

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, APRIL 4, 2012 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
Councilman Paul A. Miscione
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Assessor Paul E. Smith
Codes Enforcement Officer Joseph A. Booth
Deputy Supervisor Matthew Bohn III
Highway/Sewer Superintendent Richard C. Sherman
Parks & 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

Town Board Meeting – February 8, 2012

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

(RESOLUTION NO. 74 OF 2012)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held February 8, 2012 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 2

Councilman Backman - Aye
Supervisor Tyksinski - Aye.

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

PUBLIC PRESENTATIONS (Resident Comments)

Beechwood Road drainage project

David Munsell inquired about status of the Beechwood Road drainage project. The Town Attorney responded that he had filed the Order to Show Cause with the Supreme Court Judge and the Judge's decision is expected April 5, 2012, after which the Order to Condemn can be served. It is expected that the Town will own the easement about the second week in May 2012. Chuck White of Barton & Loguidice and the Highway Superintendent confirmed that, in the meantime, the project contractor desires to finish work started last Fall; specifically, cleaning up the front of properties. The Town Supervisor confirmed that the project contractor would already be on-site by the time the easement is obtained from the Scardinas.

Peddler License, Hours Limited – Ice Cream Vendor

Hector Morales, owner of Mr. Ding-a-ling ice cream, had two (2) seasonal employees apply for and be issued Peddler Permits from the Town Clerk's Office; however, he recently became aware of a conflict in hours permitted to operate his mobile ice cream truck in the Town's Peddling/Soliciting law and the hours his employees normally work. He stated that his company has operated the mobile ice cream business in the Town for the past nine (9) years and has not received any complaints. Existing law does not allow for peddling after 4:30 P.M. on weekdays and no peddling on weekends, which are his busiest times, and Mr. Morales asked if the Town Board could enact some type of exemption from the peddling hours. The Town Attorney will review the existing law and anticipates submitting an amendment to the law at the April 25, 2012 Town Board meeting, with a Public Hearing to be scheduled May 9, 2012.

Police Commission, Creation; New Hartford Business Park rezoning

Russell Cerminaro expressed his displeasure, after reading The Observer Dispatch article about the March 14, 2012 Town Board meeting, that a majority of the Town Board members do not want the public involved in selecting police commissioners.

He further stated that a majority of the people who attended the March 14, 2012 Public Hearing on the proposed rezoning of the New Hartford Business Park had voiced their concerns/objections about such rezoning and "...you haven't listened to them." Councilman Backman explained that there were two parts to the rezoning application submitted by the New Hartford Office Group (Lawrence Adler) and other property owners and that the Town Board had approved only one, that being Planned

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 3

Development Park (PDP) to Planned Highway Business (PHB) for approximately 30.5 acres. The matter of the rezoning from Planned Development Park (PDP) to Planned Development Mixed Use (PDMU) has not been voted upon yet.

Police Commission, Creation

A resident asked why the Town needs a police commission. Councilman Reynolds explained there is a need to have something between the citizenry and the Police Department; other Town departments having Standing Committee representatives, which are members of the Town Board. Supervisor Tyksinski and Councilman Backman stated that they were in favor of advertising/receiving resumes from the public including the Town's website, while some Board members already had suggested appointees from their Wards.

New Hartford Business Park rezoning

Lisa Britt asked the Town Board to vote no for the rezoning of 216 acres of the Business Park to a Planned Development Mixed Use classification and "...to come up with a sensible plan for the future for the business park".

The Town Attorney apprised everyone that since the March 14, 2012 Public Hearing, PAR Technology, who formerly requested a zone map amendment from PDP to PDMU, has now requested a change affecting their property and which change, would reduce the acreage to be rezoned to 206 acres; this modification to the January 2012 petition requires a referral to the Oneida County Planning Department; additionally, the Town needs to receive the revised metes and bounds description and revised map to be forwarded with the referral. The Town Attorney is asking the primary applicant, Lawrence Adler, to waive the time limits for this referral and Mr. Adler, who was present, agreed verbally to waive the time limits. The Town Board will not be acting on this matter tonight, except to refer the modification to the Oneida County Planning Department. The matter will probably come back to the Town Board in late May 2012. The Town Supervisor confirmed this modification just came about today and that the Oneida County Planning Department said they need a referral under General Municipal Law.

Ms. Britt, who said the Business Park is in her backyard, doesn't want additional traffic and doesn't want retail operations in the Business Park; she wants to know what's going in there before its changed.

Edmund J. Wiatr Jr. read an article from an Observer Dispatch article published in 2005, quoting Patrick Tyksinski, candidate at the time for Town Supervisor, on the matter of growth in the town and how the increased number of new retail centers was burdening the Town's infrastructure and the highway/police and fire departments and suggesting that the Town better plan its growth and bring in non-retail businesses that do not have a heavy impact on infrastructure. Supervisor Tyksinski stood by his comments from 2005,

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 4

stating that, at that time, it was intended that the Business Park would be municipally owned; however, the property was subsequently sold and became public property, which totally changed the concept of the Business Park. Mr. Wiatr contends that the Town bears the expense of Mr. Adler's projects and he asked the Town Board not to rubber stamp the rezoning of the business park for Mr. Adler.

David Iadanza of Rochester, NY and his sister of Syracuse, NY were present; together with their brother in Texas, they own property on the west side of Woods Highway that has been family owned since the 1930's. They would like to sell the property; however, the present zoning is very restrictive and hard to deal with and they would support a rezoning of the property.

PUBLIC HEARING

7:34 P.M. Local Law Introductory "C" of 2012
Chapter 113, Vehicle and Traffic
No Parking/Fire Lanes

The Town Supervisor opened the Public Hearing at 7:34 P.M. and the Town Clerk read aloud Local Law Introductory "C" of 2012, which, if adopted, would amend Chapter 113 of the Town Code by prohibiting parking in defined fire lanes within the Donovan Memorial Park on Elm Street, Chadwicks and the Sherrillbrook Park on Route 12 (New Paris Road), New Hartford. The Town Clerk had available the Notice of Public Hearing, Affidavit of Posting and Proof of Publication (March 26, 2012 edition of The Observer Dispatch). The purpose of the Hearing is to allow the residents an opportunity to speak for, or against, or to comment upon the proposed legislation.

Supervisor Tyksinski inquired if anyone present wished to speak in the matter. No one having come forth, Councilman Backman inquired of the Parks and Recreation Director whether the Town, with added fire lanes within the parks, would have adequate parking for the crowds expected and the Parks and Recreation Director answered affirmatively.

There being no one further to speak in the matter, the Public Hearing was declared closed at 7:37 P.M.

Adoption of Local Law Introductory "C" of 2012 as Local Law No. Two of 2012

Thereafter, Councilman Reynolds offered that Local Law Introductory "C" of 2012 be adopted in the following format as Local Law No. Two of 2012; seconded by Councilman Backman:

**TOWN OF NEW HARTFORD, NEW YORK
LOCAL LAW NO. TWO OF 2012**

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 5

A Local Law to amend the Code of the Town of New Hartford, Chapter 113 thereof entitled **Vehicles & Traffic**, by amending Section 113-27, semi-public parking areas and driveways and specifically relating to the Donovan Memorial Park and Sherrillbrook Park.

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

Section 1. Chapter 113 of the Code of the Town of New Hartford, Section 113-27, Semi-Public Parking Areas and Driveways, is hereby amended as follows:

Section 113-27. Semipublic parking areas and driveways,

Add the following Subparagraphs:

H. Donovan Memorial Park, 9400 Elm Street, Chadwicks, New York.

(1) Parking Prohibited:

a) Fire lane located at the entrance of park beginning at the intersection of the Park Entrance and Elm Street and proceeding Southwest 225' to the Southwestern corner of same entrance. Fire lane shall then continue 25' in a southern direction ending at the main parking lot. Parking will not be allowed in either direction of the above described entrance, in order to maintain a fire lane. The entire area described will be on the map of Donovan Park dated February 2, 2012 which map is on file with the office of the Town Clerk.

I. Sherrillbrook Park, 4191 State Route 12, New Hartford, New York.

(1) Parking Prohibited:

a) Fire lane located in the Sherrillbrook Park. Beginning at the east entrance of the park coming from State Route 12 known as Park Entrance Drive. Fire lane shall be on both the right and left side of Park Entrance Drive, extending the entire length (160') of Entrance Drive to its intersection with Sherrillbrook Crescent.

b) Fire lane beginning on the west side of the intersection of Entrance Drive and Sherrillbrook Crescent and will continue in a northwestern direction on Sherrillbrook Crescent for 540'. The

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 6

fire lane shall be on the left side of the roadway when heading in a northwestern direction towards Cedar Landing. The entire area described will be on the map of Sherrillbrook Park dated February 2, 2012 which is on file with the office of the Town Clerk.

c) Fire lane located in the Sherrillbrook Park. Beginning at the intersection of Park Entrance Drive and Sherrillbrook Crescent heading in a southwestern direction for 240' on Sherrillbrook Crescent. The fire lane shall be on both the right and left side of roadway when heading in a southwestern direction towards Aspen Landing. The entire area described will be on the map of Sherrillbrook Park dated February 2, 2012 which is on file with the office of the Town Clerk.

d) Fire lane located in the Sherrillbrook Park. Beginning at the Southeastern corner of the main parking lot where it adjoins Sherrillbrook Crescent and heading in a southwestern direction for 355' on Sherrillbrook Crescent. The fire lane shall be on the right side of the roadway only when heading in a southwestern direction towards Aspen Landing. The entire area described will be on the map of Sherrillbrook Park dated February 2, 2012 which is on file with the office of the Town Clerk.

Section 2. All other provisions of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

Section 3. This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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

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

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

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 7

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Zoning (Codes) & Planning Committee – Councilman Miscione

Training – Zoning & Planning Boards

Upon request of several Town Officials, the following Resolution was introduced for adoption by Councilman Miscione and duly seconded by Councilman Backman:

(RESOLUTION NO. 75 OF 2012)

WHEREAS, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Planning Board member Jerome F. Donovan and Zoning Board of Appeals members Karen Stanislaus, Frederick Kiehm, Randy Bogar and Lenora Murad to attend the Continuing Education Program at the Schuyler Town Hall, Schuyler, New York on May 2, 2012, with the Twenty Dollar (\$20) registration fee per person to be borne by said Town as budgeted. Attendance at this Continuing Education Program will meet the 4-hour training requirement for each Official for calendar year 2012.

The Resolution was voted upon by roll call as follows:

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

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

New Hartford Business Park rezoning

With regard to PAR Technology's request for a modification in the zone map amendment application (January 2012) for the Business Park to Planned Development Mixed Use and the required referral to the Oneida County Planning Department [Page 3 of these minutes], Councilman Backman inquired if a verbal waiver from Lawrence Adler, the primary applicant, of the time limits is sufficient. The Town Attorney replied affirmatively but said he would ask Teresa Bakner, Attorney for Mr. Adler, to put this waiver in writing.

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 8

Public Works and Sewer Committee – Councilman Reynolds

Highway Department Laundry/Dry Cleaning – Refund bid security

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

(RESOLUTION NO. 76 OF 2012)

WHEREAS, the Town of New Hartford received bids on February 24, 2012 from Robinson & Smith, Inc., Canastota, New York and Tri-State Industrial Laundries, Utica, New York for the three-year contract for Highway Department Laundry/Dry Cleaning; and

WHEREAS, on March 14, 2012 the New Hartford Town Board awarded the three-year Highway Department Laundry/Dry Cleaning bid to the low bidder, Tri-State Industrial Laundries;

NOW, THEREFORE, BE IT RESOLVED that the said Town Board does hereby authorize and direct the Accounting Department to release from the Trust and Agency Account the bid security submitted by each bidder, as follows:

- Robinson & Smith, Inc. - \$1,292.95
- Tri-State Industrial Laundries - \$1,072.03.

The Town Board voted as follows:

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

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

Surplus Truck – 1996 International Dump Truck, VIN 1HTGKAER4TH342078

Highway Superintendent Sherman reported that the 1996 International Dump Truck had been sold via the Oneida County eBay site; however, due to difficulties the successful bidder had between his financial company and the County, the high bidder “walked away” from the sale. The Town Supervisor recommended that the Oneida County Purchasing Department accept the second high bidder.

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 9

Elm Street Bridge – Stabilization of banks

Highway Superintendent Sherman reported that the total project cost to stabilize the Sauquoit Creek banks on Elm Street in the vicinity of the property which lost much of its back/side yard due to Tropical Storms in 2011, is Sixty-six Thousand Dollars (\$66,000) and that a grant from MRCS would pay Seventy-five Percent (75%); the Town would be responsible for the remaining Twenty-five Percent (25%). The Highway Superintendent submitted a letter of the Town's interest inasmuch as the deadline was March 31, 2012. The Town Supervisor will meet with the Highway Superintendent to determine from what account the Town's share (\$17,000) would be paid. Councilman Backman wants the codes violations taken care of in this backyard.

Retention Pond in Calvary Cemetery

With regard to a proposed inter-municipal agreement (IMA) between the Town and the City of Utica concerning stormwater [refer to February 8, 2012 Town Board minutes, Page 11], Town Attorney Cully recapped that the City wrote a Memorandum of Understanding that the Town would apply for grant funding and that, through an IMA, the City would be responsible for maintaining the infrastructure and liability issues. Highway Superintendent Sherman confirmed that he had applied for the grant. Councilman Reynolds would like "maintenance" defined more in the IMA in order to indemnify the Town.

Agreement with Oneida County –Town/Village Pavement Marking 2012

Upon the recommendation of the Highway Superintendent, Councilman Reynolds presented the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 77 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to execute the 2012 Town/Village Pavement Marking Agreement between the Town of New Hartford and the Oneida County Department of Public Works wherein said County will provide road striping within the Town in accordance with the payment, terms and conditions set forth in said Agreement.

Upon roll call, the Board members voted as follows:

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

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

REGULAR TOWN BOARD MEETING
April 4, 2012
Page 10

Town Clerk Committee – Councilman Woodland

Town Clerk Petty Cash - Increase

Upon request of the Town Clerk, Councilman Woodland introduced the following Resolution for adoption and Councilman Backman seconded same:

(RESOLUTION NO. 78 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct an increase in the Town Clerk’s Office Petty Cash from the existing One Hundred Dollars (\$100) to Two Hundred Dollars (\$200) for the purpose of purchasing incidental office items and for making change for customers on a daily basis.

The Resolution was voted upon by roll call, resulting as follows:

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

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

Parks and Recreation Committee – Councilman Reynolds

Appointments - Seasonal Parks Employees

Upon recommendation of the Parks and Recreation Director, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 79 OF 2012)

RESOLVED that the New Hartford Town Board does hereby appoint the following individuals to the various part-time seasonal positions and for the hourly wages set opposite their several names, for the Parks and Recreation Department, commencing April 8, 2012 and ending 2012; all wages to be paid bi-weekly:

<u>NAME</u>	<u>POSITION</u>	<u>RATE OF PAY</u>
Michael Kelly	Park Laborer II	\$9.45/hour
Dustin Benton	Park Laborer II	\$9.45/hour
Clayton Whittemore	Park Laborer I	\$8.75/hour
Jeffery DeGironimo	Park Laborer I	\$8.75/hour
Dylan Smith	Park Laborer I	\$8.75/hour

REGULAR TOWN BOARD MEETING
April 4, 2012
Page 11

NAME	POSITION	RATE OF PAY
Bryan Hoffman	Park Laborer I	\$8.75/hour
Vincent Servadio	Park Laborer I	\$8.75/hour.

Whereupon, the Town Board voted upon roll call:

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

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

Senior Services Committee – Councilman Reynolds

Accept Grant; Budget Adjustment

Upon recommendation of the Director of Senior Services, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 80 OF 2012)

RESOLVED that, in behalf of the New Hartford Adult Dining and Activity Center, the Town Board of the Town of New Hartford does hereby accept the Grant-in-Aid in the amount of Five Thousand Three Hundred Ninety Dollars and Fifty Cents (\$5,390.50) from the New York State Office For The Aging, Contract TMO 9747; and be it

FURTHER RESOLVED that the New Hartford Town Board does hereby authorize and direct that the following 2012 Budget adjustments be made:

- Increase Senior Services Contractual, A6772.4 - \$5,390.50
- Increase Senior Services Revenue, A3772.1 (Grant-in-Aid) - \$5,390.50.

The Grant funding is to cover the cost of Purchase Order No. 88220, No. 88228 and No. 88236.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye

REGULAR TOWN BOARD MEETING
April 4, 2012
Page 12

Supervisor Tyksinski - Aye.

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

Donation; Budget Adjustment

Upon recommendation of the Director of Senior Services, the following Resolution was introduced for adoption by Councilman Reynolds and seconded by Councilman Miscione:

(RESOLUTION NO. 81 OF 2012)

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 donation of One Hundred Dollars (\$100) from Earle Reed, said donation to be used for senior services at the New Hartford Adult Dining and Activity Center; and be it

FURTHER RESOLVED that the New Hartford Town Board does hereby authorize and direct that the following 2012 Budget adjustments be made:

- Increase Senior Services Contractual, A6772.4 - \$100.00
- Increase Senior Services Revenue, A2705.1 - \$100.00.

The Town Supervisor polled the Board members who voted as follows:

Councilman Miscione - 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 AND TOWN ATTORNEY

Councilman Reynolds:

Police Commission, Creation

Councilman Reynolds reported that he is working with the Town Attorney on developing a set of by-laws to bring before the Town Board.

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 13

Franchise Agreement Status – Time Warner Cable

In response to Councilman Reynolds' inquiry about the status of the Time Warner Cable franchise agreement, the Town Supervisor stated he had a telephone conference with that company, that resident Sidney Perry is reviewing the franchise agreement and that the Town Attorney is addressing matters such as a shorter term, accountability, homes considered geographically (zip codes) to ensure the Town receives all franchise fees to which they are entitled, and so forth.

Councilman Backman noted that at the March 14, 2012 Town Board meeting, the question was raised as to whether franchise fees are a General Fund whole-town fee or a General Fund part-town fee. The matter will be researched and reported on at the Town Board meeting to be held April 25, 2012.

Town Attorney Cully:

Certioraris (Assessment) – Legal counsel expenses

The Town Attorney has received a number of bills from Mr. Ryen, counsel on the Sangertown Mall assessment certiorari; the invoices have been corrected to read 90% school/10% town. Also, Attorney Anthony Hallek will be paid for two (2) certioraris.

Acquisition of real property

The Town Attorney requested an Executive Session to discuss the acquisition of real property.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Engineering – Barton & Loguidice

Advertisement for Competitive Bid - Sauquoit Creek sanitary sewer crossing

Chuck White of Barton & Loguidice reported that he would meet with representatives from the NYS Department of Environmental Conservation on Friday, April 6, 2012 regarding the work to be done under this project behind the Hillside Garden Apartments. He requested permission to proceed with advertising for bids on April 16, 2012, with bids to be received May 7, 2012. Thereafter, Councilman Backman introduced the following Resolution for adoption and Councilman Miscione seconded same:

(RESOLUTION NO. 82 OF 2012)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the **Sauquoit Creek Sanitary Sewer Crossing**, 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 Monday,

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 14

May 7, 2012 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 Board voted upon roll call as follows:

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

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

Beechwood Road Drainage Project, Phase II

Chuck White of Barton & Loguidice had met today with the Town Supervisor and Highway Superintendent and identified additional “permitting” needs, such as wetlands. He had submitted a memorandum summarizing things done so far. He indicated there need to be changes in the channel and pond designs. Mr. White also submitted a proposal that, if approved, would authorize Barton & Loguidice to perform the “permitting” tasks on behalf of the Town. Supervisor Tyksinski recommended holding off on the environmental study and discussing this matter later during the meeting.

Audit of Vouchers

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

(RESOLUTION NO. 83 OF 2012)

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:

Stormwater Series II Abstract # 5 of 2012	
Vouchers HK9	\$ 3,300.00
Fire District Abstract # 4 of 2012	
Vouchers SF6-SF7	\$ 53,835.27
Elm Street Banks Abstract # 2 of 2012	
Vouchers HN4	\$ 1,368.30

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 15

Communications Abstract # 2 of 2012 Vouchers HL2-HL3	\$ 2,963.80
Trust & Agency Abstract #13 of 2012 Vouchers TT50	\$ 4,519.69
Trust & Agency Abstract #14 of 2012 Vouchers TT51-TT58	\$ 14,258.66
Trust & Agency Abstract #15 of 2012 Vouchers TT59	\$ 395.88
Trust & Agency Abstract # 16 of 2012 Vouchers TT60-TT65	\$ 12,059.04
Highway Fund Part-Town Abstract #5 of 2012 Vouchers DB205-DB251	\$ 198,548.03
General Fund Part-Town Abstract #10 of 2012 Vouchers BB51-BB52	\$ 5,472.47
General Fund Part-Town Abstract #11 of 2012 Vouchers BB53	\$ 375.54
General Fund Part-Town Abstract #12 of 2012 Vouchers BB54-BB60	\$ 537.84
General Fund Whole-Town Abstract #12 of 2012 Vouchers AA360-AA361	\$ 18,709.12
General Fund Whole-Town Abstract #13 of 2012 Vouchers AA362-AA365	\$ 14,164.52
General Fund Whole-Town Abstract #14 of 2012 Vouchers AA366-AA434	\$ 55,306.43
General Fund Whole-Town Abstract #15 of 2012 Vouchers AA435	\$ 1,140.05
General Fund Part-Town Police Abstract #9 of 2012 Vouchers BP62-BP63	\$ 31,750.05
General Fund Part-Town Police Abstract #10 of 2012 Vouchers BP64	\$ 2,261.74
General Fund Part-Town Police Abstract #11 of 2012 Vouchers BP65-BP76	\$ 10,800.22
Sewer Fund Abstract #11 of 2012 Voucher SS34-SS35	\$ 419.53
Sewer Fund Abstract #12 of 2012 Voucher SS36	\$ 1,114.69
Sewer Fund Abstract #13 of 2012 Voucher SS37-SS38	\$ 4,109.41
TOTAL:	\$ 437,410.28

Discussion ensued with Councilman Backman questioning:

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 16

- the 2012 first quarter water bill in the amount of \$405 for the Donovan Memorial Park, Elm Street, Chadwicks. The Parks and Recreation Director explained that the four-inch water main into the Park is shut off during the winter months but the Mohawk Valley Water Authority has a minimum billing charge of \$135 per month. Councilman Backman believes this is a bit high and suggested contacting the Town’s representative on the Mohawk Valley Water Authority “..for not a drop of water” used
- the electric rates (kilowatt hours) are “..all over the board” and he suggested that the Town Board look into trying to standardize these rates. The Town Supervisor mentioned the possibility of retaining a firm to review the Town’s utility accounts to determine if inconsistencies exist, whereby the Town would receive money back
- the “interfund transfer” noted for the Barrett Paving & Materials voucher; he thought that any interfund transfer must come before the Town Board for approval. The Town Supervisor stated that it wasn’t an interfund transfer.

The Resolution was then voted upon by roll call, resulting as follows:

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

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

Kellogg Road Community Center Building Renovations – Police Department use
Highway/Buildings & Grounds Superintendent Sherman reported that the engineering plans for this project are on hold.

Training – Finance Department

Upon request of the Town Supervisor, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Backman:

(RESOLUTION NO. 84 OF 2012)

WHEREAS, Section 77-b of the General Municipal Law allows the governing board of municipalities, authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 17

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Janice O’Sullivan, Account Clerk to attend the 12th Annual Town Finance School co-sponsored by the Association of Towns and the NYS Office of the State Comptroller from May 2 through May 4, 2012 at the Gideon Putnam, Saratoga Springs, NY, and for Daniel Dreimiller, Director of Finance to attend said Finance School from May 9 through May 11, 2012 at the Woodcliff Hotel, Rochester, NY, with expenses to be borne by said Town as budgeted.

It is estimated that the combined cost for both attendees would be approximately \$975, exclusive of mileage reimbursement and two (2) evening meals, the cost of which would be determined at the conclusion of the training school. Thereafter, the Resolution was voted upon by roll call as follows:

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

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

Agreement – Collection of School Taxes by School District

Supervisor Tyksinski reported that although the Town held a referendum in November 2011 to eliminate the Receiver of Taxes office effective December 31, 2011, that action does not relieve the Town of its obligation, under Section 37 of the Town Law, to collect school taxes unless otherwise agreed upon by the Town and school district. He had met with New Hartford School Superintendent Robert Nole, the latter of whom indicated that the School District desires to take over the issuance of school tax bills and collection of school taxes; likewise, the Town desires to discontinue this function. Thereafter, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 85 OF 2012)

WHEREAS, the Town of New Hartford held a referendum on November 8, 2011, proposing to eliminate the position of Receiver of Taxes; and

WHEREAS, the referendum passed by a 3,021 to 1,081 vote; and

WHEREAS, the elimination of the Receiver of Taxes position does not remove the Town’s obligation to collect taxes for the New Hartford Central School District unless the Town and School District agree otherwise; and

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 18

WHEREAS, the Town has conferred with the School District regarding the effect of the elimination of the Receiver of Taxes position, and understands that the School District does not wish to have tax bills issued and taxes collected by the Town Clerk as would be otherwise required by law; and

NOW, THEREFORE, the Town Board hereby authorizes the Town Supervisor to negotiate an agreement where the School District accepts responsibility for the issuance of school tax bills and collection of school taxes. This Resolution shall take effect immediately.

The Town Board members voted upon roll call, as follows:

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

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

Beechwood Road Drainage Project, Phase II

The Town Supervisor continued discussion on the Beechwood Road drainage project [from Page 14 of these minutes]. Supervisor Tyksinski was made aware this morning of environmental issues with this project and he believes that Barton & Loguidice, engineers for the Town, should have recognized this when they first evaluated the situation. He emphasized that he doesn't like change orders and he's tired of getting change orders from Barton & Loguidice. It was the Town Board consensus to seek Requests for Proposals (RFPs) from local engineers.

Training - Oneida County Association of Towns Meeting

The following Resolution was introduced for adoption by Councilman Miscione and duly seconded by Councilman Backman:

(RESOLUTION NO. 86 OF 2012)

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 Councilmen Miscione, Woodland and Backman, Town Clerk Gail Wolanin Young, Highway Superintendent Richard Sherman

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 19

and Town Attorney Herbert J. Cully to attend the Oneida County Association of Towns Meeting business meeting on Tuesday, April 17, 2012 in the Town of Paris (Orchard Hall), New York, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

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

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

Training – Open Meetings Law amendment

Upon request of several Town officials and employees, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Backman:

(RESOLUTION NO. 87 OF 2012)

WHEREAS, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Town Clerk Gail Wolanin Young, Planning/Zoning Board Secretary Dolores Shaw, Town Attorney Herbert J. Cully and Councilman Miscione to attend the “Open Meetings Workshop” on Thursday, April 19, 2012 at SUNY IT, Town of Marcy, New York, with incidental expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilman Miscione	-	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

April 4, 2012

Page 20

**Birgit Aiello vs Benderson Development Co., Town of New Hartford, Developers
Diversified Realty Corporation, Cross & Moore Line Striping, and Kathleen Seiselmeyer**

The insurance company lawyer representing the Town in the above matter has requested that he be allowed to remove original Town Planning Board and Planning Department files on the Consumer Square shopping mall, to be copied and used in the Town's defense. The Town Clerk told Mr. Harrington of Morris, Duffy, Alonso & Faley that she felt uncomfortable in allowing original records to be removed from the Town's possession. Possible solutions were discussed and the Town Attorney will contact Mr. Harrington tomorrow and discuss the possibility of on-site scanning.

Zone Map Amendment Application/Modification – New Hartford Business Park

Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 88 OF 2012)

WHEREAS, on January 9 and January 11, 2012, the New Hartford Office Group (Lawrence Adler) and other property owners had submitted a Zone Map Amendment application to rezone the New Hartford Business Park from PDP to PHB (30.5 acres) and from PDP to PDMU (216 acres); and

WHEREAS, on January 19, 2012 the petitioners submitted additional materials to supplement their Zone Map Amendment application, after which the matter was referred to the Town Planning Board and to the Oneida County Planning Department for review and recommendation pursuant to Section 239 of the General Municipal Law and the Town's Zoning Law; and

WHEREAS, the Town Planning Board and the Oneida County Planning Department had submitted their recommendations on the January 9, January 11 and January 19, 2012 submittals; and

WHEREAS, on April 4, 2012 the Town Board received a request from PAR Technology to modify the acreage involving their property so that the total acreage to be considered for a PDMU classification would be reduced to 206 acres, not the original 216 acres;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby refer PAR Technology's request to modify the acreage to be rezoned to PDMU to the Oneida County Planning Department for their review and recommendation in accordance with the Town's Zoning Law and Section 239 of the General Municipal Law.

The Town Clerk questioned whether the Town needed to go through the SEQR process again and whether this should also be referred to the Planning Board; the Town Attorney

REGULAR TOWN BOARD MEETING
April 4, 2012
Page 21

replied no. Thereafter, the Town Board members voted as follows:

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

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

EXECUTIVE SESSION

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

(RESOLUTION NO. 89 OF 2012)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the acquisition of real property.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media and Department Heads, were then excused from the meeting at 8:28 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

END OF EXECUTIVE SESSION

Councilman Miscione then offered the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 90 OF 2012)

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:

REGULAR TOWN BOARD MEETING

April 4, 2012

Page 22

Councilman Miscione	-	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 8:43 P.M., after which the regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

Acquisition of Lot/White Tail Meadows – Stormwater Management

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

(RESOLUTION NO. 91 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town to acquire a lot on Kay Circle, Tax Map No. 349.020-2-4, in the White Tail Meadows subdivision for stormwater management purposes at a cost not to exceed Thirty-five Thousand Dollars (\$35,000); and be it

FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Supervisor to execute all required documents for the acquisition of the aforementioned lot.

A roll call vote ensued:

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

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

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilman Miscione, the meeting was adjourned at 8:45 P.M.

REGULAR TOWN BOARD MEETING
April 4, 2012
Page 23

Respectfully submitted,

Gail Wolanin Young
Town Clerk