

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, SEPTEMBER 22, 2010 AT 7:03 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 7:03 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
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 III
Director of Senior Services M. Eileen Spellman
Highway/Sewer Superintendent Richard C. Sherman
Parks and Recreation Director Michael W. Jeffery
Police Chief Michael S. Inserra
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.

MINUTES APPROVAL

September 8, 2010 Meeting

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

(RESOLUTION NO. 236 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 September 8, 2010 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilwoman Krupa - Aye

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

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

PUBLIC HEARING

7:04 P.M. Local Law Introductory "B" of 2010
Amend Town Code, Chapter 113 (Vehicles & Traffic)

At 7:04 P.M. the Town Supervisor opened the Public Hearing; the Town Clerk had available the Notice of Public Hearing with attached Local Law Introductory, Affidavit of Posting and Proof of Publication (September 12, 2010 edition of The Observer Dispatch). The purpose of the hearing was to offer the public an opportunity to speak in favor of, in opposition to, or to comment upon Local Law Introductory "B" of 2010 which, if adopted, would amend the Town Code, Chapter 113 thereof entitled Vehicles & Traffic, by designating Sessions Road a through street at its intersections with Cosmo Court and Knight Road, the latter two of which would be designated as stop streets at their respective intersections with Sessions Road.

Councilman Backman had been approached by residents in the area with their concern of "missing" stop signs. The matter was referred to the Town Police Chief and Highway Superintendent who performed an on-site study and recommended the erection of stop signs on Cosmo Court and Knight Road. It was determined that stop signs were not "missing"; there had never been legislation enacted to declare these streets as stop streets.

The Town Supervisor inquired if anyone else wished to speak in the matter; no one having come forth, the Supervisor declared the Public Hearing closed at 7:06 P.M.

Adoption of Local Law Introductory "B" as Local Law No. Six of 2010

Thereafter, Councilman Backman moved that the Town Board adopt Local Law Introductory "B" as Local Law No. Six of 2010, in the following format; seconded by Councilman Woodland:

**TOWN OF NEW HARTFORD, NEW YORK
LOCAL LAW NO. SIX OF 2010**

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A Local Law to amend the Code of the Town of New Hartford, **Chapter 113** thereof entitled **VEHICLES AND TRAFFIC**, by establishing an additional Through Street (Section 113-40) and additional Stop Streets (Section 113-41) in the vicinity of Sessions Road.

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

SECTION 1. Chapter 113 of the Code of the Town of New Hartford, Section 113-40, is hereby amended to include the following:

Section 113-40. Schedule VI: Through Streets.

<i>NAME OF THROUGH STREET</i>	<i>NAME OF ENTRANCE STREET</i>	<i>DIRECTION FROM WHICH ENTERING</i>	<i>TRAFFIC CONTROL DEVICE</i>
Sessions Road	Cosmo Court	Southwest	Stop Sign
Sessions Road	Knight Road	Southwest	Stop Sign

SECTION 2. Chapter 113 of the Code of the Town of New Hartford, Section 113-41, is hereby amended to include the following:

Section 113-41. Schedule VII: Stop Intersections.

<i>STOP SIGN ON</i>	<i>DIRECTION OF TRAVEL</i>	<i>AT INTERSECTION OF</i>
Cosmo Court	Northeast	Sessions Road
Knight Road	Northeast	Sessions Road

SECTION 3. All other provisions of Chapter 113 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.

Upon roll call, the Town Board voted as follows:

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

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Local Law Introductory “B” was thereafter declared unanimously carried and duly **ADOPTED** as Local Law No. Six of 2010.

PUBLIC PRESENTATIONS

Southern Area GEIS Study

Town Attorney Cully stated that the Town Planning Board last December (2009) accepted the final draft of the Southern Area GEIS. At the last Planning Board meeting, they approved and adopted the findings that are consistent with that SEQR document. The Planning Board was lead agency in the matter. Studies identified environmental impacts and possible mitigation methods. The Planning Board can’t adopt mitigation measures (like zoning changes, mitigation fees, etc.) – only the Town Board can if they want to. The Planning Board is done now – they have referred it to the Town Board. Attorney Cully said a positive impact on the environment has been identified that must be addressed. He noted that Councilwoman Krupa and others had objected to the proposed 5-acre lots and that the Planning Board did away with this proposal. If the Town Board wants to change the document, they may have to authorize a supplemental report, etc. The Town Supervisor suggested that the Town Board members review their copies of the document because at some point the Town may have to discuss it. Attorney Cully had contacted Eve Holberg of *peter j. smith & company, inc.*, who did the design plan, and also talked with Dan Leonard of the same company, who may be here next week for the Public Hearing on the NYS Route 840 Break-In Access (right in, right out). *peter j. smith & company, inc.* did the environmental study. The Town Supervisor emphasized that the town would not be taking action on this tonight.

Albert Shaheen commented that the Southern area GEIS is seriously flawed. He said it gives four (4) options, so the Town does have a choice...don’t have to have a 5-acre lot, cluster 4 acres somewhere and some acreage forever wild. He said the cost of developing a 1-acre lot is \$50,000 – people can’t afford \$250,000 for a 5-acre lot. The population is down; only three (3) residential building permits have been issued in New Hartford this year. He feels the Town is going backwards as far as agriculture is concerned. He believes the Fees-in-lieu of Mitigation (FILM) kills the incentive for a developer in New Hartford. The point is, none of the landowners want this 5-acre lot restriction...from the general lay public.

Anthony (Omar) Massoud – before any decision is made by the Town Board for the Southern Area of the Town of New Hartford, get the Town on a level playing field so the people can develop their land.

Dr. Rao – says there is some favoritism. He took issue with stormwater problems and favored low-impact development. He asked the Town Board to read the three (3) letters he wrote to the Town Board.

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Supervisor Tyksinski recognized *Elisabetta DeGironimo, Planning Board member*, who encouraged the Town Board to meet with the Planning Board; she said she became involved at end of the GEIS study. She said there are Planning Board members with a lot of history who may have some rationale as to decisions made.

G. Brymer Humphreys, Planning Board member – also became involved at the end of the GEIS study. He recalled attending earlier hearings and it was 90% concern about stormwater and water issues; he believes that’s why the Planning Board went ahead with the study. He is not in favor of 5-acre lots but if the Town doesn’t plan for how water is to be handled, there will be larger problems and a lot more constituents affected because of water in their basements and yards being washed away. He agreed with Ms. DeGironimo that the Town Board should meet with the Town Planning Board on this matter.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Zoning (Codes) and Planning Committee – Councilman Woodland:

Training

Upon request of Jerome Donovan, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 237 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 Planning Board member Jerome F. Donovan to attend the October 22, 2010 Lake, Stream & Watershed Seminar at Hamilton College, Clinton, NY and the October 19, 2010 Case Law Update on Zoning and Planning Seminar in Utica, NY, with respective registration fees of Twenty-five Dollars (\$25) and Fifteen Dollars (\$15) to be borne by said Town as budgeted.

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.

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

Property Maintenance – 7939 Seneca Turnpike

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

(RESOLUTION NO. 238 OF 2010)

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

WHEREAS, the Town Codes Enforcement Officer has received complaints about garbage and debris upon residential premises located at 7939 Seneca Turnpike (Tax Map Parcel No. 327.000-7-1), in the Town of New Hartford owned by Anthony J. Karrat whose last known address is 1131 N. W. 76th Avenue, Plantation, Florida 33322; and

WHEREAS, the property appears to be rented, and the Codes Enforcement Officer had communicated with said owner 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, through the Parks and Recreation Department, to proceed with removal of said garbage and debris and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2011 Town and County tax bill.

Upon roll call, the Board members voted 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*.

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Property Maintenance – 402 Higby Road

Upon recommendation of the Town Codes Enforcement Officer, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilwoman Krupa:

(RESOLUTION NO. 239 OF 2010)

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

WHEREAS, the Town Codes Enforcement Officer has received complaints about garbage, debris and high grass upon premises located at 402 Higby Road (Tax Map Parcel No. 340.010-1-27), New Hartford, New York owned by Khalid Siddiqui whose last known address is 402 Higby Road, New Hartford, New York; and

WHEREAS, the property appears to be abandoned, and the Codes Enforcement Officer had communicated with said owner 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, through the Parks and Recreation Department, to proceed with the removal of said garbage and debris and mowing the lawn at 402 Higby Road and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2011 Town and County tax bill.

Upon roll call, the Board members voted 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**.

Request for Children At Play sign

Councilman Backman had received a constituent request for erection of a Children At Play sign on the most eastern section of Mallory Road between Sessions Road and the Frankfort town line; the matter had been reviewed by the Highway Superintendent and

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Town Police Chief who determined that this neighborhood does not meet the regulatory requirements for installation of a Children At Play sign.

Public Works and Sewer Committee – Councilman Backman:

Request for speed reduction study – Mallory Road

Councilman Backman then introduced the following Resolution, which was seconded by Councilman Reynolds:

(RESOLUTION NO. 240 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby request the New York State Department of Transportation, pursuant to Section 1622.1 of the Vehicle and Traffic Law, to establish a lower maximum speed at which vehicles may proceed on Mallory Road, a Town highway, between Sessions Road and the Frankfort town boundary line.

The foregoing Resolution was duly put to a vote 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 duly **ADOPTED**.

Amendment to 2009-12 Snow & Ice Agreement

The Town Attorney will review the language amendment received recently from Oneida County with regard to the 2009-12 Snow & Ice Agreement with Oneida County; concern was expressed as to whether this language amendment changed the Town's liability exposure. [NOTE: See references in the Town Board minutes of October 14, October 28 and December 30, 2009.]

Change Order No. 1 – Arlington Terrace Pump Station Upgrade

Upon recommendation of Highway/Sewer Superintendent Richard Sherman, Councilman Backman introduced the following Resolution; seconded by Councilwoman Krupa:

(RESOLUTION NO. 241 OF 2010)

WHEREAS, the Town Board of the Town of New Hartford (Town) entered into a construction contract (Contract) with Wilkins Mechanical, Inc. in the amount of One

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Hundred Twenty-four Thousand Nine Hundred Fifty-five Dollars (\$124,955) to perform upgrades to the Arlington Terrace sewage pump station (Project); and

WHEREAS, the Contractor has completed the work associated with this Project; and

WHEREAS, the Ten Thousand Dollar (\$10,000) contingency allowance included in this Contract was not utilized for this Project; and

WHEREAS, a Change Order is required for this deduct amount;

IT IS RESOLVED that the Town Board of the Town of New Hartford hereby authorizes the execution of Change Order No. 1 with Wilkins Mechanical, Inc. which reduces the original contract amount of One Hundred Twenty-four Thousand Nine Hundred Fifty-five Dollars (\$124,955) to the final contract amount of One Hundred Fourteen Thousand Nine Hundred Fifty-five Dollars (\$114,955); and

IT IS FURTHER RESOLVED that the Town Board authorizes the Town Supervisor to execute Change Order No. 2 with Wilkins Mechanical, Inc.

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

2010 Budget Adjustments

Upon request of the Highway Superintendent, Councilman Backman offered the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 242 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Bookkeeper to make the following 2010 Budget adjustments:

<u>Account No.</u>	<u>Account Description</u>	<u>Increase</u>	<u>Decrease</u>
DB5110.45	Gasoline, Diesel		\$22,008.61
DB5112.4	Paving Roads	\$22,008.61	

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Purpose: to restore monies spent for crack sealing that are not allowable from CHIPS funding

<u>Account No.</u>	<u>Account Description</u>	<u>Increase</u>	<u>Decrease</u>
DB5130.43	Items for Stock		\$20,000.00
DB5130.4	Repairs	\$20,000.00	

Purpose: to make necessary vehicle/equipment repairs for the upcoming winter months.

A roll call vote was 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**.

Elm Street, Chadwicks, bridge

Councilman Backman reported that the Town is waiting for a letter from Oneida County, allowing the Town to use their NYS Department of Environmental Conservation (DEC) permit to access the Sauquoit Creek. The utility issue has been resolved and it is expected to authorize the competitive bid process at one of the October 2010 Town Board meetings. Councilman Backman stated he would not be able to attend the October 13, 2010 meeting.

Beechwood Road stormwater drainage

Councilman Backman acknowledged that the remaining property owner on Beechwood Road has given verbal permission for an easement; however, the property owner needs to execute the easement document.

Parks and Recreation Committee – Councilman Reynolds

Appointments – Winter Recreation and Swim Program

Upon request of Parks and Recreation Director Michael Jeffery, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 243 OF 2010)

RESOLVED that the New Hartford Town Board does hereby appoint the following individuals to the various part-time seasonal positions and for the hourly wages set

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opposite their several names, for the Parks and Recreation Department, commencing October 1, 2010 and ending March 26, 2011; all wages to be paid bi-weekly:

Recreation Center (Winter Season) A7020.14

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Nicholas Suits	Ice Attendant	\$ 7.65/hour
Conrad Stafford	Ice Attendant	\$ 7.65/hour
Eric Fitzgerald	Ice Attendant	\$ 7.65/hour
Emma Rasmussen	Ice Attendant	\$ 7.65/hour
Jordyn Torchia	Ice Attendant	\$ 7.65/hour
Giovanni Vitagliano	Ice Attendant	\$ 7.65/hour
Amanda Tucciarone	Ice Attendant	\$ 7.65/hour
Cameron Miller	Ice Attendant	\$ 7.65/hour

Winter Swim Program A7230.1

Diane Muller	Pool Director	\$12.26/hour
Anna Wanner	Assistant Director	\$10.87/hour
Scott Wanner	Lifeguard	\$ 8.65/hour
Marissa Mundrick	Lifeguard	\$ 8.65/hour
Sara Dreimiller	Lifeguard	\$ 8.65/hour
Lauren Graniero	Lifeguard	\$ 8.65/hour
Meghan Rose	Sub Lifeguard	\$ 8.65/hour
Craig Sherman	Pool Attendant	\$ 3.00/hour.

Whereupon, the Town Board voted upon roll call:

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

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

Agreements- Ice Rental

Upon recommendation of the Parks and Recreation Director, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilwoman Krupa:

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(RESOLUTION NO. 244 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Ice Rental Agreements for the 2010-2011 Ice Season between the Town of New Hartford and the following organizations:

- New Hartford Youth Hockey Association, Inc.
- Skating Club of New Hartford
- Mohawk Valley Community College
- Mohawk Valley Old Timers League

all of which groups have provided the Town with the appropriate Certificate of Insurance. Town Board approval is contingent upon final review of the Town Attorney.

The Town Board members voted as follows:

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

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

REPORTS OF SPECIAL COMMITTEES

Stormwater Management (Advisory) Improvement Committee:

Committee Chairman Elisabetta DeGironimo reported that the Stormwater Management (Advisory) Committee would meet on Monday, September 27, 2010 at 4:45 PM in the New Hartford Public Library.

MATTERS SUBMITTED BY COUNCILMEN/ATTORNEY

Councilman Backman:

Constituent Comment

Councilman Backman read a letter received September 16, 2010 from Joseph Bolton who expressed his concern about the employment status of the Town's Bookkeeper, the validity of the Bookkeeper's retirement and rehiring, and whether or not she was entitled to a lump sum of \$71,544 in overtime pay. Mr. Bolton sought a response from the Town Board to various questions. Councilman Backman asked if this was considered a FOIL

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(Freedom of Information Law) request. The Town Attorney and Town Clerk simultaneously answer that it wasn't, that FOIL is for requesting existing documents. Further, the Town Attorney noted that this matter is in litigation and cannot be discussed except for in Executive Session at this time.

Zoning Law (Signs) – Advisory Committee on Zoning Law

As a follow-up to his discussion at the September 8, 2010 Town Board meeting, Councilman Backman stated that he had asked William Smith and Ralph Humphreys if they would be interested in serving on the Advisory Committee on Zoning Law to address “signs” and they had agreed. The Town Supervisor asked the Town Clerk to check on the status of this Advisory Committee to which members are still current. No action was taken at this time.

Audit 2009

Councilman Backman recalled that at the September 8, 2010 Town Board meeting, the Board decided to cancel the 2009 audit and to combine a 2009-10 audit; he questioned whether the Town was in compliance with law. Town Attorney Cully cited Section 123 of Town Law, which requires any town officer to account to the Town Board for moneys they have been received or disbursed; Councilwoman Krupa gave the example of receiving a monetary advance to attend a conference, returning to the office with receipts for expenses and turning in any unused funds. The Town Supervisor said a town board may perform an audit by January 20th annually under certain circumstances; the Town just underwent a State audit that involved fiscal years 2008-09. Fiscal year 2010 will be addressed in January 2011. The Town Attorney said there is no state law that mandates a town audit.

Town Attorney:

Proposed Local Law – MS4 (Municipal Separate Storm Sewer System)

This proposed legislation was written so that the Codes Enforcement Officer receives building plans. The Town Supervisor urged the Town Board members to email the Town Attorney with their concerns and/or questions; the Town Attorney will then address these matters and come before the Town Board in the future. The Town Board referred the proposed MS4 legislation to the Stormwater Management (Advisory) Improvement Committee for their review and recommendations.

Assessment (Tax) Certiorari Proceeding - Legal Representation

In past years, Joseph Shields, attorney for the New York Mills Union Free School District, would represent the Town of New Hartford in assessment (tax) certiorari cases, at a cost savings; however, he is citing a potential conflict of interest in the matter of the Oneida County Industrial Development Agency (McCraith Beverage) vs. the Town and

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has declined to represent the Town. After some discussion, Supervisor Tyksinski introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 245 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby retain the legal services of Herbert J. Cully to represent the Town in the assessment (tax) certiorari matter of the Oneida County Industrial Development Agency (McCraith Beverage), vs the Town of New Hartford, at an hourly rate of Two Hundred Dollars (\$200).

The Town Attorney commented that the Town cannot default by not defending the Assessor and the Town. Thereafter, the Town Board members voted upon roll call:

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

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

Assessment (tax) Certiorari – Preswick Glen settlement

The Town Attorney briefed the Town Board on a hearing in Supreme Court with regard to the Preswick Glen certiorari brought against the Town. Special Counsel Daniel Vincelette had been involved with discussions with the Judge, who referred to the Preswick Glen property as “unique”. Attorney Cully reviewed the proposed settlement that had been ratified by the Judge subject to approval of the New Hartford Town Board, Oneida County Board of Legislators and the New Hartford Central School District. Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 246 OF 2010)

WHEREAS, Presbyterian Homes Foundation, Inc., and Preswick Glen, Inc. and the Town of New Hartford are desirous of having certain real property tax assessment litigation resolved as to property owned by Presbyterian Homes Foundation, Inc., and Preswick Glen, Inc. in the Town of New Hartford, and

WHEREAS, all parties to this litigation appeared at a judicial conference in Oneida County Supreme Court on September 22, 2010, before the Hon. Samuel D Hester, JSC, and whereas the Court has reviewed evidence of fair market value of the subject property, including income and expenses and appraisal proof presented by Petitioner’s counsel; and

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whereas the Town's counsel reviewed said data and negotiations took place between all parties; and

WHEREAS, Oneida County Supreme Court held that the terms of the final settlement proposal were just, fair and equitable, and "So Ordered" the final settlement terms, subject to ratification by the respective boards of the County, Town and School District; and

WHEREAS, the settlement proposal resolving pending tax certiorari litigation was recommended by Daniel G. Vincelette, trial counsel to the Town of the New Hartford, and reviewed by the New Hartford Town Board at its regular monthly meeting, and

WHEREAS, such a proposed settlement would present the parties with an expeditious and economic alternative to further litigation so as to resolve issues between the parties, and

WHEREAS, the Town Board has determined that the proposed settlement is in the best interests of the Town; now

THEREFORE BE IT RESOLVED, that the Town Board does hereby accept a proposed settlement for the 2008, 2009 and 2010 tax certiorari proceedings filed by Presbyterian Homes Foundation, Inc., and Preswick Glen, Inc. in which the 2008 proceeding shall be discontinued without refunds or costs; the 2009 aggregate assessment of the property shall be reduced from \$21,795,550 to \$17,000,000; and the 2010 assessed value shall be reduced from \$21,795,550 to \$15,000,000. The 2011, 2012 and 2013 assessed values of the subject property shall not exceed \$15,000,000, with the provision that the Town has the right to revise the assessment if the occupancy of the subject property is greater than 75 percent; and the Petitioner shall pay all taxes, penalties and interest based upon the revised assessments;

and it is further

RESOLVED, that the Town Board does hereby adopt this resolution to end the litigation between Presbyterian Homes Foundation, Inc., and Preswick Glen, Inc. and the Town of New Hartford as to the above referenced assessment.

Councilman Backman inquired if an adjustment would be made next year to Oneida County or to the Town of New Hartford as a result of this settlement; it was stated that Preswick Glen had not paid taxes for years 2009 and 2010. Thereafter, a roll call vote was held and resulted as follows:

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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**.

MATTERS SUBMITTED BY THE TOWN SUPERVISOR

Financial:

Declaration of Surplus Vehicles – Authorization to Sell

Director of Senior Services Eileen Spellman mentioned that use of the “senior” bus was at a low level, the demand for service “not there” and she believes it is no longer needed; she recommended that it be sold, which would save money on insurance, gasoline and a bus driver. The vehicle had been acquired through a grant from the Community Foundation so that proceeds from the sale may be restricted. Thereafter, the following Resolution was offered for adoption by Councilman Reynolds and duly seconded by Councilman Backman:

(RESOLUTION NO. 247 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby declare as surplus one (1) 2004 Turtle Top Bus, Model 3 DC, Suburban, Vehicle Identification Number 1FDWE35SX4HA08469; and be it

FURTHER RESOLVED that the aforesaid vehicle shall be placed for sale on e-Bay and once sold after approval of the Town Board, 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 Backman	-	Aye
Councilman Reynolds	-	Aye
Supervisor Tyksinski	-	Aye.

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

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Special Town Board meetings

The Town Supervisor announced the following special meetings:

- Monday, September 27, 2010 at 6:00 P.M.
Butler Memorial Hall, 48 Genesee Street, New Hartford
Purpose: Public Hearing on NYS Route 840 Break in Access – SEQR
- Tuesday, October 5, 2010 at 6:00 P.M.
Butler Memorial Hall, 48 Genesee Street, New Hartford
Purpose: Town Clerk will present the 2011 Tentative Budget to the Town Board

SEORA Public Hearing AMENDED – NYS Route 840 Break In Access

Resolution No. 222, adopted at the September 8, 2010 Town Board meeting scheduled the Public Hearing on the NYS Route 840 Break In Access for 7:00 P.M. on Wednesday, September 22, 2010; however, fifteen (15) days for publication were required under SEQRA instead of ten (10) days; therefore, the Public Hearing date had to be pushed ahead. Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 248 OF 2010)

WHEREAS, the Town Board of the Town of New Hartford adopted Resolution No. 222 on September 8, 2010 with regard to “*DETERMINATION OF COMPLETION OF DRAFT SEIS AND ISSUANCE OF COMBINED NOTICE OF COMPLETION AND PUBLIC HEARING AND COMMENT PERIOD ON THE DSEIS*” for the NYS Route 840 Break In Access; and

WHEREAS, in order to comply with SEQRA regulations on public notice, Resolution No. 222 must be amended with regard to the Public Hearing date;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby amend Resolution No. 222, adopted September 8, 2010, so that the Public Hearing in the above matter shall be held at 6:00 P.M. on Monday, September 27, 2010 and that written public comments on the DSEIS submitted to the Town Clerk of the Town of New Hartford will be accepted if submitted on or before October 8, 2010.

The Supervisor polled the Board, which voted as follows:

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

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Supervisor Tyksinski - Aye.

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

Town Web site

Supervisor Tyksinski announced that the Town's Web site has been taken over by his secretary, Carol Ryan. Department heads should submit documents to her for posting.

Public Comment

Albert Shaheen asked to be notified if and when the Town Board would be taking action on the Southern Area GEIS.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and seconded by Councilman Reynolds, the meeting was adjourned at 8:26 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk