

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, DECEMBER 30, 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  
Councilman David M. Reynolds  
Councilman Richard B. Woodland, Jr.  
Supervisor Earle C. Reed

**OTHER TOWN OFFICIALS PRESENT:**

Director of Budget Heather Mowat  
Highway Superintendent Richard C. Sherman  
Planner Kurt Schwenzfeier  
Senior Engineering Technician John Meagher  
Town Clerk Gail Wolanin Young

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

**MINUTES**

**November 18, 2009 and December 9, 2009 Town Board Minutes**

Councilwoman Krupa introduced the following Resolution for adoption, seconded by Councilman Reynolds:

**(RESOLUTION NO. 318 OF 2009)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held November 18, 2009 and December 9, 2009 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

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

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

### **PUBLIC PRESENTATIONS (PUBLIC COMMENTS)**

#### **Commendation – Retired Highway Superintendent Cleveland**

New York State Senator Joseph Griffo presented a commendation from the New York State Senate in recognition of the extraordinary job performed by Roger A. Cleveland as Highway Superintendent and in appreciation for his many years of service to the community prior to his retirement in October 2008. Senator Griffo apologized for the delay in this presentation and noted that Mr. Cleveland's commendation will become part of the State's archives. Mr. Cleveland thanked Senator Griffo for his kind words, stating he was fortunate to work with many dedicated people.

#### **GEIS, Southern Portion of New Hartford**

Dr. C. P. Rao referred to his letter dated December 21, 2009 to the Planning Board Chairman with regard to the GEIS for the southern part of the Town of New Hartford. He claimed that the Draft GEIS report is not complete and referred to pages 113 to 120, which deal with

- A) The description of existing transportation system in the Study Area
- B) Comparison of potential traffic impacts of four different land use alternatives
- C) Strategies for maintaining vehicular mobility and enhancing other transportation choices,

stating that subsections B and C are missing in the GEIS report. Dr. Rao said the Planning Board had two (2) weeks to review this document and they didn't pick up on this omission. Further, Dr. Rao said that on December 14, 2009 the Planning Board granted preliminary approval for a subdivision even though quite a bit of discussion occurred about water run-off problems on the site. He said the engineer and the NYS Department of Environmental Conservation are involved in making sure the SPDES permit requirement is met, that no more run-off from the construction site during and after construction occurs compared to natural run-off prior to construction; yet, he believes the taxpayers end up paying for the problem afterward. He said a large group of landowners spoke negatively about this GEIS and he wanted this Town Board and the new Town Board to look at what's happening and don't accept what the Planning Board is telling them. "We are taxpayers and we are responsible for what the Town Board and Planning Board are doing to us," he said.

Sidney Perry referred to a 2001 letter from the NYS Department of Agriculture & Markets, addressing the same type of situation in Fishkill, New York. The letter contained that while the AML, Section 305-a, prohibits local governments from enacting and/or administering laws that unreasonably restrict farm operations located within an

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agricultural district unless the public health or safety is threatened, the Agriculture & Markets Department viewed an increase in minimum lot size for residences would not generally unreasonably restrict farm operations.....but could likely decrease the value of the farmland. The Department of Agriculture and Markets expressed concerns with the impact of an increase in lot size on the protection of farmland within the specific Town. Mr. Perry stated that the Town loses money on one (1) house on five (5) acres. Councilwoman Krupa had been furnished a copy of this letter and she will make copies for the Town Board members.

### **REPORTS OF TOWN OFFICIALS**

#### **HIGHWAY SUPERINTENDENT:**

##### **Competitive Bid: Reject Low Bid for Sewer Vacuum Body**

Highway Superintendent Sherman referred to his report at the September 9, 2009 Town Board meeting with regard to three (3) bids received for this equipment. Because the apparent low bid did not meet Town specifications, the Town Attorney had been reviewing the matter and the Town Board had taken no action since the September 9, 2009 meeting. Upon recommendation of the Highway Superintendent, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Payne:

#### **(RESOLUTION NO. 319 OF 2009)**

**WHEREAS**, the low bid of Sixty-eight Thousand Six Hundred Eighty-eight Dollars (\$68,688), including trade-in, submitted by Tracey Road Equipment on August 18, 2009 did not meet Town Specifications for the sewer vacuum body, as follows:

- Quoted a boom that swings beyond 300 degrees; a safety issue
- Quoted a reel on back of the cab/chassis instead of in front; front-mounted reel keeps operator out of traffic
- Quoted a reel with a single station instead of two stations
- Quoted a reel that did not go forward, only tilted
- Quoted plastic water tank that raises with body and can cause serious injury to the operator and damage to the vehicle versus stationery water tank on a truck

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby exercise its rights as stated in the bidding documents for this equipment and does hereby reject the low bid submitted by Tracey Road Equipment for the reasons mentioned hereinabove.

The Town Board voted upon roll call as follows:

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

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

**Competitive Bid Award: Sewer Vacuum Body – 2<sup>nd</sup> lowest Bid**

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

**(RESOLUTION NO. 320 OF 2009)**

**WHEREAS**, the Town Superintendent of Highways did, on the 30th day of December, 2009, duly recommend the purchase of certain equipment pursuant to the provisions of Section 142 of the Highway Law;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby authorize the Town Superintendent of Highways to purchase, in accordance with the provisions of Article 5-A of the General Municipal Law, one (1) new Vactor 2110-821-15-PD Combination Sewer Jet/Flush Truck (to be mounted on chassis supplied by another vendor) from the second lowest bidder, Joe Johnson Equipment, 62 LaGrange Ave., Rochester, NY 14613, as per Town specifications, for a maximum aggregate price of Two Hundred Two Thousand One Hundred Sixty-four Dollars and Ninety-five Cents (\$202,164.95), delivered at the Sanger Public Works Garage, 111 New Hartford Street, New Hartford, New York, within 45 to 60 days after receipt of the chassis. The Town Superintendent of Highways is authorized to surrender to said vendor one used 2004 Sterling Tank, VIN 2FZHAZDE74AN30442 at an agreed factory trade-in value of One Hundred Eight Thousand Dollars (\$108,000). A contract for the item(s) purchased shall be duly executed in triplicate between the Town Superintendent of Highways and such vendor and then shall become effective. When the contract has been executed and approved, and upon delivery of the item(s) purchased, the Town Supervisor shall pay the amount of Ninety-four Thousand One Hundred Sixty-four Dollars (\$94,164) from budgetary appropriations for purchase of equipment.

A vote upon roll call was duly held and resulted as follows:

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

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Supervisor Reed - Aye.

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

**Shared Services – Sanding/Salting School driveways**

Highway Superintendent Sherman reported that the Town Attorney had drafted a one-year agreement between the Town and New Hartford Central Schools for the sanding and salting of the entranceway of various school driveways; no plowing will be provided. A rate of Fifty Dollars (\$50) per trip has been calculated, considering the cost of the truck, the employee and benefits, and payment for the materials. Sanding would be provided only when the Town trucks are in the area performing their regular routes. The sanding/salting will be just a “pass through” on the school premises and the Town will not make exceptions and interrupt Town routes. The Town truck drivers will document their time on charts in vehicles. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 321 OF 2009)**

**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 and the New Hartford Central School District for a one-year period whereby the Town would provide sanding/salting of the School District’s various entranceways and said School District shall reimburse the Town for said services as further outlined in said Agreement.

The Town Board members then voted upon roll call:

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

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

**Snow and Ice Control Agreement (Revised) – Oneida County Highways**

Highway Superintendent Sherman had received a copy of the Snow and Ice Control Agreement for county roads that the Town had signed as well as a copy of the revised Agreement that the County prepared after receiving the Town’s recommendations. This is a three-year agreement with raises shown for the next two (2) years. The Town Board took no action at this time.

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**Status – Oxford Road Area Drainage Improvement Project**

Because some drainage improvements had been made by the Town within Oneida County's right of way along Oxford Road, the County offered to contribute the sum of \$134,250 toward these improvements. In addition, due to unexpected delays such as a damaged phone line, a 24-inch water pipe that had not been identified and had to be rerouted and related damages in the box culvert totaling \$26,333.49, Oneida County has agreed to pay this sum. Thereafter, Councilman Reynolds moved the following Resolution and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 322 OF 2009)**

**RESOLVED** that the New Hartford Town Board does hereby accept the offer of Oneida County to reimburse the Town of New Hartford for various drainage improvements within the Oxford Road right of way, a County-owned highway, totaling \$135,250 in Application No. 1 and the sum of \$26,333.49 in Application No. 2 as same relates to the Oxford Road Area Drainage Improvement Project.

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**.

**STORMWATER MANAGEMENT (ADVISORY) IMPROVEMENT COMMITTEE**

Highway Superintendent Sherman reported that activity has shut down for the winter months

**RFPs: Bridge - Elm Street, Chadwicks**

Highway Superintendent Sherman reported that three (3) responses had been received for the Request for Proposals advertised in The Observer Dispatch, one of which withdrew at the last minute. Shumaker Engineering and Delta Engineers submitted RFPs and the Highway Superintendent recommended that Delta be awarded the work. Thereafter, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Payne:

**(RESOLUTION NO. 323 OF 2009)**

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**WHEREAS**, at the September 22, 2009 Town Board meeting, authorization was given to seek Requests for Proposal for engineering services, including design for the necessary replacement of the Elm Street, Chadwicks Bridge, at a cost not to exceed Fifty Thousand Dollars (\$50,000);

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby accept the Request for Proposal submitted by Delta Engineers, Architects and Land Surveyors, PC, 4873 NYS Route 5, Vernon, New York and does hereby award the engineering work to said firm.

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**.

**TOWN CLERK:**

**Competitive Bid – Refund of Bid Security**

Upon recommendation of the Town Clerk, Councilwoman Krupa introduced the following Resolution for adoption, seconded by Councilman Payne:

**(RESOLUTION NO. 324 OF 2009)**

**WHEREAS**, the Town Clerk has received confirmation from the Highway Superintendent that the following equipment/vehicles have been delivered to the Town and meet Town specifications; and

**WHEREAS**, the Town Clerk has received further confirmation from the Highway Superintendent with regard to the completion of projects undertaken in 2009; and

**WHEREAS**, on September 22, 2009 the Town Board had rejected all bids received for the Arlington Terrace Sewage Pump Station Upgrades – Contract 4;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Bookkeeper to release Bid Security deposits from the Trust and Agency Account to the following bidders for the projects noted:

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- Leaf Vacuum Collector (delivered)  
Joe Johnson Equipment, Rochester, NY - \$ 750.00
- Plow Equipment/Dump Box (delivered)  
Viking Cives, USA, Harrisville, NY - \$3,490.80

and does further authorize and direct the Town Clerk to release the Bid Bonds submitted as Bid Security to the following bidders for the projects noted:

- Cab & Chassis for Plow Equipment and Dump Box (delivered)  
Tracey Road Equipment, Inc., East Syracuse, NY  
Utica Mack, Inc., Marcy, NY
- 2009 Bituminous Paving – Woods Highway (completed)  
Ocuto Blacktop & Paving Co., Inc.  
Barrett Paving Materials, Inc.  
Hanson Aggregates
- Oxford Road Area Drainage Improvements (final work is pending)  
Unsuccessful bidders:  
Murphy Excavating Corporation, New Hartford, NY  
D. H. Smith Co., Inc., Clayville, NY  
CCI Companies, Inc., Canastota, NY  
Marcy Excavation Services, LLC, Utica, NY
- Oxford Road & Kellogg Road Stormwater Detention Project (final work is pending)  
Unsuccessful bidders:  
Bat-Con, Inc., Marcellus, NY  
Jablonski Excavating, St. Johnsville, NY  
North Country Contractors, LLC, Henderson, NY  
Marcy Excavation Services, Frankfort, NY  
D. H. Smith Co., Inc., Clayville, NY  
Fred Burrows Trucking & Excavating, Whitesboro, NY
- Sanitary Sewer Replacement Route 5A & Sanitary Sewer Relocation Jordan Road (final work is pending)  
Unsuccessful bidders:  
Bat-Con, Inc., Marcellus, NY  
Murphy Excavating Corporation, New Hartford, NY  
Jablonski Excavating, Inc., St. Johnsville, NY  
Fred Burrows Trucking & Excavating, Inc., Whitesboro, NY



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- Arlington Terrace Sewage Pump Station Upgrades – Contract 4 (all bids rejected in September 2009)  
Bat-Con, Inc., Marcellus, NY  
Henderson Bros. Contracting, Inc., Central Square, NY  
North Country Contractors, LLC, Henderson, NY  
OP-TECH Environmental Services, Inc., East Syracuse, NY  
C & S Companies, Syracuse, NY (unopened bid – received late)

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**.

**Vacancy – Board of Assessment Review**

The Town Clerk noted that a vacancy has existed on the Board of Assessment Review since September 30, 2009 when Jonathan Purdy’s 5-year term had expired.

**Declaration of Surplus Vehicle – Authorization to Sell**

In behalf of the Town Police Chief who had a conflicting meeting, the Town Clerk presented Chief Philo’s request to declare a vehicle as surplus; the vehicle (an old ambulance) had been donated to the Town Police Department many years ago by Edwards Ambulance, and today, is not worth repairing. The following Resolution was offered for adoption by Councilman Payne and duly seconded by Councilwoman Krupa:

**(RESOLUTION NO. 325 OF 2009)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby declare as surplus one (1) 1986 Ford Ambulance, VIN 1FDHS34M3JHB62764;

And be it

**FURTHER RESOLVED** that the aforesaid vehicle shall be sold for scrap metal and once sold, the Town Clerk’s office shall be notified and shall then arrange to terminate insurance coverage on said vehicle.

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

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

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

**Agreement – 2010 Animal Control Service**

In behalf of the Town Police, Town Clerk Young presented the proposed 2010 Animal Control Agreement with the Town of Kirkland and which Agreement had been reviewed by Attorney Green. Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilwoman Krupa:

**(RESOLUTION NO. 326 OF 2009)**

**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 and the Town of Kirkland, wherein the Town of New Hartford will provide animal control services to the Town of Kirkland during calendar year 2010, in accordance with the terms and conditions set forth therein.

A roll call vote ensued:

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

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

**Local Law Introductory “H” of 2009 – Zone Map Amendment – Business Park**

Town Clerk Gail Wolanin Young acknowledged receipt of the written recommendations of the Town and County Planning Departments, together with written comments on SEQR from some State agencies. Thereafter, Councilman Woodland introduced the following Resolution for the Town Board’s consideration at a future date; co-sponsored by Councilman Reynolds:

Town of New Hartford, New York  
Local Law Introductory “H” of 2009

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A Local Law to amend the Code of the Town of New Hartford, **Chapter 118** thereof entitled **ZONING**, and map coincidental thereto, as it pertains to property bordering the New Hartford Business Park (Tax Map No. 316.000-2-41.1 owned by Ryan Companies US), a description of which is set forth in Section 2, and changing the designation of property from PDMU (Planned Development Mixed Use) to PDP (Planned Development Park).

**BE IT ENACTED** by the Town Board of the Town of New Hartford as follows:

**Section 1.** Chapter 118 of the Code of the Town of New Hartford, Section 118-8, and particularly the map coincidental thereto and made a part thereof, is hereby amended as follows:

Section 118-8. Zoning Map.

(Change the designation of thirteen point five two four [13.524] acres, more or less, situate adjacent to the New Hartford Business Park and identified as Tax Map Parcel No. 316.000-2-41.1, owned by Ryan Companies US, Inc., from PDMU [Planned Development Mixed Use] to PDP [Planned Development Park].

**Section 2.** The boundaries and description of said district are as follows:

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of New Hartford, County of Oneida and State of New York, being part of Lot Number 50 in the 7<sup>th</sup> Division of Coxes Patent, bounded and described as follows:

**Beginning** at an iron rod on the easterly boundary of other lands of the New Hartford Office Group, LLC (Now or Formerly), as described in a Quit Claim Deed dated July 20, 2005 and filed in the Oneida County Clerks Office in Instrument Number 2007-019329, said iron rod standing therein distant **N08 degrees 15'01"W 60.00 feet** as measured along the easterly boundary of other lands of the New Hartford Office Group, LLC from an iron rod standing at the intersection of the easterly boundary of other lands of the New Hartford Office Group, LLC with the northerly boundary of Lloyd W. Yager, Lori J. Yager and Jon E. Yager (Now or Formerly), as described in a Warranty Deed dated September 17, 1996 and filed in the Oneida County Clerks Office Liber 2753 of Deeds at Page 276; said point of beginning being further described as standing therein distant **N08 degrees 00'43"W 345.80 feet** and **N08 degrees 15'01"W 60.00 feet** as measured respectively along the easterly boundary of other lands of the New Hartford Office Group, LLC from an iron rod standing at the intersection of the easterly boundary of other lands of the New Hartford Office Group, LLC

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with the northerly boundary of Par Technology Corporation (Now or Formerly); thence **N08 degrees 15'01"W 561.45 feet** along the easterly boundary of other lands of the New Hartford Office Group, LLC to an iron rod standing on the southerly highway boundary of the Judd Road Connector (Judd Road Extension) (Stanwix – Utica, Pt.1); thence **N88 degrees 31'14"E 235.27 feet** along the southerly highway boundary of Judd Road Connector (Judd Road Extension) (Stanwix – Utica, Pt. 1) to an iron rod; thence **N82 degrees 52'06"E 871.03 feet** continuing along the southerly highway boundary of Judd Road Connector (Judd Road Extension) (Stanwix – Utica, Pt. 1) to an iron rod standing on the westerly boundary of other lands of Lloyd W. Yager, Lori J. Yager and Jon E. Yager (Now or Formerly), thence **S07 degrees, 10'29"E 528.26 feet** along the westerly boundary of other lands of Lloyd W. Yager, Lori J. Yager and Jon E. Yager to an iron rod; thence **S82 degrees 20'59"E 1094.64 feet** to the **point and place of beginning.**

The above described parcel containing **13.524 acres** (589,085.3 sq.ft.) of land, more or less.

**Section 3.** All other provisions of Chapter 118 of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

**Section 4.** This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

**Local Law Introductory "I" of 2009 – Zoning Text Amendment – Business Park Review Process**

The Town Clerk acknowledged receipt of the written recommendations of the Town and County Planning Departments, together with written comments on SEQR from some State agencies. Thereafter, Councilman Reynolds introduced the following Resolution for the Town Board's consideration at a future date; co-sponsored by Councilwoman Krupa:

**Town of New Hartford, New York  
Local Law Introductory "I" of 2009**

A Local Law to amend the Code of the Town of New Hartford, Chapter 118 thereof entitled ZONING, by deleting and repealing in its entirety Section 118-39, Planned Development Park (PDP) District standards, and replacing Section 118-39 with new standards, and by further deleting and repealing in its entirety Article VIIA, Section 118-41, Business Park District.

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**BE IT ENACTED** by the Town Board of the Town of New Hartford as follows:

**Section 1.** Chapter 118 of the Code of the Town of New Hartford is hereby amended by deleting and repealing in its entirety Section 118-39, Planned Development Park (PDP) District standards.

**Section 2.** Chapter 118 of the Code of the Town of New Hartford is hereby further amended by adding a new Section 118-39, Planned Development Park (PDP) District standards, as follows::

(.....Insert the text from the Planner’s email – Schedule “A”..... ).

**Section 3.** Chapter 118 of the Code of the Town of New Hartford is hereby amended by deleting and repealing in its entirety Article VIIA, Section 118-41, Business Park District.

**Section 4.** All other provisions of Chapter 118 of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

**Section 5.** This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

**Local Law Introductory “K” of 2009 – Zone Map Amendment, 2 Ellinwood LLC**

Town Clerk Gail Wolanin Young had received the written recommendations from the Town and County Planning Departments and written comments from several agencies with regard to SEQR. Thereafter, Councilwoman Krupa introduced the following legislation for the Town Board’s consideration at a future Town Board meeting; co-sponsored by Councilman Reynolds:

Town of New Hartford, New York  
Local Law Introductory “K” of 2009

A Local Law to amend the Code of the Town of New Hartford, **Chapter 118** thereof entitled **ZONING**, and map coincidental thereto, as it pertains to property located at 2 Ellinwood Court (Tax Map No. 316.020-1-8 owned by Manufacturers & Traders Trust), a description of which is set forth in Section 2, and changing the designation of property from PDMU (Planned Development Mixed Use) to RB1 (Retail Business).

**BE IT ENACTED** by the Town Board of the Town of New Hartford as follows:

**Section 1.** Chapter 118 of the Code of the Town of New Hartford, Section 118-8, and particularly the map coincidental thereto and made a part thereof, is hereby amended as follows:

Section 118-8. Zoning Map.

(Change the designation of two point nine [2.9] acres, more or less, situate at 2 Ellinwood Court and identified as Tax Map Parcel No. 316.020-1-8, owned by Manufacturers & Traders Trust, from PDMU [Planned Development Mixed Use] to RB1 [Retail Business].

**Section 2.** The boundaries and description of said district are as follows:

Parcel 1 – All that tract or parcel of land situate in the Town of New Hartford, County of Oneida and State of New York, and more particularly described as follows: Beginning a concrete monument, said monument located at the intersection of the northerly boundary of Clinton Street with the easterly boundary of Ellinwood Drive; thence N. 02 degrees 00'00" E. along the easterly boundary of Ellinwood Drive 117.16 feet to a point of curvature; thence northerly along the last mentioned boundary on a curve having a radius of 383.00 feet curving to the left, a distance of 133.64 feet to a concrete monument being a point of tangency; thence N. 18 degrees 09'00" W. along the last mentioned boundary of Ellinwood Drive 114.25 feet to a point; thence N. 71 degrees 51'00" E. along the division line between United Parcel Service (reputed owner) on the north and Ellinwood Industrial Park Co. (reputed owner) on the south, 285.43 feet to a point on the division line of Eagle Contractors of Utica, Inc. (reputed owner) on the north and Ellinwood Industrial Park Co. (reputed owner) on south; thence S. 37 degrees 00'00" E. along the last mentioned boundary 171.06 feet to a point; thence S. 02 degrees 00'00" W. 320.71 feet to a point on the northerly boundary of Clinton Street; thence N. 88 degrees 00'00" W. along the northerly boundary of Clinton Street 313.00 feet to the point of beginning. Said parcel being shown on the Oneida County Tax Map as Tax Map Parcel 316.020-1-8.

Parcel I being the same premises conveyed to The Savings Bank of Utica by deed dated May 21, 1992 and recorded May 21, 1992 in the Oneida County Clerk's Office in Book 2628 of Deeds at page 537.

**Section 3.** All other provisions of Chapter 118 of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

**Section 4.** This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

**Public Hearings**

Public Hearings on Local Laws Introductory "H", "I" and "K" of 2009 will be scheduled by the new administration in 2010.

**PLANNER:**

**GEIS Retainer Policy - Amended**

Based upon the Town Attorney's final review of the GEIS Retainer Policy adopted at the November 4, 2009 Town Board meeting, Planner Schwenzfeier presented an amended Policy that clarifies, among other items, that a retainer in the form of a certified check is to be deposited in a non-interest bearing account, the Town Planner recommending the Town Board release any and all unused retainer monies to the developer (following completion), when the Town can deem a project to be abandoned, the Town Board's authority to release a retainer and that the Town Planner will be the center point on these matters. Thereafter, Councilman Payne offered the following Resolution for adoption and Councilman Reynolds seconded same:

**(RESOLUTION NO. 327 OF 2009)**

**RESOLVED** that the New Hartford Town Board does hereby amend the November 4, 2009 Resolution adopting the GEIS Retainer Policy so that, effective immediately, the Retainer Policy shall be adopted as follows:

**GEIS Retainer Policy  
December 30, 2009**

The Town of New Hartford ("Town") requires retainers as part of a/its pre-development agreement ("PDA") relating to assurance that the project commenced by the Developer pursuant to the authority of the Town will be completed in a timely manner according to approved plans and specifications.

The retainer monies paid to the Town in the amount equaling not less than ten percent (10%) of the total project costs unless otherwise agreed to by the parties (Town and Developer) is to assure that the Project commenced by the Developer pursuant to the approval of the Town will be completed in a satisfactory and timely manner according to approved plans and specifications for both site work and construction. The retainer may be in the form of a certified check, letter of credit or proper bond, and shall be delivered to the Town to use, if necessary, to undertake or complete approved improvements or site work deemed necessary by the Town which the Developer or representatives fail or refuse to undertake, perform or complete. This retainer shall be delivered to the Town prior to issuance of a Building Permit.

If certified check is remitted, the Town Planner will deliver same to the Town Clerk to deposit in a non-interest bearing account. If the retainer is by letter of credit, the Planner will deliver same to the Town Clerk for deposit in the Town safe under the Town Clerk's supervision.

The Town Planner will additionally deliver copies of the check or letter of credit to the Town Supervisor, Town Bookkeeper and Planning Board Secretary along with a copy of the corresponding PDA.

Following completion of the project by the Developer and acceptance of the site work and improvements by the Town, the Town Board shall request the Town Board authorize the release of any and all unused retainer monies to the Developer.

If site work or project improvements are deemed needed by the Town, at any time prior to Town acceptance of the Project, the Town shall give the Developer written notice of such and reasonable time to complete same. If the Developer fails to do so, then the Town can exercise its authority and utilize the retainer for the needed work. Whether the Developer completes the needed work or the Town is made to expend all or a portion of the retainer to complete the project, in whole or part, upon completion of the work and Town acceptance of the project, the Town Planner shall request the Town Board authorize the release of any and all unused retainer monies to the Developer.

In the event the project remains uncompleted by the Developer for an extended period of time, the Town shall contact the Developer in writing and inform him/her that, unless notified in writing to the contrary, the Town will deem the project abandoned and the Planning Board approvals will be considered nullified. This written notice to the Developer shall also make clear that if the subject project is hereafter renewed or any other project for said site is proposed, application again will be required, Planning Board review and approval will be needed, a new PDA will have to be executed and a retainer will have to again be deposited with the Town, among other things. In such case, the Town reserves the right to exercise use of any retainer on deposit and/or return same to the Developer by process and procedure described herein.

The release of the retainer shall require Town Board approval, which shall be requested by the Town Planner within thirty (30) days of the Town's acceptance of the project construction and site work. As a part of, and included with, the Town Planner's request, the Town Planner shall provide the Town Board with a duly completed "Retainer Release Approval Form" which documents the project's compliance with all applicable Town, County and State departments and agencies.

If the original retainer was secured in the form of a cashier check, the Town Planner will provide a copy of the Town Board Resolution for the release of the retainer to the Town Bookkeeper and request a check be issued to the Developer.

If the original retainer was secured by a letter of credit, the Town Planner will provide a written request to the Town Clerk that the Letter of Credit be returned to the Developer.

As a process of preparing the Town's accounting records for the annual independent audit, the Town Bookkeeper will confer and agree annually with the Town Planner and the Town Clerk as to the cash balances and letters of credit of record as relate to Town retainers.

Whereupon, the Town Board members voted by roll call:

Councilwoman Krupa - Aye



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

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

**SENIOR ENGINEERING TECHNICIAN:**

**Change Orders – Contract 2: New Hartford Office Park Route 5 & 5A Highway Improvements**

Senior Engineering Technician requested approval of two (2) Change Orders for the referenced contract that had been awarded to Hanson Aggregates, explaining unanticipated problems beyond control of the contractor that required more work. Councilman Reynolds moved that the Town Supervisor be authorized to sign Change Orders No. 1 and 2, totaling \$139,906.57. Councilwoman Krupa inquired if there was money to pay for this overage. Director of Budget responded that money is there to pay for this but not enough is budgeted because the Town hasn't received all the bids yet. Thereafter, Councilman Reynolds withdrew his motion. The Board concurred with the Director of Budget that the Town would need to approach the Developer for his part in paying the overages.

- Status – Permanent Traffic Signal – The permanent traffic signal was activated on December 15, 2009 and all lanes are open to traffic in final configuration. The top course of paving will be done in the Spring of 2010 as well as some drainage work and final grading and seeding.

After further discussion, Councilwoman Krupa introduced the following Resolution for adoption and Councilman Payne seconded same:

**(RESOLUTION NO. 328 OF 2009)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Change Orders No. 1 and No. 2, totaling One Hundred Thirty-nine Thousand Nine Hundred Six Dollars and Fifty-seven Cents (\$139,906.57), with Hanson Aggregates, successful bidder on the Contract 2- New Hartford Office Park Route 5 & 5A Highway Improvements.

After agreeing that the Town Board would approach the Developer to pay for the overages, 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**.

**Status of Philip Rayhill Memorial Trail extension**

Senior Engineering Technician Meagher reported that preliminary appraisals were sent to the NYS Department of Transportation (DOT) for review last week and DOT is preparing an acquisition map. He will be requesting permission to perform title searches for these properties in January or February 2010. Also, by February 2010 DOT will have completed their survey of the trail and will provide the Town with survey maps with deed descriptions. Current schedule has the final DOT design and Town approval in September 2010 followed by the Town competitive bid process; construction would begin in 2011.

**CODES ENFORCEMENT OFFICER:**

**Training**

Upon request of Codes Enforcement Officer Booth, the following Resolution was introduced for adoption by Councilwoman Krupa and duly seconded by Councilman Payne:

**(RESOLUTION NO. 329 OF 2008)**

**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 Codes Enforcement Officer Joseph A. Booth and Assistant Codes Enforcement Officer Thomas Rowlands each to attend one of the following conferences, with expenses to be borne by said Town as budgeted, and to process the Purchase Orders and Vouchers related thereto:

- Finger Lakes Building Officials Association, Inc.  
35<sup>th</sup> Annual Educational Conference  
Town of Parma, New York  
March 15 – March 17, 2010
  
- Northern Adirondack Code Enforcement Officials Association  
15<sup>th</sup> Annual Educational Conference  
Lake Placid, New York  
March 1 – March 4, 2010

Codes Officer Booth noted that New York State requires Codes Enforcement Officers to have twenty-four (24) hours of in-service training annually. In lieu of attending the New York State Association of Towns conference in New York City, he requested permission

to attend different conferences at a substantial savings to the Town. The 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*.

**DIRECTOR OF BUDGET:**

**Budget modifications 2009**

Upon presentation by the Director of Budget, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilwoman Krupa:

**(RESOLUTION NO. 330 OF 2009)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the following 2009 budget modifications:

**General Fund Whole-Town**

From: Town Justice	Personal Services	AA1110.01	\$ 3,600
	Equipment	AA1110.02	\$ 500
	Court Attendant	AA1110.12	\$ 2,200
	Prior Year Comp	AA1110.14	\$ 700
	Prior Year Comp	AA1110.15	\$ 600
	PD Comptime	AA1110.17	\$ 3,800
	PD Comptime	AA1110.18	\$ 3,000
Town Clerk	Part-time Clerk	AA1410.12	\$ 9,500
	Deputy Clerk	AA1410.13	\$ 930
Town Attorney	Labor Negotiations	AA1420.41	\$ 400
	Comp wages	AA1420.12	\$ 880
Buildings	Personal Services	AA1620.01	\$ 7,700
	Utilities	AA1620.41	\$ 10,000
Central Printing	Maint. Agreements	AA1670.41	\$ 5,000
Central Data	Equipment	AA1680.02	\$ 2,500
Special Items	Fire Insurance	AA1910.04	\$ 700
	Contingent Account	AA1990.04	\$ 1,480
Dispatch	Equipment	AA3220.02	\$ 500
	Dispatchers	AA3220.11	\$ 22,390
Control of Animals	Personal Services	AA3510.01	\$ 1,050
	Prior Year Comp	AA3510.12	\$ 270
Supt. Of Highway	Clerk Part-time	AA5010.12	\$ 1,430
	Clerk Overtime	AA5010.15	\$ 490
Programs for Aging	Manager Part-time	AA6772.11	\$ 2,000
	Clerk Part-time	AA6772.12	\$ 1,870
Recreation	Laborers Overtime	AA7020.13	\$ 10,800
	Seasonal Employees	AA7020.14	\$ 1,340
Parks	Bookkeeper	AA7110.13	\$ 1,600
	Seasonal Employees	AA7110.14	\$ 7,330
	Overtime	AA7110.16	\$ 11,500
	Prior Years Comp	AA7110.17	\$ 500
Playgrounds	Seasonal Employees	AA7140.11	\$ 1,830
Swim Program	Personal Services	AA7230.01	\$ 1,110
Debt Service	BAN Interest	AA9730.07	\$ 61,310
			<b>\$180,810</b>

To: Town Board	Contractual	AA1010.04	\$ 460
Town Justice	Court Clerk	AA1110.11	\$ 2,760
	Asst. Court Clerk	AA1110.13	\$ 4,500
Supervisor	Confidential Secretary	AA1220.12	\$ 1,470
Comptroller	Contractual	AA1315.04	\$ 1,000
	Bookkeeper	AA1315.11	\$ 1,450
	Account Clerk	AA1315.14	\$ 260
	Fiscal Advisors	AA1315.42	\$ 1,000
Receiver of Taxes	Contractual	AA1330.04	\$ 720
Assessor	Personal Services	AA1355.01	\$ 550
	Contractual	AA1355.04	\$ 180
	Clerk	AA1355.12	\$ 1,190
Town Attorney	Contractual	AA142004	\$ 820
Personnel	Personal Services	AA1430.01	\$ 1,440
Buildings	Contractual	AA1620.04	\$ 18,000
	Overtime	AA1620.12	\$ 20
Central Printing	Contractual	AA1670.04	\$ 1,000
Central Data	Maintenance	AA1680.04	\$ 2,900
Special Items	Reserve for Self-Insurance	AA1930.04	\$ 1,900
Dispatch	Personal Services	AA3220.01	\$ 3,400
Control of Animals	Part-time ACO	AA3510.11	\$ 3,190
Supt. Of Highways	Clerk	AA5010.14	\$ 1,740
Programs for Aging	Personal Services	AA6772.01	\$ 580
	Misc. Part-time	AA6772.13	\$ 1,410
Recreation	Personal Services	AA7020.01	\$ 7,680
	Working Foreman	AA7020.11	\$ 4,780
	Rec Maint Worker	AA7020.12	\$ 450
Parks	Personal Services	AA7110.01	\$ 1,440
	Working Supervisor	AA7110.11	\$ 4,220
	Rec Maint Worker	AA7110.12	\$ 3,750
	Rec Maint Worker	AA7110.15	\$ 3,460
	Rec Maint Worker	AA7110.18	\$ 5,740
	Rec Maint Worker	AA7110.19	\$ 2,850
Youth Employment	Personal Services	AA7310.01	\$ 830
Employee Benefits	Health Insurance	AA9060.08	\$ 93,670
			<b>\$ 180,810</b>

From: Engineering	Eng. Services/Sauquoit Creek	AA1440.44	\$ 19,387 Misclass
To: Engineering	Contractual	AA1440.04	\$ 19,387

From: Engineering	Stormwater Mngmt Review	AA1440.49	\$ 7,500 Misclass
To: Engineering	Contractual	AA1440.04	\$ 7,500

From: Engineering	Woods Highway	AA1440.42	\$ 39,920 Misclass
To: Mitigation	Woods Highway	AA5031.00	\$ 39,920

### Police Fund

To: Police	Personal Services	AA3120.01	\$ 46,690
To: Police	Police Severance	AA5031.00	\$ 46,690

### General Part-Town

From: Registrar	Contractual	BB4020.04	\$ 1,000
	Part-time Clerk	BB4020.12	\$ 900
Zoning	Contractual	BB8010.04	\$ 4,000
	Clerk Part-time	BB8010.16	\$ 680
	Prior Year Comp	BB8010.17	\$ 3,500
	Asst. CEO Part-time	BB8010.18	\$ 1,910
	ZB-Contractual	BB8010.41	\$ 1,000
			<b>\$ 12,990</b>

To: Central Printing	Contractual	BB1670.04	\$ 4,000
Registrar	Deputy Salary	BB4010.11	\$ 1,460
Zoning	Personal Services	BB8010.01	\$ 1,660
	Secretary	BB8010.14	\$ 5,600
Town Planner	Personal Services	BB802012	\$ 270
			<b>\$ 12,990</b>

Highway Whole-Town

From: General Repairs	Contractual	DA5110.04	\$ 200
To: Snow Removal	Contractual	DA5142.04	\$ 200

Highway Part-Town

From: General Repairs	Contract Exp Summ	DB5110.47	\$ 2,000
Machinery	Items for Stock	DB5130.43	\$ 2,000
Snow Removal	Wages	DB5142.01	\$ 35,900
	Gasoline	DB5142.44	\$ 2,050
			<b>\$ 41,950</b>

To: General Repairs	Stone	DB5110.41	\$ 12,000
	Gravel	DB5110.42	\$ 6,000
Brush & Weeds	Contractual	DB5140.04	\$ 450
Snow Removal	Salt	DB5142.42	\$ 20,000
	Sand	DB5142.43	\$ 3,500
			<b>\$ 41,950</b>

Sewer Fund

From: Sewer	Contractual	SS8110.04	\$ 380
To: Sewer	Engineer	SS8110.15	\$ 380
From: Sewer	Contractual	SS8110.04	\$ 23,058 Mitigation-
Sewer	Mitigation	SS5031.0	\$ 23,058 Manhole Co.

The foregoing Resolution was duly put to a vote upon roll call, resulting 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**.

Authorization for Inter-fund borrowings

Director of Budget Mowat stated that the Town borrowed money against the final 2009 Sales Tax Revenue check that is normally paid to the Town in February of the (following year) in order to pay bills/payroll. She requested authorization for several Inter-fund borrowings. Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Payne:

**(RESOLUTION NO. 331 OF 2009)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Bookkeeper to make the following Inter-fund borrowings and that said borrowings be paid back with interest as required:

- \$11,900 from Highway Fund Part-Town to General Fund Whole-Town
- \$32,000 from General Fund Part-Town to General Fund Whole-Town
- \$27,961 from Highway Fund Part-Town to Sewer Fund

in order to pay the bills that are on the December 30, 2009 Abstracts.

The Resolution was duly put to a vote upon roll call, resulting as follows:

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

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

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

**FISCAL:**

**Audit of Vouchers**

On recommendation of the Town Supervisor, Councilwoman Krupa presented the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 332 OF 2009)**

**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, which had been duly audited by the Town Board:

New Hartford Business Park Abstract #3	
Voucher H03	\$447,496.17
Fire District Abstract #6	
Voucher SF8	\$ 39,999.27
Highway Fund Part-Town Abstract #27	
Vouchers DB730-DB766	\$ 74,314.19
Highway Fund Part-Town Abstract #28	
Vouchers DB767-DB768	\$ 81.68
General Fund Part-Town Abstract #30	
Vouchers BB194-BB202	\$ 5,773.45
General Fund Whole-Town Abstract # 70	
Vouchers A1914-A1917; A1920	\$ 17,213.79
General Fund Whole-Town Abstract #71	
Vouchers A1921-A1965; A1973-1974; A1976-A1995	\$ 94,859.45
General Fund Whole-Town Abstract #72	
Voucher A1975	\$ 3,000.00
General Fund Whole-Town Abstract #73	
Vouchers A1998-A2006	\$ 1,817.69
General Fund Whole-Town Police Abstract #70A	
Vouchers A1966-A1972; A1996-A1997	\$ 28,795.24
General Police Fund Whole-Town Abstract #69A	
Vouchers A1918-A1919	\$ 359.90

Sewer Fund Abstract #34		
Voucher SS109		\$ 1,114.30
Sewer Fund Abstract #35		
Vouchers SS110-114		\$ <u>54,206.73</u>
	<b>TOTAL:</b>	<b>\$671,172.41</b>

Upon roll call, the Board members voted as follows:

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

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

**PUBLIC COMMENT (CONT'D)**

With regard to fire safety inspections, Ralph Humphreys said he paid \$10 in June 2009 and he inquired when he would receive his permit(s). Codes Enforcement Officer Booth stated this is a one-time fee and the permits are currently being prepared.

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion duly made and seconded, the meeting adjourned at 7:05 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk