

Newstead Town Board Meeting- April 9, 2012

A regular meeting was called to order by the Newstead Town Board on Monday, April 9, 2012 at 8:00pm 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
Dawn Izydorczak- Town Clerk

Roll Call was taken with all board members present.

Supervisor Cummings led the pledge to the flag.

Minutes from the previous regular meeting held on March 26, 2012 were presented for approval. A motion was made by Councilman Mayrose, seconded by Councilman Rooney to approve as presented. Carried Unanimously

Communications – The Town Clerk presented the following correspondence:

The 2011 Water Quality Report was received from Erie County Water Authority.

A letter from Time Warner Cable advising the town of an internal restructuring that will be taking place within its organization. This restructuring will not affect the local operations.

A letter from Time Warner Cable notifying the town of the programmers and broadcasters they are currently under negotiations with for new or continued service.

A letter from the Akron Celebration Team requesting use of the Town Park facilities for the fireworks display to be held on Tuesday, July 3rd.

The January 1 – March 31, 2012 Quarterly Report was received from Allied Waste reporting 436.84+/- tons of solid waste and 7.75 tons of co-mingled recyclables collected.

A letter from the U. S. Coast Guard Auxiliary Division 092-03 asking the town to participate in the North American Safe Boating Week campaign from May 19-25, 2012 by passing a proclamation in recognition of the event.

A public notice was received from the Erie County Department of Environment & Planning regarding the 30-day period for the 8 year public review of the Alden-Newstead Agricultural District No. 1. Any comments can be submitted to Rachel Chrostowski at ECDE&P no later than May 15th and a public hearing will be held on June 4, 2012 at 6:30pm at the Alden Town Hall on the District.

NYS Municipal Workers Compensation Alliance Quarter End Loss Run Report was received.

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

Work Session: The Supervisor reported that at the work session that was held last week the following items were discussed: water districts issues, building projects updates, planning issues updates, town park updates, grants update, personnel issues, murder creek update, contracts updates, litigation update, assessment issues, as well as any other issues brought before the board.

Privilege of the Floor – Curtis Mohr of Crego Rd stated he has been a resident since 1994 and feels something is broken with the system regarding assessment increases. He stated at the Akron School Board meeting last fall he gave the message “the well has run dry” and the same message needs to be expressed here. The increases in taxes are not sustainable any longer and back taxes are becoming a real problem County wide. He feels there is a disconnect of income levels and property taxes and in today’s economy, paying taxes over everyday necessary expenses becomes the last

choice. This area has a declining and aging population. He feels someone at the local level needs to draw a line on costs. It needs to start somewhere. He feels the assessments increases need to be more uniformly and fairly done across the board, not percentages all over the place.

Supervisor Cummings stated he agrees and if you look at the town rates historically when assessments go up the town's tax rate has always decreased corresponding. Unfortunately the town cannot control what the school and the County do with their budgets.

Dale Cheavacci of 113 John St questioned where the town is with the airport lawsuit.

Attorney Neill stated on the original 43 acre site the court has stated the airport is allowed to build buildings without any future variances from this point forward. They still must go thru the Planning Board process, Town Engineer review and then Town Board approval processes and are subject to regular building processes.

Mr. Cheavacci stated that he is disappointed that they requested their assessments be dropped 2 years ago and the town complied and now this year their assessments are dropping again. He disagrees with this and stated if they can spend over \$7 million dollars on improvements up there over the past few years they should have a much higher assessment.

Cory Auerbach of Damon & Morey Law Firm, Clarence, NY requested that a public hearing be set by the Town Board tonight on the site plan for the airport. He cited recommendations made at the litigation hearing held on March 30th. He stated the Court granted their decision and request for relief to have the hearings set and that the intent of the order is clear. He stated he understands review by the Planning Board is first necessary but feels town procedures are superseded by the courts ruling and is requesting scheduling of the public hearing for 2 weeks from tonight. It jeopardizes the airports grants if it is not.

Mr. Auerbach presented copies, not signed by the Judge, of the order from the Court to the Board at this time.

Supervisor Cummings stated the Town Board and Town Attorney just received notice of these copies and the order at 7:45pm tonight at work session. As far as they are aware their Counsel on this issue does not have a copy yet. They will not be forced to make a wrong determination at this meeting only having just received this unofficial order.

Budget Transfers: A motion was made by Councilman Mayrose, seconded by Councilman Rooney to approve the budget transfer request by Bookkeeper Colleen Salmon per the memo dated 4/9/12.
Carried Unanimously

Approval of Bills – Councilman Mayrose reported that the Abstract from Batch(es) # 1166 from the March 26, 2012 meeting has been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1168 & 1711 for payment. Vouchers on this abstract numbered from 329-330 and 355-414, totaling \$65,696.46 and were presented by Councilman Mayrose, seconded by Councilman Rooney to approve payment as follows:

Abstract Batch(es) #1168 & 1171:

General Fund (A) -\$14,423.83, General Fund- Outside Village (B) \$156.00, Highway (DA) -\$4.55, Highway: Outside Village (DB) \$4,004.78, Capital Projects: CAP- Highway Garage- (HG) - \$205.00, CAP-Murder Creek (HM) \$2,050.00, CAP- Equipment Purchase (HR02)- \$0, CAP- Scotland Rd (HS)- \$0, CAP- Town Hall (HT)- \$0, CAP- Water Improvement (HW)- \$0, Drainage (SD)- \$75.24, Fire Protection (SF) \$4,824.00, Refuse (SR) \$31,295.59, Sewer Fund (SS) \$0, Sewer District #2 (SS02)- \$157.50, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$6,627.60, (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$8.22, (SW6) \$12.33, (SW7) \$1,838.80, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$13.02

Total: \$65,696.46

Carried Unanimously

COMMITTEE AND DEPARTMENT HEAD REPORTS:

Highway – starting April 9, 2012 the department goes to 10 hour days Monday – Thursday from 6:30am – 4:30pm. Dan David has been appointed to work Saturday electronic drop-offs from 9am – 12 noon. The town crews will be helping the Village crews on April 10th with a new waterline and

road project on Marshall Ave. There was a MAD Training Seminar held on April 5th along with an employee meeting which was held afterward.

Assessor – no report presented

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

Stephen Blask	6842 Cedar	Deck
Peter Welkley	5659 Crittenden	Permit renewal
County Line Stone Co	4515 Crittenden	Office addition
Linda Hussain	5887 Davison	Roof
Darrin Berghorn	11313 Miland	Pole barn
Donald Smith	13445 Bloomingdale	Remodel
Dan Zazynski	13590 Steiner	Roof
Albert Moadoer	11155 Hiller	Sunroom

The Town Board accepted the report as presented.

Town Clerk- The 1st Quarter Dog Control Officers report was submitted to the Board. We have received back from preservation company the Town of Newstead Marriages from 1969 – 1977. Dawn will be on vacation from April 17th thru May 1st so Jennifer will be in charge.

Attorney for the Town – nothing at this time

COUNCILPERSONS:

Rooney – he and Councilman Mayrose held a parks committee meeting and are almost ready to make a presentation to the board. He has also invited a new member of the arts community to join the committee for input. He would like work session time to discuss a local law on sex offenders.

Mayrose – besides the parks meeting he attended a library board meeting and the highway negotiations meeting. He feels the library board may be requesting work session time with the board sometime soon.

Baran – reported ceiling work on Community Building is almost done and then the lighting will be replaced.

York – nothing at this time.

Supervisor- the February Supervisor’s Report is on file with the Town Clerk. He attended the safety session and employee meeting at the joint facility last week as well as the highway negotiations session. He attended the monthly Erie County Supervisor’s meeting.

UNFINISHED BUSINESS:

Water Districts – all services are in and the waterline is active. Residents need to have their water meters installed and the switch over process scheduled thru Jim Akin and Erie County Water Authority now. Final restoration is not done yet but will be by June 1st. They met with the owners of the proposed PRV site on Clarence Center Rd and are in process of working up easements.

Shared Public Works Facility Project –safety session and employee meetings were held. All crews are moved in and working well at this point. The committee will be recommendations on the old facility buildings after the next meeting.

Murder Creek- update report was presented by Apex. Most of the plants are all in good condition after the winter and monitoring will continue on a few. The south bank is doing quite well and wall has no signs of any movement or settling. Carl notified the board that the access road can be removed and restoration done at the De La Cruz residents anytime as weather permits.

NEW BUSINESS:

SEQRA & Adoption-Local Law #2 of 2012:

A motion was made by Councilman Mayrose, seconded by Councilman Rooney adopting a determination of Non-Significance of Local Law with regards to SEQRA regulations on the proposed Local Law #2 of 2012 entitled Zoning Law Amendments of the Town of Newstead. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

A motion was made by Councilman Mayrose, seconded by Councilman Rooney adopting the proposed Local Law #2 of 2012 entitled Zoning Law Amendments of the Town of Newstead. (Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Approval- Stage Rd Subdivision:

A motion was made by Councilman Baran, seconded by Councilman York approving the 6-lot major subdivision as requested by owner Kelly Schultz located on Stage & Billo Rds subject to the terms set forth in the resolution.

(Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Scott Rybarczyk from Wendel reminded the Board about the requirement for deed covenants on these parcels to address drainage issues.

Approval- Akron Fire Co Building Project:

A motion was made by Councilman York, seconded by Councilman Baran approving the request by the Akron Fire Company to expend an amount not to exceed \$200,000 to make renovations to their fire hall located at 1 Main St.

(Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Hearing- Unsafe Building- 13655 Main Rd:

A motion was made by Councilman Rooney, seconded by Councilman Mayrose approving the calling of a hearing with owner Howard R. Whitman to hear comments on the unsafe building located at 13655 Main Rd in the Town of Newstead to be held on May 14, 2012 at 7:50pm at the town hall.

(Resolution Attached) Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

LOSAP- Newstead Fire Co:

A motion was made by Councilman Mayrose, seconded by Councilman Rooney approving the LOSAP payments for Newstead Fire Co.

Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Approve Highway Appointment:

A motion was made by Councilman Baran, seconded by Councilman Rooney approving the appointment of Dan David as a part time worker for the highway department for the Saturday recycling drop-offs as needed.

Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Adoption- Rules of Conduct for Joint Facility:

A motion was made by Councilman Baran, seconded by Councilman Mayrose approving the presented Rules of Conduct for the Joint Facility and its employees with the approved amendment to #6.

Cummings-Aye, Rooney -Aye, Mayrose-Aye, Baran-Aye, York-Aye

Carried Unanimously

Councilman Rooney wished Supervisor Cummings a Happy Birthday.

At this time the Supervisor stated regarding the request by Mr. Auerbach earlier in the meeting, the Town Board will act diligently and in a responsible manner. The Board does not feel acting on this request without having their Counsel present or having had an opportunity to review the document presented this evening is in the best service to the town or its residents.

Town Attorney Neill stated the Town Code clearly states the earliest the Town Board can act on calling a site plan/project public hearing is upon the Planning Boards recommendation for approval and following review by the Town Engineers.

The Board voted unanimously to enter executive session at 8:55pm to discuss the litigation on the airports request.

The Board exited executive session at 9:04pm at Councilman Mayrose motioned to re-enter the meeting seconded by Councilman Baran. Carried Unanimously

Supervisor Cummings announced the decision on the airports request to set a public hearing tonight will not be granted as it is direct violation of the Town Code and Procedures for setting public hearings on projects. The project must go before the Planning Board first for their recommendations and approvals and be reviewed by the Town Engineers prior to the Town Board acting to set a public hearing schedule. Attorney Neill questioned the airports timeline on the grant funding but Mr. Auerbach did not answer.

Question Period – Attorney Auerbach questioned if it is the Boards intent to disobey a court order. Supervisor Cummings responded the Towns Counsel on this matter will respond to Mr. Auerbach once he has received, and had time to review, the Courts decision. As of this date, the Towns Counsel nor the Town have received an official copy of the decision.

There being no further business to come before the board a motion was made by Councilman Mayrose, seconded by Councilman Baran to adjourn the regular meeting at 9:07pm.

Carried Unanimously

Respectfully Submitted,
Dawn D. Izydorczak, Town Clerk