

June 11, 2015

A meeting the Village of Horseheads Board of Trustees was held on the above date at 8:30 a.m.

Present were:

Village Board and Staff

Mayor Donald Zeigler
Trustee Ron Swartz
Trustee George Koliwasky
Trustee Mike Skroskznik
Trustee Brad Lytle
Village Manager Walt Herbst
Village Attorney John Groff

Clerk-Treasurer Sharron Cunningham
Don Gaylord, Water Dept.
DPW Matt Mustico

Others

Dave Padgett, W. Franklin St.
Wayne Brubaker, Gardner Rd.
Patricia Gulich, Marshall St.
Jeannine Zimmer, Matthew Cir.
Mike Swasta, Watkins Rd.
Dave Radin, S. Main St.

Rose Apgar, S. Pine St.
Louise McIntosh, Renwick Lane
Eileen Patocka, Watkins Rd.
Pat Gross, W. Broad St.
Debi Lytle, Grand Central Ave.
Al Edwards, Ridge Road
Brooke Owen, Breesport

Resolution by Trustee Koliwasky, seconded by Trustee Swartz

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of May 28, 2015 be dispensed with and the same stand approved as entered by the Clerk.

Trustee Lytle - I thought the minutes were very abbreviated. Still think we should have audio made available for everyone. Any idea when our IT people will be getting back to us on that.

Village Manager - It won't take long, I sent an email on this. They are exploring it.

Trustee Lytle - I felt much of the conversation regarding hiring a code officer wasn't reflected in the minutes.

We discussed whether the Town Supervisor would help us in our code enforcement department. I spoke to him again - he said he would be happy too. I think we should have a workshop on this matter to explore those possibilities.

Manager Herbst - Town is also doing shared services with City of Elmira, and that was part of the study we had done last year. Our own code officer made a very strong case for hiring a full time code person.

Trustee Lytle - he said we should have 100% dedication to the Village. My response is the same logic could be used for our police chief. Is it more important to have a code officer or police chief.

Manager Herbst - our police department has three Sergeants, each of whom has two subordinates. In Code Dept. we have one person. Motivation is different.

Trustee Koliwasky - Code Person is more hands on, out in the community every day. Whereas the Police Chief is more of an administrative position. The Chief is required by state law. He is behind the scenes running the department. Code Enforcement is out there on the streets, doing inspections, etc., enforcing the policies we set up. A strong point was made that we have been with the Town before on Code Enforcement and there were some problems.

Manager Herbst - PBA itself has gone to the County seeking to participate and explore a county police force. Can't overlook that fact.

Trustee Lytle - I believe that is a mischaracterization of the meeting that took place.

Trustee Skroskznik - so who is taking care of building permits right now.

Manager Herbst - Bob Young is still taking care of those. He's still a Village employee, part time.

Trustee Skroskznik - since I wasn't at the last meeting, and since there is a discrepancy between the audio and the typed version I will abstain from voting.

Roll Call Vote:

Mayor Zeigler	Aye
Trustee Swartz	Aye
Trustee Koliwasky	Aye
Trustee Skroskznik	Abstain
Trustee Lytle	No

Audience Participation

Dave Radin, S. Main St. - regarding the 56 acres of property on E. Franklin St., I represent my interest as being a co-author of comprehensive plan. I reviewed it today again. I worry about what would happen to that property if we didn't have control of it. If we turn this down the state would find a way to get rid of it somehow. I would like to know that something this close to the Village we would have a say and control over what happened down there. When we put together the comprehensive plan, our consultant said our plan was different than most because most are built around land use. Most other municipalities have open land that is available and the comprehensive plan helps define what it will be used for. In the Village, there is no more developable land. So when you look at some of the things the comprehensive plan called for, and recommendations - dog park, outdoor winter activities, community gardens - preservation of open space. Acquiring land and doing something with it will have a cost involved. But for something like this I'm sure there are a lot of grant opportunities out there. Since we have no developable land left in the Village, and this is something that is for the betterment of the quality of life, I think it would be a great opportunity.

7:10 p.m. - Public Hearing: Proposed Local Law - Rescind Tax Cap Law

At this time Atty. Groff declared open a public hearing regarding a proposed Local Law to rescind a previous local law regarding Tax Cap Override.

As nobody came forward to speak, Atty. Groff declared the public hearing closed.

Audience Participation (cont'd)

Louise McIntosh - I think it's true that we don't have any more public land in the Village and it would be wonderful to have those things, but this will cost money. I agree there are grants available, but you have to get the grants. This can cost the Village taxpayer a lot of money.

Pat Gross, W. Broad St. - I am also concerned about spending taxpayers money when we already have debt. And this is already next to the creek. Maybe we should be talking with the school and the Town too. How are we going to pay for this.

Mike Swasta, Watkins Rd. - Regarding code enforcement, it is a state mandated requirement that communities enforce the building codes. If the Village doesn't hire a code enforcement officer you are obligated to contract for one, or else the State will come in and provide the service at their cost. The position is much like a police chief, both administrative and enforcement. Should be a full time position. At one time there was at least one or two people providing support to our Code Enforcement Officer.

Rose Apgar, S. Pine St. - Depending on which scenarios the school votes on, if it's the one where they eliminate all elementary schools, you won't have use of those lands unless you have a deal with whoever buys them.

Al Edwards, Ridge Road - Distributed photos of some Village recreation facilities. Said only one of our tennis courts is even playable. Should give some thought to dealing with what you already have first. There was a large number of people there last week for Relay for Life.

Financial Reports

Manager Herbst - General Fund receipts down \$54K, beginning to reflect drop in sales tax. Staff has been keeping expenses down. On Water Fund, difference in receipts is because the filtration plant funds came in in 2014, then transferred to the bond fund as required. Expenses down 82K due to health insurance savings.

June 11, 2015 (cont'd)

Resolution by Trustee Skroskznik, seconded by Trustee Koliwasky

WHEREAS, a proposed Local Law to Rescind Local Law #1 of 2015 to Override the Tax Levy Limit was received by this Board on May 14, 2015, and

WHEREAS, notice of a public hearing was duly published in the Elmira Star-Gazette, the official newspaper of the Village of Horseheads, and

WHEREAS, a public hearing was held by the Village of Horseheads Board of Trustees on June 11, 2015 and all parties in attendance had an opportunity to be heard in relation thereto, and

WHEREAS, the Village of Horseheads Board of Trustees after due deliberation finds it to be in the best interest of the Village to adopt the instant local law.

NOW THEREFORE BE IT RESOLVED, that the Village of Horseheads Board of Trustees hereby adopts said local law as Local Law #3 of 2015 entitled "A LOCAL LAW TO RESCIND LOCAL LAW #1 OF 2015 - TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GML 3-c FOR THE FISCAL YEAR 2015-2016", a copy of which is attached hereto and made a part hereof, and the Village Clerk-Treasurer hereby is directed to file same with the Secretary of State.

Trustee Lytle - so we pass the law and then rescind it every year?

Atty. Groff - in this instance we passed local laws allowing the budget to exceed the tax cap. The Village has not utilized that law to exceed the cap. The reason for rescinding is that since the tax cap legislation was originally initiated, the state has since adopted more laws saying that if you fail to rescind this law then the monies otherwise paid in terms of a rebate to taxpayers from Albany would not be returned to the taxpayers. That is the reason for rescinding it.

Roll Call Vote:

Mayor Zeigler	Aye
Trustee Swartz	Aye
Trustee Koliwasky	Aye
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Resolution by Trustee Koliwasky, seconded by Trustee Swartz

WHEREAS, approximately 56 acres of improved real property in the Town of Horseheads on E. Franklin Street, which has historically been used by the NYS Department of Correction Services and Community Supervision (Elmira Correctional Facility farmlands) has recently become available for disposition by New York State, and

WHEREAS, the Village of Horseheads has contacted NYS Office of General Services regarding the availability of same, and

WHEREAS, OGS would consider the transfer of said lands to the Village of Horseheads pursuant to Public Lands Law Section 34 for the purpose of "park and recreation", and

WHEREAS, the consideration for the transfer and conveyance is \$1.00, and

WHEREAS, the Village is informed and understands that such transfer would be subject to a reverter to the State of New York if the lands conveyed are not so used for park and recreation purposes, and

WHEREAS, Village Parks and Recreation Director Nate Nagle and Village Manager Walt Herbst have presented to this Board a conceptual plan for the utilization of the said farmlands by the Village for certain park, recreation and playground purposes including but not limited to walking paths, dog park, athletic fields, etc., and

WHEREAS, this Board is informed and believes that in the future certain existing parks and recreation facilities used by Village residents and others which have been temporarily used as athletic fields (Maple Grove athletic fields) will become unavailable for park and recreation purposes as they will be permanently utilized for Maple Grove Cemetery purposes, and

WHEREAS, to consummate this transaction and transfer a boundary line survey and legal description of the property are required.

NOW THEREFORE BE IT RESOLVED that Village Manager Walter Herbst is authorized and directed to take all necessary and reasonable steps to acquire the said lands from NYS Office of General Services for park and recreation purposes, pursuant to Public Lands Law Section 34, including but not limited to hiring a surveyor for preparation of a boundary line survey and legal description for said lands, to pay the required sum of \$1.00 for purchase of same, and to expend such other funds as are necessary and required for the acquisition of title to the real property including but not limited to creation and review of legal title, recording of deeds and other related or required documents, all as soon as may be practicable.

Atty. Groff - this resolution may need to be adopted at a subsequent time because the State offered us resolutions that had been used by other municipalities for similar land acquisitions. We haven't received those resolutions yet, so this one was drafted by me from what I think the law requires in order to pursue the acquisition of this property. If we learn that the state is not satisfied with the terms of this proposed resolution, it may be necessary to bring it back before you.

Trustee Koliwasky - I went with Nate over to look at the property. In talking to him, he's not just talking about ball fields, more of a community park. Ideas like archery, community garden, walking trails, cross country skiing, etc. Lots of ideas. There will be other costs, but Nate is not thinking of this as a short term program - 10-20 years upon completion. Yes there are many grants available - some 50/50, some more. Nate knows it will cost money to develop it, but the opportunities are limitless. He would like to do some workshops with the community to hear their ideas, like when we did the comprehensive plan. Maybe in all fairness should we table until we have Nate hear to discuss. Nate didn't indicate that it has to be done today.

Manager Herbst - I don't think they have a specific time frame, but the Governor's objective is to get rid of these lands. I suppose it depends on how much pressure OGS is getting. The initial investment for us would be to survey the land. National Parks Assoc. has a lot of grants available, and he also noted that NYS has \$10 Million in their budget for parks and recreation this year. I'm not persuaded that a delay is necessary. Nate's plan is to start out developing low cost uses over there like walking trails. We have literally tons of millings for those trails. We also have tons of clean fill that can be used. Other ideas for over there have been 5k races, concerts, family picnic areas, etc., those are all low cost projects.

Trustee Koliwasky - someone said it used to be a celery field, once NYS has had it has been successfully planted for corn and other vegetables. No more drainage problems than any other area in the Village.

Trustee Swartz - the expense at this point is \$4,000 for surveying?

Manager Herbst - that was an estimate, it may be less.

Trustee Swartz - doesn't the County have a surveying crew available.

Manager Herbst - I'm not aware, but I will check.

Trustee Swartz - if we vote on this tonight, but never do anything, the property goes back to the State?

Manager Herbst - yes, but as long as we are making some progress it will not revert back to the state.

Mayor Zeigler - the soccer fields near Maple Grove will become cemetery lands within five years. This could be our last chance to get this much land.

Trustee Skroskznik said they were supposed to get a conceptual plan. I would like to table it to see Nate's presentation.

Trustee Lytle - this could be one of the best things we ever did. But I don't think we have enough information. Only seen list of ideas, not conceptual plan. Can't we look at what additional costs would be. I think we should table it. We were introduced to this at the last meeting.

Trustee Koliwasky and Trustee Skroskznik agreed to withdraw the motion on the floor.

Motion by Trustee Koliwasky, seconded by Trustee Skroskznik, that we table this matter and set up a workshop so Nate can make a presentation.

June 11, 2015 (cont'd)

Roll Call Vote:

Mayor Zeigler	Aye
Trustee Swartz	Aye
Trustee Koliwasky	Aye
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Motion by Trustee Koliwasky to add the following item to the agenda:

- Probationary Appointment to Fire Department

Roll Call Vote:

Mayor Zeigler	Aye
Trustee Swartz	Aye
Trustee Koliwasky	Aye
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Resolution by Trustee Koliwasky, seconded by Trustee Swartz

BE IT RESOLVED, that this Board hereby approves the one-year probationary appointment of Brooke Owen, Horseheads, NY to the Village of Horseheads Fire Department.

Roll Call Vote:

Mayor Zeigler	Aye
Trustee Swartz	Aye
Trustee Koliwasky	Aye
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Mayor Zeigler congratulated Miss Owen on her appointment.

Trustee Skroskznik - want to resolve something that happened in 2013 regarding Rick McNeilly coming in to accept his audit. I was not able to attend that meeting. During that meeting there was a motion made regarding amending the code of conduct relative to the Board Members and Village Manager carrying firearms. After this was passed residents came to me saying they were dissatisfied with this. We also received a letter from Mrs. Radin saying the motion should never have made it onto the floor. Trustee Koliwasky asked that we revisit this later on. If we're giving ourselves special privileges we should also give to the residents. I did write to the NYS Department of Open Government, and they said there was no urgency for this meeting and special motion.

Motion by Trustee Skroskznik to rescind that motion and return it to the original language. Seconded by Trustee Lytle.

Trustee Koliwasky - As a Village Trustee if I have my hand gun for whatever reason, and I go over to the pit now I am in violation. But then anyone sitting out in our audience with a hand gun can go there and they are not in violation.

Trustee Skroskznik - we should have a policy for the public too. It's no different if its Teal Park or anywhere else.

Discussion ensued.

Mayor Zeigler - this motion was not done back then so we can be 'gun toting'. There was a situation that came to our attention. A Trustee on a Village owned parking lot goes into a gun store and buys a gun and comes out. They are in violation. I do the same. To me this law fixed that.

Trustee Skroskznik - there is a difference between an employee, everyone sitting at this table is an employee. We have a policy and procedure that we have to abide by. The policy for many years said no employees other than police officers shall carry firearms. I don't know what the reasoning was to change this during a special meeting. This policy gives everyone here at the table, excluding the

attorney, authority to carry a firearm on Village premises.

Mayor Zeigler - I believe you can't carry a firearm in this building because it has a court room. One of our judges told us that.

Trustee Skroskznik - you amended this policy, and the residents feel like they are second class citizens. There was no reason to amend this. Trustee Koliwasky said he would look into it after talking to Brad Layton.

Trustee Koliwasky - I did talk with him, he was misinformed. He thought that we were the only ones who could carry firearms on Village property. When he found out that he could, and we as Village employees could not, he understood.

Trustee Skroskznik asked Atty. Groff how familiar he is with Robert Freeman from NYS Committee on Open Government. In a letter to me he said there should have been no other business at that meeting other than what it was called for.

Atty. Groff - Mr. Freeman has a number of different opinions regarding this subject. You haven't shared that letter with me so I can't comment on the specifics. I believe that if he was asked the question on whether a meeting is required to have an agenda he would answer no it does not. Therefore any subject can be brought up at a meeting as long as its brought up properly. This subject apparently has not been discussed in two years. Trustee Lytle stated earlier that you like things to be brought up in a manner that gives you time to act, this is just like that situation. You can vote on this motion or somebody could vote to table to a subsequent meeting. But there is a motion on the floor.

Trustee Lytle - so if a resident has a concealed carry permit, they are allowed to go into Sullivan Park.

Manager Herbst - that is correct.

Trustee Lytle - so if we had a concealed carry permit and went there I would be in violation.

Manager Herbst - yes.

Discussion ensued regarding the difference between a building, property, and premises.

Atty. Groff - I believe the definition of premises includes all of those things.

Trustee Lytle - I've brought this up twice since you passed it. There was a reason why you guys did this.

Roll Call Vote to Amend the Policy Back to the Original Language:

Mayor Zeigler	No
Trustee Swartz	No
Trustee Koliwasky	No
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Trustee Swartz asked what the list of streets are for repaving. Matt Mustico said he will email the list to them. I meet with the contractor tomorrow.

Trustee Lytle - Still have not gotten a good answer regarding changing the meeting times. In June 2013 you changed the second meeting to 8:30 a.m. It happened that Trustee Skroskznik wasn't at that meeting. I wasn't at that meeting. I don't know what the reason was for this. I believe it was said that there were letters sent from residents requesting this. It was asked for us to see those letters. Trustee Skroskznik who was elected has to be at work on the second meeting. I'm not sure the reasoning why it happened the way it did. He said he wasn't asked his input. I don't think it's fair. I hear reasons like having the department heads here during the day. I believe we should go back to two evening meetings.

Motion by Trustee Lytle that we go back to two evening meetings.

Mayor Zeigler - I propose we have a workshop on this, perhaps when we meet to talk with Nate.

Trustee Koliwasky - I believe I've given my reasons more than once. I've had constituents talk to me about having the chance to come during the day for a meeting. The last two organizational meetings we voted unanimously to keep the meetings the way they are - one evening, one morning.

June 11, 2015 (cont'd)

Trustee Lytle - well that was my first meeting. We were voting on many things.

Trustee Skroskznik - at the organizational meeting in 2012 the Board voted to have two evening meetings.

Trustee Koliwasky - and there have been two org meetings since then and it was not brought up.

Trustee Koliwasky - to Trustee Skroskznik - why can you arrange time off on a Tuesday to carry petitions, but when your being paid to be at a Board Meeting you can't be here. We can arrange schedules for certain things, then we can arrange schedules because we get paid to come to this meeting.

Trustee Skroskznik seconded Trustee Lytle's motion to go back to two evening meetings.

Roll Call Votes:

Mayor Zeigler	No
Trustee Swartz	No
Trustee Koliwasky	No
Trustee Skroskznik	Aye
Trustee Lytle	Aye

Trustee Lytle stated that there are some things on the Village website that are outdated, especially on the police department page.

Mayor Zeigler - can we determine how many people go to our web site.

Manager Herbst - we can look into this.

Trustee Lytle asked the status of the police chief agreement.

Manager Herbst - the 207c issue has yet to be resolved. We are checking with our insurance carrier. Should know by June 15th. One workers comp carrier has agreed to cover us for 207c.

Manager Herbst reported on the following items:

- Trash vouchers available for our residents starting June 18th for the month of July
- Energy Performance Schedule is in your folder. Water meter installation will probably start July 6th.
- Our Community Service Officer starts Monday, duties are property maintenance, etc.
- We have interviewed for Code Enforcement Officer, following up on that.
- Can't pave Steuben Street because NYSEG hasn't started their gas line replacement yet. We can't do anything until that is over.
- Receive Platinum Award by Engineering Association of NY for our water treatment plant design at Well #5.

Atty. Groff reported on the following items:

- Walt and I have been working on updating the Employee Manual. Once we have completed initial development it will be submitted to you for review and comment, and hopeful adoption.
- Koppers Pond - hydrology of pond has changed dramatically. It is now substantially diminished in size. EPA is requiring we update our initial analysis and proposed remediation plan.
- Well #5 - we're pursuing recertification of that well through the Susquehanna River Basin Commission. I've been in consult with a couple of engineering firms to give proposals to assist us. It's a very technical process and there are not people on Village staff that have the technical skills to complete the application process. Once the proposal are in they will be analyzed and we will pursue the recertification process.

As there as nothing further to come before the Board, the meeting was adjourned at 8:20 p.m.

June 11, 2015 (cont'd)

**LOCAL LAW #3 OF 2015
A LOCAL LAW TO RESCIND LOCAL LAW #1 of 2015 -
TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL
MUNICIPAL LAW 3-C FOR THE FISCAL YEAR 2015-2016
Adopted 6/11/15**

Section 1. Local Law #1 of 2015 adopted on March 12, 2015 pursuant to Subsection 5 of GML Section 3-c whereby the Village of Horseheads authorized the adoption of a budget for the fiscal year 2015-16 that required a real property tax levy in excess of the amount otherwise proscribed in GML Section 3-c be and the same is hereby rescinded.

Section 2. SEVERABILITY. If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. REPEALER. All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. EFFECTIVE DATE. This local law shall take effect immediately.

Respectfully submitted,

Sharron Cunningham
Clerk-Treasurer

/rmb