

May 27, 2004

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, DPW Director Chris Lawrick, Police Chief Dave Kole, Clerk-Treasurer Sharron Cunningham, and Manager's Assistant Rachel Johnson. Also present were Tess Banfield, 134 Catalpa Dr.; Bernie Weigle, 111 Boorum Pl.; Joyce Wasserman, 2977 Westinghouse Road; Ernie Hartman, 1001 Center St.; Michele Locey, 102 Lee Ave.; Mike Stenpeck, 2202 Grand Central Ave.; Jim Lynch, 303 W. Mill St.; Tom O'Mara, Atty. for James Lynch; Frank Maximiek, 4069 Rockwell Ave.

Resolution by Trustee Miller, seconded by Trustee Sullivan

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of May 13, 2004 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 Swartz, seconded by Trustee Miller

WHEREAS, there presently exists an inequitable situation in which a public employer, when sued by one of its employees in a job related personal injury action, must pay what amounts to a double recovery to the employee for lost future earnings; in other words the employee is able to collect from both the public employer and a third party responsible for such personal injuries, and

WHEREAS, such a double recovery is not readily available in a private sector, and

WHEREAS, legislation known as the Collateral Source Bill (S. 622/A.3483) has been proposed and is sponsored by numerous senators and assembly members including Senator Kuhl, and

WHEREAS, the Village of Horseheads supports the enactment of this bill.

NOW THEREFORE BE IT RESOLVED, that Village Manager Vincent Azzarelli is authorized and directed to correspond with the Governor and appropriate Senate and Assembly representatives confirming this Board's support of the pending bill.

Trustee Sullivan - how new is this.

Atty. Groff - City of New York is really promoting it because they are impacted by it more so than any other municipality. Chemung County has already taken action.

Tom O'Mara, Chemung Co. Attorney - The County is in full support. It is an unfair advantage that is not available to normal plaintiffs in the private sector. We are in favor of that legislation.

Atty. Groff - it would be enacted by the state, not adopted locally.

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 application of Kathleen Walsh for a Special Use Permit to operate a Bed and Breakfast at 709 Watkins Road, and also for a Special Sign Permit for same, is hereby received and forwarded to the Village and Town Planning Boards for their review and comment, and be it further

RESOLVED, that a public hearing regarding same is hereby scheduled for June 10th, 2004 at 7:05 p.m.

Roll Call Vote:

Atty. Groff declared open the public hearing on the application from James Lynch, II for a Special Use Permit to operate a funeral home at 318 W. Broad St. He stated that the site plan has changed

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slightly, reduced size of structure, and changed traffic plan. Option B does not use Legion Lane. Option A does.

Nobody came forward. Atty. Groff declared the public hearing closed.

At this time the board reviewed and completed part 2 of the short form SEQR and found there to be no negative environmental impacts, and authorized a Negative Declaration.

Resolution by Trustee Swartz, seconded by Trustee Catlin

WHEREAS, James Lynch, II, is the owner of real property located at 318 W. Broad Street, Horseheads, NY, identified as Tax Map Parcel #59.09-2-15, and

WHEREAS, said property is situate in an R-2 Residential District in the Village, and

WHEREAS, the applicant has applied for a Special Use Permit to establish and construct a Funeral Home on said property, 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 will not have a significant environmental impact, and

WHEREAS, a public hearing was held on this date regarding the application for a Special Use Permit at which time all interested or affected parties were afforded an opportunity to present their views regarding the application, and

WHEREAS, the application, site plan, and associated traffic plan, has been reviewed by the Village of Horseheads Planning Board, such Board having recommended the approval of Option B which eliminates the use of Legion Lane for ingress and egress, and also reduces the square feet of the structure from 10,000 to 8,446.

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 James Lynch, II, for a Special Use Permit to establish a Funeral Home at 318 W. Broad Street, specifically Option B (Site Plan drawing from Kirk Vieselmyer, Elmira Structures, dated 5/11/04, and titled Lynch Funeral Home "Option B"), be and the same hereby is approved.

Roll Call Vote:

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

Atty. Groff declared open a public hearing on the proposed local law on festivals and parades. As nobody came forward, he declared the public hearing closed.

Resolution by Trustee Sullivan, seconded by Trustee Miller

WHEREAS, the Village is considering a local law to establish regulations for Festivals and Parades, and

WHEREAS, this proposed local law was presented to this Board on May 14, 2004, 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 May 27, 2004, and

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

NOW THEREFORE BE IT RESOLVED, that said Local Law on Festivals and Parades 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 Sullivan:	Aye

Trustee Swartz - Many people expressed concerns about still having festivals in Hanover Square. Didn't want a long process to have a festival. After the many revisions, I believe we have accommodated everyone.

Mayor Gross - Its been a long time coming. I thank all the Village staff for all their hard work. Tried to make our process as simple as possible.

Discussion on employee manual

Village Manager - We had a workshop about month ago, made several revisions , but one area that needs more work is the employee evaluations. The issue that I'd like to present is that right now only a small part of the staff can be evaluated because of the union negotiation requirement. Would like to get some guidance from the Board on this. I don't know if its unfair under state law, but what we are doing is looking at a very specific part of our staff, while 2/3 of our staff is protected from evaluations. Maybe we should just reserve a section in the manual for this - employee performance feedback program. Need John to do research on whether we can evaluate only part of the staff.

Trustee Sullivan - I agree, we should research it.

Mayor - the intent is not meant to be punitive. People need to realize it was to be a tool as much for the employees as the employers.

Village Manager - This is a negotiated item. Will be discussing in the fall. Was told as soon as I brought it up that we can't do it for the PBA.

Atty. Groff - there have been prior occasions where other boards have seen value both to the efficiency and operation and advancement of officers to try to implement an evaluation process. They had been offered it in the context that it was not disciplinary. They were performance based. In some cases for physical performance. Historically it has been met with considerable resistance. Rather than create hostility, other boards have decided not to pursue it as part of contract neg. I think that there is a view that these are essential, also for safety purposes. Officers are expected to do physical activity, could be a liability. Sometimes they are unaware of their own health risks.

Mayor - And there is already a discipline process in place.

Atty. Groff - management characterizes it as personal enrichment. They see it as an evaluation and change in term and condition of employment. The employees think that, what will you do with the results. Do you intend to use them as a tool to discipline because I don't measure up. Am I going to be required to run faster, etc. Reason we need to do something is that it is a change. It isn't something thats being done now.

Mayor Gross - when we go to promote someone, we have nothing to base it on, in writing.

Atty. Groff - Or could be a tool not to promote.

Chief Kole - that is one of the reasons they don't want it.

Village Manager - The sergeants take an exam which makes them qualified for promotion. If we did annual evaluations and scored them over a 3 year period, we'd have the best qualified person. But their feeling is that it could be used against them. We'll move forward with a program and use it to establish an evaluation program that is enrichment based, as an example to use in our negotiations.

Discussion on Professional Offices -

Village Manager - On May 13th we were approached by a number of businesses to review the definition of prof. Offices. In the minutes you read that many of the professionals in the area and

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landowners who are renting out office space feel it is restrictive and effecting their ability to rent. Many gave presentations at our last meeting. John and I have discussed this at length over the last 2 weeks, but we feel there needs to be a workshop. The Village is developing, and there will be more traffic also. We're seeing other businesses looking to develop along Westinghouse Road, so its not just one issue. Right now it's the definition of Professional Office in the Overlay Zone, which effects more properties than just Westinghouse Road.

Atty. Groff - I agree. Your staff is looking for direction from the Board as to how you'd like us to proceed. There seems to be some view toward the idea of expanding the definition of Professional Office, seems to be attractive to a lot of people for a lot of reasons. The question before you is whether you want to act ahead of the I86 project, or wether you feel like you want to contain it, etc.

Trustee Swartz - I think we should have a workshop with the planning board together.

Village Manager - and the Zoning Board of Appeals also.

Mayor Gross - I agree. The planning board put a lot of work into the new code and the overlay zone. Time to take a good look at this. We need to set up this workshop, invite these people.

Trustee Sullivan - What is the timeline, don't want to drag our feet.

Mayor Gross - We need to be well informed. Also effects all the residents behind the westinghouse road area. I firmly believe we need to take our time so we know what we are doing.

Village Manager - its not just westinghouse road. There are several overlay zones throughout the Village that we have to consider.

Frank Marsimiak, Locey realtor - was it not said that no more businesses would move in if they didn't meet the law.

Atty. Groff - that is the case, if a business qualifies under the current law then they can certainly move in. If not, then it is inappropriate.

Frank Marsimiak - then why is one moving in.

Atty. Groff - this Village is not in a position of approving people moving into private property. If your referring to something that happened without a permit, all we can say is we'll look into the situation. If we find there is a violation, then they will receive a citation. We did not permit a business to move in there.

Village Manager - I did receive complaints. Code officers went there, but nobody was in the facility.

Michele Locey - they have phones, a sign, and I have pictures of the moving truck. We sat here two weeks ago and they were told they cannot move in. I was declined for the same request. Nobody is doing anything about it. Exit Realty has been in there also.

Atty. Groff - we'll look into that matter. If we find there is a violation, would you be willing to be a witness.

Michele Locey - Yes.

Mayor Gross - This board feels that everybody is the same, and nobody is going to get special permission.

Joyce Wasserman - I am a partner of the building we are talking about. So far as I know they were there before that law changed. I asked this Board last week, nobody knew. As far as I'm concerned Exit is there legally. As far as the other, he has not started business there yet. He does have a contract because as far as we knew, he was legal.

Mayor Gross - it was my understanding that you had knowledge of this law.

Ms. Wasserman - there was confusion. I knew that realtors were taken off the list. I knew that an insurance agency would require special permission.

Mayor Gross - you should check with the code enforcement officer, or the village manager.

Art Ambrose - I did have contact with the manager, perhaps in January. It was a conversation involving Mr. Amerosi and his insurance agency, and I left the meeting that it would be an acceptable use because he was licensed with the state.

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Village Manager - that is not what you said two weeks ago. You said that we hadn't talked about it. You corrected Ms. Wasserman that I never gave permission.

Art Ambrose - I corrected her on the word 'approved'. But I left the meeting with the understanding that this use would be an acceptable use.

Mayor Gross - obviously a big understanding. This board has made a decision. We will do a workshop and look at this. But this will be a thorough process. Because it affects more than just you. This will be done very carefully.

Art Ambrose - I understand that. There was a lot of discussion at the last board meeting and I think it was clear that there needs to be a serious examination of this because the most recent example is that the overlay zone will allow a dentist. However this dentist has concluded that there is too much competition already on Westinghouse and is moving to big flats. Meanwhile we have other businesses that want to be there but they are not restricted out. I think the definition should be broadened to include other licensed professionals.

Village Manager - We had a discussion on the internet company. He sent us documentation that all his employees were licensed under the department of education. That is why he was approved.

The Board discussed a date for the workshop. It was decided to have it on June 9th at 4:30, after the regular ZBA meeting.

Ms. Wasserman - can I submit information.

Atty. Groff - you can. The workshop is open to the public for observation, but not participation. It is public meeting. If they solicit your views, you are permitted to speak. But it isn't something where you are invited to participate.

Village Manager - what date did Exit Realty move in.

Ms. Wasserman - December 2002.

Village Manager - the new law went into effect in May 2002.

Mayor Gross - it's your responsibility to find out. We certainly can't send the law to every citizen. You were here before us yourself. So it's not like you don't know the process and how to come to us.

Ms. Wasserman - I had no idea there was a change that I should ask about.

Resolution by Trustee Swartz, seconded by Trustee Miller

BE IT RESOLVED, that an item regarding street closings for the Memorial Day Parade 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 a Parade Permit is hereby issued to the Horseheads American Legion for Memorial Day, Monday May 31st, 2004 beginning at 2:00 p.m., and be it further

RESOLVED, that the Department of Public Works is hereby directed to close off the streets of the parade route at or about 2:00 p.m. until the end of the parade, and be it further

RESOLVED, that the Department of Public Works is also directed to close off Steuben street from S. Main Street to Pine Street between the hours of 1:00 p.m. - 6:00 p.m. on said date for the Youth Bureau ice cream social.

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Roll Call Vote:

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

Mayor Gross - I wish they would change the parade route back. The route is almost reversed.

Chief Kole - the new route works a lot easier for safety, etc. We can do it with less officers and a lot easier to control.

Chris Lawrick - we will cut off traffic at the entrance to the holding point on Ithaca Road.

Mayor Gross - has the county given us permission to do this on Ithaca Road.

Chief Kole - I'll verify that with the county.

Mayor Gross - we should really look at the staging area. That is the dangerous part.

Trustee Catlin - Regarding professional offices, its unfortunate to have misunderstandings with businesses. Its not intended. I certainly want to encourage businesses to come into the Village.

Trustee Sullivan - the cemetery looks very good. Compared to a lot of other cemeteries, ours is great. I'd like to at some point to explore the new section, what we want to do with it. It's a good time now to look at it.

Chris Lawrick - next week we start our street program. We have contacted all the residents on the streets already.

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

Respectfully submitted,

Sharron Cunningham
Clerk-Treasurer

/rmj