

## Newstead Town Board Meeting- May 11, 2015

A public hearing was called to order by the Newstead Town Board on Monday, May 11, 2015 at 7:50pm at the Newstead Town Hall.

Present: David Cummings- Supervisor  
James Mayrose – Councilman  
Donald York- Councilman  
John Jendrowski- Councilman  
Nathan Neill- Attorney for the Town  
Mike Bassanello- Highway Supt  
Dawn Izydorczak- Town Clerk  
Jennifer Heberling- Deputy Town Clerk

Roll Call was taken with all board members present except for Councilman Rooney who had a prior work commitment.

The Supervisor called the public hearing to order regarding a **variance request** of 75' and 72' to install a 140' **wind turbine at 7722 Moore Rd** owned by Bonnie Dee.

The Clerk read the proof of publication. A letter concerning his opposition to wind turbines being built in town was received from resident Paul Hennessy.

Comments:

Scott Ludtka of 7757 Moore Rd spoke in opposition to the wind turbine on Moore Rd. This structure would be across the street from his property and he feels the requested variance fall zone would be inadequate. He is a building official which enables him to better understand that this request for a variance is not a good thing. He feels these wind turbines are not a good investment and are largely taxpayer funded through the state and federal governments with an average of a 100 year payback. The variance request on this one is a 35% deviation from the law requirement. He also questioned their electrical outputs versus the home current electrical service capacity. The house would need major upgrades to bring it to code for this turbine. He questioned whether a perimeter fence would be around it to prevent trespassers from climbing it. He questioned whether a SEQR impact study was done because he feels it would be required and if that study is available for review. These units create noise and gave an example of the one on the DeRose property at Utley & Hunts Corners Rd that can be heard from the intersection on a 20 mph wind day. He feels the turbines diminish property values and called his insurance agent to ask about his insurance on his property if it falls and the agent told him it would not be covered unless he purchased commercial insurance coverage.

Kevin Lamb of 7797 Moore Rd spoke and totally agrees with everything Mr. Ludtka said. He is opposed to the wind turbine.

Troy Ludtka of 11267 Crego Rd stated these turbines change the character of the neighborhood and feels it should be denied.

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

The Supervisor called the public hearing to order regarding a **variance request** of 192.5' to install a 140' **wind turbine at 12067 Nice Rd** owned by Dan Andrusz.

The Clerk read the proof of publication. A letter was received from a bordering parcel owner Joan Bitterman, opposing the placement of a wind turbine at 12067 Nice Rd. A letter concerning his opposition to wind turbines being built in town was received from resident Paul Hennessy.

Comments:

Scott Ludtka of 7757 Moore Rd spoke in opposition to the wind turbine at this location as well for all the same reasons. No matter the road if you have to ask for a variance he is opposed. He also stated the fire companies should be involved in the process to ensure they have adequate fire apparatus to get someone off the tower if they climb it and get stuck.

Ryan Storke of CEC Energy stated their workers are specially trained in climbing the towers and it is not in their protocol to call the fire departments if one of their workers needs assistance. The only problem would be if a trespasser were to climb the tower.

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

The **regular meeting** of the Newstead 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.

Minutes from the previous regular meeting held on April 27, 2015 were presented for approval. A motion was made by Councilman Mayrose, seconded by Councilman York to approve as presented. Carried

**Agenda Changes** – a motion was made by Councilman Mayrose, seconded by Councilman York to make the following agenda changes: item A.to be removed – the application has been withdrawn Carried

**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 as well as a second letter notifying the town that the merger proposal with Comcast has now been terminated and will no longer happen.

The April 2015 Operation Report was received from Amherst Central Alarm Office reporting 48 calls for Akron Fire Co and 18 calls for Newstead Fire Co.

A copy of the Hearts and Hands 2015 Operations Report was received.

A notice from the NYS Department of State notifying the town that Local Law #3 of 2015 was received and filed on May 4, 2015.

A letter from resident Sue Campbell-Kidder regarding an incident she had with the Dog Control Officer and praising him for his assistance and how he handled her situation and requesting from the town that the Dog Control Officer be given some new updated equipment including a newer microchip reader to assist him in his job duties.

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

**Work Session:** The Supervisor reported that at work session held last week the following items were discussed: Indigenous Peoples Day, water/sewer issues- Downey Rd start date & Niagara Label, buildings projects, parks issues, highway issues & joint facility contracts, planning items, grant items, IT services and management access, addressing changes to the wind turbine law and any other matters brought before the Board.

**Agenda Items Question Period:**

Scott Ludtka of 7757 Moore Rd asked if the wind turbines would be discussed again later in the meeting.

Dale Cheavacci, 113 John St – questioned why the zoning board was not included in the discussion on the wind turbine changes. Supervisor Cummings said it isn't really their function.

**Budget Transfers:** a motion was made by Councilman Mayrose, seconded by Councilman York to approve the proposed budget transfers per memo dated 5/11/15 from Bookkeeper Colleen Salmon. Carried

**Approval of Bills** – Councilman Mayrose reported that the Abstract(s) from Batch(es) #1504 from the April 27, 2015 meeting have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #1511 for payment. Vouchers on this abstract(s) numbered from 430- 489, totaling \$164,836.00. Councilman Jendrowski seconded to approve payment as follows:

Abstract Batch(es) #1511:

General Fund (A) -\$43,590.81, General Fund- Outside Village (B) \$97.75, Highway (DA) -\$0, Highway: Outside Village (DB) \$5,128.43, CAP-Murder Creek (HM) \$0, CAP- Scotland Rd (HS)- \$0, CAP- Water Improvement (HW)- \$0, CAP Water-Downey (HW01)- \$0, Drainage (SD)- \$0, Fire Protection (SF) \$86,461.04, Refuse (SR) \$29,003.69, Sewer Fund (SS) \$0, Sewer District #2 (SS02)- \$215.18, Trust & Agency(TA)- \$0 and Water Districts: Consolidated (SW00) \$339.10 (SW1) \$0, (SW2) \$0, (SW3) \$0, (SW4) \$0, (SW5) \$0, (SW6) \$0, (SW7) \$0, (SW7A) \$0, (SW8) \$0, (SW9) \$0, (SW10) \$0 Total: \$164,836.00 Carried

**COMMITTEE AND DEPARTMENT HEAD REPORTS:**

**Highway** – Mike reported they installed 60’ of driveway pipe, did 510’ road ditching, ground stumps and filled with dirt, worked on mowing the parks, worked on estimates for shoulder work and road maintenance, did dirt work repairs from snow plowing and water line on Draper Road and field ditching on Rapids Road. He attended the Swift Mills Road bridge meeting, talked with Bill Garey, Erie County Deputy Superintendent regarding road issues, had a pre-construction meeting with Erie County Water with construction to start on June 1st and attended the GIS meeting.

**Assessor** – no report was presented.

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

Christopher Perkins	6233 Utley	Pole barn
Andrea Braun	11190 Main	C/O Inspection
Don & Eva Mania	4513 Billo	I.G. Pool
Peter Schenk	13881 Knapp	Pole barn addition
Kevin Kipfer	12744 Stage	Permit renewal
Anthony Latello	13800 Siehl	Permit renewal
Eric Pirson	11732 Rapids	Permit renewal
Gretchen Gates	13471 Bloomingdale	Roof
Tom Farrugia	11156 Hiller	Detached Garage
Rothlands Links LLC	12089 Clarence Center	Tent
Frank Powell	13100 Stage	Roof
Chad Comeau	6320 Utley	I.G. Pool
Douglas Klotzbach	8191 Cedar	Remodel
Tim Churchill	13262 Martin	Solar panels
Kelly Schultz	11167 Main	Addition
Evan Crahen	11845 Sheila	A.G. Pool

The Town Board accepted the report as presented.

**Town Clerk**- nothing at this time

**Attorney for the Town** – nothing at this time

**COUNCILPERSONS:**

**Rooney** – absent

**Mayrose** – he attended the GIS meeting, the joint facility committee meeting, spoke with Christine Falkowski regarding building issues, spoke with several residents regarding wind turbines and spoke to people from the baseball league regarding future development of Skyline Park.

**York** – he attended the celebration committee meeting, spoke to Michael Lotz regarding the electric panel installation at Veterans Park and attended the Swift Mills Bridge meeting.

**Jendrowski** – he attended the recreation board meeting, Swift Mills Bridge meeting and spoke to Amanda Harrington of the celebration committee.

**Supervisor** – he attended the GIS meeting, the joint facility committee meeting, met with representatives regarding the trail ways grant project, and met with the grant writers on several projects. The office took several verbal complaints regarding speeding from Steiner Road residents due to the S Newstead bridge construction project detour. The Supervisor checked on the progress of the S Newstead Bridge work and the bridge is totally gone and the pillars are almost out.

### **UNFINISHED BUSINESS:**

**Buildings** – several projects & bidding are going on.

**Planning**- There will be a public meeting on the emerald ash borer June 3<sup>rd</sup> at 7:00pm at the Newstead Fire Hall. Code revisions are still being worked on by Planning Board and Town Board. The town has received 10 wind mill laws from other towns and the Board is looking at them.

**Water/Sewer** – nothing to report on the sewer, Downey Rd water project is set to begin on June 1<sup>st</sup>.

**Grants**- we are currently working on applications or waiting for responses on archives, trailways, parks, library and CDBG projects.

### **NEW BUSINESS:**

The Town Board went through and discussed the questions included in the “Summary of Area Variance Criteria” with regards to the area variance request at 11734 Meahl Road, which are:

1. Whether benefit can be achieved by other means feasible to applicant;  
Questioned if lot big enough to move location? No, Other energy options? Yes
2. Undesirable change in neighborhood character or detriment to nearby properties;  
2- Yes, 2- No
3. Whether request is substantial; 4- Yes
4. Whether request will have adverse physical or environmental effects; 4-Yes
5. Whether alleged difficulty is self-created (which is relevant, but not determinative)  
4- Yes

After discussion of these questions;

A motion was made by Councilman Jendrowski, seconded by Councilman York to table the variance requests for 11734 Meahl Road, 8268 Fletcher Road, 7722 Moore Road and 12067 Nice Road until the a meeting when there will be a full board to vote.

Cummings-No, Rooney-Absent, Mayrose-Aye, York-Aye, Jendrowski-Aye

Carried

### **Approval- Close out HRA Account:**

A motion was made by Councilman Mayrose, seconded by Councilman York approving the closing of the towns HRA account with the Bank of Akron and transferring the sum of \$7,401.01 to a money market account with the Bank of Akron.

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

Carried

### **Approve Revision- Change of Rezoning Conditions-5055 Havens Rd:**

A motion was made by Councilman York, seconded by Councilman Jendrowski approving to waive the conditions set forth in #5 & #6 of the resolution for 5055 Havens Rd, but with the right to re-impose the conditions in the future if the failure to comply with those conditions creates a problem.

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

Carried

**Award of Chipping Contract:**

A motion was made by Councilman Jendrowski, seconded by Councilman Mayrose approving the bid by Zoladz Construction for the chipping and removal of debris unassisted from the Sandhill Rd dump site in the amount of \$6,100.00.

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

**Public Hearing- Site Plan/Special Use Permit-11372 Main Rd:**

A motion was made by Councilman Mayrose, seconded by Councilman York approving the calling of a public hearing on the request for site plan/special use permit approval for a used auto dealer at 11372 Main Rd owned by John Smith Jr., to be held on May 26, 2015 at 7:55pm and authorizing the Clerk to publish the hearing notice.

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

**Approval- Hire Seasonal employee:**

A motion was made by Councilman Mayrose, seconded by Councilman Jendrowski approving the hiring of Daniel Pawlick as a seasonal part time employee for the parks at an hourly rate of \$12.43. Cummings-Aye, Rooney -Absent, Mayrose-Aye, York-Aye, Jendrowski- Aye Carried

**Appointment- Disaster Coordinator Assistant:**

A motion was made by Councilman Mayrose, seconded by Councilman Jendrowski approving the appointment of Gerald Pascua to the position of Disaster Coordinator Assistant for the remainder of 2015.

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

**Approval- Park use- July 4th:**

A motion was made by Councilman Mayrose, seconded by Councilman York approving the request from the Akron Celebration Committee to use the Veterans Park for their July 4<sup>th</sup> festivities on July 2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> which includes the beer and wine permit.

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

**Approval-Increase in budget for Murder Creek Plantings:**

A motion was made by Supervisor Cummings, seconded by Councilman Mayrose approving the increase in the budget from \$700 to \$1000 for plantings for Murder Creek Phase 2 project.

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

Supervisor Cummings stated there will be a joint meeting with the Village of Akron on Monday May 18<sup>th</sup> at the town hall at approximately 8:30pm. The next regular board meeting will be held Tuesday May 26<sup>th</sup> due to the Memorial Day holiday.

**Privilege of the Floor/Question Period:**

A CEC Energy representative asked if there would be a full board at the next meeting.

Supervisor Cummings stated that as far as he is currently aware, yes.

Mike Middaugh of 153 Main Street owns property at 69 and 77 Main Street and has plantings from the first Murder Creek project encroaching on his buildings. He is looking for guidance on what he can or should do. Carl Klingenschmitt of the CAC will work with him to address the issue.

Supervisor Cummings said this can be addressed under the project budget.

There being no further business to come before the board a motion was made by Councilman Mayrose, seconded by Councilman York to adjourn the regular meeting at 8:49pm.

Carried

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