

Minutes

Village Board of Trustees

March 27, 2008

A meeting of the Village of Horseheads Board of Trustees was held on the above date at 7:00 p.m. Present were Mayor Donald Zeigler, Trustees Ronald Swartz, Howard Miller, Walter Herbst and George Koliwasky, Village Attorney John Groff, Village Justice Bill Driscoll, Fire Chief Arthur Sullivan, Police Chief Mike Barton, Planning Bd. Member Mike Stenpeck, Clerk-Treasurer Sharron Cunningham, DPW Chris Lawrick, Recreation Director Nate Nagle, and Manager's Assistant Rachel Baer. Also present were: Tess Banfield, 134 Catalpa Dr.; Andy Bodewes, Conifer Realty; John Caruso, Passero Assoc.; Thomas Kieffer, 21 Johnson Hollow Rd.; Mark Maher, Express Mart, and the news media.

Resolution by Trustee Miller, seconded by Trustee Koliwasky

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of March 13, 2008 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Resolution by Trustee Herbst, seconded by Trustee Swartz

BE IT RESOLVED, that the Clerk-Treasurer is hereby authorized to transfer the funds listed on the attached sheet.

Roll Call Vote:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that the minutes of the Traffic Commission Meeting of March 19, 2008 be received and placed on file in the Village Clerk's Office.

Roll Call Vote:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |

Trustee Koliwasky: Aye

7:05pm - At this time Atty. Groff declared open a Public Hearing on Proposed 2008-2009 Village Budget.

Tess Banfield, Catalpa Dr. - 4% tax increase is too much.

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

Resolution by Trustee Swartz, seconded by Trustee Koliwasky

WHEREAS, Keuka Properties LLC is the owner of lands situate on and northerly of Gardner Road in the Village of Horseheads, commonly known as Gardner Road subdivision, and

WHEREAS, Keuka Properties has previously submitted to this Board a proposal for a residential subdivision of the site, and

WHEREAS, Keuka Properties has submitted construction drawings for Phase 2B of the subdivision, and

WHEREAS, this Board is informed and believes that Keuka Properties LLC will convey the lands comprising Phase 2B to a related entity, Gardner Road LLC, for the latter's development of a road and utility infrastructure as well as residential building lot sales, and

WHEREAS, Gardner Road LLC has submitted to this Board a proposed Irrevocable Documentary Letter of Credit in the amount of \$99,100.00 being the projected cost of the road and utility infrastructure which would be offered for dedication to the Village of Horseheads upon completion of this phase, and

WHEREAS, such document has been reviewed by DPW Chris Lawrick and Village Attorney John Groff who have recommended approval of same to this Board.

NOW THEREFORE BE IT RESOLVED, that this Board does hereby accept the above-noted Letter of Credit in lieu of a bond for the described improvements, same to be filed with the Village Clerk.

Roll Call Vote:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

At this time the Board completed Part 2 of the Full SEQR Review on the Conifer Horseheads LLC Planned Unit Development Project on Grand Central Avenue - Rite Aid and Commercial Plaza.

Tom Kieffer, Chemung Co. Env. Mgmt. Council, interrupted SEQR review process, and stated that since this is part of coordinated projects, you will be involved in segmentation.

Mr. Caruso, of Passero Assoc., stated that it was not segmentation since ReRob is a whole separate action.

The Board continued their SEQR Review.

Question #15 - Transportation

John Caruso, of Passero Assoc., the site engineer - You must meet the code standards for traffic control devices, etc. If you don't meet these thresholds, you don't just go putting in turning lanes. If someone gets in an accident because you did it wrong, your responsible - meaning us. The threshold is volume of traffic. When you start bringing hundreds of people in, you have to get those cars off the lane. That is when you put that lane in. Our traffic study only showed 60-70 cars per hour. Problem is this will create a rear end collision situation. I looked at his traffic volume counts. Not a lot of traffic generated by Rite Aid.

Atty. Groff asked about utility relocation.

Mr. Caruso - several telecommunication lines in this area and sewer. You don't build any lanes over this. There are also utility poles.

The Board concluded, and was in unanimous agreement, that the answer to this SEQR question is yes, but the design elements of the developer mitigate these impacts.

Chris Lawrick, DPW Director, noted that there were other traffic issues besides turning lanes that have been raised. One being modifying the common access area.

Atty. Groff - the initial design called for both north and south turns out of this road. NYSDOT and our traffic commission say it should be right in and right out only. Mr. Bodewes agreed to this modification at the Planning Bd. Mtg.

Mr. Caruso stated that this is actually on the ReRob plan.

The Board completed their SEQR review. They identified Traffic as a matter of concern but on further review it appears they were mitigated by the design of the applicant and design modifications.

Atty. Groff - on the 30 banked parking spaces. The developer has offered to bank this area to address concerns that were identified for possible restaurant development. Tom Skebey has calculated the allowable sq. ft. of restaurant space.

Resolution by Trustee Miller, seconded by Trustee Swartz

WHEREAS, Conifer Horseheads LLC is the owner of lands on Grand Central Avenue in the Village of Horseheads, commonly known as Tax Map Parcel Numbers 59.18-1-4.1 and 4.2, and

WHEREAS, Conifer has applied to the Village of Horseheads for site plan review of its proposed commercial development in a Planned Unit Development zone in the Village, such application describing construction of a 14,673 sq. ft. Rite Aid Pharmacy with drive-through, and a 13,424 sq. ft. retail building, and

WHEREAS, said application is subject to SEQR and has been classified as an Unlisted Action pursuant to SEQR regulations, and

WHEREAS, the application has been developed, submitted and reviewed in conjunction with a companion application of ReRob LLC for commercial development of an adjacent parcel, and

WHEREAS, the Village of Horseheads Board of Trustees declared March 18, 2008 its intent to assume Lead Agency status for the SEQR Review of the projects, and

WHEREAS, all involved agencies were informed of such declaration and have consented to the Board of Trustees' assumption of Lead Agency Status for coordinated review, and

WHEREAS, Conifer Horseheads LLC has submitted a Full Environmental Assessment Form, and

WHEREAS, a public hearing was held on the application before the Village Board of Trustees on March 13, 2008 at which time all involved or interested parties were afforded an opportunity to comment, and

WHEREAS, the design details of the project including a Traffic Impact Assessment have been submitted to the Village of Horseheads, Town of Horseheads and Chemung County Planning Boards for their review and comment, which comments have been received, and

WHEREAS, the project has been reviewed by the Village Traffic Commission and NYS Department of Transportation for traffic impact assessment, such review resulting in concerns being raised relative to sufficiency of parking should the commercial building be utilized for restaurant uses, and the merit of incorporation of right turn lanes to the northbound lane of Grand Central Avenue for the entrance/exit points on Grand Central Avenue referred to as "30' common access (by others)" and the ingress/egress point immediately southerly thereof, and

WHEREAS, this Board has reviewed said Full Environmental Assessment Form and has engaged in deliberations and review concerning Part 2 thereof, and

WHEREAS, such review has identified "impact on transportation" as a matter of concern, and

WHEREAS, it has been determined that the impact on traffic concerns have been mitigated reducing same to small or moderate, and

WHEREAS, it has been determined that the consensus regarding adequacy of on-site parking for the retail building if same were to be used as a restaurant could be mitigated by the "banking" of land for development of 30 parking spaces to the rear of the building, and prohibition of the use of same for restaurant use prior to the development and construction of same.

NOW THEREFORE BE IT RESOLVED, that Mayor Donald Zeigler is hereby authorized and directed to execute the SEQR Determination of Significance for this project, Item B issuing a Negative Declaration, such declaration conditioned on mitigation of the on site parking as noted above.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

At this time, the Board completed the Short Form SEQR on the ReRob LLC Special Use Permit Project, Express Mart and McDonald's, finding there to be no significant environmental impact.

Resolution by Trustee Herbst, seconded by Trustee Koliwasky

WHEREAS, ReRob LLC is the owner of lands on 2150 & 2152 Grand Central Avenue in the Village of Horseheads, commonly known as Tax Map Parcel Number 59.18-1-1.1, and

WHEREAS, ReRob has applied to the Village of Horseheads for a Special Use Permit and Special Sign Permit for its proposed commercial development, such application describing construction of a 3,403 sq. ft. McDonalds fast food restaurant with drive-through, and a 3,572 sq. ft. Express Mart convenience store, and

WHEREAS, said application is subject to SEQR and has been classified as an Unlisted Action pursuant to SEQR regulations, and

WHEREAS, the application has been developed, submitted and reviewed in conjunction with a companion application of Conifer Horseheads LLC for commercial development of an adjacent parcel, and

WHEREAS, the Village of Horseheads Board of Trustees declared March 18, 2008 its intent to assume Lead Agency status for the SEQR Review of the projects, and

WHEREAS, all involved agencies were informed of such declaration and have consented to the Board of Trustees' assumption of Lead Agency Status for coordinated review, and

WHEREAS, ReRob LLC has submitted a Short Environmental Assessment Form, and

WHEREAS, a public hearing was held on the application before the Village Board of Trustees on March 13, 2008 at which time all involved or interested parties were afforded an opportunity to comment, and

WHEREAS, the design details of the project including a Traffic Impact Assessment have been submitted to the Village of Horseheads, Town of Horseheads and Chemung County Planning Boards for their review and comment, which comments have been received, and

WHEREAS, the project has been reviewed by the Village Traffic Commission and NYS Department of Transportation for traffic impact assessment, such review resulting in concerns being raised relative to control of the entrance/exit point on Grand Central Avenue referred to as "30' common access (by others)" which was addressed with design modifications by the applicant, and

WHEREAS, this Board has reviewed said Short Environmental Assessment Form and has engaged in deliberations and review concerning Part II thereof, and

WHEREAS, such review has not identified any matters of concern.

NOW THEREFORE BE IT RESOLVED, that Mayor Donald Zeigler is hereby authorized and directed to execute the SEQR Determination of Significance for this project, Part III determining that the action will not have any significant adverse environmental impacts, and be it further

RESOLVED, that this Board does hereby approve the application of ReRob LLC for a Special Use Permit and Special Sign Permit for the commercial development of the above-noted premises for an Express Mart convenience store/gas station and a McDonalds fast food restaurant with drive through service as designed and presented on plans and specifications of Carmina Wood and Morris PC, Project #07.036, drawings C-100, C-101, C-102, A-100, A-500, A-501 dated January 17, 2008, also referred to as "preliminary not for construction March 13, 2008". Such drawings

modified or to be modified to reflect right in, right out only at the entrance/exit point on Grand Central Avenue referred to as "30' common access (by others)" inclusive of signage and pavement markings necessary thereto.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Newsletter: Atty. Groff - I submitted this law a while back. It needs some input from the Board to complete it.

Trustee Herbst - have a focus group to get input on kind of info people want to hear about. Then they will review the first edition of the newsletter. We meet next week with the group.

Motion by Trustee Swartz, seconded by Trustee Miller, that the following item be added to the agenda:

- Appoint Village Negotiators for PBA Contract

Roll Call Vote:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Resolution by Trustee Miller, seconded by Trustee Swartz

WHEREAS, the collective bargaining agreement between the Village of Horseheads and the Horseheads Police Benevolent Association (P.B.A.) expires May 31, 2008, and

WHEREAS, the P.B.A. has advised the Village of Horseheads in writing that its bargaining agents in the negotiations will be Scott McGrain, Brian Nowlan and Seth Zawko.

NOW THEREFORE BE IT RESOLVED, that Mayor Donald Zeigler and Trustee George Koliwasky are hereby designated agents and negotiators to represent the Village in such collective bargaining negotiations with the Horseheads P.B.A.

Trustee Herbst - I move to amend motion that the Village Atty. be added as a Technical Advisor. Trustee Miller seconded the amendment.

Roll Call on Amendment:

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| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Roll Call on Resolution:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Motion by Trustee Herbst, seconded by Trustee Miller, to add the following item to the agenda:

- Conifer Horseheads Application for PUD Site Plan Review Approval - Rite Aid and Commercial Plaza

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Atty. Groff - there is no formal resolution at this point, but you have completed the SEQR and inasmuch as you've determined that there are no significant environmental impacts, you could proceed.

Resolution by Trustee Herbst, seconded by Trustee Miller

WHEREAS, Conifer Horseheads LLC is the owner of lands on Grand Central Avenue in the Village of Horseheads, commonly known as Tax Map Parcel Numbers 59.18-1-4.1 and 4.2, and

WHEREAS, Conifer has applied to the Village of Horseheads for site plan review of its proposed commercial development in a Planned Unit Development zone in the Village, such application describing construction of a 14,673 sq. ft. Rite Aid Pharmacy with drive-through, and a 13,424 sq. ft. retail building, and

WHEREAS, said application is subject to SEQR and has been classified as an Unlisted Action pursuant to SEQR regulations, and

WHEREAS, the application has been developed, submitted and reviewed in conjunction with a companion application of ReRob LLC for commercial development of an adjacent parcel, and

WHEREAS, this project has been reviewed by the Village, Town and County Planning agencies, and

WHEREAS, this Board has completed its review of environmental impacts for SEQR and has determined that all environmental impacts are negative or have been mitigated, and

WHEREAS, the applicant has agreed to bank 30 additional parking spaces on site to be developed should the commercial plaza convert in whole or in part to restaurant uses.

NOW THEREFORE BE IT RESOLVED, that this Board hereby approves this application for

Planned Unit Development Site Plan Renew based upon the design submitted by Passero Associates Project 2008-502.01 including Dwg. #C-101 dated March 2008, and be it further

RESOLVED, that Code Enforcement Officers are instructed to prohibit the issuance of a permit to establish a restaurant at this location unless the developer does in fact develop the banked 30 parking spaces to the rear and east of said building. Further it is stipulated that the banked parking spaces can be developed in phases - should the developer apply for a restaurant use of 2,000 sq. ft. or less, that not less than 15 spaces will be developed; if the restaurant is more than 2,000 sq. ft. all 30 of the banked spaces will be developed for onsite parking.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

911 for Dispatching

Chief Barton made a presentation regarding 911. As you know years back we were given a price quote for conversion to 911. It was \$40,000. Few years ago it was \$20,000. We currently have a full time vacancy in dispatching, some licenses are coming due. If we are looking to make a move now is the time. I talked to Mike Smith today. He needs a letter from us basically stipulating this so he can take it to Santulli to get the ball rolling. It is my position that at this point in time given the fact we have staffing issues, etc. fiscal issues, that we pursue this. They are willing to absorb the cost of our radio issues too. Plus there would be a salary savings of a dispatcher too. Initially we would continue to staff the station 24/7 in the first year, then make a determination.

Trustee Swartz - In the past there has been a lack of documentation on what they've said to us. We need to get whatever they are offering down in writing. Everything needs to be documented.

Motion by Trustee Herbst, seconded by Trustee Swartz, that Mayor Zeigler and Chief Barton move forward on this matter with a letter to be prepared by Atty. Groff.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

Trustee Koliwasky - on the budget, this year being part of the process I have a better understanding on this. We had several workshops, looked at everything closely, and actually had a higher tax increase at first. But we worked it down to where we are today. There are things the residents have asked us to do: dumpster program, newsletter, sidewalk repair. Our police department is back up to full staff. Plus the normal increases in insurance, etc. Nate Nagle is working on programs for seniors. All these things come with an expense. But 4% is reasonable considering what we are doing. We tried to answer what people wanted, but it doesn't come without costs. Department heads did cut a lot too. We need to keep up our services for the residents.

Tess Banfield, Catalpa Drive - I still think 4% is very excessive. On a \$50,000 house, that is an increase of \$9.00, which is a lot of money.

Motion by Trustee Herbst, seconded by Trustee Swartz, that this Board and the Village Attorney move into an Executive Session to discuss a personnel matter involving a particular person.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |

At 8:45 p.m., the Village Board and Village Attorney moved into an Executive Session, the minutes of which are attached hereto and made a part hereof.

At 9:04 p.m., the Village Board reconvened back into its regular meeting of this date.

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

/rmb

Village Board of Trustees

EXECUTIVE SESSION

March 27, 2008

An Executive Session of the Village of Horseheads Board of Trustees was held on the above date at 8:45 p.m. in Village Hall. Present were Mayor Donald Zeigler, Trustees Ronald Swartz, Howard Miller, Walter Herbst, and George Koliwasky, and Village Attorney John G. Groff, at which time they discussed a personnel matter involving a particular person.

At 9:04 p.m., upon motion by Trustee Swartz, seconded by Trustee Miller, the executive session was adjourned, and the Board reconvened back into its regular meeting of this date.

Roll Call Vote:

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|--------------------|-----|
| Mayor Zeigler: | Aye |
| Trustee Swartz: | Aye |
| Trustee Miller: | Aye |
| Trustee Herbst: | Aye |
| Trustee Koliwasky: | Aye |