

Minutes

Village Board of Trustees

June 11, 2009

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:

Mayor Donald Zeigler	Parks Dir. Nate Nagle
Deputy Mayor Ronald Swartz	DPW Chris Lawrick
Trustee Walter Herbst	Clerk-Treasurer Sharron Cunningham
Trustee George Koliwasky	Deputy Clerk Donna Hartsock
Trustee Suzanne Peters	Justice Bill Driscoll
Village Attorney John Groff	Fire Chief Arthur Sullivan
	CSO Robert Young
	Manager's Assistant Rachel Baer

Others:

Elton & Nancy Shaw, 218 Liberty St.	Penny, George Kastenhuber, John St.
David Padgett, 508 W. Franklin St.	Barb Skorcowski, 109 W. Franklin St.
Cindy Price, 715 Sayre St.	Tom Stickler, Kennedy Dr.
Howard Miller, 122 Sunset Dr.	Joe Romanick, 725 Westlake St.
Audrey & John Dunlap, 129 Matthews Cir	Pat Gross, 632 W. Broad St.
Bernie Weigle, 111 Boorum Pl.	Martha Hauser, 407 W. Broad St.
Tess Banfield, 134 Catalpa Dr.	Joe & Elizabeth Danaher, 914 South Ave.
Alan and Leah Cramer, 711 Sayre St.	Bill & Tess Danaher, 503 Steuben St.
Ed Frycek, Carroll St.	Suzanne Driscoll, 114 S. Main St.
Dave Radin, 501 S. Main St.	Don & Jean Quinn, 555 Gardner Rd.
Darla Hancock, 306 Wisteria Way	Jim Lynch, 303 W. Mill St.
Mary Mower, 301 Kinley Pl.	Donna Greene, 2197 Grand Central
Elliott Blauvelt, Fletcher St.	Mark Hagan, Perry & Carroll Insurance
	Jeff Farmer, W. J. Farmer Insurance

Village Attorney John Groff made the following announcements:

- Allegations regarding behavior by Manager Marc Whitney, a report was issued previously stating that carrying a firearm was not a violation as he was a Police Officer for the Village of Trumansburg Police Dept. This was based upon info from the Department of Criminal Justice Services . Upon clarification, he is not in fact a police officer. He had been performing firearms instruction services for that department. It was believed that to be necessary to maintain that status was that one was supposed to be a police officer. This is not a requirement. It appears that he was incorrectly characterized to DCJS as a police officer. So it now appears that his conduct was in violation of the Village Code of Conduct.

- Another issue was regarding assertions and rumors regarding possible sexual harassment or sexual misconduct. This has been investigated. No complaints were filed against him - neither formal nor informal. Investigations were pursued. None of the people involved determined that there was any instance of sexual harassment. At best it was characterized as invading your personal space, a close talker. In that respect it has been concluded that this was not a situation of sexual harassment. Again, no complaints were filed either formal nor informal.
- As far as Manager Whitney, the Board and Mr. Whitney have had discussions. He will continue to be available through July 23rd to assist the Board and staff but he won't maintain a constant presence in Village Hall.

Resolution by Trustee Swartz, seconded by Trustee Herbst

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of May 28th, 2009 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

Mayor Zeigler: Aye
 Trustee Swartz: Aye
 Trustee Herbst: Aye
 Trustee Koliwasky: Aye
 Trustee Peters: Aye

Resolution by Trustee Koliwasky, seconded by Trustee Herbst

BE IT RESOLVED, that the audit of bills as listed below be received and approved for payment when in funds:

<u>Final May Bills</u>		<u>June Bills</u>	
Gen. -	\$49,321.02	Gen. -	\$107,628.74
Water -	\$ 6,662.96	Water -	\$ 20,207.88
Trust/Agency -	\$ 3,237.12	Trust/Agency -	\$ 637.09
Capital -	\$13,755.70		
(Plow for dump truck)			

Roll Call Vote:

Mayor Zeigler: Aye
 Trustee Swartz: Aye
 Trustee Herbst: Aye
 Trustee Koliwasky: Aye
 Trustee Peters: Aye

SEQR Review - Newtown Heights Project - The Board completed Part 2 of Full SEQR Form answering no to all questions.

Resolution by Trustee Herbst, seconded by Trustee Koliwasky

WHEREAS, Roy Builders, Inc. is the owner of premises situated in the Village of Horseheads, located on North Street, commonly known as Tax Map Parcel #59.05-3-15 comprising of approximately 13.9 acres, and zoned Planned Unit Development, and

WHEREAS, Roy Builders has applied for an Amendment to the PUD, and Site Plan Review for construction of a 32-lot senior citizen housing development on said site to be known as Newtown Heights, and

WHEREAS, said application is subject to SEQR, being an Unlisted Action, pursuant to SEQR regulations, and

WHEREAS, the applicant has submitted Part 1 of a Full Environmental Assessment Form, and

WHEREAS, the Village of Horseheads Board of Trustees declared on May 14, 2009 its intent to assume Lead Agency status for the SEQR Review of the project, and

WHEREAS, the involved and effected agencies (Village of Horseheads Planning Board, Town of Horseheads Planning Board, Chemung County Planning Board, Chemung County Sewer District) have been contacted regarding the project and the designation of the Village of Horseheads Board of Trustees as Lead Agency for said project; said agencies having consented to the Board of Trustees' assumption of Lead Agency Status for coordinated review, or failed to respond during the required 30-day period; and

WHEREAS, a public hearing regarding the proposed project was held on May 14, 2009, and

WHEREAS, the Board of Trustees has conducted a thorough review of the application, the site plan, the Full Environmental Assessment Form, and all of the environmental consequences of same as more specifically delineated on that portion of the form to be completed by the Board as Lead Agency, and finds that the Action will not have a significant environmental impact.

NOW THEREFORE BE IT RESOLVED, that:

- 1) a public hearing on the environmental aspects of this action is waived;
- 2) Mayor Donald Zeigler is hereby authorized and directed to execute the SEQR Determination of Significance for this project, issuing a Negative Declaration determining that the action will not have any significant adverse environmental impacts
- 3) the application of Roy Builders, Inc. for PUD Amendment and Site Plan Review for construction of a 32-lot senior citizen housing development on a 13.9 acre parcel located on North Street to be known as Newtown Heights be and the same hereby is approved.

Roll Call Vote:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Motion by Trustee Peters, seconded by Trustee Herbst, that Item #5, scheduling the public hearing for the Schlumberger SEQR Review be tabled until after we have our workshop on June 18th.

Roll Call Vote:

Mayor Zeigler: Aye
Trustee Swartz: Aye
Trustee Herbst: Aye
Trustee Koliwasky: Aye
Trustee Peters: Aye

Resolution by Trustee Swartz, seconded by Trustee Peters

WHEREAS, Cold Spring Construction Company has applied to NYSDEC and the Town of Horseheads for a gravel mining permit on lands south of Level Acres Drive in the Town of Horseheads, and

WHEREAS, such mine would be in close proximity to Village of Horseheads' ground water supply wells, and

WHEREAS, such land use may have an adverse impact on the aquifer and water quantity and quality, and

WHEREAS, proposals were sought from various engineering firms to review the potential impacts of the proposed mine as they relate to the Village of Horseheads water supply, and

WHEREAS, the proposal of MRB Group has been reviewed and considered by this Board.

NOW THEREFORE BE IT RESOLVED, that Mayor Donald Zeigler is authorized and directed to retain the engineering services of MRB Group for the purpose of evaluating the impacts of a proposed gravel mine on the Village of Horseheads ground water supply.

Atty. Groff - before you act here is some background on this: we sought applications from various engineering firms regarding the study of potential impacts of that operation. Only received one proposal from MRB. It was modified today to characterize their work as phases 1 and 2. One would be evaluation of mining operation on water supply, other phase would be for source water protection study - which would be more expansive. Situation is that you have a project that is time driven. We're short in getting into their timeline for performing of services. Need to make inquiry of DEC as to whether they will afford us more time to respond. DEC issued a Notice of Complete Application. They have sought comments through June 19, 2009. Engineering firm has indicated that they have extreme difficulty in putting together any kind of thorough analysis. In light of that concern, their not able to assure that they would be able to produce it before DEC's deadline. Accordingly we intend to contact DEC tomorrow and find out if they can grant more time for a study to be completed and be considered in their review process. The resolution that was read was based upon the initial proposal which was not a phased proposal, and MRB had not expressed its concerns initially about timeline. I suggest considering Phase 1 only of their proposal. You may wish to consider the Mayor authorized to sign and enter into an agreement pending assurance from

DEC that they will allow us sufficient time to generate a report. Or the report may be completed too late.

Motion by Trustee Herbst to amend the resolution on the floor that the Mayor is to retain MRB for Phase 1 of their proposal, and that approval be contingent on DEC granting extension.

Seconded by Trustee Swartz.

Roll Call Vote on amending resolution:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Roll Call Vote on full resolution as amended:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Insurance Proposals: The Board discussed their workshop earlier today regarding the two insurance proposals received. Trustee Herbst pointed out that the proposed gravel mine could potentially damage our water wells. Argonaut only covered \$250,000 - the other issues we have pending are Koppers Pond which we've already spent a fortune on and could prove to be quite significant. So I think we would take a significant risk by changing at this point.

Discussion ensued regarding the cost of "tail" insurance.

Atty. Groff - it is a hypothetical situation for the gravel mine with the possibility of fuels being released, second possibility that operation itself would have impact on aquifer - causing it to change in some capacity - not able to speculate. In addition the operation of the gravel mine is likely to cause a water body like that pond on E. Franklin St. which would be susceptible to other things, etc. Its all very conjectural at this point.

Jeff Farmer - you won't have coverage from either company. Initial cause has to be covered first - then insurance kicks in.

Mark Hagan - the insurance won't pay for repair to well or to cleanup aquifer as a result of gravel mine. We had discussions on this earlier on insuring income from water dept. Triggering event has to be covered first, then the policy extends to insure your lost revenues. In the case of the gravel mine, soiling of aquifer is not a triggering event. Cost of "tail" coverage - which is extension of existing policy to file a claim for something that happened in the past - cost of that for one year is \$5,900 - which is a one time premium - and you get a 12 mo. extension to file a claim against the now expired policy.

It was agreed to table the resolution on insurance proposals again to give time for further review. Perry & Carroll agreed to supply the Village with an insurance extension for two weeks.

Motion by Trustee Koliwasky, seconded by Trustee Herbst, that the following items be added to the agenda:

- Receive Application from Matt Cox - PUD Amendment and Site Plan Review - Gardner Road, Proposed Townhouses

Resolution by Trustee Swartz, seconded by Trustee Koliwasky

BE IT RESOLVED, that the application from Matthew T. Cox for PUD Amendment and Site Plan Review to construct two duplex apartment buildings to be located at 513A Gardner Road is here by received, and same is to be forwarded to the Village, Town and County Planning Boards for their review and comment.

Roll Call Vote:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Trustee Peters -As a newly elected public official I need to tell you that there is a lot of behind the scenes work to be done and legalities that need to be followed. More than I had ever known, and unless you have sat in these chairs, you can not fathom the amount of varied research and fortitude it takes to be here. I would just ask that the public remember that the Board was elected by popular vote, which I hope means that informed voters knew they were voting for people who had extensive business management experience plus the education and wisdom to go along with that experience. I am sorry that not every item that comes to the board can be discussed in detail with the public, because of legal issues about personnel or because the time would just be greater than most people could devote. Many of the outcries of the recent past have been blamed on political power struggles, but as an insider I find that to be false. I believe I can safely say that no one on this board is trying to degrade any past board member nor negate the good that has been done in the past. Yes, there have been some mistakes made but they have been corrected as soon as prudent. I would hope that all residents would look toward the future rather than the past as we have much work to accomplish. The Schlumberger Project is looming on the horizon, we have properties to clean up, demolish and sell, we still need to complete the comprehensive plan and adopt it. Plus all the daily routine items that must be handled. Now with no Village Manager on deck there will even be more that the Board is asked to oversee so please put your faith and trust back into the people that you elected and know that we are listening when you speak.

Mayor Zeigler advised that STEG is working on a grant to renovate the old airstrip though the holding point, and will get tied into Watkins and Wygant Roads.

Chris Lawrick - on the gravel mine operation, I talked to the NYS Health Dept. and Chemung Co. Health Dept., asked them to take look. I gave them our file. Asked them to make comments to DEC through regional office and county office. They will be doing that before end of comment period on the SEQR review.

Nate Nagle - 65/35 meeting was this week. The grant has been reinstated until Sep. 30. This allows us to offer recreation activities at no cost to the users. At the end of September, there will be an evaluation. No commitments for 2010. So I can recommend that we offer the activities at no cost to the users. In addition, we will start pool pass process at the pool. Pool will open next Saturday. First teal park concert is set for June 25.

Public Comment Period:

Tess Banfield, Catalpa Drive, read a lengthy statement wherein she asked the Board to respond to unanswered questions on why the manager is still on the premises, who is in charge of the police department, and who is in charge of Village affairs. Her statement went on to accuse the Village of being ill-prepared and negligent for the hearing regarding Chief Barton.

Tom Stickler, Kennedy Dr. - asked is the Manager is receiving full pay. Atty. Groff - he remains on the Village payroll and will receive the contractually obligated salary.

A resident made a statement regarding the situation with Chief Barton, stating it was a great miscarriage of justice.

Pat Gross, 632 W. Broad St. - asked if Chief Barton is still being paid. Atty. Groff said that he was. She further asked why the Village continues to pay the Manager. Mayor Zeigler stated that Mr. Whitney gave his 60-day notice as was required in this contract. We discussed with him the option of leaving early.

Trustee Herbst added that the contract did require us to pay him for the 60 days.

Donna Greene, 2197 Grand Central Ave. - grass on south side of I86, and the park. Its been mowed, looks great, appreciate the effort. Also, the drainage pond on the corner of S. Main has also been taken care of. But I have a question, the pond is full of water and is this going to present a problem with mosquitoes.

Chris Lawrick - that is the State's responsibility. They have reworked this several times. Biggest problem is water table is only 10 feet down. They tried to address it by putting in permeable fabric and rocks, etc. But those things clog up over time. I talked to design engineer on this project about this situation. They were going to look at this.

Bernie Weigle, Boorum Pl. - asked if the PBA contract has been settled. Mayor Zeigler said no, but we will have a workshop on this. Mr. Weigle went on to say that he went to the hearing on Chief Barton. I have a list of my own investigations.

George Kasthuber, John St. - if people have purchased pool passes so far, will they be reimbursed.

Nate Nagle - yes they will be reimbursed.

Mr. Kasthuber - should look into having historical markers on each one of our buildings in Hanover Square. Perhaps this is a project for Historical Society. Would be nice to walk through square and see history of buildings.

Dave Radin, 501 S. Main - Comprehensive Plan has a huge section on Hanover Square. This is all covered there.

Joe Romanick, Westlake St. - are you sure Barton is getting paid. Sharron Cunningham stated that he is getting paid.

Martha Hauser, W. Broad St. - concerned about guns. This is not a gray area. I am very upset about hidden weapons.

Don Quinn, Gardner Rd. - Mr. Whitney's term expired May 22nd at 12:01. Later on that day he turned in his resignation. He should not have the 60 day benefit of getting paid. Also, I talked to NYS Police regarding the manager carrying a gun. He was really impersonating an officer. He should be disciplined for this.

Al Edwards, Town of Hhds. - fees suggested for the pool, should be operated for free to users. Been able to do this for over 50 years. Challenge the Board of not going back to fees again or user passes.

Mayor Zeigler added that they are concerned about the future of the pool, where it will be in 10 years.

As there was nothing further to come before the Board, the meeting was adjourned at 8:45 p.m.

/rmb