

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, FEBRUARY 24, 2010 AT 7:00 P.M.**

Town Supervisor Patrick Tyksinski 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 then taken with the following Town Officials and Department Heads being present during the progress of the meeting.

**TOWN BOARD MEMBERS PRESENT:**

Councilman Donald C. Backman  
Councilwoman Christine G. Krupa  
Councilman David M. Reynolds (Arrived 7:10 P.M.)  
Councilman Richard B. Woodland, Jr.  
Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Assessor Paul E. Smith  
Codes Enforcement Officer Joseph A. Booth  
Deputy Supervisor Matthew Bohn II  
Dispatch Supervisor Jeffrey P. Madden (Arrived at 7:24 P.M.)  
Highway Superintendent Richard C. Sherman  
Parks and Recreation Director Michael W. Jeffery  
Senior Engineering Technician John Meagher  
Town Attorney Herbert J. Cully  
Town Clerk Gail Wolanin Young

Thereafter, a quorum was declared present for the transaction of business. Supervisor Tyksinski asked that everyone remain standing for a moment of silence in memory of Terrence P. Martin, long-time friend, community volunteer and firefighter, former Town Parks Director and former Village Codes/Zoning Officer, who had died February 22, 2010.

MINUTES

**February 10, 2010 Town Board minutes**

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

**(RESOLUTION NO. 70 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held February 10, 2010 and does further waive the reading of the same.

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Upon roll call, the Board members voted as follows:

Councilwoman Krupa	-	Aye
Councilman Reynolds	-	ABSENT
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

PUBLIC PRESENTATIONS (Public Comment)

***Stormwater Matters***

Dr. Rao said he had attended the February 23, 2010 Stormwater Management Improvement (Advisory) Committee meeting and, as a result, expressed his concern to the Town Board that the problem of stormwater run-off in the Woodberry Road and Beechwood Road area is “very complex”, “enormous”. With regard to the solution consultants are proposing, he was also concerned that the problem will come back again. Dr. Rao suggested the Town work with the problem and to contact the Cornell Cooperative Extension or other resources to get their help and expertise. He said Shumaker Engineers was the only proposal that had been received for these projects. Stormwater (Advisory) Committee member Elisabetta DeGironimo said that Shumaker Engineers did a model for the Woodberry area and had many presentations and were comfortable with that particular watershed. The Committee was in favor of going forward with the design but Shumaker is the only firm that submitted a design for that.

Edmund Wiatr, Jr. agreed with Dr. Rao. He was concerned that former Highway Superintendent Cleveland always leaned toward Shumaker Engineers and wanted them as a sole source. Mr. Wiatr said there are other firms out there that should be given the opportunity to submit a proposal and that the Town should give serious consideration for putting out a Request For Proposal (RFP). At the same time, he deferred to Ms. DeGironimo because of her knowledge in this area.

Ms. DeGironimo stated that Shumaker Engineers was already on board when the Stormwater (Advisory) Committee was formed and at one point the Committee did a request for qualifications from engineering firms but since Shumaker had already started on that particular area of town, it was decided it was in the Town’s best financial interest to go with Shumaker for that area. Ms. DeGironimo said she would like to see a little variety and would like to receive Requests For Proposal. (Shumaker had designed the stormwater basins.)

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

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Public Works & Sewers Committee – Councilman Backman:

**Mowing Agreement with Oneida County**

Discussion ensued on the annual Mowing Agreement between the Town and the Oneida County Department of Public Works. Under the terms of the Agreement, the County would reimburse the Town \$6,144 for mowing 20.48 miles of County road rights-of-way; at the same time, the County has requested that the Town insure the County's 2001 Alamo, Model Grass King Mower for the period May 2010 to September 2010. A question arose whether the Town would be paying more for insurance coverage than the mower is worth. The Town Clerk will contact the Town's insurance agent for costs. Since the Town will be using its own tractor, the Town Attorney corrected the Mowing Agreement to delete use of the County's tractor, thereby the Town using only the County's mower.

[NOTE: Councilman Reynolds joined the meeting at 7:10 P.M.]

Thereafter, Councilman Backman introduced the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 71 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute the Roadside Mowing Agreement between the Town and the County of Oneida, as modified by the Town Attorney, wherein the Town agrees to mow county roads within the Town of New Hartford during the 2010 Summer Season and the County agrees to furnish the mower that is to be attached to a town tractor and operated by a town employee, and as more fully defined in said Agreement.

The Town Board voted upon roll call as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

**Update on Sewer Problems – Grease Trap Inspections**

With regard to sewer-grease related problems from restaurants, the Town Attorney had reviewed the 8-page legislation adopted by Erie County and commented that, if the Town

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were to adopt similar legislation, the Town might have to add staff to enforce same. Attorney Cully had also reviewed the Town Code, Chapter 98 entitled Sewers, and he believes the Town Code is okay and delegates authority to the Town to enforce current Town law that provides for bi-annual inspections; if a grease trap is over three-quarters ( $\frac{3}{4}$ ) full, the facility has a certain amount of time to clean it out; if not done within the specified timeframe, the Town has the authority to close down the restaurant. This would be the responsibility of the Sewer Superintendent. Also, Chapter 3 (Appearance Tickets) of the Town Code authorizes certain departments to issue and to serve appearance tickets for violations of statute and local laws. Sewer Superintendent Richard Sherman will prepare a chart for the inspections.

### **Highway Department - Trash Fliers**

In past years, the Town has spent \$500 to print the Brush and Curbside Collection fliers and \$4,700 to mail them to Town residents. In 2010 there will be no Curbside Trash Collection program, only the pickup of tree limbs, brush and leaves. After some discussion, it was the consensus of the Town Board to expend \$500 to print the fliers and to distribute them via the Town Crier thereby saving the Town \$4,700 in distribution costs; in addition, the Town will arrange publication of the flier as a television service announcement and the Town's Website. This is a budgeted item.

### **Year-to-Date Expenditures**

Councilman Backman recalled that years ago department heads had been given "read only" access to the Accounting software to review their expenditures and the Highway Superintendent does not have this capability. The Town Supervisor will look into this as he had set up this access capability when he was Comptroller for the Town.

### **Higby Road Water District – Lewis Property, Sessions Road**

Since the last Town Board meeting, Councilman Backman and Councilwoman Krupa had reviewed a chart provided by Senior Engineering Technician John Meagher. Lengthy discussion ensued acknowledging that the Town charges 1 EDU for the parcel upon which Mr. Lewis has his home that receives water service; further, that the Town also charges 3 EDUs for a landlocked parcel owned by Mr. Lewis upon which he has 3 rental houses to which the Mohawk Valley Water Authority refuses to provide a curb box for water service. Councilman Backman noted that the 3 rental houses are being served by a well and Mr. Lewis does not want to connect the two parcels through his water service. Councilwoman Krupa said he has the capability to service the 3 rentals through his existing water service (meter). Councilman Reynolds stated that Mr. Lewis could run a line to serve another house, a garage, a barn, etc. Councilwoman Krupa reiterated, "He has the capability". Town Attorney Cully commented that the Town's Local Law is pretty straight forward, 1 EDU for each dwelling unit per Chapter 117 (Water Service) of the Town Code. Move on.

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Parks and Recreation Committee – Councilman Reynolds:

### *Parks & Recreation Advisory Committee Meeting of February 16, 2010*

- *Recreation Center Roof* - replacing the Recreation Center roof is estimated at \$350,000 - \$370,000 and plans have been referred to Codes Enforcement Officer Joseph Booth and Senior Engineering Technician John Meagher to determine what can be done in-house. Contractors have looked at the site. Perhaps the roof replacement can be done in Spring 2011. Standard Insulation had contacted the Town Supervisor, who will contact Councilman Reynolds.
- *Fee Schedules, Program reconfiguration* – on-going discussion about increasing the summer and fall fee schedule for all programs. Parks and Recreation Director considering reconfiguration of summer programs by student grade level.
- *Veterans Memorial Park* - discussed Veterans Memorial Park and the conceptual drawings, moving along nicely with the NYS Department of Transportation and veterans group.
- *Dog Run* – there were 152 registrants in 2009 and currently 81 of those 152 re-registered; total registrations as of today are over 100. Revenue generated in 2009 was \$3,830; huge success and well received.
- *Parks & Recreation Budget* – Director Jeffery did a budget analysis and decreased his department's operating cost by 15%.
- *Recreation Center Ice Fees* - Looking at increasing ice rental fees and looking at comparable rinks. The Parks and Recreation Director is putting together a chart, separating Recreation Center fees from Summer program fees and expects to have a recommendation of ice rink fees in June 2010.

### *Inter-municipal Agreement for Building Code Services – Village of New Hartford*

Councilman Reynolds is awaiting a report from Village Mayor Donald Ryan who is reviewing the contract for 2010 with the Village Board of Trustees.

## REPORTS OF SPECIAL COMMITTEES

### Stormwater Management Improvement (Advisory) Committee

Stormwater Committee member Elisabetta DeGironimo said the Committee had met last evening and they will be scheduling a working session about stormwater projects, identifying projects that might occur on residential property and perhaps make a recommendation that stormwater funds be set aside and hold harmless the town. Senior Engineering Technician John Meagher chairs the meetings and Highway Superintendent Sherman is involved in the construction.

Town Attorney Cully referred to an e-mail that relates to private property; specifically, the Town cannot go onto private property to remediate a problem unless there is a public benefit derived by the work. Steps for remediation would include identifying the

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problem, prioritizing it, and then obtaining an easement or license from the property owner. If there is a substantial need and the property owner refuses to grant an easement or license, the Town could take the property by eminent domain. Also, the state Highway Law provides that the Town could go on private property that's causing problems on public roads. Ms. Peters-Adelman has property on the bottom of Woodberry Road and Attorney Cully received a Notice of Claim from her attorney. There was some discussion about this at last evening's Stormwater Committee meeting. Since some issues relate to design, etc., Attorney Cully suggested that the contractor or engineer for the project be put on notice – errors or omissions. Thereafter, Supervisor Tyksinski offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 72 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct Town Attorney Herbert J. Cully to provide Shumaker Consulting Engineering & Land Surveying, P.C., with a copy of the Peters-Adelman Notice of Claim alleging negligent design and construction of the storm water improvement that affected her property at 2 Woodberry Road, New Hartford, NY 13413.

Ms. DeGironimo recommended that the Town take possession of the hydraulic model (C.D. or computer) from Shumaker before the Town Attorney sent the letter to Shumaker; this is work product that had been completed by Shumaker. A roll call vote was then duly held and resulted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

**MATTERS SUBMITTED BY COUNCILMEN**

**Councilman Reynolds:**

**Training**

In behalf of the Zoning Board of Appeals, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Woodland:

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**(RESOLUTION NO. 73 OF 2010)**

**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 Zoning Board of Appeals members Robert Schulman and George T. Koury II to attend the 2-hour seminar on “Junkyard, Property Maintenance Issues” on March 11, 2010 at SUNYIT, Marcy, New York, with expenses to be borne by said Town as budgeted; the 2-hour seminar will be credited toward their 2010 mandatory training.

The Resolution was voted upon by roll call as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

**Jordan Road / Glen Street – “Paper street”**

Councilman Reynolds had not received a copy of Attorney Cully’s letter explaining that the “paper street” had never been accepted as a public road by either the Town or Village of New Hartford; Attorney Cully will forward him a copy.

Councilwoman Krupa:

**Police Advisory Committee**

Councilwoman Krupa asked that this matter be postponed, as she would like to review all the Police Commission minutes before proposing anything.

Councilman Backman:

**Service Agreement – Oneida County Soil & Water Conservation District**

Councilman Backman offered the following Resolution for adoption; seconded by Councilman Reynolds:

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**(RESOLUTION NO. 74 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute a Service Agreement between the Town of New Hartford and the Oneida County Soil and Water Conservation District for the period of July 1, 2009 to June 30, 2010 whereby said Conservation District will, for the sum of Twenty-five Hundred Dollars (\$2500), provide:

- Site visits and consultations regarding natural resource concerns
- Site Plan Reviews for proposed development
- Construction site inspections for stormwater, erosion and sediment control
- Assistance to MS4 communities for permit compliance
- Education and outreach for municipal officials, residents and contractors
- Flood response and mitigation
- Survey, design and installation of conservation Best Management Practices
- Survey and design of Dry Hydrants
- Grant writing for proposed projects
- Streambank stabilization and stream maintenance including permit assistance
- Wetland development, and
- Hazard Mitigation Plan maintenance.

Councilman Backman confirmed this is a budgeted item and authorization is needed for payment. Supervisor Tyksinski questioned if this was something the prior Town Board acted on; Councilman Backman responded that this was a late billing but the County has been providing the service. The Town Board members then voted upon roll call:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

***Status of Donovan Community Center, Elm Street, Chadwicks***

After having contacted the President of the New Hartford Historical Society about their use of the Donovan Community Center, Councilman Backman reported that President Barbara Couture might like to use it as a satellite meeting place and that she'll contact him further.

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**Update – Elm Street Bridge, Chadwicks**

Representatives of the Willowvale Fire Company met with Councilman Backman last evening to express their concerns with the medical needs and public safety of residents if the Elm Street bridge is severed during construction of a new bridge. On a near daily basis, the Fire Company responds to medical calls on the far eastern side of Elm Street. Also, if the bridge is severed and there is a fire, an entire block of homes could be lost. Councilman Backman met this morning with Highway Superintendent Sherman to discuss these concerns. If the Town were to provide a temporary pass for firefighting equipment, the Victorian-style house on the north side of Elm Street would have to be razed and it's not feasible to build a bridge on the southerly side because of Williams Tool Company. An alternative would be to install the new bridge lane-by-lane – stoplights, etc., but this would increase the cost of the bridge. The Highway Superintendent will check into prices; if workable, the Willowvale Fire Company is asking for a pre-emptive device to change the light if they need to go through that location.

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

**Financial and other routine reports:**

**Financial Report**

Supervisor Tyksinski distributed the latest financial report of expenditures and revenue.

**Contract – Issys, Inc.**

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

**(RESOLUTION NO. 75 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to enter into and to execute an Agreement between said Town and Issys, Inc. wherein Issys, Inc. will provide one hundred fifty (150) hours of computer services to the Town in 2010 at the hourly rate of Seventy Dollars (\$70).

Supervisor Tyksinski stated that Issys, Inc. has maintained the Town's computer system since the new AS400 was installed ten (10) to twelve (12) years ago. Councilman Backman confirmed his satisfaction with the company's performance. Thereafter, the Board members voted upon roll call:

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

Councilman Backman - Aye  
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Supervisor Tyksinski - Aye.

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

**Police Union Contract**

Supervisor Tyksinski had met with PBA union representatives Paul Colburn and Ronald Fontaine, PBA Attorney Rocco DePerno, Town Attorney Herbert Cully and special counsel for the Town, Peter Jones. There was some discussion of where the Town stands. Attorney Jones was not involved in the past and the procedure to follow in next few months was discussed with Attorney DePerno. Town Attorney Cully said it looks like there is no agreement at this point.

**Dispatch Union Contract**

Supervisor Tyksinski stated that some people had thought a committee had been formed to work with Oneida County on the feasibility of consolidating the Town's Dispatch Center with the County's; this is not so. The County would like representatives from the Town police and dispatch departments and the various fire departments; this is really not a committee ... just getting input of needs from departments. Also, with regard to the Town's Dispatch Center, their union contract ended December 31, 2009 and the union attorney has raised some legal questions. The Town Supervisor believes special counsel is needed to advise the Town Board on legal issues and he recommended engaging the services of Attorney Peter Jones to respond to questions that arise. Councilman Backman introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

**(RESOLUTION NO. 76 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby retain the legal services of Peter A. Jones, Esq. of Bond, Schoeneck & King, PLLC, One Lincoln Center, Syracuse, NY 13202, to represent the Town in the matter of union negotiations with the Emergency Dispatch Center, including mitigation or arbitration, at the following rates:

- \$230 an hour for senior partners
- \$200 an hour for junior partners
- \$170 an hour for associates; and
- \$ 95 an hour for paralegals.

In response to Councilman Woodland's inquiry, Town Attorney Cully stated that Mr. Jones specializes in union negotiations; while Attorney Cully will stay involved to some extent, the expert will be Peter Jones. A roll call vote then ensued:

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Councilwoman Krupa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

**Proposed Amendment – Town Code, Chapter 113 (Vehicle and Traffic)**

Attorney Cully acknowledgement receipt of draft legislation from Parks and Recreation Director Michael Jeffery; the proposal to establish a no parking zone for a fire lane in the Washington Mills Athletic Park will need a public hearing. The Parks and Recreation Director will have the Police Department review the proposal a second time for any recommended changes prior to introduction of the legislation.

**Town Code, Chapter 102 (Streets and Sidewalks)**

The Town Attorney noted that snow on sidewalks is a problem (NOTE: refer to Town Board minutes of February 10, 2010). Some sidewalks are on a plow list; however, the Parks and Recreation Director emphasized that his department can't plow all of them because of regular work duties and the sidewalks can't be done on Sundays. Discussion ensued on the enforcement end of sidewalk issues and possible solutions; ultimately the property owner is responsible. Attorney Cully suggested publicizing an article in the Town Crier ... an informational piece about the property owner's responsibility for sidewalk maintenance to keep them clear of snow and ice. It was acknowledged that with the number of sidewalks in the Town, staff couldn't get to them all. While the law is for the protection of the Town, Board members' consensus was not to punish the property owners if the sidewalks weren't clear.

**Financial reports**

The Town Supervisor stated that the report is basically a year-to-date report and comparison. The budget is pro-rated on a monthly basis; however, the Highway Department is not necessarily a 12-month pro-rata. If Town Board members have any questions about the figures, they could contact the department head.

**Sales Tax Revenue**

The fourth quarter 2009 sales tax revenue check from Oneida County has been received; the next check is due in May 2010 for the first quarter of 2010.

**Police Chief duties statement**

The Town Supervisor had distributed to Board members a copy of the Police Chief job specifications that had been prepared by Personnel Technician Aiello. Town Board consensus was that the specifications are acceptable and that the Personnel Technician be

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authorized to submit the new duties statement to the Oneida County Personnel Department for approval.

### **Grant Agreement – Readiness and Emergency Management for Schools**

Supervisor Tyksinski received information on February 23, 2010 with regard to a Grant between the Oneida-Herkimer-Madison BOCES and representatives of local government, law enforcement, emergency management, health, and mental health agencies with the common goal of strengthening and improving the regional school response plans. Copies had been distributed to Board members and BOCES wanted a signed agreement back today, February 24, 2010. The Town Supervisor had some questions and he will try to contact BOCES tomorrow and update the Town Board.

### **Proposed Citizens Budget Committee**

The Town Supervisor would like to create a citizens budget committee and with the Town Board's consensus, put together a committee. Councilman Backman noted that the committee should consist of financial people, not too big ... keep at about five (5) people. To Councilman Woodland's question of how to educate people on government budget/accounting, the Supervisor said he would like to meet with people and explain how the budget works, what to look for, the content and how we come up with the numbers. Consensus was to proceed.

### **Grants – Sewer Issues**

Town Attorney Cully had watched an announcement on television about sewer grants that sounded optimistic and might help with the Oneida County Part-county sewer district remediation.

### **ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and duly seconded by Councilman Backman the meeting was adjourned at 8:12 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk