

**REGULAR BOARD MEETING
MARCH 1, 2017**

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

Present: Supervisor Martin A. Ballowe, Councilmen Jeffrey A. Genzel, Jay P. Boardway, Jason A. Keding and Zachary A. W. Munger.

Also Present: Town Attorney Kobiolka.

Councilman Keding read the legal notice for the public hearing.

A motion was made by Supervisor Ballowe and was seconded by Councilman Munger to open the floor for comments.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

There were no comments from the public.

A motion was made by Councilman Keding and was seconded by Councilman Boardway to close the floor.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

PUBLIC NOTICE

TOWN OF BOSTON

PUBLIC HEARING

PLEASE TAKE NOTICE that the Boston Town Board, Erie County, New York, will hold a Public Hearing at the March 1st, 2017 Town Board Meeting to extend the Boston Emergency Services Contract for the purpose of furnishing Ambulance Service to the Town of Boston in the amount of \$51,423 which will be allocated as follows: \$30,000 General Operating Costs, \$7,000 Liability Insurance and \$14,423 as the annual installment due on September 29, 2017 to Evans Bank for Ambulance unit #815. Public Hearing will be held at Boston Town Hall, 8500 Boston State Road, Boston, New York, on Wednesday, March 1st, 2017, at 7:40pm Eastern Standard Time.

All persons interested in the matter shall be heard for or against at such time and place.

DATED: FEBRUARY 7, 2017
PUBLISHED: FEBRUARY 17, 2017

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

An Equal Opportunity
Provider & Employer

**TOWN OF BOSTON
GENERAL AMBULANCE SERVICE CONTRACT
FOR AMBULANCE SERVICE WITH
BOSTON EMERGENCY SQUAD, INC.**

THIS CONTRACT, dated the 1st day of March 2017 is made pursuant to the provisions of §§ 122 and 122-b of the General Municipal Law of the State of New York, by and between the Town of Boston, Erie County, New York (hereinafter "Town"), and Boston Emergency Squad, Inc. (hereinafter "Squad"), a New York membership corporation of Boston, New York.

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

WITNESSETH

WHEREAS, the Squad was formed, and its personnel are so trained, for the purpose of providing and furnishing ambulance service and first aid to persons within the Town of Boston; and

WHEREAS, the Town through its Town Board, duly authorized a Contract with the Squad for the purpose of the Squad furnishing general ambulance service and first aid to those persons that require such services being located within the boundaries of the Town pursuant to § § 122 and 122-b of the General Municipal Law of the State of New York; and

NOW, in consideration of services to be provided by the Squad to the Town, and financial support to be provided by the Town to the Squad, the parties hereby agree in the manner following:

- 1. The Squad shall at all times for the duration of this Contract provide and furnish general ambulance service and first aid to sick or injured persons for the purpose of transporting said persons to a hospital, sanitarium or other place of treatment according to NYS DOH part 800 protocols.**
- 2. The Squad shall respond and attend to such sick or injured persons as soon as practicable, with whatever trained personnel and equipment as may be available, and proceed diligently and in manner reasonably calculated to assist and transport said sick or injured persons as set forth in subsection "1" above.**
- 3. The Squad further agrees to supply sufficiently trained and experienced personnel for services required in subsection "1" above through its members and such other sufficiently trained and experienced authorized responders as the Town Board may, from time to time, by resolution designate. The Town shall consider as a proper and additional expense to the ambulance district the cost of Boston Emergency Squad member's training for advanced life support training beyond EMT level not funded by the DOH, State or County. (Basic EMT course currently covered) The Cost shall be limited to up to 3 members per year who shall continue to be active members for 2 year thereafter.**
- 4. All applicable terms, provisions and conditions of New York State General Municipal Law § § 122 and 122-b are incorporated by reference as if fully stated in this Contract.**

5. The Town shall pay to the Squad the total sum of Fifty-one thousand Four Hundred Twenty Three dollars, (\$51,423.00). Allocated as follows: \$30,000.00 for general operation costs and \$7,000.00 to cover liability insurance premium (as noted in section 11) and \$14,423 as the Annual Installment due on September 29, 2017 to Evans Bank for Ambulance Unit #815. The Town shall pay one-half of the annual cash amount (\$18,500.00) on or before the 1st day of January, and the remaining one-half of said annual sum (\$18,500.00) on or before the 1st day of April 2017. Town is liable for repayment of outstanding bank loan to cover 2016 purchase of Ambulance Unit #815.
6. In arriving at the determination of the annual payment for the furnishing of ambulance service, the Town shall consider as a proper expense any reimbursement paid to a member of the Squad authorized responder for reasonable wage or economic loss incurred in responding as a witness to a Court Subpoena, including reasonable charges for outside legal services in connection therewith, arising from his or her duties as a member of the Squad. However, the Squad agrees to utilize the Town's Law Department, within reason, as long as the issues involved do not represent a conflict between the Town and the Squad.
7. The Town agrees to furnish, without charge, an adequate structure with garage for Squad operations and training including the housing of ambulances and equipment, and further, the Town assumes the cost of utilities for said structure. The Town will maintain a camera security system in the Squad's building covering outside perimeter and ambulance bay.
8. The Town further agrees to furnish, without charge, dispatching service for the Squad through Hamburg Fire Control.
9. The Town shall make an annual contribution to an ambulance reserve fund for the Squad in an amount to be determined by the Town Board. Replacement ambulance cost will be paid for by the Ambulance District. (Unit #816 was secured on FEMA grant in 2008 – Unit #815 purchased in 2016 and financed through Town bank loan).
10. The Squad members' required testing, physical examinations and recommended immunizations are to be paid for by the Town in the same manner as it is currently doing.
11. In the event of an accident or injury covered by compensation or disability benefits, or serious injury, the Squad member shall immediately inform the Squad who shall inform the Town Supervisor who shall notify the Town's Worker's Compensation Carrier. The member affected shall not return to active duty until a release in writing is obtained from his/her doctor and presented to the Squad, who shall notify the Town Supervisor, who shall notify the Town's Worker's Compensation Carrier.

12. The Town shall pay all premiums under the NYS Workers Compensation/Volunteer Ambulance Benefits Law to cover Squad members. The Town further agrees to defray the expense of any premium or premiums for compensation of members and personnel of the Squad, and authorized responders, for medical expenses, lost wages, compensation benefits, or other claims arising by reason of injury to, or death of, a member of the Squad or authorized responder sustained while answering, attending or returning from any such call, or while engaged in any other volunteer duty within the terms of this Contract and, in the event the Squad shall be compelled or required to pay any such claim, the Town shall reimburse the Squad the amount within thirty (30) days upon the Squad presenting the Town written notice that the Squad made any such payment. The Squad further agrees to effect and pay the expense of the following insurance for the benefit of the Squad, its members, and authorized responders, with the Town listed as a co-insured, as follows:
- a. Automobile non-ownership coverage to the extent of \$ 1,000,000.00;
 - b. Comprehensive General Liability Insurance including incidental malpractice coverage to the extent of 1,000,000.00;
 - c. Fidelity Bond coverage of President and Treasurer of the Squad to the extent of \$5,000.00; and
 - d. Medical Equipment Floater in the amount of \$5,000.00 subject to \$100.00 deductible.
13. The Squad agrees to furnish the Town Board a written, itemized and certified financial statement of its disbursements and expenses no later than September of each year during the term of this Contract and a copy of its Federal 990 Form.
14. This Contract shall supersede any and all prior such contracts or agreements between the Squad and the Town. This Agreement shall be effective January 1, 2017 and shall expire at 12:00 midnight on December 31, 2017. Upon expiration date of this Contract, the same shall nevertheless be extended for additional terms of one year per extension unless either party presents written notice to the other of intent to terminate this Contract no later than the 20 day of September of the year of expiration. If either party elects to terminate this contract as such, a new contract may be formed pursuant to the Town Law of the State of New York.

The Town shall have no liability under this Contract to the Boston Emergency Squad, Inc. or anyone else beyond funds appropriated and available for this Contract.

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

IN WITNESS THEREOF, the parties herein have duly executed and delivered this contract the day and year above as written.

**1. THE TOWN BOARD OF THE TOWN OF BOSTON,
COUNTY OF ERIE, STATE OF NEW YORK**

BY:

MARTIN BALLOWE, Supervisor

JAY P. BOARDWAY, Councilman

JEFFREY A. GENZEL, Councilman

JASON A. KEDING, Councilman

ZACHARY A. W. MUNGER, Councilman

ATTEST:

(Name of person attesting)

BOSTON EMERGENCY SQUAD, INC. BY:

DONALD O'BRYANT, President

ATTEST:

(Name of person attesting)

A motion was made by Councilman Keding and was seconded by Councilman Boardway to approve the contract for Ambulance service with the Boston Emergency Squad, Inc. as previously read.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

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

A motion was made by Councilman Keding and was seconded by Councilman Munger to appoint Scott Johnson as Chairman of the Conservation Advisory Council.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Councilman Boardway and seconded by Supervisor Ballowe to table the minutes of the February 1, 2017 regular meeting.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Councilman Keding and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract dated labeled AP 295 in the amount of \$164,467.10 be paid.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Councilman Keding and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract labeled AP-296 in the amount of \$109,638.10 be paid.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

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MARCH 1, 2017**

**TOWN HALL
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A motion was made by Councilman Keding and seconded by Supervisor Ballowe, upon review by the Town Board, that fund bills on the Abstract labeled AP-294 in the amount of \$410,965.32 be paid. This total includes contract payments to each of the Fire Department of \$82,526.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

Received and filed correspondence from the Planning Board and Zoning Board of Appeals

A motion was made by Councilman Munger and was seconded by Councilman Boardway to table the request for approval to the Department of Transportation regarding a 40 mph speed limit sign on Belcher Road between New Oregon Road and Boston Road until more information can be obtained.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Councilman Keding and was seconded by Supervisor Ballowe to appoint Nicholas Huson as a regular member of the Conservation Advisory Council, term to expire March 1, 2020.

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

RESOLUTION 2017-03

TOWN OF BOSTON SURPLUS EQUIPMENT

Supervisor Ballowe presented the following resolution and moved for its adoption:

WHEREAS, the Boston Town Board from time to time does declare various Town Parks equipment as "surplus" and allows it to be sold at auction; and

WHEREAS, the Town of Boston Parks Superintendent has indicated that various items are no longer useful or necessary pieces of equipment for the Town

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NOW THEREFORE BE IT RESOLVED, that the Boston Town Board does hereby declare the following Parks Department equipment as “surplus” and may be sold at auction:

ITEM	MINIMUM BID
1998 1-Ton Chevrolet Dump Truck w/Boss V Plow VIN # 1G8JK34J7WF0S7311	\$1,000
2003 Haulm Trailer VIN# 16HGB20213H10512	\$1,000

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

Supervisor Ballowe	Yes	Councilman Genzel	Yes
Councilman Boardway	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

A motion was made by Councilman Genzel and was seconded by Supervisor Ballowe to approve the Application for Use of Facility from Claudia Collins for July 14, 2017 for a graduation party.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

A motion was made by Councilman Genzel and was seconded by Councilman Munger to approve the Application for Use of Facility from Peter Walter and the Boston Lions Club for June 18, 2017 for their annual Chicken BBQ.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

A motion was made by Councilman Boardway and was seconded by Councilman Keding to appoint Elizabeth Schutt as a regular member of the Planning Board with a term to expire on February 1, 2024.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

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A motion was made by Councilman Keding and was seconded by Supervisor Ballowe to approve the annual refuse license for Modern Disposal Services, Inc.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

**RESOLUTION 2017- 04 TOWN OF BOSTON VS. NYS OFFICE FOR PEOPLE
WITH DEVELOPMENTAL DISABILITIES APPEAL TO
FOURTH DISTRICT**

Councilman Jay P. Boardway presented the following Resolution and moved its adoption:

WHEREAS, in January, 2015, the Community Services for the Developmentally Disabled (hereinafter referred to as CSDD) requested permission to establish a group home on the northeast corner of Cole and Omphalius Roads in the Town of Boston; and

WHEREAS, the Town objected to the proposal and a hearing was held by the Acting Commissioner of the NYS Office for People With Developmental Disabilities (hereinafter the "OPWDD") on April 30, 2015; and

WHEREAS, on August 13, 2015 the Acting Commissioner of OPWDD granted permission to the CSDD to establish its group home on Cole and Omphalius Roads in the Town of Boston; and

WHEREAS, on September 11, 2015 the Town of Boston initiated an Article 78 proceeding under the NYS CPLR, challenging the decision of the Commissioner; and

WHEREAS, the Article 78 proceeding has been pending in NYS Supreme Court Index #2015-0157 until January 25, 2017, when Supreme Court Justice Diana Y. Devlin issued an Order Transferring Jurisdiction to the Appellate Division of the Fourth Judicial Department (in Rochester).

WHEREAS, the Appellate Division has issued an Order accepting the transfer from Supreme Court; ordering the Town of Boston to file its briefs by March 17, 2017 and scheduling the matter for its fall term commencing Tuesday, September 5, 2017.

NOW THEREFORE BE IT RESOLVED, that the Town Board having given due consideration to the time, effort and monetary commitment to continuing these proceedings and the anticipated benefits derived therefrom direct the Town Supervisor to retain Appellate Council to continue to prosecute the Article 78 proceeding in the Fourth Department; and be it

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FURTHER RESOLVED, that the attorney's fees for the appeal shall not exceed \$10,000.00, exclusive of costs, and upon entering into said Retainer Agreement, the Supervisor shall provide each member of the Board with a copy of the Agreement.

Seconded by **Councilman Jason A. Keding** and put to a vote which resulted as follows:

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Keding to authorize Supervisor Ballowe to sign a one-year contract with Connie D. Miner & Co., Grant Consultants for a yearly fee of \$15,000, term to expire 12/31/17.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes

Carried

RESOLUTION 2017-05

REZONING ON BOSTON STATE ROAD AND 391

Councilman Boardway presented the following Resolution and moved its adoption:

WHEREAS, the proposed mixed use project of Quaker Estates 1 LP involving the rezoning of 28.51 acres of land on Boston State Road from C-1 Local Business District ("C-1") to C-2 General Commercial District ("C-2"); and R-3 Two or More Family Residence District ("R-3") has been preliminarily classified to be a Type 1 action pursuant to 6 NYCRR Part 617.4 of SEQRA, requiring a coordinated environmental review, and

WHEREAS, the Town Board wished to declare its intent to be the designated lead agency for the coordinated environmental review of the mixed use project pursuant to SEQRA, and

NOW, THEREFORE BE IT RESOLVED THAT the Town Board declares its intent to be the designated lead agency for the coordinated environmental review of the mixed use project pursuant to SEQRA and requests that the Town's planning consultant issue a lead agency notification of intent letter to involved and interested agencies, with copies to the Town Engineer and returnable to the Town Supervisor.

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

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to open the floor for public comments.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

The following persons were heard:

Bryant Burns Daniel Kurek Vince Puglisi

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to close the floor.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Councilman Boardway and was seconded by Supervisor Ballowe to retroactively approve the attendance and travel costs in the amount of \$1,658.40 of Deputy Town Attorney Patricia Maxwell to attend the New York State Association of Towns Annual Conference

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

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7:30 P.M.**

A motion was made by Councilman Boardway and was seconded by Councilman Genzel to hire special outside counsel who is specifically to be charged with examining and reviewing certain recent irregularities in the daily operations of the Boston Town Hall. Cost is to be determined when we reach out to the proper attorneys.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

Councilman Munger asked if there could be a cap in any format. He suggested that they start and then review after \$10,000.

Councilman Boardway amended the motion to include the \$10,000 cap.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

A motion was made by Supervisor Ballowe and was seconded by Councilman Boardway to adjourn the meeting at 8:40 p.m.

Supervisor Ballowe	Yes	Councilman Boardway	Yes
Councilman Genzel	Yes	Councilman Munger	Yes
Councilman Keding	Yes		

five (5) Yes Carried

These minutes are an unofficial copy unless the original signature of the Town Clerk is affixed below. The original official paper minutes are stored in the Town's vault.

JENNIFER A. MULÉ, TOWN CLERK