

Newstead Town Board Meeting- July 9, 2007

A Public Hearing was called to order by the Newstead Town Board on Monday, July 9, 2007 at 7:45PM at the Newstead Town Hall.

Present: David Cummings- Supervisor
Tom George- Councilman
Harold Finger- Councilman
Justin Rooney- Councilman
Mike Bassanello- Highway Supt.
Rebecca Baker- Assessor
John Good- Code Enforcement Officer
Nathan Neill- Town Attorney
Andrew Casolini- Town Engineer
Dawn D. Izydorczak- Town Clerk
Kathleen Lang- Deputy Clerk

Roll Call was taken with all board members present except Councilman Decker who is on vacation.

The Supervisor called to order a public hearing on the proposed Local Law No. 2 of 2007 regulating windmills at 7:45pm.

The Clerk read the proof of publication. Comments were received from the NYS DEC on this proposed law.

The Supervisor explained that a Public Hearing was held on June 25 and the comments from that meeting as well as NYS Agricultural and Markets comments have been addressed.

Comments: Dan Sahlem of 4635 N. Millgrove stated he still feels a property tax exemption should be granted on the wind mills. He added that State law already offers exemptions from assessments and property taxes on wind energy and/or energy saving programs. He suggests no taxation on any windmills placed in Newstead. He stated if they are allowed to be taxed, it would discourage people from investing in wind power.

There being no further comments, a motion was made by Councilman Finger, seconded by Councilman George to close the public hearing at 7:54 pm. Carried

The Supervisor called to order a public hearing on the proposed 10-lot subdivision on Hiller and Billo Roads at 7:55pm.

The Clerk read the proof of publication.

The Supervisor stated that this has been at the Planning Board since March 2007 and they have been negotiating issues with the owners over several months.

Comments:

John Glim, 11486 Hiller Rd., is concerned about traffic added to their residential area. He questioned why the residents were not notified of the major subdivision sooner than a public hearing and is concerned with the lack of input by neighboring property owners on this project.

Heidi Riechal, 11454 Hiller Rd stated with the lack of notice to the public there can be no meaningful feedback given.

Doug Brauer, 11454 Hiller Rd. is concerned with the depth on the properties and the adequate space for leach fields. He believes there is significant loss of property at the road front. He also has concerns with the wells and leach fields going into the pond. He questioned where the developer is.

The Supervisor introduced the property owner/developer Jack Willart who was present.

Jonathan Tschachtli, 11526 Hiller Rd. questioned the waste management efforts and expressed his concern for the wetland areas. This could set precedent for other gravel pit development areas.

A resident at 11508 Hiller Rd questioned the traffic, land use changes and encroachment issues.

Town Engineer Andrew Casolini addressed residents concerns and gave a brief plan overview. He stated the Erie County Health Department is involved and has given the necessary approvals for all septic and water line connection specifications. The NYS DEC has approved the plan as a good use and all potential environmental issues have been addressed. The traffic flows were addressed in the SEQRA process. The average depth for these parcels is a maximum of 900 feet, with some lots being 400'x500' and the smallest lots being 327'x150', all of which exceed the town's minimum requirements. Under the Health Department agreement there will be no leaching allowed to the pond. The engineering specs for each individual home will determine the size of the septic systems on each lot and each lot has been approved for sub-surface septic systems.

Additional questions asked by the Hiller Road residents present were:

Will there be additional dredging of the pond? No the pond will not be altered in any way.

Have existing wildlife concerns been addressed? Mr.Casolini stated that there will be no impacts according to state agencies involved.

Who locally monitors this project? The Town Code Enforcement Officer is responsible for monitoring projects.

Jim Fitzpatrick, 7494 Scotland Rd. questioned why the DEC and Health Department do not have representatives present to answer concerns on this project.

The Supervisor, along with Town Engineer Casolini, explained the subdivision process and the state agencies involvement in that process.

Jack Willart, the property owner and developer on this project, stated that all concerns and issues have been addressed on this project, including a pond agreement among the potential property owners. He feels he has gone above and beyond to make this a good project.

Additional resident questions were regarding the expense of the water line runs, the size and cost of the perspective homes to be built and the direction the town is heading in with other future developments and do we want them.

The Supervisor stated that there are more major subdivision projects at the planning board right now with one being comparable in size to this project and another that is triple the size of the project. The cost and sizes of homes to be built can not be determined because they are done on a lot by lot basis.

Councilman Tom George addressed those present and reminded them that the laws and codes of the town and state dictate what we can and can not do regarding these projects. Property owners are afforded freedom to do with their parcel what they want within the constraints of those laws. This subdivision is a good one and its developers have done a good job of addressing its issues within the towns adopted Master Plan. The town only monitors and administers the process for subdivision, while working with the landowner. He reminded everyone that a major subdivision requires significantly more work on the developer's part. Mr. Willart could have done several minor subdivisions over several years that would have given the town less input and control, but instead he went the extra mile to make this a very good project.

The residents present stated that the town board would be overlooking their constituents if they pass this subdivision approval tonight. They asked the town board to postpone their decision until the residents could become more familiar with the project and review the plans.

Jack Willart questioned why not vote on the project tonight. Everything is complete on this project and all the approvals have been received. It would not be fair to him and the several months of work that has gone into this project if they table it. He has followed all the rules and regulations. He also questioned the Hiller Road residents present stating that for sale signs have been up on all ten of the parcels for months. If they were so concerned about this project and what was going on why didn't they question it months ago?

There being no further comments, a motion was made by Councilman George, seconded by Councilman Finger to close the public hearing at 8:35pm. Carried

A Regular Meeting was called to order at 8:35pm with the same members present as above.

Town Clerk Dawn Izydorczak led the pledge to the flag.

Minutes from the previous regular meeting held on June 25, 2007 were presented for approval. A motion was made by Councilman George, seconded by Councilman Finger to approve as presented.
Carried

Communications – The Town Clerk presented the following:

The Erie County Department of Public Safety has issued updated information on local requirements for compliance with National Incident Management System (NIMS) training for town officials and employees.

A bulletin was received from Hodgson Russ LLP regarding New York States enactment of a False Claims Act which offers new remedies for recovery of Fraudulent Payments.

A letter from the NYS Office of Real Property Services regarding the necessary time frame for appointment of the Assessor.

The June 2007 Operations Report was received from Amherst Central Alarm Office reporting 50 calls for Akron Fire Co. and 33 calls for Newstead Fire Co.

The 2007 Semi-Annual Operations Report was received from Amherst Central Alarm Office reporting 267 total calls for Akron Fire Co. and 168 total calls for Newstead Fire Co within the past six month period.

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

Work Session: The Supervisor reported no work session was held last week due to the holiday. Executive session was held to discuss Milhurst Construction contract for Murder Creek crossing.

Privilege of the Floor – Jim Fitzpatrick of 7494 Scotland Rd. stated the county was out cutting tall grass on the roadsides and afterwards when he went out to pick up liter he notice a fire hydrant that was covered with weeds. He cleaned out around it and whacked down the weeds. He questioned who is responsible for the hydrants?

The Supervisor stated that the town is in the process of cleaning out around all hydrants throughout the town, which is done by Jim Akin. The locations of all hydrants are tracked by the town as well as both the fire companies.

Mr. Fitzpatrick also questioned the Memorandum of Understanding dated April 17th, 2006 and signed by the Assessor and the Supervisor, regarding the Assessors responsibility for information dissemination on the revaluation project. He questioned if the Assessor met the contractual obligations. Assessor Rebecca Baker addressed his question explaining she had an informational meeting for commercial and industrial property owners at the beginning of the year. She also ran numerous articles and informational advertisements in the local papers over a 5 month period as well as holding hundreds of informal hearings herself.

The Hiller Rd residents again asked for the board to listen to their concerns and give them consideration on 10 lot major subdivision issue.

Approval of Bills -Councilman Finger reported that the Abstract from Batch #627 & 631 from the June 25, 2007 meeting has been reviewed with the previously UN-audited vouchers and everything was found in order. He presented Abstract Batch #634. Vouchers on this abstract numbered 641-693, totaling \$109,031.47 and were presented for payment approval by Councilman Finger, seconded by Councilman George to approve payment.

Abstract Batch #634:

General Fund (A) -\$11,926.75, Fund (B) \$773.79, Highway (DA) -\$0, Highway: Outside Village (DB) \$62,563.83, Capital Projects: CAP-WD#10 (HI)- \$139.07, Reserve- Roof Repair (HR01)- \$0, (HL) October Storm- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$4,658.52 Refuse (SR) \$23,055.97, Sewer Fund (SS) \$0, Sewer District #2 (SS02)- \$3.88, and Water Districts (SW1) \$41.65, (SW2) \$88.44 (SW3) \$130.99, (SW4) \$112.56, (SW5) \$2,420.04, (SW6) \$305.52, (SW7) \$426.12 (SW7A) \$48.24 (SW8) \$32.16 (SW9) \$88.44, (SW10) \$2,215.50, Trust & Agency(TA)- \$0
:Total: \$109,031.47
Carried

COMMITTEE AND DEPARTMENT HEAD REPORTS

Highway – They have completed the 2nd mowing of roadsides and ditches are scheduled to be done next. They will be paving Siehl Road with the Town of Alden next week.

Assessor –She submitted a memo to the board. Other than that she has nothing else.

Building Office –the following building report was presented by the Building Administrator Christine Falkowski:

Dennis Hudomint	12473 Swift Mills	Roof dormer
Robert Daniel	11481 Rapids	A.G. Pool
Jill Hoefler	12440 Tonawanda Creek	A.G. Pool
Timothy Martin	13341 Steiner	A.G. Pool
David Przybysz	6215 Dye	A.G. Pool & deck
Gary Neal	13775 Knapp	Driveway
Jack Mages	7750 Brackett	Shed
Christopher Truglio	5449 S. Newstead	A.G. Pool
Phil Wittman	11495 Meahl	Storage building
Kevin Paquin	12426 Swift Mills	Addition
John Covell	7414 Maple	A.G. Pool
Joseph Kausner	11122 Clarence Center	One Family Home
David Infanti	7545 Cedar	Roof

Board accepted the report as presented.

Town Clerk-The June Dog Control Officers Report was presented with a report on the current on-going dog enumeration completed in the town portion. The DCO's will begin in the Village this week. The 2007 County/Town tax collection is over and all final files, reports and monies have been sent to the County. Dawn will not be at next Board Meeting as she will be attending classes at Cornell for four days. The GIS Committee will be meeting on July 30th.

Attorney for the Town – Nothing at this time

COUNCILPERSONS

George- Nothing at this time

Finger- Nothing at this time

Decker-Not present

Rooney-He toured the town last week with the Highway Supt. and observed the crews while they worked on ditching and roads. He thanked Mike and crews for the tour.

SUPERVISOR- The May Supervisor's Report is on file with the Town Clerk. The Semi-Quarterly FEMA Report was submitted with 2 areas still open, the bike path and streams clean-up. The County bid & contracted out the stream cleaning work but a glitch has delayed the process.

UNFINISHED BUSINESS

Water District #10- Phase 2- Milhurst Construction has been working on the Murder Creek crossing for 5-6 months and can not complete due to geographical problems. They are looking at options and environmental hurdles they face. The Army Corp of Engineers has addressed some of the issues and approved the plan.

Extensions: ECWA stopped water taking in June by contractors because of demand on the system and they were not allowed to proceed during that time. This situation is over now and they are set to begin installations on or about July 17th.

Route 5 Re-Zoning- Draft law will be out to board for review for next work session.

Shared Public Works Facility Committee- A number of meetings have been held and another 4-5 are scheduled to continue the determining the final feasibility of the project. The next meeting is Monday with Village.

NYS Toll Barrier- waiting for a response from NYS Thruway Authority.

NEW BUSINESS:

10-lot Billo/Hiller Rd Subdivision Approval:

A motion was made by Supervisor Cummings, seconded by Councilman Rooney issuing a Negative Declaration under SEQRA on the project and approving the site plan dated March 19, 2007 for a proposed 10-lot major subdivision on Billo and Hiller Roads owned by LF One, LLC.

Comments made by Board Members before vote taken:

Attorney Neill is concerned about delaying approval. There is no legal reason to table that were raised in the public's concerns.

Councilman George-He approves of project but would like to table for 2 weeks to allow public to review the project and fully understand the process the applicant has gone thru.

Councilman Rooney- He agrees that it is a privilege to live in Town of Newstead but development is coming and we need to be open to new things. We need controlled progress. He feels the developer has come this far and the project deserves a vote.

Councilman Finger-He agrees and would like his family to live here too, but the landowner has a right to develop his property and he does not feel tabling this project is fair to Mr. Willart. The town followed all regulations regarding notice to residents and there is not much more we can do except change the process of notification.

Supervisor Cummings-He does not see any reason to hold this project up but he understands the residents concerns. This has been a long process and rules and regulations must be followed. His purpose in reading the resolution was to let the public hear the terms of the resolutions approval. Over the many months work on this project the board did not know there was so much opposition to this project. The Supervisor advised the residents to familiarize themselves with the project over the next two weeks because this will be coming to a vote again at the next meeting.

(Resolution Attached) Cummings-No, George-No, Finger-No, Decker-Absent, Rooney-No
Defeated

Stop-DWI Contract:

A motion was made by Councilman Finger, seconded by Councilman George approving the 2007-08 Stop-DWI Contract and authorizing the Supervisor to sign the Memorandum of Understanding as provided by Erie County.

Cummings-Aye, George-Aye, Finger-Aye, Decker-Absent, Rooney-Aye

Carried

Milhurst Change Order:

A motion was made by Councilman George, seconded by Councilman Finger, authorizing the Town Supervisor, Town Attorney and Town Engineer to negotiate a contract with Milhurst Construction and authorizing the Supervisor to execute the Change Order once a consensus is reached.

Cummings-Aye, George-Aye, Finger-Aye, Decker-Absent, Rooney-Aye

Carried

Question Period-John Glim, 11486 Hiller Rd. questioned how to change notifications requirements in the Town Code? This is in part already being addressed in the town's re-codification project.

Attorney Neill suggested maybe we could advertise planning board major projects in paper and Becky suggested maybe putting planning board meeting agendas on web site so that residents would know what projects were being discussed. All Planning Board meetings are opened to the public.

There being no further business to come before the board a motion was made by Councilman Finger, seconded by Councilman Rooney to adjourn the meeting at 9:24 PM. Carried

Respectfully Submitted,
Dawn D. Izydorczak, Town Clerk