

**February 12, 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, Clerk-Treasurer Sharron Cunningham, Police Chief Dave Kole, Public Works Director Chris Lawrick, Planning Board Chairman Bob Skebey, Planning Board Members Bob Fischer and Mike Stenpeck, and Manager's Assistant Rachel Johnson. Also present were Bernie Wiegler, 111 Boorum Pl.; Addie Kelly 115 Myers Dr.; Ryan Wheeler, 112 Canal St.; Louis & David Murray, 204 Lee Ave.; Ray and Lorie Cass, 22 Redwing Lane; Eddie Merritt, 509 N. Carroll St.; Tess Banfield, 134 Catalpa Dr.; Don Walker, 504 Scott Lane; Sandra Murray, 1149 Veteran Hill Rd.; Jacqueline Benjamin, 763 Ridge Road; James Lynch, 303 W. Mill St.; Charlie Crane, Montour Falls; Chemung Co. Legislator Tom Sweet; Tom O'Mara, Attorney for James Lynch; Elliott Blauvelt, Jr., 114 Fletcher St.; Robert Emmick, 709 Taylor Road; Martha Hauser, 407 W. Broad St., and several Officers of the Horseheads Police Department.

Chief David Kole presented Officer David Murray with a commendation for his role in apprehending a bank robber. Jackie Benjamin from Bath National Bank also presented Officer Murray with a commendation on behalf of the bank.

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the reading of minutes of the Board of Trustees Meeting of January 22, 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 Swartz, seconded by Trustee Sullivan

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

General -	\$168,015.88
Water -	\$ 26,629.80
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 Clerk-Treasurer is hereby authorized to transfer \$54,050.00 from the FY2003-2004 General Capital Reserve Fund - I86 Betterment, for the waterline replacement project in association with the Route 17/I86 Bypass.

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 Justice Reports for January 2004, and the Police Reports for November and December 2003 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

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At this time, Atty. Groff declared open a Public Hearing on Proposed Local Law Amending Fishing Regulations.

Don Walker - Chemung Co. Federation of Sportsmen. This amendment would allow worms to be used for children 12 and under trying to encourage kids to fish. Would also keep people over 16 and under 64 from fishing there.

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

Resolution by Trustee Swartz, seconded by Trustee Catlin

WHEREAS, the Village is considering a local law Amending Local Law #3 of 2002 Pertaining to Fishing Restrictions at Mill Street Pond, and

WHEREAS, this proposed local law was presented to this Board on January 16, 2004 and notice of a public hearing regarding this matter was published in the official newspaper of the Village and a public hearing regarding same was held on February 12, 2004, and

WHEREAS, the Village Board of Trustees has given this matter due consideration.

NOW THEREFORE BE IT RESOLVED, that said Proposed Local Law Amending Local Law #3 of 2002 Pertaining to Fishing Restrictions at Mill Street Pond is hereby adopted and the Village Clerk-Treasurer is directed to file same with the Secretary of State as required by law.

Roll Call Vote:

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

At this time, Atty. Groff declared open a Public Hearing on Proposed Local Law on Fire Insurance Proceeds. As nobody came forward, Atty. Groff declared the public hearing closed.

Resolution by Trustee Swartz, seconded by Trustee Catlin

WHEREAS, the Village is considering a local law Regarding Fire Insurance Proceeds, and

WHEREAS, this proposed local law was presented to this Board on January 16, 2004 and notice of a public hearing regarding this matter was published in the official newspaper of the Village and a public hearing regarding same was held on February 12, 2004, and

WHEREAS, the Village Board of Trustees has given this matter due consideration.

NOW THEREFORE BE IT RESOLVED, that said Local Law Regarding Fire Insurance Proceeds is hereby adopted and the Village Clerk-Treasurer is directed to file same with the Secretary of State as required by law.

Roll Call Vote:

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

Village Manager Azzarelli - there is an opportunity for the Clerk-Treasurer to be appointed for 4 years as a result of the Mayor and Trustee terms being extended to 4 years. Its in our best interest to make all terms the same.

Trustee Miller - I'm in favor of it.

Mayor Gross - is there a reason to change it.

Trustee Sullivan - Its good for continuity.

Atty. Groff - this act is subject to a permissive referendum. Its necessary for notice of this resolution to be published and posted and if there is sufficient interest, then it can go to referendum, but if there isn't any it becomes effective. It is published in the newspaper and posted in locations

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throughout the village.

Mayor Gross - what locations.

Atty. Groff - Similar to the election law - 6 places in the Village. Village hall, Town Hall, post office, public buildings, fire station, private buildings open to general public, bulletin board at Jubilee, places of that nature.

Trustee Sullivan - so it only takes one person to object?

Atty. Groff - no, there has to be a petition signed by at least 20% of the people who voted in the last Village election, and filed with the village within 30 days of today, then it will be presented as a proposition at a general election. There isn't sufficient time to get on Village election this year, so it could go on the general election in November, or next Village election. But if you don't get a petition then its irrelevant.

Resolution by Trustee Miller, seconded by Trustee Catlin

WHEREAS, the Clerk-Treasurer of the Village of Horseheads presently has a term of two years, the current term expiring April 2004, and

WHEREAS, Village Law Section 3-302 Subsection 6 provides in pertinent part that the Board of Trustees may by resolution or local law extend the term of the Clerk-Treasurer from two years to four years, if the terms of office of the Mayor and Trustees of such Village are four years, and

WHEREAS, the terms of office of the Mayor and Trustees of the Village are four years, and this Board wishes to change the term of office of the Clerk-Treasurer position from two to four years.

NOW THEREFORE BE IT RESOLVED, that the term of office of Clerk-Treasurer for the Village of Horseheads is changed from two years to four years. This resolution is subject to permissive referendum. The Clerk-Treasurer will post and publish notice of the adoption of this resolution as required by Election Law Section 5-104 and Village Law Section 9-902. This resolution shall not become effective until 30 days after its adoption, or after approval by vote of Village electors if within 30 days of its adoption a valid petition is filed to compel a special Village election regarding the proposed change in term of office.

In the event that this resolution shall become effective, the term of office of the Clerk-Treasurer shall commence at the start of the official year following appointment in April 2004 and shall extend to April 2007, thereafter the term of office of the Clerk-Treasurer shall be four years.

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 Sullivan

BE IT RESOLVED, that a proposed local law Regarding Festivals and Parades is hereby received, and a public hearing regarding same is hereby scheduled for Thursday, February 26, 2004 at 7:05 p.m.

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 Catlin

BE IT RESOLVED, that a proposed local law on Restructure of Departments is hereby received, and a public hearing regarding same is hereby scheduled for Thursday, February 26, 2004 at 7:10 p.m.

Roll Call Vote:

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

Presentation by Thomas O'Mara, Atty. for James Lynch, Request for Amendment to Zoning Code - Atty. Thomas O'Mara, 243 Lake St., on behalf of VanBuskirk Lynch Funeral Home - would like to make application for zoning amendment to allow for special use for a funeral home in an R-2 district. The Lynch funeral home has been in operation for over 100 years, and has been located where it is now for 50 years. Due to circumstances out of his control, a relocation is necessitated in the near future. Mr. Lynch has a purchase offer for 318 W. Broad St., the former American Legion building. Its in an R-2 district.

Trustee Miller - Would the name stay the same.

Jim Lynch- yes, would have to go through the State to change name. George has been gone since 1950, might take his name off but essentially will remain the same. My intention would be to demolish the present structure and build a brand new facility. 100% handicapped accessible, just one-story, no steps. Just need to add funeral homes under special uses for R-2.

Tom O'Mara - the list of special uses permitted now is pretty wide-ranging. This wouldn't really change it.

Atty. Groff - if you were to add the use to the code as a special use in R-2 it is a two-step process. First step is to change law. If you do that, you'd be permitting that as a Special Use in all R-2 districts in the Village. Then, the applicant would go through a second procedure to get the special use permit. The requirements of a special use permit is similar to site plan review, reviewing things like ingress/egress, parking, etc.

Trustee Swartz - Does that property go to the tracks. Jim Lynch - No, Conrail owns a certain portion, the Legion had a parking area where the sidewalk meets the tracks. My intention would be to curb it so there is just the road between the tracks.

Jim Lynch - would tear down existing building. I have had it inspected for hazardous waste. There are some old heating pipes with asbestos. Those would have to be removed properly, and some floor tiles. I'll take care of all that.

Trustee Catlin - would be a great improvement to the neighborhood.

Village Manager Azzarelli - I recommend that we refer this to the three planning agencies.

Resolution by Trustee Swartz, seconded by Trustee Miller

WHEREAS, 318 W. Broad Street also known as the former American Legion is presently zoned R-2 Two-Family Residential, and

WHEREAS, VanBuskirk-Lynch Funeral Home, Inc. has entered into a contract for the purchase of the property contingent upon its ability to utilize same as a funeral home, and

WHEREAS, such use is not presently permitted in an R-2 Zone by right, or by special use permit, and

WHEREAS, an application has been received to amend the zoning law to permit funeral homes as a Special Use in R-2 Zones.

NOW THEREFORE BE IT RESOLVED, that this application be received and referred to the Village, Town and County Planning Boards for their review and comment.

Roll Call Vote:

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

Presentation by East Resources, Inc. on Leasing of Lands for Natural Gas Drilling - Charles Crane -

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East Resources - worked for them for about 4 years. Did seismic work on Route 13, showed a fairly good location for natural gas. Village owns 35 acres out there, used for water supply. This would be a non-surface lease, no drilling on it. Only one well drilled in 640 acres. 8,000 feet between wells. We'd like to lease the property, but not drill.

Atty. Groff - the area is now being actively mined throughout the County. The type of lease is a mineral lease which would allow them the ability to remove the natural gas, then a royalty is paid to the landowner for the gas. The industry has been quite consistent to restricting the royalty to 1/8. If gas is found and removed we'd be paid 1/8 of the market value.. The other 7/8 is retained by the company. Your actual royalty is determined by the percentage of the land that you own that is in this 640 acre unit. They also ascertain the boundaries of the location of the gas deposit, then they figure out who owns what, then determine how royalty is allocated. Because of the water supply, he's now offering a non-drilling lease. They're not interested in doing anything on the surface, just putting a well on someone else's property and removing gas. You need to examine the lease, see if its something your interested. In the event you don't do it, there is a process called forced integration. NYS does not allow one property owner to hold others hostage by not leasing. Effectively if they are successful of getting 80% of the unit leased, then the state will force the other 20% who refused to sign.

Mayor Gross - What protection will they offer.

Atty. Groff - Typically they provide a guarantee that if they effect the water supply, they will replace it. I would not recommend that you allow a surface lease under any circumstances. The gas is no where near worth what the well is. But it doesn't mean they can't drill off someone else's property. If they drill far enough away from your well, there is little likelihood of adverse impact; however the Village should have an opportunity to comment on where they drill a well. Once they identify sites then they have to apply to DEC for approval. DEC has to consider our water supply. They are already aware of its existence.

Mayor Gross - do we have a map.

Charlie Crane - the map of the setting of the unit is done by DEC, and would be set by a judge. After the well is drilled, then they petition the state to set the size of the unit, then everyone is notified, goes to this hearing, and then they accept or not accept the size of that unit. Then there would be a map drawn up over a tax map.

Atty. Groff - they wouldn't give you any of that information yet. But once the process goes further, DEC does go through review and approval process. Nonetheless, its meaningful for us to make sure that DEC is aware of our well, though that information is already matter of record. They're not going to do anything to adverse our water supply.

Mayor Gross thanked Mr. Crane for his presentation.

Resolution by Trustee Miller, seconded by Trustee Swartz

BE IT RESOLVED, that an item regarding Waiver, 30-Day Notice Requirement, Jake's Saloon - Smoking Waiver 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 Swartz, seconded by Trustee Sullivan

WHEREAS, Brad P. Layton is the owner and operator of an establishment known as "Jake's Saloon" located at 135 W. Franklin Street, Horseheads, NY,

WHEREAS, such establishment has been issued a liquor license by the NYS Liquor Authority, and

WHEREAS, Mr. Layton has represented to this Board that he wishes to make modifications to his liquor serving establishment to construct a smoking room inside thereof, and

WHEREAS, he has represented that he has received a building permit therefor, and further has represented that such construction is subject to the review and approval of the Chemung County Health Department and the NYS Liquor Authority, and

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WHEREAS, the NYS Alcoholic Beverage Control Law requires that municipalities in which such establishments are located are afforded notice of liquor license changes and a 30-day period within which to evaluate, respond and make recommendations regarding liquor license applications and changes, and

WHEREAS, this Board has been asked to waive the 30-day waiting period provided in ABC Law Section 64.2(A), and

WHEREAS, this Board is informed and believes that any changes resultant from the proposed modification would be minimal and have inconsequential impact on the community in light of the establishment's pre-existing liquor license.

NOW THEREFORE BE IT RESOLVED, that Mayor Patricia Gross is authorized and directed to submit a letter to the NYS Liquor Authority advising that the Village requests and consents to waiver of the statutory 30-day notice and waiting period in accordance with ABC Law Section 64.2(A).

Roll Call Vote:

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

Village Manager Azzarelli reported on the following items:

- Route 14 presentation by DOT on February 17<sup>th</sup>.
- On March 11<sup>th</sup>, the Town assessor will give a presentation to the Board regarding property assessments.
- Parade on St. Patricks Day at 3:30. Up Franklin then north to the square.

Chief Kole - next Tuesday the Dept. will play basketball against the kids, at the high school.

Mike Stenpeck - I called my insurance agent regarding the rating on fire department, was a 6, should be a 4. Still trying to figure this out. Got to be happening to other people. Should put in newsletter so people can check fire protection rating policy on their insurance policies.

Addie Kelly - commended firemen who responded to her house. Carbon monoxide detector went off.

Tess Banfield - Are all of elected people at 4 year terms.

Atty. Groff - certain officers are appointed, some by Mayor, some by Board. Clerk-Treasurer is allowed by law to have a term that is same as Board and Trustees.

Elliott Blauvelt, Jr. - thanked DPW for clearing streets so well.

Tom Sweet, Chemung Co. Legislator - like to thank the many people that came to Arnot Mall in last few months to sign protest letters for medicaid problem. This past Tuesday I went to Albany to present 10,000 letters and signatures to Assemblyman Winner and Gov. Pataki. Many thanks to our County Executive for all his efforts.

Mayor Gross - Is there an update on the marsh trail.

Village Manager Azzarelli - our end is fine, other end has problems.

Mayor Gross - this will hopefully get accomplished.

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

Respectfully submitted,

Sharron Cunningham  
Clerk-Treasurer

/rmj