

**TOWN OF HORSEHEADS
TOWN BOARD
JULY 14, 2021
7:00 P.M.**

The regular monthly meeting of the Town Board of the Town of Horseheads was held on the above date at 7:30 P.M. at the Town Hall, 150 Wygant Road, Horseheads, New York.

Members Present: Donald J. Fischer, Town Supervisor; Gary H. Riopko, Stephen E. Wilber and Donald W. Zeigler, Councilmen

Members Absent: Carl R. Lewis, Sr., Councilman

Others Present: Nancy Rohde, Town Clerk; John P. Mustico, Town Attorney; Tom Nagle, Joe Atkinson, Sheriff Bill Schrom and via zoom: Peggy Woodard, 8th District Legislator, Lisa Marshal, and Kelly Smith-Frank.

Supervisor Fischer called the meeting to order at 7:00 p.m. and the pledge of allegiance was recited.

On a motion by Mr. Wilber, and seconded by Mr. Riopko, it was moved that the reading of the minutes of the June 9 & 23, 2021 meeting of the Town Board of the Town of Horseheads be dispensed with and the same stand approved as entered by the Clerk.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

Resolution #88 of 2021

RESOLUTION AUTHORIZING PAYMENT OF CLAIMS

Resolution by Mr. Riopko, seconded by Mr. Wilber

BE IT RESOLVED, that the Supervisor is hereby authorized and directed to pay all bills from all funds in the amount of \$940,139.44.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

Resolution #89 of 2021

REPORTS OF TOWN OFFICERS

On a motion by Mr. Wilber and seconded by Mr. Riopko, it was moved that the June, 2021 reports of the Supervisor in the General and Highway Funds, reports of the Town Justices, Code Enforcement Office, Highway Superintendent, Town Clerk, and Assessor be received and placed on file.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

Correspondence:

- Charter Communications – Upcoming changes (07/01/2021).

On a motion by Mr. Wilber and seconded by Mr. Riopko, it was moved that the correspondence be received and placed on file.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

During the audience participation portion of the meeting, Chemung County Sheriff Bill Schrom came forward to address the Board. He wanted to introduce himself and explain some of the duties of his office.

Next, Peggy Woodard, 8th District Legislator spoke to say that she was in attendance via zoom meeting and wanted to give kudos to Highway Superintendent Marty Vanderhoff, she said he was very helpful during the past storm and got right in and took care of the roads and trees in the Village of Elmira Heights.

Next Lisa Marshal of 78 Moss Hill Road and Kelly Smith-Frank spoke via zoom regarding a program called “Clean Energy” which helps residents to afford energy upgrades. There are extended grants from NYS for this and Heat Smart eligibility grants for improvements. They would like to set up a meeting to discuss this further with Supervisor Fischer. They will contact the Town Clerk to set up a meeting.

Resolution #90 of 2021

**RESOLUTION AUTHORIZING HOME RULE MESSAGE REQUESTING
THE NYS LEGISLATURE ADOPTING LEGISLATION PERMITTING
THE TOWN TO ALIENATE CERTAIN PARKLAND
AND TO SELL THE SAME FOR RESIDENTIAL USE**

Resolution by Mr. Zeigler, seconded by Mr. Riopko

WHEREAS, the Town of Horseheads owns a park known as located at 200 Evergreen Circle (the “Premises”), more fully described at Exhibit A, in the Town of Horseheads, Chemung County, New York; and

WHEREAS, the Premises, which comprise a lot of land located in the Evergreen Acres Subdivision, Section 3 and was conveyed to the Town by the developer of the subdivision for park purposes, and

WHEREAS, the Premises has remained vacant since the conveyance and has never been developed by the Town for any park related purposes, and

WHEREAS, presently the Town of Horseheads has, at least, two parks which more than serve the needs of the residents of the subdivision, the Breesport Park which is located approximately one mile and a more comprehensive park, the Holding Point Recreation Complex located at the Town Hall Campus, 150 Wygant Rd., which includes baseball, softball, little league fields as well as park equipment, such as slides, swings, etc. as well as tennis courts, basketball courts, park equipment for all ages located at local schools; and

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WHEREAS, the Town desires to sell the premises at market value and use the proceeds for the purpose of capital improvements to its existing parks or recreational areas, and

WHEREAS, the Town Board has duly considered the same.

NOW THEREFORE, BE IT RESOLVED, the Town Board hereby authorizes the Supervisor of the Town, to proceed with the parkland alienation request, including, but not limited to preparation of the forms required to be submitted to the New York State Department of Parks, Recreation and Historic Preservation (“NYS Parks”) and to the offices of the corresponding legislative sponsors, Hon. Thomas F. O’Mara, State Senator and Hon. Christopher S. Friend, Assemblyman (“Legislative Sponsors”); and be it further

RESOLVED that the Town Board of the Town of Horseheads, in accordance with the provisions of Section 40 of the New York Municipal Home Rule Law, hereby requests the State of New York to adopt legislation authorizing alienation of the Premises; and be it further

RESOLVED, that the Clerk of the Town, be and is hereby authorized, directed and empowered to forward forms required to be submitted to the New York State Department of Parks, Recreation and Historic Preservation (“NYS Parks”), together with certified copies of this resolution to NYS Parks, the Majority and Minority Leaders of the New York State Senate and the New York State Assembly, the Governor of the State of New York and the Legislative Sponsors; and

BE IT FURTHER RESOLVED, that Supervisor of the Town of Horseheads, be and is hereby authorized, directed and empowered to sign any documentation and take any and all actions necessary to implement this Resolution.

EXHIBIT A

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Horseheads, County of Chemung and State of New York, bounded and described as follows: Commencing at an iron pin found, which iron pin is located at the intersection of the easterly boundary of Evergreen Circle at its intersection with the northwesterly corner of lands now or formerly owned by Douglas A. Locke (Inst. #201804089); thence proceeding along the easterly boundary of Evergreen Circle in a northerly direction on a curve to left with a radius of 200.00 feet an arc distance of 104.40 feet creating a chord bearing of N. 35°53’20” E. and a chord distance of 103.22 feet to an iron pin set; thence proceeding S. 73°13’39” E a distance of 213.85 feet along the southerly boundary of lands now or formerly of Robert F. & Maureen J. Kohan (L. 652, p. 110) to an iron pin set; thence proceeding S. 02°06’17” W. a distance of 89.94 feet along the westerly boundary of Evergreen Acres, Section 1 (Case Map No. 1810) to an iron pin set; thence proceeding N. 85°53’43” W. a distance of 47.97 feet along the northerly boundary of lands now or formerly of Michael R. & Rosanne Palmer (Doc. #0303180043); thence proceeding N. 73°13’39” W. along the northerly boundary of lands now or formerly Douglas A. Locke (Inst. #201804089) a distance of 223.60 feet to an iron pin found, the place a beginning, comprising 0.529 Acres of land, more or less.

ALL AS SHOWN on a certain survey entitled “Map of Lands of Town of Horseheads,” prepared by Twin Tiers Land Surveying, dated October 23, 2018, Job No. 18579; further reference is made to Subdivision Map of Evergreen Acres, Section 3.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

Resolution #91 of 2021

**RESOLUTION TO APPROVE SETTLEMENT OF
PEPSI BOTTLING GROUP #1928**

Resolution by Mr. Wilber, seconded by Mr. Zeigler

WHEREAS, Notice of Petition Under Article 7 Of The Real Property Tax Law Of New York State For Review Of Tax Assessments and Petition for taxation for the tax years 2017, 2018 and 2019 of the real estate of the above-named petitioner (the "Petitioner") in the Village & Town of Horseheads, County of Chemung, State of New York, 140 Wygant Road, Tax Map Nos 49.01-5-2 (the "Property"), was duly served upon the Board of Assessment Review and Assessor of the Town (the "Respondents"), and

WHEREAS, the Respondents and said property owner are prepared to enter into an agreement and stipulation of compromise and settlement of their differences in summary as follows:

That the proceedings for said tax years in relation to the Property be settled on the following terms and conditions:

1. This settlement is made in resolution of all past and present claims or proceedings with respect to the Petitioner's real property tax assessment relating to the Property;
2. Approval of this settlement and all required authorizations and enactments by the necessary parties shall be made in good faith and as expeditiously as possible.
3. Pursuant to RPTL section 727, the proceeding for 2017, 2018, and 2019 shall be settled by establishing the assessment of the Property at the revised assessments set forth below:

<u>TAX YEAR</u>	<u>ASSESSMENT</u>
2017	\$1,383,333.00
2018	\$1,221,667.00
2019	\$1,060,000.00

All other provisions of RPTL section 727, including RPTL section 727(2) shall apply to this settlement.

4. In consideration hereof, the tax certiorari proceedings brought by the Petitioner for the tax years 2017, 2018 and 2019 shall be discontinued on the merits and with prejudice, without cost to either party or against the other.

5. In consideration of the Respondents reducing said assessments as set forth in paragraph 3 above, the Petitioner agrees not to commence tax assessment review proceedings on said Tax Map Parcel for the tax years covered by the Stipulation pursuant to Article 7 of the Real Property Tax Law of the State of New York or under any other applicable provision of law, and the Town agrees not to increase the assessment on said parcel.

6. Nothing, however, in the Stipulation shall prohibit the /Town from changing the assessment on said Tax Map Parcel in the event the Petitioner makes additions or alterations to, or capital improvements on, or in the event said property has been sold, or in the event the Town revalues all properties within the Town prior to the taxable status dates of said years, any of which events have warranted a change in the assessment, and, similarly, the Petitioner shall not be barred from challenging and commencing proceedings to review the assessment change on said parcel in the event there has been a new assessment because of additions, alterations or capital improvements, or the completion of said environmental remediation which affects the value of said parcel, or in the event of a revaluation which have resulted in an increase in the assessment of the property.

7. Likewise, in the event that a substantial portion of the improvements on the subject property shall be destroyed, demolished or removed during the terms of this Agreement, the assessment of said property shall be adjusted in accordance with the change in said property, effective with the applicable status date, and the Petitioner shall not be barred from challenging and commencing proceedings to review the assessment in the case of such destruction, demolition, or removal which occasions a change in assessment.

8. The Town, acting through its assessor, shall make or cause to be made upon the proper books and records and on the assessment rolls of the Town the entries, changes and corrections necessary to conform to the assessments to the agreed-upon assessments.

9. The parties acknowledge, as the Stipulation is entered into, for good and valuable consideration on the part of, and received by all parties hereto, and constitutes the entire agreement among the parties.

10. The parties agree that the Stipulation is entered into to resolve the pending litigation and in no event should be offered or admitted in any other proceeding by the parties or by third parties as competent evidence of any fact.

11. The parties agree that the Stipulation may be filed and docketed in the Office of the Chemung County Clerk as provided in the New York Civil Practice Law and Rules.

12. An Order may be entered upon the Stipulation by either party on notice to the other party.

WHEREAS, it appears to be in the best interests of the [City/Village/Town] to settle said matters as recommended by the Board of Assessment Review and Assessor without further attendant legal and appraisal costs relating to said matters.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Horseheads in regular session duly convened as follows:

1. The Board of Assessment Review and Assessor of the Town be and they hereby are authorized to enter into a stipulation of settlement of said pending proceeding on the terms set forth herein.

2. The Attorney for the Town be and he/she hereby is authorized to consent to entry of appropriate court orders to accomplish said settlement and upon entry of the court orders directing the establishment of said assessments as aforesaid to execute stipulations of discontinuance of the said proceedings.

3. This Resolution shall take effect immediately.

Ayes: Riopko, Wilber, Zeigler and Fischer. Nays: None.

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Resolution #92 of 2021

**RESOLUTION AUTHORIZING TOWN TO PURCHASE ROCK TO PROTECT
HALDERMAN HOLLOW ROAD FROM STREAM EROSION**

Resolution by Mr. Zeigler, seconded by Mr. Riopko

WHEREAS, Mark Watts, Director of Chemung County Soil & Water Conservation District has met with the Town's Highway Department regarding stream erosion on Halderman Hollow Road in the Town of Horseheads, and

WHEREAS, Mr. Watts has recommended installing a stacked rock wall to protect the road and stabilize the headcut, and

WHEREAS, Mr. Watts explained that because the Town is active in the Countywide Stream Program, the District can provide the excavator, operator and fuel to install the rock and the Town would only need to purchase the rock for the project.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Horseheads hereby authorizes the purchase of 600 tons of rock needed for this project at an estimate cost of approximately \$30,000.00.

Ayes: Riopko, Wilber, Zeigler, and Fischer. Nays: None.

As there was no further business to come before the Board, on a motion by Mr. Wilber, and seconded by Mr. Riopko, it was moved that the meeting be adjourned at 8:34P.M.

Ayes: Riopko, Wilber, Zeigler, and Fischer. Nays: None.

Respectfully Submitted,

Nancy C. Rohde, Town Clerk