

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, AUGUST 17, 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
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

June 15, 2011 Town Board meeting

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

(RESOLUTION NO. 202 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 *June 15, 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
Councilman Woodland	-	Aye

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 2

Councilman Backman - Aye
Supervisor Tyksinski - Aye.

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

PUBLIC PRESENTATIONS (Resident Comments)

Auditors' Presentation – 2009-2010 Audit

The Town Supervisor acknowledged Len and Christine from the firm of D'Arcangelo, which had performed the audit of town finances for fiscal years ending December 31, 2009 and December 31, 2010. Len and Christine gave a summarization of the 2009-10 audit that began in early March 2011 and for which the final report has been presented. They welcomed questions from Town Board members. Deputy Supervisor Bohn pointed out some typographical errors that will be corrected and Len thanked the Town Supervisor and staff for their cooperation. Len explained that lateness of the final report was not due to lack of cooperation by Town staff, just their own scheduling. Len noted that Supervisor Tyksinski acting as comptroller stretches his position. Len noted that a lot of adjustments had been made, created a police account and mitigation funds...make more understandable. Len stated that the parties were pretty much on the same page, that there were no disagreements about any significant changes in accounting, management, or uncorrected situations.

The auditors noted that a description had been written of every entry proposed for change on the financial statement and he cited the impact that long-time Bookkeeper Carol Fairbrother's retirement in November 2010 had upon the office, as well as the Account Clerk's inexperience in closing books. In response to Councilman Backman's inquiries, Len stated that D'Arcangelo's letter to management is contained in both audit reports, as well as the fund balances for each account. With regard to the amount of money owed the Police Fund, Len responded that it would "– work itself out through the budget process...revenue and expenses, limit spending". Addressing Councilman Backman's question of whether there was anything grossly wrong, Len replied it was lack of proper staffing and no comptroller.

To Councilwoman Krupa's inquiry, it was confirmed that the 2009 and 2010 audit reports performed by D'Arcangelo did not include the New Hartford Public Library. While the Library is considered a component of the Town because the Town exercises strong control because of their appointment of Library trustees, the Library is still considered a separate entity of which most of their funding comes from the Town.

The auditors reviewed internal controls and reporting compliance and noted that the fixed assets was not up-to-date, basically due to lack of staffing and that the system doesn't calculate the depreciation figures. With regard to journal entries, there appeared to be no

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 3

back ups to the entries; there were some deficiencies concerning computers/payrolls and the master vendors' list and suggestion that formal procedures be put in place. Some departments were not writing receipts.

Deputy Supervisor Bohn recommended that the Town Board review the audits and raises questions at a future Board meeting; he believes this is a good audit, a good review. There being no further comments/questions from the Town Board, the presentation concluded at 7:32 P.M.

TRAFFIC SIGNAL – NYS ROUTE 5 AT APPLEWOOD BOULEVARD

James Varieur questioned the status of the proposed traffic signal to be installed at the NYS Route 5 (aka Seneca Turnpike) – Applewood Boulevard intersection. Supervisor Tyksinski responded that the plans and specifications have been completed, the necessary permits obtained and that the Town Board is expected to authorize the competitive bid process later during this meeting, with a bid submission date around mid-September 2011.

Oil and Stone Paving – Pippinwood, Briarwood and Oakwood Drive

Robin Baker and William Cole represented a group of homeowners who were dissatisfied with the recent oil and stone paving on their streets and lack of advanced notice of such paving, presenting four (4) pages containing the signatures of property owners in the Pippinwood-Briarwood-Oakwood Drive area. Residents believed it was a waste of taxpayer dollars because they claimed the roads were paved only two (2) years ago. Further, the group present felt their development has been cheapened and that they have endured the “mess” for about two (2) weeks; can't drive, can't jog, kids can't play in the area, tar tracked into driveways and homes. The residents said a letter from the Town was sent to residents after the fact.

Supervisor Tyksinski informed the residents that if the Town created any problem, the Town would go in and correct it. The Town Supervisor had discussed this matter with Mr. Cole as well as the Highway Superintendent, the latter of whom was trying to save money for the Town and he lauded the Highway Superintendent for that. Highway Superintendent Sherman apprised the homeowner group that the vendor will remedy the situation beginning August 18 or August 19, 2011 and that he would walk through the slurry areas and make sure its sealed or covered. While Robin Baker thanked the Highway crew for sweeping her driveway or street, problems remain. The Highway Superintendent said that he started in this position in 2008 so that the road paving in their development must have taken place prior to his coming on board. Sam Vedete acknowledged there are limited budgets and questioned if there weren't more important roads that needed paving. The Highway Superintendent noted that the Town didn't receive CHIPS funding one year and only received \$126,000 another year. The Town Board budgeted \$125,000 for road paving and most municipalities are using this type of

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 4

treatment; they can't afford paving. The Highway Superintendent noted that the Pippinwood Development roads were beginning to crack and this paving program was a preventative measure. Addressing the homeowner group, the Town Supervisor assured them that the Town would take care of the matter; he asked them to be patient, to accept the Town's apology for no prior notice and to give the Town some time to resolve it. Robin Baker offered to hand-deliver notices to her neighbors.

Hydraulic Fracturing (aka Hydrofracking)

Ted Zinski stated that he and his wife had built a home on three (3) acres of land along Mallory Road and that they have fine pristine well water but are concerned with possible hydrofracking, done nearby, by individuals who don't realize the repercussions of that process. He asked that the Town Board consult others and to pursue the "pro bono" lawyers on zoning issues, from the Ithaca area. Supervisor Tyksinski responded that the Town Attorney has contacted other lawyers but not Ithaca yet, and that the Town is working with the Towns of Paris and Kirkland attorneys.

Wanda Zinski – expressed her concerns with hydrofracking and noted she has joined a local committee that opposes such practice – She mentioned a federal law enacted this summer that would limit the Environmental Protection Agency's (EPA) authority. She also mentioned that oil and gas companies were given an exemption in 2005 and that while many farmers are suffering from economics, she doesn't believe hydrofracking is the answer.

Beechwood Road Drainage Project

Joseph Luker was present with regard to the drainage improvements proposed for Beechwood Road. The Town Supervisor stated that this matter would be discussed later during the meeting.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Public Works and Sewers – Councilman Backman

Lease of Mack truck

Board members had reviewed the lease agreement for a Mack truck, but the Supervisor said there are some unresolved issues with the Highway Department union negotiations; discussion ensued with Town Board consensus that the Town look at leasing a truck for 2012.

ZONING (CODES) AND PLANNING COMMITTEE – COUNCILMAN WOODLAND

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 5

Property Maintenance – 3352-3354 Church Street

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

(RESOLUTION NO. 203 OF 2011)

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

WHEREAS, the Town Codes Enforcement Officer has received complaints about high grass and weeds upon premises located at 3352-3354 Church Street (Tax Map Parcel No. 350.017-1-46), Chadwicks, New York, owned by Debra Azzarito whose last known address is 17 Madison Avenue, Leroy, New York 14482; and

WHEREAS, the property appears to be abandoned, and the Codes Enforcement Officer had communicated with said owner via certified mail, with no response or action having been received from Ms. Azzarito;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Codes Enforcement Officer to send another letter to Ms. Azzarito, giving her ten (10) days to comply with Town Code and that if said existing nuisance is not remedied within the aforesaid timeframe, that the Codes Enforcement Officer shall, through the Parks and Recreation Department, proceed with mowing the lawn and clearing the property of debris at 3352-3354 Church Street, Chadwicks, and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2012 Town and County tax bill.

Upon roll call, the Board members voted as follows:

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

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

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 6

Status - 402 Higby Road Property Maintenance

The Codes Officer apprised the Town Board that information on this parcel, owned by Khalid Siddiqui had been forwarded in February 2011 to the Oneida County Finance Department.

Status - 3289 Mohawk Street (at Elm Street) Property Maintenance

Also, the residence at the corner of Mohawk Street and Elm Street in Chadwicks, owned by Reba Bickford, has been boarded for several months; when three (3) years pass without the property taxes being paid, Oneida County will place the property up for tax sale.

Training – Planning Board

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

(RESOLUTION NO. 204 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 Jerome F. Donovan, Planning Board member to attend the educational seminar on the State Environmental Quality Review Act and Shale sponsored by the Herkimer-Oneida Counties Comprehensive Planning Program on October 1, 2011 at M.V.C.C., 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 Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Public Safety and Courts Committee – Chairwoman Krupa

Upon recommendation of the Police Chief, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 7

(RESOLUTION NO. 205 OF 2011)

RESOLVED that the New Hartford Town Board does hereby appoint Peter J. Allen to the budgeted position of Part-time, competitive Police Officer effective Thursday, September 1, 2011 at the hourly wage of Twenty-seven Dollars and Eleven Cents (\$27.11), payable bi-weekly, with no benefits. Further, said appointment is made from the New York State Civil Service list and as such, Officer Allen will not be restricted as to his work hours.

A roll call vote ensued:

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

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

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Councilwoman Krupa:

New Hartford Public Library

Because the New Hartford Public Library is a component of the Town's financial situation, Councilwoman Krupa believed the Town Board should either tell them to "...get audited or we'll drag them in and do the audit and subtract the fee from the Town's annual contribution". In response to Councilman Backman's inquiry, the Town Attorney said this would be legal. However, Deputy Supervisor Bohn believed the Library should have the option of doing the audit on their own; and if not done, the Town would take charge. It was suggested that the Library schedule an audit for 2011 so it coincides with the Town's and authorize the Town Supervisor to send them a letter. The Town's Audit Committee will meet with the Library Committee.

Town Attorney:

Zoning Board of Appeals' vacancy - Appointment

Upon recommendation of the Town Attorney and Zoning Board Chairman Randy Bogar, Councilwoman Krupa offered the following Resolution for adoption; seconded by Councilman Reynolds:

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 8

(RESOLUTION NO. 206 OF 2011)

WHEREAS, the term of office of Robert Schulman as a member of the Zoning Board of Appeals had expired on June 9, 2011 and Dr. Schulman is not interested in reappointment to said Zoning Board;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby appoint Lenora Murad to a five-year term as a member of the Zoning Board of Appeals, effective August 18, 2011 and for a term ending June 9, 2016.

Councilman Backman didn't feel the vacancy had been fairly advertised and said that a Mr. Crumrine in his district had applied. The Town Supervisor stated that the vacancy had been advertised in the Spring of 2011. Thereafter, the Town Board voted as follows:

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

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

Windmills/windpower legislation

Codes Enforcement Officer Booth said he was about to introduce the draft legislation on windmills but asked what direction the Town wanted him to take in light of new state legislation. The recent newspaper article on the state's legislation will be referred to the Zoning Advisory Committee and see if goes along with what he has.

Beechwood Road Drainage Project

After listening to the Beechwood Road residents, Barton & Loguidice said the Town decided on the partial back-lot plan – most expeditious plan, even though it would be cheaper in the road right of way. However, if using the right of way, the contractor wouldn't know what could be hit as far as old utilities and current ones. The only thing the Town Board has approved is the partial back-lot plan. Allen Yager of Barton & Loguidice said there were some changes about the path after listening to property owners. He recommended that the Town Board authorize the bid process and the surveyor would prepare the easement maps. Barton & Loguidice are still lacking contact with the owner of 21 Beechwood; Mr. Yager spoke to him once but he didn't say he was in favor, or not. This is the concern of the Beechwood Road residents....the same thing happened years ago when a property owner(s) held out on an easement. Joseph Luker wanted confirmation that all infrastructure in his backyard would be underground and not visible; Mr. Yager confirmed that it would. The Town Attorney and Town Supervisor will

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 9

contact the property owner of 21 Beechwood Road. Councilman Backman suggested the property owner be contacted, or use the eminent domain process. Thereafter, Councilman Backman introduced the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 207 OF 2011)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the furnishing of all labor and material necessary for Beechwood Road Drainage Improvements – Phase 1, Contract 1, until 11:00 A.M. on Monday, September 12, 2011 at which time, in the Town Clerk’s Office, all bids shall be publicly opened and read aloud; and be it

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

The Resolution was voted upon by roll call:

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

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

Traffic Signal (light) – NYS Route 5 and Applewood Boulevard

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

(RESOLUTION NO. 208 OF 2011)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the furnishing of all labor and material necessary for the Traffic Signal Improvements at the intersection of NYS Route 5 and Applewood Boulevard – Contract No. 1, until 11:30 A.M. on Monday, September 12, 2011 at which time, in the Town Clerk’s Office, all bids shall be publicly opened and read aloud; and be it

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

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 10

The Supervisor polled the Town Board who voted as follows:

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

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

MATTERS SUBMITTED BY TOWN SUPERVISOR

Financial:

D’Arcangelo’s invoice – audit services

Supervisor Tyksinski stated that the amount of work performed by D’Arcangelo auditors far exceeded their original quote to perform the 2009 and 2010 audits. The auditing firm is willing to cut in half their overtime for an additional \$9,400. After discussion, Town Board consensus was not to pay the extra time performed because D’Arcangelo should have stopped when it was evident that additional hours were needed and that they should have discussed this matter with the Town Board for their decision at that time.

Financial Report

The Town Supervisor had distributed the July 2011 report of expenditures/revenue to Board members.

2012 Budget

The Town Supervisor had distributed the 2012 Budget Estimate sheets to department heads, requesting that the completed forms be returned to him by Friday, August 26, 2011.

Audit of bills

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

(RESOLUTION NO. 209 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:

REGULAR TOWN BOARD MEETING
August 17, 2011
Page 11

Recreation Center Equipment Abstract #1	
Vouchers H81	\$ 107.97
Trust & Agency Abstract #26	
Vouchers TT131-TT137	\$ 15,033.22
Trust & Agency Abstract #27	
Vouchers TT138	\$ 3,925.00
Highway Fund Part-Town Abstract #10	
Vouchers DB612-DB664	\$119,676.09
General Fund Part-Town Abstract #9	
Vouchers BB115	\$ 4,556.25
General Fund Part-Town Abstract #10	
Vouchers BB116-BB131	\$ 13,925.64
General Fund Part-Town Police Abstract # 12	
Vouchers BP210-BP225; BP227-BP231	\$ 77,795.43
General Fund Whole-Town Abstract #21	
Vouchers A1033-1035	\$ 38,725.00
General Fund Whole-Town Abstract #22	
Vouchers A1033-1034	\$ 29,325.00
Sewer Fund Abstract #15	
Vouchers SS51-SS58	<u>\$ 22,957.88</u>
	\$326,027.48

Councilman Backman questioned the Lochner Engineering vouchers/invoices that had been pulled; the Town Supervisor said he wanted to discuss these with Highway Superintendent Sherman. Supervisor Tyksinski said Lochner had been contracted to perform inspection services at the Elm Street bridge replacement site eight (8) hours a day but they're only there three (3) or four (4) hours a day. If the Highway Superintendent confirms they are complying with the executed contract, a separate resolution can be adopted to approve payment of the Lochner vouchers, contingent upon approval of the Town Attorney. 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, excluding payment of the Lochner Engineering vouchers.***

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 12

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

(RESOLUTION NO. 210 OF 2011)

RESOLVED that, subject to the approval of the Town Attorney and in conjunction with the Highway Superintendent that the Town is receiving the number of inspection hours specified in the executed contract for the Elm Street (Chadwicks) bridge replacement project, the New Hartford Town Board does hereby authorize and direct the payment of three (3) vouchers/invoices submitted by Lochner Engineering in the amounts of \$11,832.00; \$6,890.00; and \$9,834.00.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Joseph Corr Police Benevolent Association (PBA) Union Contract

The Town Supervisor announced that the draft agreement between the Town and the PBA have some changes in place, including but not limited to:

- 2 years in arbitration for 2009 and 2010
 - 2.5% raise for 2009
 - 2.5% raise for 2010
- 3-year contract for 2011, 2012 and 2013
 - 2.5% raise for 2011
 - 3% raise for 2012
 - 2% raise for 2013
 - Teamsters Health insurance program will be terminated on September 30, 2011 and changed to NYS Health Insurance Plan (NYSHIP – Empire Plan) effective October 1, 2011
 - Employees will begin 15% contribution toward health insurance effective October 1, 2011 for the duration of the 3-year contract
 - Savings on retirees' health insurance

With regard to Councilman Backman's question about over-65 health insurance, the Town Supervisor directed his attention to the analysis chart that had been prepared.

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 13

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

(RESOLUTION NO. 211 OF 2011)

RESOLVED that, based upon the corrected final draft agreement between the Joseph Corr Police Benevolent Association (PBA) and the Town of New Hartford, the Town Board does hereby accept said agreement for the two-year period of January 1, 2009 through December 31, 2010 and the three-year period beginning January 1, 2011 and ending December 31, 2013.

The Town Board members then voted upon roll call, resulting 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***

Clinton Street Extension Agreement; Yager property – Eminent Domain Procedure

Town Attorney Cully asked the Town Board to review the Determination and Findings Statement and proposed Resolution that had been prepared subsequent to the August 11, 2011 Public Hearing for acquisition of property pursuant to Article 2 of the Eminent Domain Procedure Law for the New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street. Attorney Cully received today the Stipulation from Andrew Kowalczyk, attorney for the Yagers, changing the proposed route and changing the acreage to be taken from 1.6 acres to 2 acres. The Yagers have signed the stipulation and are in agreement with those changes. The Town has received an appraisal value from Hatzinger and the Yagers will be securing their own appraisal of the land to be taken. In response to Councilman Backman’s question, the Town Supervisor stated that the Town has a liability of \$1.1 million and anything above that is the responsibility of developer Larry Adler. Councilman Woodland said he has received about ten (10) phone calls from people who oppose the taking of this property. In response to a question from the Town Supervisor, Highway Superintendent Sherman noted that the Clinton Street Extension would only be about fifteen hundred (1500) to eighteen hundred (1800) feet and did not see this as a problem for future road maintenance. Councilman Reynolds noted that the site plan has changed with the revised road path and additional acreage. While Councilman Backman agreed that the road is needed, he expressed concern with agreements regarding the New Hartford Business Park and developer Larry Adler; he doesn’t want the road built at taxpayer expense.

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 14

Supervisor Tyksinski said that Mr. Adler is willing to meet with board members to discuss and correct whatever's needed in Phase I. Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 212 OF 2011)

**DETERMINATION AND FINDINGS OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD PURSUANT TO
ARTICLE 2 OF THE EMINENT DOMAIN PROCEDURE
LAW IN CONNECTION WITH THE NEW YORK STATE
ROUTE 840 BREAK-IN ACCESS AT WOODS HIGHWAY
EXTENSION AND THE EXTENSION OF CLINTON STREET**

WHEREAS, the Town Board of the Town of New Hartford ("Town Board") continuing as lead agency for the review of the New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street project for highway purposes (the "Project"), pursuant to the New York State Environmental Quality Review Act and its implementing regulations ("SEQRA"), issued a positive declaration requiring the preparation of a Draft Supplemental Environmental Impact Statement ("DSEIS"); and

WHEREAS, a DSEIS was prepared in connection with the Project, determined to be complete, a public hearing conducted and comment period established; and

WHEREAS, a Final Supplemental Environmental Impact Statement ("FSEIS") was prepared that considered all relevant public comments, provided responses thereto, identified appropriate revisions to the DSEIS and was accepted by the Town Board; and

WHEREAS, in November 2010, after waiting for the required time period the Town Board, completed the environmental review of the Project by adopting a SEQRA Findings Statement; and

WHEREAS, the environmental review included the detailed examination of alternatives, and the Project was determined to be the best alternative to feasibly achieve the goals of, among other things, improving area traffic conditions by improving access to NYS Route 840 and relieving traffic conditions on the surrounding transportation network, developing a safe transportation network, enhancing the area's public infrastructure and bolstering the local commercial tax base; and

WHEREAS, on July 13, 2011 and August 4, 2011, the Town Board determined to schedule a public hearing in connection with the proposed acquisition of property for the construction of the Project; and

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 15

WHEREAS, representatives of the Town and the affected property owner relative to the extension of Clinton Street, have met to discuss the location and layout of the extension of Clinton Street and mutually agreed to its location that resulted in a slightly different location from the original preferred layout and an increase of +/- 0.50 acres for the road; and

WHEREAS, the Town and property owner entered into or expected to enter into a written Stipulation to facilitate Project at the agreed location; and

WHEREAS, on August 11, 2011, after having provided the appropriate notice of public hearing, the Town Board conducted a public hearing pursuant to Article 2 of the New York State Eminent Domain Procedure Law in connection with the Project; and

WHEREAS, all persons desiring to be heard were provided an opportunity to be heard at the public hearing; and

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby makes the following determination and findings regarding the Project consistent with the requirements of Article 2 of the New York State Eminent Domain Procedure Law, as follows:

1. The Public Use, Benefit or Purpose To Be Served By The Proposed Public Project

The proposed acquisition in fee of approximately 2.1 acres of real property, a portion of Tax Map No. 316.00-2-42.1, in the Town of New Hartford is for the public use, benefit and purpose of constructing New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street project for public highway purposes (the "Project"). 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 public road network. A legal description and map(s) are attached hereto of the real property acquired.

The break in access of NYS Route 840, including the connection between Middle Settlement Road and Woods Highway, has been in the planning stages for nearly 20 years, beginning with the original Seneca Turnpike GEIS. Within the Environmental Impact Statement prepared by the NYS DOT, the analysis was conducted with anticipation that a connection to NYS Route 840 would be made at Woods Highway Extension in the future. Most recently, it has also been referenced in the 2007 Comprehensive Plan Update for the Town of New Hartford. Throughout this time the Project has been envisioned by the Town to have major public benefits: including, but not

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 16

limited to, the significant improvement of the local transportation network and encourage economic development.

During the most recent SEQRA environmental review, the Town Board identified several important public purposes and benefits that will result from the Project. The Town Board has evaluated these public purposes and benefits and hereby finds and determines that the break-in access, proposed as an extension of Woods Highway to NYS Route 840, will provide public benefit in several aspects.

- The Project will relieve some amount of traffic flow at the intersection of NYS Route 5/5A and Middle Settlement Road as traffic desiring to travel east into the Route 5A commercial corridor or to other points east and north can use Woods Highway and the break-in access to access Route 840.
- As a portion of a planned, systematic improvement to the highway network in the Vicinity of Woods Highway and Middle Settlement Road, the break-in access will help to stabilize or improve intersection conditions on existing highways.
- The break-in access will provide for direct ingress/egress to a proposed business park without the occupants of that park having to utilize the local road network.
- The break-in access will bring residents and visitors to the area to a new roadway that is additionally safer in terms of accidents per thousands or millions of miles driven.

The Clinton Street Extension includes roadway construction of approximately 0.25 mile connecting the portion of Clinton Street Extension that has been constructed to the rear of the Lowe's property and dedicated to the Town to the Woods Park Drive that has already been constructed to the eastern-most end of The Hartford Insurance parcel of the business park. It is expected that the completion of the Clinton Avenue Extension with the break-in access will allow for the free flow of traffic, limit potential congesting and automobile idling.

As a result, it is expected that the Project will improve area traffic conditions through better access to Route 840, a safe transportation network will be developed, the area's public infrastructure will be enhanced and the local commercial tax base will be bolstered.

Moreover, it is anticipated that during construction, the Project will result in approximately many construction jobs.

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 17

Therefore, the Project is viewed by the Town as a key to relieve traffic issues on the transportation system in the area of the business park and nearby intersections of NYS Route 5, NYS Route 5A and Middle Settlement Road and constitutes a clear public use, benefit and purpose.

2. The Approximate Location For The Proposed Project And The Reasons for Selection of this Location

The proposed Project will be located on a portion of Tax Map No. 316.00-2-42.1 to provide a right-in/right-out break-in access of NYS Route 840 at Woods Highway Extension, as well as an extension of Clinton Street, connecting with an existing public road network.

As noted above, the proposed Project location has been in the planning stages for nearly 20 years, beginning with the original Seneca Turnpike GEIS. Within the Environmental Impact Statement prepared by the NYS DOT, the analysis was conducted with anticipation that a connection to NYS Route 840 would be made at Woods Highway Extension in the future. Most recently, the Project has also been referenced in the 2007 Comprehensive Plan Update for the Town of New Hartford.

Fourteen alternatives were originally considered and four alternatives given final consideration. During the environmental review process, the SEIS concluded the right-in/right-out configuration with the extension of Clinton Street was the preferred alternative, from the 14 alternatives evaluated, for improving access to NYS Route 840 and relieving traffic conditions on the surrounding transportation network and taking into account the potential costs involved. The Study Area included the northern areas of the New Hartford Business Park encompassing the Woods Highway Extension and the proposed break-in access with Route 840 as well as the Clinton Street Extension to Middle Settlement Road. The Town Board determined that the preferred alternative, construction of a right-in/right-out break-in access of NYS Route 840 at Woods Highway Extension and an extension of Clinton Street, is the best proposal to feasibly achieve the goals of the project while minimizing potential significant adverse impacts to the maximum extent practicable.

The final approximate location for the extension of Clinton Street, as shown on the attached Acquisition Maps, configures the new road extension by extending the existing Town Road (Clinton Street) on the east, maintains an appropriate distance from an existing building located on the property, while allowing appropriate linear distances and maintaining proper sight distances, and connects to the existing Town Road (Woods Park Drive) to the west. Representatives of the Town and the property owner met to identify the appropriate location of the road extension and the attached Acquisition Map locates the road as agreed. The identified location is a slight

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 18

modification to the original identified proposed location and takes into account the concerns raised by the property owner while maintaining the public purpose and benefit. The agreed location raised no potential adverse environment impacts.

The Project has been determined to provide the optimum combination of increased volume capacities, to maintain a high level of service, and to have minimal detrimental impacts upon the surrounding environment at the most feasible cost. The Right in/Right out would provide direct access from the New Hartford Business park to Route 840 eastbound, spurring local development and providing traffic relief to Middle Settlement Road and intersections at Route 5, Route 5a and Middle Settlement Road. It will also provide additional access to Middle Settlement Road via the Clinton Street Extension, providing direct access to the Business Park as well as additional Route 840 access for the commercial development along Middle Settlement Road, including Lowe's Home Improvement.

3. The General Effect of the Proposed Project on the Environment and Residents Locality

The Town Board, as SEQRA Lead Agency, fully complied with the requirements of SEQRA through preparation of the Draft and Final Supplemental Environmental Impacts and adoption of a SEQRA Findings Statement. As set forth in the SEIS:

The Break in Access of NYS Route 840 at Woods Highway Extension is a project has been planned and considered since 1992, beginning with the Seneca Turnpike Final GEIS. The Break in Access of NYS Route 840, including the connection between Middle Settlement Road and Woods Highway, has been in the planning stages for nearly 20 years, beginning with the original Seneca Turnpike GEIS. Within the Environmental Impact Statement prepared by the NYS DOT, the analysis was conducted with anticipation that a connection to NYS Route 840 would be made at Woods Highway extension in the future. Most recently, it has also been referenced in the 2007 Comprehensive Plan Update for the Town of New Hartford. Throughout this time the project has been envisioned by the Town to have two major public benefits: to significantly improve the local transportation network and encourage economic development.

Potential impacts resulting from the Project in the areas of i) traffic; ii) air quality; iii) wildlife crossings and, iv) stormwater runoff were examined in detail. In the Findings Statement, the Town Board approved the Project and provided the following "Rationale for Approval":

The proposed Project will provide direct access to lands subject to increased development.

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 19

The proposed Project will relieve traffic congestion upon the surrounding transportation network and serves a public purpose.

The proposed Project will accommodate a greater volume of traffic exiting and entering NYS Route 840.

The proposed Project will not increase traffic delays, maintaining existing levels of service on NYS Route 840.

The proposed Project will stimulate new economic development in the project area, strengthening the Town's commercial tax base.

The proposed Project will not significantly impact the air quality in the project area.

Impacts to storm water runoff and wildlife crossings will be feasibly mitigated within the scope of the proposed Project.

The location of the proposed new road extension was identified in consultation with the property owner and will maintain an appropriate distance from the building located on the property while providing and maintaining appropriate linear and sight distances.

Overall, no new potential significant adverse environmental impacts were identified as a result of the Project or the slightly modified road extension location. As a result, the effect on the environment and residents will be positive in nature. The Town Board confirms its November 2010 SEQRA Findings Statement and incorporates same herein by reference.

4. Such other Factors as the Town Board Considers Relevant.

The Town Board has performed an exhaustive review of numerous alternatives for this long considered and necessary Project. The Project is an essential traffic component to alleviate persistent traffic congestion in the area and also spur needed economic growth potential. Representatives of the Town and the affected property owner met and agreed that there is a public need, benefit and purpose for the Project, including the road extension, and that the identified location is the appropriate location to accommodate the needs of the property owner and the Project. To facilitate the acquisition of the property by the Town for the public road extension, it is anticipated that the Town and the property owner will enter into, or have entered into, a Stipulation.

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 20

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized to: 1) to execute a Stipulation substantially in the form and content attached hereto on behalf of the Town of New Hartford, for the acquisition of the property identified as required for the construction of New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street project for public highway purposes, together with the assistance of the Town Attorney, who shall approve as to form and to his satisfaction all required documentation to effectuate this acquisition and Stipulation; and/or 2) perform all acts necessary, as may required by the New York State Eminent Domain Procedure Law, to acquire, on behalf of the Town of New Hartford, the property identified as required for the construction of New York State Route 840 Break-In Access at Woods Highway Extension and the Extension of Clinton Street project for public highway purposes, together with the assistance of the Town Attorney, who shall approve as to form and to his satisfaction all required documentation to effectuate this Resolution pursuant to the EDPL.

Upon roll call, the Town Board voted as follows:

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

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

Authorization for Competitive Bid – Construction of Clinton Street Extension

Councilwoman Krupa presented the following Resolution and moved its adoption, which was seconded by Councilman Reynolds:

(RESOLUTION NO. 213 OF 2011)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the **“Construction of Clinton Street Extension”** highway improvement plans, 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 Friday, September 23, 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 hereby authorize and direct the Town Clerk to publish the legal requisite Invitation to Bid in The Observer Dispatch.

The Town Board voted upon roll call as follows:

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 21

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

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

Employee Health Insurance – NYSHIP (Empire Plan)

Since the Joseph Corr PBA has accepted the change of health insurance providers from Teamsters to NYSHIP (Empire Plan), the Town Supervisor proposed that the NYSHIP plan not only be offered to the PBA members but also all eligible non-union employees, effective October 1, 2011. Councilman Reynolds then introduced the following Resolution, which was duly seconded by Councilwoman Krupa:

(RESOLUTION NO. 214 OF 2011)

RESOLVED that the Town Board of the Town of New Hartford of the State of New York elects to participate as a participating employer in the New York State Health Insurance Program and to include in such plan its officers and employees and to include in such plan its retired officers and employees, subject to and in accordance with the provisions of Article XI of the Civil Service Law and Regulations governing the New York State Health Insurance Program, as presently existing or hereafter amended, together with such provisions of the insurance contracts as may be approved by the President of the Civil Service Commission and any administrative rule or directive governing the plan.

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***.

2011 Quarterly Sales Tax Check

Supervisor Tyksinski acknowledged receipt of the second quarterly sales tax check today from the Oneida County Finance Department; the check was in the amount of \$1,291,896.21 compared to the 2010 second quarterly check in the amount of \$1,219,234.16

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 22

Award of Competitive Bid – “Construction of Route 840 Eastbound Ramps to Woods Park Drive”

Highway Superintendent Richard Sherman reported that two (2) bids had been received this morning for the “Construction of Route 840 Eastbound Ramps to Woods Park Drive” Project. Lam Co. Companies’ total bid was \$\$873,600 and Central Paving’s total bid was \$656,590. Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 215 OF 2011)

WHEREAS, the New Hartford Town Board had authorized that competitive bids be received for the “Construction of Route 840 Eastbound Ramps to Woods Park Drive” project and the Invitation to Bid had been published in the August 7, 2011 edition of the Observer Dispatch; and

WHEREAS, the following bids for the above-referenced project had been received and were opened on Wednesday, August 17, 2011 in the Town Clerk’s Office:

- | | |
|---|--|
| <ul style="list-style-type: none"> • Lam-Co. Companies, Inc., 7330 Eastman Road North Syracuse, NY 13212 | <ul style="list-style-type: none"> - Allowance: \$ 50,000 <u>Lump Sum Bid:</u> \$823,600 <i>TOTAL BID PRICE:</i> \$873,600 |
|---|--|

- | | |
|--|---|
| <ul style="list-style-type: none"> • Central Paving, Inc. 5663 State Route 5 Herkimer, NY 13350 | <ul style="list-style-type: none"> - Allowance \$ 50,000 <u>Lump Sum Bid:</u> \$647,450 <i>TOTAL BID PRICE:</i> \$656,590 |
|--|---|

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby accept the low bid of Six Hundred Fifty-six Thousand Five Hundred Ninety Dollars (\$656,590) submitted by and does hereby award the contract for the Route 840 Eastbound Ramps-Woods Park Drive project to Central Paving, Inc., the low bidder; 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 “Construction of Route 840 Eastbound Ramps to Woods Park Drive” project.

Discussion ensued with the acknowledgement that New York State (Department of Transportation) would own and plow the ramps but that the Town of New Hartford will be responsible for providing lighting. Thereafter, the Town Board members voted upon roll call, as follows:

Councilwoman Krupa - Aye

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 23

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

This Resolution was declared carried and duly *ADOPTED*.

Mitigation Fees – ALDI at Jay-K Lumber; traffic light modification

The Town Supervisor apprised the Board that ALDI's had paid the Town about \$47,000 in mitigation fees. Discussion ensued about whether the Town could use approximately \$9,000 in mitigation fees to pay for the State's modification of the traffic light at the Jay-K intersection. The matter was deferred to the Town Attorney for research and report to the Town Board.

Status – Jubilee Estates road paving

In response to Councilman Backman's inquiry, the Town Attorney stated that cost estimates are being received.

Status – Jewel Ridge Development

The Town Attorney had discussed this matter with Codes Enforcement Officer Joseph Booth; the Town will provide the bond company with the figure of how much it would cost the Town to complete the road paving.

EXECUTIVE SESSION

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

(RESOLUTION NO. 216 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

REGULAR TOWN BOARD MEETING

August 17, 2011

Page 24

from the meeting at 10:02. P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, August 18, 2011.]

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 217 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 10:15 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Woodland and seconded by Councilman Reynolds, the meeting was adjourned at 10:16 P.M.

Respectfully submitted,

Gail Wolanin Young
Town Clerk