

## **Newstead Town Board Meeting- August 12, 2002**

A Public Hearing was called to order by the Newstead Town Board on Monday, August 12, 2002 at the Newstead Town Hall at 7:45 PM.

**Present:** Gerald F. Summe – Supervisor  
David Cummings- Councilman  
Tom George- Councilman  
Joan M. Glor- Councilwoman  
Harold L. Finger- Councilman  
Jim Ebersole- Highway Superintendent  
Donnal Folger- Code Enforcement Officer  
Fred Pask- Assessor  
Nathan Neill- Town Attorney  
Andrew Casolini- Town Engineer  
Dawn D. Izydorczak- Town Clerk

Roll Call was taken with all board members present.

Supervisor Summe called the public hearing on Water District 5- Increase and Improvement of Facilities to order at 7:45 PM.

The Town Clerk read the proof of publication for the Public Hearing.

Andrew Casolini, town engineer, gave a brief explanation of the reasons for increase and improvements to Water District 5 and the proposed expansion areas to those present.

The following spoke:

Mrs. Shirley Keller of 12622 Hunts Corners Rd questioned if there would be a decrease in the cost of those in the original phase of water district 5. The supervisor responded no, that because of an extremely good bid by the contractors, the excess monies would be used to enable the expansion of the district into phase 3. Mrs. Keller also questioned why the lines were not supplied with water yet. Andrew Casolini, the town engineer explained that due to an extremely dry July the Erie County Water Authority would not allow the flushing of the lines.

Mrs. Jean Thielmann of 13165 Stage Rd questioned when the Stage Road construction would begin and when the possibility of water out Cedar Street would be available. Andrew Casolini explained construction on Stage would begin in approximately 3 weeks and that the area of northern Cedar Street is being looked at in the next proposed district, which is set to go to study by the year's end.

A motion from Councilman Cummings, seconded by Councilman George to close the Water District 5 Increase & Improvement of Facilities public hearing. Motion carried and hearing was adjourned at 8:00 PM.

Supervisor Summe called the public hearing on Water District 5- Proposed Extension No.1 to order at 8:01 PM.

The Town Clerk read the proof of publication for the Public Hearing.

No one spoke.

A motion from Councilman Finger, seconded by Councilwoman Glor to close the Water District 5- Proposed Extension No.1 public hearing. Motion carried and hearing was adjourned at 8:02 PM

A Regular Meeting was called to order by the Newstead Town Board on Monday, August 12, 2002 at the Newstead Town Hall at 8:10 PM with the same Board members present as above.

Charles Keppler led the pledge to the flag.

Minutes from the previous regular board meeting held on July 22, 2002 were presented for approval with the addition of noting the purpose for public hearing. A motion was made by Councilwoman Glor, seconded by Councilman Cummings to approve with changes.

Carried Unanimously

**Communications** - Clerk presented the following:

A copy of the Akron Village Board meeting minutes for July 8, 2002 was received.

A letter from Akron Little League Football requesting use of the town park field and facilities for their 2002 season.

A memo from Wendel Duchscherer regarding their review of the revised site plan for the 11372 Main Street Auto Resale Facility.

A Certificate of Completion was received for Don Folger, Code Enforcement Officer, for class 74-0015 "I" Code Refresher with NYS Modifications from the NYS Department of State.

A copy of the 2002 year Annual Report of the Division of Real Property Tax with 2001 Equalization Rates and 2002 Tax Rates was received from the county.

A final map, plan & report were received from Wendel Duchscherer for the Water District No. 5-Phase 3 expansion & waterline improvements.

A copy of a letter from NYS DOT to Erie County Department of Public Works regarding their completion of traffic study on Stage Road. The speed limit on Stage Road from South Newstead Road to the Clarence-Newstead border will be lowered to 45 mph and the county and town will install the appropriate signage.

A letter from the Erie-Niagara Regional Partnership regarding the formation of a subcommittee on tourism & culture. They are requesting local municipalities provide them with lists of their local attractions and the thruway exits/directions to the attractions. They will then work with the NYS DOT and legislature to arrange for appropriate signage to be erected in local municipalities to guide visitors to the attraction sites.

A memo from Wendel Duchscherer regarding their review of the Comprehensive Master Plan existing land use map and the future land use map.

A letter from Rev. Mary Ann Pula requesting use of space in the Denio building for meetings and an office for the Hearts and Hands Faith in Action Coalition, which has representatives from the 8 local churches and 2 social service organizations.

A Monthly Activity Report from the Amherst Central Fire Alarm Office reporting the calls for July 2002 for Akron Fire Co.- 42 and Newstead Fire Co.- 37.

A copy of a letter from Passero Associates to Larry Cummings and the Akron Airport regarding a municipal resolution requirement to receive their NYS funding of grants.

A monthly activity report from the Erie County Sheriff's office reporting calls for July 2002 for Akron- 97 and Newstead- 122.

A motion was made by Councilman Cummings, seconded by Councilwoman Glor to receive and file correspondence as presented.

Carried Unanimously

**Work Session:** Supervisor Summe reported that a work session was held on August 5, 2002 and the following were discussed: the County Line Stone expansion, Water District #5-Phase II and other water issues, the Henley-Whiting sewer issues on Bloomingdale Avenue, the Comprehensive Master Plan, the Facilities Study, refuse issues, the radio tower, updating the Denio building usage, Senior Center plans, retirement incentives, Wahl Road, and other issues.

**Privilege of the Floor –**

Mrs. Jean Thielmann, 7804 Cedar Street stated she would like the speed limit lowered on Cedar Street from the village line out north citing the many accidents at the Carney Rd intersection and the plant workers when work lets out as reasons. Per town policy, the Supervisor requested a petition signed by 1/3 of the area residents to be gathered and returned to him before a study could be ordered.

Charles Keppler, 12151 Stage Road provided the town board with copies of correspondence from 1985 and 1987 as well as a current letter from himself regarding the ground water issues surrounding the County Line Stone project. He is concerned with the lack of water in the area due to the work done at County Line Stone and with the idea of replacing the ground water lost. He would like County Line to put the water back into the aquifer, but is concerned with what pollutants might be mixed with that water once it is returned. He requested a copy of all the correspondence he provided be forwarded to the DEC.

Gerald Szamania of Stage Road explained that there were significant problems with the ground water, aquifer and wells When County Line was only digging at its current depths. He questioned what the consequences will be when they start digging 120 feet down. He also stated his opposition to the closing of Schurr Road and questioned why no current traffic studies were being done. The board explained that the State issues the final permit allowing County Line to dig down 120 feet, not the town. They have no control this issue.

John Burke, 12840 Crittenden Road stated he is upset with the NYSDEC and town's reactions and that mining issues are not being addressed or reported as they should be. He also questioned why the town did not apply for lead agency status on this project. Town Attorney Nathan Neill stated that when dealing with mining issues the State always takes lead agency, the town is not allowed to become lead agency. He also spoke to arguments on well recovery, tarps on trucks, the crusher at the plant not being moved, culvert replacement, seismographs for blasts being placed around perimeter, higher berms, the excavation permit, not closing Schurr Rd, and the decrease in home values. He also questioned what an excavation permit is and what would happen if the town denied issuing one. The town attorney explained that without just cause, the town would be sued.

Michael Cheman, 12383 Stage Rd questioned County Line Stone's liability for digging a new well if his goes dry and the time frame for the County water system to move into his area. Carl Klingenschmitt of the Conservation Advisory Counsel stated that the ground water and dry wells are their primary concern and they are working to solve the problem. The time frame for water in that area is approximately 40 months.

Mrs. McCallum of 3955 Crittenden Rd questioned the hours of operation at County Line Stone. They are from 6:00 am – 6:00 PM.

Mr. Bald of 5228 Crittenden Rd questioned why they were considering closing Schurr Rd. It was explained that the company wants to mine the entire area to the thruway.

Carl Klingenschmitt addressed the residents present and explained what the Conservation Advisory Councils job is relative to the County Line Stone project. He requested that copies of any hard data residents can provide be sent to the Supervisor at his office and then forwarded to the council for their consideration.

Councilman Tom George also addressed the residents regarding the environmental issues and the process the town must follow. He encouraged residents to contact the NYSDEC with their concerns and provide documentation to support it, as well as contacting their state legislators.

Councilwoman Glor motioned for approval of 3 Budget Transfers, seconded by Councilman Finger for \$13,038.20 from Contingency to Operation of Buildings- Contractual, \$2,000.00 from Registrar- Contractual to Clerk- Contractual, and \$81,074.16 from Capital Projects- WD#5 to Debt Service- Interest.  
Carried Unanimously

**Approval of Bills** – Councilwoman Glor reported that she had reviewed Abstract Batch 30 & 31 from 7/22/02 meeting and found everything to be in order with the previously un-audited vouchers. She presented Abstract Batch 42 & 47. Vouchers on Abstract Batch 42 & 47 numbered 753-765 and 767-826 totaling \$412,398.44 and were presented for payment approval by Councilwoman Glor, seconded by Councilman Finger to approve payment.

Abstract Batch 42 & 47:

General Fund “A” – \$15,649.28, Fund “B” \$1,826.85, Highway “DA” - \$0.00, Highway: Outside Village (DB) \$5,414.84, Capital Projects-WD#5-Phase II (HC) \$275,544.21, Capital Projects-WD#7A (HD) \$0.00, Library Project (HE) \$89,801.84, Fire Protection (SF) \$1,384.78, Refuse (SR) \$19,128.21, Sewer Fund (SS) \$1,533.75, and Water Districts (SW1) \$18.75, (SW2) \$80.45, (SW3) \$18.75, (SW4) \$102.40, (SW5) \$1,075.16, (SW6) \$277.93, (SW7) \$431.53, (SW7A) \$0.00, (SW8) \$29.26, (SW9) \$80.45, Trust & Agency (TA) \$0.00, totaling \$412,398.44

Carried Unanimously

**COMMITTEE AND DEPARTMENT HEAD REPORTS**

Highway – Superintendent Ebersole reported Skyline Drive and Knapp Road were paved and the restoration work on shoulders completed with the joint cooperation of the Village D.P.W. This was a NOVA CHIP operation. They are still picking up limbs and trees from this winter’s ice storms and mowing ditches. The radio tower work is progressing nicely.

Assessor – Requested work session time, will let the board know when.

Code Enforcement Officer - The following building permits were presented for the record:

Keith Kuzara	12282 Rapids	Storage Shed
Daniel Egan	7858 Brackett	Rear Porch
K. Michael Bryk	13588 Stage	Garden Shed
Douglas Lombard	7375 Downey	A/G Pool
Roxanne Gabbey	4085 S. Newstead	Storage Shed
Jim Young	12303 Rapids	Storage Building
Kelly Smith	11328 Main	Com'l Storage Building
M.J. Ogiony Builders	13188 Stage	One family home
Earl Dennis	7727 Moore	One family addition
Michael Maciejewski	12014 Buckwheat	A/G Pool & Deck
Keith Greiner	7887 Fletcher	One family home
Jerry Piniewski	12220 Nice	A/G Pool
Michael Buckley	6289 Utley	One family home
Michael Rudz	4571 S. Ayers	Garage addition
David Glian	13722 Main	Sign permit

A motion was made by Councilman Cummings, seconded by Councilwoman Glor to approve as presented.

Carried Unanimously

Don also reported the site plan for the auto resale center on Main Road went to the County and they have 30 days to comment. Also, the SEQRA came in for the Henley rezoning and the County has 30 days to comment. Don reported that to date over \$1,000,000.00 in new construction has taken place in the town for this year.

Town Clerk– In preparation for the coming school tax mailings, the town clerk’s office will be putting together a town newsletter. Any departments that have information they would like to get out to the residents should be given to the town clerk no later than August 23<sup>rd</sup>.

Attorney for the Town- He will be having a meeting with Village attorney Don Shonn to go over issues with the Henley water/sewer request agreement. He received the Passero letter requesting resolution. He will review it and comment next week.

### **COUNCILPERSONS**

George – Nothing at this time.

Cummings –Updates to the web page will be complete by the end of the week including several new pictures.

Glor – Nothing at this time.

Finger- Requested work session time to review library-landscaping issues.

SUPERVISOR – Informed board that a response was sent to Akron Little League Football regarding their request for use of the town park facilities this fall. Reported that the June Supervisors report is out and on file with the Town Clerk.

### **UNFINISHED BUSINESS**

Water District #5- Nothing New.

Library Project – Received Certificates of Substantial Completion from contractors; need to be signed by Supervisor. Final change orders are in. Tom recommends release of retention to contractors. Punch list items need to be completed before funds are released. Don Folger questioned whether the board expected a Certificate of Occupancy to be issued. He will need to see final paperwork on project to issue one.

A motion was made by Councilman George, seconded by Councilwoman Glor to remove this item from the agenda. Carried Unanimously

Comprehensive Master Plan Update – Redefining of maps is being done and memo is being drafted. Andrew will send out soon. Councilman George presented the national award the Town received for the Master Plan project.

Christian Airmen Re-Zoning- Passero Associates is looking for resolution endorsement for 90% of funding for project. Tom will forward to consultants. On site walk through are beginning and focus groups are being set.

Facility Study- Study is complete and copies are available for review at the Town and Village halls and the Newstead Library.

A motion was made by Councilwoman Glor, seconded by Councilman George to remove this item from the agenda. Carried Unanimously

Radio Tower- Project progressing nicely as reported above by Superintendent Ebersole.

Refuse Issues- BFI's extension contract was sent to Joe Scaffidi and is being finalized. Joe Hickman from Modern sent paperwork to enroll town through the County program at \$27.00/ton by October 1, 2002. Would like to see if town can bid to renew at 5-year intervals starting January 1, 2003.

County Line Stone Expansion- Nothing further. Application received. A traffic study from 1997 of Schurr Road is being looked at and will be compared with new study to be done within the next month.

Other- the County will be removing final items from the Denio building and John Eckerson is ready to begin moving items in from Historical Society.

A draft letter to Mr. Paycon was reviewed by the board and given approval to be sent.

## **NEW BUSINESS**

### **Lateral Restriction Policy:**

A motion was made by Councilman Finger, seconded by Councilwoman Glor approving a resolution amending the prior lateral restriction policy previously adopted on May 11, 1998 and amended on August 24, 1998 and further amended on June 7, 1999.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **SEQR Resolution- Water District 5- Phase 3:**

A motion was made by Councilwoman Glor, seconded by Councilman George approving a resolution issuing a negative declaration for the Water District No. 5- Phase 3 project and authorizing the Supervisor to sign the EAF and prepare the appropriate notices and filings.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **Water District 5- Increase & Improve Facilities:**

A motion was made by Councilman Cummings, seconded by Councilwoman Glor to approve the Resolution and Order After Public Hearing with regards to the increase and improvement of Water District No.5 at an estimated cost not to exceed \$3,000,000.00 to be financed through serial bonds.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **Water District 5- Bond Resolution amendment:**

A motion was made by Councilman Cummings, seconded by Councilman George to approve a resolution amending the bond resolution adopted on March 12, 2001.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **Water District 5- Extension No. 1 of District:**

A motion was made by Councilman George, seconded by Councilman Cummings to approve the Extension No. 1 to the Water District No. 5 in the Town of Newstead providing such resolution shall be subject to permissive referendum.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **Retirement Incentive:**

A motion was made by Councilman Cummings, seconded by Councilwoman Glor to authorize a public hearing for Local Law No. 2 of the Year 2002 regarding the County retirement incentive. The public hearing shall be scheduled for August 26, 2002 at 7:55 PM. The Town Clerk is instructed to notify the official town paper for publication.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

### **Henley Rezoning- Bloomingdale Rd:**

A motion was made by Councilman Cummings, seconded by Councilman George to authorize a public hearing for Local Law No. 3 of the Year 2002 regarding the amendment of zoning map to rezone the Henley property on Bloomingdale Road from RA to I-1. The public hearing shall be scheduled for September 9, 2002 at 7:30 PM. The Town Clerk is instructed to notify the official town paper for publication.

(Resolution Attached) Ayes-5                      Nay-0                      Carried Unanimously

Other:

A motion was made by Councilman George, seconded by Councilman Cummings authorizing the new fees for complete code books be set at \$140.00 per book with additional fees for updates to be billed annually at \$10-\$15/update. Carried Unanimously

**Question Period** – No one spoke

There being no further business to come before the board a motion was made by Councilwoman Glor seconded by Councilman Finger to adjourn at 9:45 PM.

Work session will continue after the meeting.

Carried Unanimously

Respectfully Submitted,

Dawn D. Izydorczak  
Town Clerk