

Minutes

Village Board of Trustees

August 11, 2016

A meeting of the Village of Horseheads Board of Trustees was held on the above date at 7:00 p.m.

Present were:

Village Board and Staff

Deputy Mayor Brad Lytle
Trustee Mike Skroskznik
Trustee Pat Gross
Trustee Bill Goodwin

Village Atty. John Groff
Clerk-Treasurer Sharron Cunningham
Parks Dir. Nate Nagle
Manager's Asst. Rachel Baer

Absent

Mayor Louise McIntosh

Others Present.

Lloyd McWilliams, Westlake St.
Dave Padgett, W. Franklin St.
Rose Apgar, S. Pine St.
Jamie Gensel, Fagan Engineers

Art Ambrose, Barrington Associates
Debbie Hicks, Gardner Road
Mike Swasta, 411 Watkins Rd.
Jean Quinn, Gardner Rd.

Resolution by Trustee Skroskznik, seconded by Trustee Goodwin

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meetings of July 14th and 26th, 2016 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Barrington Associates - PUD Amendment - Gardner Road Villas

Atty. Groff - This is an application for a PUD plan. The property was rezoned a while ago to allow for a PUD, but no plan was presented at that time. What you have here is to receive and submit their plan to

other agencies. It does not include conceptual drawings of types of structures. Those things are not specifically required, but could be asked for from the applicant. The plan is subject to this Board's review, and the County Planning Board, Village Planning Board, and the Town Planning Board.

Trustee Skroskznik - this is different from first one submitted.

Atty. Groff - yes before they provided concept drawings. Didn't commit to a plan. Now you have a design and site elevations, etc. What this board did previously was rezoning. It was zoned for single family. Developer was thinking of townhouse concept. Said it was to their advantage to rezone to PUD to allow them flexibility in design. Will be more favorable if some of the things are firmed up. But they have submitted their application and complied with what our law requires. You may want addit'l information.

Trustee Skroskznik - It was a Villa style concept, now private dwellings. What I'm looking at is comparable to what is across the street.

Atty. Groff - that's a possibility. The developer may not even build. They may be lots sold to private individuals. Which are not necessarily consistent with what you see up there today.

Jamie Gensel, Fagan Engineers, and Art Ambrose, Barrington Associates came forward to report that they are not doing the duplex design anymore. The lots will be the same but the homes will be separated. Still same concept, smaller homes. Duplex plan has been scratched. Taking same land area and just pulling units apart. This would be a single family development.

Mr. Ambrose distributed copies of the updated design plan to the Board. We have builders build on our lots. This is going to have smaller homes, 1800 sq ft. on individual lots. Single story floor plan. There is a market for people who want to downsize. Homeowners association for each pod to take care of lawn and snow.

Mr. Gensel - The Stormwater Plan is being developed. Will have full site plan and will submit enough copies of all new documents so we can make these referrals.

Resolution by Trustee Gross, seconded by Trustee Skroskznik

BE IT RESOLVED, that an application from Barrington Associates for a Planned Unit Development Amendment for "Villas at Gardner Road", to be located at 404 Gardner Road (north Lynhurst Avenue), as amended by a verbal presentation to this board by the applicant establishing that the structures would be single fam detached dwellings as opposed to townhouse or common wall structures, is hereby received, and same is to be forwarded to the Village, Town and County Planning Boards for their review and comment, providing that the applicant will provide sufficient number of copies of plans and materials as revised by August 15, 2016.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Skroskznik, seconded by Trustee Gross

WHEREAS, Economic Opportunity Program, Inc. of Chemung County ("EOP") has applied to the Village of Horseheads for the use of portions of Sullivan Park and Maple Grove Lane field and other facilities for

the conduct of an event known as the Southern Tier Jazz Festival on August 13, 2016, and

WHEREAS, EOP has also requested that the Village Board grant special permission to allow possession and consumption of alcoholic beverages in a designated area of Sullivan Park in connection with the Festival, and

WHEREAS, Village Code Chapter 76 regulates possession and consumption of alcoholic beverages in open containers on Village property, and

WHEREAS, this Board is advised and believes that events of this nature do not historically present public safety issues with respect to possession and consumption of alcoholic beverages.

NOW THEREFORE BE IT RESOLVED, that this Board does hereby grant to Economic Opportunity Program, Inc. special permission waiving the prohibitions of Village Code Chapter 76 as follows:

1. The waiver of the application of Chapter 76 shall apply to the portion of Sullivan Park fenced off for this event, excluding streets.
2. EOP shall agree to indemnify and hold the Village harmless with respect to the event and the permission granted herein shall provide the Village with an indemnity agreement in a form acceptable for the Village.
3. This special permission is granted for August 13, 2016 from 2:00 pm through 7:00 pm local time.
4. The permission granted herein may be revoked at any time by the Acting Village Manager, without prior notice, in her sole discretion.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Request to Harbor Chickens, 611 Westlake St.

Mr. McWilliams of Westlake St. came forward - they would like to keep 6 chickens, bantam size - smaller ones. Not selling eggs. They will be mostly pets. Just for the eggs. The coop will be on the east side of the property, next to the garage.

Discussion ensued.

Resolution by Trustee Skroskznik, seconded by Trustee Goodwin

WHEREAS, Village Code Article 80 provides in pertinent part that no person shall keep poultry within the Village without permission of the Village Board of Trustees which permission, if granted, is revocable on the basis of objectionable or offensive, noise, smell, health, safety or other cause, and

WHEREAS, Lloyd McWilliams has requested approval from the Board of Trustees to keep or harbor chickens at 611 Westlake Street in the Village of Horseheads, and has submitted materials identifying the proposed location of a chicken house (coop), and

WHEREAS, this Board has heretofore approved, subject to conditions, the keeping and harboring of poultry within the Village, and

WHEREAS, the applicant has been informed and understands that approval, if granted, is revocable.

NOW THEREFORE BE IT RESOLVED, that the application of Lloyd McWilliams to keep and harbor 6 egg laying chickens at 611 Westlake Street, Horseheads, NY each year is approved, subject to the following conditions:

1. No roosters shall be harbored or kept at this location.
2. The chicken house will be placed as follows: east side of the property, adjacent to garage.
3. Further the chicken house shall be of sufficient size, construction and design that each chicken shall have at least 4 sq. ft. of space allocated to it for its individualized habitat.
4. The applicants shall also provide and maintain an outdoor pen or run for the chickens which shall be not less than 10 sq. ft. nor more than 15 sq. ft. per chicken. The chickens shall not be permitted to run at large.
5. At no time shall there be more than 6 chickens (adult and chicks) kept or harbored at this location.
6. Manure shall be cleaned from and removed from the site at least bi-weekly.
7. The enterprise shall not be operated as a commercial venture.
8. This approval is subject to review by this Board from time to time and is further subject to revocation.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Goodwin, seconded by Trustee Skroskznik

WHEREAS, Chemung County Soil and Water Conservation District, Town of Horseheads, Village of Horseheads, and Chemung County have engaged in a project for repair of the Dike located along Newtown Creek in the Town of Horseheads and Village of Horseheads for several years utilizing in-kind services to cover part of the costs of the project, and

WHEREAS, numerous costs could not be paid within in-kind services from the various municipalities benefitted, and

WHEREAS, the District has requested reimbursement from the County, Town and Village for a portion of the financial costs that the District has incurred relative to the project, and

WHEREAS, Acting Village Manager Louise McIntosh and this Board have reviewed the project and

determined that same is of significant benefit to residents and property owners in the Village of Horseheads.

NOW THEREFORE BE IT RESOLVED, that Clerk-Treasurer Sharron Cunningham is authorized and directed to transfer the sum of \$2,500.00 from Water Contingency Acct. #1990.477 to Water Contracted Services Acct. #8340.440, and further is directed to pay said sum to the Chemung County Soil and Water Conservation District when in funds to be applied to Invoice #2751 as payment in full thereof.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Franchise Agreements - Empire Video, North Penn Video

Atty. Groff - Empire Video is one of the Empire sister companies. North Penn is sister company to Empire. Formed two different entities to distribute cable services, etc. to potential customers over their cable system, so they can package cable programs in a way to give a pricing advantage. Allows customer to pick which company. We provided franchise model to Empire. They accepted it. They agreed to some changes. Not providing Internet svces that we can regulate. Consensus that this was a suitable agmt. Also we intend to use it as a model to approach Charter Communications (Time Warner). We are presently operating out of agreement with them. Next step for Empire is to go to the PSC. They review it. Then they approve the installation of the system. Then applicant proposes to construct the system. Not sure when this will start. Maybe within a year.

Deputy Mayor Lytle - benefit to consumer is competition for Time Warner. Might be a superior product. Optical fiber.

Resolution by Trustee Gross, seconded by Trustee Goodwin

WHEREAS, the Village of Horseheads ("Village") received an application from Empire Video Services Corporation ("Empire Video") for a franchise agreement between the Village and Empire Video to operate a cable television system using various rights-of-way and other public areas in the Village, and

WHEREAS, Village officials and staff have engaged in an extensive process to review and negotiate the proposed terms of a franchise agreement between the Village and Empire Video which has culminated in the preparation of a proposed franchise agreement for consideration by the Board of Trustees, and

WHEREAS, a legal notice was published in the Elmira Star-Gazette in reference to a public hearing scheduled by the Village Board to be held on May 26th, 2016 at 7:05 p.m., at 202 S. Main Street, Horseheads, NY, to consider said proposed franchise agreement, and

WHEREAS, a copy of said legal notice was duly posted as required by law, and

WHEREAS, the Village Board conducted a public hearing as noted above to consider the franchise agreement and all parties in attendance were afforded an opportunity to speak regarding the proposal, and

WHEREAS, pursuant to Part 617 of the Implementing Regulations pursuant to Article 8 of the State Environmental Quality Review Act it has been determined by the Village Board that entering into the proposed franchise agreement does not require an environmental review, and

WHEREAS, the cable television system would provide cable and non-cable services, and

WHEREAS, the Village Board has identified the cable related needs and interests of the residents of the Village, and has exercised due diligence in considering the technical ability, financial conditions, character and legal qualifications of Empire Video to meet such needs and interests.

NOW THEREFORE BE IT RESOLVED, by the Village of Horseheads Board of Trustees as follows:

1. The Village approves of the character of Empire Video.
2. The Village concludes that Empire Video is legally, technically and financially qualified to meet the cable related needs and interests of the Village.
3. The Village concludes that Empire Video will be required to provide adequate public, educational, government access capacity as required and permitted by law.
4. The Village concludes that Empire Video will meet statutory and regulatory non-discrimination requirements.
5. The Village concludes, based upon representations by Empire Video, that cable television service offered by Empire Video will include competitive offerings with existing cable television providers.
6. The Village concludes that although the terms of the proposed Empire Video Franchise Agreement are not identical to those in the existing but expired franchise agreement with Charter Communications (formerly Time Warner Cable), that the terms of both agreements are reasonably comparably in their totality and contain no economic or regulatory burdens placed upon another cable television franchisee operating in the same franchise area and therefore neither agreement provides either franchisee with any unfair competitive advantage or subjects either franchisee to any unfair competitive disadvantage.
7. The Village determines that it serves the public interests to award Empire Video a franchise agreement to own, construct, operate, and maintain a cable television system along the public rights-of-way within the Village in order to provide cable television service.
8. The Village authorizes the award of a non-exclusive franchise agreement to Empire Video as noted above to provide cable television service which authorization is made in accordance with applicable provisions of Title VI of the Communications Act of 1934 and Article 11 of the NYS Public Service Law.
9. Acting Village Manager Louise McIntosh is hereby authorized and directed to sign the proposed franchise agreement between the Village and Empire Video for a period of 10 years, and any other documents and to take all such actions (with the advice of legal counsel) necessary to effectuate the granting of the franchise on behalf of the Village.

BE IT FURTHER RESOLVED, that a fully executed copy of the agreement will be placed on file with the Village Clerk, and be it further

RESOLVED, that this resolution shall take effect immediately.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Gross, seconded by Trustee Goodwin

WHEREAS, the Village of Horseheads ("Village") received an application from Community Cable Corporation, d/b/a North Penn Video ("North Penn Video") for a franchise agreement between the Village and North Penn Video to operate a cable television system using various rights-of-way and other public areas in the Village, and

WHEREAS, Village officials and staff have engaged in an extensive process to review and negotiate the proposed terms of a franchise agreement between the Village and North Penn Video which has culminated in the preparation of a proposed franchise agreement for consideration by the Board of Trustees, and

WHEREAS, a legal notice was published in the Elmira Star-Gazette in reference to a public hearing scheduled by the Village Board to be held on May 26th, 2016 at 7:05 p.m., at 202 S. Main Street, Horseheads, NY, to consider said proposed franchise agreement, and

WHEREAS, a copy of said legal notice was duly posted as required by law, and

WHEREAS, the Village Board conducted a public hearing as noted above to consider the franchise agreement and all parties in attendance were afforded an opportunity to speak regarding the proposal, and

WHEREAS, pursuant to Part 617 of the Implementing Regulations pursuant to Article 8 of the State Environmental Quality Review Act it has been determined by the Village Board that entering into the proposed franchise agreement does not require an environmental review, and

WHEREAS, the cable television system would provide cable and non-cable services, and

WHEREAS, the Village Board has identified the cable related needs and interests of the residents of the Village, and has exercised due diligence in considering the technical ability, financial conditions, character and legal qualifications of North Penn Video to meet such needs and interests.

NOW THEREFORE BE IT RESOLVED, by the Village of Horseheads Board of Trustees as follows:

1. The Village approves of the character of North Penn Video.
2. The Village concludes that North Penn Video is legally, technically and financially qualified to meet the cable related needs and interests of the Village.
3. The Village concludes that North Penn Video will be required to provide adequate public, educational, government access capacity as required and permitted by law.
4. The Village concludes that North Penn Video will meet statutory and regulatory non-discrimination requirements.

5. The Village concludes, based upon representations by North Penn Video, that cable television service offered by North Penn Video will include competitive offerings with existing cable television providers.
6. The Village concludes that although the terms of the proposed North Penn Video Franchise Agreement are not identical to those in the existing but expired franchise agreement with Charter Communications (formerly Time Warner Cable), that the terms of both agreements are reasonably comparably in their totality and contain no economic or regulatory burdens placed upon another cable television franchisee operating in the same franchise area and therefore neither agreement provides either franchisee with any unfair competitive advantage or subjects either franchisee to any unfair competitive disadvantage.
7. The Village determines that it serves the public interests to award North Penn Video a franchise agreement to own, construct, operate, and maintain a cable television system along the public rights-of-way within the Village in order to provide cable television service.
8. The Village authorizes the award of a non-exclusive franchise agreement to North Penn Video as noted above to provide cable television service which authorization is made in accordance with applicable provisions of Title VI of the Communications Act of 1934 and Article 11 of the NYS Public Service Law.
9. Acting Village Manager Louise McIntosh is hereby authorized and directed to sign the proposed franchise agreement between the Village and North Penn Video for a period of 10 years, and any other documents and to take all such actions (with the advice of legal counsel) necessary to effectuate the granting of the franchise on behalf of the Village.

BE IT FURTHER RESOLVED, that a fully executed copy of the agreement will be placed on file with the Village Clerk, and be it further

RESOLVED, that this resolution shall take effect immediately.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Skroskznik, seconded by Trustee Gross

BE IT RESOLVED, that a Village Board of Trustees Meeting is hereby scheduled for Thursday, August 25th, 2016 at 7:00 p.m.

Roll Call Vote:

Deputy Mayor Lytle	Aye
Trustee Skroskznik	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Audience Participation

Rose Apgar, 901 S. Pine St. - problem in neighborhood. Between S. Pine and Grand Central, on Perry St., there are two houses. At times there are 8 cars on one side, 3 on the other, plus cars in the driveways. Can't get down that street, you have to back out to Grand Central, out to Sayre, to come down S. Pine. Plus they park in my yard. I've called the police. He has a garage and a driveway between my property and his porch. But he parks in my yard, plus all the way down Perry St.

Deputy Mayor Lytle - I've seen this situation.

Mrs. Apgar - You could not get an emerg vehicle down there. One car once was parked in the middle of the road. I had to back all the way to GCA and come down Sayre to S. Pine. If they could please investigate this. We have signs on S. Pine that say No Parking this side, but they are illegible. Doesn't the Village have new signs?

Deputy Mayor Lytle - yes and someone will take a look at this.

Trustee Gross - I've ridden with police - those signs should come down, you can't read them. Hulett, Pine, etc. Perry too. You can't read them, they should be replaced. With the help of Nate's group maybe.

Debbie Hicks, 325 Gardner - At the June meeting I brought up the person who goes to residents unsolicited to do work at their home. He's targeting elderly residents, sealing driveways. Mayor said his name and there were many complaints against him. I know police was involved. He doesn't have a permit. He was told he could not do this. He was back last week. A second neighbor fell victim. I think police was contacted. In June I was asking is it possible in an official capacity for Village to make a statement in the media not naming this individual. Warning people against taking work from people, reminding residents that these people need to have a permit.

Trustee Lytle - I'll follow up on this. The police approached him after the first time. In the next newsletter we can put something in. The Mayor talks on WENY once a month on what's going on in the Village. I'll bring this to her attention.

Trustee Skroskznik - also during the neighborhood watch meeting which is coming up.

BOT Updates

Trustee Gross - Manager interviews complete. So the Mayor and Deputy Mayor will look at them.

Deputy Mayor Lytle - yes. Then whole board will interview top 2-3 candidates.

Trustee Goodwin - do you think dept heads should be in the background when board does final interview.

Trustee Gross - what they have done before is take them to their respective departments.

Atty. Groff -

- Reese property offer was accepted. Going fwd., dept heads have been advised.
- Tax assessment challenge - Anschutz - also one from Chemung Canal too. However we've

been told the bank atty and town atty have been talking and there seems to be a suggestion for a settlement - assessed value of 400,000. Prob will pursue as a settlement. If this board is opposed let me know. The county and school are big tax collecting entities here. (all board members agreed this was fair)

- Bethany - on 6320 financing for two of their projects. They want to make a present to this board - perhaps on Aug 25. We can schedule this if you want. All agreed for 8/25/16.

School Resource Officer

Trustee Gross asked how we are doing in hiring the "peace officers" for SRO.

Deputy Mayor Lytle - haven't hired them yet. We'll have info next week, and a proposed agreement from school. The two part time police officers we have now will be SRO officers.

Trustee Gross - so we aren't hiring more now.

Deputy Mayor Lytle - not to my knowledge.

Trustee Gross - my concern is the budget finances.

Deputy Mayor Lytle - school is covering costs.

Trustee Gross - so we are planning to hire then.

Deputy Mayor Lytle - that is up to the board.

Manager's Report

Deputy Mayor Lytle stated that the Manager's Report is in your packets. Also notes from department head meeting of this morning.

As there was nothing further to come before the Board, the meeting was adjourned at 8:14 p.m.

/rmb