

## Minutes

### Village Board of Trustees

November 2, 2006

A **Special Meeting** of the Village of Horseheads Board of Trustees was held on the above date at 9:00 a.m. Present were Mayor Patricia Gross, Trustees Earle Catlin, Ronald Swartz and Howard Miller, Village Attorney John Groff, Village Justice Bill Driscoll, and Manager's Assistant Rachel Baer.

#### Upcoming Meetings, etc.

Mayor Gross reviewed upcoming meetings for the month of November:

Bethany Bond Refinance Mtg. - Mayor Gross said that she and John will be attending a meeting on Monday, November 6<sup>th</sup> at 8:30a.m. at Bethany. John said they want to go back and get an adjusted interest rate. With this kind of financing, when the loan is paid off title moves to the Village. If they were to pay off the loan premature, then title would move earlier. Their intending to refinance to get lower interest rates and put them in a better position to pay an increased PILOT.

Department Head Meeting - Wednesday, November 8<sup>th</sup>, 8:00 a.m.

Appleridge PILOT Mtg. - Wednesday November 8<sup>th</sup>, 10:00 a.m. Their assessment dropped to 7 or 8 mil. because of the occupancy. That has already been approved by the assessor. We are meeting with them about the PILOT agreement.

Meeting at Town Hall, Wednesday, November 15<sup>th</sup> 8:00 a.m. This is our regular monthly meeting.

STEG Meeting, November 21<sup>st</sup>, 8:00 a.m.. That is once a month at the old library building.

Cherry Tree Meeting, Wednesday, November 29<sup>th</sup>, 10:00 a.m. - We are looking at property across from sugar and spice for cherry trees. Only spot we could come up with.

#### Contract for Jan Zeigler

Mayor Gross said that everyone got memo from Sharron, monies are available to use either from the current manager's salary or contingency fund. I think we talked about it being retro to September 1.

Howard - I read where Rachel and Jan submitted their contracts together.

John said they were presented together. At some point they were separated and treated differently by Vinnie. I was not part of that process. Ultimately when the budget was prepared for some reason it did not contain a pay raise for Jan, but did for Rachel. I don't know if the lawyer they were seeing was looking at both of their agreements or Jan's only. All I know is that I did speak to Jim Young and I think at that time their contracts may have been separated from one another.

Rachel said they were together at first, but then the manager asked for them to be separated, which we did, but the contracts were identical. She said that she received her raise June 1, without a contract. On August 17<sup>th</sup>, the manager signed my contract but did not sign Jan's.

Howard - if they did one together, we should make it retro back to June 1.

Ron - I would agree.

Pat - we will go back to June 1 then. But I would like to note that the work week is supposed to be 37.5 hours with a ½ hr. for lunch. That should be enforced. I want to make sure this is noted.

Judge Driscoll - not sure what you mean, all we asked initially was that everyone be treated equally.

Pat - I believe the other two have a ½-hour lunch. And there should be only 2 15. min coffee/smoking breaks per day. I believe Vinnie said this at one time. That is standard - 2 breaks. But not an hour for lunch, they can attach their break periods to their lunch if they want to.

Judge Driscoll - suppose she comes in early or stays late, without charging the Village.

Pat - she can't do that. Technically they can't do that. They are not supposed to be in here any earlier than 15 prior to or 15 min after without approval. Only reason I know that is from the Health Dept. We could be in trouble at the labor board. Don't want that to happen to us.

Pat - what is your preference on where money should come from. Two sources - manager salary, second was contingency.

Howard, Ron and Earle all agreed to move it from the manager's salary.

John - sharron will prepare transfer resolution for the next meeting.

#### Police Chief

Pat - as we discussed last week, I am meeting with two sgts. tomorrow at 3pm. to discuss some issues. We will appt. Mike Barton as prov. police chief. Rachel has talked to civil service and found that Mike won't have 5 years as Sgt. until Nov. 28th, so we could technically go ahead and do this now, but will cause problems, could be contested. So I would like to wait until Nov. 28 and appoint him as prov. chief at that point. There is a question of salary - Banfield got 10% when he was appointed to be prov. chief. Kole got 5%.

Rachel said she looked up what we did in the past, and we had to amend Chief Kole's salary because he was supposed to make what departing chief makes. I think that might come into play here.

John - There is a difference of opinion on new chiefs salaries. The Chief of Police Assoc. feels that the incoming chief is to be paid same as outgoing chief. They cite an Attorney General opinion. The AG opinion is purely that, it is an opinion. There is no law. There are a number of municipalities including NYCOM that say there is not a need to maintain that gap. In essence your appointing someone who has no training and getting paid the same as the outgoing chief got, who

has more skills. NYCOM feels that appointment of a new chief does allow for you to compress the salaries. You could hire an incoming at less than what is being paid to outgoing chief. There is no case law in NYS that really has conclusively determined what new salary should be. This is a prov. appt. and one of the things that happens is that the incoming chief doesn't accrue same benefits now as he did as a sgt. So by making him prov. chief, he wouldn't get overtime, and other things. And should he roll back into the ranks in the future, it may be that he has lost some of those things he would have gotten. In addition, there are other issues to address with any appointee ahead of time. In Elmira Heights recently - their chief was appointed from within. He accumulated sick leave, etc. It was not made clear to him that he would no longer accrue sick leave so that during this period of being Chief he thought he was accruing sick leave. At cash out time, the village and the chief had a problem with whether there was an entitlement for these additional benefits that he felt he had earned, etc. These are some issues that you need to deal with when you consider this appt. There is a contract provision in the PBA contract that provides for out of title work. That means that if you don't name Barton as Prov. Chief, but yet assign him the duties of the chief, he would be paid out of title compensation rate, which means he would be paid the proportion of the Chief's salary during the period of time in which he served in that capacity.

Trustee Miller - if he's out of title, does he get overtime.

John Groff - yes, he's still a Sgt performing someone else's duties. Salary issue will be very important.

Trustee Swartz - if he was out of title, would he have to resign from PBA.

John Groff - not sure. Might suspend himself from the union temporarily.

John noted that Sgt. Barton will be filing a grievance regarding the "stick rule" issued from Chief Kole.

Howard Miller - if he is Prov. Chief, would we have to get another Sergeant.

John Groff - I don't think your required to have 3 sgts., but what could occur is another officer would be doing out of title as well. So one of your patrolmen could be performing out of title work for a Sgt.

Ron - isn't there supposed to be a supervisor on every shift.

John - yes, but it doesn't have to be a Sgt.

Trustee Miller - I would say out of title.

Trustee Catlin - I agree.

Trustee Swartz - I am not sure.....you've met with them, what about rotating the sgts.

Mayor Gross - that won't work. One Sgt. is not available. They need consistency.

Ron - have the Sgts. expressed any desire for either a Prov. Chief or out of title.

Mayor Gross said that is not their choice.

Ron - If it's a prov. appt., does he or doesn't he have to come up to pay of the chief.

John - no definite decision, its really a question of what you think.

Mayor Gross - I believe it should not be the same as outgoing chief.

Ron - but we paid Chief Kole back pay at one time because of this.

Mayor Gross - I think there was an agreement with Bryan. When he left it went in the other direction. I wasn't privy to that. This time I can assure you I will know what we are doing.

John - once Chief Kole became a member of the Chiefs Assoc. they said that this is contrary to their position on this matter. It was in his best interest to advocate for this. Its not something where there is an answer. There are some municipalities that do provide for reduced salary for incoming chiefs.

Ron - is there any more obligation by us to appt if they are out of title vs. Prov.

John - no, if you appt Prov. and then ultimately you have a valid list, you are not obligated to appoint the Prov. Chief as permanent. 2 types of exams - promotional and open competitive. If you had a valid promotional list, then you would have to appt. from that list. If you appt someone prov. now who turns out to be on that promotional list, then you would have to give them the permanent appt. We submitted a letter to Civil Service and asked for both - open competitive and promotional. Presumably you'll end up with 3 names on the open competitive list. We also asked for a promotional exam. Same test, just 2 lists. On the promotional exam only people that could be promoted to Chief can take the exam. Its limited to officers of our department. It is further limited with certain qualifications. We're expecting that the prom exam will not result in a mandatory list - a list with 3 names - because we don't believe that we have 3 officers that qualify to take that test. That is expected to result in you having the option of filling the position from a promotional list, if you choose to do so. If there are not 3 on it, it becomes optional. Or you can use the competitive list and if there are 3 on that list, you have to appoint. Because you asked for both exams, there is nothing to challenge.

#### Village Manager Vacancy -

Mayor Gross - once we get a Chief in place I want to move ahead with this. Probably will delay until after holidays.

Howard - we should discuss residency.

Ron - I think we should go line by line in the contract and go over all of it.

Mayor Gross asked that Rachel give each BOT member a copy of the current manager's contract to read and discuss by Nov. 16<sup>th</sup>.

General Items

Employee Manual:

Mayor Gross - letter from CSEA on our employee manual.

John - CSEA sent a letter disputing the employee manual provisions. They never said what specifically. In PBA negotiations, we reviewed and modified the employee manual to address concerns. If it could be argued that the manual would change a term and condition of employment that is already regulated by the union contract, then the union contract would control. In the PBA side we went through and modified to make it satisfactory to the PBA. We rec'd a letter this week from the CSEA union rep essentially reiterating her concerns and position with respect to applicability of the manual. I sent a letter back to her acknowledging that we rec'd her letter and asking for her areas of concerns.

Wood Boilers:

Mayor Gross - everyone got the email from John on wood boilers. We do have a 6 mo. moratorium. At the next meeting, on the 16<sup>th</sup>, please review wood boiler law, and get back to John.

After brief discussion, all the Trustees and the Mayor agreed to have a law prohibiting them in the Village.

John - I will proceed accordingly with a draft law.

PBA Agreement:

Atty. Groff - we rec'd a letter from the PBA attorney about the agreement. She said that there was an issue raised after the negotiations. You already approved a settlement agreement months ago....that meant we take the agreements and put contract together. After all negotiations were done, somebody realized that there was some aspect of this that would injure or not treat Officer Nowlan as other officers. I did not know, but there was a meeting with Sgt. Barton and Vinnie where they had discussed modifying this to treat Officer Nowlan differently. So when we rec'd the contract, we also rec'd a proposed MOA regarding Nowlan and some health insurance issue that I'm unclear about. I don't know what it is. We did email Vinnie a question about these things, he stated that he did meet with Barton on this, and they had an agreement. I'm troubled by this, in essence it's a post contract negotiation in an effort to modify the agmt., and not something discussed by your nego. agents, not in my presence either.

Trustee Swartz - is it regarding health matters?

John - its regarding insurance eligibility. I would like to be able to contact Berson and find out what it is she is talking about, or maybe even talk to Sgt. Barton.

Mayor Gross - yes I think you should.

Everyone agreed he should.

Atty. Groff - Vinnie does concede there was a discussion about this after the fact. It was never raised during nego, or during preparation of the MOA. It was raised entirely afterward.

Mayor Gross - this is highly unusual, once you have an MOA.

Atty. Groff - because I wasn't made aware, I don't know what its about. I'll check with her and find out more and get back with you.

#### Portable Radios

Mayor Gross - I will be talking to Chief Kole today regarding portable radios. There is no written agreement for this. Chief Kole is saying one thing and Mike Smith is saying something else. We need to come up with what we agreed upon. Something to do with the frequency, etc. The radios they are issuing to us apparently aren't what we agreed to. The good ones went to the SWAT team.

There was a letter from Santulli asking that the old equipment be given to Emerg. Mgmt. Sgt. Barton said he was going to donate some to the Town of Hhds. When we went to have them installed, they took the olds ones before they installed the new ones. I will be looking into this.

As there was nothing further to bring before the Board, the meeting was adjourned.

/rmb