

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, JANUARY 12, 2011 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
Councilman Richard B. Woodland, Jr.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Codes Enforcement Officer Joseph Booth
Deputy Supervisor Matthew Bohn III
Highway/Sewer Superintendent Richard C. Sherman
Parks and Recreation Director Michael W. Jeffery
Police Chief Michael Inserra
Town Attorney Herbert J. Cully
Town Clerk Gail Wolanin Young

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

MINUTES APPROVAL

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

(RESOLUTION NO. 1 OF 2011)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held December 22, 2010 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 Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

PUBLIC PRESENTATIONS (Resident comments)

Supervisor Tyksinski stated this was the time for residents to make presentations, comments or to address a subject with the Town Board. No one came forth.

REPORTS OF TOWN OFFICIALS SUBMITTED BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilwoman Krupa:

Training - Oneida County Association of Towns Meeting

The Town Clerk having received information from the Oneida County Association of Towns, the following Resolution was introduced for adoption by Councilwoman Krupa and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 2 OF 2011)

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 Highway Superintendent Richard C. Sherman and Councilwoman Krupa to attend the Oneida County Association of Towns Organizational Meeting on Tuesday, January 18, 2011 in Utica, New York with expenses 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 Backman	-	Aye
Councilman Reynolds	-	Aye
Supervisor Tyksinski	-	Aye.

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

Training School – Town Clerk-Registrar, Records Management

Upon request of the Town Clerk, the following Resolution was introduced for adoption by Councilwoman Krupa and duly seconded by Councilman Woodland:

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(RESOLUTION NO. 3 OF 2011)

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 Town Clerk Gail Wolanin Young to attend the 29th Annual New York State Town Clerks Association Conference from May 1 through May 4, 2011 in Buffalo, New York, with expenses to be borne by said Town as budgeted; and be it

FURTHER RESOLVED that the Town Clerk be, and she hereby is, authorized to attend the business/educational meetings of the Oneida County Association of Town Clerks and State-sponsored Workshops on Records Management and Vitals Statistics during fiscal year 2011, with incidental expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

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

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

Prevention of Deer Depredation

Among changes in the State Agriculture & Markets law with regard to dog licensing and control is the matter of deer depredation; prior to January 1, 2011 each County had the responsibility of notifying the public that dogs must be securely confined for a specific time period in order to prevent deer depredation. Effective January 1, 2011 this responsibility belongs to each town and city. Councilman Reynolds introduced the following resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 4 OF 2011)

RESOLVED that, in accordance with Local Law No. Seven of 2010 (Chapter 56, DOGS AND PETS of the Town Code), the New Hartford Town Board does hereby institute a quarantine on dogs for the protection of deer in the Town of New Hartford. All dogs shall be securely confined during a period of time beginning twenty-four (24) hours after publication of a legal notice in the Town's official newspaper and continuing until April

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15, 2011. The Town Clerk is hereby authorized and directed to publish such legal notice in The Observer Dispatch on January 17, 2011. Any dog found chasing or worrying deer during said quarantine could be seized. A dog that attacks a deer at any time, shall be in violation of this Law and shall be subject to fines.

Discussion involved “open” farmland and dogs that might roam their own property without being tied or chained. In response to Councilman Reynolds’ inquiry of who would enforce this quarantine, the Town Clerk responded that this would be the responsibility of the Animal Control Officer(s). Thereafter, the Town Supervisor requested a vote upon roll call that resulted as follows:

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

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

Zoning (Codes) and Planning Committee – Councilman Woodland

Kelly – Jay/K Zone Map Amendment; Local Law Introductory “A” of 2011

Councilman Woodland 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 “A” of 2011

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 8448 Seneca Turnpike (aka NYS Route 5), a description of which is set forth in Section 2, and changing the designation of property from M (Manufacturing) 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.

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(Change the designation of twenty-two point thirty-seven [22.37] acres, more or less, situate at 8448 Seneca Turnpike and identified as Tax Map Parcels No. 328.011-1-20.1; 328.011-1-21; 328.011-1-22 and 328.011-2-1, owned by Kevin and Christopher Kelly and referred to as the Jay-K Lumber property, from M [Manufacturing] to RB1 [Retail Business].

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

All that piece or parcel of land situate in the Town of New Hartford, County of Oneida, State of New York, and more particularly described as follows:

Beginning at an iron pin set at the intersection of the southwesterly highway boundary of existing Seneca Turnpike (New York State Route #5) with the division line between Green Lawn Cemetery (liber 748, page 275, liber 793, page 447) on the southeast and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, and liber 2628, page 37) on the northwest; thence S. 60 12' 30" W. along the last mentioned division line 422.57 feet to an iron pin set at an angle point; thence S. 04 degrees 04' 00" W. along the division line between Green Lawn Cemetery (liber 748, page 275, liber 793, page 447) on the east and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the west 180.89 feet to an iron pin set at an angle point; thence S. 12 degrees 48' 34" W. along the division line between Green Lawn Cemetery (liber 748, page 275, liber 793, page 447) on the east and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the west 185.08 feet to a large multi-trunk birch tree; thence S. 83 degrees 58' 13" E. along the division line between Savage Homes, Inc. (liber 1278, page 153) on the north and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 238, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the south 3.23 feet to an angle point; thence S. 06 degrees 01' 47" W. along the division line between Savage Homes, Inc. (liber 1278, page 153) on the east and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the west 147.97 feet to an angle point; thence N. 83 degrees 58' 13" W. along the northerly highway boundary of existing Oakdale Avenue North 210.10 feet to a point of curvature; thence southwesterly along a 205.30 foot radius curve to the left and along the northwesterly highway boundary of existing Oakdale Avenue North an arc distance of 329.11 feet to a point of tangency; thence S. 04 degrees 10' 47" W. along the westerly highway boundary of existing Oakdale Avenue West 81.47 feet to a found iron pipe at an angle point; thence N. 85 degrees 49' 13" W. along the division line between Richard C. Sherman (liber 2823, page 136) on the south and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the north 150.22 feet to an angle point; thence N. 04 degrees 15' 57" E. along the division line between Scot A. and Deborah L. Gage (liber 2685, page 350) on the west and Kevin M.

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Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 111.22 feet to an angle point; thence S. 81degrees 42' 00" W. along the division line and its extension between Scot A. and Deborah L. Gage (liber 2685, page 350) on the south and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the north 490.84 feet to a found iron pipe at an angle point; thence N. 04 degrees 48' 25" E. along the division line between Bible Baptist Church (liber 2016, page 886) on the west and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 460.40 feet to an angle point; thence S. 79 degrees 43' 56" E. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the north and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the south 359.96 feet to an angle point; thence N. 79 degrees 19' 01" E. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the north and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the south 236.80 feet to an angle point; thence N. 24 degrees 58' 32" W. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the west and Kevin M. Kelly and Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 46.90 feet to the center line of existing Mud Creek; thence N. 24 degrees 59' 19" W. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the west and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 180.17 feet to an angle point; thence N. 85 degrees 14' 19" W. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the southwest and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the northeast 170.00 feet to an angle point; thence N. 26 degrees 10' 09" W. along the division line between Cain K. and Ross Sloan (liber 2124, page 937, liber 2407, page 147) on the west and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 391.55 feet to an angle point; thence N. 03 degrees 38' 40" E. along the division line between Mud Creek Limited Partnership (instrument number 2006-014572) on the west and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the east 112.57 feet to an iron pin found at an angle point; thence N. 78 degrees 56' 34" E. along the division line between John P. Leech (instrument number 2008-006862) on the north and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the south 175.50 feet to an angle point; thence S. 11 degrees 16' 39" E. along the division line between Middle Settlement Corp. (liber 2657, page 520) on the east and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the west 59.22 feet to an angle point;

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thence S. 80 degrees 53' 05" E. along a zoning line 204.45 feet to an angle point; thence S. 58 degrees 24' 08" E. along the division line between R. W. Z. Realty Corp. (liber 2492, page 71, liber 2640, page 230, liber 2637, page 690) on the northeast and Middle Settlement Corp. (liber 2574, page 39) on the southwest 207.91 feet to an angle point; thence N. 33 degrees 38' 59" E. along the division line between R. W. Z. Realty Corp. (liber 2492, page 71, liber 2640, page 230, liber 2637, page 690) on the northwest and Kevin M. Kelly, Christopher J. Kelly (liber 1906, page 239, liber 2317, page 244, liber 2504, page 221, liber 2628, page 37) on the southeast 407.00 feet to a point on the southwesterly highway boundary of existing Seneca Turnpike (N.Y. State Route # 5); thence S. 57 degrees 16' 00" E. along the last mentioned highway boundary 194.23 feet to an angle point; thence S. 52 degrees 17' 20" E. along the last mentioned highway boundary 448.79 feet to the point of Beginning, containing 974,752 plus or minus square feet or 22.37 acres more or less.

The above mentioned courses and distances are as shown on a map entitled, "Map and Survey Showing Lands To Be Conveyed By Kevin M. Kelly and Christopher J. Kelly, Town of New Hartford, County of Oneida, State of New York", surveyed by Christopher S. Nash, L.L.S., #049163, and dated July 15, 2000, and last revised November 8, 2010.

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.

Town Attorney Cully stated that the Town Planning Board had rendered a favorable recommendation to the Town Board with regard to the Kelly – Jay/K Zone Map Amendment application conditioned upon the adjacent Sloan property owners also submitting a Zone Map Amendment application, which they did on December 1, 2010. The Town Planning Board reviewed the Sloan Zone Map Amendment application on January 10, 2011 after which a recommendation of approval was rendered to the Town Board.

Councilman Backman said he wanted every agency by law to be contacted and that any disclosure(s) be done. The Town Attorney, who had consulted counsel with the State Association of Towns, said the Zone Map Amendment applicants would have to make disclosure if any member of the legislative body to which they had applied had any financial interest in the matter they were applying for. State Association Attorney Lori Mithen stated the onus is on the applicant to disclose and that she is not aware of any non-disclosure statement.

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Local Law Introductory “A” of 2011; Public Hearing Scheduled

Thereafter, Councilman Woodland offered the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 5 OF 2011)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, January 26, 2011 at **7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider **Local Law Introductory “A” of 2011** which, if adopted, would amend the Code, Chapter 118 thereof entitled **ZONING**, and map coincidental thereto, as it pertains to 22.37 acres [Tax Map Parcels #328.011-1-20.1; 328.011-1-21; 328.011-1-22 and 328.011-2-1] fronting Seneca Turnpike (aka NYS Route 5) owned by Kevin M. and Christopher J. Kelly, a description of which is set forth in Section 2 thereof, and changing the designation of property from Manufacturing (M) to Retail Business (RB1); and be it

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

A roll call vote ensued:

Councilwoman Krupa	-	ABSTAINED, as she has a
conflict of interest		
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Sloan Zone Map Amendment; Local Law Introductory “B” of 2011

Councilman Woodland 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 “B” of 2011

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 8438 and 8440 Seneca Turnpike (aka NYS Route 5), a description of which is set forth in Section 2, and changing the designation of property from M (Manufacturing) to RB1 (Retail Business).

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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, 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 four point fifty-two [4.52] acres, more or less, situate at 8438 and 8440 Seneca Turnpike and identified as Tax Map Parcel No. 328.011-1-20.2, owned by Cain and S. Ross Sloan, from M [Manufacturing] to RB1 [Retail Business].

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

All that piece or parcel of land situated southerly of Middle Settlement Road, Town of New Hartford, County of Oneida, State of New York, bounded and described as follows:

Beginning at an iron pipe found in the southwest corner of the lands of Mud Creek Limited Partnership, et al, (Instrument Number 2006-014572) on the north, and in the line between the lands of Lucky Boy Group, Inc. (Liber 2637 of deeds at Page 15) on the west, and the property herein described on the east, said iron pipe found being S 04 deg. 25' 39" W, 214.12 feet from a concrete highway monument found in the southerly boundary of an existing State Highway (New York State Route 12B, Middle Settlement Road), said iron pipe found being the point of beginning; Thence N 79 deg. 52' 41" E along the last mentioned division line 116.46 feet to an iron pipe found in the line between the lands of Kevin M. Kelly and Christopher J. Kelly (Liber 2504 of Deeds at Page 221) on the northeast and the property herein described on the southwest; Thence S 24 deg. 54' 47" E along the last mentioned division line 392.27 feet to a point in the line between the lands of the said Kelly on the north and the property herein described on the west; Thence S 84 deg. 00' 00" E along the last mentioned division line 170.00 feet to a capped iron rod set in a gravel driveway in the line between the lands of the said Kelly on the northeast and the property herein described on the southwest; Thence S 23 deg. 44' 52" E along the last mentioned division line 227.00 feet to a capped iron rod set in the line between the lands of the said Kelly on the south and the property herein described on the north; Thence S 80 deg. 32' 34" W along the last mentioned division line 236.79 feet to a point in Mud Creek in the line between the lands of the said Kelly on the south and the property herein described on the north; Thence N 78 deg. 30'24" W along the last mentioned division line 359.96 feet to an iron pipe found in the line between the lands of the said Lucky Boy Group, Inc., on the west and the property herein described on the east; Thence the following two courses and distances along the last mentioned division line:

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N 06 deg. 01' 58" E, 127.56 feet to a point, and
N 04 deg. 38' 13" E, 402.49 feet to the point of beginning, containing 4.52 acres.
All bearings are referred to Magnetic North as the needle pointed in the year 1982 AD.

Being the same premises conveyed to Cain K. Sloan and S. Ross Sloan by deed recorded June 22, 1988 in Liber 2407 of Deeds at Page 147 in the Oneida County Clerk's Office.

Subject to the following easements:

Oneida County Sewer District, 20 foot easement:

Liber 1888 of Deeds at Page 173, recorded January 10, 1969.

A 60' Right of Way for ingress and egress to Seneca Turnpike per Liber 2124 of Deeds at Page 937, recorded March 30, 1982.

An easement to erect and maintain an advertising sign at the site of the present S.R. Sloan sign, along the westerly line of the above referenced 60 foot Right of Way to Seneca Turnpike, per Liber 2124 of Deeds at Page 937, recorded March 30, 1982.

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 "B" of 2011; Public Hearing Scheduled

Thereafter, Councilman Woodland offered the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 6 OF 2011)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, January 26, 2011 at **7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider **Local Law Introductory "B" of 2011** which, if adopted, would amend the Code, Chapter 118 thereof entitled **ZONING**, and map coincidental thereto, as it pertains to 4.52 acres, plus or minus [Tax Map Parcel #328.011-1-20.2], at 8438 and 8440 Seneca Turnpike owned by Cain Sloan (Estate) and S. Ross Sloan, a description of which is set forth in Section 2 thereof, and changing the designation of property from Manufacturing (M) to Retail Business (RB1); and be it

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

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A roll call vote ensued:

Councilwoman Krupa	-	ABSTAINED, as she has a
conflict of interest		
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Office Specialist I (Part-time) – Planning Board and Zoning Board of Appeals

Town Attorney Cully referred to the Town Board's December 2010 appointment of Dolores B. Shaw as part-time Office Specialist I and which appointment was specific as to her duties; namely, record and transcribe minutes of the Planning Board and the Zoning Board of Appeals. However, Attorney Cully emphasized that preparatory work is needed before Board meetings that would include, but not necessarily be limited to, agenda, correspondence to property owners and various agencies, legal notices and publication thereof, and mailing packets to Board members and various entities. He stated that the clerical duties defined in the December 2010 Resolution should be expanded to include preparatory work as well as correspondence that might be generated after the Board meetings. Councilman Woodland offered the following Resolution for adoption and Councilwoman Krupa seconded same:

(RESOLUTION NO. 7 OF 2011)

WHEREAS, the New Hartford Town Board adopted Resolution No. 313 on December 8, 2010 appointing Dolores B. Shaw as Office Specialist I (Part-time) to record and transcribe the minutes of the Town Planning Board and the Town Zoning Board of Appeals; and

WHEREAS, there is certain preparatory work required prior to meetings of the Planning Board and Zoning Board of Appeals as well as correspondence required after these meetings;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby amend Resolution No. 313, adopted December 8, 2010, as it relates to duties of Office Specialist I (Part-time) Dolores B. Shaw; specifically, Mrs. Shaw is hereby authorized, in addition to recording and transcribing minutes of the aforesaid Boards, to prepare agenda and legal notices and the publication thereof, preparation and mailing of packets and correspondence to all involved persons, agencies and entities both prior to and after such meetings.

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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 Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Public Works & Sewer Committee – Councilman Backman

Bridge – Elm Street, Chadwicks; Box Culvert – Small Creek

Bids received on December 22, 2010 for replacement of the Elm Street bridge (over Sauquoit Creek) are being canvassed; it is expected to award the contract at the February 9, 2011 Town Board meeting. Also, the Town has inspected a box culvert (flow from a small creek) near the Collins farm on Elm Street and Joanne Faulkner Humphreys of the Oneida County Soil and Conservation will also perform an on-site inspection. Councilman Backman suggested that the two (2) projects be bonded together.

Part-County Sewer District - (DEC Consent Order)

The Town Board and Attorney discussed two (2) proposed inter-municipal agreements with Oneida County:

- Access Agreement – County wants access to the Town’s sewer system to perform inspections of the Town’s sewer system only
- Funding of sewer rehabilitation – surcharge, or other means
 - The Town Supervisor talked with Steven Devan from the County Sewer district, conveying the Town Board’s concerns; Mr. Devan to do some work and language change for the Town Attorney’s review

Thereafter, Councilman Backman introduced the following Resolution for adoption and Councilwoman Krupa seconded same:

(RESOLUTION NO. 8 OF 2011)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an Inter-municipal Agreement between the Town of New Hartford and Oneida County (Department of Water Pollution Control) for the purpose of the County accessing the Town’s sewer system to determine any infiltration of stormwater.

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Councilwoman Krupa inquired if anyone had heard from the NYS Department of Environmental Conservation since a July 2010 meeting. Oneida County Legislator James D’Onofrio, who was present, said “.. nothing that is formal or public at this point.” The Town Board then voted upon roll call as follows:

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

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

Woodberry Sewer District; Clinton Street Sewer District

Councilman Backman would like fairness for sewer districts in that all are charged operation and maintenance and he suggested that all districts be consolidated. The Town Supervisor said that the Woodberry and Clinton Street districts were the only ones not paying operation and maintenance, but they are now since the 2011 budget was adopted in November 2010. The existing sewer improvement area still exists and covers most of the town. Supervisor Tyksinski questioned: do we expand the sewer improvement area to include the whole town (it doesn’t hit the boundaries), or do we abolish small sewer districts created over the past few years and go with the consolidated sewer? Property owners in the Woodberry and Clinton Street Sewer Districts are paying something now but the County wouldn’t put the Twenty Dollar (\$20) Unit Charge on; this will be corrected in the 2012 Budget.

Lighting Districts - Consolidation

Councilman Reynolds wondered if the Town should consolidate its numerous lighting districts to simplify bookkeeping. Supervisor Tyksinski recalled discussion years ago about the feasibility of establishing a town-wide lighting district.

Mutual Aid Agreement - Municipalities

In light of the recent fire that destroyed the Town of Marshall Highway Garage and vehicles and equipment stored within that structure, Councilman Reynolds asked Highway Superintendent Sherman if there is a mutual aid agreement where, if the Town of New Hartford had an extra vehicle, it could be loaned to the Town of Marshall. Highway Superintendent Sherman responded that the surrounding, adjoining towns have loaned the Town of Marshall equipment and that Highway Department is okay for now. Highway Superintendent Sherman said inspections of New Hartford’s trucks have been made to check electrical systems and the prevention of vehicle electrical fires.

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MATTERS SUBMITTED BY COUNCILMEN, TOWN ATTORNEY AND DEPUTY SUPERVISOR

Councilman Backman:

Vacancies – Library Trustees; Appointment

Councilman Backman reported there are two (2) vacancies for Trustees of the New Hartford Public Library and that the Library Board submitted names of individuals they would recommend for appointment (Elizabeth Lemieux, Karen Madden, Lester Cortright, Richard Evans and Kevin Kelly). Also, Councilman Backman noted that Russell Cerminaro had expressed an interest in appointment as a Library Trustee. The Town Supervisor reported a number of applications had been received. After some discussion, Supervisor Tyksinski introduced the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 9 OF 2011)

WHEREAS, the term of office of Kevin M. Kelly as a New Hartford Public Library Board Trustee had expired on December 31, 2010;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby re-appoint Kevin M. Kelly as a Trustee for the New Hartford Public Library commencing January 1, 2011 and for a five-year term ending December 31, 2015,

A roll call vote ensued:

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

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

Thereafter, Councilman Backman moved that the New Hartford Town Board appoint Russell Cerminaro as a Trustee on the Library Board of the New Hartford Public Library. There was no second to the motion, which died.

Councilwoman Krupa then moved that the New Hartford Town Board appoint Elizabeth Lemieux as a Trustee on the Library Board of the New Hartford Public Library. Councilmen Reynolds and Woodland requested more time to review resumes and poll the applicants. Councilwoman Krupa retracted her motion. Addressing the Town Attorney,

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Councilman Backman asked, if the Town Board doesn't appoint the Library trustees tonight, could the Library Board make these appointments; the Attorney said, No...only if a Trustee resigns in mid-term.

Windpower issue

Councilman Backman has received copies of Windpower legislation adopted by the Towns of Lebanon (Madison County), Town of Paris (Oneida County) and Town of Schuyler (Herkimer County). While he had contacted the State Association of Towns for copies of municipal legislation, they never responded. The Town Attorney will contact State Association Attorney Lori Mithen. Councilman Backman believes the Town needs professional help – not to ban or restrict but to regulate. Councilman Reynolds suggested that the Zoning Law Advisory Committee review the various legislation available and make recommendations to the Town Board; Codes Enforcement Officer Joseph Booth was asked to get the Committee together and to review regulations. The Town Supervisor will contact the Committee members for their interest in continuing on this Committee, whether to enlarge the Committee by two (2) members, etc. and have answers by the January 26, 2011 Town Board meeting.

Annual Audit

Councilman Backman questioned whether the Town Board would be conducting an audit on or about January 20, 2011. The Town Supervisor stated that he, Councilwoman Krupa and Deputy Supervisor Bohn would audit elected officials and report to the Town Board.

Also, Requests For Proposal (RFPs) have been solicited and the Town has received two (2) responses for an audit of the Town's 2009-2010 financial reports, said audit to be completed by March 31, 2011.

Councilman Reynolds:

Stormwater Management – MS4

Addressing Stormwater Management (Advisory) Improvement Committee Chairwoman Elisabetta DeGironimo, Councilman Reynolds pointed out that the Town has experienced many times that while developers and architects comply with standards, it doesn't always work in New Hartford. He inquired what assurances the Town would have for those developers whose designs fail; how does the Town make it harder for developers and have them not walk away from neighbors. The Town Attorney stated that the MS4 proposed legislation has been updated twice, which include some recommendations from Dr. Rao, and distributed for Town Board review.

Town Attorney:

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Julian Zone Map Amendment Application

The Town Attorney reported that he has reviewed in detail the Zone Map Amendment Application submitted in late December 2010 for the Harold and James Julian property and he has determined the application is complete. The property owners are requesting a rezoning from Office Business District (RB3) to Planned Development Mixed Use (PDMU) for 13.25 acres along Middlesettlement Road for the purpose of allowing a mix of commercial, business, congregate residential and professional uses. Andrew Kowalczyk, attorney for the Julians, believes the project would fit well in the area and would be an opportunity for citizens to sell property and an opportunity to work with this type of project.....older folks amenable project that suits everyone. The property is behind The Orchards development, near BOCES. The Town Attorney noted that the Julians had applied for a use variance to the Zoning Board of Appeals, which denied the application.

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

(RESOLUTION NO. 10 OF 2011)

RESOLVED that the New Hartford Town Board does hereby declare as complete and does hereby accept for processing the application of Harold and James Julian for a Zone Map Amendment with regard to 13.25 acres along Middlesettlement Road (County Road 30) that they own; and be it

FURTHER RESOLVED that the said Town Board does hereby declare itself as Lead Agency in the matter of the above-referenced Zone Map Amendment application, to change the zoning classification of a 13.25 acre parcel fronting Middlesettlement Road (County Road 30) from Office Business District (RB3) to Planned Development Mixed Use (PDMU) for the purpose of allowing a mix of commercial, business, congregate residential and professional uses; and be it

YET FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Clerk to forward copies of said Zone Map Amendment application to all interested and/or involved agencies for SEQR review.

Upon roll call, the Town Board voted as follows:

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

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

GML 239-Review / Julian Zone Map Amendment

The following Resolution was introduced for adoption by Councilwoman Krupa and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 11 OF 2010)

WHEREAS, Harold and James Julian, as owners of 13.25 acres along Middle settlement Road (County Road 30), had filed a Zone Map Amendment application with the Town Clerk on December 22, 2010 for a rezoning of said acreage from Office Business District (RB3) to Planned Development Mixed Use (PDMU) for the purpose of allowing a mix of commercial, business, congregate residential and professional uses; and

WHEREAS, the Town Attorney has reviewed said Application and the Town Board has determined that the Application appears to be accurate and sufficient;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby refer the above-referenced Zone Map Amendment application to the Oneida County Planning Department and to the Town Planning Board for their review and written recommendation pursuant to General Municipal Law and the Town's Zoning Law.

Upon roll call, the Town Board voted as follows:

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

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

Deputy Supervisor:

Computer Status

Deputy Supervisor Bohn updated the Town Board on his continued work with upgrading the Town's computer system, retaining an IT person or firm and feasibility of entering into an inter-municipal agreement with the City of Rome for computer services. Currently, M. A. Polce is under contract with the Town and has spent time in the Town Clerk's Office and other departments. Said firm has proposed a contract with an inter-municipal agreement that would cost the Town \$3,750 per month – below standard

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pricing – believe they’ve responded well – have experience with NYSPIN and mobile COP program software projects. Funds have been budgeted for 2011. Technicians are available for security work with police records. Councilman Backman then offered the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 12 OF 2011)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute a one-year agreement, retroactive to January 1, 2011, between the Town of New Hartford and the City of Rome, New York for information technology (IT) services.

The proposed agreement contains a thirty (30) day cancellation clause and is to be reviewed by the Town Attorney prior to the Town Supervisor signing the document. Upon roll call, the Town Board members voted as follows:

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

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

MATTERS SUBMITTED BY THE TOWN SUPERVISOR

Financial:

Audit of Vouchers

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

(RESOLUTION NO. 13 OF 2011)

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:

Trust & Agency Abstract #2 of 2011	
Vouchers TT9 –TT10	\$ 1,016.36
Elm Street Bridge Repair Fund Abstract #1 of 2011	
Vouchers HB1-HB3	\$ 3,635.52

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Street Lighting Abstract #1 of 2011 Vouchers SL1-SL2	\$ 9,585.92
Fire District Abstract # 1 of 2011 Vouchers SF1	\$ 15,443.76
Water Abstract # 1 of 2011 Vouchers FF1	\$ 19.34
Highway Fund Part-Town Abstract #1 of 2011 Vouchers DB1-DB171	\$ 470,881.85
General Fund Part-Town Abstract # 1 of 2011 Vouchers BB1-BB21	\$ 8,390.70
General Fund Part-Town Police Abstract #1 of 2011 Vouchers BP1-BP46	\$ 83,096.26
General Fund Whole-Town Abstract #47 of 2010 Vouchers AA1154	\$ 4,805.99
General Fund Whole-Town Abstract #48 of 2010 Vouchers AA1155-AA1160	\$ 1,262.73
General Fund Whole-Town Abstract #49 of 2010 Vouchers AA1161-AA1164	\$ 19,372.37
General Fund Whole-Town Abstract #1 of 2011 Vouchers AA1-AA86; AA88-AA219; AA221	\$145,757.33
General Fund Whole-Town Abstract #2 of 2011 Vouchers AA87	\$ 1,526.65
Sewer Fund Abstract #30 of 2010 Voucher SS85	\$ 2,077.73
Sewer Fund Abstract #1 of 2011 Voucher SS1- SS13	\$ <u>58,601.29</u>
TOTAL:	\$825,473.80

Upon roll call, the Board members voted as follows:

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

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

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Unused Sick Pay – Former Dispatch Supervisor

The question had arisen as to former Dispatch Supervisor Jeffery Madden's entitlement to benefits. Because there was nothing in writing, it was determined he is entitled to be paid out for unused sick time. Thereafter, it was the consensus of the Town Board to authorize the Personnel Technician to issue a check to Mr. Madden for his unused sick time.

2011 Salary – Engineering Department Coordinator

Supervisor Tyksinski offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 14 OF 2011)

WHEREAS, by Resolution No. 330 adopted on December 22, 2010, the Town Board created the part-time position of Engineering Department Coordinator effective upon approval by the Oneida County Personnel Department and in accordance with New York State Civil Service rules and regulations; and

WHEREAS, by Resolution No. 331 adopted on December 22, 2010, the Town Board appointed Elisabetta DeGironimo to fill said position effective January 1, 2011;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby establish the salary for Elisabetta DeGironimo, as part-time Engineering Department Coordinator, at \$15,000.00 per year, payable bi-weekly.

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

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

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

Federal-Aid Highway and Marchiselli-Aid Local Project Agreement – Philip A. Rayhill Trail, Phase I Extension

The Town Supervisor introduced the following Resolution for adoption and Councilman Backman seconded same:

(RESOLUTION NO. 15 OF 2011)

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State “Marchiselli” Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the **Philip A. Rayhill Trail, Phase 1 Extension Transportation Enhancement Project, Town of New Hartford, City of Utica and Village of New York Mills, Oneida County**, P.I.N.2650.20 (the “Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the **Town of New Hartford** desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Project;

NOW, THEREFORE, the **Town Board**, duly convened does hereby

RESOLVE that the **Town Board** hereby approves the above-subject project; and it is hereby further

RESOLVED that the **Town Board** hereby authorizes the **Town of New Hartford** to pay in the first instance 100% of the federal and non-federal share of the cost of the **Project** work for the Project or portions thereof; and it is further

RESOLVED that the sum of \$877,000 is hereby appropriated from the **Town of New Hartford** and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED that, in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the **Town Board of the Town of New Hartford** convene as soon as possible to appropriate said excess amount immediately upon the notification by the **NYS DOT** thereof; and it is further

RESOLVED that the **Supervisor** of the **Town of New Hartford** be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement request for Federal Aid and/or Marchiselli Aid on behalf of the **Town of New Hartford** with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

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RESOLVED that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED this Resolution shall take effect immediately.

Quoting the December 17, 2010 correspondence from Alice Romanych, Regional Planning and Program Manager, NYS Department of Transportation, the Town Supervisor informed the Board that “..when the agreement is fully executed, the Town can be reimbursed up to \$701,600.00 in federal money;” that being 80% of the \$877,000 appropriation referred to in the foregoing Resolution. Councilman Backman inquired where the Town stands with in-kind services; the Town Supervisor responded that he will report at the January 26, 2011 Town Board meeting. Thereafter, upon roll call, the Town Board members voted as follows:

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

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

Appointment – Town Representative/Mohawk Valley Water Authority

Supervisor Tyksinski introduced the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 16 OF 2011)

WHEREAS, on December 16, 2010, the Town received notification from the Mohawk Valley Water Authority that the term of office of Elis J. DeLia on said board would expire December 31, 2010;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby re-appoint Elis J. DeLia as the Town’s representative on the Mohawk Valley Water Authority for a three-year term retroactive to January 1, 2011 and ending December 31, 2013.

Councilman Reynolds inquiry whether anyone else had expressed an interest in filling this position? Supervisor Tyksinski said he’s received no resumes or applications. Councilman Backman thought it would be prudent to post this vacancy on the Town’s website. Councilman Reynolds emphasized that Mr. DeLia offers continuity, which is important. Thereafter, the Board voted upon roll call that resulted as follows:

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

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

EXECUTIVE SESSION

Councilwoman Krupa introduced the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 17 OF 2011)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss union negotiations.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly ***ADOPTED***. All persons present, including the news media and Department Heads, were then excused from the meeting at 8:19 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

END OF EXECUTIVE SESSION

Councilman Reynolds then offered the following Resolution for adoption and Councilwoman Krupa seconded same:

(RESOLUTION NO. 18 OF 2011)

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

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

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

The Supervisor declared the Resolution unanimously carried and duly ***ADOPTED***; the Executive Session ended at 8:48 P.M. The regular portion of the Town Board meeting was immediately reconvened.

ADJOURNMENT

They're being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilwoman Krupa, the meeting was adjourned at 8:49 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk