

Newstead Town Board Meeting- November 23, 2020

A public hearing was called to order by the Newstead Town Board on Monday, November 23, 2020 at 7:20pm at the Newstead Town Hall.

Present: David Cummings- Supervisor
Edmund Burke- Councilman
John Jendrowski- Councilman
Joseph Dugan- Councilman
Patricia Pope- Councilwoman
Brendan Neill- Town Attorney
Emily Janicz- Assistant Town Attorney
Michael Bassanello- Highway Supt.
Scott Rybarczyk- Town Engineer
Dawn Izydorczak- Town Clerk

Roll Call was taken with all board members present.

The Supervisor called the **public hearing** to order on the proposed site plan for a 32,400 sq. ft. addition and a 732 sq. ft. addition at 12600 Clarence Center Rd owned by Niagara Specialty Metals at 7:20pm.

The Clerk read proof of publication. The Supervisor stated this project has been reviewed and recommended for approval by the Planning Board and submitted to the Town Board for final approval. Wendel did 3 engineering reviews of the project, State and County agencies and the fire company(s) were notified and comments were received.

Comments:

The Supervisor read a written comment received in advance from Mitch and Anita Davis who reside at 12657 Clarence Center Rd commenting that their understanding is this project will come only 30 feet from the roadside on Clarence Center Rd, which concerns them because they currently have issues with the noise and vibrations that come from this business where it is currently located. They are also concerned with odors that are emitted from the business. They believe the factory structure being so close to their home will be a negative selling point for their home as well, which is also a concern.

Martin Schuman of 74 Jackson St was present and gave the Board a petition with 27 signatures from residents on Hake Rd, Jackson St, Brodies Way and Renn's Lane, all of whom are not opposed to the project being proposed BUT are concerned about the loud manufacturing noises that are currently heard from the plant after 9:00pm and are asking that the noise factor be addressed when Niagara Specialties doors are open past 9:00pm at night. The pounding noise keeps most of these residents awake until all hours of the night. They are asking if some sort of sound barrier can be erected or at least that the doors are kept closed after 9:00pm. The residents have contacted Niagara Specialties directly several times and they have been very cooperative.

Bob Shubala of Niagara Specialty metals was present and addressed Mr. Schuman's concerns stating that the new addition will in 2 phases house first a new sawmill and then second a new rolling mill, which will replace the one that is making all the noise now. The new building processes will be heavy duty, state of the art equipment and much quieter. They only roll on the 2nd shift when they are backlogged with work. Shifting the noise to the new mill will alleviate a lot of the current problems. They are not opposed to erecting sound barriers but only own a small portion of the parcel so it could be difficult getting a proper effective placement. They will continue to investigate noise abatement options.

Councilman Jendrowski offered the observation that the odors referred to in Anita Davis' letter are really coming from the I Squared R Element side of the business, not Niagara Specialty Metals operation.

Mr. Shubala Confirmed this opinion.

There being no further comments, a motion was made by Councilwoman Pope, seconded by Councilman Jendrowski to close the public hearing at 7:35pm Carried Unanimously

The Supervisor called the **public hearing** to order on the proposed Local Law #6 of 2020 that repeals Local Law #2 of 2020 at 7:35pm.

The Clerk read proof of publication. The Supervisor stated that the Town's 2021 budget does not exceed the 2% tax cap, therefore, it is necessary for the Town to repeal Local Law #2 of 2020 that allowed the Town to exceed the 2% tax cap so that residents will be eligible to receive real property tax freeze credits if applicable. This is just standard protocol and has been done in every year we have not exceeded the tax cap.

Comments: no one spoke

There being no further comments, a motion was made by Councilman Burke, seconded by Councilman Dugan to close the public hearing at 7:39pm Carried Unanimously

The **regular meeting** of the Newstead Town Board was called to order at 7:40pm with the same members present as listed above.

Supervisor Cummings led the pledge to the flag.

Minutes from the regular meeting held on November 9, 2020 were presented for approval. A motion was made by Councilman Dugan, seconded by Councilman Jendrowski to approve as presented. Carried Unanimously

Agenda Changes – none

Communications – The Clerk presented the following correspondence:

A letter as received from Charter Communications regarding changes in programming effective December 15th.

Notifications for virtual training opportunities for employees were received from Association of Towns and the NYS Department of State.

New interim guidance for Quarantine Restrictions for travelers arriving from out of state were received from the NYS Governor's office.

The 2019 Annual Report was received from Librarian Kristine Sutton for the Newstead Public Library.

An email was received from the NY Concerned Citizens group regarding extension of the ORES comment submission deadline regarding changes to the regulations for industrial renewable energy facilities, which would strip home rule from local governments in relation to their legislative, zoning and police powers when it comes to renewable energy projects.

A letter was received from the NYS DOT notifying the town that its request for a speed and traffic study at Cedar St and Carney Rd has been initiated. Findings will be shared at the conclusion of the study.

A notice of public hearing was received from the Town of Lancaster on a proposed Local Law.

A motion was made by Councilman Dugan, seconded by Councilwoman Pope to accept and file the presented correspondence. Carried Unanimously

Work Session: The Supervisor reported a work session was held last week where the following items were discussed: water and sewer project updates, planning item updates, building issue updates, grant updates, gas well, drainage issues, Court issues, fire contract, speed study request, Maple Lawn cemetery plus any other items brought before the Board. An executive session was held from 8:32pm-8:52pm on a personnel issue.

Agenda Items Question Period: no one present to speak. Scott addressed Councilman Burke’s question regarding the difference in addresses on the Arrowhead solar project application. The original golf course address is 12292, which is the address of record as far as the town is concerned. The new building at the Sterling is being given a separate address of 13300 by National Grid for utility service purposes only. Councilman Burke thanked Scott for the clarification.

Budget transfers: a motion was made by Councilman Dugan, seconded by Councilman Burke to approve the budget transfer(s) as presented in a memo from Bookkeeper Colleen Salmon dated 11/23/20. Carried Unanimously

Approval of Bills – Councilman Jendrowski reported that the Abstract(s) from Batch(es) #2084 have been reviewed with the previously un-audited vouchers and everything was found in order. He presented Abstract Batch(es) #2086 for payment. Vouchers on this abstract(s) numbered 1195-1239, totaling \$149,926.07. Councilman Dugan seconded to approve payment as follows:

Abstract Batch(es) #2086:
 General Fund (A)-\$15,144.17, General Fund- Outside Village (B)-\$448.52, Highway (DA) -\$0, Highway: Outside Village (DB)-\$8,931.34, CAP-ADESA PS(HAR)-\$0, CAP- Scotland Rd (HS)-\$0, CAP- Koepsel Rd (HW)-\$0, CAP Water-Downey Rd (HW01)-\$0, CAP- Water Cedar (HW02)-\$0, CAP-Water Knapp (HW03)-\$0, CAP- Bike Path (HTG)-\$0, Drainage (SD)-\$5,101.28, Fire Protection (SF)-\$120,000.00, Refuse (SR)-\$21.10, Sewer #1 Fund (SS)-\$147.86, Sewer District #2 (SS02)-\$83.41, Sewer District #3 (SS03)-\$0, Trust & Agency(TA)-\$0 and Consolidated Water (SW00)-\$48.39, WD1(SW1)- \$0, WD2(SW2)- \$0, WD3(SW3)- \$0, WD4(SW4)- \$0, WD5(SW5)- \$0, WD6(SW6)- \$0, WD7(SW7)- \$0, WD7A(SW7A)- \$0, WD8(SW8)- \$0, WD9(SW9)- \$0, WD10(SW10)- \$0; Total:\$149,926.07 Carried Unanimously

COMMITTEE AND DEPARTMENT HEAD REPORTS:

Highway – a report was presented from the Highway Supt as follows: the crews have replaced 200’ of cross culvert pipe on Crego Rd, got the trucks ready for winter plow season, picked up leaves in the cemeteries, town hall and other town properties, went to Valley Fab to pick up parts, cleaned up trees and limb’s and cut a tree on Jones Rd, took 2 loads of scrap to the junk yard, helped the Village haul chips to Zoladz’s, and put plow stakes up in parking lots and subdivisions. Mike went to see a demo of an electric excavator in Lancaster. Councilman Jendrowski asked if it was all electric? Mike said yes and there are grant funds available as incentive to purchase these machines. There can be potential problems with them though with the batteries. For now he is just investigating possibilities.

Assessor – a report was presented from Tina as follows: they are still processing exemptions as they come in and Julie has sent out notices to individuals that are still missing updated soil sheets or original applications for the agricultural exemption. Tina continues to work on inspection and valuation of new construction.

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

Lucas Wozniak	13409 Bloomingdale	Roof
Newstead Homes	11313 Miland Rd	Deck
Pat Ryan	43 Golden Pond	Roof
Jack Wagner	7178 Sandhill	One Family Home

The Town Board accepted the building report as presented.

Town Clerk- Dawn spoke to the Board about a letter received from the State Clerk’s association regarding a request by the State Assessor’s association to the State requesting that all exemption renewals become automatic for 2021. There has been no response from the State to the request yet.

Town Attorney(s) – nothing at this time

COUNCILPERSONS:

Jendrowski- he reported that with the help of Brian Daddis 35 tombstones have been reconstructed at Maple Law cemetery. The next phase will be the German part of the cemetery as well as select Civil War stones. He and Councilman Dugan met with the Emergency Services Coordinators and Newstead Fire Co Chief and President to formulate a plan for COVID testing and vaccinations just in case we would have to coordinate an event with the County for this. He reported the Denio work is done but the paint was not a great match and may need to be looked at. He attended a Library Board meeting and investigated the leak problem at the Library pulling up several slabs. He is waiting for Brad to look at that area. He also discussed the school's plan to shut down for COVID with Dan Kowalik and spoke to a resident regarding windstorm damage.

Dugan – he and Councilman Jendrowski met with the Emergency Services Coordinators and Newstead Fire Co Chief and President to formulate a plan for COVID testing and vaccinations and spoke with Dan Kowalik and Brendan about coming up with a Memorandum of Understanding with Newstead Fire Company relative to this plan so we have it in writing. It would obviously require County involvement as well.

Burke – he spoke with the Code Enforcement Officer regarding the Niagara Specialty Metals proposed project and the Borrego Solar project.

Pope- she followed up with the resident from Quarry Hill Estates on his concerns and stated he still is concerned about the speed limit on Havens Rd, which is out of our control.

Supervisor- he met with the Senior Center Director twice, attended an Erie County Water meeting, several training sessions, virtual meetings with the County Executive and Supervisors, reported the town received its CARES Act check and worked on 2021 contracts and appointments.

UNFINISHED BUSINESS:

Buildings- Denio work is complete for now. Library leak is still being investigated.

Planning- nothing new to report

Water- Scott reported that Erie County provided comments and Wendel responded satisfactorily to those comments within 24 hours. We are still waiting on NYSDOH comments. No response back from Annie yet. Pan American has given us a quote to do an archeological survey of Kirby Rd for \$4,400.00, which the Board okayed. Wendel is still working on the culvert grant.

Grants- nothing new to report on in process grants. 100% of CARES Act monies have been received from the County.

NEW BUSINESS:

Approval- Determination of Non-Significance of Local Law #3:

A motion was made by Councilwoman Pope, seconded by Councilman Dugan issuing a negative SEQRA declaration and determination of non-significance of Local Law, determining Local Law #3 of 2020 will not have a significant effect on the environment

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye

Carried Unanimously

Adoption- Local Law #3 of 2020-Amendments to Uniform Construction Codes:

A motion was made by Councilwoman Pope, seconded by Councilman Jendrowski approving the adoption of Local Law #3 of 2020 amending the Uniform Construction codes of the town.

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope-Aye

Carried Unanimously

Approval- Determination of Non-Significance of Local Law #4:

A motion was made by Councilman Jendrowski, seconded by Councilman Dugan issuing a negative SEQRA declaration and determination of non-significance of Local Law, determining Local Law #4 of 2020 will not have a significant effect on the environment

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye

Carried Unanimously

Adoption-Local Law #4 of 2020- Amendments to Unsafe Buildings Law:

A motion was made by Councilman Jendrowski, seconded by Councilman Dugan approving the adoption of Local Law #4 of 2020 amending the Unsafe Buildings Law of the town.

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye
Carried Unanimously

Approval- Fire Contract for Northeast part of Town- Newstead Fire Co:

A motion was made by Councilman Dugan, seconded by Councilman Jendrowski approving the proposed fire contract for the small northeastern portion of the town with the Newstead Fire company for 2021-2022 at a cost of 2021-\$30,600 and 2022-\$30,212.

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye
Carried Unanimously

Approval-Site Plan-12600 Clarence Center Rd Addition:

A motion was made by Councilman Burke, seconded by Councilman Jendrowski approving the proposed site plan for a 32,400 sq. ft. addition at 12600 Clarence Center Rd owned by Niagara Specialty Metals, subject to the terms set forth in the resolution.

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye
Carried Unanimously

Public Hearing- Solar Site Plan & Permit-12292 Clarence Center Rd:

A motion was made by Councilwoman Pope, seconded by Councilman Burke approving the calling of a public hearing on the proposed site plan & permit for a solar project at 12292 Clarence Center Rd owned by Arrowhead Golf Club, with the hearing to be held on December 14, 2020 at 7:25 pm at the Town Hall, and authorizing the Town Clerk to publish notification in the Akron Bugle.

(Resolution) Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye
Carried Unanimously

Approval- Lateral Restriction Hardship- 4466 Ayers Rd:

A motion was made by Councilman Burke, seconded by Councilwoman Pope approving the application for a lateral restriction exception hardship for construction of a new build home in water district #5 at 4466 Ayers Rd as submitted by the owner Mike Pixley, based on supporting documentation provided.

Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope- Aye Carried Unanimously

Approval- Temporary Special Use Permits for Used Auto Sales for 2021:

A motion was made by Councilwoman Pope, seconded by Councilman Dugan approving the following temporary Special Use Permits for 2021: Champion Auto Locators at 11678 Main Rd, Dealer's Choice at 11520 Main Rd, Smith Auto Sales & Service at 11372 Main Rd and M. Shields Enterprises LLC at 12690 Main Rd.

Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope-Aye Carried Unanimously

Approval- Temporary Home-Based Business SUP for 2021:

A motion was made by Councilwoman Pope, seconded by Councilman Dugan approving the following temporary Home-based Business Special Use Permits for 2021: WNY Woodworks at 12050 McNeeley Rd, Tonawanda General Concrete at 12509 Stage Rd, United Technology Services at 12884 Nice Rd and Pet Rescue RX at 7429 Sandhill Rd.

Cummings-Aye, Dugan-Aye, Burke-Aye, Jendrowski-Aye, Pope-Aye Carried Unanimously

Privilege of the Floor/Question Period: no one spoke.

The Supervisor wished everyone a Happy Thanksgiving!

There being no further business to come before the board for the regular meeting, a motion was made by Councilman Dugan, seconded by Councilwoman Pope to adjourn the regular meeting at 8:12pm.
Carried Unanimously

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