

Newstead Town Board Meeting- October 9, 2006

A Public Hearing was called to order by the Newstead Town Board on Monday, October 9, 2006 at 7:25PM at the Newstead Town Hall.

Present: David Cummings- Supervisor
Tom George- Councilman
Mark Decker- Councilman
Brian Murray- Councilman
Andrew Casolini- Town Engineer
Rebecca Baker- Assessor
Christine Falkowski- Building Administrator
Michael Bassanello- Highway Supt.
Nathan Neill- Town Attorney
John Good- Code Enforcement Officer
Dawn D. Izydorczak- Town Clerk
Kathleen Lang- Deputy Town Clerk

The Supervisor called the public hearing to order on the proposed increase and improvements for the Water District #10- Phase 2 project funding.

The Clerk read the proof of publication.

Town Engineer Andrew Casolini explained how the decision of what segments to begin with was made on Phase #2 and how much water line was to be constructed. The grant received from child services in the amount of \$85,000.00 allowed for additional funding and construction. Decisions on areas were prioritized

Comments: Carol Rosenberg, 7982 Greenbush Rd. questioned if their area was scheduled for this year and if not would they collect a refund from taxes paid this past year. The Supervisor informed them they are scheduled to begin construction in that area.

There being no further comments, Councilman George made a motion to close the public hearing at 7:34 PM on the proposed increase & improvements to Water District #10- Phase 2 funding.
Seconded by Councilman Murray. Carried

The Supervisor called the public hearing to order on the proposed Local Law #3 of 2006 entitled "Outdoor Furnace Law of the Town of Newstead".

The Clerk read the proof of publication.

Supervisor Cummings stated that the comments mentioned at last meeting on this law were taken under consideration and because of those comments changes were made to the law. He explained some of the changes.

Comments: Shawn Fitzgerald, 7940 Moore Rd., stated he understands units that are currently installed will be grandfathered, but was concerned whether items and requirements in section 7(B) could be hard to enforce or discriminate against certain types of smoke. Under this section 7(B) & (C) any smoke effecting neighbors could cause problems. There can be problems with indoor furnaces blowing smoke on bad weather days too. He stated that this is open to interpretation. Blowing smoke can trigger a valid complaint leading to a violation if it is a constant problem. Mr. Fitzgerald is concerned about the gray areas in this law. Owners of these units have invested a large amount of money in these furnaces. He is wondering if he should retain counsel for future problems.

John Good, Code Enforcement Officer, stated that complaints would have to be daily and validated. It would have to be a constant offensive smell or smoke.

Michelle Daniel, 7570 Cedar St., questioned procedure for testing once a complaint is made. It was explained if a complaint were to progress to a major problem, an outside agency would be brought in to conduct testing.

Don Leising, 5931 Cummings Rd, questioned if someone wants to put a new stove in now, would they have to have a permit? Yes, once the law takes effect.

Jerry Reiner, 13021 Stage Rd., is opposed to this law in its entirety. He feels the Town should let the DEC worry about this issue.

Justin Rooney, 32 Bloomingdale Ave., stated he feels that this law is opening up the town for law suit if passed. He feels it is just another tax on someone trying to heat their home. This is being too regulatory. Mr. Rooney also questions the challenging of the violation process.

Town Attorney Neill addressed this question. Mr. Rooney asked if the Town of Newstead has had any experience with this issue. The Town Attorney stated that several people with expertise have looked at this law along with the Conservation Advisory Board. Mr. Rooney questioned reimbursements if a violation led to removal of a unit. Nathan stated the court would make the decision on the removal of a unit and the reimbursements if an issue got that far.

Doug Ceisner, 100 East Ave. questioned why this law was brought about? The reason people use these stoves is to save money on their heating bills and use renewable resources.

Supervisor Cummings explained that some complaints had been logged and the board went to the Conservation Advisory Board to ask them to formulate an appropriate law to be pro-active on the issue instead of reactive.

Mr. Ceisner questioned number of indoor boilers and furnace fires and the number of outdoor boiler furnaces fires that have been recorded in the town that were caused by the furnaces. He feels it is just another law to put the thumb on the people.

Ray Pionessa, 12949 Carney Rd, questioned the definition of dry seasoned wood? He has stacks of wood out side in the back of his house but due to the rain this fall season, the wood won't be dry. He also questioned when this law will go into effect because a friend of his has just purchased a stove and will not be installed for a couple weeks.

This law will go into effect when it is passed and then filed with the Secretary of State, which could take a month after it is passed. He also questioned who pays for the testing. The Town would pay the fee if the testing comes out negative, but the homeowner would pay if the test is positive.

Michele Daniel, 7570 Cedar St, questioned again why the town is not working with manufacturers and other state and county agencies?

Brian Wight, 7650 Scotland Rd., stated that if a neighbor is complaining then they should pay half of the fee for testing.

Don Leising, 5931 Cummings Rd. feels the same way in regards the payment of the fee for testing. This should eliminate the nuisance calls from fighting neighbors who cause problems.

Shawn Fitzgerald, 7940 Moore Rd, questions the weather conditions which are not controllable. He feels there are still too many grey areas in this law which will leave the town open for litigation.

Supervisor Cummings stated that if any changes are made to the law as it was presented tonight another public hearing will be scheduled. If there are no changes, it will either be dropped or passed as presented. The Town Board is not trying to ram this law thru. We need to put trust in each other and make it work.

Councilman George stated that most residents never have the Code Enforcement Officer visit their home. The Code Enforcement Officer tries to resolve issues from the most common sense approach and investigate the issue. The Conservation Council spent a lot of time on this law which provides people an ability to address problems. Most issues never make it to court and they are resolved before that point. The town needs to address problems before they become a more prominent issue. This is not a big reach to regulate and permit these units.

There being no further comments, Councilman Decker made a motion to close the public hearing at 8:15 PM on the proposed Local Law #3 of 2006 on Outdoor Furnaces. Seconded by Councilman Murray.

Carried

The Supervisor called the public hearing to order to hear proposed uses for Community Development Block Grant funding for the year 2007.

The Clerk read the proof of publication.

The Supervisor explained the past uses for these grants such as Rural Senior Van Services and the repaving of Stage, Schutt, and Havens Roads.

Comments: Doug Ceisner, 100 East Ave. questioned if the funds can be used for ditching projects.

The Supervisor stated that he does not believe the funds can be used for ditching.

The Supervisor stated he and the Board would like to request funds for more Denio building restorations and/or handicapped automatic door openers for the Newstead Town Hall, which have been requested by residents recently.

There being no further comments, Councilman George made a motion to close the public hearing at 8:20 PM on the proposed uses for CDBG funding for 2007. Seconded by Councilman Decker.

Carried

A regular meeting of the Newstead Town Board was called to order at 8:20pm with all members present as above except for Councilman Finger who had a death in the family.

Roll Call was taken with all board members

Carl Klingenschmitt led the pledge to the flag.

Minutes from the previous regular board meeting held on September 25, 2006 were presented for approval. A motion was made by Councilman George, seconded by Councilman Murray to accept as presented.

Carried

Communications – The Town Clerk presented the following:

The monthly operations report was received from Amherst Central Alarm Office for September 2006 with Akron Fire Co. receiving 38 calls and Newstead Fire Co. receiving 22 calls.

A Public Notice from Erie County Department of Environment & Planning announcing its 30-Day open enrollment period for inclusion into an Erie County Agricultural District. The application period runs from November 1st thru November 30th. Forms are available at the Town Clerk's office or through Planner John S. Opalka at the Erie Co. Dept. of Environment & Planning, 95 Franklin Street, Buffalo, NY 14202 or by calling 858-6229.

A copy of the newly adopted Residency Law from the Town of Alden Town Board.

A Notice of Lead Agency Designation and Long EAF form from the Village of Akron outlining the proposed changes to the existing Comprehensive Plan they are proposing to make. The Village Board is asking for any comments on the project be made by October 30, 2006.

A set of Institute Policy Briefs from the University at Buffalo which includes a two-page synopses of key data, analysis and concepts that are gathered by the university and distributed to policy makers to help frame issues, assist in informed decisions and guide policy action. The first three in the series are: "The Young and the Restless" displaying metropolitan and population migration, "The Regions Edge" displaying bi-national opportunities and "Rural Change, Regional Challenges" which examines population and employment patterns in rural Western New York.

An announcement of "America Recycles Day" in schools throughout Western New York which is being coordinated thru the Erie Co. Dept. of Environment & Planning. All pledge cards must be to the County by November 3, 2006 and schools with the most pledge cards submitted win prizes.

A letter was received from New York State DOT that they have received our request from Erie County to conduct a speed study on Brucker Road. The study is underway and they will forward results as soon as the study has been completed.

A notice was received from the Erie County Water Authority that they are updating their information on highway permits and are requesting us to provide a copy of our current procedures. This has been forwarded to the Highway Superintendent.

A letter of resignation was received from Zoning Officer Rebecca Baker effective October 10, 2006.

A letter requesting appointment as Zoning Officer was received from Building Inspector John Good.

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

Work Session: The Supervisor reported that at the work session held last week the following issues were discussed: water district #10 issues, substation water service, town hall roof, toll barrier issues, recreation board issues, grants- trees, police garage, & joint facility, planning & zoning issues, personnel matters, Route 5 re-zoning, 2007 budget, shared facility project, village police contract.

Privilege of the Floor – Justin Rooney, 32 Bloomingdale Ave, questioned how much of the bike path is in the Town of Newstead? He is concerned with patrolling the path.

The Supervisor stated there are at least 6 miles of paths in the Town of Newstead. The State Troopers do patrol on bikes as their schedule allows during the good weather months. The town does stress prevention by not using the bike path alone as the signs posted all along the bike paths state. This applies to anyone.

Doug Ceisner, 100 East Avenue, questioned if he wants to build back further than the 500' on his commercial property does he need to go to the Zoning Board. Yes, this is a zoning matter. He also questioned if all property owners on Rt. 5-Main Road were notified of the Overlay Zone changes other than through the legal notices in the paper? The Supervisor answered no, it is not a requirement. Mr. Ceisner questioned the old cars in front of Kelly Schultz Pumpkin Farm and if they are licensed? Mr. Ceisner also questioned the right to do business on Main Rd. He also questioned about the ditch on Main Rd. and will it be opened up? There are 2- 24ft culverts and the state has okayed it and the county has okayed it if town opens ditch.

Town Engineer Casolini addressed this question. He explained that the town can not open a ditch to drain a wetland. Mr. Ceisner also questioned why an acre of agricultural land is more important than a Tim Hortons. Mr. Ceisner threatened if he has to plug up the ditch to get action he will.

He also questioned why the website still does not state the agricultural exemptions apply to the school tax bills?

Justin Rooney, 32 Bloomingdale Ave, questioned when the ditching committee meets. Councilman Decker told him every 3rd Tues. of each month.

Approval of Bills -Councilman Decker reported that the Abstract from Batch #543 & #544 from the September 25, 2006 meeting has been reviewed with the previously UN-audited vouchers and everything was found in order. He presented Abstract Batch #546 & 547. Vouchers on this abstract numbered 961 - 1022, totaling \$87,870.33 and were presented for payment approval by Councilman Decker, seconded by Councilman George to approve payment.

Abstract Batch #546 & 547:

General Fund (A) -\$41,386.64, Fund (B) \$3,630.00, Highway (DA) -\$0, Highway: Outside Village (DB) \$1,671.28, Capital Projects: CAP-WD#10 (HI)- \$6,372.31, Reserve- Roof Repair (HR01)- \$2,400.00, Drainage (SD)- \$82.73, Fire Protection (SF) \$3,923.52, Refuse (SR) \$21,522.46, Sewer Fund (SS) \$901.76, Sewer District #2 (SS02)- \$8.90, and Water Districts (SW1) \$70.91, (SW2) \$88.44, (SW3) \$115.23, (SW4) \$112.56, (SW5) \$2,472.11, (SW6) \$305.52, (SW7) \$426.12, (SW7A) \$48.24, (SW8) \$32.16, (SW9) \$88.44, (SW10) \$2,211.00, Trust & Agency(TA)- \$0 Total: \$87,870.33 Carried

COMMITTEE AND DEPARTMENT HEAD REPORTS

Highway –They are getting the trucks ready for the winter season. They have 160 tons of sand and there will be salt delivered this week and then mixing with the sand will begin.

Assessor –She is taking an online assessment course and is finding it very informative and helpful.

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

Steve Baldo Chevrolet	11234 Main	Sign
David Kania	7244 Scotland	pole barn
Joan Glor	11850 Stage	Driveway permit
Walter Floss	4893 Schutt	Addition
Bill McClurg	12344 Rapids	Roof
Jim Gill	12219 Nice`	Roof
Richard Reinhold	5911 Crittenden	I.G. pool
Joan Glor	11850 Stage	Fill
Jesse Ctriss	7677 Greenbush	Shed
Edgar Jaramillo	11801 Clarence Center	Shed

The Town Board accepted the Building Report as presented.

Town Clerk- Nothing at this time.

Attorney for the Town – Nothing at this time

COUNCILPERSONS

George-Nothing at this time

Finger- Not present

Decker- Nothing at this time

Murray-Nothing at this time

SUPERVISOR- The August Supervisor’s Report is on file with the Town Clerk for review. He has had meetings with the Town Attorney and Toll Barrier Attorneys.

UNFINISHED BUSINESS

Water District #10- Phase 1A & Phase 1B – punch list items are being completed and complaints are being addressed. The close out discussion needs to be set.

Phase 2-The contract and agreement with Peter Henley has been executed. The contracts with Milhurst and grant forms have been drafted, reviewed and are set to go out. The shop drawings have been received from Milhurst Construction and a construction mobilization meeting is to be set this week.

The water station: All work has been completed and paperwork submitted to ECWA. A letter of acceptance has not been received as of this date.

Route 5 Re-Zoning-This is at the planning board for comments.

Shared Public Works Facility Committee-The meeting last Thursday was cancelled due to the death of the Mayor of Akron. We are waiting to hear from the Village once their new board is aligned and a new meeting can be scheduled

NYS Toll Barrier-The comments have been given to the Thruway Authority and 30 pages of comments have been compiled. We must now wait to hear back from the NYS Thruway Authority for further meetings.

NEW BUSINESS:

Local Law #3 of 2006- Outdoor Furnaces:

Tabled

Public Hearing- 2007 Budget:

A motion was made by Councilman Decker, seconded by Councilman George approving the calling of a public hearing on October 23, 2006 at 7:45pm at the Newstead Town Hall to hear comments on the proposed 2007 Budget.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

Highway Work Permit- WD#10:

A motion was made by Councilman Murray, seconded by Councilman George approving the Supervisor to sign the Highway Work Permit application for utility work on behalf of Water District #10.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

WD#10 Phase 2- Increase and Improvement Approval:

A motion was made by Councilman Murray, seconded by Councilman George approving the increase and improvement of phase 2 on the Water District #10 water project at a cost of up to \$2 million.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

WD#10 Phase 2: Bond Issue Approval:

A motion was made by Councilman Murray, seconded by Councilman George approving the bond issue of up to \$2 million to cover the cost of construction of phase 2 on the Water District #10 water project.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

Site Plan Approval- Dog House Bar & Restaurant:

Tabled

Justice Court Grant Budget Amendment:

A motion was made by Councilman Decker, seconded by Councilman George approving the amendment of the 2006 adopted budget to authorize additional appropriations and additional estimated revenues of \$3,950.00 due to a grant award to the Justice Court.

(Resolution Attached) Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

Approval- Code Enforcement position:

A motion was made by Supervisor Cummings, seconded by Councilman Murray approving the position of Code Enforcement Officer (competitive) and appointing John Good to that position on a full-time basis effective October 10, 2006.

Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

Rebecca Baker will now be taking over the work on all GIS projects and assisting on web page enhancements.

HRH Release Authorization:

A motion was made by Councilman George, seconded by Councilman Murray authorizing the Supervisor to sign the HRH Release application for a reimbursement claim on behalf of the town.

Cummings-Aye, George-Aye, Finger-Absent, Decker-Aye, Murray-Aye
Carried

Question Period- No one spoke

A moment of silence was held in honor of Village of Akron Mayor Ray Perkins who passed away last week.

There being no further business to come before the board a motion was made by Councilman Decker, seconded by Councilman George to adjourn the meeting at 9:04 PM.

Carried Unanimously

Respectfully Submitted,
Dawn D. Izydorczak, Town Clerk