

**REGULAR BOARD MEETING
JUNE 5, 2013**

**TOWN HALL
7:30 P.M.**

Present: Supervisor Martin A. Ballowe, Councilmen Jeffrey A. Genzel, Jay P. Boardway and Lawrence A. Murtha.

Absent: Councilman Gary E. Vara.

Also Present: Town Attorney Kobiolka and Highway Superintendent Telaak.

A motion was made by Councilman Murtha and was seconded by Supervisor Ballowe to reschedule the bid opening for the Eighteen Mile Creek Selective Clearing for Tuesday, July 2, 2013 at 10 a.m.

four (4) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to schedule the annual mobile home park inspection for Thursday, June 27, 2013 at 5 p.m.

four (4) Ayes Carried

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to adopt the minutes of the May 15, 2013 regular meeting.

four (4) Ayes Carried

A motion was made by Councilman Murtha and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract dated May 30, 2013 in the amount of \$104,088.51 be paid.

four (4) Ayes Carried

Councilman Murtha read a response from NYS Department of Transportation regarding requests for reduced speed limit on Route 391, Boston State Road, and Keller Road in the Town of Boston.

A motion was made by Councilman Genzel and was seconded by Councilman Murtha to approve the Application for Use of Facility for Faith United Church of Christ for July 28, 2013 from 9 am to 12 pm.

four (4) Ayes Carried

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At 7:40 p.m. a Public Hearing was held to hear comments regarding the granting of a franchise to Donald Rachwal residing at 5474 Keller Road, Boston, New York to mow, trim and/or cultivate the vacant land owned by the Town of Boston at 8555 Boston State Road, Boston, New York SBL#227.00-5-57.11 for the term of June 5, 2013 to October 30, 2013.

Supervisor Ballowe read the legal notice.

Councilman Boardway noted that this is vacant land adjacent and south of the Trooper's Barracks. This is a right to farm community. Mr. Rachwal farms it and it fits with our community. We have to do a franchise agreement once per year that allows him to do that.

There were no public comments.

A motion was made by Councilman Boardway and seconded by Councilman Genzel to close the public hearing at 7:42 p.m.

four (4) Ayes

Carried

RESOLUTION 2013-07

**A RESOLUTION GRANTING A
FRANCHISE TO MAINTAIN
VACANT LAND AT 8555
BOSTON STATE ROAD,
BOSTON, NEW YORK UNDER
§ 64(7) OF THE NYS TOWN
LAW**

**Notice of Public Hearing
Notice to the Citizens of the
Town of Boston**

The Boston Town Board, Erie County, New York, will hold a Public Hearing at the Boston Town Hall, 8500 Boston State Road, Boston, New York on June 5, 2013 at 7:40 PM Eastern Pre-vailing time to hear comments regarding the granting of a franchise to Donald Rachwal residing at 5474 Keller Road, Boston, New York to mow, trim and/or cultivate the vacant land owned by the Town of Boston at 8555 Boston State Road, Boston, New York SBL# 227.00-5-57.11 for the term of June 5, 2013 to October 30, 2013. Questions please call (716) 941-6113 x0.

DATED: MAY 8,
2013
PUBLISHED:
MAY 23, 2013

BY ORDER OF
THE TOWN BOARD
JENNIFER A. MULÉ,
TOWN CLERK

Councilman Boardway presented the following resolution and moved for its adoption:

WHEREAS the Town of Boston is the owner of certain undeveloped acreage at 8555 Boston State Road, Boston, New York; and

WHEREAS the Town of Boston would like to keep the undeveloped acreage that it owns mowed and trimmed for the health, safety and welfare of its citizens with little or no cost to the Town; and

WHEREAS Donald Rachwal, who has maintained this acreage in the past, is willing and capable of mowing, trimming and cultivating at his own expense.

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Motion Cont'd:

NOW THEREFORE BE IT RESOLVED, that the Town of Boston hereby authorizes the Town Supervisor to grant a franchise to Donald Rachwal, residing at 5474 Keller Road, Boston, New York, to mow, trim and/or cultivate the vacant land owned by the Town of Boston, located at 8555 Boston State Road, Boston, New York, SBL#227.00-5-57, for the term of June 5, 2013 to October 30, 2013; and

BE IT FURTHER RESOLVED, that Donald Rachwal shall provide all machinery, labor and costs for this franchise with no cost to the Town.

Seconded by **Councilman Murtha** and put this to a vote this resulted as follows:

four (4) Ayes

Carried

Keith Kaszubik, Town Historian commented on the dramatic improvements at the Veterans Park. As a veteran he thanked those responsible and stated that these improvements are a testimonial to the history of our town and the service of our Veterans.

Bryant Burns, Chestnut Lane read a prepared statement regarding property on Hillside Drive purchased by Highway Superintendent Telaak inquiring what his intentions are for the development of the property. He stated he requested all permits issued to this property and was told there were no permits were applied for or issued since 1967. Mr. Burns asked the Town Board to consider the need for the project and the ethics of such.

Russ Goldberg, Hillcrest Avenue stated that this property is at the end of Chestnut Lane, formerly Hillside Drive. He stated that when he purchased his property over 30 years ago he was unable to obtain natural gas or water. He has kept an eye on the possibility of bringing in services from Hillside Drive. It is his desire to put fill in to make a level walking surface between where the services terminate on Hillside drive to his property.

Supervisor Ballowe noted that if the road was extended than Mr. Goldberg would have the ability to get natural gas and water on his property.

Mitch Martin, Representative for Senator Gallivan informed the Town of Boston that the Senator is hosting an E-Cycle event June 8th from 9 am to 2 pm at West Seneca East High School.

Daniel Kurek, Chestnut Lane commented on the proposed road extension on Hillside Drive and questioned the liability if someone was to get hurt on the section considered town property and the cost to pave this extension. In years past putting up a guardrail was questioned, but nothing ever came about it. He spoke with Highway Superintendent Telaak about putting a Dead End Sign at the beginning of the road.

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Daniel Kurek also stated that with this proposal, there would be a cost to put 50 to 75 feet of guardrails on both sides of the road plus the turnaround because the elevation for that turnaround will be approximately 30 feet above his property.

Supervisor Ballowe stated he is checking into all of these issues.

Supervisor Ballowe noted that if Highway Superintendent Telaak feels a guardrail is needed for safety reasons, he puts them up and does not need the Town Board's permission.

Councilman Boardway noted that Highway Superintendent Telaak is an elected official and is actually on the clock 24 hours a day, 7 days a week. He does his work when he can.

Daniel Kurek stated Mr. Telaak was cutting trees down on a Saturday afternoon in the middle of winter and went onto town property, there has to be a liability.

Bill Forness, West Tillen Road, and town employee for 24 years stated that there is nowhere to get rid of the fill anymore. The state no longer allows the town put it on the creek. He also noted that there is not a decent turnaround on any of those four subdivisions. The small trucks can get up there and plow but using an Osh Kosh is difficult. We definitely need more turnaround room for these trucks for safety.

Jerry Krencik, Boston State Road and town employee for 25 years stated that the turnarounds are awful up there. He stated they cannot go up there with the chipper or large plows because they cannot turned around.

Linda Janish, Chestnut Lane stated that spending 49 out of 51 winters at her residence, never seen plows have difficulty turning around and feels this would not be an issue if Highway Superintendent Telaak did not own this property.

Highway Superintendent Telaak asked if the garbage truck drives down the road.

Linda Janish stated that the driver chooses to back down.

Robert Stevenson, Chestnut Lane stated that he put a large addition on his house, and several large trucks/equipment came down the street and not one driver ever complained they could not get down it.

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A motion was made by Supervisor Ballowe and seconded by Councilman Genzel to set the summer schedule as follows:

July 17	Wednesday	6:30 PM	Agenda Review
		7:30 PM	Town Board
August 21	Wednesday	6:30 PM	Agenda Review
		7:30 PM	Town Board

four (4) Ayes Carried

A motion was made by Councilman Boardway and seconded by Councilman Murtha to approve the Use of Facility Application for Barbara Saikia for June 22, 2013.

four (4) Ayes Carried

A motion was made by Supervisor Ballowe and seconded by Councilman Genzel to issue a Live Entertainment License for The Boston Hotel, 9373 Boston State Road to expire June 30, 2014.

four (4) Ayes Carried

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe on the recommendation of Recreation Director Zeniuk, to appoint the following to the Summer Recreation Program, terms to expire 8/19/13:

<u>Name</u>	<u>Position</u>	<u>Hourly Rate</u>
Taylor Janak	Director	\$12.50
Neil Byrne	Site Supervisor	\$10.50
Megan Hopkins	Counselor	\$ 8.00
Lauren McCarthy	Counselor	\$ 8.00
Victoria James	Counselor (Arts & Crafts)	\$ 8.00
James Maxwell	Counselor	\$ 8.00
Emily Mulé	Substitute Counselor	\$ 8.00
Claire Solak	Substitute Counselor	\$ 8.00
Shawn Geary	Substitute Counselor	\$ 8.00
Jack Gorrell	Substitute Counselor	\$ 8.00
Max Maxwell	Substitute Counselor	\$ 8.00
Madison Darling	Substitute Counselor	\$ 8.00

four (4) Ayes Carried

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**RESOLUTION 2013-08 DESIGNATING THE SECRETARY OF STATE AS AN
AGENT FOR SERVICE OF A NOTICE OF CLAIM**

Councilman Murtha presented the following Resolution and moved its adoption:

WHEREAS, General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e (1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative for the decedent's estate; **Now therefore Be It**

RESOLVED; that the Town Board of the Town of Boston, County of Erie designates Jennifer A. Mulé in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State by mail at 8500 Boston State Road, Boston, New York 14025 and email townclerkmule@townofboston.com.

BE IT FURTHER RESOLVED, that the Town of Boston hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

Seconded by **Supervisor Ballowe** and put to a vote which resulted as follows:

four (4) Ayes Carried

A motion was made by Councilman Genzel and was seconded by Councilman Boardway to authorize Supervisor Ballowe to sign the Lease and Depository Agreement between the Boston Free Library Association and the Town of Boston.

four (4) Ayes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to approve the appointment of Nicholas Kreuder as a part time employee in the Parks Department at the rate of \$9.00 per hour, term to expire December 31, 2013.

four (4) Ayes Carried

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**RESOLUTION 2013-09 SUPPORT FOR LEGISLATION AMENDMENT TO REAL
PROPERTY TAX LAW 102 (i)**

Councilman Boardway presented the following Resolution and moved its adoption:

WHEREAS, Fiber optic cable located on property has been part of the Outside Plant roll section 6 assessment under Section 102(i) of Real Property Tax since the 1980's, which is consistent with the valuation of fiber optic cable located within the public right of way defined as Special franchise property and;

WHEREAS, Amendments to Section 102 (i) of Real Property Tax in 1985 and 1987 were never intended to exclude fiber optic cable or other emerging technology from Outside Plant roll section 6 and;

WHEREAS, Until a recent decision by the Appellate division, First Department removing fiber optic cable from Outside Plant roll section 6, fiber optic cable had been part of the Outside Plant assessment for over 25 years, and;

WHEREAS, Across New York State hundreds of millions of dollars in tax base are in jeopardy of being lost creating a significant impact on Town, County and School tax;

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town of Boston hereby supports the Erie County Assessor's Association and respectfully request the New York State Legislature to amend Section 102 (i) of Real Property Tax Law defining, include and memorialize fiber optic cable as part of Outside Plant for tax assessment purposes consistent with the intent of a 1986 amendment to Section 102, and which is consistent with the intent of a 1986 amendment to Section 102; and which is consistent with the valuation of Fiber optic cable as Special Franchise property.

Seconded by **Councilman Murtha** and put to a vote which resulted as follows:

four (4) Ayes

Carried

Received and filed monthly reports from the Assessor

Town Clerk Mulé reported the next blood drive will be June 11, 2013 from 2:30 pm to 7 pm in the Community Room.

Town Clerk Mulé also noted that the Flag Day Ceremony will be held on June 15, 2013 at 7 pm in the town park.

Highway Superintendent Telaak reported that Brush pick up is now complete and will start up again September 1, 2013.

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Highway Superintendent Telaak noted there is still wood, fill and broken black top available.

Highway Superintendent Telaak clarified the fact that he did have a demolition permit and filled out a request for fill for the fill he obtained. He stated that the tree he cut did fall onto town property, but according to the survey stakes that tree was two feet on his own property.

Councilman Murtha reported that he attended the Pollution Prevention/Good Housekeeping for Municipal Operations training on May 17th.

Councilman Murtha reported that the Town of Boston has been issued a permit to remove three utility poles that are on and across the street from John Anthon's property on Boston State Road.

Councilman Genzel as Engineering Liaison reported that the surveyors were out to survey the easement for the connection of the water and sewer line in the North Boston Park Bathroom facilities.

Councilman Genzel as Planning Board Liaison reported the Planning Board met on May 28, 2013 for a work session. Councilman Genzel stated that the questionnaire was finalized for the update to the Comprehensive Plan and would like to include it in the next Town and County Tax Bill mailing.

Councilman Genzel as Boston Community Foundation Liaison reported that Supervisor Ballowe has been working diligently on getting the foundation reestablished that will bring in grant money for our sporting leagues. Donations continue to come in for the fourth of July celebration and are being accepted in Supervisor Ballowe's office.

Councilman Genzel reported that pamphlets are available to anyone wishing to learn more about the opportunities for fair housing. His continued training does make the Town of Boston eligible for block grants.

Councilman Genzel reported that restoration of the Lion's Shelter continues. The painting is finished and the mason is currently re-stoning the pillars. The next step is the electrical box update and gutters.

Councilman Genzel reported that the Memorial Day celebration was a success and thanked Senator Gallivan for participating and all our veterans for their service.

Councilman Genzel attended the Coffee with Chris Collins event here at the Town Hall and stated it was impressive to have the Congressman in our town discussing real topics affecting our country.

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Councilman Boardway reported he also attended the Memorial Day Celebration and stated how blessed we are with these beautiful facilities. He thanked Senator Gallivan and Councilman Genzel for their speeches. He thanked the BostonTown Band for their wonderful performance.

Councilman Boardway also attended the Coffee with Congressman Collins, who touched on a lot of local and national issues.

Councilman Boardway reported that the Water District Audit concluded there were no deficiencies in internal control over financial reporting that are considered material weaknesses. The financial statements are free of material misstatements and the results of the report indicate no instances of non-compliance or other matters that are required to be reported under Government Auditing Standards. This is the highest-grade report the Town of Boston could receive on accounting of the water districts.

Councilman Boardway reported that Legislator Mills will be sponsoring "Dinner and a Show" fundraiser for the Boston Free Library on Friday, June 14th from 5:30 to 7 pm at the Library.

Councilman Boardway reported the fire calls for the month of May as follows:

Boston – 3

N. Boston – 5

Patchin – 4

Councilman Boardway stated that as a councilman for this town he has been assigned by Supervisor Ballowe to be the liaison to the Fire Companies in charge of contracts, compliance, county issues, service program, etc. With this position he has a fiduciary duty and took an oath to represent the taxpayers and try to keep the tax rates low which they have lowered three years in a row. They have done this by cutting waste and consolidation.

Councilman Boardway stated that the three fire companies have put together their own study in which the conclusion was there is room for consolidation in the fire companies. He met with the chiefs and the presidents of two of the fire companies to talk about ways to consolidate and save money in this town. The Patchin Fire Company was not invited on purpose. The two chiefs and presidents of the other two fire companies could have declined to come to this meeting, but did not. Part of the discussion was the different options to eliminate the corporate structure of one of these fire companies. Right now the way the Town of Boston operates, we are one big fire protection district. This Town Board contracts with three separate private fire companies. We want what is best for your dollar. If there is a way to save money, if there is a way to consolidate something, we will do it. Page 122-124 of the study, which can also be found of the Town's webiste talks about joint stations and the Engine 91 program. Other discussions included money, contracts, dollar amounts and where the \$154,000 would go that we would not be paying Patchin if they did not exist any longer. At the end of the meeting, while they all agreed that consolidation is in fact necessary for the continued viability of fire service; they also agreed that now is not the time to do so.

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Councilman Boardway stated that there will be three fire company contracts offered this year, money and length of those contracts has not yet been determined. He stated he is available at any time if anyone has any questions.

Supervisor Ballowe reported the Memorial Day Celebration was very well attended and is nice to see it grow larger every year. He stated that he is hearing a lot of positive feedback about the projects in town.

Supervisor Ballowe stated that anyone in the town can receive fill and/or wood chips if needed with a request submitted to Highway Superintendent Telaak.

Supervisor Ballowe stated he understands everyone's concern regarding this road extension and turnaround. The turnaround proposed is actually a background turnaround in Highway Superintendent Telaak's piece of property. The Town Board along with the town attorney is looking into it. He stated that he has been up there with Highway Superintendent Telaak and now the town's engineer is looking into it. This entire Town Board has agreed to accept the turnaround. The questions brought up have been discussed with Mr. Telaak. We are looking into what is best for the citizens and get the facts. Supervisor Ballowe stated he is more than willing to meet with anyone who has any questions.

Supervisor Ballowe reported that during the Memorial Day Celebration he unintentionally forgot to thank some people and he apologizes for this omission. The groups he had forgotten to thank were the Girl Scout Troop 31364, Cub Scout Pack 391, and Boy Scout Troop 491.

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to adjourn the meeting at 8:49 p.m.

four (4) Ayes

Carried

JENNIFER A. MULÉ, BOSTON TOWN CLERK