

## Minutes

### Village Board of Trustees

September 13, 2007

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, Ron Swartz and Walt Herbst, Village Atty. John Groff, Clerk-Treasurer Sharron Cunningham, Deputy Clerk Michele Accavallo, DPW Chris Lawrick, Police Chief Mike Barton, Planning Board Member Mike Stenpeck, ZBA Chairman Dave Radin, Fire Chief Arthur Sullivan; Recreation Director Nate Nagle; Village Justice Bill Driscoll, Police Sergeant Dave Murray and his family, Police Officer Mark Fitzgerald and his family, several members of the Police Department, and the news media.

Also present were: Ronald Gray, USA Sign; George and Marnie Koliwasky, 303 Eleanor St.; Dan and Fran Soroka, 117 Monroe Dr.; Tess Banfield, 134 Catalpa Dr.; Bernie Wiegler, 111 Boorum Pl.; Jean Quinn, 555 Gardner Rd.; Martha Hauser, 407 W. Broad St.; Barb Skorczewski, 109 W. Franklin St.; Don Zeigler, 535 Watkins Rd.; Penny and George Kastenhuber, 519 John St.; Elliott Blauvelt, Jr., Fletcher St.; Laura and Tom Peck, Middle Rd.; Jim Sands, South Ave.; Jim Lynch, 303 W. Mill St.; Eileen Patocka, 3136 Watkins Rd.

At this time, Mayor Gross conducted the swearing-in ceremonies for new Police Officer Mark Fitzgerald, and for promoted Police Sergeant David Murray. Afterwards, she read a proclamation in honor of retiring Recreation Director Al Edwards.

Atty. Groff declared open the Public Hearing regarding the application of Orchard Family Medical Center for a Special Sign Permit at their facility at 2977 Westinghouse Road.

Dave Radin, Co-Chair Comprehensive Planning Committee - I don't think this sign is a good idea. If the main reason is that it is difficult to find the location, that seems unreasonable. This is not keeping with the vision for the Village - quaint and unique. We want to preserve our character. Our recent survey results reflect that the community wants the same .

Ronald Gray - USA Sign - Understands concern, has been working with the client on this project for a year. He believes existing sign not upscale and wants to replace with 11' X 5 - not an unusual size - not as big as it sounds. The Telco sign by Consumer Square is much larger but does not look that large on the building. The terrain on Westinghouse Road is set back from road. When traveling down the road it needs to be visible. It needs to be viewable to motorists. We try to size things based on the terrain and visibility.

At this time the Board reviewed and completed Part 2 of the SEQR form on this application.

Question C1: No

Question C2: Concern over the size of sign and how it effects character of neighborhood

Question C3: No

Question C4: Appears inconsistent with updated comprehensive plan under development

Question C5: No

Question C6: No

C2 and C4 - the Board has concerns on compatibility of Comprehensive Planning, size of sign and character of neighborhood. Atty. Groff noted that due to this fact the applicant might need to complete a long environmental form.

Trustee Swartz - I am also concerned about size - asked if there is a plan 2.

Ron Gray - if Village Plaza can put up illuminated signs, why can't we. My client's argument would be let's put up five different smaller signs like the plaza. Feels it is an identification issue of the doctors at the location which they have an investment in. Should be allowed to have a sign for the convenience of customers. Believes the number of doctors need their name on sign for people to see. Need to make the property marketable and need that size. So many signs on that corner currently.

Trustee Herbst - not an issue whether or not to have sign or not but how it appears in the neighborhood to maintain residential area character.

Atty. Groff noted that the Board has been presented with a draft resolution written in the affirmative.

After brief discussion, the Mayor and Board of Trustees agreed to amend the resolution based on the SEQR review and the dialogue.

Resolution by Trustee Herbst, seconded by Trustee Swartz

WHEREAS, Physical Therapy Center of Horseheads is the owner of real property located at 2977 Westinghouse Road, Horseheads, NY identified as Tax Map Parcel #48.16-1-1.53, commonly known as Orchard Family/Horseheads Medical Center, and

WHEREAS, said property is zoned Planned Unit Development (P.U.D.), and

WHEREAS, said applicant seeks approval of the installation of an exterior sign approximately 90 sq. ft., as well as some interior directional signs, requiring application for and approval of the issuance of a Special Sign Permit, 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 may have a significant environmental impact, and

WHEREAS, a public hearing was held on September 13, 2007 regarding the application for the special sign permit 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 and Town Planning Boards, both of which recommended approval; by the Chemung County Planning Board which deferred to local determination; and by the Village Traffic Commission which recommended approval, and

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

NOW THEREFORE BE IT RESOLVED, that a public hearing on the environmental aspects of this action is waived; and the application of Physical Therapy Center of Horseheads for a Special Sign Permit at 2777 Westinghouse Road be and the same hereby is *denied* on the basis of its nonconformity with the current Comprehensive Plan and the Plan under development, and the sign/scope of the requested signage being incompatible with the neighborhood. The applicant is to complete a Full Environmental Assessment Form showing scale, compatibility with neighborhood and appearance, and compatibility of proposed signage with existing comprehensive plan and amended comprehensive plan.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Herbst

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meetings of July 26 and August 9, 2007 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 Herbst:	Aye

Resolution by Trustee Swartz, seconded by Trustee Herbst

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

General Fund	\$160,052.15
Water Fund	\$ 79,631.05
T&A	\$ 1,023.82

and be it further

RESOLVED, that \$119,069.05 be appropriated from the Capital Reserve Fund for the following items:

- \$ 96,220.82 - DPW Truck
- \$ 22,868.23 - Police Vehicle

Roll Call Vote:

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

Resolution by Trustee Herbst, seconded by Trustee Catlin

BE IT RESOLVED, that the Justice Reports for August, 2007 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 Herbst:	Aye

Resolution by Trustee Herbst, seconded by Trustee Catlin

BE IT RESOLVED, that the minutes of the following meetings be received and placed on file in the Village Clerk's Office:

- Zoning Board of Appeals Meeting of August 8, 2007
- Traffic Commission Meetings of August 8 and August 13, 2007
- Planning Board Meeting of August 28, 2007

Roll Call Vote:

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

Resolution by Trustee Herbst, seconded by Trustee Swartz

BE IT RESOLVED, that Police Chief Michael Barton is hereby authorized to attend the NYS Law Enforcement Executive Institute, beginning September 15, 2007 and ending May 4, 2008, in Albany and Syracuse, NY, with all expenses paid as are allowed under Section 77B of the General Municipal Law.

Roll Call Vote:

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

Resolution by Trustee Herbst, seconded by Trustee Swartz

BE IT RESOLVED, that a Public Hearing is hereby scheduled for Monday, September 24<sup>th</sup>, 2007 at 4:00 p.m. regarding the grant application of the Village of Horseheads through the Restore NY Program.

Roll Call Vote:

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

186 Lighting -

Chris Lawrick - found several lights not working on Linear Park, and South Main St. area is not energized. Talked to Ron Majesky, told him that the Board wants all in order and working and allowed to inspect before acceptance - he understands.

Motion by Trustee Herbst, seconded by Trustee Swartz, that this matter be tabled until such time that the Board decides to bring it forward again.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Herbst

WHEREAS, the Village of Horseheads PBA has requested that the Village engage in impact bargaining regarding the School Resource Officer position.

NOW THEREFORE BE IT RESOLVED, that Trustee Walt Herbst and Trustee Howard Miller are authorized to enter into impact bargaining on behalf of the Village and to report the results of their bargaining to this Board at the conclusion of same.

Roll Call Vote:

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

Motels/Hotels Operating Permits

Atty. Groff - Health Dept. will no longer be inspecting hotels and motels. Code Enforcement Officer is recommending that our building code be expanded to have annual inspections of hotels and motels for public safety since Health Dept. not doing any more. They will be required to obtain operating permits.

Resolution by Trustee Herbst, seconded by Trustee Catlin

WHEREAS, Local Law #6 of 2006 of the Village of Horseheads provides for the administration and enforcement of the NYS Fire Prevention and Building Code and is known as Chapter 102, Building Construction and Fire Prevention, of the Village Code, and

WHEREAS, Section 102-10 of the Village Code requires that Operating Permits be issued for places of assembly over 100 persons and for other reasons/uses, and

WHEREAS, currently hotels and motels are not required to secure Operating Permits, and

WHEREAS, formerly the Chemung Co. Health Department administered an inspection program applicable to hotels and motels concerning such facilities' operation, and in particular matters of public safety, and

WHEREAS, Code Enforcement Officer Thomas R. Skebey has recommended to this Board that it add hotels and motels to Section 102-10 of the Village Code thus to require hotels and motels to secure and maintain Operating Permits due to the reduced oversight anticipated from the Chemung County Health Dept., and

WHEREAS, annual fire inspections and issuance of an annual Operating Permit would facilitate compliance with fire code regulations and would help to insure public safety.

NOW THEREFORE BE IT RESOLVED, that the Village Board does hereby determine that conditions at hotels and motels may pose a substantial potential hazard to public safety, and accordingly it is hereby determined that annual Operating Permits shall be required for categories of buildings identified as hotels and motels within the Village, all in accordance with and pursuant to Section 102-10 of the Village Code, said uses being added to the categories of buildings identified in Section 102-10 A(1) pursuant to Section 102-10 A(1)(e) effective immediately.

Roll Call Vote:

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

Koppers Pond - Community Involvement Plan

Atty. Groff - Village is involved with potentially responsible parties in the Koppers Pond evaluation. We've been asked to provide to the Group's consultant, Leo Brausch, a Community Involvement Plan that would be submitted to the EPA. There are a series of questions regarding the former landfill site that the Village and Town were involved with in that vicinity. In conjunction with Chris Lawrick, we developed some responses to those inquires. They have been submitted to you as a Board. If you care to make additions or modifications to them, then it would be appropriate to do so. Otherwise if what has been prepared is sufficient, you can approve this submission to Brausch.

Motion by Trustee Swartz, seconded by Trustee Herbst

BE IT RESOLVED, that the Community Involvement Plan for the Village of Horseheads with respect

to the former Horseheads Landfill site in conjunction with the Koppers Pond RI/FS be approved as submitted to this Board, and be it further

RESOLVED, that proper Village officials are authorized to transmit the responses to Leo Brausch, Consultant for the Koppers Pond Group.

Roll Call Vote:

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

Resolution by Trustee Herbst, seconded by Trustee Catlin

WHEREAS, the Village of Horseheads and other potentially responsible parties entered into a Administrative Settlement Agreement and Order on Consent (AOC), which provided in part for a Remedial Investigation and Feasibility Study (RI/FS) of an area generally known as Koppers Pond, southerly of Blostein Blvd., and

WHEREAS, in accordance with and to comply with the AOC, the potentially responsible parties entered into an agreement with Leo Brausch as Environmental Consultant to facilitate the goals and objectives of the RI/FS, and

WHEREAS, it is anticipated that the Village of Horseheads and others will be called upon from time to time to fund the RI/FS and to enter into various agreements for the implementation of the RI/FS, and

WHEREAS, did approve an \$11,000 assessment on February 8, 2007 as the Village's share of a \$77,000 Group fund for the administration of the project, and

WHEREAS, those funds together with funds of other members of the Group have been largely expended on project administration,

WHEREAS, members of the Group did approve by email the assessment of a second contribution from all members of the Group in the amount of \$11,000 to be used for project costs and administration.

NOW THEREFORE BE IT RESOLVED, that this Board does hereby approve a second assessment of \$11,000 to be contributed to the Koppers Pond Potentially Responsible Parties operating account when such funds are in hand.

Roll Call Vote:

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

Motion by Trustee Swartz, seconded by Trustee Herbst, that the following items be added to the agenda:

- Authorize Village Justices to Attend Training Session
- Village Atty. Report - WhitMar Exploration Co.

Roll Call Vote:

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

Resolution by Trustee Herbst, seconded by Trustee Swartz

BE IT RESOLVED, that Village Justices Moriarty and Driscoll are hereby authorized to attend the Unified Court System - Court Recording special training program, September 19<sup>th</sup>, 2007 in Binghamton, NY with all expenses paid as are allowed under Section 77B of the General Municipal Law.

Roll Call Vote:

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

WhitMar Exploration Co. - Oil and Gas Lease Request

Atty. Groff - an inquiry was received regarding another oil/gas lease in the Village. Proposal is for a five year non-exploratory lease. Offer submitted based on \$150 an acre. Part of the land in question is already leased to East Resources. My opinion is the offer is not sufficient to lease. At this point not meaningful for the Village.

After brief discussion, the Board agreed not to pursue this proposal.

Bethany/Appleridge

Mayor Gross asked John to speak about some information we received after a conversation with Bethany and Appleridge.

Atty. Groff - a short time ago we learned that Appleridge had encountered financial difficulties and could not make their mortgage payments. The Village is now owner of the property. Loan is guaranteed by HUD and has reimbursed the initial creditors so they received payment in full. The Village has been presented with a deed for the property, but we have not accepted it at this point. The Appleridge operating company has indicated that a business plan will render itself cost effective. Outside bond counsel will be obtained because of complexity of this issue. Bond counsel will be paid by Appleridge. We asked for a payment to Village for \$5000 for this counsel, but to date it has not paid. We've sent several requests in writing. Hopefully they will deposit funds with the Village and we will go forward and see if action can be taken for the project to render itself healthy and fully operational. Anticipating a reply soon for request of funds.

Atty. Groff noted that regarding the Payment in Lieu of Tax agreement (PILOT) with Appleridge, it expires 12/31/07. Their assessment was reduced from \$15 Million to \$7.3 Million, which will make a different amount we receive in the PILOT. No formal action taken at this time for an extension of PILOT. Appleridge should become more zealous in obtaining a new PILOT. If not they will be on the tax roll.

Mayor Gross added that the current PILOT amount is \$55,000. The assessor reduced to 7.3 million - so we will now get around \$31,000. School and County will receive more and the Village provides more services. We continue to negotiate.

Other

Mayor Gross stated that she and Atty. Groff have met with Town of Horseheads working on code enforcement concerns.

Trustee Herbst - met with Empire State Development on the LRC building - we hope to get a grant to demolish and develop property. Grant due by end of the month. It looks promising. Met with Court of Administration regarding security in the building - went well - we are in good shape but some things can be done.

Discussion regarding the last Farmers Market - onsite manager would like to decorate Teal Park for fall. She should coordinate with Nate Nagle. Street closings may be involved, will need a Festival Permit for 9/29.

Chris Lawrick - developed property maintenance check list - passed to Board. He asked them to please review it and comment. Inspections will be done in October.

Chris stated that regarding shared services with County, Town and School - we have casual and written agreements. There is a shared service workshop coming up. It covers ways to bring money into the Village.

Justice Driscoll noted that they will receive a written report on the Justice Security review in about 4-6 weeks written report.

Mayor Gross introduced new Recreation Director Nate Nagle.

Mayor Gross commended the Fire Department for their 9/11 ceremony, and the evening ceremony at Teal Park was wonderful.

As there was nothing further to bring before the Board, the meeting was adjourned at 8:35 p.m.

/sc