

Newstead Town Board Meeting- August 27, 2007

A Public Hearing was called to order by the Newstead Town Board on Monday, August 27, 2007 at 7:45PM at the Newstead Town Hall.

Present: David Cummings- Supervisor
Tom George- Councilman
Harold Finger- Councilman
Mark Decker- 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.

The Supervisor called the public hearing to order on the proposed Local Law #4 of 2007 entitled Outdoor Furnace Law.

The Clerk read the proof of publication.

The Supervisor gave a re-cap of the timeline on the law since its start in August 2006.

Councilman Decker highlighted the changes made to original law that was proposed in 2006, with the main work being done on the 5 step enforcement procedure. Councilman Decker stated they have tried to create a balance between the owner's right to own and operate the stoves and their neighbor's right to live without problems from the improper use of the stoves. If owners operate the units using the properly dried/seasoned materials and act as good neighbors, there shouldn't be complaints or problems reported to the Code Enforcement Officer.

Comments:

Mark Wagner of 9 Washington Street questioned the origins of this law. He was told it was originally recommended by the Planning Board.

Herm Stevenson of Brown Royal Burners feels the abusers of these units are typically caught burning the wrong wood and other materials or improperly seasoned wood and they should be regulated to insure proper installation and use.

Charles Green of 7534 Scotland Road stated that these units are used to heat homes and he questioned the installation of fire places and other wood stoves and why they are not regulated. He questioned why we need another law for an appliance to heat your home.

Councilman Decker stated if they are operated right there are no problems. The "Ben Franklin" style wood stoves are regulated when installed. The Code Enforcement Officer can not step foot on someone's property to address a complaint without the law in place giving him the authority to address problems. The law is needed to give the town ability to address complaints.

Joe Danson, a fire tester for stoves, stated the main problems he sees seem to be emissions from the units due to improper use.

Councilman Decker agreed and again stated if the proper wood and materials are used in the units there are no problems.

Shawn Fitzgerald of 7910 Moore Road questioned the new provisions and procedures and if they are going to be effective. He is concerned that it only takes one neighbor with 5 complains to make a person lose his stove. He also questioned the wording of the law and the requirements for a complaint.

Councilman Decker once again stated if you burn the proper dry wood there won't be problems and you should not receive any complaints.

Mr. Fitzgerald questioned who the town is trying to protect. He stated there are lots of people here to voice their opposition to the law, but no one here seems to be speaking in favor of the law. He has a problem with one person having the ability to ban his unit.

Ray of Country Wood Burners, questioned again who is the law protecting? He stated everyone knows there are some neighbors that no one can please.

John Good, CEO stated that the intent of the law is if you are using the units properly you should not have any problems. This gives the town the ability to ensure proper installations and address owners who do not use the stoves properly.

Brian questioned what happens when these stoves become EPA approved? Councilman Decker addressed this question stating that if the town does not regulate these units now, the State or Federal Government will regulate them eventually.

Mr. Fitzgerald asked once more for a clear answer on the issue that one neighbor can complain 5 times. Yes. He stated he would like to see a grandfather clause that would apply to current owners of units. These owners have made substantial investments in these units and they should be protected.

Mark Wagner questioned if they are going to take away the residents ability to burn garbage in burn barrels in the future. The Council answered no, that is not even an issue at this time.

Mr. Wight questioned if the Code Enforcement Officer will just walk up on peoples property to look at their units or how will he handle complaints. John stated he will go to the homeowners and knock on their door and talk directly to them to discuss any issues, not trespass.

The Supervisor stated the board will discuss tonight's comments at the next work session and make a decision to take any action at a later date.

There being no further comments, a motion was made by Councilman Decker, seconded by Councilman Finger to close the public hearing at 8:20 PM. Carried Unanimously

A regular meeting was called to order at 8:20pm with the same members present as above.

Town Attorney Nathan Neill led the pledge to the flag.

Minutes from the previous regular meeting held on August 13, 2007 were presented for approval. A motion was made by Councilman George, seconded by Councilman Finger to approve as presented. Carried Unanimously

Communications – The Town Clerk presented the following:

A letter from Assemblyman Michael Cole thanking the town board for their certified resolution forwarded on the New York State Property Taxpayer Protection Act.

A letter from the Erie County Board of Elections informing the town that Primary Day has been moved to September 18, 2007 and Election Day will be held on November 6, 2007 and the Board of Elections is requesting use of the town hall facilities for those election dates.

A letter from Akron Central School seeking information about children in our community that the town is aware of that are considered homeless.

A certified resolution was received from the Town of Concord regarding their opposition to amendments to Article X of the Public Service Law.

A letter from the Erie County Fiscal Stability Authority Board thanking the town board for their certified resolution passed regarding the need for release of emergency funding to make repairs on the Crittenden Road Bridge. The authority board unanimously passed a measure releasing funds.

A letter from the NYS Department of State acknowledging receipt and filing of Local Law No. 2 of 2007 on August 1, 2007.

Three certified resolutions were received from the Town of Brant regarding their Town Boards support of the use of Spartan II Body Armor Vests for American troops, requesting that Erie County

budget sufficient funds for road and bridge repairs in the 2008 budget, and supporting the proposed “New York State Taxpayers Protection Act” legislation.

Two certified resolutions were received from the Town of Eden regarding their Town Boards support of the Erie County SPCA and Animal Alliance of WNY programs and their opposition to the proposed revisions to Article X of the Public Service Law.

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

Work Session: The Supervisor reported that at the work session held last week the following items were discussed: budget meetings with department heads, water district #10 issues, Adesa sewer district, CAC investigation results on Murder Creek, Route 5 re-zoning, grant submissions, joint facilities study, review of potential resolutions, Assessor appointment, planning issues, conservation easements, the towns 185th anniversary plans, request on Flex-fit insurance plan for recreation and the Solid Waste contract.

Privilege of the Floor – James Fitzpatrick of 7495 Scotland Road questioned where did the assessment project fail the community? He cited statistics from other communities and stated that inflated homes sales due to low mortgage rates were used in the reval project, which created over assessments. He criticized the Office of Real Property Services for not having any meetings with the public, only with board. He stated the small claims application due date confusion was a result of ORPS not knowing their own laws. Another problem was the misinformation on the ORPS assessment sheets reporting the estimate tax. Mr. Fitzpatrick asked the Board members if accuracy is important. Mr. Fitzpatrick stated according to his calculation there was only a 22% accuracy ratio with the project and the average school tax bills will see an average of 17% increase. Councilman George requested copies of documents that support Mr. Fitzpatrick’s numbers.

Stan Serwon of 5759 Davison Road presented several pages of petitions with signatures calling for the dismissal of Assessor Rebecca Baker. He read the statement at the top of the petition.

The petition upon inspection included 231 signatures representing 162 households.

Nancy Green of 7574 Scotland Road questioned the board if they think all residents should be treated with respect and treated fairly. She stated that public service takes a certain type of person with a certain type of personality to work with the public. She also questioned if when a person is appointed or hired by the Town of Newstead is their personality and tools for customer service considered.

The Supervisor responded yes it should be considered.

Anthony Brandle of 6320 Hake Road explained the run off problem on his property that exists now and questioned what will happen when the new subdivision going in across the street is complete. Is anything going to be done to address the existing drainage problem and address the drainage plan for the new subdivision so it does not run onto his property?

The Supervisor stated that the Planning Board and Drainage Committee should be addressing this in the development plan of the project. Councilman Finger stated at the last Drainage meeting he attended it was discussed how this was going to be accomplished.

Stan Serwon, 5759 Davison Road, questioned the Supervisor on the 4-way stop sign requested at Howe and Davison Roads. He personally asked Councilman Rooney to take over this project to make sure this happens and asked him to give him an update on a regular basis of what’s been done. The Supervisor asked Councilman Rooney to work with Highway Superintendent Bassanello on this. The Supt. explained the highway crew went out 2 weeks ago to trim down the brush in the area at the intersection to improve sight lines and that Verizon still has 2 poles to be removed near the intersection. He asked Mike to call Verizon again on this.

Approval of Bills -Councilman Decker reported that the Abstract from Batch #637 & 640 from the August 13, 2007 meeting has been reviewed with the previously UN-audited vouchers and everything was found in order. He presented Abstract Batch #642. Vouchers on this abstract

numbered 817 - 846, totaling \$162,506.99 and were presented for payment approval by Councilman Decker, seconded by Councilman Finger to approve payment.

Abstract Batch #642:

General Fund (A) -\$14,702.51, Fund (B) \$49.88, Highway (DA) -\$0, Capital Projects: CAP-WD#10 (HI)- \$142,460.58, Highway: Outside Village (DB) \$615.69, (HL) October Storm- \$0, Drainage (SD)- \$1,700.00, Fire Protection (SF) \$0, Refuse (SR) \$0, Sewer Fund (SS) \$894.86, Sewer District #2 (SS02)- \$83.47, and Water Districts (SW1) \$0, (SW2) \$0 (SW3) \$0, (SW4) \$125.00, (SW5) \$0, (SW6) \$1,875.00, (SW7) \$0 (SW7A) \$0 (SW8) \$0 (SW9) \$0, (SW10) \$0, Trust & Agency(TA)- \$0
Total:\$162,506.99 Carried Unanimously

COMMITTEE AND DEPARTMENT HEAD REPORTS

Highway – Nothing at this time

Assessor –The first meeting of 6 SCAR cases were held and the results are in. There are 14 more to be heard. She attended a required CEU session. The STAR rebate check applications have been mailed and residents have to complete the form and mail back to the State or they can do the application on-line in order to receive their rebate quicker. The deadline is November 30th. Those who receive the enhanced do not have to apply and some have already received their checks.

Building Office –no building report was presented this week.

Town Clerk- Nothing at this time.

Attorney for the Town – Nothing at this time

COUNCILPERSONS

George- Nothing at this time

Finger-He met with the village electrical department regarding 2 power outages within the past 3 weeks at the town hall. The problem has been fixed but there are some other issues that need to be addressed at work session.

Decker-Nothing at this time

Rooney-The Drainage meeting minutes are in the boards boxes.

SUPERVISOR- The July Supervisors Report is on file with the Town Clerk. He met with the two fire chiefs on the EMS contract for 2008. He also met with the accountants and the engineers on budget issues. The solid waste company representatives met with him last week on the contract extension and there will be an executive session at the end of the meeting to discuss this matter.

UNFINISHED BUSINESS

Water District #10- Phase 2 & Extensions-

They are working with Milhurst and Pilon construction companies on punch list items and restoration issues. A poor growing season has hindered restoration so they are asking for patience from customers. All water services have been installed and they are waiting for paperwork to close out the districts.

Route 5 Re-Zoning- A run thru of the presentation will be held at the next work session on September 17th.

Shared Public Works Facility Committee- the next meeting will be on September 10 and the alternative scenarios requested by the Village are being looked at.

Grants- The board is looking at several options to pursue for grant funding on projects.

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

Crittenden Road Bridge- We are waiting for an actual start date for repairs to begin. The Supervisor thanked the Mayor of Akron, Akron Central School Transportation Director, and the Fire Chiefs for their help on this issue, along with Mike Ranzenhofer and the Erie County Control Board.

NEW BUSINESS:

LUCA Appointments & Authorizations:

A motion was made by Councilman Decker, seconded by Councilman Finger appointing Town Clerk Dawn Izydorczak as LUCA Liaison for the 2010 Census and authorizing Dawn Izydorczak, Rebecca Baker, Christine Falkowski and Jennifer Heberling to sign the confidentiality agreements with the Census Bureau.

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

Budget Amendment Authorization:

A motion was made by Councilman Rooney, seconded by Councilman George authorizing the amendment of the 2007 Budget for additional appropriations and additional revenues of \$400.00 as a result of a grant awarded to the town for its recreation program's tennis camp.

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

2-lot Major Subdivision-11187 Stage Rd:

A motion was made by Councilman Finger, seconded by Councilman Decker issuing a declaration of lead agency under SEQRA and authorizing the Building Department to conduct a coordinated review for the proposed 2-lot major subdivision of land at 11187 Stage Road owned by Harold Frey.

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

WD#10- Phase 2 Increase & Improvement:

A motion was made by Councilman George, seconded by Councilman Decker authorizing the calling of a public hearing on the increase and improvement of the Water District #10- Phase 2 project to increase expenditures from \$2,000,000 to \$2,300,000 for the cost of adding the Hiller, N. Millgrove and Downey Road extensions. The public hearing shall be held on September 10, 2007 at 7:50pm at the town hall.

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

Office of Court Administration Grant Funding:

A motion was made by Councilman George, seconded by Councilman Decker authorizing the Town Justices to make an application to the Office of Court Administration for grant funds for security changes to be made to the Newstead Court.

(Resolution Attached) Cumming-Aye, George-Aye, Finger-Aye, Decker-Aye, Rooney-Aye
Carried Unanimously

Site Plan Approval: Buffalo Well Drilling:

A motion was made by Councilman Rooney, seconded by Councilman George approving the site plan dated July 19, 2007 for Buffalo Well Drilling, to add a 70' x 90' addition to its building located at 12264 Main Road and approving the Negative Declaration acknowledging this action will have no significant effect on the environment.

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

Councilman George stated the Assessors appointment is a difficult issue. He agrees customer service is very important. He and the rest of the board members would like to take time to personally talk to some of the people who signed the petition presented tonight. He is extremely cautious about not making decisions based on political pressure. This happened once before years ago and someone's livelihood was taken away purely for political reasons. He does not want to make that mistake again. There are other options to consider than simply not re-appointing the Assessor. He stated this is always a tough issue every reval and you could legitimately have a new Assessor every cycle. The system is flawed and corrections can be made there instead of getting rid of someone who is qualified. He stated the Town Board is responsible for the employees and their performance and he wants to make sure the Town Board is doing their jobs too.

The action of appointing the Assessor was postponed and the Town Board requested copies of all the petitions submitted.

Question Period-No one spoke

Adjourned to Executive session on Refuse Contract.

There being no further business to come before the board a motion was made by Councilman George, seconded by Councilman Finger to adjourn the meeting at 9:44 PM.

Carried Unanimously

Respectfully Submitted,
Dawn D. Izydorzak, Town Clerk