

## Newstead Town Board Meeting- April 27, 2009

A Public Hearing was called to order by the Newstead Town Board on Monday, April 27, 2009 at 7:40pm at the Newstead Town Hall.

Present: David Cummings– Supervisor  
Tom George- Councilman  
Harold Finger- Councilman  
Justin Rooney- Councilman  
Cheryl Esposito- Councilwoman  
Nathan Neill- Town Attorney  
Mike Bassanello- Highway Supt.  
Scott Rybarczyk- Town Engineer  
John Good- Code Enforcement Officer  
Dawn Izydorczak- Town Clerk  
Kathy Lang- Deputy Clerk

Roll Call was taken with all board members present.

The Supervisor called the public hearing on a project located at 11187 Main Rd by owner Kelly Schultz to order at 7:40pm.

The Town Clerk read the proof of publication. Public comments were received from residents Kelly Wagner at 11174 Main Rd and Mr. & Mrs. Philip Hegedusich at 11158 Main Rd. A letter was also received from the NYS DEC on April 14<sup>th</sup> with comments.

Comments: Ron Tyx, 11184 Main Street, is a volunteer fireman and can't get out of his driveway to respond to calls when there is an event across the street at the Event Centre due to bumper to bumper traffic. They are not a good neighbor because they do not clean up all the garbage left after events and put signs on his property without his permission. The Event Centre is not utilized to its full capacity now, why do they need to build another one.

Robert Scheib, 51 Brooklyn Street, questioned the tire pile which was still there even after the Super Fund clean-up took place, which used the tires for resurface of roads in southern tier. CEO John Good stated that the last time he checked that site last year all the tires were removed. He will check it again to be sure.

Al Wagner, 11174 Main Road, questioned how the property is zoned and what the noise ordinances are in the town. The Event Centre office is supposed to notify the neighbors when dances are scheduled and they do not call to notify them.

Lucy Tee, 11168 Main Road, stated that the noise vibrates windows and is very loud. The garbage that is left after every event is horrible.

CEO Good will give them his cell phone for complaints and they can call any time. He also stated if signs are on their property, the Town can enforce but if on the right-of-way it is the State DOT's responsibility.

Councilman George recommended taking pictures of their yards before and after an event is held.

Ron Tyx, 11184 Main, is only asking that the Event Centre be respectful to them and the neighborhood.

Supervisor Cummings questioned CEO Good regarding the parking for the new center and asked for parking area to be added to site plan since it is not marked. The primary use of this new center will be for auctions and he questioned the planning board's comments on the parking also.

Mr. Wagner questioned the location of this building on the site.

There being no other comments a motion was made by Councilman Finger, seconded by Councilman Rooney to close the public hearing on the Kelly Schultz project at 8:07pm.

Carried Unanimously

The Supervisor called the public hearing on Local Law No. 2 of 2009 to order at 8:07pm.

The Town Clerk read the proof of publication.

Comments: No one spoke

There being no other comments a motion was made by Councilman George, seconded by Councilman Finger to close the public hearing on Local Law No. 2 of 2009 at 8:12pm.

The Supervisor called the public hearing on Local Law No. 1 of 2009 to order at 8:12pm.

The Town Clerk read the proof of publication.

Comments: No one spoke

There being no other comments a motion was made by Councilman George, seconded by Councilwoman Esposito to close the public hearing on Local Law No. 1 of 2009 at 8:15pm.

A regular meeting of the Town Board was called to order at 8:15pm with all the same members present as listed above.

Supervisor Cummings led the pledge to the flag.

Minutes from the previous regular meeting held on April 6, 2009 were presented for approval. A motion was made by Councilman Finger, seconded by Councilwoman Esposito to approve with the date correction on Kathy Langs retirement to 7/31/09. Carried Unanimously

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

The 2008 Annual Report was received from the Newstead Public Library.

A letter from the Census Bureau regarding the 2010 census. Census workers will be in our area going door to door between April and July of 2009. They should have all the official identification.

A request for renewal of a liquor license was received from Braun's located at 11891 Main Rd.

A request for renewal of a liquor license was received from Bright Meadows Golf Course located at 12287 Clarence Center Rd.

A letter from the Clarence Central Schools notifying the town of their intent to renew the tax collection contracts for the 2009-2010 school year.

A SEQRA Lead Agency notice was received from the Town of Royalton regarding their preparation of a new Comprehensive Plan for the town. Comments from Newstead are welcomed.

A letter from Time Warner announcing changes that will be made in their service in May & June.

A motion was made by Councilman George, seconded by Councilman Rooney to receive and file correspondence as presented. Carried Unanimously

**Work Session:** The Supervisor reported that at the work session held last week the following issues were discussed: a meeting with toll barrier attorney, assessor issues, water district issues, Joint Facilities, grant submissions, planning issues, Muir Woods project, recreation fees proposal, Braun's liquor license request, Clarence-Newstead bike path, personnel issues and any other items found necessary.

**Privilege of the Floor** –Robert Scheib, 51 Brooklyn Street, commented on the Amherst collapse of soil on Tonawanda Creek Road as a big issue. He knows there soils are different than Akrons but hopes we can be pro-active in this measure with regards to our Murder Creek issues.

Stan Serwon, 5759 Davison Road, stated a serious accident happened on Saturday, April 18, 2009 at the intersection of Howe and Davison roads. It is the 2<sup>nd</sup> one in the last 14 months. He questioned

what can be done to take this issue to the next level. Mr. Serwon knows it is not a Town road issue, but is asking for the towns help.

Councilman Finger suggested getting copies of the accident reports for the intersection and mailing them to the County Highway office.

Councilman George stated there is a need to evaluate standards and he knows there are site distance problems at that intersection.

Supervisor Cummings will try to ask the County to do a site distance study.

Robert Scheib commented on the procedures he went thru with the intersection of Brooklyn Street and Buell and the site problems there.

**Budget Transfers:** none

**Approval of Bills** -Councilwoman Esposito reported that the Abstracts from Batches #817 from the April 6, 2009 meeting have been reviewed with the previously UN-audited vouchers and everything was found in order. She presented Abstract Batch #823, 824 & 825. Vouchers on these abstracts numbered 374 - 428 totaling \$98,314.47 and were presented by Councilwoman Esposito, seconded by Councilman Finger to approve payment as follows:

Abstract Batch #823, 824 & 825:

General Fund (A) -\$25,840.10, General Fund- Outside Village (B) \$75.00, Highway (DA) -\$0, Capital Projects: CAP-WD#10-phase (HI)- \$0, Library Basement (HR04)- \$0, Murder Creek Stabilization (HM) - \$0, Highway Garage- Cap (HG) - \$7,000.00, Highway: Outside Village (DB) \$31,392.81, Drainage (SD)- \$0, Fire Protection (SF) \$0, Refuse (SR) \$27,808.16, Sewer Fund (SS) \$5,991.56, Sewer District #2 (SS02)- \$206.84, 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)- \$0

Total: \$98,314.47

Carried Unanimously

**COMMITTEE AND DEPARTMENT HEAD REPORTS:**

**Highway** –The soccer fields are all ready for the tournament this weekend and the tire drop-off is being held on Saturday at highway garage. The White Metal pick up will begin Monday, May 4<sup>th</sup>. Mike recommends the award to Harley Turner for his bid on Truck #2. He had a bid from Gary Kumro on Truck #1 but he withdrew the bid, so they will either re-bid or take it to auction. The list of roads to be worked on for 2009 is ready for review. Fieldcrest bid for work on trucks is available for review and the CHIPS Funding has been restored to \$61,266.00 by the County.

A bid was received from Rehwaldt for black top at town park shelter areas. Councilman Finger commented on the great work done on the playground and the clean-up of the hedgerow area.

**Assessor** - Grievance Day will be held Tuesday, May 26, 2009 from 9-11am, 1-3pm, and 6-8pm by appointment only. Next Assessment Advisory Committee meeting is May 6<sup>th</sup>. Transition training is going well with all employees. GIS training is scheduled. Tentative roll numbers are in. A community events calendar is being created on the town website for local groups to advertise upcoming events in Akron-Newstead.

Supervisor Cummings requested permission from the Board to ask Steve Carlson to start attending the Assessment advisory committee meetings as a possible new member.

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

Drew Gundloch	11211 Stage	pole barn
Richard Packman	4818 North Millgrove	garage addition
Thomas D'Avanzato	11720 Stage	solar electric system
Joseph & Elisa Dugan	12352 Rapids	deck
C.F. Mullins	12373 Main	permit renewal
Gary Syroczyński	13468 Dorsch	outdoor wood boiler

Gary Baker	12603 Rapids	roof & siding
Walter Conley	5706 Crittenden	roof
Mike Young	11131 Hunts Corners	fill
Susan Siuta	12566 Lesswiing	pole barn
Mary Wukman	5610 Cummings	kitchen addition
Mr. & Mrs. Rizzo	5670 Cummings	single family home
Mr. & Mrs. Kubasiewicz	5650 Cummings	single family home
Golden Pond Estates	Lot 202	roof
John Dmochowski	11611 Rapids	garage
Brian & Gina Boldt	12740 Koepsel	roof
Dominic Buonano	13035 Main	certificate of occupancy
Mark Gordon	6817 Sandhill	a/g pool
Clair Perry & Darlene Kleiber	V/L Stage	shed
Andrzej Golodolinski	12415 Hunts Corners	fill

The Town Board accepted the report as presented.

**Town Clerk-** This is Kathy’s last meeting as Deputy Town Clerk. Her last day in the office is April 30<sup>th</sup>. Everyone thanked her for her 12 years of service to the Town and a party will be held tomorrow night celebrating her retirement. Town Clerk Dawn Izydorczak announced the appointment of Jennifer Heberling as Deputy Town Clerk and Deputy Registrar of Vital Statistics effective May 1, 2009.

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

**COUNCILPERSONS:**

**George-** He requested a new flag be hung for spring at the Town Hall.

**Finger-**He & Jim Akin discussed the care of the restrooms at the Town Park and the work on the Newstead Library bathrooms is coming along. The Library windows and their cleaning is becoming an issue and he needs to discuss with the board whose responsibility the windows should be and how to address the issues we are having with them. A tree at the library parking lot fell over and he requested that Mike discuss the removal of it with him.

**Rooney-**He attended the Recreation Board meeting where 4 students from Hilbert College presented a marketing campaign for the Newstead Recreation program, from which a new brochure was produced. He thanked the students for coming in.

**Esposito-**She showed the new brochure for the Recreation Program from the rec board meeting. She also met with Judge Campbell on court audit and consolidation issues. Brian Wittlinger is the new village representative on the committee for court consolidation.

**SUPERVISOR-** the March Supervisors Report is on file with the Town Clerk. The Audit review was presented in work session tonight and the town is fiscally sound for 2009 but the next budget is expected to be very difficult. He attended the Association of Towns Erie County Government meeting this past week and also met with the Village Mayor on the joint meeting agenda. The funding for the Recreation grant is in for 2008, but the town has been informed it will not receive the grant for 2009. The Bike Path grant is being worked on. The Parkview Bridge contract has been let out for bid by the County which is a positive sign that there will be work started on repair of this bridge. The county list of roads for repair will be discussed at next work session. Mike Bassanello stated that the Cedar Street blue bridge repairs will detour traffic to Brucker Rd instead of Koepsel Rd due to poor condition of Koepsel Road.

**UNFINISHED BUSINESS:**

**Water District #10-** Phase 4/Consolidation- The USDA grant is being looked at right now.

**Shared Public Works Facility Committee-** The scope of work and cost is being worked up with the intent to approve for a contract with the potential “preferred provider” firm by end of this week.

**GIS-** training schedules are set and scanning of pre-plans and documents for the fire companies is complete, we are now working on the villages plans and then the towns plans.

**NEW BUSINESS:**

**Local Law No. 1 of 2009- Adoption:**

A motion was made by Councilman Rooney, seconded by Councilman George issuing a Determination of Non-Significance of Local Law regarding the adoption of proposed Local Law #1 of 2009 entitled Amendment to the Subdivision Law.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

A motion was made by Councilman Rooney, seconded by Councilman George approving the adoption of proposed Local Law #1 of 2009 entitled Amendment to the Subdivision Law.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

**Local Law #2 of 2009 Adoption:**

A motion was made by Councilwoman Esposito, seconded by Councilman Finger issuing a Determination of Non-Significance of Local Law regarding the adoption of proposed Local Law #2 of 2009 entitled Amendment to the Subdivision Law.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

A motion was made by Councilwoman Esposito, seconded by Councilman George approving the adoption of proposed Local Law #2 of 2009 entitled Amendment to the Subdivision Law.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

**Akron Central School Tax Collection Contract:**

A motion was made by Councilman Finger, seconded by Councilman George approving the proposed 2009-2010 Tax Collection Contract with the Akron Central School and authorizing the Supervisor to sign the contract.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

**Clarence Central School Tax Collection Contract:**

A motion was made by Councilman Finger, seconded by Councilman George approving the proposed 2009-2010 Tax Collection Contract with the Clarence Central School and authorizing the Supervisor to sign the contract.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

**12690 Main Rd- Shields- Public Hearing:**

A motion was made by Councilman George, seconded by Councilman Finger approving the calling of a public hearing to hear comments on the proposed project at 12690 Main Rd by Michael Shields for a 2,520 sq. ft. pole barn on May 11, 2009 at 7:50pm at the Newstead Town Hall.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye  
Carried Unanimously

**Highway Equipment Purchase Approval:**

A motion was made by Councilman George, seconded by Councilman Finger approving the purchase of a 2009 Compact Track Loader from Bobcat of Buffalo on a bid of \$15,000 with trade in of a 2007 T-300 Skidsteer.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Bid Acceptances on Sale of Highway Truck:**

A motion was made by Councilman Finger, seconded by Councilman George approving the acceptance of a bid from Harley Turner in the amount of \$14,000 for a 2006 Chevy Truck with Plow Mount (Truck #2) from the Town Highway Department.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Court & Town Clerk Annual Audit Approval:**

A motion was made by Councilman Finger, seconded by Councilman George approving the request for the annual audit of the Court & Town Clerk's office to be conducted by Councilwoman Esposito.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Toll Barrier Attorney Retainer Approval:**

A motion was made by Councilman Rooney, seconded by Councilwoman Esposito approving the hiring of Steve Ricca as Council for the town to monitor the toll barrier situation.

Cummings-Aye, George-Abstained, Finger-Aye, Rooney -Aye, Esposito-Aye Carried

**Liquor License Renewal Approval- 11891 Main Rd:**

A motion was made by Councilman George, seconded by Councilman Finger approving the renewal request for a liquor license for Braun's located at 11891 Main Rd.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Liquor License Renewal Approval- 12287 Clarence Center Rd:**

A motion was made by Councilman George, seconded by Councilman Finger approving the renewal request for a liquor license for Bright Meadows Golf Course located at 12287 Clarence Center Rd.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Highway Employee:**

A motion was made by Councilman Rooney, seconded by Councilwoman Esposito approving the request that employee Ray Schrock be evaluated by an IME doctor to evaluate his ability to return to work after being out more than 3months due to an accident.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Recreation Fee Schedule Approval:**

A motion was made by Councilman Rooney, seconded by Supervisor Cummings approving the proposed fee schedule for the recreation program for 2009 as presented by the Recreation Director and Recreation Board.

Cummings-Aye, George-No, Finger-Aye, Rooney -Aye, Esposito-No Carried

**Murder Creek Grant Application:**

A motion was made by Councilman George, seconded by Councilman Finger approving the submission of a Letter of Intent to file a grant application on the Murder Creek Mitigation project with SEMO and authorizing the Supervisor to sign the letter.

Cummings-Aye, George-Aye, Finger-Aye, Rooney -Aye, Esposito-Aye Carried Unanimously

**Joint Town/Village Board Meeting:**

A motion was made by Councilman George, seconded by Councilman Finger to have a joint meeting with the Village of Akron Board on May 4, 2009 at 8:30 PM at the Village Hall.

Cummings-Aye, George-Aye, Finger-Aye, Rooney-Aye, Esposito-Aye Carried Unanimously

**Question Period-** Peter Henley, Indian Falls Road, questioned who the "preferred provider" on the Joint Highway Facility project would be and the choice of using pea gravel at Town Park playground. In his experience at the day care center, the children were putting the pea gravel up there noses so they went with wood chips from an approved company.

He also congratulated the Board and Colleen Salmon on a good fiscal report.

Robert Scheib commented on Murder Creek Project and the lack of insurance that is available to owners and businesses in that area. If half of Main Street falls into the creek no one will be covered.

The Supervisor explained that a local farmer wants to put a culvert over a ditch on his property and questioned if this should be the same fee as a culvert for a house. The CEO & Highway supt.

explained the fee is based on actual cost to do the work and to make sure the ditch flows correctly. The board is generally in agreement the charge should apply to either homes or farmers.

Councilman George thanked Kathy Lang for her 12 years of service to the Town of Newstead. She has always had a helpful spirit and positive attitude. This retirement will give her more time to spend with her family and grandchild. Congratulations on a job well done.

There being no further business to come before the board a motion was made by Councilman Rooney, seconded by Councilwoman Esposito in honor of Kathy's retirement and service to the Town to adjourn the meeting at 9:25pm.

Carried Unanimously

Respectfully Submitted,  
Dawn D. Izydorczak, Town Clerk