

December 9, 2004

A meeting of the Village of Horseheads Board of Trustees was held on the above date at 7:00 p.m. Present were Mayor Patricia Gross, Trustees Earle Catlin, Ronald Swartz, Howard Miller and Kevin Sullivan, Village Manager Vincent Azzarelli, Village Attorney John Groff, Police Chief David Kole, Clerk-Treasurer Sharron Cunningham, Planning Board Member Mike Stenpeck, and Manager's Assistant Rachel Johnson. Also present were Bob Skebey, 415 Watkins Rd.; John Mustico, Esq., 106 N. Main St.; Joe Danaher, 914 South Ave.; Danny Tramm, Northland Process Piping, Inc.; Thurman Blanchard, Leprino Foods; Jamie Johnson, STEG; Tess Banfield, 134 Catalpa Dr.; Bernie Weigle, 111 Boorum Pl.; Elizabeth Bennett, 213 First St.; Jean Quinn, 555 Gardner Rd.; Martha Hauser, 407 W. Broad St.; Joe Nisco, 1008 South Ave.; Bruce Sprague, 208 Second St.; Charlie Gray, 922 South Ave.; Mike Belosky, 205 Lincoln Rd.; Jamie Gensel, Fagan Engineers.

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of November 18, 2004 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Resolution by Trustee Sullivan, seconded by Trustee Swartz

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

General Fund:	\$126,842.66
Water Fund:	\$ 27,095.45
Trust & Agency:	\$ 2,959.10

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the Justice Reports for November 2004 be received and placed on file in the Village Clerk's Office.

Roll Call Vote:

Mayor Gross:	Aye
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Trustee Catlin: Aye
Trustee Swartz: Aye
Trustee Miller: Aye
Trustee Sullivan: Aye

At this time, Atty. Groff declared open a Public Hearing on Northland Process Piping application for a Special Use Permit for South Avenue.

Jamie Johnson, STEG - We've been working with this company for several months now. We strongly encourage the Village support this project, very minimal impacts on community. We presented this property to include in Empire Zone, and also included the former LRC as part of this application. Understand the concerns of the Village, look forward to working with the Village.

Joe Danaher, 914 South Ave. - tonight's application only relates to the property that Leprino owns, is that right.

Atty. Groff - that is correct. This is only limited to property owned by Leprino.

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

At this time, the BOT reviewed and completed Part 2 of the short form SEQR for the Northland Application. Finding there to be no negative environmental impacts, the Board issued a Negative Declaration.

Resolution by Trustee Swartz, seconded by Trustee Sullivan

WHEREAS, Leprino Foods Co. is the owner of real property located at 1011 South Avenue, Horseheads, NY (identified as Tax Map Parcel #59.18-4-14 and 59.18-1-271), and

WHEREAS, said property is situate in a former Light Industrial Zone in the Village, said zone being eliminated as a zoning district within the Village of Horseheads, and

WHEREAS, the Village of Horseheads Zoning Law provides, in pertinent part, that parcels located within the eliminated L-I District and being lawfully used for light manufacturing uses were granted a special use permit to continue such lawful use, and

WHEREAS, it has been determined that said owner has established and has maintained such lawful use, accordingly being granted a de facto special use permit for such use, and

WHEREAS, the owner has contemplated the sale of the real property and there is a pending contract of sale, and

WHEREAS, the owner has authorized Northland Process Piping, Inc. to apply for a Special Use Permit for this parcel to establish a stainless steel custom fabrication and machine shop, and

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

WHEREAS, the applicant has submitted a Short Environmental Assessment Form, and

WHEREAS, the Village of Horseheads Board of Trustees is informed and believes that the Village is the only involved agency with respect to the SEQR review of this action, and

WHEREAS, this Board of Trustees has conducted a thorough review of the application, the Short 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, and

WHEREAS, a public hearing was held on December 9, 2004 regarding the application for at which time all interested or affected parties were afforded an opportunity to present their views regarding the application, and

WHEREAS, this application has been reviewed by the Village of Horseheads Planning Board, Town of Horseheads Planning Board, the Chemung County Planning Board, such Boards having recommended the approval of same, and

WHEREAS, this application has been thoroughly reviewed and given thoughtful consideration by this Board.

NOW THEREFORE BE IT RESOLVED, that 1) a public hearing on the environmental aspects of this action is waived; 2) Mayor Gross is authorized and directed to sign the Short Environmental Assessment Form finding there to be no significant environmental impact; and 3) the application of Northland Process Piping, Inc. for a Special Use Permit to operate a stainless steel custom fabrication and machine shop at 1011 South Avenue in the Village of Horseheads be and the same hereby is approved subject to the following conditions:

- 1) Legal title to the real property shall transfer to the applicant or its designee within six months of this approval.
- 2) There shall be only one shift conducting metal fabrication and machining operations, or the like, on the property, such shift and such type of operations and activities will commence no earlier than 7:00 a.m. and will cease no later than 5:00 p.m. local time and shall be Monday through Friday. Further, all such operations shall be conducted within the confines of enclosed structure(s) on the property and during such operations doors will
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remain closed, the purpose being containment, control and moderation of noise created by such operations.
- 3) There shall be no day or time restrictions on the applicant's clerical, administrative and non-manufacturing/fabricating activities.

Trustee Sullivan - at what level does noise become adverse.

Atty. Groff - we don't have a law that creates a scientific measuring process for defining when its excessive. It is subjective. If its felt to be unreasonable then they can take action in court. The property is understandably located in a residential area. Previously zoned light industrial. That is why we added this phrase.

Trustee Swartz - can you tell us what exactly you do.

Daniel Tramm, Northland - build and fabricate food and dairy stainless steel pipe. Only metal we work with is stainless. Lot of conveyor work, small tanks, fittings, etc. We use sheet material. We use a shear to cut equipment, sometimes there is noise but probably wouldn't penetrate the walls. No noise when bending the steel. All welders are electric. We do some grinding, which are air grinders. No different from what you'd use at home, and it being confined there won't be a noise problem. This year we'll have 10-12 employees. In about a year it would be about 25. We also do installs. Could end up with more. We'll ship all over. Installation people could be traveling all over the northeast.

Trustee Swartz - we had some problems with noise and traffic in the past when other manufacturers were there. I'm just a bit concerned, but it doesn't sound to me like it will be a problem.

Mr. Tramm - won't be a noise problem. Trucks - 2-3 semis a week, but may be less.

Mayor Gross - Also very important is the appearance. It will be in a residential section.

Atty. Mustico - please read conditions again. Atty. Groff reread the conditions.

John Mustico - conditions won't work. These conditions make it impossible to run this business.

Mr. Tramm - one shift is correct. But the time frame of 7-5 is a bit tight. A lot of time we work 10 hr. days. Probably wouldn't start earlier than 6am, and sometimes we are there until 7 or 8 at night. Would prefer 6am to 8pm.

Thurman Blanchard, Leprino Foods - this company is a world class supplier. Leprino is the largest producer of mozzarella cheese in the US. We are now looking at Europe. Dan's business is involved in every one of these ventures. They do many jobs for us. When we call and need something right away it ties his hands if you restrict them to these hours. Some Northland operations have had to work many hours to get jobs done. We want Dan in this area and supporting our facility. I also want him to have the flexibility to supply us with what we need.

Atty. Mustico - Leprino is still a privately owned company. Not publicly traded. Dan's company is a family operation. These are the kind of people your dealing with. I don't want you to think that if they are selling internationally, that they are not like us here in horseheads. They are.

Trustee Sullivan - so 6am-8pm without the weekend restrictions would be good for you.

Mr. Tramm - we'd do everything we can not to work our people 10 hours a day. I think that most of what I'm hearing is the noise factor. I can guarantee this is not going to be a problem. We don't have any neighbors real close to where we are.

Trustee Sullivan - I don't have a problem amending the resolution.

Trustee Miller and Trustee Swartz agreed

Changes: 6am - 8pm, 7 days a week.

Motion by Trustee Miller, seconded by Trustee Catlin, that the resolution on the floor be amended to read that the condition limiting the time in which metal fabrication activities is no earlier than 6:00 a.m. and will cease no later than 8:00 p.m. local time, seven days a week.

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Roll Call Vote on Amendment:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Roll Call Vote on Entire Resolution as Amended:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Mr. Tramm - will be bringing in good paying jobs for the village.

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the minutes of the Planning Board Meeting of November 23, 2004 be received and placed on file in the Village Clerk's Office.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Resolution by Trustee Miller, seconded by Trustee Catlin

WHEREAS, sound fiscal management encourages the conservation of municipal resources, and

WHEREAS, NYS Law, specifically General Municipal Law 5-G, encourages municipal cooperation resulting in the conservation of resources among other things, and

WHEREAS, the Village of Horseheads and Town of Horseheads have a history of municipal cooperation, and

WHEREAS, the said municipalities have considered the joint acquisition of a street sweeper having found such acquisition to be fiscally sound and financially beneficial to such municipalities, and

WHEREAS, such municipalities' respective Boards and the Village Manager have considered the merit of an agreement in accordance with GML Section 119-o and have required the drafting of a proposed agreement which has been submitted to the Town of Horseheads and has been preliminarily approved by the Town, and

WHEREAS, the street sweeper has been delivered to the Town of Horseheads on an emergency acquisition basis.

NOW THEREFORE BE IT RESOLVED THAT, Village Manager Azzarelli is authorized and directed to enter into an Inter-Municipal Cooperation Agreement with the Town of Horseheads for the joint acquisition and use of equipment when such agreement is in final form and approved by the Village Manager and Village Attorney. A copy of said agreement shall be placed on file with the Village Clerk-Treasurer, and be it further

RESOLVED, that the Village Clerk-Treasurer is authorized and directed to disburse to the Town of Horseheads all such monies due the Town from the Village for the acquisition of the sweeper in accordance with the terms and conditions of the agreement. Such payment to be made as soon as practicable and upon the direction of the Village Manager.

Atty. Groff - Town had been provided with proposed agreement. Mr. Mustico is here tonight and states that the agreement is approved by the town.

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Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Overtime Policy - Village Manager- Received memo on Fair Labor Standards Act overtime policy. and that there have been some changes to it. Atty. Groff drew up resolution to include safe harbor to protect the village

Mayor Gross - will employees have right to challenge.

Village Manager Azzarelli - we do pay people who are deserving of overtime, but this gives them the right to question it.

Atty. Groff - federal legislation amended positions eligible for overtime. They also recognized that employers might pay employees overtime who are not eligible. If an employer inadvertently violates the law and in doing so doesn't pay an employee overtime they are eligible for, if they have a policy in effect that provides a grievance procedure, then the employer will not be subject to penalties in association with the FLSA. It just creates a mechanism that employees who feel they have been denied overtime they are eligible for have a tool to have their objections heard.

Resolution by Trustee Sullivan, seconded by Trustee Miller

WHEREAS, recent amendments to the Federal Fair Labor Standards Act (FLSA) have redefined those employees who may be eligible for overtime compensation and the circumstances under which they may be eligible for same, and

WHEREAS, such law created a "safe harbor" for employers who inadvertently failed to pay overtime compensation to eligible employees, and

WHEREAS, such safe harbor requires the formalization of an overtime compensation policy and procedures to resolve disputes for overtime compensation eligibility, and

WHEREAS, Village Manager Azzarelli has directed the preparation of an Overtime Policy to assure the Village of the protection of the "safe harbor", and

WHEREAS, this Board has reviewed this policy and procedures.

NOW THEREFORE BE IT RESOLVED, that the Village of Horseheads Board of Trustees does hereby adopt the Overtime Policy and Procedures for resolution of disputes regarding same, and be it further

RESOLVED, that this policy shall be incorporated in and become a part of the Village of Horseheads Employee Manual effective immediately.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Discussion and Possible Action on Hazard Mitigation Plan - Village Manager- joint plan developed by Town and Village, worked with all emergency services and with the county. Town approved already. I provided the Board with the executive summary. The plan is very important. Provides documentation for procedures to address any hazards, also has to be adopted to apply for grants to mitigate any hazards.

Mayor Gross - how often do they do this.

Atty. Mustico - I think this is an update from a couple years ago.

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Resolution by Trustee Miller, seconded by Trustee Sullivan

BE IT RESOLVED, that the Hazard Mitigation Plan for the Town and Village of Horseheads dated October, 2004 be received and approved, and same is to be placed on file in the Village Clerk's Office.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye

Trustee Miller: Aye
Trustee Sullivan: Aye

Resolution by Trustee Swartz, seconded by Trustee Catlin

BE IT RESOLVED, that a public hearing is hereby scheduled for Thursday, January 13, 2005 at 7:05 p.m. regarding the establishment of a Retirement Contribution Reserve Fund.

Roll Call Vote:

Mayor Gross: Aye
Trustee Catlin: Aye
Trustee Swartz: Aye
Trustee Miller: Aye
Trustee Sullivan: Aye

Resolution by Trustee Miller, seconded by Trustee Sullivan

BE IT RESOLVED, that due to the Christmas holiday, the regularly scheduled Board of Trustees meeting of Thursday, December 23rd, 2004 is hereby cancelled.

Roll Call Vote:

Mayor Gross: Aye
Trustee Catlin: Aye
Trustee Swartz: Aye
Trustee Miller: Aye
Trustee Sullivan: Aye

Resolution by Trustee Sullivan, seconded by Trustee Miller

WHEREAS, Keuka Properties LLC (Keuka) is the owner of premises situated in the Village of Horseheads, located on Gardner Road commonly known as Tax Map Parcel #48.20-5-8.1 comprised of approximately 23.2 acres, and

WHEREAS, Keuka has represented that it has entered into a sales agreement with Belosky Construction, Inc. (Belosky) for the sale of a portion of the premises. Said parcel under contract is comprised of 7.14 acres fronting on Gardner Road and is depicted on a survey prepared by Weiler Assoc. entitled Map of Part of Lands of Keuka Properties LLC, Job #12469.03 last revised October 18, 2004, and

WHEREAS, Belosky, with the authorization of Keuka has made application to the Village of Horseheads for rezoning of the 7.14 acre parcel from R-1 Residential to P-1 Planned Unit Development, and

WHEREAS, Belosky has provided Village staff with concept documents indicating a desire to develop the premises to multi-family dwellings, and

WHEREAS, such documents as noted above are purely conceptual in nature, do not constitute a site plan and have not been submitted nor reviewed for purposes of establishing the approved use for the Planned Unit Development, but are purely informational, and

WHEREAS, the 7.14 acre parcel is not within 500' of any zone, structure, use or property requiring referral to the Chemung County and Town of Horseheads Planning Boards.

NOW THEREFORE BE IT RESOLVED, that the application of Belosky Construction, Inc. for

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rezoning of a portion of lands on Gardner Road to Planned Unit Development be received and forwarded to the Village Planning Board for its review and comment, and be it further

RESOLVED, that a public hearing on said application is hereby scheduled for Thursday, January 13, 2005 at 7:10 p.m.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Motion by Trustee Swartz, seconded by Trustee Miller, that an item regarding Probationary Appointment to Fire Department be added to the agenda.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Resolution by Trustee Miller, seconded by Trustee Swartz

BE IT RESOLVED, that this Board hereby approves the one-year probationary appointment of Miles R. Baker, Sr. to the Village of Horseheads Fire Department.

Roll Call Vote:

Mayor Gross:	Aye
Trustee Catlin:	Aye
Trustee Swartz:	Aye
Trustee Miller:	Aye
Trustee Sullivan:	Aye

Village Manager Azzarelli - need to set up some dates for workshops for the Board to review the budget, water rates, and goals and objectives.

After brief discussion the Board agreed to the following dates and times:

- 1) Jan. 13th, 5:00pm - Budget and Goals/Objectives

- 2) Jan. 20th, 5:00pm - Goals/Objectives
- 3) Jan. 27th, 5:00pm - Water Rates

Village Manager Azzarelli - several people have approached me about the water charges to Town & County Fire Dept. Apparently we don't charge T&C for water at the fire station. People have commented about it. I don't know what the agreements have been. I'm sure there is history that I'm not aware of.

Bob Skebey - only time we use water is possibly to fill trucks back up. And sometimes guys washing their cars.

Clerk-Treasurer Cunningham - Since I've been here we've never charged them, nor do we charge the Town Hall for water.

Mayor Gross - were there specific concerns?

Village Manager - no, just with all the discussion over the water department, I wanted to see if there is an agreement we're not aware of.

Trustee Catlin - thanked everyone who sent cards and letters.

Atty. Groff - the purchase of the Carpenter property is likely to close next Thursday. The Village is involved with some PBA grievances. The attorney representing PBA has pneumonia and now

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everything is delayed and assigned to another attorney. Will keep Board updated.

Atty. Groff- Planning Board items. Still at a point where we need to finalize the definition of prof. offices for overlay zone. We enacted legislation several months ago as a stop gap measure rolling it back to what it had been previously. There has been some consideration given to expanding definition. We do need to move forward on that and finalize it. Also to modify the overlay zone itself, possibly eliminating one section on Grand Central and perhaps trying to change or relocate that to another location. That is an issue that needs to be considered and ultimately acted on by this Board. The issue of porches has also come up. The Board of Trustees created an authorization for limited front porch areas to encroach upon setback zones in our law for residences. You said that if the front porch area was no greater than certain dimensions it would not be considered an encroachment. A number of variance applications on this have come to the Zoning Board of Appeals. They have been granted for areas greater than the exception. Apparently there was a request by the ZBA that the Plan. Bd. reviewed it for a greater dimension. This needs to be considered also and eventually acted upon.

Mayor Gross - what about signs. Need to work on that too.

Chief Kole - We're about to enforce 5 ton limit again now that Route 13 is open.

Mike Stenpeck - Our Plan. Bd. discussed a possible business complex down by the Amber Court area. I hope the Board considers it.

Tess Banfield - the lights in the square look wonderful.

Mayor Gross - I did get a call regarding the railroad tracks on Westlake St. and on Franklin St. Deteriorating again. Wondering if we could call Norfolk Southern and follow up with a letter.

Mayor Gross - commend everyone on work done in Hanover Square. Hitching posts donated to Village by Steve Michnich. We should send a letter to Steve Michnich thanking him for that.

Mayor Gross - I'd like to thank Sonora Gardens. Together we've planted 2700 daffodil bulbs on Grand Central Ave.

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

Respectfully submitted,

Sharron Cunningham
Clerk-Treasurer

/rmb