

## Newstead Town Board Meeting- April 26, 2010

A Public Hearing was called to order by the Newstead Town Board on Monday, April 26, 2010 at 7:30pm at the Newstead Town Hall.

Present: David L. Cummings- Supervisor  
Justin Rooney- Councilman  
Cheryl Esposito- Councilwoman  
Richard Baran- Councilman  
James Mayrose- Councilman  
Mike Bassanello- Highway Supt.  
Nathan Neill- Town Attorney  
Scott Rybarczyk- Town Engineer  
Jennifer Heberling- Deputy Town Clerk

Roll Call was taken with all board members present.

The Supervisor called the public hearing to order on the Special Use Permit and Site Plan application for a home based business located at 7463 Maple Rd.

The Deputy Town Clerk read the proof of publication.

The Deputy Town Clerk read a written comment that was submitted.

Comments:

Supervisor Cummings began the public hearing by stating that the CEO sent a letter to the Balsers' in October stating the Board was in the process of developing a home based business law.

Paula Cocco – 7451 Maple Rd. – stated that she lives next door to Mr. Herberger and they have known him for several years. They don't hear anything and they see him and his business as an asset to the neighborhood.

Kathleen Balser – 7487 Maple Rd. – stated that the Coccos' live on the other side of Mr. Herberger's house. All the equipment is in the corner near her home.

Diane Scroger – 7464 Maple Rd. – lives across the road. She said that Mr. Herberger is very punctual at getting ready in the morning. She never hears his equipment. The trucks that drive down Maple Road are louder than Mr. Herberger's business. She also stated that the property looks a thousand times better than it did before. The property is meticulous.

Paul Herberger – 7463 Maple Rd. – stated that Kathy & Michel Balser are the only neighbors that are complaining. He owns 1 dump truck and 1 bobcat. He explained that if he was a farmer he could be running much larger equipment all day instead of just in the morning and the evening. He put in a berm with evergreen trees to try to shield his property from the Balsers. All the equipment he has at his property is functional. Claims that the Balsers' would be able to have better use of their pool if it was the required 10 feet from the property line instead of the 4 feet that it is. He also said that he has a pick-up truck and a van and the bobcat is equipped with a back up alarm that he leaves turned off.

David Balser – 7487 Maple Rd. – claims that Mr. Herberger's equipment is being run less than 500 feet from their bedroom. They get a diesel smell every morning. He also buries bricks and brush. Mr. Herberger moved in 3-4 years ago and never asked the town if he was allowed to run a business from that location. There is a lot of noise early in the morning and late at night. Mr. Balser asked the board if burning is allowed.

Councilman Rooney asked Mr. Herberger what the brown building in the back is for. Mr. Herberger stated it was not on his property.

Michael Cocco Jr. – 7451 Maple Rd. – he agrees that the Balser's house is much closer than his. He also feels they should have spoken to Mr. Herberger directly. He said when you move out here you

want to be able to do what you want whether it is have parties, work on cars, etc. Neighbors should try to work things out between themselves.

Diane Scroger – claims the previous owner had an operating mechanics shop. Only someone who needed this kind of facility would have purchased this property. She would really have to look for his trucks to be able to see them. She also said that she has severe asthma and his fires never bother her.

David Balsler – will bring in pictures to show the size of the fires he has.

Supervisor Cummings told those in attendance that the board will not be taking any action tonight. Determination to be made in 2 weeks.

Supervisor Cummings did ask about the neighbors claim that Mr. Herberger filled in a drainage ditch. He stated that he did and he made it into a garden.

There being no further comments a motion was made by Councilman Rooney, seconded by Councilman Mayrose to close the public hearing on a home based business Special Use Permit and Site Plan request at 7:50pm. Carried Unanimously

The Supervisor called the public hearing to order on the proposed Local Law #2 of 2010 to establish training standards for Planning and Zoning Board members at 7:50pm.

The Deputy Town Clerk read the proof of publication.

Comments:

Supervisor Cummings received and he read a written comment that he got from Don Hoefler. Mr. Hoefler is a member of the Planning Board and is also an engineer. Supervisor Cummings explained that there is currently no law requiring members of these boards to attend training. Most towns are beginning to make this a requirement due to the importance of the Planning and Zoning Boards.

John Potera – 7654 Maple Rd. – he started out by stating that he has been a member of the Planning Board for 20 years and he holds a Masters Degree in planning. The training that is offered is very limited. No one objects to having to do training but it is very limited as what they can use as training. He would like the law to include conferences, on-line courses, college courses or reading journals as training hours. These things are excluded by the proposed law. All he is asking for is more training choices and to be able to carry training hours forward.

Nathan Neill – 6424 Hake Rd., Attorney for the Town – said that he feels the training is important and the 4 hours a year that have been proposed is really not a burden. As an attorney, he is required to attend yearly training also and he feels carrying over hours doesn't help if it isn't current.

Councilwoman Esposito asked if it is difficult to find 1 – 2 hour training sessions. Mr. Potera answered that most training sessions are full day.

Supervisor Cummings stated that there would be no action taken tonight. The Board will act on this matter in 2 weeks.

There being no further comments a motion was made by Councilman Rooney, seconded by Councilman Mayrose to close the public hearing on proposed Local Law #2 of 2010 at 8:05pm. Carried Unanimously

The Supervisor called the public hearing to order on the proposed Local Law #1 of 2010 to amend the Zoning Law Nonconforming Use and Structure section at 8:05pm.

The Deputy Town Clerk read the proof of publication.

Comments:

No written comments were received.

Doug Ceisner – 100 East Ave. – doesn't know why so much money has been spent on re-zoning and engineering on Route 5. Also stated that the CEO won't do anything with regards to Mr. Fryling dumping on Mr. Ceisner's property on Route 5.

Supervisor Cummings again stated that no action would be taken this evening.

There being no further comments a motion was made by Councilman Rooney, seconded by Councilman Mayrose to close the public hearing on proposed Local Law #1 of 2010 at 8:10pm.  
Carried Unanimously

A regular meeting of the town board was called to order at 8:10pm with the same members present as listed above.

Councilman Baran led the pledge to the flag.

Minutes from the previous regular meeting held on April 12, 2010 were presented for approval. A motion was made by Councilman Mayrose, seconded by Councilman Baran to approve as presented.  
Carried Unanimously

**Communications** – The Deputy Town Clerk reported there has been no correspondence the past two weeks.

**Work Session:** The Supervisor reported that at the last work session held the following issues were discussed: a meeting with Recreation Board members, a meeting with the Planning Board Chairman, water district issues, joint facility issues, grant submissions, planning issues, construction project updates, town policies, street lighting and any other items brought before the board. Supervisor also reported that the Board was in an executive session from 6:30 – 7:15 for a personnel matter and to discuss various contracts. No determination was made.

#### **Privilege of the Floor –**

Doug Ceisner – 100 East Ave. – originally asked about Dale Fryling 4 years ago. He is dumping blacktop onto Mr. Ceisner's property and over the winter was dumping snow that was being removed from other locations onto Mr. Ceisner's property. Wants to know if Mr. Fryling has a permit to do that. He was also questioning Wargo. Doesn't understand why they are allowing him to run a construction company on Havens Road. He feels that you either enforce the zoning on everyone or no one. Supervisor Cummings stated he will get back to Mr. Ceisner on his concerns.

Mr. Ceisner also noted that he believes we should have had a re-evaluation this year. He mentioned a house on Hoag Ave. that recently sold for 23% under the assessed value. He believes if the town stays current with the assessments it will prevent the situation we had during the last reval.

Peter Henley – 13760 Indian Falls Rd. – his opinion is that the home based business law has only been geared towards selected people. There is no more grey area. The Board now needs to set a precedence.

**Budget Transfers:** none

**Approval of Bills** – Councilwoman Esposito reported that the Abstract from Batches #936 & 938 from the April 12, 2010 meeting has been reviewed with the previously un-audited vouchers and everything was found in order. She presented Abstract Batches #940 & 941. Vouchers on the abstract numbered from 383 - 411 totaling \$313,853.12 and were presented by Councilwoman Esposito, seconded by Councilman Rooney to approve payment as follows:

Abstract Batch #940 & 941:

General Fund (A) -\$22,351.32, General Fund- Outside Village (B) \$113.45, Highway (DA) -\$0, Capital Projects: CAP- Highway Garage (HG) - \$29.36, CAP- Scotland Rd (HS)- \$0, CAP- Town Hall Addition (HT) \$0, CAP-Library Basement(HR04) - \$9,500.00, Highway: Outside Village (DB)

\$4,704.14, Drainage (SD)- \$0, Fire Protection (SF) \$275,050.00, Refuse (SR) \$0, Sewer Fund (SS) \$23.58, Sewer District #2 (SS02)- \$81.27, and Water Districts (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0, Trust & Agency(TA)- \$2,000.00  
Total: \$313,853.12

Carried Unanimously

**COMMITTEE AND DEPARTMENT HEAD REPORTS:**

**Highway** – reminder that tire drop off is May 1<sup>st</sup> from 9 – noon at the highway garage. White goods pick up starts May 3<sup>rd</sup>.

**Assessor** – no report

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

John Nixon	5404 Crittenden	Roof
Kathy Wagner	12699 Roll	Chimney rebuild
Pete Hennessy	8013 Greenbush	A.G. Pool
Kevin Stoldt	13059 Dorsch	One Family Home
Akron Animal Hospital	12638 Main	Shed replacement

The Town Board accepted the report as presented.

**Town Clerk**- nothing to report at this time

**Attorney for the Town** – Nathan spoke to the attorney working for Hammerl Amusement some time ago. He explained to them what was needed and to date we have received nothing.

**COUNCILPERSONS:**

**Rooney**- Recreation meeting for this Thursday has been cancelled. No new date has been set yet.

**Esposito**- Attended last months rec meeting. It appears promising that we will be able to use parts of the school for the summer rec program. Councilwoman Esposito will pass along more information when they get it.

**Mayrose**- nothing at this time

**Baran**- nothing at this time

**SUPERVISOR**- March Supervisor report has been passed out. Reminded everyone that the electronics drop off will be on May 1<sup>st</sup>. He would like some Town Board members to be present. He would like them to keep a tally of the number of residents that take advantage of the drop off.

**UNFINISHED BUSINESS:**

**Water District #10**- Scotland Rd Extension- Scott reported that there were still a few loose ends to resolve. The north end still has not been opened. Water authority is concerned with the possible negative impact at other locations.

**Shared Public Works Facility Committee**- We went out to bid on the 23<sup>rd</sup>. There will be a pre bid meeting on May 7<sup>th</sup> and bid opening on May 18<sup>th</sup>. Sewer easements OK on Hake Road. Nathan still needs one more description from Stantec.

**Grants-** Supervisor Cummings spoke to Todd Ege and was told there is nothing new at this time.

**Construction Projects:**

**Town Hall Addition-** Will be covered under New Business

**Library Basement-** This phase is almost finished. The rooms are partitioned and doors need to be installed.

**Handicapped Doors-** Will be covered under New Business.

**NEW BUSINESS:**

**National Grid Street Light Removal Approval:**

A motion was made by Councilman Baran, seconded by Councilman Rooney authorizing the Supervisor to execute the proposed contract with National Grid under CSS Reference #14136-63109 for removal of a street light located on Main Rd- Pole #543-1 to accommodate the new Rite Aid driveway. Supervisor Cummings clarified that because of the lighting that Benderson Development will be installing National Grid feels we can remove 1 light.

(Resolution Attached)Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye  
Carried Unanimously

**Public Hearing- Local Law #3 of 2010- Alternates for ZBA:**

A motion was made by Councilman Rooney, seconded by Councilman Mayrose authorizing the calling of a public hearing on the proposed Local Law #3 of 2010 to authorize the addition of alternates to the Zoning Board of Appeals to be held on May 10, 2010 at 7:30pm at the Town Hall.

(Resolution Attached)Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye  
Carried Unanimously

**Amending Bond- Town Hall Addition Project:**

A motion was made by Councilman Mayrose, seconded by Councilman Rooney authorizing the amendment in bonding on the Town Hall addition project from \$525,000 to \$750,000.

(Resolution Attached)Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye  
Carried Unanimously

**Award Bid on Town Hall Addition Project:**

A motion was made by Councilman Rooney, seconded by Councilman Baran approving the award of the contract bid for the addition project at the Newstead Town Hall to Lemur Construction with a combined (with alternatives) low bid of \$518,300.00.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Award Bid on Town Hall Addition Project:**

A motion was made by Councilwoman Esposito, seconded by Councilman Rooney approving the award of the contract bid for the addition project HVAC at the Newstead Town Hall to Besch Mechanical with a low bid of \$35,850.00.

Cummings-Aye, Rooney-Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Award Bid on Town Hall Addition Project:**

A motion was made by Councilman Baran, seconded by Councilman Mayrose approving the award of the contract bid for the addition project electrical at the Newstead Town Hall to Wittburn Electrical with a low bid of \$42,800.00.

Cummings-Aye, Rooney-Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Award Bid on Town Hall Addition Project:**

A motion was made by Councilman Mayrose, seconded by Councilwoman Esposito approving the award of the contract bid for the addition project plumbing at the Newstead Town Hall to Kimil Construction with a low bid of \$37,975.00.

Supervisor Cummings stated that after further research, the bid was a fair price and did not include the sprinkler work. Since no one bid on the sprinkler portion of the project it has been resubmitted to the public for bid. The Supervisor said this will not hold up the project.

Cummings-Aye, Rooney-Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Award Bid on Handicapped Doors Project:**

A motion was made by Councilman Mayrose, seconded by Councilwoman Esposito approving the award of the contract bid for replacement of Handicapped Doors at the Newstead Senior Center and Town Hall (front doors) to Rehwaldt Builders with a low bid of \$22,225.00.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Approval of Employee Screening Policy:**

A motion was made by Councilman Baran, seconded by Councilman Mayrose approving the proposed Employee Screening contract with ADP for all Town of Newstead employees as presented and to take effect immediately.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Approval of Rules for Meeting Room Use:**

A motion was made by Councilman Mayrose, seconded by Councilman Rooney approving the proposed rules for use of the Newstead Community Meeting Room as presented and to take effect immediately.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Appointment of New Senior Van Driver:**

A motion was made by Councilman Rooney, seconded by Councilman Mayrose approving the appointment of Brenda Cerasani to the position of Senior Van Driver PT at a pay rate of \$10.90/hour effective immediately.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Training Request- Dog Control Officer:**

A motion was made by Councilman Rooney, seconded by Councilwoman Esposito approving the request of the Dog Control Officer and Assistant Dog Control Officer to attend DCO training sessions. Also approved training for CEO.

Cummings-Aye, Rooney -Aye, Esposito-Aye, Mayrose-Aye, Baran-Aye Carried Unanimously

**Question Period-**

Doug Ceisner – 100 East Ave. – questioned why were there no handicapped doors put in when we moved into this building. He believes the engineers should have included that in the original design plans. Supervisor Cummings told him that because he was not a part of the board at the time, nor were any of the present board members, he was not able to answer that question.

Mr. Ceisner also asked that if the CEO gets up to Dig Co. on Crittenden Road he should tell him to take down his American Flag. It is in very bad shape.

Peter Henley – 13760 Indian Falls Rd. – wanted to know if Rattles to Reading should expect any water line problems when the north end is opened. Supervisor Cummings didn't think it would affect him.

There being no further business to come before the board a motion was made by Councilman Mayrose, seconded by Councilman Baran to adjourn the meeting at 8:55pm.

Carried Unanimously

Respectfully Submitted,  
Jennifer Heberling, Deputy Town Clerk