

Minutes

Village Board of Trustees

January 28, 2010

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
Trustee Ronald Swartz
Trustee George Koliwasky
Trustee Suzanne Peters
Village Manager Walt Herbst
Village Attorney John Groff

Clerk-Treasurer Sharron Cunningham
Recreation Director Nate Nagle
Fire Chief Arthur Sullivan
DPW Chris Lawrick
Code Enf. Officer Bob Young

Others:

Barbara Clark, Sayre St.
J. Larry Clark, Sayre St.
Barb Skorczewski, W. Franklin St.
Tess Banfield, Catalpa Dr.
Louise McIntosh, Renwick Lane
David Padgett, W. Franklin St.
Dave Radin, S. Main St.

Howard Miller, Sunset Dr.
Pat Gross, W. Broad St.
Mike Swasta, Watkins Rd.
Jean Quinn, Gardner Rd.
News Media

Resolution by Trustee Peters, seconded by Trustee Swartz

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of January 14, 2010 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Peters

WHEREAS, the Village of Horseheads Board of Trustees is responsible for the

preparation and adoption of a comprehensive plan for the Village of Horseheads pursuant to Village Law Section 7-722, and

WHEREAS, the Village's existing comprehensive plan had not been thoroughly updated in more than 35 years, and does not reflect the community's current vision and specific initiatives to help achieve that vision, and

WHEREAS, on October 13, 2005 the Board of Trustees appointed a special board to prepare a proposed comprehensive plan for the Board of Trustees' review and approval, said special board being referred to as the Comprehensive Planning Committee ("CPC"), and

WHEREAS, on or about August, 2007, the Board of Trustees retained the services of LaBerge Group ("LaBerge") to assist the Board and CPC in the development of a comprehensive plan, and

WHEREAS, the CPC and LaBerge undertook a comprehensive study of the historic and existing conditions in the Village, the surrounding vicinity and the rest of the county, identifying issues and opportunities, analyzing numerous topics and potential options and developed goals and objectives resulting in a preliminary draft of a Village of Horseheads comprehensive plan submitted to the Village by the CPC on or about June 12, 2008, and

WHEREAS, the preliminary draft has undergone extensive review and consideration by Village officials and staff which have resulted in the development of a proposed Comprehensive Plan for the Village, and

WHEREAS, prior to adoption of any proposed comprehensive plan, the same must be referred to the County Planning Board for review and recommendation, and a public hearing must be held on such proposed plan, and

WHEREAS, adoption of a comprehensive plan is subject to the provisions of the State Environmental Quality Review Act ("SEQR").

NOW THEREFORE BE IT RESOLVED, by the Village of Horseheads Board of Trustees as follows: The Village Manager is authorized and directed to refer the proposed Comprehensive Plan to the Chemung County Planning Board for its review and recommendation pursuant to GML Section 239-m, and Village Law Section 7-722 5, and

BE IT FURTHER RESOLVED, that said proposed Plan shall also be referred to the Village of Horseheads Planning Board, and Town of Horseheads Planning Board for their review and comment, and be it further

RESOLVED, that Village Manager Walt Herbst is directed to oversee the environmental review of the proposed comprehensive plan in accordance with SEQR and Village Law, and be it further

RESOLVED, that a public hearing regarding the proposed Comprehensive Plan be scheduled for March 4th, 2010 at 7:00 p.m. at 202 S. Main St., Horseheads, NY. Clerk-Treasurer Sharron Cunningham is authorized and directed to publish notice of such public hearing as required by law, and is further directed to make this proposed Comprehensive Plan available for public review effective immediately at the office of the Village Clerk, and is further directed to provide a

copy of same to the Horseheads Library for public review.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Koliwasky

BE IT RESOLVED, that the Village Mayor, Deputy Mayor and Village Manager are hereby authorized to attend the NYCOM Winter Legislative Meeting, February 21-23, 2010 in Albany, NY with all expenses paid as are allowed under Section 77B of the General Municipal Law.

Roll Call Vote:

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

Motion by Trustee Swartz, seconded by Trustee Peters that the following items be added to the agenda:

- Koppers Pond - 7th Assessment
- Probationary Appointments to Fire Department

Roll Call Vote:

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

Koppers Pond - Atty. Groff advised that we are one of the Potentially Responsible Parties involved in that clean up. Over the course of several years there have been a number of financial assessments where the Group of seven members have essentially funded studies for potential cleanup. We are now being asked for another assessment of \$20,000 based upon an anticipated expenditure to the EPA. We are at the point where various cleanup documents are being submitted to the EPA. Their role is to review those documents and either approve, disapprove, or approve with qualifications. Cost of EPA doing that is a chargeback to the Potentially Responsible Parties. We are anticipating that the EPA will submit a bill for its staff time and there needs to be funds available from the Group to pay this. It is also reflective of the fact of some ongoing expenses with the present study that is still proceeding and the environmental analysis being done by various subcontractors. At least 4 of the 7 members of the Group have approved of this new assessment. Town of Horseheads was supposed to consider this at their meeting last night. I don't know the outcome of that meeting. The County will be reviewing it as well. My recommendation is that you consider approving the assessment.

Resolution by Trustee Koliwasky, seconded by Trustee Peters

WHEREAS, the Village of Horseheads and other potentially responsible parties entered into an Administrative Settlement Agreement and Order on Consent (AOC), which provided in part for a Remedial Investigation and Feasibility Study (RI/FS) of an area generally known as Koppers Pond, southerly of Blostein Blvd., and

WHEREAS, in accordance with and to comply with the AOC, the potentially responsible parties entered into an agreement with Leo Brausch as Environmental Consultant to facilitate the goals and objectives of the RI/FS, and

WHEREAS, it is anticipated that the Village of Horseheads and others will be called upon from time to time to fund the RI/FS and to enter into various agreements for the implementation of the RI/FS, and

WHEREAS, this Board has approved six past assessments as the Village's share of a Group fund for administration of the project as follows:

February 8, 2007 -	\$11,000
September 13, 2007 -	\$11,000
February 14, 2008	\$11,000
July 10, 2008	\$22,000
August 28, 2008	\$22,000
February 12, 2009	\$22,000

and

WHEREAS, those funds together with funds of other members of the Group have been largely expended on project administration, and

WHEREAS, members of the Group did recently approve the assessment of a *seventh* contribution from all members of the Group in the amount of \$20,000 each to be used for project costs and administration.

NOW THEREFORE BE IT RESOLVED, that this Board does hereby approve a *seventh* assessment of \$20,000 to be contributed to the Koppers Pond Potentially Responsible Parties operating account when such funds are in hand.

Trustee Swartz - so far we have spent about \$108,000. Is this going to end at some point?

Atty. Groff - each member has spent the same amount of money. These numbers in terms of clean up are shocking and there really is no way to truly predict what is going to happen. This money has so far been spent on merely studying how to deal with it, not any costs at all of actual clean up. It ultimately depends on whether the EPA determines if clean up is even necessary.

Roll Call Vote:

Mayor Zeigler: Aye

Trustee Swartz: Aye
Trustee Koliwasky: Aye
Trustee Peters: Aye

Resolution by Trustee Swartz, seconded by Trustee Peters

BE IT RESOLVED, that this Board hereby approves the one-year probationary appointments of Joseph J. Brescia, and Amy S. Brescia of Horseheads to the Village of Horseheads Fire Department.

Roll Call Vote:

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

Communication from Mayor Zeigler Regarding Trustee Vacancy:

As you know a vacancy in the office of Village Trustee was created by the recent appointment of Walter Herbst as Village Manager. Village Law Section 3-312 provides in pertinent part that when a vacancy in the position of Trustee is created in this manner, this vacancy is to be filled by appointment by the Mayor. Further the appointment is to be filled for the balance of the year, i.e. 2010.

I have sought input from the Trustees, staff and the public regarding candidates to fill this vacancy. I was pleased and gratified that numerous qualified individuals had an interest in serving the residents and property owners of the Village in this position. I collaborated with the Board of Trustees and others regarding this appointment including interviews with candidates. It was my goal that filling this position would be an inclusive collaborative process at many different levels and I am pleased report that it has been.

Based upon the diligent and thorough consideration of numerous parties, I am pleased to report that I hereby appoint Larry Clark, 115 Sayre St., to fill the vacancy in the Trustee's position at the Village of Horseheads effective immediately; said appointment to expire the first Monday in December 2010.

Mayor Zeigler gave a brief background of newly appointed Trustee Clark. Larry is currently a member of the Horseheads Zoning Board of Appeals, and a member of many civic organizations. He and his wife have been residents of Horseheads for 34 years.

Village Manager Herbst reported on the following items:

- Extend thanks to the Co Chairs of the Comprehensive Committee- Dave Radin and Mike Stenpeck. Many hours of effort went into that process.
- Security - on going. Trustee Koliwasky checking some sources. Police Chief has also

- done some research. We will be meeting soon on this matter.
- Newsletter: articles coming in. Will be published mid February.
- Shared Services - County has been looking at opportunities to improve efficiencies, etc. We looked at the opportunity to participate in this. County is applying for grant from the State to study this further.
- Catherine Trail - met with them. Part of the comprehensive plan was to do something like this. Offers some benefit to the Village if we can get the trail down to Hanover Square.
- Anschutz moving forward with their gas line.
- Budgets - department heads have completed their first drafts. Sharron and I reviewing.
- Public Works - Chris working on wellhead protection plan. Chris was also able to purchase new well pump to replace the old one, that should repay itself in less than 2 years.
- Request from a company to do geology thumping - denied again.
- Completed GIS grant application for digitizing records.
- Sister City Meeting - developed work plan for Sakura Park.

Trustee Koliwasky - any other communications with Anschutz. Atty. Groff stated that he extended to them this Board's opinion that their proposal was not very attractive. I also have been trying to contact BOCES who has already leased with Anschutz for their campus. I've spoken to their attorney regarding their agreement with them.

Nicky Hilton - YWCA. The YWCA's mission is to eliminate racism and empower women. The Stand Against Racism Project has no cost involved. We just ask people to have conversations about the topic. The YWCA is having an event at 211 Lake Street and we are inviting everyone to come out. Its from 1-4. A lot of companies are coming together for this. Everyone knows that racism is a hard topic to discuss. She distributed some materials about the program.

Mike Stenpeck - asked who will be running the public hearing on March 4th on the Comprehensive Plan. Village Manager Herbst said it would be LaBerge conducting the hearing.

Dave Radin - congratulated Larry Clark on his appointment as Trustee, but sorry to lose him on our Zoning Board of Appeals. Also want to thank all of you for moving the Comprehensive Plan to where we are. I've prepared an editorial for the paper just to announce the Plan and inviting community to stay involved and look at the draft. Dave added that the abandoned gas station down on S. Main by the highway still has a sign. Can't we get the owners of that to remove it. It is an eyesore.

Chris Lawrick - I have accepted a position with another organization. There is a procedure however that they have to follow, and until that procedure has run its course, I can't make any other statements.

Public Participation

Tess Banfield, Catalpa Dr. - congratulated Dave Radin and Mike Stenpeck on the Comprehensive Plan. She also congratulated Larry Clark on his appointment.

Tess asked what the impact of the Appleridge bankruptcy has on the Village. Atty. Groff stated

that Appleridge has a PILOT agreement. They have been making the payments to the County which is distributed to the School District, Village, etc. They are current with their payments. The rest is a private dispute going on between a private property owner and a lender. We aren't involved in that.

Barb Skorcewski, W. Franklin St. - will the Village have representation on the County task force being formed in regards to drilling for Marcellus Shale.. It was announced last week.

Manager Herbst - haven't heard about that. Will investigate.

Mike Swasta - asked if he could get an electronic copy of the comprehensive plan on a thumb drive. Manger Herbst said yes.

Mike Swasta - what about rezoning issues with the comprehensive plan.

Atty. Groff - the comprehensive plan is foundation of modifications and updating to zoning law and zoning map. Any zoning changes would require SEQR review and analysis. There is a process involved.

Mike Swasta - noise pollution at the Holding Point near Gasfield Specialties. On Jan 17th at midnight the area was heavily illuminated, very noisy, for several hours during the night. I don't know if any complaints should be directed to Village Police. What is suggested on how such an issue should be handled by neighbors impacted by these problems. Should they call Village Police?

Atty. Groff - Village Code is predominantly enforced by Code Enforcement Department. So complaints should be directed to him. In terms of being a nuisance, that may require judicial action. Could have voluntary compliance, but if not its up to a court to make a determination on whether it's a nuisance and whether a violation has occurred.

Discussion ensued. Atty. Groff noted that our Noise Ordinance is not based on decibels. Its based on whether a reasonable person would find it offensive.

Pat Gross - what do Town residents do. John - yes, they have the same capacity to file a complaint that Village residents do. Its up to the complainant to observe and document, etc. Then the code Enf. Officer receives it. The observations of a Code Enf. Officer isn't any more valid than the observations of a resident.

Larry Clark - thanked the Mayor, Trustees and Village Manager for this appointment.

As there was nothing further to come before the Board, the meeting was closed at 7:49 p.m.

/rmb

