the Town Board for approving her request for attending the PERMA Conference.

Deputy Town Clerk Ellis announced that General Code Publishers awarded a Certificate of Recognition for the Municipal Clerks Honor Roll to Town Clerk Shenk in appreciation of his outstanding and dedicated service as the Town of Boston Clerk.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Kreitzbender announced that he was elected Superintendent Director of the Erie County Highway Superintendent's Association. He will be addressing problems with salt and improving County roads.

Highway Superintendent Kreitzbender reported that the last Spring brush pick-up is May 19th.

Highway Superintendent Kreitzbender reported that the road repairs have begun.

Highway Superintendent Kreitzbender reported that the fencing in the North Boston Park has been replaced and batting cages and fencing has been installed in the Town Park. The wood has been replaced on the bleachers and on the player's benches. Emergency gates have been installed for the EMS and fire companies and keys have been distributed.

TOWN ATTORNEY REPORT

Town Attorney Vacco reported that she will meet with the Planning Board and the Code Enforcement Officers regarding fence legislation to ensure ease of enforcement.

Town Attorney Vacco reported that she will represent the Town in the Southtowns Rural Preservation Company Article 78 Proceeding before Judge Notaro on June 11, 2003.

COUNCILMEN REPORT

Councilman Mead requested that Town Attorney Vacco discuss clarification of the sign legislation with the Planning Board.

Town Attorney Vacco noted that she will look at other town codes that have continuity to their signage legislation.

Councilman Mead reported that he attended the Southtowns Planning and Development Group meeting on May 5, 2003. Approximately fifteen area towns meet to discuss various issues from billboards to zoning. The group is involved with the Association of Towns that meets annually in New York City with 932 towns in New York State. An annual list of approximately fifteen or sixteen resolutions of importance to towns is comprised to be lobbied to the Legislature and the Assembly. The list can be viewed on the website www.nytowns.org

Councilman Wiktor reported that the Town of Boston is considering the purchase of vacant land from Edward Cary, 8626 Boston State Road, adjacent to town property next to the Highway Garage for the storage of materials. Town Attorney Vacco will prepare a purchase offer.

Councilman Simmeth reported that Erie County and NYSERDA will hold a Electronics and Air Conditioner Recycling Day at Erie Community College North Campus on May 17, 2003 from 9:00 a.m. to 2:00 p.m.

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COUNCILMEN REPORT (CONT.):

Councilman Simmeth addressed audience member Mrs. Becony, 9766 Trevett Road, regarding complaints of debris on her neighbor's property. Councilman Simmeth and Code Enforcement Officer Lisowski will inspect the property in question.

Councilman Hawkins thanked Highway Superintendent Kreitzbender for the great job he has done in the town parks.

Councilman Hawkins reported that he is still attempting to have a 15 MPH speed sign installed on Back Creek Road in the Boston Valley School area because it is a safety hazard for school buses pulling out of the parking lot.

Councilman Hawkins thanked Deputy Code Enforcement Officer Lisowski for addressing a problem on May Drive.

Supervisor Eagan noted that regarding the Penflex issue for the Service Award Program addressed earlier in the meeting, the letter provided by Peter Walter states that an error was made by beginning the effective date January 2002 instead of January 2003 so an adjustment will be made in future payments.

CODE ENFORCEMENT OFFICERS REPORT

A) Code Enforcement Officers monthly reports for April 2003 were received and are on file in the clerk's office.

DOG CONTROL OFFICERS REPORT

A) Dog Control Officers monthly reports for April 2003 were received and are on file in the clerk's office.

RECREATION DIRECTOR REPORT

A) Recreation Director monthly report for March 2003 was received and is on file in the clerk's office.

A motion was made by Councilman Wiktor and seconded by Councilman Mead to adjourn the meeting at 8:40 p.m.

KAREN A. ELLIS, DEPUTY TOWN CLERK