

May 13, 2004

A meeting of the Village of Horseheads Board of Trustees was held on the above date at 7:00 p.m. Present were Deputy Mayor Kevin Sullivan, Trustees Earle Catlin, Ronald Swartz and Howard Miller, Village Manager Vincent Azzarelli, Village Attorney John Groff, Planning Board Chairman Bob Skebey, Planning Board Member Mike Stenpeck, Recreation Director Al Edwards, Police Chief Dave Kole, Justice William Driscoll, and Clerk-Treasurer Sharron Cunningham. Also present were Joyce Wasserman, 2977 Westinghouse Road; Peter May, 2840 Westinghouse Rd.; James Lynch, 303 W. Mill St.; Tom O'Mara, attorney for Mr. Lynch; Vince DeLaura, 2750 Westinghouse Road, Amanda Ardini, 2750 Westinghouse Rd.; Diana Thatcher, 2750 Westinghouse Rd.; Michael Niedzielski, 2977 Westinghouse Road; Michele Locey, 102 Lee Ave.; Bernie Weigle, 111 Boorum Pl.; Tess Banfield, 134 Catalpa Dr.; Kirk Vieselmeyer, architect for James Lynch; Clay Ambrose, 931 Oak Hill Dr.; Frank L. Maximiek, 4069 Rockwell Ave.; Michele Cersoli, 1005 Magee St., Elmira; Sandy Ashendorf, 209 William Lane; Teddy Wilcox, 729 Westlake St.; Marilyn Hall, 702 Tift Ave.

ABSENT: Mayor Patricia Gross

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of April 22, 2004 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Swartz, seconded by Trustee Catlin

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

General Fund -	\$118,761.02
Water Fund -	\$147,403.20
Trust & Agency -	\$ 2,959.10

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Miller, seconded by Trustee Swartz

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

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that the Planning Board Minutes of April 27, 2004 be received and placed on file in the Village Clerk's Office.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Swartz, seconded by Trustee Catlin

BE IT RESOLVED, that the Traffic Commission Minutes of April 22, 2004 be received and placed on file in the Village Clerk's Office.

Roll Call Vote

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the Zoning Board of Appeals Meeting of April 14, 2004 be received and placed on file in the Village Clerk's Office.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Catlin, seconded by Trustee Miller

BE IT RESOLVED, that a public hearing regarding the application of James Lynch for a Special Use Permit to operate a Funeral Home is hereby scheduled for Thursday, May 27th, 2004 at 7:05 p.m.

Village Manager Azzarelli - Mr. Lynch submitted revised plans.

James Lynch - We reduced the overall size of the building. There was a question regarding our use of Legion Lane. We initially thought having stop signs on Legion Lane would be better traffic control. Option B eliminates the use of Legion Lane and would have no access on Legion. Will come out on John St. to alleviate any traffic going directly on Broad St. We downsized about 8 feet on the western boundary. Garage has been eliminated. More lawn space.

Trustee Swartz - Did you contact the railroad about Legion Lane?

O'Mara - would not fit in time element that Mr. Lynch has in mind.

Deputy Mayor Sullivan- are you going with Option B?

Village Manager Azzarelli - will submit again to Planning Board for review - Option B has more greenspace.

Mr. O'Mara- Planning Board reviewed Option A and B regarding Legion Lane. Will use Option B as a course of action.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Miller, seconded by Trustee Catlin

WHEREAS, it is a goal, objective and duty of the Village of Horseheads to provide a safe and healthy environment for employees, and

WHEREAS, New York State Public Health Law, Article 13-E, provides for the implementation of regulations to establish "smoke-free environments".

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Horseheads hereby adopts the attached smoking policy effective immediately, superceding all prior smoking policies.

Atty. Groff - The State mandated a smoking policy about ten years ago which prohibits smoking in municipalities and municipal vehicles. Purpose is to update current policy to make it consistent with state mandated law.

Trustee Swartz - what changed?

May 13, 2004 (cont'd)

Atty. Groff - Private office occupants could mandate who smoked in area. Also allowed area within the municipality for smoking and allowed smoking in vehicles. New policy prohibits smoking inside the Municipal Building entirely - no smoking area within building. Municipal vehicles no smoking at all.

Trustee Swartz - can employees smoke under a canopy.

Atty. Groff - The answer to that is no according to the state

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that the proposed Local Law on Festivals and Parades is hereby received, and a public hearing regarding same is scheduled for Thursday, May 27, 2004 at 7:10 p.m.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Resolution by Trustee Swartz, seconded by Trustee Catlin

BE IT RESOLVED, this Board hereby approves the one-year probationary appointments of Kendall Jordon, 810 S. Pine St., and Laurie Jordon, 810 S. Pine Street, to the Village of Horseheads Fire Department.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Discussion on Village Code Definition of 'Professional Office' -

Village Manager Azzarelli - we may have inconsistencies in the overlay zone. We were approached by a person who wanted to have an internet service at one of the properties in the zone. The Village Attorney and I met with the applicant and felt that it was within the definition of the professional office. A realtor wanted to rent a building which did not fall under the professional office, which has caused hardship for the tenant.

Atty. Groff- several years ago we reviewed our zoning law from Westinghouse Circle to Jubilee Plaza. What was then identified as professional offices included doctors ,etc. The Board was trying to make an attempt to retain the residential presence. The Board felt that the need to contain the professional use by defining professional use as more restrictive than in the past. Professions more defined to lawyers, doctors. Hardships have occurred since the passing of the law. Village has a overlay zone along Westinghouse Rd. . The reason for this is to regulate the business and licensing of businesses in general. More and more fields have become licensed and are characterizing themselves as professionals. The line between the learned profession has become blurred.

Trustee Swartz - how may locations are we discussing and what are we adding to overlay law.

Village Manager Azzarelli - need to amend the law if adding a profession to the definition.

Atty. Groff - The law is in place and is not vague. The issue is to whether you want to expand to allow other uses to the property and what degree you want to expand.

Joyce Wasserman - 2750 Westinghouse Road was a medical office and physical therapist office. Moved in prior to 2003, was not aware of the overlay law. The realtor was in there prior to change of law. The building was never a residence. We were fortunate to get a small business in there which should not change the ambience of neighborhood.. When you look at list allowed in overlay

May 13, 2004 (cont'd)

zone it is no longer realistic. 83% of doctors are not independent, they work for hospital. Unable to rent out this building. Mr. Azzarelli advised I could have realtor rent the building. It is better than having the building vacant as it was for 15 months.

Art Ambrose - Mr. Azzarelli did not approve the realtor. The concept of use was the case but Mr. Azzarelli did not give approval.

Mr. Amorosi - Had my business 38 years - I want to change my location. Current location is too small. Building on Westinghouse Road is a perfect building for business. I also teach defensive driving. It is more than an insurance agency. It's a combination Insurance Office and Classroom for teaching. My input is financial services to the business. I offer professional advise to my customers. I would put no blemish on community being in this building. I have already paid \$4000 in rent and other expenses which definitely would be a hardship - signs, pens, advertising, phone etc. Previous place has been rented already and cannot move back. I trusted information I received that is why I moved in building on Westinghouse Rd.. Appreciate consideration in allowing my business to be in this building.

Art Ambrose - What is a profession - insurance industry is a profession. We are proposing to you to have him rent this place. There was a misunderstanding regarding the licensing. Law is too restrictive and causing hardship. Board should step up and amend the law and not restrict by only fields licensed by NYS Education Dept.

Clay Ambrose - The irony of this situation is that we used 2872 Westinghouse as a real estate office. The licensing of the professions should be taken in account. Please consider broadening the law.

Peter May - Westinghouse Road Corridor - broadening the term professional will not change the continuity of the neighborhood. Many empty buildings on Westinghouse Road. Need to broaden the term.

Michele Locey - I applied to move current office on Westinghouse Road and was declined because did not fit in the overlay zone requirement. Please consider changing law.

Joyce Wasserman - I went door to door with a petition and none of the neighbors objected to a realtor in this building. Still can preserve residential environment

Deputy Mayor Sullivan thanked everyone . We do not want to drive business away. We will look at law seriously.

Village Manager Azzarelli - recommend tabling action to develop resolution and investigate amendment to law

Motion by Trustee Miller, seconded by Trustee Swartz that this matter be tabled until we investigate amendment to law.

Roll Call Vote:

Deputy Mayor Sullivan	Aye
Trustee Catlin	Aye
Trustee Swartz	Aye
Trustee Miller	Aye

Clay Ambrose - please have a special meeting regarding law due to hardship to tenant. Time is of the essence.

Trustee Swartz - do we need a public hearing.

Atty. Groff - needs to go to planning boards for review and action and set up public hearing. Special Use Permits were allowed for those buildings until the Board passed the law for the Overlay Zone. Now Special Use Permits cannot be used. We have certain mandates to comply with.

Trustee Catlin - no permits can be issued in the mean time?

Atty. Groff - No. What if Board does not agree to expand law. Tenant will be in building and be in violation.

Deputy Mayor Sullivan - What is Mr. Amorosi's next step.

Atty. Groff - He could review the current law on the books and make amendments, but there is a process and state law mandates with no exceptions.

May 13, 2004 (cont'd)

Mr. Amorosi entered into agreement in February and was not aware of this problem until last week. If I don't move in by end of the month that's it, no place to go.

Atty. Groff - The board was just recently notified of this situation. Your case was compelling and I am sure the Board is profoundly aware of the impact of this law on the businesses on Westinghouse Road. If you are looking for approval tonight - we are unable to do so but are fully aware of the impact of this on your business. If you were lead to believe that you would leave this meeting with more that - this was a meeting to inform the Board about the impacts on the property owners and tenants and hardships involved. Regrettably this process takes time.

Mr. Amorosi - I signed a lease and did not know their was a problem.

Atty. Groff - The Board is not trying to hurt you. We have no choice but to go by procedure.

Deputy Mayor Sullivan - We will try to expedite as quickly as possible.

Village Manager Azzarelli - need to address both issues at next meeting.

Atty. Groff - first step is decide land use in that area and whether it merits change. Then consider modification. Unfortunately Board can not give any one an answer on this matter.

Trustee Catlin - Feel badly for plight they are in but will leave no stone unturned to solve problem.

Trustee Miller - We will expedite asap.

Atty. Groff - I commend the audience for such a compelling case. It is a pleasure to hear their comments and concerns re zoning and land use. Unfortunately we have a process to adhere to. Put yourself in place of the residents, and what its like to have a business next to their home.

Chief Kole - K9 Officer Jamie Burgess was named Officer of the Year by Kiwanis.

Tess Banfield - Catherine Trail - cannot wait for it to open.

Sandy Ashendorf /Teddy Wilcox- for North County Senior Citizens Wednesday May 26 Open House at Broad Street School - Invited Board to attend.

Deputy Mayor Sullivan - Next Saturday, May 22nd is the Fire Department Banquet.

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

SMOKING POLICY - Effective 5/13/04

POLICY

- 1) Smoking is prohibited throughout the municipal facilities, including places of employment, parks and ballfields, but excluding streets and sidewalks.
- 2) Smoking is prohibited in any indoor enclosed work area.
- 3) Smoking is prohibited in all public restrooms, hallways, classrooms, meeting rooms, courtrooms, kitchen facilities, enclosed indoor swimming pool areas and areas containing office equipment used in common.
- 4) Smoking is also prohibited in all municipal vehicles.

CONFLICTS

Conflicts should be brought to the attention of the appropriate supervisory personnel.

VIOLATIONS OF POLICY; PENALTIES FOR OFFENSES

- A. No person shall smoke in a prohibited area.
- B. Any person found guilty of a violation of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

May 13, 2004 (cont'd)

DISTRIBUTION OF POLICY

Copies of these rules will be posted and distributed to all employees and to all prospective employees upon request.

ENFORCEMENT OF POLICY

The Village Manager, or his or her designee, shall be responsible for the enforcement of this policy by notifying employees who are in violation.

AMENDMENTS

This policy may be amended from time to time by resolution of the Village of Horseheads. All amendments shall be in conformance with New York State law, and employees will be notified accordingly.

Respectfully submitted,

Sharron Cunningham
Clerk-Treasurer

/rmj