

**REGULAR TOWN BOARD MEETING OF THE
TOWN OF NEW HARTFORD, NEW YORK HELD AT THE
KELLOGG ROAD COMMUNITY CENTER BUILDING IN
SAID TOWN ON WEDNESDAY, SEPTEMBER 21, 2005 AT 7:00 P.M.**

The Town Supervisor called the meeting to order at 7:00 P.M., and led those in attendance in the Pledge of Allegiance to the American Flag. The roll was taken with the following Town Officials/Department Heads being present during progress of the meeting:

TOWN BOARD MEMBERS: Councilman Donald C. Backman
Councilman John C. Waszkiewicz III
Councilman David W. Butler
Councilman Richard B. Woodland, Jr.
Supervisor Ralph B. Humphreys

OTHER TOWN OFFICIALS: Director of Senior Services M. Eileen Spellman
Highway Superintendent Roger A. Cleveland (arrived at
7:20 PM)
Parks and Recreation Director Michael Jeffery
Telecommunicator Supervisor Jeffrey P. Madden
(arrived at 7:52 PM)
Town Clerk Gail Wolanin Young, CMC/RMC and
Deputy Town Clerk I Margaret M. Jones
Town Planner Kurt Schwenzfeier
Town Police Chief Raymond Philo (arrived at 7:45 PM)

OTHERS: Attorney Vincent J. Rossi, Jr. (Arrived 7:30 PM)

Thereafter, a quorum was declared present for the transaction of business.

MINUTES

August 3, 2005 Town Board minutes

After reviewing minutes that had been mailed to all Board members, Councilman Waszkiewicz introduced the following Resolution for adoption, seconded by Councilman Woodland:

(RESOLUTION NO. 263 OF 2005)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the *Regular* Town Board meeting held **August 3, 2005** and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz - Aye

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 2

Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

August 17, 2005 Public Hearing Minutes - Annexation

Councilman Waszkiewicz then introduced the following Resolution for adoption, seconded by Councilman Butler:

(RESOLUTION NO. 264 OF 2005)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the ***Annexation Joint Public Hearing*** held ***August 17, 2005*** and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

PUBLIC PRESENTATIONS

Sewer Extension – Westwood Lane

Michael Excell requested that sewer service be extended to serve his Westwood Road property since he and the former owner have paid sewer taxes for being in a Sewer District. The matter was deferred until the Highway Superintendent was present.

REPORTS OF TOWN OFFICIALS

PARKS AND RECREATION DIRECTOR:

Personnel Benefits

Upon the recommendation of the Parks and Recreation Director Michael Jeffery, the following Resolution was introduced for adoption by Councilman Waszkiewicz and seconded by Councilman Butler:

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 3

(RESOLUTION NO. 265 OF 2005)

WHEREAS, prior to January 1, 2005, Parks and Recreation Department employee John C. Cunningham, had accrued approximately eighteen hundred nine (1809) hours of sick time while working as a 7-hour a day employee, with Town policy having a maximum accumulation of two hundred (200) sick days; and

WHEREAS, under the Parks and Recreation Union Contract effective January 1, 2005, Mr. Cunningham now is working an 8-hour workday; and

WHEREAS, it is proposed that Mr. Cunningham's maximum accumulation of sick time reflect the current 8-hour workday so that his maximum cap will be sixteen hundred (1600) hours, or two hundred (200) sick days, effective January 1, 2005;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby approve and authorize that, effective January 1, 2005, the personnel/payroll records of John C. Cunningham shall reflect that he works an eight (8) hour day and that his maximum accumulation of sick hours shall be sixteen hundred (1600), or two hundred (200) days.

The Supervisor then polled the Board members as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

Proposal for Parks Comprehensive Plan - peter j. smith & company

Planning Board Chairman N. Joseph Yagey and Planner Kurt Schwenzfeier presented a proposal, which had been received from ***peter j. smith & company*** to update the master plan for the Parks and Recreation Department. Chairman Yagey stated that a meeting had been held at Attorney Rossi's office regarding the proposal, as well as a findings statement prepared by Parks and Recreation Director Michael Jeffery. It was recommended that the findings statement be referred to the Planning Board that is ready to address the matter. Discussion on the ***peter j. smith & company*** proposal included scaling back costs by approximately thirty percent (30%), reducing the number of meetings required and refining some areas of the proposal. To be in compliance with current law, the Highway Superintendent noted that the proposal for findings for acquisition of parklands and mandating recreation areas in developments would require

REGULAR TOWN BOARD MEETING
September 21, 2005
Page 4

input from *peter j. smith & company*. [NOTE: Attorney Rossi joined the meeting at 7:32 P.M] Thereafter, Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 266 OF 2005)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Parks and Recreation Director, at his discretion, to expend up to One Thousand Dollars (\$1,000) to update the Town's 2001 Parks Comprehensive (Master) Plan.

The Resolution was voted upon by roll call:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**. The Town Planner and Planning Board Chairman, in the meantime, will contact *peter j. smith & company* to have a meeting with them regarding the update.

DIRECTOR OF SENIOR SERVICES:

Celebration- Anniversary of New Hartford Adult Dining & Activity Center

On October 14, 2005 the Adult Dining and Activity Center will celebrate its 19th year anniversary; festivities will begin at 11:00 A.M. to 1:00 P.M.

TOWN CLERK:

Training School

Upon request of Town Clerk Gail Wolanin Young, the following Resolution was introduced for adoption by Councilman Backman and duly seconded by Councilman Waszkiewicz:

(RESOLUTION NO. 267 OF 2005)

WHEREAS, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 5

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Town Clerk Gail Wolanin Young and Deputy Town Clerk I Margaret M. Jones to attend the State Comptroller's Records Management Teleconference on October 18, 2005 at SUNY Technology, Marcy, New York, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

HIGHWAY SUPERINTENDENT:

Inspection Services Agreement – Walgreens Pharmacy

Upon the recommendation of the Highway Superintendent, Councilman Backman introduced the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTION NO. 268 OF 2005)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an Agreement between the Town of New Hartford, Alan Swierczek, P.E., and HDL Property Group, wherein Alan Swierczek will provide inspection services for the Town during construction of the Walgreens Pharmacy on Commercial Drive and that the HDL Property Group shall deposit the sum of Fourteen Hundred Dollars (\$1400) with the Town to fund the aforesaid inspection services.

Whereupon, the town Board voted upon roll call:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

REGULAR TOWN BOARD MEETING
September 21, 2005
Page 6

Surplus Vehicle Sale

Upon recommendation of Supervisor Humphreys, Councilman Backman offered the following Resolution for adoption; seconded by Councilman Waszkiewicz:

(RESOLUTION NO. 269 OF 2005)

RESOLVED that the New Hartford Town Board does hereby declare the following vehicle as surplus:

1996 Ford Crown Victoria – Vehicle Identification Number 2FALP71W2TX167993

and does further authorize and direct the sale of said surplus vehicle to Michael Burke for the sum of Four Hundred Dollars (\$400).

The Town Board voted upon roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

Training School

Upon request of Highway Superintendent Cleveland, the following Resolution was introduced for adoption by Councilman Butler and duly seconded by Councilman Woodland:

(RESOLUTION NO. 270 OF 2005)

WHEREAS, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Deputy Highway Superintendent Anthony DeCuffa to attend a Snow and Ice Control Operation Seminar in Allentown, Pennsylvania, October 19-20, 2005, with expenses to be borne by said Town.

The Resolution was voted upon by roll call as follows:

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 7

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

Refund – Stormwater Improvement Purchase Agreement

Upon recommendation of the Highway Superintendent, Councilman Backman presented the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTION NO. 271 OF 2005)

WHEREAS, a miscalculation had occurred while computing the measurement for drainage pipe to be installed at 218 Fairway Drive resulting in an overpayment of Eighty-five Dollars and Seventy-one Cents (\$85.71) to the Town of New Hartford;

BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct Bookkeeper Carol Fairbrother to issue a refund check from the Capital Drainage Account in the sum of Eighty-Five Dollars and Seventy-One Cents (\$85.71) to Michael Bambino, 218 Fairway Drive, New Hartford, New York.

The Town Clerk polled the Board members who voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

Public Safety – Tibbitts-Oxford Road Intersection

The Highway Superintendent and Police Chief Philo have corresponded on inspection of the Tibbitts Road and Oxford Road intersection and recommendations for any traffic improvement will be forthcoming.

Extension of Sewer Service – Westwood Lane

Relative to Mr. Excell's situation on Westwood Lane, Highway Superintendent Cleveland stated that he had met with the Public Works Committee and that the extension of this sewer line is within the Town Board's prerogative; however, the Highway

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 8

Superintendent is concerned that the Town Board might be setting a precedent. At the time the sewer main had been installed in the late 1970's or early 1980's, Superintendent Cleveland was not in office and the subject property was a vacant lot. The existing main is approximately twenty (20) feet short of Mr. Excell's property and is under his neighbor's driveway. The Highway Superintendent has offered an option to install a long lateral. Supervisor Humphreys believes that the main should come to the owner's lot line and Councilman Butler agreed because the owner is in the sewer district and is paying sewer taxes. The Engineering Department will determine the cost of bringing a 4" to 8" main to Mr. Excell's property line. Councilman Backman is concerned about taxation without benefit. Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTON NO. 272 OF 2005)

WHEREAS, property owned by Michael Excell on Westwood Lane is within the New Hartford Consolidated Sewer District, for which taxes have been levied in past years;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct the Highway Superintendent to extend the sewer line to include Michael Excell's Westwood Lane property at a cost not to exceed Five Thousand Dollars (\$5,000) and to complete the work as expeditiously as possible.

Whereupon, the Town Board voted upon roll call:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

MATTERS SUBMITTED BY COUNCILMEN

COUNCILMAN BACKMAN:

Agenda items

- *Update from Attorney Rossi on July 2005 Supreme Court ruling for property tax exemption (Orange County)* - Councilman Backman asked to discuss the Office of Real Property Services (ORPS) opinion in regular session but thought that Attorney Rossi wanted to discuss this ruling in Executive Session. Attorney Rossi stated that he has rendered his opinion. Councilman Waszkiewicz was of

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 9

the understanding that the manager of the property was charging a huge handling fee and that this is what the Court objected to. Councilman Butler believes the matter should be discussed in open session. As Attorney Rossi understands the motion, it is to seek additional information or opinion from another lawyer or ORPS about status exemption in our Municipal Service Agreement (MSA) with Preswick Glen. Attorney Rossi thinks the decision to do that depends on a couple of legal issues in order for the Board to make an informed decision. This would be attorney-client discussion and should be held in executive session. Preswick has a Contract with the Town of New Hartford and enforceability of the Contract and the prior Contract of 2001 involves complicated legal contents. The Town Attorney advised that the Board they would not want their adversary to know the Town's strategy. The Town Attorney wants to protect the Town Board and the Town of New Hartford.

Fred Carville submitted a statement from Jerome Donovan, asking that it be written into the minutes. The Town Clerk responded that receipt of the statement would be acknowledged in the minutes, referencing that the statement is on file in the Town Clerk's Office.

COUNCILMAN WASZKIEWICZ:

Agenda items

- *New Street Signage – Tilden Avenue, Camden Lane, and Liberty Gardens* – discussion held; as relates to Liberty Gardens, consensus to wait until the Henderson Street bridge is re-opened to see if signs are needed for that area
- *Grant Writer* – J.T. O'Connell requested consideration to represent The Town in pursuit of available grants
- *Recreation path dedication in honor of Philip Rayhill* –still waiting to hear from Town of Whitestown as to their financial commitment for one plaque
- *Budget Process* – (Supervisor Humphreys says the Tentative Budget must be filed with Town Clerk not later than September 30). Schedule meetings and advise Councilmen and Citizens Committee. Councilman Waszkiewicz asked Fred Carville if he still wanted to Chair this Committee; he replied yes. Councilman Waszkiewicz believes there should be a minimum of three (3) meetings. Councilman Butler asked that the committee remember that he will be out-of-town from October 5-7, 2005 and asked that any departments he is involved in be scheduled for one day.
- *Town News Letter* – meeting with volunteer on Tuesday, September 27th; and anyone else wishing to volunteer, to come forth. Utica College journalism student Jesse White volunteered; and will attend the meeting at 2:30 P.M. at Butler Memorial Hall

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 10

- Oneida-Herkimer County Empire Zone Board review – meeting at Butler Memorial Hall on Tuesday, September 27th at 3:30 P.M.
- Noise restriction/time limitation – still working on this matter
- Planning consultant (peter j. smith & company) – previously discussed
- Should Pooper-Scooper Regulation be expanded by neighborhood/Town wide?
Because of enforcement issue, restrict only to the Parks
- Review of Judd Road and peripheral road signage with Villages of New York Mills, Whitesboro and Yorkville, Town of Whitestown - Has signage maps on Judd Road – trying to get updates on signs Route 5A (aka Commercial Drive), Route 840 as examples.

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of Vouchers

Councilman Backman presented the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTION NO. 273 OF 2005)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the payment of the bills itemized on the following Abstracts, that have been duly audited by the Town Board:

General Fund Whole-Town Abstract No. 32 Vouchers AA1437-AA1449; AA1451-1481; AA1483; AA1552-AA1558	\$128,268.14
General Fund Whole-Town (Police) Abstract No. 32A Vouchers AA1482	\$ 153.94
General Fund Whole-Town Abstract No. 33 Vouchers AA1484-AA1551	\$ 5,625.68
General Fund Part-Town Abstract No. 20 Vouchers BB126-BB130	\$ 2,227.16
Highway Fund Part-Town Abstract No. 21 Vouchers DB438-DB452	\$ 5,384.96
Sewer Fund Abstract No. 22 Voucher SS72	\$ 946.00
Drainage Capital Project Abstract No. 15 Vouchers HC86-HC95	\$ 9,323.53
Higby Road Water Tank Abstract No. 14 Vouchers HF16-HF18	<u>\$246,179.30</u>

REGULAR TOWN BOARD MEETING
September 21, 2005
Page 11

TOTAL: \$398,108.71

Whereupon, the Town Board members voted individually as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

This Resolution was declared carried and duly **ADOPTED**.

Employee/Volunteer Recognition Luncheon

Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTION NO. 274 OF 2005)

RESOLVED that the New Hartford Town Board, in conjunction with the Village of New Hartford, does hereby agree to recognize Town /Village Employees and volunteers at a luncheon to be held in December 2005 at a local restaurant, the cost of which shall be comparable to the 2004 luncheon.

Whereupon, The Town Board voted upon roll call:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

This Resolution was declared carried and duly **ADOPTED**.

2005 Audit; Supervisor's Annual Finance Report

Councilman Backman presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

(RESOLUTION NO. 275 OF 2005)

RESOLVED that the New Hartford Town Board does hereby accept the professional services proposal submitted by Moore and Hart who shall conduct an audit of the Town's 2005 accounting records and who shall also prepare the Supervisor's Annual Financial

REGULAR TOWN BOARD MEETING
September 21, 2005
Page 12

Report for fiscal year ending December 31, 2005 for an amount not to exceed Six Thousand Dollars (\$6,000).

The foregoing Resolution was voted upon by roll call:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

This Resolution was declared carried and duly *ADOPTED*.

REPORTS OF TOWN OFFICIALS (CONT'D)

POLICE CHIEF:

Public Safety - Oxford-Tibbitts Road Intersection

Chief Philo has met with the Highway Superintendent regarding this intersection and recommendations will be forthcoming.

Appointment - Part-Time Animal Control Officer

Police Chief Philo stated that due to the full-time Animal Control Officer taking family leave and the current part-time Animal Control Officer taking evening courses, he is finding it increasingly difficult to meet the obligations in New Hartford and the contractual obligations with the Town of Kirkland. Under the current budget, Police Chief Philo would like to hire a second part-time Animal Control Officer. Ms. Panetta has been pre-approved by Civil Service and she is exposed to the system because she is a part-time dispatcher. Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

(RESOLUTION NO. 276 OF 2005)

RESOLVED that the Town Board of the Town of New Hartford does hereby appoint Nicole Panetta as a Part-Time Animal Control Officer in the Police Department at an hourly rate of Ten Dollars Sixty-One Cents (\$10.61); payable by-weekly. Ms. Panetta's appointment is effective October 2, 2005.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Aye
Councilman Butler	-	Aye

REGULAR TOWN BOARD MEETING
September 21, 2005
Page 13

Councilman Backman - Aye
Supervisor Humphreys - Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**.

EXECUTIVE SESSION

Councilman Butler introduced the following Resolution for adoption and Councilman Waszkiewicz seconded same:

(RESOLUTION NO. 277 OF 2005)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss contractual matters involving the Higby Road Water District, the Higby Woodlands assessment certiorari against the Town, and Attorney Rossi's advice to the Town relative to the Preswick Glen Municipal Services Agreement (NYS Supreme Court ruling in Orange County [July 2005].)

A roll call vote ensued:

Councilman Waszkiewicz - Aye
Councilman Woodland - Aye
Councilman Butler - Aye
Councilman Backman - Aye
Supervisor Humphreys - Aye.

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media, Town Clerk and Deputy, were then excused from the meeting at 8:55 P.M.

END OF EXECUTIVE SESSION

Councilman Waszkiewicz then offered the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 278 OF 2005)

RESOLVED that the New Hartford Town Board does hereby move to end its Executive Session and to reconvene the regular portion of the Town Board meeting.

The Board members voted upon roll call that resulted as follows:

Councilman Waszkiewicz - Aye
Councilman Woodland - Aye
Councilman Butler - Aye

REGULAR TOWN BOARD MEETING

September 21, 2005

Page 14

Councilman Backman - Aye
Supervisor Humphreys - Aye.

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 10:25 P.M. The regular portion of the Town Board meeting was reconvened at 10:25 P.M.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion duly made by Councilman Waszkiewicz and seconded by Councilman Woodland the meeting was adjourned at 10:26 P.M.

Respectfully submitted,

**Gail Wolanin Young, CMC/RMC
Town Clerk**

**Margaret M. Jones
Deputy Clerk I**