

## Newstead Town Board Meeting- May 27, 2014

A regular meeting was called to order by the Newstead Town Board on Tuesday, May 27, 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  
Scott Rybarczyk- Town Engineer  
Dawn Izydorczak- Town Clerk

Roll Call was taken with all board members present.

Councilwoman Whiting led the pledge to the flag.

Minutes from the previous regular meeting held on May 12, 2014 were presented for approval. A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting to approve as presented. Carried Unanimously

**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 letter was received from Senator Patrick Gallivan notifying the town that the Home Rule request form is now available on the NYSenate.gov website under the “open Senate” tab.

A ruling was received from the NYSDOT regarding the speed study request for South Ayers Rd. The DOT has decided the speed limit on South Ayers Rd should be reduced to 45 mph between Dorsch and Steiner.

A notification was received from the Town of Pembroke that they will be hosting the Vietnam Traveling Wall and Cost of Freedom Tribute from June 11<sup>th</sup> – June 15<sup>th</sup> with several events to be held over the 5 days. These events are to be held in conjunction with the Oakfield-Alabama American Legion Post #626.

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: celebration committee requests for July 4<sup>th</sup> activities at the town park, water district issues, grants, building projects, highway issues, planning issues, contracts and any other issues brought before the Board.

**Agenda Items Question Period:** no one spoke

**Budget Transfers:** a motion was made by Councilman Mayrose, seconded by Councilman York to approve the proposed budget transfers as recommended by Bookkeeper Colleen Salmon per memo dated May 27, 2104. Carried Unanimously

**Approval of Bills** – Councilman Mayrose reported that the Abstract(s) from Batch(es) #1399 from the May 12, 2014 meeting have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1402 & 1403 for payment. Vouchers on this abstract(s) numbered from 500 – 537, totaling \$123,974.01. Councilwoman Whiting seconded to approve payment as follows:

Abstract Batch(es) #1402 & 1403:  
General Fund (A) -\$34,241.24, General Fund- Outside Village (B) \$82.33, Highway (DA) -\$0,  
Highway: Outside Village (DB) \$4,115.94, CAP-Murder Creek (HM) \$0, CAP- Scotland Rd (HS)-

\$0, CAP- Water Improvement (HW)- \$0, CAP Water-Downey (HW01)- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$80,201.66, Refuse (SR) \$5,139.43, Sewer Fund (SS) \$31.42, Sewer District #2 (SS02)- \$115.31, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$46.68, (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0 Total: \$123,974.01 Carried Unanimously

**COMMITTEE AND DEPARTMENT HEAD REPORTS:**

**Highway** – not present

**Assessor** – no report presented. Grievance Day was held today and she is still in meeting with the Board of Assessment Review.

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

Christian Airmen Inc	John St	Special event
Kevin Frost	12251 McNeeley	Ditch fill
Fred Drahms	12604 Clair	Ditch fill
Harry Little	29 Quarry Hill Est	Deck
Angelo Allesandro	11931 Rapids	Deck roof
Joseph Commisso	12213 McNeeley	Ditch fill
Rothland Golf Course	12089 Clarence Center	Tent
Home Improvement Center	10971 Keller	Deck
John Healy	6253 Dye	Ditch fill
James DeLaurentis	12255 McNeeley	Ditch fill

The Town Board accepted the report as presented. Supervisor Cummings explained that with the number of permits we have received for ditch fill ins there is no way all of them will get done this year. There were just too many requests to fit in around normal highway dept. work. He also stressed to residents requesting their ditch to be filled in that the town cannot guarantee that doing this will not cause additional flooding problems in their area. You are taking a 3 foot ditch that drains water and reducing it down to a 12 inch pipe that drains water. In heavy rain events the water is going to take longer to drain off which may cause backups.

CEO Ralph Migliaccio spoke to the Board to address several statements that were made about him at the April 28, 2014 Town Board meeting.

These statements were made by Kevin Borth:

- (1) “18 months ago a family member came in to apply for a building permit to put a roof on. He attempted to do the right thing and was harassed by the CEO”.

CEO Migliaccio: I don’t have a clue who or what he is talking about here, although I have experienced in my 3 ½ years here several incidents when I enforced Codes, which I was hired to do. Some people interpret this as harassment.

- (2) Mr. Borth stated he was in the office to pay for a dog license and the CEO came up behind him and told him he better pay for the dog license or he was going to shoot it.

CEO Migliaccio: This is by far the most ridiculous thing I have been accused of. What actually happened: I had never met Kevin Borth previously. I encountered him near the Town Clerk’s window conducting business relative to dog licenses. I jokingly stated “they shoot unlicensed dogs around here”. My sense of humor was apparently not shared by Mr. Borth. To report to the public that I would personally threaten any stranger who comes in to the Town Hall by indicating that I would kill their pet is ludicrous. It is obvious that Kevin Borth and I do not know each other very well.

- (3) Mr. Borth stated that shortly after he publicly opposed broadening the scope of my authority regarding a home based business law, he had a family member’s special use permit revoked.

CEO Migliaccio: The broadening scope of my authority by the Town Board was simply to address an issue that was not already addressed in the code. Nevertheless, the Town Board,

on recommendation by the Planning Board, voted to not renew this permit, not the CEO. Fact is, I do not vote on either Board.

- (4) Mr. Borth stated “recently he came to the Town Hall to discuss a building permit with the CEO” etc.

CEO Migliaccio: On March 18<sup>th</sup> I was driving by a house at 12188 Buckwheat Road. I observed a lot of work going on without any permit. I left my card with a man working there, told him a permit was required, etc. and went back to my office. While I was in a meeting that day, Mr. Borth stopped in. I was told by the Building & Assessor Clerk that he felt he did not need a permit, and he scheduled a meeting with her to see me that Friday. To avoid any misunderstanding of the scope of the work and to prepare for this meeting, I went back the next day and took six pictures of the interior of the first floor (see attached). That was as far as I could go because the three men working here told me to leave. Clearly by my six photographs you can see that Mr. Borth’s statement “my contractor had to open up a wall because of an emergency situation with the plumbing” is a gross exaggeration. The entire first floor is gutted! Do the three grown men working there look physically harassed in the photo? I feel that Mr. Borth is hoping the Town Board will direct me to just leave him alone, which they did not do. They told me to do my job, issue him a building permit as soon as he has submitted the required documents, which he still has not done! Documents submitted were incomplete and inaccurate, and Mr. Borth has been asked to make corrections for submittal.

- (5) The statement that I was “stoked up by one of the secretaries” can only be a reference to the statement I already made above. I was told by my Clerk that Mr. Borth relayed to her that he did not need a permit for the work being done at 12188 Buckwheat. No one disagrees with this fact.

**Town Clerk**- nothing at this time

**Attorney for the Town** – not present

### **COUNCILPERSONS:**

**Rooney** – he attended meetings with Akron Little League Football and Akron Sports Inc. to discuss their input to the park master plan as well as having discussions about the plan with several other interested people. He spoke with Assemblywoman Jane Corwin regarding the bill progressing in the Assembly on the park land purchase. He met with Newstead Fire Chief Mike Mutter and they have a meeting with Akron’s reps as well tomorrow. He spoke with residents on the ditching policy and the noise law. He also attended a call out session at Newstead Fire Hall where they raised money for the Newstead Fallen Firefighters Fund. He attended the flag raising ceremony at the VFW and then at the American Legion and thanked the VFW, Amvets, American Legion and everyone that came out to honor Memorial Day. He thanked Joel Gregorio for allowing him to place a wreath at the J.A. Miller grave site yesterday. He was honored to do so. He placed American flags at the graves of members of the military at Maple Lawn cemetery with his dad, brother and son Connor and daughter Molly.

**Mayrose** – he attended the bid opening for the Murder Creek Project, met with the Newstead Fire Company Chief regarding question with the contract, attended the Zoning Board meeting, attended a Park Master Plan meeting, made a number of phone calls to other municipalities regarding their recent park enhancements, attended the celebration committee meeting, and attended the Memorial Day Services at various locations throughout the Town.

**York** – he attended the Memorial Day services in town and attended the celebration committee meetings finalizing plans for July 4<sup>th</sup>.

**Whiting**—she spoke with residents regarding the noise law and some reoccurring issues at the group homes.

**Supervisor-** he attended the Pioneer Cemetery Association meeting, the Erie County Supervisors meeting and spoke with Senator Ranzenhofer, the Highway Supt. and the Code Enforcement Officer on several issues. He attended the Memorial Day services in town as well.

**UNFINISHED BUSINESS:**

**Joint Facility-** nothing new to report

**Planning Projects-** nothing new to report

**Conservation issues- Murder Creek-** bids opened on May 22<sup>nd</sup>. Project to be awarded under new business.

**Water projects-** Scott has a meeting scheduled tomorrow on the Draper Rd project. He will report on that at the next work session.

**NEW BUSINESS:**

**Approval- SEQR Local Law #2- Rezoning on Main Rd:**

A motion was made by Councilman York, seconded by Councilwoman Whiting issuing a determination of non-significance of Local Law regarding the rezoning of a portion of 2 parcels of land on Main Rd to I-1 zoning and authorizing the Supervisor to execute the Part III of the EAF. (Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Local Law #2 of 2014- Rezoning on Main Rd:**

A motion was made by Councilman Mayrose, seconded by Councilman Rooney approving the proposed Local Law #2 of 2014 that will rezone a portion of 2 parcels of land owned by Newstead Properties LLC on Main Rd to I-2 zoning. (Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Award Bid- Murder Creek Phase 2 project:**

A motion was made by Councilwoman Whiting, seconded by Councilman Mayrose approving the award of the Murder Creek Phase 2 project bid to D & H Excavating for a bid in the amount of \$60,720.00 and authorizing the Supervisor to execute a contract with D & H Excavating on behalf of the Town, subject to review by the Attorney for the Town. (Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Amendments to Roadside Ditching Policy:**

A motion was made by Councilwoman Whiting, seconded by Councilman Rooney approving the amendments made to the Roadside Ditching Policy since the May 12<sup>th</sup> meeting and accepting the new policy as amended. Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Work Place Violence Policy & Survey:**

A motion was made by Councilman Mayrose, seconded by Councilwoman Whiting approving the proposed forms and surveys for the Workplace Violence Policy monitoring. Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Lateral Restriction Request:**

A motion was made by Councilman Rooney, seconded by Councilwoman Whiting approving the request by Ron Winkelman of 12288 Tonawanda Creek Rd for a Lateral Restriction Hardship application to access waterlines for a new home. Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Approval- Change to Town Board Agenda:**

A motion was made by Councilman Mayrose, seconded by Councilman Rooney approving the addition of an “agenda changes” section to the town board meeting agendas right after the minutes. Cummings-Aye, Rooney-Aye, Mayrose-Aye, Whiting-Aye, York-Aye  
Carried Unanimously

**Privilege of the Floor/Question Period:**

Joe Dugan of Rapids Rd questioned the status of the People Inc. fence and driveway that was supposed to be put in this spring.

Councilwoman Whiting responded that the Town Attorney sent a letter out to People Inc regarding that a couple weeks ago and we are waiting for a response back from them. She will reach out to Rhonda on that this week.

Don Caple of Maple Rd questioned why the CEO takes the town truck home and why the Akron Village Police do their DOT inspections in the Town Hall parking lot. He wondered who fixes the parking lot if all those heavy trucks and trailers wreck it, the Village?

CEO Migliaccio responded to the CEO truck question stating the Code Enforcement Officer, like the Highway Supt., is on call 24/7 for emergencies and fires so it only makes sense for him to have the vehicle with him at all times. He should not have to drive back to the town hall in emergencies to pick up the truck. It was done that way for years, then there had been a change made, but now it is back to the way it was done before.

Supervisor Cummings responded regarding the DOT inspections done in the parking lot by the Village PD, he stated that was a good question about repairs to the parking lot and he will look into it.

There being no further business to come before the board a motion was made by Councilman Mayrose, seconded by Councilwoman Whiting to adjourn the regular meeting at 8:35pm.

Carried Unanimously

Respectfully Submitted,  
Dawn D. Izydorcak, RMC, Town Clerk