

**SPECIAL TOWN BOARD MEETING OF THE
TOWN OF NEW HARTFORD, NEW YORK HELD
AT BUTLER MEMORIAL HALL IN SAID TOWN
ON TUESDAY, AUGUST 4, 2009 AT 6:00 P.M.**

The Town Supervisor called the meeting to order at 6:00 P.M. and led those in attendance in the Pledge of Allegiance to the American Flag. The roll was then taken with the following Town Officials and Department Heads being present during the progress of the meeting.

TOWN BOARD MEMBERS PRESENT:

Councilman Robert A. Payne III
Councilwoman Christine G. Krupa - Arrived at 6:06 P.M.
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Earle C. Reed

OTHER TOWN OFFICIALS PRESENT:

Assistant Codes Enforcement Officer Thomas Rowlands
Highway/Sewer Superintendent Richard C. Sherman
Planner Kurt L. Schwenzfeier
Police Chief Raymond Philo
Senior Engineering Technician John Meagher
Town Clerk Gail Wolanin Young

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

REPORTS OF TOWN OFFICIALS

Town Clerk:

Raffle Consent

The following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilman Payne:

(RESOLUTION NO. 154 OF 2009)

RESOLVED that the New Hartford Town Board does hereby grant permission to Stevens-Swan Humane Society, 5664 Horatio Street, Utica, NY 13502, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at Sangertown Square Mall, New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

FURTHER RESOLVED that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Town Board voted as follows:

| | | |
|---------------------|---|--------|
| Councilwoman Krupa | - | ABSENT |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

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

Planning Board Clerical Assistance – GEIS Public Hearing

In behalf of Planning Board Chairman Jerome Donovan, the Town Clerk presented that Board's request for additional clerical assistance for their August 10, 2009 Public Hearing. Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 155 OF 2009)

RESOLVED that the New Hartford Town Board does hereby grant the request of the Town Planning Board for Christine Krumbach, Student Worker in the Codes Department, to assist with resident sign-ins at the Planning Board's August 10, 2009 Public Hearing on the Generic Environmental Impact Study (GEIS) for the southeastern section of the Town of New Hartford, Ms. Krumbach to be paid the same rate she earns as Student Worker.

A roll call vote was duly held as follows:

| | | |
|---------------------|---|--------|
| Councilwoman Krupa | - | ABSENT |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

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

Planning Board – Court Stenographer for GEIS Public Hearing

In behalf of the Town Planning Board, the Town Clerk presented their request to retain the services of a Court Stenographer for their August 10, 2009 Public Hearing. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 156 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to the Town Planning Board to retain the services of a Court Stenographer to

record the minutes of the Planning Board's August 10, 2009 Public Hearing on the Generic Environmental Impact Study (GEIS) for the southeastern section of said Town.

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

| | | |
|---------------------|---|--------|
| Councilwoman Krupa | - | ABSENT |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

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

Assistant Codes Enforcement Officer:

Property Maintenance – 7980-84 Seneca Turnpike

Upon request of Assistant Codes Enforcement Officer Thomas Rowlands, the following Resolution was offered for adoption by Councilman Woodland and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 157 OF 2009)

WHEREAS, the Town of New Hartford had adopted on September 24, 1994 a Local Law (Chapter 94 of the Code) regulating property maintenance and which Law prohibits the accumulation of brush, grass, rubbish or weeds on any real property in said Town; and

WHEREAS, the Town Codes Enforcement Officer has received complaints about high grass and debris upon premises located at 7980-84 Seneca Turnpike, Tax Map Parcel No. 327.000-7-23.1, owned by Young-Duek Ahn whose last known address is FE-PO, INC. 43157 Laughing Quail Court, Asburn, Virginia 20148; and

WHEREAS, the property appears to be abandoned, and the Codes Enforcement Officer had communicated with said Young-Duek Ahn via certified mail;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Codes Enforcement Officer to send a second letter to the property owner stating that, if the property owner fails to bring the property into compliance with Town Code, the Codes Enforcement Officer will proceed with removal of said nuisance at and will board up the residence at (address of property) to eliminate public access and possible vandalism, with the costs and expenses incurred by the Town in connection with said proceedings to be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize the Parks and Recreation Department to remove said nuisance.

The foregoing Resolution was voted upon by roll call, as follows:

Councilwoman Krupa - ABSENT
Councilman Reynolds - Aye
Councilman Woodland - Aye
Councilman Payne - Aye
Supervisor Reed - Aye.

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

* * * * *

Councilwoman Krupa joined the meeting at 6:06 P.M.

* * * * *

Engineering Department:

Philip Rayhill Memorial Trail - Extension

Senior Engineering Technician John Meagher introduced Sharon Bryant-Heyboer, Transportation Analyst with the New York State Department of Transportation, who provided the history of the Rayhill Memorial Trail. Ms. Bryant-Heyboer congratulated the Town on receiving the 2007 \$840,000 federal grant for the extension of this Memorial Trail. For this \$1 million project, 80% is federal funding and 20% is a local match that can be in-kind Town services, cash or other grant programs. The funds were obligated in 2008 and the Town has five (5) years to complete the project unless there are mitigating circumstances.

Senior Engineering Technician Meagher stated that the existing Rayhill Memorial Trail ends approximately near the Sanger Public Works Garage on New Hartford Street and will continue toward the City of Utica via the old railroad bed and by ConMed on Chenango Street, then turn left and follow the creek to Burrstone Road and connect with the Pietryka Park in New York Mills. There is an option of extending the trail to the New York Mills School, depending upon funding. Ms. Bryant-Heyboer said this trail extension project had been selected because of its regional effect.

Director of Budget Mowat noted that the Town had advanced money to allow the preliminary engineering to commence. To finish the site design, the Town needs to acquire five (5) parcels and she asked that Technician Meagher and the Town Attorney be authorized to proceed in this regard. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 158 OF 2009)

RESOLVED that the New Hartford Town Board does hereby authorize and direct Senior Engineering Technician John Meagher and Town Attorney Gerald J. Green to commence preliminary negotiations for the acquisition of necessary parcels with regard to the extension of the Philip Rayhill Memorial Trail, said project to be funded by a 2007 federal grant in the amount of \$840,000 (80%) currently being held by the New York

State Department of Transportation and the remaining 20% to be provided by the Town of New Hartford. The Messrs. Meagher and Green shall report their recommendations to the Town Board.

The foregoing Resolution was voted upon by roll call as follows:

| | | |
|---------------------|---|------|
| Councilwoman Krupa | - | Aye |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

The Resolution was declared unanimously carried and duly **ADOPTED**. The Town Board asked that the Town's website be updated and linked to the NYS Department of Transportation pamphlet on this project.

Director of Budget

New Hartford Business Park, Road D – National Grid Taking

Director of Budget Mowat explained the need to acquire part of a parcel owned by National Grid and which the Town has always known it would have to buy or otherwise acquire; the Town Attorney and counsel for National Grid have reviewed this. Dates for a public hearing were discussed and the Town Clerk asked confirmation about publication requirements, which, in this case, was, explained at least ten (10) days prior to the hearing date but not more than forty (40) days prior to the hearing date. Thereafter, Councilwoman Krupa introduced the following Resolution for adoption and Councilman Payne seconded same:

(RESOLUTION NO. 159 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, August 26, 2009 at 6:00 P.M., or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford, to consider a taking of approximately 0.015 acres of the 6.99 acre parcel of land owned by National Grid located on or near Woods Highway bearing Tax map Number 318.000-3-8 which, if adopted, would allow necessary road and other public improvements in conjunction with the development of the New Hartford Business Park; and be it

FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Clerk to publish the legal requisite Notice of Public Hearing in the Observer Dispatch.

The Supervisor polled the Board members who voted as follows:

| | | |
|--------------------|---|-----|
| Councilwoman Krupa | - | Aye |
|--------------------|---|-----|

Councilman Reynolds - Aye
Councilman Woodland - Aye
Councilman Payne - Aye
Supervisor Reed - Aye.

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

Requests for Proposal – Phase I/SEQR/National Grid taking

Upon recommendation of the Director of Budget, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 160 OF 2009)

RESOLVED that the New Hartford Town Board does hereby authorize and direct that Requests for Proposal be sought in the matter of the New Hartford Business Park, Road D – National Grid Taking, Phase I SEQR, if required, and that expenses related thereto be paid from the Business Park bond.

The Town Board members voted as follows:

Councilwoman Krupa - Aye
Councilman Reynolds - Aye
Councilman Woodland - Aye
Councilman Payne - Aye
Supervisor Reed - Aye.

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

Highway/Sewer Superintendent:

Authorization for Competitive Bid – Various Trucks, Equipment

Highway/Sewer Superintendent Sherman gave a power point presentation on various truck replacements. Upon request of the Highway/Sewer Superintendent, Councilwoman Krupa presented the following Resolution and moved its adoption, which was seconded by Councilman Payne:

(RESOLUTION NO. 161 OF 2009)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the following:

- one (1) new *Sewer Vacuum body with trade-in*
- one (1) new *6 X 4 Motor Truck Cab and Chassis*
- one (1) new *Cab and Chassis for plow equipment and dump box*
- one (1) new *Plow equipment and dump box*

in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Tuesday, August 18, 2009 and then shall be publicly opened and read aloud at 11:00 A.M. on said date and in said Office; and be it

FURTHER RESOLVED that the said Town Board hereby authorize and direct the Town Clerk to publish the legal requisite Advertisement-Invitation to Bid in The Observer Dispatch.

This matter has been reviewed with the Director of Budget and funds are available in the Sewer Reserve Account, Highway Equipment Account and CHIPS Capital Account for these purchases. Thereafter, Town Board voted upon roll call as follows:

| | | |
|---------------------|---|------|
| Councilwoman Krupa | - | Aye |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

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

Declaration of Surplus Vehicles – Authorization to Sell

Upon request of the Highway Superintendent, the following Resolution was offered for adoption by Councilman Payne and duly seconded by Councilwoman Krupa:

(RESOLUTION NO. 162 OF 2009)

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

| <u>Year</u> | <u>Make/Model</u> | <u>VIN</u> |
|-------------|----------------------|-------------------|
| 1988 | Mack Dump Truck | 2M2S197C2JC001019 |
| 1988 | Ford Brush Truck | 1FDYR82A3JV25052 |
| 1993 | White WGM Dump Truck | 4V2JCBMD2PR818868 |

And be it

FURTHER RESOLVED that the aforesaid vehicles shall be placed for sale on e-Bay and once sold, the Town Clerk's office shall be notified and shall arrange to terminate insurance coverage on said vehicles.

The foregoing Resolution was voted upon by roll call as follows:

| | | |
|---------------------|---|-----|
| Councilwoman Krupa | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Councilman Reynolds | - | Aye |

Supervisor Reed - ABSENT

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

Buildings and Grounds

Quotations – Roof Repair

Highway Superintendent Sherman stated that funds had been allocated in the 2009 Buildings and Grounds budget to replace the roofs on the Kellogg Road Community Center Building and the Police Department garage. He received three (3) proposals for the police garage roof: Jewett - \$5,475; Cobblestone - \$8,160; and Continental - \$8,480. The Director of Budget asked for time to review the Budget and asked that the matter be tabled until the August 12, 2009 Town Board meeting and the Town Board concurred.

Energy Savings - Johnson Controls Proposal

Director of Budget Mowat was concerned that bids or request for proposal had not been obtained for this project, which is a little over \$10,000. Subsequently, the Town Planner prepared and sent out requests for proposal and the Town is awaiting responses from companies that might respond. The following Resolution was introduced for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 162 OF 2009)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Director of Budget and necessary Department Heads to move forward with the Energy Savings project, with Requests for Proposal to be received.

The Board members were polled and voted as follows:

| | | |
|---------------------|---|--------|
| Councilwoman Krupa | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Councilman Reynolds | - | Aye |
| Supervisor Reed | - | ABSENT |

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

Oxford Road Area Stormwater Project - Status

Highway Superintendent Sherman anticipated that this project, awarded to Fred Burrows Trucking and Excavating, will be completed in two (2) weeks.

Town Attorney:

Special Metals Brownfield Site Cleanup

The Town Attorney reported that Special Metals has made application to the New York State Department of Environmental Conservation for certain cleanup. A copy of the application package can be viewed at the New Hartford Public Library, 2 Library Lane, New Hartford, New York (Attention: Mary Javorski). The NYS DEC will accept comments from the public, with such comments to be submitted by August 14, 2009 at their Watertown Regional Office (Attention: Peter Ouderkirk).

ANNEXATION - CHERRYWOOD

Town Attorney Gerald Green stated:

The Board is here tonight to deliberate on the Petition for Annexation formally presented to you and the Kirkland Town Board at a joint public hearing on July 16, 2009.

At that time you heard from the Petitioner's attorney, some of the residents in Cherrywood and the New Hartford Police Chief. You were also provided a Written Argument in Support of Annexation signed by 31 residents of Cherrywood setting forth a number of reasons for annexing the subject eleven (11) acre parcel in the Kirkland portion of Cherrywood into the Town of New Hartford. That information, along with the General Municipal Law Section 239 reviews and responses comprise the record of July 16, 2009.

Procedurally:

- 1.) The Town board has acknowledged receipt of the Petition for Annexation filed with the Town on May 6, 2009.
- 2.) You then scheduled a joint public hearing on the matter; directed public notice be placed in the Observer Dispatch; further directed individual notices be mailed to all of the persons either owning or residing in the 11 acre territory sought to be annexed; and declared itself lead agent for SEQRA purposes.
- 3.) Individual notices of the annexation hearing were also mailed to the Superintendents of both the New Hartford and Clinton School Districts; to both the New Hartford and Kirkland Police Departments; and to both the New Hartford and Clinton Fire Departments.
- 4.) In accordance with General Municipal Law §239, the Town Clerk referred this annexation matter by short EAF to the:
 - Oneida County Health Department
 - Oneida County Department of Planning
 - NYSDEC
 - NYSDOT
 - Town of New Hartford Planning Board
 - New Hartford and Kirkland Police Departments

- New Hartford and Clinton Fire Departments
- 5.) It is my understanding from the Town Clerk there were no significant adverse environmental impacts identified by any of these departments, boards, or agencies.
 - 6.) It is my understanding from the Petitioner's attorney, that he is waiving any and all procedural and notice issues as relate to this matter to date.

With regard to the Petition itself:

- The proper persons have signed the Petition as required in Section 705 paragraph 1, subsections a, b, and c of the General Municipal Law.
- The Petition substantially complies in form and content with the applicable provisions of Article 17 of the General Municipal Law as required in Section 705 paragraph 1, subsection d of the General Municipal Law.

Your responsibility tonight, as prescribed in Section 705 paragraph 1 subsection e of the General Municipal Law; is to determine whether or not the proposed annexation is in the **overall public interest:**

- 1.) of the territory proposed to be annexed, (that would be the Kirkland portion of Cherrywood),
- 2.) or of the local government or governments to which the territory is proposed to be annexed (that would be New Hartford), or
- 3.) of the remaining area of the local government or governments in which such territory is situated (that would be Kirkland), or
- 4.) of any school district, fire district or other district corporation, public benefit corporation, fire protection district, fire alarm district or town or county improvement district, situated wholly or partly in the territory proposed to be annexed. (that would be both New Hartford and Kirkland).

If both Boards approve and accept the proposed annexation, the Town of Kirkland is then required to a special election among those persons residing in the eleven (11) acre parcel being annexed pursuant to Section 713 of the General Municipal Law.

If the Petition is rejected by either Board because the proper persons did not sign or because the Petition does not comply with Article 17 as to form and content, then an Article 78 proceeding can be brought to the Petitioner (Section 711 paragraph 3 of the General Municipal Law).

If both Boards determine the proposed annexation is not in the overall public interest to approve, the decision is final and conclusive (Section 711 paragraph 4 of the General Municipal Law).

If one Board determines the annexation is in the overall public interest and the other does not, the Board in favor can bring an appeal in the Appellate Division against the disapproving Board (Section 712 of the General Municipal Law).

It is my understanding that the cost of the statutory notices required under the law are borne by the respective Townships, as is the cost of the record. The Town of Kirkland alone will be required to assume the cost of the special election.

Some other considerations with regard to annexation are:

- 1.) A special election would have to be held and paid for by Kirkland if the annexation is approved.
- 2.) The annexed Kirkland parcel would have to go through the process of a zone change to make it the same district as the New Hartford side of Cherrywood if the annexation is approved.
- 3.) The Kirkland property would become subject to New Hartford Town taxes and would remove the 11-acre parcel from the Kirkland tax rolls if the annexation is approved.

To that end, at an earlier request of this Town Board, I have prepared such an Inter-Municipal Agreement (IMA) for your consideration. As you note, the IMA:

- 1.) Identifies the Kirkland territory in which New Hartford will perform specified services. Namely, the Kirkland portion of Cherrywood.
- 2.) Specifies the services that the Code office will provide.
- 3.) Makes the Kirkland territory subject to the:
 - New Hartford Code
 - New Hartford Zoning Board of Appeals
 - New Hartford Planning Board
 - New Hartford Town Court
- 4.) For tax assessment purposes, Kirkland will assess its properties in Cherrywood and New Hartford will assess its properties in Cherrywood.
- 5.) For lots located partially in New Hartford and partially in Kirkland, for tax assessment purposes, the Assessors in both Towns will work together as they do at present.
- 6.) Tax assessment grievances will be filed in the Town in which the largest percentage of the property sits as determined by the Assessors.

- 7.) Town taxes will be billed and collected by each respective Town as they do at present.
- 8.) The IMA identifies those lots that are located in both Towns.
- 9.) Fire and Police protection will remain unchanged by the IMA and will continue to be guided by existing fire and police boundaries and jurisdictions. It is my understanding Kirkland is amenable to some change as relates to Millgate, but that is to reflected in the IMA at present.
- 10.) The roads within Cherrywood are private and will continue to be the responsibility of the private owner.
- 11.) Public water hookups will continue to be the province of the MVWA.
- 12.) Sanitary sewer hookups will continue to be regulated by a May 1990 Agreement which has been made an Exhibit to the IMA.
- 13.) The proposed IMA runs for a period of one year, at present, subject to ongoing annual review and renewal by the Town Boards of both New Hartford and Kirkland.
- 14.) The proposed IMA has been circulated to the New Hartford Town Board members and the New Hartford Department Heads.
- 15.) Should the New Hartford Town Board decide not to annex and instead approve the IMA, that approval would be made expressly conditional on Kirkland approval, and your acceptance of any changes or modification Kirkland wishes to make of it.

In summary, with the IMA:

- 1.) There would be no special election
- 2.) There would be no zone change.
- 3.) Each Town would keep its own property tax revenue.
- 4.) Police, Fire, Emergency, Assessing and Taxing would remain unchanged.
- 5.) Water and Sewer regulation would remain unchanged.
- 6.) The New Hartford Code would be uniformly applied throughout Cherrywood ton both the Kirkland and New Hartford sides.

With regard to interim relief for those persons in the Kirkland portion of Cherrywood seeking Building Permits, Inspections, Certificates of Occupancy, etc., it is my understanding that the Kirkland Town Board is meeting on August 10, 2009 to deliberate in similar fashion as this Board is doing tonight.

In the event New Hartford and Kirkland both decide not to annex and instead pursue an IMA, then barring substantive changes by Kirkland to the IMA approved by New Hartford, the Towns should be able to agree interimly to allow Mr. Booth's office to handle and address these matters guided by the terms of the IMA while minor details are being worked out between the Towns.

So begin first with your deliberation on the Petition for annexation based on the record and any comments on information you receive tonight.

Each board member will be required to state the reasons or basis for his or her vote either for or against the proposed annexation. After decision is made on the annexation, consideration can be given the IMA and any use deemed necessary to effectuate the Board's purpose and intent in regard to Cherrywood and the residents on the Kirkland side. After concluding your deliberations, you are certainly free to do so.

Councilwoman Krupa: if we approve the annexation, what happens in the interim? Attorney Green responded, if the annexation is approved, obviously we're waiting on Kirkland who will be making it's deliberation on August 10, 2009, I would think some form of IMA could be acted upon while the annexation process reaches its end, including the election.

Councilman Payne: in the annexation proposal, land will be coming into New Hartford and there would be no land transfer to Kirkland; Attorney Green said that is correct. A tiny parcel shaded in green (map) would be in New Hartford and all New Hartford's rules and regulations would apply...would only need a rezoning to assign zoning for the property. The Town of New Hartford would enforce the same way and receive fees from building permits and the like. Councilman Payne inquired if particular property expanded the park into Kirkland, would we have to go through annexation again; Attorney Green noted that the approximately eleven (11) acres proposed for annexation into New Hartford involves forty-one (41) lots, and about twenty-nine (29) are buildable.

Councilwoman Krupa: the petition presented represented 100% of the people who live in the Kirkland portion? Attorney Green responded that this is one of the groups that can a petition for annexation. Murray Kirshtein, Attorney for Ralph Humphreys, interjected that five (4) of the Kirkland residents had signed the petition and two (2) did not because they were out of state but these two (2) residents did attend the July 16, 2007 Public Hearing. Councilwoman Krupa stated, if the people in the annexation area want the annexation, that's the way it should go.

Councilman Reynolds: he agreed with Councilwoman Krupa and added that an IMA should be worked out. He said that we all want Cherrywood to proceed and grow; it's

important if people want to move in and we should accommodate them in an appropriate manner. He noted that counsel pointed out at the last meeting that there is only one (1) entrance to Cherrywood and that is from Seneca Turnpike (aka NYS Route 5) in the Town of New Hartford and in some instances divides the park/neighborhood. Councilman Reynolds said he is somewhat familiar with the Town of New Hartford boundaries and recited approximately forty (40) instances where New Hartford parcels either receive or provide services (fire, police, sewer, water, utilizes) from an adjoining municipality, such as City of Utica, Village of New Hartford, Village of New York Mills, Town of Whitestown, Town of Frankfort in Herkimer County, Town of Paris and Town of Kirkland. That's why he doesn't think going with an annexation is the best way, but rather go through an IMA. Draft it for one year, renewable and reviewable. He feels strongly with an IMA...it's expedient and avoids a zoning change, etc.

Councilwoman Krupa: if we go with an IMA, the Town wouldn't receive the fees and we do all the work.

Councilman Woodland: with only a one (1) year agreement, Councilman Woodland expressed concern of what happens if either of the Kirkland and/or New Hartford Town Boards change.

Attorney Kirshtein, responding to Councilman Reynolds' comments, said he believes Councilwoman Krupa "hit the nail on the head". The (Kirkland) people involved want to be annexed – unanimously. The test of annexation is public interest. Tests are community of people with common interests. Cherrywood is a mobile home facility primarily for residents 55 years and older with a central clubhouse and facilities that are in the Town of New Hartford. He asked that the Town Board listen to former Town Attorney, Vincent J. Rossi, Jr., who has experienced several annexations while New Hartford Town Attorney and others involving other Towns. Since August 2008 there was talk of an IMA and it came to naught; Attorney Green reported that previously. Attorney Kirshtein said there is nothing that says the Town of Kirkland would accept the IMA now as written. The time is now to follow what the people want – the seven (7) eligible people and the twenty (20) people at the hearing and New Hartford Police C who supported this.

Attorney Rossi stated he thinks it's clear that an annexation is best – and simple to do. He did it in Vernon and the City of Sherrill – it took four (4) months. He thinks the election can be obviated by having people sign a document. Two (2) stronger reasons for annexation....towns being what they are. Annexations are permanent but you (Board members) are here for a limited time. No one is going to remember the convoluted things happening in Cherrywood; an IMA would need to be renegotiated each year. There would be clarity with an annexation. Another thing – you heard Attorney Green describe, and accurately, the procedures to be followed. He noted that Councilwoman Krupa made good points, taxes and permits. Attorney Rossi thinks the better solution is annexation.

Councilman Woodland: – he listened to people at the July 16, 2009 Public Hearing; they want to be a community and he doesn't see a downside; there is a plan to be developed,

taxes. Residents are in favor, reiterated that he doesn't see a downside and stated he is in favor of the annexation.

Councilman Payne: these are not New Hartford residents; they are Kirkland residents who want to come into New Hartford. If we can make it clearer, I'm all for that. Councilman Payne asked Dispatch Supervisor Jeffrey Madden about the police jurisdiction and what impact the annexation might have on the Dispatch Center and dispatching police or emergency services. Dispatch Supervisor Madden replied he could get the parcels set up and in the right area; they have the same situation in Millgate Meadows that is in both Kirkland and New Hartford.

Supervisor Reed: Agrees with the Kirkland people and taxes (Krupa), if annexation is the best way to go, then let's go with it. He said he is a people person and he would like to accommodate them.

Councilman Payne: confirmed that if the annexation is passed tonight, the matter must go to Kirkland; if Kirkland agrees, Kirkland must also have an election...that's the law. By moving forward with the annexation, what steps would take place to get residents in their home? Attorney Green responded – approve the annexation and information would be transmitted to Kirkland. The Kirkland Town Board would meet and do their own deliberation on August 10, 2009. In either event, regardless if in favor or not, or vote for an IMA, in his opinion, after Aug 10, 2009, the proposed IMA has enough in it in his opinion to allow the New Hartford Codes Enforcement Officer to render those services in Kirkland while the annexation is being finalized. If the annexation is approved, a temporary IMA can be worked out to help the residents.

Ralph Humphreys: complimented Councilman Reynolds on his reports – he didn't realize there were so many parcels involving two (2) municipalities; at the same time, he said no one in those developed areas asked for annexation. Mr. Humphrey's situation is a new development and the residents have petitioned for annexation. The one (1) year IMA would help out until the annexation is final.

SEQR Negative Declaration – Cherrywood Annexation

Councilman Woodland offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 163 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford, as Lead Agency in the matter of the Petition for the Annexation of approximately eleven (11) acres of Cherrywood Community in the Town of Kirkland into the Town of New Hartford, does hereby unanimously adopt the determination and findings set forth in the Negative Declaration (SEQR), Notice of Determination of Non-Significance, which will be filed in the Town Clerk's Office.

Upon roll call, the Town Board voted as follows:

| | | |
|---------------------|---|------|
| Councilwoman Krupa | - | Aye |
| Councilman Reynolds | - | Aye |
| Councilman Woodland | - | Aye |
| Councilman Payne | - | Aye |
| Supervisor Reed | - | Aye. |

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**.

Cherrywood Annexation Approval

The following Order was then introduced for adoption by Councilman Woodland and duly seconded by Councilwoman Krupa:

(ORDER NO. 1 OF 2009)

WHEREAS, a petition, filed pursuant to General Municipal Law Article 17, was presented to the Town Board of the Town of New Hartford, New York on July 16, 2009 for the annexation of certain territory in the Town of Kirkland into the Town of New Hartford, said territory being described in said petition as:

A triangular portion of land in the Cherrywood Community in the Town of Kirkland consisting of approximately 10.675 acres located at the boundary line separating the Town of Kirkland from the Town of New Hartford.

WHEREAS, a joint meeting of the Town Board of the Town of New Hartford and the Town Board of the Town of Kirkland was duly held on said petition for annexation, according to the law in such cases made and provided, at the New Hartford Town Offices, located at Butler Hall, Genesee Street, New Hartford, New York on July 16, 2009, at which time all parties interested in the matter were heard and all objections were presented; and

WHEREAS, the Town Board of the Town of New Hartford has duly considered said petition and the record related thereto;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford finds as follows:

1. That the aforesaid petition for annexation substantially complies in form and content with General Municipal Law Article 17.
2. That the proposed annexation of certain territory in the Town of Kirkland into the Town of New Hartford as set forth in the aforesaid petition and described above is in the overall public interest of the local government to which the territory is proposed to be annexed, namely New Hartford, and is in the overall public interest of the territory proposed to be annexed, namely the Kirkland portion of Cherrywood for the reasons recited by Town of New Hartford Town Board members on the record on August 4, 2009 during open deliberation.

3. That use of an Inter-Municipal Agreement (IMA) with the Town of Kirkland to provide certain services as specified therein on an interim basis is necessary and authorized.

NOW, THEREFORE, BE IT RESOLVED that consent and approval for the annexation of the territory now situated in Kirkland and described in the aforesaid petition into New Hartford is hereby given.

NOW, THEREFORE, BE IT FURTHER RESOLVED that consent and approval to provide the IMA presented to the New Hartford Town Board on August 4, 2009 at time of deliberation to the Kirkland Town Board to effectuate certain services specified therein on an interim basis is hereby given.

The Town Board voted upon roll call as follows:

Councilwoman Krupa - Aye,
because it's in the best interest of the residents affected and in the best interest of the Town of New Hartford who will be doing all the work and entitled to compensation by collection of taxes

Councilman Reynolds - Nay,
based upon his previous comments

Councilman Woodland - Aye,
based upon his previous comments

Councilman Payne - Aye,
based upon resident information and the Police Chief's comments at the Public Hearing

Supervisor Reed - Aye,
based upon his previous comments.

The Order was declared carried, duly **ADOPTED**, and the annexation approved as was interim use of an Inter-Municipal Agreement by and between the Towns of New Hartford and Kirkland.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and duly seconded by Councilman Payne, the meeting adjourned at 7:39 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk