

Newstead Town Board Meeting- September 24, 2007

A Public Hearing was called to order by the Newstead Town Board on Monday, September 24, 2007 at 7:30PM 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 No. 3 Of 2007 entitled "Zoning Law Amendment".

The Clerk read the proof of publication.

A presentation of the proposed zoning changes was given by the town engineers and Councilman George. The two major points of the proposal are changes to the commercial zone as a whole and modifications to the Rt. 5 zoning.

Wendy from Wendel Duchscherer gave a presentation and explained the hand outs. The goal of the proposal is a better land use plan that more accurately represents the Comprehensive Master Plan. Issues such as access management were handled in the new overlay zone adopted last year. This new proposal will result in 3 commercial zones that represent how growth will be handled along Rt.5.

Comments:

Don Nicholas, 11868 Nice Road, stated that this proposal is more for something like Amherst and feels it can do nothing but hurt business here in Newstead. He questioned why they are so picky about what we are doing. He also feels that most existing businesses would not qualify in their zones under the proposal. If the business is not illegal, then why do we care where it goes? This is too much control and is a killer for this size of town. He feels that the Master Plan is loaded with problems and so is this plan.

Doug Ceisner, 100 East Avenue, questioned if any of the board members runs their own business. He feels there are already too many restrictions. He stated you can not buy anything in this town like when he was a kid. He feels there needs to be free enterprise business, instead of the only thing we have now, which is big industry with big IDA breaks.

Joe Asbeck, 123 East Avenue, questioned what happens to businesses already in the new proposed "Restricted" zone. His property according to the list would not be an appropriate use.

Councilman George answered that any existing businesses would be grand-fathered under the current zoning, unless at some time in the future that use changes or ceases to exist. Then the new zoning would come into effect on the property. Councilman George also stated that the board is looking for input to make the law better and that just criticism does not help them make a good decision. They need constructive input.

Joe Degasperi, 42 Bloomingdale Ave, has concerns about noise from his neighbors on both side of him.

Joe Frey, 11114 Keller Road, hopes board really wants input. His current concepts for the Wukman property he purchased does not fit under the proposed zoning in the plan. He feels the Town Board has good intentions, but this plan may not meet the dreams of prospective businessman in the future. He feels they are dictating what people should do and creating undo hardships. He asked the Board

to please be careful in their decisions. He cited legislation from the past which intended an effort to control growth. That has cost him \$ 20,000 in engineering cost for 7-lots to be sub-divided before he has even gotten started and he just found out it was done wrong. He questions at what cost do we create burdens. The process should be simpler.

Don Nicholas, 11868 Nice Road, agrees with Joe Frey about the gridlock of doing business in this town. The costs have gotten out of hand to develop and he feels they should leave it alone and go back to all C-2 zoning. He stated there does not seem to be many differences between the C-1 and C-2 zones. He commented we should not have to go to Clarence to get a cup of coffee after 10:00 at night because the only place to go is Uni-Mart. He feels the restrictions will keep businesses out not draw them in.

Doug Ceisner, 100 East Avenue, stated that Pembroke has a good set up and we should use that. He read an article on the Akron Airport being increasingly used by businesses at Pembroke's new Industrial Park.

There being no further comments, a motion was made by Councilman George, seconded by Councilman Finger to close the public hearing at 8:26 PM. Carried Unanimously

The Supervisor stated that comments from tonight's hearing will be reviewed by the Board at the next work session. No action will be taken on this matter tonight.

A regular meeting was called to order at 8:26pm with the same members present as above.

John Good led the pledge to the flag.

Minutes from the previous regular meeting held on September 10, 2007 were presented for approval. A motion was made by Councilman Finger, seconded by Councilman Rooney to approve as presented. Carried Unanimously

Communications – The Town Clerk presented the following:

A letter was received from Time Warner Cable informing the town of several of their carrier contracts that are set to expire and are under negotiation for renewal.

Two certified resolutions were received from the Town of Elma; one regarding the town boards support of the Animal Alliance of WNY and the Erie County SPCA and another regarding their opposition to the proposed State windmill siting procedures.

A memo was received from Recreation Director Terri Bierasinski, which includes a final report on the summer recreation program.

A letter was received from resident Robert Johnson of 11836 Buckwheat Road requesting that the town conduct a speed study on Buckwheat Road and post speed limit signage on the road, as no signs are posted currently.

A letter was received from Erie County Department of Environment & Planning regarding the upcoming public notice of the 30-day inclusion period for requests to have land parcels placed in an agricultural district. The 30-day period will run from November 1, 2007 thru November 30, 2007. Applications are available at the Town Clerk's office.

A letter was received from U.S. Senator Charles Schumer announcing this year's availability of U.S. E.P.A. Brownsfields Assessment and Clean-up Cooperative grant funds. Applications must be received by October 12, 2007.

A certified resolution was received from the Town of Clarence regarding the town board's opposition to the proposed amendments to State Public Service Law, Article X regarding changes in windmill siting procedures.

A letter from ECWA notifying the town on September 28, 2007 they are changing the water source for the Bloomingdale Road area from the Village of Akron and requesting the town engineer review the design of the system in the area to come up with a solution to eliminate the low pressure problems during high demands.

A letter was received from NYS Ag & Markets announcing the availability of state assistance payments for municipalities to develop agricultural and farmland protection plans.

A certified resolution was received from the Town of Holland regarding the town board's opposition to the proposed amendments to State Public Service Law, Article X regarding changes in windmill siting procedures.

A letter from NYS ORPS congratulating the Town of Newstead on receiving the 2007 Excellence in Equity Award for conducting a reassessment that meets state standards for equitable assessments. The town was also commended for receiving this award 3 times since 1999. The Town Assessor Rebecca Baker will be presented the award on October 2, 2007 at the Erie County Assessor's Association meeting.

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

Work Session: The Supervisor reported that at the work session held last the following items were discussed: budget, Route 5 re-zoning, sewer district #1 issues, water district #10 issues, planning issues, grant submissions, joint facilities study, Assessment issues, street lighting request, CAC issues and the joint meeting with the Village Board on October 1st.

Privilege of the Floor – Dale Cheavacci, 113 John Street, questioned the water problem on Bloomingdale where his family has rental property. Is the water coming from ECWA or Village of Akron? The Supervisor stated that ECWA is currently providing the water. The situation over the summer with low water pressure resulted in ECWA buying water from the Village for a short time but that problem has been corrected. The Town Engineer Andrew Casolini stated that the problem should be corrected now and explained it was due to the very dry summer which enhanced the problem. He explained that many of the towns that are at the end of the system experienced the same problems and Wendel is currently doing studies to prevent the problem from happening again next year.

Doug Ceisner, 100 East Avenue, questioned the business on Havens Road. Is it legal? He also stated the 3 homes listed for sale this morning were reported to have sold below their assessed value.

Jim Fitzpatrick, 7495 Scotland Road, stated the school tax bills are out. He questioned the assessment of the property at 116 East Avenue. The owner is a Senior Citizen and feels the assessment is too high.

Fred Pask, 102 Golden Pond Estates, stated that Becky had worked for him many years when he was the Town Assessor. When he was President of the NYS Assessors Association, Becky ran the office and did a good job. She exclusively ran the beta test site for ORPS V-4 program. She is more than qualified and experienced for the job and needs to be reappointed tonight and he feels it would be a disservice to the town by the Town Board not to reappoint her.

Nancy Green, 7534 Scotland Road, stated that the Town Board members are still not listening to the people present and threatened it will not be forgotten at election time.

Stan Serwon, 5759 Davison Road, presented 16 more signatures on the petition to dismiss the Assessor.

Joe Frey of 11114 Keller Road apologized for getting personal with the Assessor on this issue in the past. He questioned if the board members are really listening. He asked them to consider the petitions put before them. He suggested meeting them half way and suggested that the appointment be a one year appointment instead of six years. He stated she is a sharp gal, tenacious, persistent. Put her in for one year, not six. He stated look at what happened in Clarence. The "Good Old Boys" are not running things anymore, you will lose.

Norma Bluhm, 142 Buell Street, stated she strongly supports Becky. She stated she always protests her assessment every year and feels Becky is always fair. She commented that she gives Becky credit for being here tonight and listening to all this garbage.

Debbie Koss, 142 Skyline, questioned how many were contacted from the petition list that was presented at a prior meeting. She also questioned Becky's motivation in staying in a job where no one wants her.

Diane Freeman, 1 Pearl Place, stated she had looked at the property at 116 East Avenue and the realtor told her that an offer of \$27,000 would get her the property. She stated it is a dump and should be bulldozed. She asked the town to remember we are normal people with normal incomes.

Peggy Sowinski, 5982 Crittenden Road, dropped off a packet for review of her assessment and claims it was lost. She stated she could not get an appointment with the assessor and at least her predecessor had evening hours. She feels she is not getting service for her taxes and feels some issues such as this should go to a vote by the residents.

John Przybyla, 5371 Barnum Road, moved back to New York from Phoenix, Arizona and believes that the taxes here are outrageous. He claims they are 4 times higher than the amount he paid in Arizona. He would not complain if he was getting more services.

Doug Ceisner, 100 East Avenue, stated that the property at 11 Bloomingdale was assessed too high and he grieved the assessment for the elderly property owners who did not know any better.

Joe Frey, 11114 Keller Road, bought Rothlands Golf Course this year at what he claims was an arms length sale, which included all of the assets and equipment. The previous year assessment was \$1.6 million, which has now gone up to \$2.3 million, which was the price he paid for everything including all of the equipment and assets. He stated he is grieving that assessment thru a small claims hearing and he will win. The taxpayers are funding part of the court costs for the small claims grievance. He expects to be assessed appropriately and in his grievance case he will win.

Jim Fitzpatrick, 7495 Scotland Road, believes the Senior's won this year with their increase in the STAR exemptions but stated it will be lost next year, which will cause increases in their tax bills next year.

Fred Pask, 102 Golden Pond Estates, asked if the petitions that were presented to the town board a couple weeks ago were also presented to the school and the county. That would have an impact on them also. This is not just a town issue. He stated that the level of taxes is based on budgets of the taxing municipalities, not the level of assessment.

Approval of Bills -Councilman Decker reported that the Abstract from Batch #644 from the September 10, 2007 meeting has been reviewed with the previously UN-audited vouchers and everything was found in order. He presented Abstract Batch #648. Vouchers on this abstract numbered 922 - 953, totaling \$31,942.84 and were presented for payment approval by Councilman Decker, seconded by Councilman Finger to approve payment.

Abstract Batch #648:

General Fund (A) -\$12,073.34, Fund (B) \$0, Highway (DA) -\$0, Highway: Outside Village (DB) \$19,444.45, Capital Projects: CAP-WD#10 (HI)- \$158.00, Reserve- Roof Repair (HR01)- \$0, (HL) October Storm- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$0, Refuse (SR) \$0, Sewer Fund (SS) \$25.22, Sewer District #2 (SS02)- \$231.45, and Water Districts (SW1) \$0, (SW2) \$0 (SW3) \$0, (SW4) \$0, (SW5) \$10.38, (SW6) \$0, (SW7) \$0 (SW7A) \$0 (SW8) \$0 (SW9) \$0, (SW10) \$0, Trust & Agency(TA)- \$0 :Total:\$31,942.84 Carried Unanimously

COMMITTEE AND DEPARTMENT HEAD REPORTS

Highway –They started the white goods pick up today. He thanked the Village Department of Public Works for their assistance in striping the Town Hall parking lot.

Assessor –She and Jennifer attended the LUCA Seminar training for the census last week. She will be in Batavia for ORPS training and classes this week. The last 7 small claims hearings are coming up.

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

Paul Pfentner	11353 Miland	Roof
Andy Cinotti	12337 Nice	Roof
Joanne Nye	4168 N. Millgrove	Roof

David DeYoung	13033 Carney	Addition/alteration
Jeff Jones	11099 Crego	Shed/addition
Gerald Karcher	13146 Carney	Roof
Raymond Sequin	7589 Greenbush	Shed
Richard Baran	12784 Carney	Lean-to
Sharon Martel	11199 Stage	One Family Home
Ronald Gabbey	4085 S. Newstead	Pole barn
Fred Maier	11350 Stage	Pole barn
Michael Baran	12800 Carney	Garage
Adam Vohwinkel	12350 Hunts Corners	Roof
Michael Monachino	v/l Clarence Center	Barn demolition
Buffalo Drilling	12264 Main	Addition

The Town Board accepted the Building Report as presented.

Town Clerk- School tax bills have been sent out and are coming in at a very good pace. General Code draft request as discussed will be rescinded. NYS Workers Comp inspector will inspect facilities on Wednesday, September 26th in the morning.

Attorney for the Town – Nothing at this time

COUNCILPERSONS

George- Nothing at this time

Finger- Nothing at this time

Decker- He attended the Drainage meeting last Tuesday and the minutes will be out shortly.

Rooney- He too attended the Drainage meeting and also wanted to thank the Highway crew for a good job on the parking lot.

SUPERVISOR- He met with Mayor Patterson and Oct 1st will be a joint meeting of the boards after the village's regular meeting. Under the Re-Tree program this fall the town will be adding 60 new trees to our community, including some at the town hall and town park properties. The Agricultural District 30-day Land Inclusion period will run from November 1st - November 30th. The Supervisor Tentative 2008 Budget Address was given and the Tentative Budget was presented to the Town Clerk. Copies of the Tentative Budget will be available to the public from the Town Clerks office. A public hearing on the budget will be held at the second meeting in October.

UNFINISHED BUSINESS

Water District #10- Phase 2 & Extensions- The contractors are doing final restoration. A reduction in the project retainage has been suggested. Wendel is developing additional build out plans.

Route 5 Re-Zoning- The work session next week will include discussion of comments from tonight's public hearing.

Shared Public Works Facility Committee- Their meeting included discussing the report as it stands and the meeting with Village next week will hopefully yield a final plan.

Grants- There are many grants in the works right now. Some will require matching funds and some will not.

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

Crittenden Road Bridge- The Supervisor has talked to the engineers on site and was under the bridge and saw what poor shape the bridge was in. They are looking to be done sometime in November.

NEW BUSINESS:

Knapp Rd Mini Self Storage Units- Site Plan Approval:

A motion was made by Councilman Rooney, seconded by Councilman George approving the annexed Negative Declaration and approving the site plan dated August 13, 2007, per the terms set forth in the resolution, on the proposed Mini Self Storage Units project on Knapp Road as presented by John Randall, which consists of two 1,600 sq. ft. buildings with 12 storage units in each unit for a total of 24 units in phase 1.

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

Local Law No. 3 of 2007- Outdoor Furnace Law:

A motion was made by Councilman Decker, seconded by Councilman Finger issuing a Determination of Non-Significance of Local Law under SEQRA and adopting the proposed Local Law No. 3 of 2007 entitled "Outdoor Furnace Law of the Town of Newstead".

(Resolution Attached) Cummings-No, George-Aye, Finger-Aye, Decker-Aye, Rooney-No
Carried

Zoning & Planning Board Training Requirements:

A motion was made by Councilman George, seconded by Councilman Decker approving the proposed listed requirements for Zoning Board and Planning Board members of the Town of Newstead as required by New York State Law as of January 1, 2007.

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

Opposition to Windmill Siting Procedures:

A motion was made by Councilman Rooney, seconded by Councilman George citing the Town Boards opposition to the proposed amendments to the Public Service Law, Article X, which would remove local control over the siting of Windmills and encouraging the revisions of Article X to address health and environmental issues only for those who live and work near power generation facilities.

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

GIS Needs Assessment Approval:

A motion was made by Councilman Finger, seconded by Councilman Decker approving the update of the current GIS Needs Assessment Report by CRA Infrastructure & Engineering at a cost of \$2,000.00 to be paid in the amount of \$1,000 each by the Town and Village of Akron.

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

Public Hearing- Community Development Block Grants:

A motion was made by Councilman Finger, seconded by Councilman Decker approving the calling of a public hearing on the proposed use of Community Development Block Grant funds for 2008 to be held on October 8, 2007 at the Town Hall at 7:50pm.

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

Public Hearing- Senior Exemption Rate Increase:

A motion was made by Councilman George, seconded by Councilman Rooney approving the calling of a public hearing on the proposed increase in Senior Citizen exemption rates for 2008 to be held on October 8, 2007 at the Town Hall at 7:40pm.

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

Public Hearing- 2-lot Subdivision on Stage Rd:

A motion was made by Councilman Finger, seconded by Councilman Decker approving the calling of a public hearing on the proposed 2-lot subdivision on Stage Rd by owner Harold Frey to be held on October 8, 2007 at the Town Hall at 7:30pm.

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

WD#10- Phase 2 Reduction of Retainage Approval:

A motion was made by Councilman Decker, seconded by Councilman Finger approving the reduction of the retainage for Milhurst Construction on the Water District #10-Phase 2 project from 5% to 2.5% equaling \$35,302 to provide funding for completion of the punch list items. (Resolution Attached) Cummings-Aye, George-Aye, Finger-Aye, Decker-Aye, Rooney-Aye
Carried Unanimously

Appointment- Assessor:

The Supervisor addressed Mr. Frey's suggestion earlier in the meeting to appoint her for a one year term as opposed to a six year term and explained that it is a State requirement that the term must be a six year term, therefore they cannot shorten the term.

Councilman George spoke and stated this is a polarizing issue. He has been contacted by many people in favor of Rebecca and he contacted several of the people who signed the petitions. He feels he must do what is right for the community as a whole and he is sticking with his convictions. He stated we do not vote by petition, but by what we think is right.

Councilman Decker stated there are 2 sides to every story and he believes in making the right decision for the entire community.

Supervisor Cummings stated that reappointment was not the best answer to better service.

Councilman Rooney stated he has spoken to many people, including those in favor of Becky. He feels the board has put the Assessor in a bad spot. He feels that all multiple year appointments should be looked at closer and make sure you have the right person. He needs more to go on and said the board did not look at anyone else for the job.

A motion was made by Councilman George, seconded by Councilman Finger approving the appointment of Rebecca Baker to the part-time position of Assessor for the Town of Newstead for a six year term expiring 9/30/2013.

Cummings-No, George-Aye, Finger-Aye, Decker-Aye, Rooney-No

Carried

Solid Waste Refuse Contract:

A motion was made by Councilman Finger, seconded by Councilman Decker approving a three year extension with Allied Waste Services of North America for the town refuse contract for a term commencing on January 1, 2008 and ending on December 31, 2010 with a per unit price to be \$153.24, with annual CPI increases after the first year.

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

Carried Unanimously

Solid Waste Disposal Contract:

A motion was made by Councilman Finger, seconded by Councilman Decker approving three one year extensions with Allied Waste Services of North America for the town disposal contract for a terms commencing on January 1, 2008- December 31, 2008, January 1, 2009- December 31, 2009 and January 1, 2010- December 31, 2010 with a per unit price to be \$27.77 per ton, with annual CPI increases after the first year.

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

Carried Unanimously

The Supervisor received a letter today from John Eckerson, Town Historian, resigning his post and delegating the position to his daughter, Nancy Jo Eckerson, Assistant Historian effective today, September 24, 2007. The board members approved this transition of position for the remainder of this years term.

Patrick Flynn of the Erie County Sheriff's office stated 3 notable cases have been solved locally with the aide of the Akron Police Department and New York State Police in recent months. He noted the

work being done on the Crittenden Road bridge is a good sign and will greatly assist emergency vehicles in getting to calls. He also stated that Clarence and Clarence Hollow have formed public safety committee's and if the Town of Newstead is interested in organizing such a committee to let him know and the sheriffs office will assist.

The Supervisor stated they will be working with Clarence on the bike path issues.

Question Period- Jim Ebersole of Clarence Center Road, thanked the board for allocating money for the new highway garage in the 2008 budget. He questioned money from a past deal that was supposed to have been previously set aside to use on a highway facility and was that still available. The Supervisor stated he believed those monies were used on the Senior Center. Mr. Ebersole asked how much money so far has been set aside for the highway facility. Councilman George stated it there is somewhere around \$200,000- \$300,000 currently set aside for Highway Garage.

Jim Fitzpatrick, 7495 Scotland Road, made a personal attack on board members and Republicans.

Doug Ceisner, 100 East Avenue, stated that it was a good thing that they passed the resolution for Randall's storage units. He has been working on them for weeks.

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 10:00 PM.

Carried Unanimously

Respectfully Submitted,
Dawn D. Izydorczak, Town Clerk