

July 14, 2005

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, Police Chief Dave Kole, DPW Chris Lawrick, Planning Board Member Mike Stenpeck, Village Justice Dick Moriarty Fire Chief Dick Sullivan, Clerk-Treasurer Sharron Cunningham, and Manager's Assistant Rachel Baer. Also present were: Elton and Nancy Shaw, 218 Liberty St.; Don and Jean Quinn, 555 Gardner Road; Janette Bauer, 385 E. Franklin St.; Virginia Connelly, 413 Perkins Ave.; Jamie Gensel, Fagan Engineers; Ray Stewart, 31A Lorraine Blvd.; Don and Jan Zeigler, 535 Watkins Rd.; Frank Rosplock, Town of Horseheads; Theresa Waters, 118 Miller St.; Nancy Rohde, 206 E. Mill St.; Bruce Hayes, 214 Bowers Dr.; Paul Beach, 218 Bowers Dr.; Beverly Stener, 213 Fairfax St.; Penny and George Kastenhuber, 519 John St.; Mike Belosky, Belosky Construction; Lorrie Sullivan, 113 Boorum Place; Charles Short, 2249 Grand Central Ave.; Beverly Moriarty.

Resolution by Trustee Miller, seconded by Trustee Swartz

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of June 23, 2005 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 Sullivan, seconded by Trustee Swartz

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

General -	\$317,861.99
Water -	\$ 65,657.68
Trust & Agency -	\$ 3,546.46

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 Miller

BE IT RESOLVED, that the Justice Reports for June 2005 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

Resolution by Trustee Miller, seconded by Trustee Catlin

BE IT RESOLVED, that the minutes of the Planning Board Meeting of June 28, 2005 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 relative to the proposed local law on regulation of noise.

George Kasthuber, 519 John St. - I'd like to know what is going to be enforceable and what isn't. Will perpetrators have to be caught in the act, do the police have to intervene, or will neighbors have to have one word against the other. Don't see how it will be effective, how it is enforceable just on word of individual.

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

Trustee Swartz - Is it true that this includes church bells, fire horns, etc.

Mayor Gross - it does not include fire dept. sirens.

Atty. Groff - An exceptions to the law is emergency noise. But it would apply to church bells, chimes, would apply to lawnmowers, construction noise and activity.

Trustee Swartz - who enforces it.

Atty. Groff - The Police Dept. and Code Enforcement. It is based either upon the official's observation of a situation, or can be based upon complaint received by a citizen, investigated by police personnel, code enf.

Resolution by Trustee Sullivan, seconded by Trustee Miller

WHEREAS, the Village is considering a local law regarding noise, and

WHEREAS, this proposed local law was presented to this Board on June 23, 2005, 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 July 14, 2005, and

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

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

Discussion:

Mayor Gross - I've had some complaints regarding noise near Gardner Road and Westlake St. I see in the law it says 10pm - 7am, is that a reasonable time in a residential area.

Trustee Sullivan - that is just in reference to section 9, machinery.

Mayor Gross - Yes, but my question is on this time, some people who work may be in bed.

Trustee Sullivan - Other areas say 9:00pm - 7:30am. My question is should that be the same time.

Atty. Groff - that section deals with amplified sound, like from a night club, 9:00 deals with them being permitted to have a sound that might otherwise violate the law, band playing in a bar, etc.

Discussion ensued regarding the times in the law. Chief Kole noted that it doesn't matter what the time is listed in the law, they respond whenever there is a noise complaint, regardless of the time.

Atty. Groff stated that we must adjourn this discussion for the public hearing that is to start on the animal control law.

At this time, Atty. Groff declared open a public hearing on the proposed animal control law.

Frank Rosplock, Dog Control Officer for Town and Village - I do have a couple concerns. I have a concern about the difference between the way kennels have been described. I also have concerns on impoundment fees, how it would interfere with penalties portion of village code. I recently issued several appearance tickets for a resident, one of the violations was the number of dogs. It says that he can get the permission from his neighbors. In my recent case, the neighbors won't sign a formal statement because they are intimidated. Maybe if this law is passed and the board has opportunity to review cases where people are asked permission to keep more than two that they check with me and the police to see if there are any complaints. Also, amount of fines, unless court will impose fines as a deterrent, this particular person plead guilty, fine was \$15 for

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each count. To me that is not adequate.

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

At this time, Atty. Groff declared open a public hearing on the application of Belosky Construction for Site Plan Review for an apartment complex on Gardner Road.

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

At this time, the Board completed Part 2 of the SEQR form regarding this application. They found no significant negative environmental impacts, and issued a negative declaration.

Resolution by Trustee Miller, seconded by Trustee Catlin

WHEREAS, Keuka Properties LLC (Keuka) is the owner of premises situated in the Village of Horseheads, located on Gardner Road commonly known as Tax Map Parcel #48.20-5-8.1 comprised of approximately 23.2 acres, and

WHEREAS, Keuka has represented that it has entered into a sales agreement with Belosky Construction, Inc. (Belosky) for the sale of a portion of said premises. Said parcel under contract is comprised of 7.14 acres fronting on Gardner Road and is depicted on a survey prepared by Weiler Assoc. entitled Map of Part of Lands of Keuka Properties LLC, Job #12469.03 last revised October 18, 2004, and

WHEREAS, on January 13, 2005, this Board approved the rezoning of said 7.14-acre parcel from R-1 Residential to P-1 Planned Unit Development, and

WHEREAS, Belosky, with the authorization of Keuka, has now made application to the Village for Site Plan Review to construct 24 rental units on said parcel, and

WHEREAS, the application is subject to SEQR, being a 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 will not have a significant environmental impact, and

WHEREAS, a public hearing was held on July 14, 2005 regarding the application for Site Plan Review, 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 of Horseheads Planning Board, such Board having recommended the approval of same, under the condition that the applicant receive the necessary drainage permits from DEC, and

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

NOW THEREFORE BE IT RESOLVED, that 1) a public hearing on the environmental aspects of this action is waived; 2) Mayor Gross is authorized and directed to sign the Short Environmental Assessment Form finding there to be no significant environmental impact; and 3) the application of Belosky Construction, Inc. for Site Plan Review to construct a 24-unit multiple family development on the 7.14-acre parcel on Gardner Road previously rezoned to Planned Unit Development is hereby approved.

Roll Call Vote:

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

Back to discussion on proposed noise law:

Atty. Groff - base law provides for regulation of noise more intensely between those hours. Permit section allows for certain types of noises likely to be created on a regular basis. Section you are referring to says that noise during 10pm - 7am is prima facie evidence, means just having noise during those hours is a violation. The hours are not synonymous with definition of night-time hours or day-time hours. Those hours can be changed. Its up to this board.

Trustee Swartz - if we change the hours now, do we have to have another public hearing.

Atty. Groff - depends on how you change it. If it is dramatic, it means another public hearing.

Mayor Gross - how will we enforce this.

Atty. Groff - enforcement is same of enforcement of all codes. Typically it would be on a basis of a complaint. Frequently would be a situation that is investigated by law enforcement or code enforcement. There would also be cases of a citizen complaint. When you talk about changing time to 9:30, what section are you referring.

Mayor Gross - mine was on page 4. Machine generated noise.

Trustee Sullivan - time to me is irrelevant. Unreasonable noise is what is important. In section 4 it is outlined pretty well.

Trustee Swartz - I'd like to see it changed to 9:30. I move we change it to 9:30. Seconded by Trustee Miller.

Roll Call Vote on changing time to 9:30 in Section 9 sub paragraph b:

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

Roll Call Vote on entire law as amended:

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

Back to discussion on Animal Control Law.

Trustee Miller, I move we table this and have a workshop. Seconded by Trustee Swartz.

Trustee Swartz - and we should include Frank Rosplock:

It was agreed to have the workshop on July 27th at 5:00. Already having another workshop same day at 4pm.

Roll Call Vote to table and have workshop.

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

Resolution by Trustee Miller, seconded by Trustee Sullivan

BE IT RESOLVED, that this Board hereby receives the following proposed local laws:

1. Sign Height in Commercial Zones
2. Fishing Restrictions at Mill Street Pond
3. Zoning Updates

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and be it further

RESOLVED, that public hearings regarding these laws are hereby scheduled for Thursday, August 11, 2005 at 7:05 p.m., 7:10 p.m., and 7:15 p.m. respectively.

After brief discussion, it was agreed to change the time of the last public hearing to 7:25 p.m.

Roll Call Vote:

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

Clock Committee Recommendations:

Trustee Swartz - order has been placed for clock. Check has been received.

Village Manager - we will receive engineering drawings of it to be approved. Once site is approved. Time is 60-90 days to get it. Next thing the BOT has to decide is where to put the clock.

Mayor Gross - did we get costs estimates.

Village Manager - maintenance is \$360/year. Micknich will get back to me on costs.

Resolution by Trustee Miller, seconded by Trustee Swartz

BE IT RESOLVED, that an item regarding Receive Resignation of Planning Board Member 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 Miller, seconded by Trustee Sullivan

BE IT RESOLVED, that this Board hereby receives the resignation of Donna Greene from the Village of Horseheads Planning Board, said resignation to be effective immediately.

Mayor Gross - Please send a letter to Mrs. Greene for her years of dedication to the Village.

Roll Call Vote:

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

Trustee Swartz - I move that we go into an Executive Session after this meeting to discuss a personnel matter involving a particular person, and I'd like the Board and the Village Attorney to be present. Seconded by Trustee Miller.

Roll Call Vote:

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

Trustee Sullivan - On the clock, its going to benefit everybody, how about giving us 4 locations, and

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we can people vote on this - to make it fun. I'm just throwing that out there.

Trustee Swartz - couple who donated money said his choice was in Hanover Square, near the rock.

Mayor Gross - I thought final decision was coming back to the Board.

Trustee Swartz - Mr. Monte wants it there, that is our recommendation. But final decision is the Board's.

Mayor Gross - considering what happened last week. I'm concerned about safety. I think we need to discuss that a little bit more.

Trustee Sullivan - American in Bloom is coming up. Wednesday July 21st two judges are coming in.

Chris Lawrick - crew changed traffic lights on Sayre and Grand Central to LED's.

Mike Stenpeck - I regards to the clock, we never recommended the island. The stop sign there already will preclude it entirely. Mike added that Donna Greene should be congratulated for her years of service.

Charlie Short, 2249 Grand Central Avenue - When will the Village be adopting new fishing restrictions.

Mayor Gross - Next month we will act on that.

George Kastenhuber - I find it disheartening that the Village Board has to do a law for common sense and good citizenship. I don't know that you could enforce it any other way than people in the neighborhood. I perceive this as unenforceable. You can have complaints, etc. I just think that when we start trying to divide what is good citizenship, burden on police making a judgment, we're asking for trouble. I'm not sitting in judgment, but I think that we have other issues here. Tax increases, utility tax, other things to devote time and focus to. It's not that I don't appreciate effort in this, as far as I know you can't legislate common sense.

Mayor Gross - I agree. Your wife was here complaining about noise recently.

George Kastenhuber - That was about motorcycles, but not my neighbors starting a lawnmower. Its just going to be a useless law on the books.

Charlie Short - I just like to say, I think the Police and Code Enf. do a good job, as long as they are not pushed by politics.

Paul Houck, 205 Fairfax. - On animal control - In Florida they have to license cats. I think that is a great idea. On the noise law - my biggest problem is people driving by with loud radios. Is there anything the police can do about that.

Chief Kole - There is a law in New York, but it is measured by decibels. But we'd have to have a decibel meter. I'm not aware of any police agency in this County that has the money to buy one.

Mayor Gross - I think talking to the neighbors is a good idea. Sometimes its better if we just talk to each other. As far as cat licensing, that is something that can be discussed at the workshop.

Mayor Gross - did everyone receive the LRC report, have you had a chance to review it.

Trustee Swartz - partially.

Mayor Gross - I would like a workshop on this. Chris should be there too.

It was agreed to have a workshop on the LRC building report on Thursday, August 18th - 5:00 p.m.

At this time, the Board and Village Attorney moved into an Executive Session, the minutes of which are attached hereto and made a part hereof.

At 9:55 p.m., the Board reconvened back into its regular meeting of this date.

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

Respectfully submitted,

Sharron Cunningham
Clerk-Treasurer

/rmb

Executive Session

July 14, 2005

The Village Board of Trustees conducted an Executive Session on this date at 8:15 p.m. Present were Mayor Patricia Gross, Trustees Earle Catlin, Ronald Swartz, Howard Miller, and Kevin Sullivan, and Village Attorney John Groff.

The meeting was convened to discuss personnel matters involving a particular person. General discussion ensued. All board members participated in discussion.

Motion by Howard Miller, seconded by Ron Swartz, to adjourn back into the regular meeting.

Roll Call Vote:

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

Adjourned at 9:55pm.