

Newstead Town Board Meeting- June 9, 2014

A regular meeting was called to order by the Newstead Town Board on Monday, June 9, 2014 at 8:00pm at the Newstead Town Hall.

Present: David Cummings- Supervisor
Justin Rooney- Councilman
James Mayrose- Councilman
Donald York- Councilman
Marybeth Whiting- Councilwoman
Nathan Neill- Attorney for the Town
Mike Bassanello- Highway Supt.
Scott Rybarczyk- Town Engineer
Dawn Izydorzak- Town Clerk
Jennifer Heberling – Deputy Town Clerk

Roll Call was taken with all board members present.

Councilman Mayrose led the pledge to the flag.

Minutes from the previous regular meeting held on May 27, 2014 were presented for approval. A motion was made by Councilman Rooney, seconded by Councilwoman Whiting to approve with the following correction. Page 5, privilege of the floor, CEO Migliaccio responded, not Supervisor Cummings. Carried Unanimously

Minutes from the previous joint meeting held with the Village of Akron on June 2, 2014 were presented for approval. A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting to approve as presented. Carried Unanimously

Agenda Changes – addition of H. Motion – Fee for wind turbines and I. Motion – Approve electric inspector

Communications – The Town Clerk presented the following correspondence:

A letter from Time Warner Cable notifying the town of the programmers and service providers they are currently in negotiations with for service.

A notice of informational forums and public statement hearings on the petition of Time Warner Cable and Comcast Corp was received from the NYS Department of Public Service.

A letter from the NYSDEC notifying the town it was not selected for a tree inventory grant for 2014.

A notification of the 2014 planning and zoning summer schools to be held in July and August.

A notification from the Town of Lancaster of their plans to amend their yard sales ordinance.

A letter of application for the Deputy Town Prosecutors position was received from Attorney Robert Friedman.

A motion was made by Councilman Rooney, 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: met with Newstead Fire Co on an equipment purchase proposal, water district issues, planning issues, building projects, highway issues, group homes, grants, park master plan, town hall parking lot, scout projects, July 4th and any other issues brought before the Board.

Agenda Items Question Period: no one spoke

Budget Transfers: none

Approval of Bills – Councilman Mayrose reported that the Abstract(s) from Batch(es) #1402 & 1403 from the May 27, 2014 meeting have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1406 for payment. Vouchers on this abstract(s) numbered from 538 – 585, totaling \$73,070.26. Councilwoman Whiting seconded to approve payment as follows:

Abstract Batch(es) #1406:
 General Fund (A) -\$18,845.97, General Fund- Outside Village (B) \$226.23, Highway (DA) -\$0, Highway: Outside Village (DB) \$9,398.66, CAP-Murder Creek (HM) \$1,081.04, CAP- Scotland Rd (HS)- \$0, CAP- Water Improvement (HW)- \$0, CAP Water-Downey (HW01)- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$10,084.51, Refuse (SR) \$25,993.19, Sewer Fund (SS) \$0, Sewer District #2 (SS02)- \$570.00, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$6,870.66, (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0 Total: \$73,070.26 Carried Unanimously

COMMITTEE AND DEPARTMENT HEAD REPORTS:

Highway – he attended highway school last week, attended a meeting with Jon Cummings and Scott Rybarczyk regarding waterline issues and will begin oiling and stoning roads over the next week. They will take a short brake until the local bike races are finished and then finish.

Assessor – Becky presented a report on the Board of Assessment Review hearings, the postponement of the revaluation project for the mobile home parks until next year and that the office is now offering the Income Verification Program to seniors who are eligible for the Enhanced STAR only. She also reported a change in the mapping from Erie County that will affect some Nice Rd property owners.

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

Eric & Holly Cebulski	12981 Carney	A.G. Pool & deck
John Bernacki	8171 Greenbush	Roof
Richard Schie	6554 Draper	Ditch fill
William Perrone	6500 Draper	Ditch fill
Michael Bradley	6754 Cedar	Roof
Ivy Ridge Golf Course	12089 Main	Tent
Craig Frost	4833 N Millgrove	Patio roof
James Murray	6137 Dye	Ditch fill
Lavern Hastrich	13600 Steiner	Roof
Richard & Julie Felber	11851 Nice	One Family Home
Randy & Jill Felber	11861 Nice	One Family Home

The Town Board accepted the report as presented.

Town Clerk- Dawn will be out of the office the rest of the week for surgery. Jennifer will be in charge.

Attorney for the Town – nothing to report

COUNCILPERSONS:

Rooney – he attended joint Town/Village emergency service committee meeting early this evening, worked on the grant for the park and attended the Town fire service committee meeting between the Akron and Newstead fire companies with Councilman Mayrose. He urges everyone to visit the Vietnam Moving Wall in Pembroke this week to pay their respects for those who served and welcomes his nephew Sawyer Daniel Mergenhausen born to Justin & Patty.

Mayrose – he met with the Newstead Fire Company Chief regarding cost saving measures related to the contract, attended the Akron/Newstead Fire Chiefs meeting and discussed ways in which the two fire companies are working together and made a number of phone calls to other municipalities regarding their recent park enhancements in order to obtain information for the grant submission. He is expecting to receive quotes for installing three baseball diamonds in the next day or so. He also

spoke with Amanda Harrington regarding the celebration plans for July 4th and attended the Ethics Training provided by the Town of Clarence.

York – he attended the Ethics Training, spoke to Ed Rath’s office regarding pot holes on county roads, worked on lighting and electricity at the town park and thanked Frey Well Drilling for donating their time to drill the holes for the poles.

Whiting – she attended Ethics Training this afternoon, spoke with Ed Rath regarding the stingray technology, child protective services and the shape of the roads. The Legislators want to spend \$5 million on road repairs but the County Executive is against it. She attended the recreation meeting and spoke regarding the new online site myrec.com. Spoke to the Catalano’s regarding the Draper Road water loop and Carol Hill regarding the airport. She met with the Dugan’s and Rhonda Frederick regarding the group homes. The architect and engineers met at the sites to discuss the parking issues. On Rapids Road they are going to add 10 more spaces. The Dugan’s are pleased with the outcome of that meeting. Regarding the Buckwheat Road site the 2nd septic issue has to be dealt with before the parking issues. Regarding the concerts at Braun’s, she listened to the concert on Barnum Road and spoke to the Dahn’s who said they didn’t think it was that bad.

Supervisor – he attended the Elma supervisors meeting and the Ethics training in Clarence. He thanked the Town of Clarence for sharing that training session with us. He attended the EMS meeting, met with the grant writer, attended a Hazman presentation and discussed Mr. Capel’s issue with the Town Hall parking lot. It has been determined that the DOT inspections should not be here in the town hall parking lot and will be moved to the Joint Facility parking lot in the future. Two complaints were made regarding the noise from Braun’s. One from Barnum Road – it was loud but ended at 11pm and one from Quarry Hills – it was loud but much better. The Supervisor then made the following public statement:

I would like to address and clarify several comments that were made by Town of Newstead resident, Kevin Borth (7553 Scotland Road) at the Town Board meeting of April 28, 2014.

Under agenda item questions-

1. Mr. Borth believes that Supervisor Cummings appoints board members for political reason and gains.

REPLY – all board members are asked as to what committees they would like to be on for the next year in the November/December time frame of the previous year. All requests are fulfilled as much as possible. Most requests are granted. For 2014 only one committee did all board members want to be on. Several, no one wanted to be on. There is no basis for Mr. Borth’s claims.

2. Mr. Borth claims that \$300,000 was overspent without approval and mentioned a 21 page report from the State Comptroller’s office. He also stated that the Comptroller’s office was unhappy with the Town of Newstead.

REPLY – in checking with the State Comptroller’s office, they are not dissatisfied with the Town of Newstead. They cited we replied and are happy with our responses. They stated again, nothing illegal was done. Board members from both the Town and Village knew what was being spent. It is true the proper motions were not made, but all board members of both boards knew what was being spent. Concerning the \$300,000 over budget it is true both the Town and Village overspent \$300,000 that was not in the original budget. What did we spend that on? The following – we added to the original cost a salt shed, a cement floor in the cold storage building with piping for heating in the future and we had other upgrades to the cold storage building. The estimated total of extras was over \$500,000. It was felt by both boards that this was money well spent at the time and the cost would only increase if we waited. So while we did not make the proper motion, both boards spent more money, but saved the taxpayers more than what was spent if we had waited several years to do the same work.

3. Mr. Borth questioned why the lowest bidder was not used for the lower level of the library.

REPLY – in researching and checking the minutes, the lowest bidder was taken in the bid in the lower level of the new Library. (March 25, 2013)

4. Mr. Borth commented on the committee concerning the group home situation.

REPLY – the Supervisor put the committee together within a few days after the Board meeting this was brought up this spring and asked Councilman Rooney and Councilwoman Whiting to chair the committee.

Under question period:

1. Mr. Borth again commented on his opinions concerning appointment of board members to committees.

REPLY – I refer to the first statement in a reply concerning the board appointments.

UNFINISHED BUSINESS:

Joint Facility – the gas meter is ready to be changed.

Planning Projects – nothing new

Conservation issues- Murder Creek – nothing new

Water projects – water bid docs are in process for Draper Road and will go out for bid after the next meeting. There has also been a request for water on Downey for a new build. Scott asked if they want to add Downey Road to the Draper Road project. Mike Bassanello will check their schedule and see if there will be time to do both.

NEW BUSINESS:

Approval- Site Plan & SEQR for 12600 Clarence Center Rd:

A motion was made by Councilman York, seconded by Councilwoman Whiting issuing a negative SEQR declaration and approving the site plan proposal for a 6,400 sq. ft. storage building at 12600 Clarence Center Rd by Niagara Specialty Metals, subject to the terms set forth in the resolution.

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

Carried Unanimously

Approval- Recreation Program Sponsors on MYREC:

A motion was made by Councilwoman Whiting, seconded by Councilman Rooney authorizing the recreation department to solicit business and individual sponsors for their website/online registration program thru MYREC at a cost of \$200/sponsorship, with all proceeds going to offset the cost of running the recreation program.

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

Carried Unanimously

Approval- Town Park Grant Funding:

A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting approving the application for grant funds for the development and future planning of the town park properties and authorizing the Supervisor to execute any necessary paperwork in connection with the grant.

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

Carried Unanimously

Approval- Recreation Summer Staff:

A motion was made by Councilwoman Whiting, seconded by Councilman Mayrose approving the list of recreation employees and their pay rates for the 2014 summer session per the attached sheet.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye

Carried Unanimously

Approval- Assistant Town Prosecutor Appointment:

A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting approving the appointment of Robert Friedman as Assistant Town Prosecutor for a term ending 12/31/2014.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye

Carried Unanimously

Approval- Joint Facility Gas Regulator:

A motion was made by Councilman Mayrose, seconded by Councilman York approving the installation of a new gas regulator at the Joint Facility for \$4,301.40.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Approval- Beer/Wine Permit-Veterans Park:

A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting approving the request for a beer/wine permit for a family reunion on August 3, 2014 at Veterans Park.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Approval- Wind Turbine Fee:

A motion was made by Councilman Rooney, seconded by Councilwoman Whiting approving a \$50.00 permit fee to be added to the town fee schedule for wind turbines under 200 feet.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Approval- Special Use Permit for Wind Turbines:

A motion was made by Councilman Rooney, seconded by Councilman York approving that special use permits issued for wind turbines under 200 feet will be permanent special use permits.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Approval- Addition of Authorized Electrical Inspector:

A motion was made by Councilman York, seconded by Councilwoman Whiting approving the addition of NY Electrical Inspection Agency to the towns list of authorized electrical inspectors.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Privilege of the Floor/Question Period:

Greg Lindke of Cottage Rd in Gasport NY spoke regarding the incident between him and the CEO. He feels he has been misrepresented in previous meetings.

Kevin Borth of 7553 Scotland Rd spoke regarding construction issues, dog license comment being in poor taste, quote from contractor that wouldn't do job if Ralph was doing the inspections and he walked into his property without permission. He questioned the Supervisor's secretary being on the ethics board and her ethics and integrity. He feels it is suspect. He questioned why the doubled fee is waived for some people, but not others. He feels the CEO is overzealous & inappropriate and is trying to prove his value. He feels the CEO job should not be a full time job and needs to be reverted back to a part time position. He is not letting this drop. He wants a plan of corrections and wants to be treated with consideration. Regarding the joint facility he feels he's been given excuses and wants accuracy. Nothing in the 21 pages says the state comptroller was "happy". Regarding the group home, his issue is that the 45 day period to respond should not have been missed. He believes there are political designations on board assignments. This needs to be improved and should be done as a group. The CEO truck issues need to be changed.

Don Caple of 6860 Maple Road read the town policy regarding use of town vehicles. He questioned the CEO's truck being parked outside the Village Inn on May 27th at 9:06pm. He stated along with the CEO inside the Village Inn was Supervisor Cummings, Councilman Mayrose and Cheryl Esposito. He stated if the CEO was drinking and in an accident in the town truck, that would be a huge liability. He stated the CEO does what he pleases and he even followed him today to see where he was going.

Mr. Borth asked who has oversight over the CEO? Supervisor Cummings and Councilman Mayrose? He questioned how that looks when he is drinking in a bar with the two people who have oversight of him.

The Board entered executive session at 8:59pm to discuss the allegations against the Code Enforcement Officer. The Board exited executive session and returned to the meeting at 9:11pm.

Policy Change for CEO Truck:

A motion was made by Councilman Rooney, seconded by Councilman Mayrose to restrict the usage of the Code Enforcement Officer's town truck to the hours of 8:00am – 4:30pm and only for official Town of Newstead business. It is no longer allowed to be taken home.

Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye Carried Unanimously

Referral to Ethics Board:

A motion was made by Councilwoman Whiting, seconded by Councilman Rooney to report the alleged incident of May 27, 2014 to the Ethics Board for review.

Cummings-Abstain, Rooney-Aye, Mayrose-Abstain, Whiting-Aye, York-Aye Carried

Councilman Mayrose and Supervisor Cummings abstained from voting because they were mentioned in the accusation.

Kevin Borth asked the process of the ethics board.

Don Caple asked who is on the ethics board.

Supervisor Cummings responded and outlined the Ethics Board process and members of the Board.

Michael Borth of 13546 Stage Road asked why Kevin's permit has still not been issued and asked if this will hold the permit up. He also suggested the board reference the states information available regarding the right of the CEO to access property.

There being no further business to come before the board a motion was made by Councilman Rooney, seconded by Councilwoman Whiting to adjourn the regular meeting at 9:18pm.

Carried Unanimously

Respectfully Submitted,

Dawn D. Izydorzak, RMC, Town Clerk