

**December 16, 2013**

- REGULAR MEETING:** The Regular Meeting of the Village of Honeoye Falls Board of Trustees was called to order by Mayor Milne at 7:00 p.m. with the Pledge.
- TRUSTEES PRESENT:** Trustee Worboys, Trustee Stottler, Trustee Alfieri, Trustee Pavelsky
- ALSO PRESENT:** Greg Emerson, Muffy Meisenzahl, Danny Bassette, Ed Sheidlower, Mike Tobin, Peter Skivington, Don Oppedisano, Patrick Brennan, Pam Scully, Rob Mauer, Jerry Warren
- MINUTES:** Motion by Trustee Stottler, seconded by Trustee Worboys to approve the minutes of November 18, 2013 as corrected. Motion carried.
- ABSTRACT NO. 7:** Motion by Trustee Stottler, seconded by Trustee Worboys that upon an audit of Abstract No.7 that approval be given for payment of the General Fund in the amount of \$151,367.39; Sewer Fund in the amount of \$48,626.78 to include vouchers #140565 - 140657. Motion carried.
- MAYOR'S REPORT:** Mayor Milne discussed with the Board the lawsuit that has been brought against the Village of Honeoye Falls regarding the recent legislation passed to allow drive thru windows in restaurants in the General Commercial District. He discussed hiring an attorney to represent the Village in the lawsuit with the Board.
- Motion by Trustee Pavelsky, seconded by Trustee Worboys to approve hiring Peter Skivington to represent the Village in the above referenced lawsuit at an amount not to exceed \$10,000.
- Trustee Stottler – Nay  
Trustee Alfieri – Aye  
Trustee Worboys – Aye  
Trustee Pavelsky – Aye
- Motion carried.

Mayor Milne introduced Peter Skivington and he briefly addressed the Trustees with comments on his plans to move forward.

Mayor Milne made the following statement:

The Village of Honeoye Falls has been served with a lawsuit brought by the Honeoye Falls Community Association, Inc., against the Village of Honeoye Falls; the Executor of the Estate of Everett Lewis; JFJ Holdings, LLC; and Honeoye Falls Donuts, LLC.

The lawsuit seeks to annul the Amendment to the Zoning Code which was filed on October 31, 2013, which permitted drive-thru and drive-up services for restaurants in the General Commercial District and established regulations and requirements therefor.

Among other things, the lawsuit alleges that the Village of Honeoye Falls did not properly refer this matter to the Monroe County Planning Board/Commission pursuant to Section 239-m of the General Municipal Law. After reviewing the entire Record before the Village Board, and the notice given to the Monroe County Planning Department, the Village Board has received the advice of counsel that the referral was not properly done pursuant to the General Municipal Law.

As a result, and in an effort to alleviate the expenditure of time and additional legal fees, the Village Board has decided to vacate the aforesaid Amendment to the Zoning Code of the Village of Honeoye Falls and schedule the proposed Code Amendment for a public hearing after due notice to the Monroe County Planning Board pursuant to the General Municipal Law, as well as due notice to the public and other necessary parties as required by statute.

Mayor Milne listed the names of the individuals that signed affidavits included in the lawsuit. Those were:

Dr. Barry Kissack	Sharon Kissack
Melissa Matson	Bob Taylor
Dr. Annette Brenner	Stephen Strasser
James Goodwin	Ann Grosjean
Delores Kammermeier	Eric Smith

Donna Walck

Mayor Milne told the Board that it is our legal counsel's suggestion that the Board nullify the current legislation and start over. This action will move us forward in the quickest and least expensive manner.

Mayor Milne read the following resolution:

**RESOLUTION - Nullifying Article VI-C  
of the Zoning Code of the Village of Honeoye Falls**

**WHEREAS**, the Board of Trustees of the Village of Honeoye Falls having duly adopted a resolution at a meeting held on October 21, 2013, which amended Article VI-C of the Zoning Code of the Village of Honeoye Falls which permitted restaurants and ice cream stores with drive-thru or drive-up services for the purchase of food, ice cream and beverages in the General Commercial District and further established criteria, requirements and regulations for the establishment of a restaurant with drive-thru or drive-up services, including, among other things, the construction, site-plan and operation of drive-thru restaurants; and

**WHEREAS**, the resolution enacting such amendment was filed with the Honeoye Falls Village Clerk on October 31, 2013;

**WHEREAS**, a hybrid CPLR Article 78 proceeding/Declaratory Judgment, was filed by the Honeoye Falls Community Association, Inc. in the Monroe County Clerk's office under Index No. 2013-13494, and a Summons, Notice of Petition, and Petition having been served upon the Village of Honeoye Falls seeking annulment of the aforesaid Zoning Amendment; and

**WHEREAS**, the Article 78/Declaratory Judgment proceeding alleges, among other things, that the Amendment to the Honeoye Falls zoning ordinance was not properly referred to the Monroe County Planning Board or Commission prior to the adoption of the Amendment, as required by Section 239-m of the General Municipal Law; and

**WHEREAS**, the Village of Honeoye Falls being desirous of complying with all the necessary legal requirements prior to adoption of the aforesaid Zoning Amendment; and

**WHEREAS**, the Village of Honeoye Falls having reviewed

the Article 78/Declaratory Judgment action with legal counsel; and

**WHEREAS**, the Village of Honeoye Falls having recognized that the aforesaid adoption of the Zoning Amendment of the Code of the Village of Honeoye Falls having not been referred to the Monroe County Planning Board/Commission prior to its adoption;

**NOW, BE IT RESOLVED** by the Board of Trustees of the Village of Honeoye Falls, Monroe County, New York, as follows:

1. That the Board of Trustees of the Village of Honeoye Falls hereby declares that the Resolution and Amendment modifying Article VI-C of the Zoning Code of the Village of Honeoye Falls is hereby vacated and considered null and void.
2. That the Clerk of the Village of Honeoye Falls is hereby directed to file any necessary papers, documents, or any other notices to all affected parties that the Village hereby revokes and declares null and void the Amendment to Article VI-C of the Zoning Code of the Village of Honeoye Falls, as filed herein on October 31, 2013.

Motion by Trustee Pavelsky, seconded by Trustee Stottler to approve this resolution.

Trustee Stottler – aye  
 Trustee Alfieri – aye  
 Trustee Worboys – aye  
 Trustee Pavelsky – aye  
 Mayor Milne - aye

Motion carried.

Mayor Milne said in order to move forward we need to schedule another public hearing.

Motion by Trustee Alfieri, seconded by Trustee Worboys to schedule a public hearing to Amend the Zoning Code: General Commercial District 190-45.4 – Permitted Uses – Restaurants with Drive thru or Drive up windows for January 20, 2014 at 7:30pm at the High School Auditorium at 83 East Street, Honeoye Falls NY 14472.

Trustee Stottler – Nay  
 Trustee Alfieri – Aye  
 Trustee Worboys – Aye

Trustee Pavelsky – Aye

Motion carried.

Mayor Milne and the Board reviewed the SEQR and discussed it. This is the short SEQR form. Mike Tobin spoke in support of the answers to explain why “no” was checked.

The SEQR will be reviewed again at the January 20, 2014 public hearing.

Motion by Trustee Pavelsky, seconded by Trustee Alfieri to approve the Board of Trustee as the lead agency.

**TRUSTEE REPORTS**

**TRUSTEE STOTTLER:** Trustee Stottler attended an Historical Society meeting. They are working on their budget. They have invited a volunteer curator to review their collection.

**TRUSTEE ALFIERI:** Fire Department elected their 2014 officers.  
Paul Churnetski – Chief  
Steve Sessler – 1<sup>st</sup> Assistant Chief  
Steve Lord – 2<sup>nd</sup> Assistant Chief  
Andy Green – Captain  
Jake Lund – Lieutenant  
Davd Hood – Lieutenant  
Tyler Zavitz – Lieutenant  
Paul Wischmeyer – Fire Police Captain

**TRUSTEE WORBOYS:** No Report

**TRUSTEE PAVELSKY:** The Chamber of Commerce held a Holiday party with the Rotary this past Friday.

Assets Board will meet this Thursday @ 8:00am.

**DEPARTMENT  
REPORTS**

**ADMINISTRATOR’S**

**REPORT:**

The grant application for the village tree inventory was completed and submitted. If we receive this grant we can update our tree inventory that was created in 1997 in an Excel format. The grant is for \$17,500.00.

Charlie Johnson has had surgery recently and is out for a couple of weeks. Greg will fill in for him as necessary.

The skating rink is not open yet.

Greg is having wrist surgery and will be out for a few days.

**CLERK'S REPORT:**

The quarterly payroll will be on December 27, 2013.

Judi Barrett is out for a few days due to a death in her family.

**OLD BUSINESS**

**COMPREHENSIVE  
PLAN:**

Have rough draft nearly completed. Group will be meeting in early January to break into subsections and review the draft. Then schedule a public meeting to present what has been put together thus far. Presentation to public will be by John Steinmetz.

**REVIEW OF  
AMBULANCE DEPT.:**

We are having discussions with the Town of Mendon and Ambulance regarding where it is and where it is going and providing the best service we can for our residents moving forward. The EMS Administrator for Monroe County has agreed to review our ambulance department and their facility. Will take 3-4 months and then will report back their findings to the Village.

**UPDATE ON  
SPORTS  
PARK:**

Don Oppedisano showed the Trustees a drawing of the proposed sports park that would be located on West Main

Street. Is 26 acres. Has received a not for profit approval from the IRS.

At this point Mr. Oppedisano needs to secure funding for the project. Also would like the support of the Trustees on their willingness to approve the annexation of the parcel into the village to have access to water and sewers.

Motion by Trustee Pavelsky, second by Trustee Worboys to approve Mayor Milne writing a letter of support for the project. Motion carried.

**WWTP  
UPGRADE:**

Greg Emerson has submitted the grant for the WWTP Upgrade that the DEC is requiring. Chatfield Engineers did a preliminary report and included construction costs. The grant is for 85% and the village would pay the remaining 15%. Total cost of the project would be around \$569,00; which means the Village would pay around \$135,000. This upgrade must be completed by May of 2017.

**LOCAL LAW  
190 – 84  
UPDATE  
ACCESSORY  
VEHICLES:**

Trustees are reviewing the proposed updates. Greg has current aerial maps that he will email to the Trustees to help them in their review of the material.

**NEW BUSINESS**

**APPROVE TENT  
@ FIRE DEPT  
FOR PARADE:**

Motion by Trustee Stottler, seconded by Trustee Alfieri to approve the tent permit used at the Fire House for the Holiday Parade. Motion carried.

**2013  
CHRISTMAS  
HOLIDAYS:**

Motion by Trustee Alfieri, seconded by Trustee Pavelsky to approve December 25<sup>th</sup> and December 26<sup>th</sup> as 2013 Christmas holidays. Motion carried.

**ADJOURN TO  
EXECUTIVE  
SESSION:**

Motion by Trustee Alfieri, seconded by Trustee Pavelsky to adjourn to Executive Session at 8:40pm. Motion carried.

**ADJOURN TO  
REGULAR  
SESSION:**

Motion by Trustee Alfieri, seconded by Trustee Worboys to return to regular session at 9:00pm. Motion carried.

**ADJOURN:**

Motion by Trustee Worboys, seconded by Trustee Stottler to adjourn the meeting at 9:00pm. Motion carried.