

Minutes

Village Board of Trustees

December 14, 2006

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, Board Members Earle Catlin, Ronald Swartz, Howard Miller, and Walter Herbst, Village Attorney John Groff, Clerk-Treasurer Sharron Cunningham, Deputy Clerk Donna Hartsock, DPW Chris Lawrick, Police Chief Mike Barton, Fire Chief Arthur Sullivan, Comprehensive Planning Board Co-Chairs Dave Radin and Mike Stenpeck, Village Manager's Assistant Rachel Baer, many members of the Village of Horseheads Fire Department, and many members of the Horseheads Police Department. Also present were: Mary Helen Hall, 810 Center St.; Fran Sullivan, 326 Gardner Rd.; Patrick and Cassie Sullivan, 621 Watkins Rd.; Kevin and Lorrie Sullivan, 367 E. Franklin St.; Richard and Roxann Margeson, 508 N. Carroll St.; Don and Jan Zeigler, 535 Watkins Rd.; Andrea Shumaker, 535 Watkins Rd.; Don Coyles, representing Bethany Village; Tom Santobianco, Bethany Village; Paul Tomkins, 104 Tiff Ave.

At this time, there were commendation ceremonies conducted for police officers Scott McGrain and Dan West, and for Fire Chief Artie Sullivan for their efforts during the Fox Street explosion one year ago. Mayor Gross summarized their efforts on December 10, 2005. Chief Barton conducted the pinning ceremony for Officers McGrain and West. Deputy Fire Chief Tom Margeson conducted the pinning for Chief Sullivan.

At this time, Atty. Groff declared open a Public Hearing on a Proposed Local Law Regulating Outdoor Wood Furnaces. As nobody came forward, Atty. Groff declared the public hearing closed.

Resolution by Trustee Miller, seconded by Trustee Swartz

WHEREAS, the Village is considering a local law to regulate outdoor wood-burning furnaces in the Village of Horseheads, and

WHEREAS, this proposed local law was presented to this Board on November 9, 2006 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 December 14, 2006, and

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

NOW THEREFORE BE IT RESOLVED, that said Local Law Regulating Outdoor Wood Furnaces in the Village of Horseheads 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 Herbst:	Aye

At this time, Atty. Groff declared open a Public Hearing on a Proposed Local Law - Administration of NYS Building Code. As nobody came forward, Atty. Groff declared the public hearing closed.

Resolution by Trustee Swartz, seconded by Trustee Miller

WHEREAS, the Village is considering a local law for the Administration and Enforcement of the NYS Fire Prevention and Building Code, said Law would repeal Local Law #2 of 1987, and

WHEREAS, this proposed local law was presented to this Board on November 9, 2006 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 December 14, 2006, and

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

NOW THEREFORE BE IT RESOLVED, that said Local Law Providing for the Administration and Enforcement of the NYS Fire Prevention and Building Code, repealing Local Law #2 of 1987, 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 Herbst:	Aye

At this time, Atty. Groff declared open a Public Hearing on Bethany Retirement Home - Refinance of Bonds. He stated that this is related to Bethany's initial financing of the Manor and Courtyards.

Trustee Herbst made a motion to not have the resolution read aloud, as everyone has had an opportunity to read it in advance. Seconded by Trustee Miller.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Catlin

WHEREAS, the Village of Horseheads (the "Village"), is a local agency pursuant to the New York State Environmental Quality Review Act ("SEQRA"), ECL Section 8-0101, et seq., and implementing regulations, 6 NYCRR Part 617 (the "Regulations"), and

WHEREAS, the Bethany Retirement Home, Inc. (the "Institution") is a New York not for profit corporation that provides health care services to residents of the Village and surrounding community; and

WHEREAS, the Institution previously incurred indebtedness to finance the acquisition, construction and equipping of an existing two story, 144 bed adult care facility ("the Courtyards") in the Village of Horseheads, New York, which indebtedness consisted of a conventional mortgage (the "Prior Courtyards Indebtedness"); and

WHEREAS, the Institution thereafter issued its Mortgage Revenue Bonds, Series 1994 (FHA Insured Mortgage Loan - Bethany Retirement Home, Inc. Project) in the aggregate principal amount of \$9,685,000 (the "Prior Bonds") on behalf of the Village to provide financing for:

- (a) (i) the purchase of an existing 80 bed skilled nursing facility (the "Manor") in the Village of Horseheads, New York from the Manor's original for-profit owner,
 - (ii) the renovation of the Manor,
 - (iii) the construction of a 42 bed addition to the Manor (the Manor, as renovated and expanded in 1994, together with the Courtyards are collectively referred to herein as the "Existing Facility") and the acquisition and installation in the Existing Facility of certain machinery and equipment (the "Existing Equipment") (the Existing Facility and the Existing Equipment being collectively referred to herein as the "Existing Project Facility") and
 - (iv) the refinancing of the Prior Courtyards Indebtedness (collectively, the "1994 Project") as well as to
- (b) to fund a debt service reserve fund and a collateral fund relating to the Prior Bonds and
- (c) to pay costs of issuance of the Prior Bonds; and

WHEREAS, the Institution desires to issue bonds, notes or other obligations in the approximate amount of \$9,000,000 (the "Bonds") with the proceeds of the Bonds to be used to undertake a project (the "Project") consisting of (A) the current refunding of the 1994 Bonds (B) the renovation of the Existing Project Facility to improve and upgrade certain building systems (the Existing Project Facility as renovated is referred to herein as the "New Facility") and the acquisition and installation in the New Facility certain machinery and equipment (the "New Equipment") (the New Facility and the New Equipment being collectively referred to herein as the "New Project Facility"); and (C) the payment of certain costs incidental to the issuance of the Bonds; and

WHEREAS, the portion of the Project which consists of renovations to the Existing Project Facility shall consist solely of replacement, rehabilitation or reconstruction of an existing structure or facility, in kind, on the same site; and

WHEREAS, under the proposed plan of financing, the Institution intends to issue the Bonds on

behalf of the Village in accordance with Internal Revenue Service Ruling 63-20, so that the Bonds would qualify as tax exempt obligations under the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, it is in the Village's best interests that the Project be undertaken; and

WHEREAS, it is the Village's intention to assist in facilitating financing of the Project by authorizing the Institution to issue the Bonds on behalf of the Village, and

WHEREAS, a public hearing relative to the proposed plan of financing for the purposes noted herein was held on December 14, 2006.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE OF HORSEHEADS BOARD OF TRUSTEES AS FOLLOWS:

1. The Village hereby determines that the Project and the adoption of this resolution collectively constitute a Type II Action pursuant to subsection (2) of section (c) of Part 617.5 of the Regulations and as such is not subject to review under SEQRA.
2. The Village approves the purposes and activities of the Institution as provided above and herein.
3. The Village approves the plan of financing whereby the Institution will issue the Bonds on behalf of the Village.
4. The Village hereby agrees to accept the fee title to the New Project Facility, and any and all other property financed by the Bonds, including all additions thereto, upon payment of the Bonds in full as required by Internal Revenue Service Ruling 63-20 subject to the condition that same be free and clear of liens and encumbrances. The Village further agrees that the Institution shall grant to the Village an option to purchase the New Project Facility at any time while the Bonds are outstanding for an amount sufficient to redeem the amount of Bonds outstanding.
5. The Village Board understands and acknowledges that the financing of the Project imposes no obligation, burden or imposition upon the Village, that the Bonds of the Institution shall not constitute a debt of this Village, or the State of New York and does not make the Institution an agency or instrumentality of the Village for any purpose whatsoever.
6. The Village Board will adopt all reasonably necessary resolutions in connection with the financing of the Project, subject to review of the financing documents, and will cooperate to the fullest extent reasonably necessary in consummating the transaction. The Officers of this Village are hereby authorized to execute such documents as are deemed, on the advice of the Village Counsel, necessary and proper to implement the Project.
7. The providing of the facilities comprising the New Project Facility in and for the Village is in the public interest of the citizens of the Village, and is a proper public purpose.

8. The Village acknowledges and understands, but incurs no liability in connection therewith, that the Institution will enter into contracts and incur other obligations in connection with the Project in reliance upon this Resolution.
9. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.
10. All resolutions and orders or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.
11. It is found and determined that all formal actions of the Village concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Village; and that all deliberations of this Village and of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements.
12. The Bonds will be discharged no later than the latest maturity date of the Prior Bonds.
13. The Institution shall reimburse the Village for any and all costs or expense incurred relative to this matter.

Roll Call Vote:

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

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meetings of November 9th and November 16th 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 Herbst:	Aye

Resolution by Trustee Swartz, seconded by Trustee Miller

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

-	General Fund:	\$258,223.96
-	Water Fund:	\$ 80,117.66
-	Trust & Agency:	\$ 1,974.02

and be it further

RESOLVED, that \$1,778.00 be appropriated from the Capital Reserve Funds for geo-technical drilling services at the Horseheads Fire Station.

Roll Call Vote:

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

Trustee Swartz asked if the work on the fire station has been done. Chris Lawrick stated that they took borings samples. It was an engineer recommended by Fagan. They will make a recommendation and report back to us. The main work still has to be done.

Resolution by Trustee Miller, seconded by Trustee Swartz

BE IT RESOLVED, that the audit reports from Richard M. McNeilly, CPA, for the Village of Horseheads FY 2005-2006 are hereby received, and same are 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 Herbst:	Aye

Resolution by Trustee Swartz, seconded by Trustee Herbst

BE IT RESOLVED, that the Justice Reports for November 2006 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 Herbst:	Aye

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that Village Attorney John Groff, and Trustee Walter Herbst, are hereby appointed as the Village representatives for the purposes of the upcoming contract negotiations with the Horseheads C.S.E.A. Unit.

Roll Call Vote:

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

Presentation by Co-Chairs of Comprehensive Planning Committee

Mike Stenpeck and Dave Radin came forward to give a brief summary of the work of the Comprehensive Planning Committee to date. They distributed the vision statement, and list of ideas.

Our committee promises that when complete we will have delivered ideas, not just going to say do this or do that - we will give details. After the holidays, we will be coming to see you to discuss things. Please read this over, especially the vision statement.

Motion by Trustee Miller, seconded by Trustee Swartz, that an item regarding Declare Surplus Equipment be added to the agenda.

Roll Call Vote:

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

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that the following items be declared as surplus, and Village staff are hereby authorized to dispose of same by sale, or scrap, if same have no value:

- Sharp SD2275 Copier
- 1995 Ford Crown Victoria Police Vehicle (VIN#.....177956)
- 2000 Ford Crown Victoria Police Vehicle (VIN#.....204171)
- AMSEC Drop Safe
- GT Mountain Bike (SN# 1679735)
- GT Mountain Bike (SN# H3N7003694062)

Roll Call Vote:

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

Atty. Groff reported on the following items:

- Fox St. - litigation regarding this. Village has defense attorneys which are defending us regarding assertions of Village culpability. Other parties are involved, NYSEG, Chemung Co. Village should also try to pursue litigation against those other parties in the event facts say they are culpable. That would mean that the Village has to initiate litigation, counter litigation, against them when the time is appropriate. This is beyond my capability. I would like the Board to consider retaining outside counsel for litigation on the Village's behalf. I will be discussing that with any of the board members directly or with the mayor and bring a proposal back to you.
- CDBG program. Not as well administered as we would like. Might want to consider collaborating with other municipalities with similar programs, Elmira Heights, City of Elmira, City of Corning. They have a professional staff that administers them. Could benefit if you were to bring in some consultant to oversee and update the program.
- Belosky apartments, now occupied. He will be asking the Village to consider accepting dedication of the road. This is first aspect of the beginning of that road. Extension of water service would also need to be done in conjunction with road. Needs pressure testing, disinfected, etc. We'll be making some report to you.

Trustee Herbst - The Village CSO has differed requirements with County and Village - when a tenant is not in compliance. We only hold tenant responsible. In the Town they hold the tenant and property owner. This came up recently regarding a certain situation. We should consider CSO's recommendation on reviewing that part of the code to bring in owner as responsible party also.

Mayor Gross asked Chief Barton to speak about the police radios situation.

Chief Barton - Chemung County and all police agencies went to digital style radio system. Used homeland security money. Slowly replacing our old equipment. Operating now in analog until everyone is done. The County would like to keep our old radios to offset costs, however this equipment was purchased by the Village. Portables we have right now are original portables, but County is holding radios we took out of the cars. We wanted property back, they are ours, we should decide how to dispose. Equipment we are receiving is not piece for piece what we have now. There was no written agreement for this plan. This issue never came up until they started installing the new radios in the cars. Other agencies would like to use old radios for their DPW departments . Frequency band widths are the same.

Mayor Gross - would like your opinion on getting John to write a letter to get equipment back.

Everyone agreed he should.

Mayor Gross - Al Edwards will be retiring as of June 30, 2007 from Youth Bureau. I have discussed this with Mike Edwards. The tentative plan is to share the cost of a new person 50/50. However this is not formalized at all.

Mayor Gross - as far as shared services on highways, I will let Ron report.

Trustee Swartz summarized the situation: There are 5 entities - Town of Hhds., Village of Hhds., Town of Big Flats, Town of Elmira, and Town of Southport. Santulli and Krusen have a resolutions that want us to adopt, basically asking us to come to table and discuss. Share ideas. Examples of shared services might be purchasing blacktop and paving on a county wide basis rather than each individual entity. Also talked about depositing salt in various outlying areas. Then trucks wouldn't have to come all the way back. There is nothing binding at this point.

Mayor Gross added that there was a lot of info in the papers that we weren't aware of. Looked like all municipalities had already agreed to come together. No agreement was made, that is absolutely what came out of the meeting. Santulli went to papers without the knowledge of those other entities. Only thing we are doing is coming together to discuss it. See if it is a viable plan. Nothing is in stone.

Mayor Gross asked Chris Lawrick to contact the School District on seeding their fields this year.

Chris - I talked to them, they will do it. I can find out when.

As there was nothing further to bring before the Board, the meeting was adjourned at 8:15 p.m.

/rmb