

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, JULY 13, 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:**

Assessor Paul E. Smith  
Codes Enforcement Officer Joseph 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 Inserra  
Town Attorney Herbert J. Cully  
Town Clerk Gail Wolanin Young

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

**MINUTES APPROVAL**

**May 11 and May 25, 2011 Town Board minutes**

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

**(RESOLUTION NO. 164 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held *May 11, 2011* and *May 25, 2011* and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilwoman Krupa	-	Aye
Councilman Reynolds	-	Aye

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

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

**PUBLIC HEARING**

7:02 P.M. Local Law Introductory "F" of 2011  
Office of Receiver of Taxes and Assessments

At 7:02 P.M. the Town Supervisor opened the Public Hearing on Local Law Introductory "F" of 2011; the Town Clerk had available the Notice of Public Hearing, Affidavit of Posting, Proof of Publication (June 29, 2011 edition of The Observer Dispatch) and Local Law Introductory "F".

The Town Attorney explained that this is a public hearing pursuant to statutory requirements and to amend the Town Code of the Town of New Hartford to abolish the Office of Receiver of Taxes and Assessments effective December 31, 2011 and to transfer all powers and duties of that Office to the Office of Town Clerk effective January 1, 2012. The current elected position of Receiver of Taxes and Assessments terminates on December 31, 2011. This Local Law is subject to a mandatory referendum and by statute, must be submitted for a vote by all eligible voters. This proposition will be placed on the ballot for the General Election to be held Tuesday, November 8, 2011.

The Town Supervisor invited anyone present to come forth with their comments. No one spoke, after which Councilmen Backman and Reynolds moved to close the Public Hearing at 7:04 P.M.

**Submission of Local Law Introductory "F" of 2011 to a mandatory referendum**

Thereafter, Councilman Backman introduced the following Resolution and Councilman Woodland seconded same:

**(RESOLUTION NO. 165 OF 2011)**

**WHEREAS**, after a Public Hearing having been held on July 13, 2011 in the Community Meeting Room, Butler Memorial Hall at 7:02 P.M. to consider Local Law Introductory "F" of 2011 which, if adopted, would abolish the Office of Receiver of Taxes and Assessments effective December 31, 2011 and transfer all powers and duties of that office to the Office of Town Clerk effective January 1, 2012; and

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**WHEREAS**, the Town Board of the Town of New Hartford desires that the Office of Receiver of Taxes and Assessments be abolished effective December 31, 2011 and that all powers and duties of that Office be transferred to the Office of the Town Clerk effective January 1, 2012;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of said Town does hereby submit for mandatory referendum Local Law Introductory “F” of 2011 entitled as ***A LOCAL LAW to amend the Code of the Town of New Hartford by creating a new Chapter 26 entitled RECEIVER OF TAXES AND ASSESSMENTS and providing for the abolishment of said Office of Receiver of Taxes and Assessments***, and which Local Law Introductory shall be affirmed by the electorate at the next General Election to be held on Tuesday, November 8, 2011 between the hours of 6:00 A.M. and 9:00 P.M.

There was no further discussion and 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, SUBJECT TO A MANDATORY REFERENDUM TO BE HELD NOVEMBER 8, 2011.***

***Beechwood Road/Woodberry Road Drainage Improvements (Final Design and Bid Phase Services)***

Kenneth Knutson, P.E., and Allen Yager of Barton & Loguidice, P.C. presented a brief overview of the engineering services proposal for providing Final Design and Bid Phase services for assisting the Town with implementing three proposed improvements to the detention pond, open channel and closed drainage system facilities serving the Beechwood Road/Woodberry Road area. A draft report has been prepared and submitted to the Town for review and comment, and for selection of the closed system alignment before moving forward on an aggressive schedule which targets completion of the closed pipe system improvements (Phase 1) construction by the end of 2011; completion of pond/upper channel improvements (Phase 2) is slated for the winter/early spring of 2011/2012

- *Contract No. 1 – Closed Drainage System & Woodberry Channel Improvements.*  
Assumes “partial back-lot” alignment will be the selected alternative for the closed system, including other infrastructure such as

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- re-grading, rip-rapping open channel and installing 24-inch SICPP drainage pipe adjacent to Woodberry Road
- installing of six (6) drainage inlets along the 24-inch drainage pipe and two (2) drainage inlets on Beechwood Road
- installing reinforced concrete headwall at open-channel inlet
- abandon existing 15-inch drainage pipe; remove two (2) drainage inlets and place flowable fill within the existing pipe to remain in place

Approximately ten (10) temporary/permanent easements will need to be acquired by the Town for constructing the new drainage pipe on the “partial back-lot” alignment, and for future operation and maintenance (O & M) of this infrastructure.

The Town Board must decide on one of the alternatives:

*Alternative #1* – improvements in backyards along Beechwood Road would require easements

*Alternative #2* – majority of improvements would be in right-of-way along Beechwood Road – would cost more because of driveway pavings, utility costs, etc. – would still have a slight swale

There are benefits to each option, part of Phase I of this project (carry water for 25-year storm)

- *Contract No. 2 – Pond and upper Open Channel Improvements* – assumes that the Town will move forward with constructing improvements to each of three (3) existing ponds under a single contract as follows:
  - *Lower Channel/Connecting Channels*: clean, re-grade, re-shape and rip-rap open channel below Pond 1 and between Ponds 1 and 2, and between Ponds 2 and 3
- *Pond 1* - shift existing footprint through placement of fill material in order to “ease” the slopes along southeast edge of existing pond in rear-lot area of 24 Wills Drive; install new concrete outlet control structure, etc.; install a rip-rap lined/stabilized pond emergency spillway.
- *Ponds 2 and 3* – remove accumulated sediment to restore existing ponds to their original design volume; install new concrete outlet control structures (Pond 3)

About seven (7) temporary/permanent easements would be needed for constructing the channel and pond improvements, and for future O & M of these facilities. Once improvements are made to the ponds, they should be sufficient for a 50-year storm.

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Barton & Loguidice will solicit public comments and would like to incorporate as many comments as possible. It is projected to go out to bid in August 2011, with contract awards in September 2011; then open Phase II bids, award in October 2011. Phase I is expected to be done by the end of October 2011 and Phase II by the end of 2011. A public informational meeting is being conducted Monday, July 25, 2011.

Beechwood Road residents were present but did not provide their names. Resident concerns involved how it would be determined whether to proceed with Alternative #1 or Alternative #2 and whether 120 foot trees would be replaced if taken down for the improvements in Alternative #2. Barton & Loguidice said they would try to replace trees removed but the replacement trees wouldn't be comparable to the existing mature trees. It is the Town Board's decision to select the Alternative. Mr. Knutsen believes the backlot alternative is the better of the two .... Cheaper; Alternative #2 involves sanitary, sewer and utilities along road right-of-way. He noted that both options, however, accomplish the same thing and both options would include a new headwall.

Councilman Reynolds believed Alternative #2 would be best, keeping construction out of residents' backyards while Councilwoman Krupa and Councilman Woodland preferred Alternative #1. Councilman Backman and Supervisor Tyksinski concurred with Councilman Reynolds' belief that Alternative #2 would be best.

Mr. Knutsen briefed the Board on other requisite services that would be provided such as surveyor work, contract drawing sheets, technical specifications and bid documents; stormwater pollution prevention plan (SWPPP) and SPDES construction permit applications, site visits and design coordination meetings to identified buried utilities; easement maps and metes and bounds descriptions. Services not included would be meetings beyond those identified, SEQRA assistance, permitting and approvals and construction phase services. Thereafter, Councilman Backman introduced the following Resolution for adoption and Councilman Reynolds seconded same:

### **(RESOLUTION NO. 166 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the Engineering Services Proposal – Final Design and Bid Phase Services submitted by Barton & Loguidice, P.C. with regard to the Beechwood Road/Woodberry Road Drainage Improvements; and be it

**FURTHER RESOLVED** that said Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute the above-referenced Engineering Services Proposal at a not-to-exceed fee of Sixty-four Thousand Dollars (\$64,000) for the Scope of Services identified in said Proposal, excluding subcontracted easement

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mapping/description services for which there is an additional fee as outlined in said Proposal.

Upon roll call, the Town Board voted 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 PRESENTATIONS (Resident Comments)

**Hydraulic Fracturing (aka Hydrofracking)**

Carlton Corey thanked the Town Board on their recent action with regard to hydrofracking and asked that the Town Board continue their efforts to protect the town and the property values. Mr. Corey had attended a meeting of the Kirkland Town Board a couple weeks ago at which time he said a list had been read of banks that won't lend money to property owners involved in hydrofracking. He asked that the Town Board take action now to protect this community and the residents' health and safety.

James Hook – what are priorities of elected federal representatives? Priority after election is the next election. Priority #2 is ,, where's the money? History reflects it. He doesn't want to see oil and gas companies come in and crack our earth and he urged the Town Board to continue the moratorium against hydrofracking.

Sigrid Kanniainen – announced her opposition to hydrofracking and begged the Town Board to continue the moratorium on banning hydrofracking.

Janet Stemmer – voiced her support on the moratorium against hydrofracking.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN

Town Clerk Committee – Councilwoman Krupa:

**Games of Chance - Raffle Consent**

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

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**(RESOLUTION NO. 167 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to the Oriskany Fire Department, 708 Utica Street, Oriskany, New York 13424, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at Sangertown Square Mall, New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

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

Upon roll call, the Town Board voted as follows:

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

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

**Fireworks Display Permit**

Upon presentation by the Town Clerk, the following Resolution was introduced for adoption by Councilwoman Krupa and seconded by Councilman Backman:

**(RESOLUTION NO. 168 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Clerk, who has received an Application for a Fireworks Permit and the appropriate Certificate of Insurance naming the Town of New Hartford as an additional insured, to issue to the American Fireworks Display a Fireworks Display Permit for the display of fireworks at a wedding reception upon the premises at 8639 Seneca Turnpike, owned by the Yahnundasis Golf Club, on Saturday, July 30, 2011 at 9:30 P.M., in accordance with the State Penal Law and regulations set forth in said Permit

The Supervisor polled the Board members who voted as follows:

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

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Supervisor Tyksinski - Aye.

Whereupon, the Resolution was declared unanimously carried and duly **ADOPTED**.

Public Safety & Courts Committee – Councilwoman Krupa

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

Councilwoman Krupa noted that the 2004 Silverado pick-up truck, formerly used by the Animal Control Office, had been declared surplus and had two (2) unsuccessful attempts to sell over E-Bay.

Upon request of Police Chief Inserra, the following Resolution was offered for adoption by Councilwoman Krupa and duly seconded by Councilman Reynolds:

**(RESOLUTION NO. 169 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby declare as surplus one (1) 2008 Dodge Charger SXT, VIN 2B3KA43G68H314525, formerly used by the Police Department.

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**.

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

**(RESOLUTION NO. 170 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby authorize the sale of one (1) surplus 2004 Chevrolet Silverado, VIN 1GCEC19T94E310060 and one (1) surplus 2008 Dodge Charger SXT, VIN 2B3KA43G68H314525 through the E-bay account of the Oneida County Purchasing Department; and be it

**FURTHER RESOLVED** that once the aforesaid vehicles are sold, the Town Clerk's office shall be notified and shall arrange to terminate insurance coverage on said vehicles.



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A roll call vote ensued:

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

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

**Stormwater – Sedgewick Park**

In response to Councilwoman Krupa’s question, Attorney Cully replied that he was working on the stormwater matter affecting Sedgewick Park.

;

**Authorization to sell Seized Assets – Police Department**

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

**(RESOLUTION NO. 171 OF 2011)**

**WHEREAS**, over the course of investigations, at times the New Hartford Police Department has seized property that has been involved in criminal investigations (stolen property for which the owners cannot be located); and

**WHEREAS**, the said Police Department has accumulated seized property, some of which has met the required length of time to be held and is now eligible to be sold with the money to be remitted to the Town of New Hartford; and

**WHEREAS**, Police Chief Inserra has consulted with the Oneida County District Attorney’s Office, which has approved the sale of the eligible seized property;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct that all seized assets having met their minimum retention period, in possession of the Town Police Department, be submitted for E-bay sale through the Oneida County Purchasing Department with proceeds of the sale to be remitted to the Town of New Hartford.

A roll call vote was duly held as follows:

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

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Councilman Reynolds - Aye  
Supervisor Tyksinski - Aye.

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

Public Works & Sewer Committee – Councilman Backman

**Award of Competitive Bid – Elm Street Culvert**

Councilman Backman reported that six (6) bids were received on July 13, 2011 for the replacement of the Elm Street (Chadwicks) culvert, with D. H. Smith of Clayville, New York, being the low bidder. Thereafter, Councilman Backman offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 172 OF 2011)**

**WHEREAS**, the New Hartford Town Board had authorized that competitive bids be received for the “Elm Street Culvert Replacement” project and the Invitation to Bid had been published in the June 29, 2011 edition of the Observer Dispatch; and

**WHEREAS**, the following bids for the above-referenced project had been received and were opened on Wednesday, July 13, 2011 in the Town Clerk’s Office:

- Vector Construction Corp. - \$320,149.40
- Tioga Construction Company, Inc. - \$265,080.00
- Central NY Construction, Inc. - \$217,377.50
- Economy Paving Co., Inc. - \$298,361.00
- D. H. Smith Co., Inc. - \$215,299.03
- Central Paving, Inc. - \$231,474.00

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the low bid of Two Hundred Fifteen Thousand Two Hundred Ninety-nine Dollars and Three Cents (\$215,299.03) submitted by, and does hereby award the contract for the Elm Street culvert replacement to D. H. Smith Co., Inc., **contingent upon there being sufficient monies available from the \$847,000 Bond** authorized on April 27, 2011 for the Elm Street bridge/Elm Street culvert replacement projects; and be it

**FURTHER RESOLVED** that said Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute all necessary contract documents related to the aforementioned project.

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The Town is also looking at a credit of approximately \$26,000 from the Mohawk Valley Water Authority with regard to a water main in the vicinity of the culvert. The Supervisor polled the Board members who voted 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**.

**Award of Competitive Bid – Leaf Vacuum Collectors**

Councilman Backman reported that on July 13, 2011, two (2) bids were received for the purchase two (2) new trailer-mounted Vacuum Debris Collectors, with Joe Johnson Equipment submitting the low bid of Thirty-four Thousand Eight Hundred Fifty Dollars (\$34,850). Thereafter, Councilman Backman introduced the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 173 OF 2011)**

**WHEREAS**, the New Hartford Town Board had authorized that competitive bids be received for the purchase of “Two (2) New Trailer Mounted Vacuum Debris Collectors” and the Invitation to Bid had been published in the June 24, 2011 edition of the Observer Dispatch; and

**WHEREAS**, the following bids for the above-referenced project had been received and were opened on Wednesday, July 13, 2011 in the Town Clerk’s Office:

- The ODB Co. - \$36,400 for two (2) collectors
- Joe Johnson Equipment - \$34,850 for two (2) collectors;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the low bid of Thirty-four Thousand Eight Hundred Fifty Dollars (\$34,850) submitted by, and does hereby award the contract for the purchase of two (2) Leaf Vacuum Collectors to Joe Johnson Equipment; and be it

**FURTHER RESOLVED** that said Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute all necessary contract documents related to the purchase of the aforesaid equipment.

The Town Board then voted upon roll call, resulting as follows:

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

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

**“Trial Basis” Heavy Trash Permit – Tag System/Curbside Pick-up**

Because the Town Board had discontinued funding for the annual town-wide curbside trash collection, Councilman Woodland explained his idea of issuing tags, at a cost to be determined, to those people who needed items picked up at their premises....seniors, handicapped, those who can't get items to the Sanger Public Works Garage. Discussion ensued with Highway Superintendent Sherman offering that the “tag” system would be modeled after the Village of New York Mills’ program and that large items would be picked up at the curb, not inside anyone’s house. Fees of Ten Dollars (\$10) to Twenty Dollars (\$20) per item were discussed, with Superintendent Sherman suggesting Fifteen (\$15) to Twenty (\$20) dollars per item and Councilwoman Krupa leaning toward a fee of Twenty Dollars (\$20) per item, per residence outside the villages of New Hartford and New York Mills and that the program specify what the Town will not pick up. Thereafter, Councilwoman Krupa offered the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 174 OF 2011)**

**WHEREAS**, the New Hartford Town Board had discontinued funding in 2010 and 2011 for the Town’s annual Curbside Trash Collection program, offering instead a program where Town residents could “drop off” items at the dumpster site at the Sanger Public Works Garage on specific days/hours of the week and several Saturdays from April through September; and

**WHEREAS**, some residents do not have the means of transporting their unwanted items to the Sanger Public Works Garage and/or cannot meet the days/hours specified due to their employment;

**NOW, THEREFORE, BE IT RESOLVED** that the said Town Board does hereby establish on a ***trial basis***, for the period beginning August 1, 2011 and ending September 30, 2011, a Heavy Trash Permit – Tag System whereby Town residents, upon presentation of their NYS Driver’s License to the Office of the Town Clerk, may purchase Trash Permits at the cost of Five Dollars (\$5) per item to be picked up by the Town Highway Department at curbside; and be it

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**FURTHER RESOLVED** that the following schedule of items (as defined in the Town's 2011 Trash & Brush Collection Schedule) is hereby approved for pick up during this *trial basis* program:

- Category 1: All metal and major appliances (including stoves, refrigerators [doors must be removed], water heaters, microwaves, small appliances, washers, dryers, doors and windows, bed springs containing no fabric, bicycles)
- Category 2: Rims only: NO tires and NO tires on rims
- Category 3: Furniture (including mattresses, stuffed furniture, and junk)
- Category 4: Construction and Demolition debris: stone, lumber, shingles, sheet rock, window frames, rugs, bricks, concrete. **MUST BE CONTAINERIZED. LIMITED TO A MAXIMUM OF 3 METAL OR PLASTIC CONTAINERS, NOT TO EXCEED 45LBS. EACH.**

The Town Highway Department will NOT collect the following items:

- Recyclable material
- Broken glass
- Clothes
- Liquids (paint, oil, anti-freeze, etc.)
- Batteries
- Tires
- Propane tanks
- Dirt/sand piles
- Household Hazardous Waste
- Paint cans, empty or full
- Garden debris (pots, stones, dirt).

And be it yet

**FURTHER RESOLVED** that information on this *trial basis* tag-system pick up program shall be posted on the Town's website and that the Highway Superintendent shall review costs associated with this program and report his findings to the Town Board, at which time the Town Board will review the merits and financial aspects of this program.

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

Councilwoman Krupa                      -                      Aye

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

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

**Sanitary Sewer Repairs**

Upon request of the Highway/Sewer Superintendent, Councilman Reynolds introduced the following Resolution for adoption; seconded by Supervisor Tyksinski:

**(RESOLUTION NO. 175 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Highway/Sewer Superintendent to receive quotations for and to proceed with sanitary sewer repairs at the following locations:

- Slocum Dickson Medical Group parking lot
- South Hillside Avenue at Root Street
- Middlesettlement Road (aka NYS Route 5B)

And be it

**FURTHER RESOLVED** that the said Town Board does hereby direct the Town Attorney to determine if mitigation fees can be used for the above-referenced repairs; and if not, that the repair expenses be taken from the Sewer budget.

A roll call vote was duly held 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**.

**Quotes – Building/roof renovations**

Councilman Backman, who had reported at the May 25, 2011 Town Board meeting that the Highway Superintendent had obtained three (3) quotes for roof/building renovations at the Records Retention Center and the Kellogg Road Community Center Building, reiterated that Jewett Bros. Home Improvement, Inc. had submitted the low bid of Forty

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Thousand One Hundred Twenty-five Dollars (\$40,125) for both buildings and that these were bond items. Thereafter, Councilman Backman introduced the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 176 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the low quotation of Forty Thousand One Hundred Twenty-five Dollars (\$40,125) for roof/building renovations for the Records Retention Center and Kellogg Road Community Center Building submitted by Jewett Bros. Home Improvement, Inc. and does further award the contract for said work to Jewett Bros. Home Improvement, Inc.; and be it

**FURTHER RESOLVED** that said Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute all requisite contract documents associated with this project, the cost of which will be paid from bond proceeds.

Upon roll call, the Town Board members voted 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**.

**April 28, 2011 Rainstorm, Subsequent Flooding**

Councilman Backman stated that phone calls are still being received with regard to needed repairs as a result of the April 28, 2011 rainstorm that had caused substantial flooding and damage. He noted there is still considerable work to be done and he urged anyone aware of anything not done to contact the Highway Superintendent.

**Elm Street (Chadwicks) Bridge Replacement**

Councilman Backman raised the question of a matter involving the contract for the Elm Street bridge inspection; the Town Attorney stated this is a matter for Executive Session. Highway Superintendent Sherman informed the Board that he had talked with the contractor who said the project would be done before school opens in September 2011.

**Lease – Mack Plow Truck**

Discussion ensued with regard to a lease for a Mack Plow Truck; the Town Attorney will

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review the lease and this matter will be discussed at the August 2011 Town Board meeting.

Zoning (Codes) & Planning Committee - Councilman Woodland:

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

**(RESOLUTION NO. 177 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 Thomas Rowlands, Assistant Codes Enforcement Officer, to attend the “Inspecting Existing Public Assemblies” seminar sponsored by the NYS Department of State, Division of Code Enforcement and Administration on Tuesday, August 2, 2011 at the Clay Fire Department, Clay, New York; the training session is free of charge.

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**.

**Proposed Windmill Legislation**

In response to Councilman Backman’s inquiry, Codes Officer Booth reported that the Advisory Committee on Zoning has met half a dozen times with several presentations having been made on windmills. It was suggested that the Towns of Kirkland and Paris be contacted to determine if they would want to work as a consortium.

Parks & Recreation Committee – Councilman Reynolds:

**Recreation Center Re-roof Project – Release of Bid Security**

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



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**(RESOLUITON NO. 178 OF 2011)**

**WHEREAS**, the Parks and Recreation Director has confirmed that the contractor has completed the re-roofing project on the Recreation Center in accordance with Town specifications;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to release from the Trust and Agency Account the bid security deposit submitted by Insulating Corp./Specified Systems, Inc., 53 Front Street, Binghamton, New York, in the amount of Three Thousand Nine Hundred Twenty-five (\$3,925).

A roll call vote ensued, 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**.

**Award of Quotation – Recreation Center refrigeration system**

Councilman Reynolds reported that the Parks and Recreation Director had received three (3) quotations for repairs to the ice making equipment at the Recreation Center, the lowest being submitted by H. J. Brandeles in the amount of \$24,940. With such a disparity between quotations received, Parks and Recreation Director Jeffery has met twice with Brandeles and has reviewed the project on-site with them to ensure Brandeles was quoting correctly. Thereafter, Councilman Reynolds offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 179 OF 2011)**

**WHEREAS**, the Parks and Recreation Director has received the following quotations for the repair of ice-making equipment at the Recreation Center:

- CNY Refrigeration - \$83,138
- Davis Mechanical - \$83,000
- H. J. Brandeles - \$24,940;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby accept the low quotation of Twenty-four Thousand Nine Hundred Forty Dollars

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(\$24,940) submitted by H. J. Brandeles and does hereby award the contract for such repairs to said company and does further authorize and direct the Town Supervisor to enter into and to execute all requisite contract documents relating thereto and be it

**FURTHER RESOLVED** that this Resolution is hereby adopted *contingent upon the Town Attorney's review and approval of the quotation and contract.*

Councilman Backman questioned the method of financing for this project and Supervisor Tyksinski stated that he had discussed this matter with Bond Counsel and Fiscal Advisors and that this project can be attached to a BAN. The Supervisor then polled the Board members who voted 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**.

**\$25,000 Bond Resolution – Ice-making Equipment Repairs/Recreation Center**

The following Resolution was offered by Councilman Reynolds, who moved its adoption; seconded by Councilwoman Krupa, to-wit:

**(RESOLUTION NO. 180 OF 2011)**

BOND RESOLUTION DATED JULY 13, 2011.

A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF ICE MAKING EQUIPMENT AT THE TOWN RECREATION CENTER IN AND FOR THE TOWN OF NEW HARTFORD, ONEIDA COUNTY, NEW YORK. AT A MAXIMUM ESTIMATED COST OF \$25,000, AND AUTHORIZING THE ISSUANCE OF \$25,000 BONDS OF SAID TOWN TO PAY THE COST THEREOF.

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Board of the Town of New Hartford, Oneida County, New York, as follows:

Section 1. The purchase and installation of ice making equipment at the Town Recreation Center in and for the Town of New Hartford, Oneida County, New York, is hereby authorized at a maximum estimated cost of \$25,000.

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Section 2. The plan for the financing of such maximum estimated cost is by the issuance of \$25,000 bonds of said Town hereby authorized to be issued therefore pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years, pursuant to subdivision 32 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will not exceed five years.

Section 4. The faith and credit of said Town of New Hartford, Oneida County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property in said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor of said Town, the chief fiscal officer. Such note shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

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- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonable expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper of said Town designated for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follow:

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

The resolution was thereupon declared duly ***ADOPTED***.

Senior Services Committee – Councilman Reynolds:

**2011 Donations and Budget Adjustments – Senior Services**

Upon request of Director of Senior Services M. Eileen Spellman, Councilman Reynolds introduced the following Resolution, which was seconded by Councilwoman Krupa:

**(RESOLUTION NO. 181 OF 2011)**

**WHEREAS**, on November 4, 1998 the New Hartford Town Board had established a “gift”/“donation” policy pursuant to Section 64(8) of the Town Law;

**NOW, THEREFORE, BE IT RESOLVED** that said Town Board does hereby accept the following donations made in behalf of the New Hartford Adult Dining and Activity Center:

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- \$460.00 from CDPHP to cover costs of the Center’s 25<sup>th</sup> Anniversary in October 2011
- \$200.00 from the New Hartford Rotary to cover purchase cost of a DVD, replacing a non-working DVD
- \$ 8.99 rebate from STAPLES, related to a purchase
- \$ 25.00 from The Garden Path of Utica to defray cost of digital camera and DVD
- \$100.00 from Emil and Marjorie Auslander to defray cost of digital camera and DVD

and does further authorize and direct the following budget adjustments, to cover the purchase of items identified above:

Increase

General Fund Whole-Town Senior Account AA6772.4	-	\$793.99
General Fund Whole-Town Revenue (Donation) Account AA2705.1	-	\$793.99.

The Town Supervisor polled the Board members who voted 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.

**Computers – New Hartford Adult Dining and Activity Center**

Councilman Reynolds, Deputy Supervisor Bohn and the Town’s IT representative(s) met with Director of Senior Services Spellman and conducted a needs assessment for computers. The senior center isn’t currently connected to the Town’s internet and should be; several computers are in reasonably good shape – some not. He recommended purchasing three (3) computers - some computers had been donated by the State and wiped out the operating systems that need to be replaced. Approximately \$1500 would be needed for printers, firewalls, transmission lines, etc. They will try to use Open Solutions, which is comparable to Microsoft office, which they’re currently running. An aggregate total of \$6500 would be needed for the foreseeable future. Thereafter, Councilman Reynolds offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 182 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby acknowledge the proceeds of Six Thousand One Hundred Dollars (\$6,100) from the surplus sale of the Town’s 2004 Turtle Top 3DC Suburban (2003 Ford E series Van E350) utilized by the New Hartford Adult Dining and Activity Center, said proceeds to be used toward updating the Center’s

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computer system, the cost of which is estimated at Six Thousand Five Hundred Dollars (\$6,500); and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct that the update of the Center’s computer system proceed forthwith.

Councilman Backman inquired whether M. L. Polce, the Town’s IT company, would perform the necessary work under their current contract with the Town. The Deputy Supervisor stated there is a One Hundred Dollar (\$100) allowance for installation of each machine, but that doesn’t cover installation of new equipment. The foregoing Resolution was subject to a vote upon roll call, resulting 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**.

MATTERS SUBMITTED BY TOWN ATTORNEY

**Oneida County Planning Department, GML-239 Review – Local Law Introductory “E” of 2011 (Moratorium on hydrofracking)**

The Town Attorney read the recommendation of approval from the Oneida County Planning Department, which had performed a GML-239 review on the Town’s proposed legislation with regard to hydraulic fracturing (aka hydrofracking).

**Re-adoption of Local Law No. Five of 2011 (Local Law Introductory “E”)**

Councilman Backman then moved that Local Law No. Five of 2011, initially adopted June 15, 2011, be re-adopted as Local Law No. Five of 2011 in consideration of and after review of the Oneida County Planning Department’s GML-239 recommendation; seconded by Councilman Reynolds:

**Town of New Hartford, New York**  
**Local Law No. Five of 2011**

**Section 1. Title**

This Local Law shall be referred to as the “Local Law imposing a moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of New Hartford 2011.”

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### **Section 2. Purpose and Intent**

Pursuant to the statutory powers vested in the Town of New Hartford to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of New Hartford declares a six-month moratorium on the process known as hydraulic fracturing and/or hydrofracking, as well as a moratorium on any activity associated therewith or intending to support such process including the establishment, implementation, placement, or construction of such process or activity in the Town of New Hartford.

### **Section 3. Legislative Findings**

Pursuant to its legislative powers and the Comprehensive Plan for the Town, the Town of New Hartford Town Board proposes to enact a “Local Law imposing a moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of New Hartford.”

The issues which led to the decision have not abated, and the issues have also not ripened to the point that the town has been able to address or enact appropriate and comprehensive legislation to address this highly controversial issue. This Board is mindful that a moratorium of an extended period is not generally advisable, however, not only is the issue hydrofracking unique, the issue as to the manner in which activity should be regulated in the Town of New Hartford and also the State of New York is an ongoing matter of great concern and controversy throughout the State.

As of this date, there is an Executive Order put in place by the former Governor of the State of New York, which has suspended permits for hydrofracking in the State of New York. It is currently unknown as to the exact date that Order may be lifted. And, it is not yet clear as to what safeguards are anticipated to be put in place by the NYDEC and/or NY Legislature to protect New York waters, properties and people, nor exactly how long such regulation may take to enact. Accordingly, it is difficult for the Town to determine the type or extent of legislation that would be necessary, required or permitted, until well after the State clarifies its position. Without preliminary legislation in place by the State, the drafting of comprehensive legislation in the Town at this time would be unnecessarily time consuming with the possibility of some or all of it being rendered moot.

Although there are various sections of the Town of New Hartford Code that regulate some issues relating to energy production as well the export of energy off site, these regulations may not be sufficient to cover some hydrofracking issues. This Board is desirous of utilizing this extended moratorium period to continue to monitor and review state legislation, legislation of other towns and municipalities relating to this subject and gathering the continuing mass of information that is becoming available on this subject;

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including possible legislative language for towns as suggested by experts in the field. Particularly, when and if the permit prohibition by the state is lifted, this Board wants to have sufficient additional time to put appropriate legislation in place.

At this point it is important to note that there are no applications for hydrofracking pending in the Town, nor do there appear to be any potential applicants. Therefore, there does not appear to be any person or party substantially prejudiced by this moratorium at this time. Nonetheless, the Town Board determines that while the review and monitoring of and in consideration of the significant environmental issues surrounding the hydrofracking process and its potentially permanent and irreversible consequences, a moratorium on is appropriate and necessary in order to preserve the status quo until the new regulations can be adopted.

### **Section 4. Scope of Controls**

A. During the effective period of this Local Law:

1. The Town Board of the Town of New Hartford shall not grant any approvals that would have as the result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of New Hartford.
2. The Town Planning Board shall not grant any preliminary or final approval to a site plan, special use permit, specific use permit or other permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of New Hartford.
3. The Town Zoning Board of Appeals shall not grant any variances, special use permits, specific use permits or any other permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of New Hartford.
4. The Codes Department shall not issue any permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of New Hartford.



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B. The Town Board of the Town of New Hartford reserves the right to direct the Codes Officer to revoke or rescind any building permits, certificates of occupancy or other permits or certificates issued in violation of this Local Law.

### **Section 5. No consideration of New Application**

No applications for construction affected by this Local Law or for approvals for a site plan, variance, specific use permit, special use permit or other permits shall be considered by any board officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

### **Section 6. Term**

This moratorium imposed by this Local Law shall be in effect for a period of 180 days from the effective date of this local law. This moratorium may be extended for an additional period of not more than 180 days by the Town Board.

### **Section 7. Penalties**

Any person, firm, corporation or other entity that shall take any action to establish, implement, place, or construct the process known as hydraulic fracturing and/or hydrofracking, including the establishment, implementation, placement or construction of any activity associated therewith or intending to support such process in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local law, ordinances, rules or regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction or reconstruction that may have taken place in violation of this Local Law.

### **Section 8. Validity**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

### **Section 9. Hardship**

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner

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of said property may apply to the Town Board of the Town in writing for a variation from the strict compliance with this Local Law upon submission of proof of such unnecessary hardship.

For the purposes of this Local Law, unnecessary hardship shall not be mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, specific use permit, site plan or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within thirty (30) days of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

### **Section 10. Definitions**

A. The terms Hydraulic fracturing and/or Hydrofracking shall mean the process of recovering and/or developing natural gas trapped behind shale or rock and which generally is accomplished by a gas well that is drilled vertically into the ground and then horizontally from the well head, after which water, sand and/or chemicals are injected into the well the breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

B. The term "Town" when used in this Local Law shall mean the Town of New Hartford.

C. The terms "Town Board," "Planning Board" and "Zoning Board of Appeals" when used in this Local Law shall refer to the appropriate boards established in the Town of New Hartford.

D. The term "Development and Operations" when used in this Local Law shall refer to the Department of Development and Operations of the Town of New Hartford as established by Local Law No. 1 of the year 1983 of the Town of New Hartford and set forth in Chapter 15 of the Code of the Town of New Hartford.

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**11. Effective Date**

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

A roll call vote then ensued:

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

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

***Acquisition of Cragnolin (aka Glen Acres, Inc.) property – Stormwater (Detention basin)***

The Town Attorney apprised the Town Board that a Resolution was necessary to acquire the Cragnolin property for stormwater purposes, a matter he had been working on for some months. Councilwoman Krupa then introduced the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 183 OF 2011)**

**WHEREAS**, the Town of New Hartford has been negotiating with the Cragnolin family (aka Glen Acres, Inc.) to acquire acreage on Tilden Avenue for stormwater improvements, namely, a detention basin;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of said Town does hereby authorize the acquisition of the Cragnolin (aka Glen Acres, Inc.) property (Tax Map No. 340.008-1-16.5) on Tilden Avenue for stormwater purposes, in the amount of Thirty Thousand Dollars (\$30,000) and does further authorize and direct the Town Supervisor to enter into and to execute any requisite documents for this real property acquisition.

The Supervisor polled the Board members who voted as follows:

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

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Supervisor Tyksinski - Aye.

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

**Public Hearing Scheduled – Article 2, Eminent Domain Procedure; NYS Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street**

The Town Attorney stated that the Town Board should schedule a public hearing if they wish to proceed with condemnation of the Yager property and make the determination of whether the need has been demonstrated to take the property. Attorney Cully has been in touch with the Yager’s attorney; and while the Yagers are not consenting to the acquisition, there has been a suggested alternate route for the Clinton Street Extension that would have less impact upon their property. Thereafter, Supervisor Tyksinski introduced the following Resolution, which was duly seconded by Councilwoman Krupa:

**(RESOLUTION NO. 184 OF 2011)\*Amended 08-04-11**

**RESOLVED** that, pursuant to Article 2 of the Eminent Domain Procedure Law, the Town Board of the Town of New Hartford does hereby schedule a Public Hearing to commence at 6:00 P.M. on Tuesday, August 9, 2011 in Butler Memorial Hall, New Hartford, NY, for the purpose of describing the proposed acquisition in fee of approximately 1.6 acres of real property located at Middle Settlement Road, New Hartford, NY (portion of Tax Map No. 316.000-2-42.1, of all persons and entities, for the proposed construction of New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street project (the “Project”) for highway purposes. The Project entails construction of a right-in/right out break-in access of NYS Route 840 at Woods Highway Extension, and an extension of Clinton Street connecting with an existing road network; and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Clerk to publish the legal requisite Notice of Public Hearing in The Observer Dispatch as per requirements in the Eminent Domain Procedure Law

Attorney Cully announced that the Notice of Public Hearing must be published in five (5) successive issues of the Observer Dispatch and must be published at least ten (10) days prior to the Public Hearing date, but not more than thirty (30) days prior to the Public Hearing. Attorney Cully stated that he would retain the services of a court reporter for this Public Hearing. Thereafter, the Town Board voted upon roll call, resulting as follows:

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

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Councilman Reynolds - Aye  
Supervisor Tyksinski - Aye.

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

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

Financial:

**Audit of bills**

On presentation by the Town Supervisor, Councilwoman Krupa presented the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 185 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 #23	
Vouchers TT114 –TT120	\$ 15,265.48
Trust & Agency Abstract #24	
Vouchers TT121 –TT122	\$ 2,034.82
Trust & Agency Abstract #25	
Vouchers TT123 –TT130	\$ 14,407.99
Elm Street Bridge Repair Fund Abstract #5	
Vouchers HB10-HB14	\$ 137,350.90
Street Lighting Abstract #7	
Vouchers SL8	\$ 7,263.53
Water Abstract # 2	
Vouchers FF2-FF7	\$ 3,655.50
Highway Fund Part-Town Abstract #8	
Vouchers DB569-DB610	\$ 56,675.08
General Fund Part-Town Abstract #8	
Vouchers BB105-BB114	\$ 8,166.23
General Fund Part-Town Police Abstract #11	
Vouchers BP183-BP209	\$ 59,344.71
General Fund Whole-Town Abstract #17	
Vouchers AA811	\$ 20.00
General Fund Whole-Town Abstract #18	
Vouchers AA812-AA819	\$ 9,613.64

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General Fund Whole-Town Abstract #19	
Vouchers AA820; AA822-AA904	\$ 304,681.66
Sewer Fund Abstract #12	
Voucher SS46	\$ 1,871.46
Sewer Fund Abstract #13	
Voucher SS47- SS49	\$ <u>3,669.64</u>
<b>TOTAL:</b>	<b>\$ 825,473.80</b>

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.

**Monthly Financial Report**

The Town Supervisor had dispensed copies of the monthly report of expenditures/revenue; some misclassified items need to be corrected and he will discuss this with staff.

**2009 – 2010 Audit**

Supervisor Tyksinski stated that the 2009 – 2010 Audit has been completed and filed with the Town.

**Applewood Community road paving – The Gorman Group**

As a follow-up to discussion at the February 23 and March 9, 2011 Town Board meetings, Councilman Backman reported at the April 27, 2011 Town Board meeting that The Gorman Group was willing to accept the \$99,000 payment for road paving in the Applewood Community pursuant to their quote, which had contained a mathematical error, but the Town Board did not adopt a Resolution at that time to pay the bill that remains unpaid. Councilwoman Krupa then offered the following Resolution for adoption and Councilman Woodland seconded same:

**(RESOLUTION NO. 186 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the payment of the bill/invoice from The Gorman Group in the amount of Ninety-nine Thousand Four Hundred Sixty-seven Dollars and Forty-five Cents (\$99,467.45) for road

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paving in the Applewood Community, itemized on Highway Fund Part-Town Abstract No. 9, which has been duly audited by the Town Board.

A roll call vote ensued:

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

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

**Higby Road Water District – Refunds**

Supervisor Tyksinski explained that six (6) property owners had been overcharged in 2008 and 2009 by the Higby Road Water District, when no services had been provided to them. This matter had been recognized by prior Town Boards but not paid out. Councilman Backman offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 187 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to issue refunds for taxes paid by the following property owners who, in 2008 and in 2009, were charged for water service by the Higby Road Water District when, in fact, the property owners had received no water service:

- *Denny Battista* - \$731.10
- *Richard Grillo* - \$365.55
- *Bonnie Herbowy* - \$731.10
- *Steven Seif* - \$731.10
- *Prabhat Varma* - \$365.55
- *Eli Zogby* - \$731.10.

The foregoing Resolution was subject to a vote upon roll call, resulting as follows:

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

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

**Creation - Court Attendant, Sub**

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

**(RESOLUTION NO. 188 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby create the part-time position of Court Attendant, Sub effective Tuesday, July 12, 2011 and does further authorize and direct the Town Personnel Technician to submit Form MSD-222, New Position Duties Statement, to the Oneida County Department of Personnel.

Upon roll call, the Board members voted 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*.

**Appointment – Part-time Court Attendant, Sub**

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

**(RESOLUTION NO. 189 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Joel Campbell as a Part-time Court Attendant, Sub, effective July 12, 2011, at the hourly rate of Twenty-six Dollars and Seventy-two Cents (\$26.72), payable bi-weekly.

A roll call vote was duly held and 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*.



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**New Hartford Business Park**

The Town Supervisor stated that work is starting up in the New Hartford Business Park and he suggested the Town begin the competitive bid process for the NYS 840 break-in access. To Councilman Backman's question of how this road project would be paid, the Supervisor responded that the Town Board had adopted Resolution No. 106 in 2008 and then another Resolution in October of that year. The Developer has some responsibility and the Town Attorney will obtain confirmation from the Developer Larry Adler as to exactly what he is financially responsible.

**Office of Receiver of Taxes and Assessments**

Supervisor Tyksinski stated that if the Office of Receiver of Taxes and Assessments is abolished (mandatory referendum) effective December 31, 2011, the Town will continue to use the current software, which would cost about Twelve Thousand Dollars (\$12,000). If the Town changes software or waits until after the November 8, 2011 mandatory referendum, the new program will not be ready for the collection of the 2012 Town and County taxes. Whether the Office of Receiver of Taxes and Assessments is abolished or not, the Town Board would eliminate the Deputy Receiver of Taxes and Assessments position and use a "drop/lock" box; further, there will be an on-line option for tax payments. It was the consensus of the Town Board to authorize Chase Bank to move forward on the "drop/lock" box.

**Preparation of Specifications – Traffic Signal Improvements at the intersection of NYS Route 5 and Applewood Boulevard**

The Town Supervisor reported that the Town has received from the New York State Department of Transportation their design of the traffic signal to be erected at the intersection of NYS Route 5 (aka Seneca Turnpike) and Applewood Boulevard and Barton and Loguidice are currently reviewing this design. Councilman Woodland presented the following Resolution and moved its adoption, which was seconded by Councilman Reynolds:

**(RESOLUTION NO. 190 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct Barton & Loguidice to prepare the bid specifications/plans for the ***Traffic Signal Improvements at the intersection of NYS Route 5 and Applewood Boulevard*** project, PIN 2134.49, that will be subject to the competitive bid process in the Fall of 2011.

The Town Board voted upon roll call as follows:

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

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Councilman Reynolds - Aye  
Supervisor Tyksinski - Aye.

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

**Authorization for Competitive Bid – Construction of Route 840 Eastbound Ramps to Woods Park Drive**

The Town Supervisor introduced the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 191 OF 2011)**

**RESOLVED** that the New Hartford Town Board shall receive sealed bids for the “**Construction of Route 840 Eastbound Ramps to Woods Park Drive**”, in accordance with Town specifications; all bids are to be received by the Town Clerk’s Office no later than 10:45 A.M. on Wednesday, August 17, 2011 and then shall be publicly opened and read aloud at 11:00 A.M. on said date and in said Office; and be it

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

The Town Supervisor polled the Board members who voted 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**.

**Willowvale Fire Company, Inc. – Service Award Program (SAP)**

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

**(RESOLUTION NO. 192 OF 2011)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to execute the Nationwide Program Questionnaire with regard to the administrative platform change process relating to the Service Award Program for the Willowvale Fire Company, Inc.

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[NOTE: Refer to the September 8, 2010 Town Board minutes.] The foregoing Resolution was subject to a vote upon roll call, resulting 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***.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. 193 OF 2011)**

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss land acquisition, status of Highway Department union negotiations, Wiatr Notice of Claim against Councilman Backman, Adelman-Peters Notice of Claim against the Town, the outstanding Shumaker Engineering invoice, the Elm Street bridge contract, and Whitetail Meadows development.

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 9:18 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Friday, July 15, 2011.]

**END OF EXECUTIVE SESSION**

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

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**(RESOLUTION NO. 194 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
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 10:11 P.M. The regular portion of the Town Board meeting was immediately reconvened.

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilman Woodland, the meeting was adjourned at 10:12 P.M.

Respectfully submitted,

Gail Wolanin Young  
Town Clerk