

Minutes

Village Board of Trustees

May 26, 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

Mayor Louise McIntosh
Trustee Brad Lytle
Trustee Pat Gross
Trustee Bill Goodwin

Village Atty. John Groff
Manager's Asst. Rachel Baer

Absent

Trustee Mike Skroskznik

Others Present

Rob Maloney, Westlake St.
Mike Malone, Westlake St.
Brian Ketchum, Empire Video

Dave Padgett, W. Franklin St.
Wayne Brubaker, Gardner Rd.

Resolution by Trustee Lytle, seconded by Trustee Goodwin

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of May 12, 2016 be dispensed with and the same stand approved as entered by the Clerk.

Trustee Gross noted an error on number of CDBG grants. It was brought to Rachel's attention and has since been corrected.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Lytle, seconded by Trustee Gross

WHEREAS, the Village of Horseheads advertised on May 8, 2016 for the submission of bids for the Supply and Laying of Bituminous Asphalt Products in the Village of Horseheads, and

WHEREAS, bids were opened and examined on May 20, 2016, and the following bids were received:

(All Prices Per Ton - Laid In Place)

	TYPE 6 TOP COURSE
Bothar Construction LLC 170 East Service Road Binghamton, NY 13901	\$63.00
Dalrymple Gravel & Contracting Co., Inc. 2105 S. Broadway Pine City, NY 14871	\$59.90

And

WHEREAS, said bids have been examined and determined to be in order, the lowest responsible bidder being Dalrymple Gravel & Contracting Co., Inc., and

WHEREAS, the Public Works Director and Acting Village Manager have submitted their recommendations regarding the bids and the award of a contract, the same recommending award to Dalrymple Gravel.

NOW THEREFORE BE IT RESOLVED, that the Village of Horseheads Board of Trustees does hereby accept the bid of Dalrymple Gravel, and that Acting Village Manager Louise McIntosh is hereby authorized and directed to execute an agreement with said company to effectuate this resolution.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Lytle, seconded by Trustee Gross

BE IT RESOLVED, that the Justice Reports for April 2016 be received and placed on file in the Village Clerk's Office.

Mayor McIntosh - I put in your packets the report for the courts for April. Needed to clarify for myself how we are doing so I asked for this report. That represents the monies for April. I also asked Kristen to provide this report each month.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

7:05 - Public Hearings:

- Empire Video: Application for Cable Franchise

Atty. Groff opened the public hearing.

Brian Ketchum, Empire Access: We started out in defined area - near the lakes. Grown over years in size, and now we are growing into cable. In order to provide telephone in New York you have to have a certification, which we have. Internet is not governed. To be competitive in new areas we want to be able to provide video, telephone and internet. We have all certifications. for everything but the video. The company that will own it will put fiber optic cable throughout the Village, then telephone and video and internet will get capacities. All delivered over the same fiber optic cable.

As nobody else came forward, Atty. Groff closed the public hearing.

- Community Cable Corp., d/b/a North Penn Video : Application for Cable Franchise

Atty. Groff opened the public hearing.

Brian Ketchum, North Penn Video is looking to offer video. Internet will still be by Empire Access.

Trustee Lytle - the reason for that is because you can offer a broader line up of different channels by having two providers.

Mr. Ketchum - yes. Content owners dictate where you have to put channels. All kinds of rules. Can't take just one of their channels - i.e. espn, etc. So there may be a day we may not carry that block of channels, on one company, but we can on another company. Gives us the ability to offer our customers more choices.

As nobody else came forward, Atty. Groff closed the public hearing.

Resolution by Trustee Gross, seconded by Trustee Goodwin

BE IT RESOLVED, that Mayor Louise McIntosh is hereby authorized to execute a Tax Warrant authorizing the Clerk-Treasurer to collect and receive property taxes in the amount of \$1,847,084.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

D&A: Anschutz Corp.

Atty. Groff summarized the issue:

- Anschutz is owner of an oil and gas well in the Holding Point.
- They are assessed by Town of Hhds.
- Oil and gas wells are assessed based on production of the well.
- Assessor sends request to owner each year asking for a report on production.
- That info goes through a formula and an assessment is produced.
- Procedure says assessor has to ask for it by letter certified or registered mail.
- Assessor only sent it by regular mail.
- Anschutz did not respond.
- Assessor levied tax on basis of info she had available.
- Anschutz disputed this saying they were over assessed, and paid taxes to Village, County and School that was excessive.
- They did not appeal the assessment on the normal grievance day which they could have done.
- They chose after some time to challenge the assessment through a different procedure saying there was an error in the calculation.
- That is done by applying to Director of County Real Property who investigates and issues a report to taxing entities.
- The Director did review info and issued report.
- Report concluded that the assessment was not based an error or a mistake in fact, but based upon info available, so didn't qualify for a correction. Recommended against granting application.
- The County and School took that report and both accepted report and denied application.
- Village rec'd the report but didn't act.
- Anschutz has initiated an Article 78 proceeding suing all 3, and the assessor. Saying it was an error.
- For the Village, if Anschutz's position is correct we would have to pay back \$32K to them.
- Much bigger for County and School.
- In their application and suit they ask not only that we refund the money but also that the Village act on the report issued by the Director. So that's where we are.
- We drafted a resolution that says the substance of what I just said and concludes with a similar determination denying their request and retaining the tax monies already paid.
- We have a court hearing date on all this in June. We will be appearing.

Trustee Goodwin - I wish they would have used the grievance day. We should follow the school and county and deny the application.

Mayor McIntosh - this report came out last summer and wasn't acted on. We're just hearing about this now. I appreciate John bringing this to our attention. I agree with Trustee Goodwin.

Resolution by Trustee Gross, seconded by Trustee Lytle

WHEREAS, Anschutz Exploration Corporation ("AEC") filed an application pursuant to RPTL Section 556 for a partial refund of 2015-2016 Village taxes for Tax Map Parcel #49.01-5-11.11/1 with the Assessor of the Town of Horseheads ("Assessor"), and the Chemung Director of Real Property Taxes ("Director") claiming a clerical error and/or an unlawful entry as more particularly outlined in a Report dated July 21, 2015 ("Report") from the Director to Sharron Cunningham, Village of Horseheads Clerk-Treasurer, and

WHEREAS, pursuant to RPTL Sections 594 and 595 in December 2013 the Assessor, in preparation of the oil and gas economic units for the tax roll, requested supporting documentation from AEC including

but not limited to production unit values, and AEC did not provide the requested documentation, and

WHEREAS, the Director's Report recommended denial of the request for a tax refund based upon the lack of supporting documentation and the lack of a production report pursuant to RPTL Section 595(1), and

WHEREAS, RPTL Section 550 defines what constitutes a clerical error, and an error in the calculation of an assessment is not a clerical error, not an error in essential fact, nor an unlawful entry and therefore is not correctable administratively, and

WHEREAS, when there is a dispute regarding an assessed value the property owner has the right to grieve the assessment under RPTL Section 524, and AEC did not submit an application to the Town of Horseheads Board of Assessment Review in a timely manner, and

WHEREAS, it is noted that the Assessor sent the demand for annual production reports, production units and values to AEC by regular mail as opposed to certified or registered mail as required by law, and

WHEREAS, AEC has filed a Verified Petition in the Supreme Court of the State of New York, County of Chemung, naming the Village of Horseheads and others as Respondents, under Index #2016-1465 seeking to compel the Village to render a decision on AEC's application.

NOW THEREFORE BE IT RESOLVED, that based upon the reasons in the Report, the Village of Horseheads Board of Trustees hereby denies the application for tax refund filed by AEC regarding Tax Map Parcel #49.01-5-11.11/1, and be it further

RESOLVED, that Acting Village Manager Louise McIntosh and appropriate Village staff are authorized and directed to take any and all action necessary to effectuate this resolution.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Ongoing Items:

- CDBG - STEG's role in commercial loans. I have requested to find out what % they charge. Have requested that info but haven't rec'd it.
- Reese property, 802 Maple Grove Lane - I think we did not have all the info last time we talked. Sharron says that if we purchase this property for the cemetery, we do have the funds in the special fund for cemetery to purchase it. What we don't have is monies for demolition.

Atty. Groff - you do have monies in cemetery fund that could be used for development of that property for cemetery use. Development would be demo of structure, removing trees, grading, etc. If you wish to use those funds for this it could be done. Note that the adjacent property to the north is also design as cemetery. So this would be an extension of those lands and provide further space for cemetery.

Mayor McIntosh - I didn't know that we had that money, its not shown in our budget. It's segregated.

Clerk-Treasurer - Balance in Cemetery perpetual care fund is approx. \$609,000. It is very seldom used. Just accumulates.

Atty. Groff - that fund is to be utilized for maintenance of cemetery. Mowing, purchase of equipment, paying labor, etc. Given the current interest rate structure on 700K you're not generating much revenue.

Trustee Lytle - so how fast are we using it.

Clerk-Treasurer Cunningham - at end of last year it was 550K So now its somewhat higher.

Trustee Lytle - I was not in favor of taking money out of General Fund to do this, but since we now know we can use cemetery money I would be in favor. I think it's a prudent choice. I'm sure future generations would thank us. Also it would keep anyone else from buying it that we might not want there.

Trustee Goodwin - I agree. It would be a good idea. Not making land anymore. For this price. Fire dept. could do controlled burn.

Attorney Groff - its appraised for 55K. They want an offer. If you want to you could authorize the Acting Village Manager to enter into discussions for the purposes of getting this property.

Mayor McIntosh - they have estimated we could get 700 graves in there.

Motion by Trustee Lytle, seconded by Trustee Goodwin, that the Acting Village Manager is authorized and directed to enter into discussions with the owner/estate of 802 Maple Grove Lane for the possible purchase of same.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

- School Resource Officer -

Mayor McIntosh - Chief couldn't be here tonight. If you have questions, please call him.

Trustee Gross - I thought we would do a workshop

Mayor McIntosh - we postponed the June 15th workshop to the 29th. That one is for STEG. If we push this discussion into July the opportunity could pass.

Trustee Lytle - I thought we were waiting for release from the middle school.

Trustee Gross - I had questions on this - liability, etc. So we need to discuss this as a group.

After brief discussion, the Board agreed to have this matter on the agenda for the regular Board Meeting of June 9th, with the Police Chief present.

- CSEA - Mayor - I have not heard back other than an email asking who will be putting together the salary sheets. I have a call into Matt Ryan. We're getting close.
- Water meter issues - you can see my comments in managers' report. John's going to send out a letter tomorrow.

Audience Participation - None.

Discussion ensued on the Teal Park concerts being the same time as board meetings.

Trustee Gross - we usually only have two meetings in July and August.

Mayor McIntosh - still have to pass a resolution. Put on agenda for next meeting.

Manager's Report

- Requested suggestions from the Dept. heads for manager criteria
- Fire Dept. – no report
 - DPW to look at a tree on the property that could be a danger
- Code – no written report
 - High grass complaints – 14 this week- all resolved
 - Issued 10 permits totaling \$2,371
 - Flood water rates are increasing
 - Waiting to hear back from the Town with a proposal
- DPW – no written report
 - Matthews Circle drainage project completed
 - Well #5 Application for certification still moving forward
 - Business as usual
 - Last date for end of year payments June 3
 - Ordered new barricades with Parks n Rec.- will not be in for the parade
 - Met with Trustee Gross re: Blostein
 - Deb Lynch –did a draft letter to send her. John is tweaking it.
- Parks n Rec – read report
 - Teal park concerts start next Thurs. - Hep Cats
 - Parks is helping out Code when lawns need to be mowed
 - Ready for the parade
- Courts- copy of April Distribution Summary attached
- Office – no written report
 - Newsletter will be mailed Fri.
 - Water bills went out May 16
 - Tax bills are printed- will be mailed May 31
- PD –read the report from the Chief

- Shred day went well
- June 1 shift changes
- Corning Inc. is donating more office equipment
- Researching body cams
- Met with Brown and Brown – see below
 - Deputy Mayor, Brad Lytle and I met with John Condon, our representative from Brown & Brown, about Commercial General / Professional Liability Insurance Renewal for 2016 - 2017. If it were not for Workers' Compensation, we would have considered it good news. Excluding Workers' Compensation our annual premium went down from \$155,782 to \$152,959, saving \$2,823. Unfortunately, our Workers' Compensation increased from \$97,520 to \$120,504, an additional \$22,984, or 23.6%. The Workers' Compensation increase is predicated on formulas mandated by Albany. At the same time that Albany is telling all municipalities to reduce costs, which we are doing, it is Albany who, once again, is forcing unfunded mandates on us. In addition to the \$152,959 + \$120,504, we have a Cyber Liability premium of \$1,959, for a total estimated cost of \$275,422, up from \$254,700, representing an increase of \$20,722, or an increase of 8.1%.

	2015 - 2016	2016 - 2017	%
Travelers Sub-Total	\$ 155,782	\$ 152,959	-1.8%
Workers' Compensation	\$ 97,520	\$ 120,504	23.6%
Cyber Liability	\$ 1,398	\$ 1,959	
	\$ 254,700	\$ 275,422	8.1%
Taxes & Fees	\$ 150	\$ 150	
Total	\$ 254,850	\$ 275,572	
	*Cyber Liability in 2015-2016 = just 9 months		

- **County sales tax revenue report –you received an email with the attachment. Budget \$1,206,840. Actually rec'd \$1,253,830.**
- Mayor attended the Kiwanis 50th Anniversary celebration last Fri.

Also:

- Trustee Gross and I and Matt Mustico will be meeting with Andy Avery tomorrow regarding Blostein. Hopefully will have report.
- April distribution report from courts
-

Mayor McIntosh - Wanted to bring up if you thought we could do reports every other week - especially for the summer. They would be submitted on board meeting days. I have not asked the dept. heads this. I'm asking you first.

Trustee Goodwin - every two weeks is sufficient.

Trustee Gross - I would expect that if something goes on that it not be held over.

Mayor McIntosh - I would still get information from dept. heads. I see them two or three times a week.

Trustee Lytle - I'm fine with every two weeks.

Trustee Gross - as long as anything important be brought to our attention.

Mayor McIntosh continued:

- Brad and I met with Brown and Brown on liability insurance and workers comp. Costs for Workers Comp going up. Formulas for workers comp are mandated by the state. Every municipality workers comp is going up. If they stop mandating we might be able to stop spending more money.
- Health ins costs - estimate is 15% on the Silver 4, and 15.3% on the Gold six. We won't have exact figures until September.
- Good news - sales tax report, our whole year came in budget with a little extra.
- Sharron - I put Steve Hoover's projections for sales tax in the new budget.
- According to smartasset.com Horseheads has been rated #8 in NYS as a place to retire.

BOT, Department Head Updates

Clerk-Treasurer

- Newsletters going out tomorrow. And it's on the website.

Trustee Gross

- Flowers are out, and hanging baskets.
- Last Monday we planted them
- Nate and his crews do such a good job. Had so much help. Zim house too.
- Met with Matt this week on Blostein. Went over suggestions people offered. Tomorrow we are meeting with Andy Avery
- Put out flower pots in the Square. Village will water.

Trustee Goodwin

- Water issue with Deb Lynch. I've had additional discussions with her.
- Louise - its in my report.
- No report on codes or court. But I did volunteer at food bank.

Pat - not walking in parade, but will be there for reviewing stand.

Motion by Trustee Lytle, seconded by Trustee Gross, that the following item be added to the agenda:

- Appointment of Firefighter to Chemung County Decontamination Team

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

Resolution by Trustee Gross, seconded by Trustee Goodwin

WHEREAS, the County of Chemung, after a public hearing held on September 12, 2005, established pursuant to Chemung County Legislature Resolution No. 05-342 the Chemung County Decontamination Team ("Team") in accordance with Section 209-bb of the GML of the State of New York, and

WHEREAS, the Team will provide decontamination services to both civilians and emergency service providers, and in particular assist the Arnot Ogden Medical Center and St. Joseph's Hospital with the decontamination of patients prior to their admittance into hospital emergency departments, and

WHEREAS, the County of Chemung has advised the Village of Horseheads that the costs associated with training and equipping the Team will be paid from Weapons of Mass Destruction Grants provided to the County by the State of New York, and

WHEREAS, Chemung County has determined that the Team will be made up of 40 personnel who will be members of the Chemung County Volunteer Fire Service, and

WHEREAS, the Village of Horseheads Board of Trustees acting as Fire Commissioners of the Horseheads Volunteer Fire Department ("Department") wishes to appoint members from the Department to serve on the Team.

NOW THEREFORE BE IT RESOLVED, that the Fire Commissioners of the Village of Horseheads Fire Department do hereby appoint John Hathaway from the Department to serve as a member of the Chemung County Decontamination Team, and be it further

RESOLVED, that the Fire Commissioners find that the aforementioned individual is a member in good standing with the Department, and be it further

RESOLVED, that as a precondition to any of the Department's members serving as members of the Team, the County shall, at its cost and expense, equip and train each member of our Department appointed to the Team as well as to provide liability insurance that will cover each member of the Team while serving on the Team, and be it further

RESOLVED, that pursuant to the authority granted to it by Section 209-bb(3) of the General Municipal Law, the Village of Horseheads Fire Commissioners do hereby extend to the member from this Department who is appointed to and serve as a member of the Team such insurance coverage, including without limitation worker's compensation coverage that the Department provides to all of its members, and be it further

RESOLVED, that members of the Department appointed to the Chemung County Decontamination Team shall serve at the pleasure of the Village of Horseheads Fire Commissioners.

Roll Call Vote:

Mayor McIntosh	Aye
Trustee Lytle	Aye
Trustee Gross	Aye
Trustee Goodwin	Aye

As there was nothing further to come before the Board, the meeting was adjourned at 7:56 p.m.

/rmb