

## Newstead Town Board Meeting- April 22, 2013

A public hearing was called to order by the Newstead Town Board on Monday, April 22, 2013 at 7:35pm at the Newstead Town Hall.

Present: David Cummings- Supervisor  
Justin Rooney- Councilman  
James Mayrose- Councilman  
Richard Baran- Councilman  
Donald York- Councilman  
Scott Rybarczyk- Town Engineer  
Nathan Neill- Town Attorney  
Michael Bassanello- Highway Supt.  
Dawn Izydorzak- Town Clerk  
Jennifer Heberling- Deputy Town Clerk

Roll Call was taken with all board members present.

The Supervisor called the **public hearing** to order on the request for a Special Use Permit on the proposed Smith Auto Sales & Service located at 11372 Main Rd.

The Clerk read the proof of publication. The Supervisor informed those present that on March 11<sup>th</sup> the Planning Board recommended approval with conditions. Erie County Planning had no comments once they realized it was an existing structure.

Comments: no one commented

There being no further comments, a motion was made to close the public hearing by Councilman Mayrose, seconded by Councilman Rooney at 7:41pm

The Supervisor called the **public hearing** to order on the request for a site plan approval on the proposed Braun's Concert Cove located at 11891 Main Rd.

The Clerk read the proof of publication. The Supervisor informed all those present that on April 8<sup>th</sup> the Planning Board recommended approval with conditions. Erie County Planning and the NYS DOT still have a couple of days to comment. He explained this hearing is to hear comments on the site plan only and explained the changes to the site plan presented. The Code Enforcement Officer and Chairman of the Planning Board are both present to answer any questions.

Comments: Dick Sutton of 84 Quarry Hill Est stated he does not feel this should even be considered and by considering it, you put your blessing on it.

Jim Richards of 108 Quarry Hill Est stated he is concerned with the narrow access of the driveways on the plan from a fire apparatus access stand point. He feels as it is proposed on the site plan is a potential fire hazard and Mr. Braun needs to consider the safety of his customers.

Linda Jackson of 86 Quarry Hills Est directed her comment to the Chairman of the Planning Board and told him he and his board are ruining their lives and should be ashamed of themselves. She stated the town should rent everyone in Quarry Hills hotel rooms on concerts nights.

Levant Bender of 51 Quarry Hills Est stated the main purpose of everything was addressing the noise, which has yet to be addressed.

Willis Utter of 49 Quarry Hills Est stated that where the stage is proposed to be located focuses the noise up into Quarry Hills. He feels the stage needs to be moved and focused towards the open fields. He feels this venue should have never been allowed near so many homes and that changing the stage may help the noise levels.

Ron Stanzek of 74 Quarry Hills Est questioned why the stage is not more like an enclosed shell that would focus the noise more. Supervisor Cummings thought this was valuable input. Ron questioned if there is any square footage requirement for the number of people in the enclosed arena. CEO Migliaccio responded yes, 5 sq ft per person which results in 1,500-1,600 people being allowed in

the arena area. Ron also questioned the number of restrooms per person. Ralph stated it would result in at least 15 port-a-johns and Braun's is slated to have at least 22+.

Mr. Bender and Mrs. Jackson made some very inappropriate and untrue accusations towards the Town Board members, which Supervisor Cummings halted immediately and got the conversation back on topic.

Mr. Utter agrees with Mr. Stanzek's concept of a band "shell" and concurred that that would help to focus the noise better instead of having it all encompassing. He also questioned the concept and possibility of using the same type of noise proof concrete barriers that are used along the thruway neighborhoods for keeping noise out/in. They encase the sound. Supervisor Cummings thought this was a valuable idea to look into.

Rose Deahn of 78 Quarry Hill explained that most of them are not trying to prevent the concerts, they are just looking for ways to improve their quality of life during the concert season. She thinks the sound proof concrete barrier is an excellent idea.

Jim Richards questioned now with the new permit do law enforcement officers have the authority to shut them down at 11:00pm and make sure they are complying with the permit requirements? Supervisor Cummings stated yes, it should give them more authority.

Ron Stanzek questioned the alternate parking plan for the main lot. He also questioned the safety of people walking across Main Rd to enter the concert area. Supervisor Cummings explained the plan for restricted/no parking signage on Havens Rd that will go up before the first concert.

Linda Jackson questioned if the Supervisor had any time to look into her complaint about the drainage behind Braun's on Havens Rd caused by all the expansion of the parking lots. Yes he did.

There being no further comments a motion was made to close the public hearing by Councilman Rooney, seconded by Councilman Mayrose at 8:15pm. Carried Unanimously

There being no further comments, a **regular meeting** was called to order with the same members present as listed above at 8:16pm.

Councilman Rooney led the pledge to the flag.

Minutes from the previous regular meeting held on April 8, 2013, were presented for approval. A motion was made by Councilman Baran, seconded by Councilman York to approve as presented. Carried Unanimously

Minutes from the previous joint meeting held with the Village of Akron on April 15, 2013, were presented for approval. A motion was made by Councilman York, seconded by Councilman Baran to approve as presented. Carried Unanimously

**Communications** – The Town Clerk presented the following correspondence:

A letter from resident Debbie Darling regarding her support for the Town's decision to stand up against the airport in court. She explains her noticing the increased number of airplanes and now helicopters flying in and out of the facility and how her complaints to the airport directly go unnoticed and she is treated very rudely when she calls to complain.

A letter and brochures from wnyRecovery regarding their "Rescue and Recover" evening to be held at the Lancaster Opera House on May 16, 2013 from 7:00-9:00pm.

A letter from the Rothland's Golf Course owner Jack Willert requesting renewal of their liquor license for 2013 and waiver of the 30 notice requirement.

A letter from resident Pauline Koeppel regarding her request for additional benches to be placed at each ½ mile marker on the bike path to accommodate senior citizens who wish to walk the bike path but cannot make it a full mile without resting.

A motion was made by Councilman Mayrose, seconded by Councilman York to accept and file the presented correspondence. Carried Unanimously

**Work Session:** The Supervisor reported that at the work session held last week the following issues were discussed: water district issues, building projects, planning issues, grants, parks master plan, joint facility, as well as any issues brought before the Board. The Board toured the Villages Wastewater Treatment Plant prior to work session. A joint session of the Town and Village Boards was held on April 15<sup>th</sup> where the following was discussed: dog control, emerald ash borer, fire company contracts, sewer, recycling events for 2013, consolidation study, joint facility, water, and a joint master plan update

**Privilege of the Floor** – Ryan Buckley of 6 Stoneridge Lane spoke to the Board regarding his proposal for his Eagle Scout project. He would like to install a flag pole with landscaping around it in front of the pavilion at Veterans Park in honor of the Veteran’s, the Soccer League and the Football League of which he was a player growing up. The Supervisor asked Councilman Mayrose and Councilman Rooney to set up a meeting with Ryan as they are in charge of the parks master plan. Councilman Mayrose questioned the timing of when he would like to have the project done. Ryan stated by the end of summer.

**Budget Transfers:** a motion was made by Councilman Baran, seconded by Councilman Mayrose to approve the budget transfers per the memo from Bookkeeper Colleen Salmon dated April 22, 2013.  
Carried Unanimously

**Approval of Bills** – Councilman Mayrose reported that the Abstract from Batch(es) # 1279 from the April 8, 2013 meeting have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1283 for payment. Vouchers on this abstract(s) numbered from 355 – 402, totaling \$69,678.61 and were presented by Councilman Mayrose, seconded by Councilman Baran to approve payment as follows:

Abstract Batch(es) #1283:  
 General Fund (A) -\$18,552.63, General Fund- Outside Village (B) \$317.63, Highway (DA) -\$0, Highway: Outside Village (DB) \$26,333.92, Capital Projects: CAP- Highway Garage- (HG) - \$0, CAP-Murder Creek (HM) \$0, CAP- Equipment Purchase (HR02)- \$0, CAP- Library Basement (HR04) \$0, CAP- Scotland Rd (HS)- \$0, CAP- Town Hall (HT)- \$0, CAP- Water Improvement (HW)- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$0, Refuse (SR) \$24,312.81, Sewer Fund (SS) \$26.72, Sewer District #2 (SS02)- \$88.61, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$46.29, (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0  
 Total: \$69,678.61

Carried Unanimously

**COMMITTEE AND DEPARTMENT HEAD REPORTS:**

**Highway** – Mike attended a Erie County Highway Superintendents meeting on the snow plowing contracts, which is moving along slowly. The crews are busy rolling the fields and readying the park for summer. They are also breaking down the trucks & removing all the snow equipment.

**Assessor** – Becky presented a report updating the Board on grievance day, which will be held on May 28<sup>th</sup>, the new updates coming down from the state regarding exemptions, the town should be receiving its share of the revaluation monies from the state, her Assessor’s office procedure book is complete and in her office, she is addressing a question regarding the airports agricultural exemptions, and she is writing another taxes, taxes, taxes article for the papers. She also addressed her reappointment this year with the Supervisor and the board.

**Building Office** –the building report was presented by Christine Falkowski of the Planning & Building Department:

Grease Lightening	11234 Main	Cert of Occupancy
Keith Kuzara	12282 Rapids	Remodel
Bill & Nancy Rodgers	12754 Swift Mills	Addition
Bill Holm	11131 Crego	Pole barn
Dome & Home LLC	13440 Steiner	Permit renewal
John Alfieri	13402 Main	Entryway
Bedford’s Greenhouse	6820 Cedar	Sign
Bedford’s Greenhouse	6820 Cedar	Special event permit
K-1 Properties	5725 Davison	Remodel
Solar Liberty Energy System	12795 Carney	Solar panel installation

The Town Board accepted the report as presented.

**Town Clerk-** Dawn presented the 2013 1<sup>st</sup> Quarter Dog Control Officers report. Dawn & Jen will be at a conference April 28<sup>th</sup> – May 1<sup>st</sup> so office hours will be changed slightly.

**Attorney for the Town** – nothing at this time

**COUNCILPERSONS:**

**Rooney** – he attended the Rec board meeting May 9<sup>th</sup>. He spoke with Legislator Ed Rath and Legislator Terry McCracken on the park and attended Erie County Legislature Energy and Parks committee meeting with Jim. He attended court last week in this building and attended the Village of Corfu meeting's. He exchanged emails in regards to the soccer tournament. He and Councilman Mayrose have a meeting to review the Park Master Plan next week. They had the first contract negotiation with the Akron and Newstead fire companies jointly. During the heavy rain last week, he drove around and took pictures and some video of the water flow. He attended the Clarence-Newstead Chiefs meeting.

Councilman Rooney also stated that he is highly offended by some of the comments made during the Braun's site plan hearing. The comments about him personally he can take, but the comments made against the entire Board he cannot. The integrity of this Board is above reproach and anyone questioning it in the manner that some of these people did tonight is unacceptable, unnecessary and untrue.

**Mayrose** – he attended Energy and Environment Committee meeting at the Erie County Legislature regarding the purchase of the Erie County Park property. He also attended the Clarence- Newstead Fire Chiefs Association meeting at the Newstead Fire Hall. He met with the court Clerk's regarding the court consolidation progress. He met with the Town Assessor and Assessor's Clerk regarding some agricultural exemption issues. He went with the Code Enforcement Officer to investigate a resident's concern regarding drainage at Braun's Concert Cove. He met with the Highway Supt and the Senior Clerk of Planning regarding parking issues for a permitted special event in May.

**Baran** – he received one estimate on a shingle roof for the park shelter but is still waiting for the estimate on a metal roof.

**York** – he met with the library board and is looking at potential funding sources and is still looking into proposals for moving Limerick Hall.

**Supervisor-** the March Supervisor's Report is on file with the Town Clerk. He met with the Attorneys on the airport issue. He met with the Auditors who will present their final report on May 13<sup>th</sup> to the rest of the Board. He met with contractors on the library basement project and has spoken to the rep on the library roof. He had a meeting with the new owners of The Rothland's Golf Course and met with Judge Campbell on court consolidation issues. He attended the County Committee meeting on the snow plowing contracts with negotiations being very difficult at best. He also contacted Assemblywoman Corwin and Senator Mike Ranzenhofer looking for their support of the town's purchase of part of the County Park land. He displayed a master plan map he acquired from the County that was done for the park piece back in 1969. They may use this for future reference.

**UNFINISHED BUSINESS:**

**Joint Facility-**the Town & Village Boards both voted to approve a settlement with Picone Construction and are just waiting for the Attorneys to finalize the agreement. The 2<sup>nd</sup> coat was done on the floor this week.

**Planning Issues-** nothing new

**Murder Creek Project-** they are setting a schedule for a meeting with the affected landowners in late May or early June and then construction will take place during low water season this summer.

**NEW BUSINESS:**

**Approval- Establish Capital Reserve Fund:**

A motion was made by Councilman York, seconded by Councilman Baran approving the establishment of a Capital Reserve Fund for a police garage for use by the State Police, Village of Akron Police and Town Storage Use in the amount of \$54,799.62 subject to permissive referendum. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval- Establish Capital Reserve Fund:**

A motion was made by Councilman Baran, seconded by Councilman York approving the establishment of a Capital Reserve Fund for roof repairs of Town owned facilities in the amount of \$21,499.49 subject to permissive referendum. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval- Establish Capital Reserve Fund:**

A motion was made by Councilman Mayrose, seconded by Councilman Baran approving the establishment of a Capital Reserve Fund to complete the finishing of the Newstead Library basement, which will cost an estimated maximum of \$45,000.00, in the amount of \$33,053.43 subject to permissive referendum. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval-11372 Main Rd-Special Use Permit:**

A motion was made by Councilman Rooney, seconded by Councilman Mayrose approving the Special Use Permit for Smith Auto Sales & Service to be located at 11372 Main Rd, subject to the terms set forth in the resolution. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval- Bid Award- Highway Truck Purchase:**

A motion was made by Councilman Rooney, seconded by Councilman Mayrose approving the award of bid for a highway truck, dump body and plow to the lowest bidder Delacy Ford for a bid of \$70,462.00 and authorizing the Town Highway Supt to execute the contracts for purchase. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval- Training Request:**

A motion was made by Councilman Rooney, seconded by Councilman York approving the training request of Board members Councilman York, Councilman Rooney, Councilman Mayrose, Supervisor Cummings and ZBA Chairman Bill Kaufman to attend a training seminar at Houghton College and DCO DeYoung and Deputy Richards to attend training in Webster. Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Proclamation- Municipal Clerk's Week:**

A motion was made by Supervisor Cummings, seconded by Councilman Mayrose approving the proclamation of Municipal Clerk's week the week of May 5<sup>th</sup>-11<sup>th</sup>. Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Approval- Rothland's Liquor License Renewal:**

A motion was made by Councilman Rooney, seconded by Councilman Mayrose approving the renewal request by Rothland's Golf Course for a liquor license renewal and waiver of the 30-day notice requirement as requested. Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye  
Carried Unanimously

**Question Period** – no one spoke

There being no further business to come before the board a motion was made by Councilman Mayrose, seconded by Councilman York to adjourn the regular meeting at 8:58pm.  
Carried Unanimously

Respectfully Submitted, Dawn D. Izydorczak, Town Clerk