

Newstead Town Board Meeting- November 10, 2014

The board members entered into executive session at 7:43pm to discuss a personnel matter. They exited at 7:53pm with no action taken.

A public hearing was called to order by the Newstead Town Board on Monday, November 10, 2014 at 7:55pm at the Newstead Town Hall.

Present: David Cummings- Supervisor
Justin Rooney- Councilman
Donald York- Councilman
Nathan Neill- Attorney for the Town
Scott Rybarczyk- Town Engineer
Ralph Migliaccio- Code Enforcement Officer
Dawn Izydorczak- Town Clerk
Jennifer Heberling- Deputy Town Clerk

Roll Call was taken with all board members present except Councilman Mayrose.

The Supervisor called the **public hearing** to order on the **site plan** for a change in use/ownership of a building and land at 13760 Indian Falls Rd.

The Clerk read the Proof of Publication. The Supervisor gave a brief description of the proposed request and stated the Planning Board has recommended approval of this permit pending planting of evergreens on the south property line. He also stated that comments from Erie County were received at the end of the day and are as follows:

- Verify that what portion, if any of additional “vehicles” stored outside are unregistered vehicles destined to be recycled/dismantled for parts re-use and/or scrap metal. Such vehicle would present the most likely threat of fluid leaks.
- Assure that the decorative plantings will not include the invasives, such as the variety of barberry to be banned from nursery stock commercial sales in New York State as of January 1, 2015. Windborne, and bird carried, seeds can undermine and overrun forested understory habitat, such as is adjacent to the proposed land use.
- Verify that if wash-down of dumpster interiors is done onsite that there are adequate controls of such grey water to avoid adverse impact to active farm land.
- Have applicant define the maximum timeframe any junk vehicles may be onsite outside of buildings.
- Have the applicant provide for fire protection services the location, quantity, and containment measures for pressurized, potentially explosive, gases, such as acetylene and propane, if any are to be utilized.
- Any widening, culverting, curb cutting, signage placement, or other temporary work, within the County right-of-way along Indian Falls Road, will require the applicant to submit application and documentation for Erie County Department of Public works review and potential approval.

Comments: Todd Audsley of Smart Design questioned communication of these new conditions. The property owners wish to close soon and will make any corrections necessary.

No one else commented.

There being no further comments, a motion was made by Councilman Rooney, seconded by Councilman York to close the public hearing at 8:05pm. Carried

The Supervisor called the **public hearing** to order on the request for an **area variance** of 131 feet for a wind turbine at 11856 Rapids Rd by owners Leslie & David Klein at 8:05pm.

The Clerk read the Proof of Publication. The Supervisor gave a brief description of the proposed project. It was reviewed on 10/6/14 by the planning board and they recommended approval with the variance approval. This project is located near NYSEG power lines. NYSEG was mailed a project packet and has not responded or commented.

Comments: no one spoke

There being no further comments, a motion was made by Councilman Rooney, seconded by Councilman York to close the public hearing at 8:10pm. Carried

The regular meeting of the town board was called to order at 8:10pm with the same members present as listed above.

Supervisor Cummings led the pledge to the flag in honor of all of our Veterans.

Minutes from the previous regular meeting held on October 27, 2014 were presented for approval. A motion was made by Councilman York, seconded by Councilman Rooney to approve as presented. Carried

Agenda Changes – none

Communications – The Town Clerk presented the following correspondence:

A letter from Time Warner Cable notifying the town of the programmers and service providers they are currently in negotiations with for service and a listing of their new service rates effective September 2014.

A letter from the Town Highway Superintendents Association of Erie County Inc. regarding their opinion on a recent highway issue between the Town of Boston and Erie County DPW.

Two letters were received from resident William Goral regarding a complaint about, and neighbor dispute over, a roadside ditching issue on their street.

The October 2014 Operations Report was received from Amherst Central Alarm office reporting 44 calls for Akron Fire Co and 31 calls for Newstead Fire Co.

An email was received from Zoning Board member Charles Keppler tendering his resignation after 25 years of service from the board effective 12/31/2014.

A letter from the Department of State notifying the town that local law #7 of 2014 was received and filed on November 4, 2014.

A motion was made by Councilman York, seconded by Councilman Rooney to accept and file the presented correspondence. Carried

Work Session: The Supervisor reported that at the work session held last week the following issues were discussed: water district issues, multi-boards training, building projects, parks master plan, planning issues, historian issues, cemeteries, meeting dates for the remainder of 2014, contracts and any other issues brought before the Board.

Agenda Items Question Period: none

Budget Transfers: a motion was made by Councilman Rooney, seconded by Councilman York approving the budget transfers per memo from Bookkeeper Colleen Salmon dated 11/10/14. Carried

Approval of Bills –Supervisor Cummings reported that the Abstract(s) from Batch(es) #1446 from the October 27, 2014 meeting have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1449 plus postage epayment for payment. Vouchers on this abstract(s) numbered from 1121 – 1168, totaling \$114,107.32. Councilman Rooney seconded to approve payment as follows:

Abstract Batch(es) #1449 plus postage epayment:
General Fund (A) -\$27,291.85, General Fund- Outside Village (B) \$210.34, Highway (DA) -\$0, Highway: Outside Village (DB) \$39,570.51, CAP-Murder Creek (HM) \$0, CAP- Scotland Rd (HS)- \$0, CAP- Water Improvement (HW)- \$0, CAP Water-Downey (HW01)- \$9,862.83, Drainage (SD)- \$0, Fire Protection (SF) \$4,577.44, Refuse (SR) \$25,551.19, Sewer Fund (SS) \$0, Sewer District #2

(SS02)- \$172.50, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$6,870.66, (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0 Total: \$114,107.32 Carried

COMMITTEE AND DEPARTMENT HEAD REPORTS:

Highway – Superintendent Bassanello was not in attendance but presented the following report – finished Draper Road water line hook up and thanks to all the town and village employees, did road ditching on Draper Road which consisted of 240’ and 80’ of culvert pipe, helped the village with leaf pick up, worked in shop preparing the trucks for winter, picked up leaves at the Town Hall and cemetery, did 235’ of field ditching on Nice Road, ground stumps at S. Newstead cemetery and Limerick hall, helped NFC with a pad for dumpsters and himself and 5 employees attended a “Drive to Survive” seminar.

Assessor – no report was presented.

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

Michael Shields	12666 Main	Barn addition
Helene Prentice	175 Quarry Hill Est	Roof Garage & basement remodel
Don Mania	4513 Billo	Roof remodel
Tom Heri	11769 Rapids	Special Use permit
Michael Shields	12690 Main	

The Town Board accepted the report as presented.

Town Clerk- nothing at this time

Attorney for the Town – nothing

COUNCILPERSONS:

Rooney – he attended park master plan meetings and will be attending a meeting with Newstead Fire Company on Thursday.

Mayrose – not present

York – he thanked the Veterans for the freedoms we all enjoy. Spoke to Mark & Sharon Catalano regarding their water pressure issues not being resolved yet and Kristine Sutton at the library regarding sewer issues.

Supervisor – he attended the Elma Supervisor meeting with the Association of Towns President as the speaker, met with Lawley Insurance representative, met with local insurance agent, stated that there is no hunting on any town property and signs will be going up soon on the new park. He took care of some issues at the library and met with the director of the senior center.

UNFINISHED BUSINESS:

Joint Facility – nothing new. Nathan is working on contracts.

Planning Projects – working on changes to the dog and windmill codes and are almost ready to set public hearings.

Conservation issues- Murder Creek – project complete for this year. Nothing new.

Water projects - project is totally complete and Wendel’s services came in under budget. Scott also stated that he wants the Board to be sending a unified message regarding this project and that is the water line on Draper Rd was not a magic bullet for pressure issues. It will only help for emergency issues, not day to day pressure issues.

NEW BUSINESS:

Adoption- 2015 Budget:

A motion was made by Councilman Rooney, seconded by Councilman York approving the adoption of 2015 Budget.

(Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-No **Failed to Pass**

Supervisor Cummings asked Councilman York to explain his vote as he has set in on budget meetings for over 3 months now and never ever mentioned he had an issue with the budget. Councilman York stated he wants to see the Highway budget slashed and will not vote for the budget until he sees that happen.

Supervisor Cummings asked Councilman York if he even understands the budget because if he did he would know that zero (\$0) town tax dollars go to the highway budget. That line of the budget is fully funded by NYS sales tax revenue, mortgage tax revenue from the County and contract monies received from the County for plowing their roads. So voting no on this budget has no effect on the highway budget.

Approval- Kelkenberg- Special Use Permit:

A motion was made by Councilman York, seconded by Councilman Rooney approving the requested special use permit for a home based business at 12607 Stage Rd owned by Andy & Marilyn Kelkenberg, subject to the terms set forth in the resolution.

(Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Area Variance - 11856 Rapids Rd-Wind Turbine:

A motion was made by Councilman Rooney, seconded by Councilman York approving the request for an area variance of 131 feet at 11856 Rapids Rd owned by Leslie & David Klein for a 140 ft wind turbine, subject to the terms set forth in the resolution.

(Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Approve- Special Use Permit- 11856 Rapids Rd:

A motion was made by Councilman Rooney, seconded by Councilman York approving the request for a special use permit to install a 140' wind turbine at 11856 Rapids Rd owned by David & Leslie Klein, subject to the terms set forth in the resolution.

(Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Approve- Changes in Ditching Policy:

A motion was made by Councilman York, seconded by Councilman Rooney approving the proposed changes to the Ditching Policy of the Town adding no pipe end caps are allowed (#10) or private extensions into the ditch (#11).

(Resolution Attached) Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Approve-Historian Volunteers:

A motion was made by Councilman York, seconded by Councilman Rooney approving the appointment of the following volunteer persons to assist the historian with various activities:

Virginia Blish, Marie Baker, Donna Roehling, Cathy Fimble, Joan Frank
Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Approve- 2015 Nutrition Grant:

A motion was made by Councilman York, seconded by Councilman Rooney approving the annual nutrition grant and authorizing the Supervisor to execute the agreements.

Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Accept Resignation:

A motion was made by Councilman York, seconded by Councilman Rooney accepting the resignation of Charles Keppler from the Zoning Board of Appeals effective 12/31/14 with thanks for his years of service.

Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Approve-Change in Meeting Dates:

A motion was made by Councilman York, seconded by Councilman Rooney approving the change in the scheduled meeting dates as follows: Dec. 1-no meeting, Dec. 8- regular meeting, Dec. 15-safety meeting, Dec. 29- regular meeting.

Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Appointment- Board of Assessment Review:

A motion was made by Councilman York, seconded by Councilman Rooney approving the reappointment of Stan Serwon to the Board of Assessment Review for a term ending 9/30/19. Cummings-Aye, Rooney-Aye, Mayrose-Absent, York-Aye Carried

Privilege of the Floor/Question Period: Dr. Burke questioned a building maintenance issue.

The Board held a moment of silence in memory of the passing of several of our town family members: retired Code Enforcement Officer Don Folger, Gordon Bell, husband of court clerk Judy Bell, and Steven Peters, son of town insurance agent Jeff Peters & nephew of Julie Brady, building & assessor's clerk.

There being no further business to come before the board a motion was made by Councilman Rooney, seconded by Councilman York to adjourn the regular meeting at 8:40pm. Carried

Respectfully Submitted,
Dawn D. Izydorczak, RMC, Town Clerk