

**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 8, 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 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

**Meeting of July 11, 2012**

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

**(RESOLUTION NO. 191 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 July 11, 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

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Councilman Backman - Aye  
Supervisor Tyksinski - Aye.

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

PUBLIC PRESENTATIONS

Supervisor Tyksinski inquired if anyone present wished to address the Town Board on any matter. Those speaking were:

- Mary Thomas – regarding the property maintenance legislation adopted in July 2012, she wanted to compliment the Town and the contractor hired by the Town to abate the nuisance that had existed adjacent to her property; the contractor was excellent, talked to her and was very informative. She thanked the Town Board for their action.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Public Works & Sewer Committee (Buildings and Grounds) – Councilman Reynolds

**Competitive Bid, Award: One (1) new Pick-up Truck 4X4 and Snow Plow**

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

**(RESOLUTION NO. 192 OF 2012)**

**WHEREAS**, on Tuesday, August 7, 2012 the Town of New Hartford Clerk’s Office received and opened the following bids for the purchase of one (1) new Pick-up Truck 4X4 and Snow Plow:

- |  |  |
|--|--|
| • Van Bortel Ford<br>71 Marsh Road<br>East Rochester, NY 14445     | Pick-up truck \$22,017.53<br>Pick-up truck & Snow plow \$26,500.00<br>Delivery: Est. 90 to 150 days after bid<br>Award |
| • West Herr Ford<br>P O Box 1998<br>Blasdell, NY 13219             | Pick-up truck \$22,347.00<br>Pick-up truck & Snow plow \$26,772.00<br>Delivery: Est. 3 to 4 weeks                      |
| • Steet-Ponte Ford<br>5074 Commercial Drive<br>Yorkville, NY 13495 | Pick-up truck \$21,998.00<br>Pick-up truck & Snow Plow \$26,628.00<br>Delivery: Est. 2 weeks                           |

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**WHEREAS**, the low bidder, Van Bortel Ford, cannot deliver the vehicle within a reasonable time and it would cost the Town more money to repair and maintain an existing vehicle until the new pick-up truck is delivered;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby reject the low bid submitted by Van Bortel Ford for the aforementioned reason and does hereby accept the second lowest bid submitted by Steet-Ponte Ford and does award the contract to said Steet-Ponte in an amount not to exceed Twenty-six Thousand Six Hundred Twenty-eight Dollars (\$26,628) for the purchase of one (1) new Pick-up Truck 4X4 and Snow Plow, with delivery of said vehicle within two (2) weeks of award of the contract.

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

**Sedgewick Park – Stormwater drainage resolution**

At the June 13, 2012 Town Board meeting Highway Superintendent Sherman reported he had obtained two (2) quotes for the Sedgewick Park stormwater drainage project (\$16,342 and \$14,500) after which the Town Board adopted a Resolution accepting the low quote of Peck Construction. However, since that time, Peck Construction would not provide the proper insurance and can't start the project until October 2012. L & P Trucking is now the low bidder but property owner Peter Cragolin, whose property is a very important part of this project, wants the ten (10) trees that must be removed for the swale to be replaced with ten (10) 5-foot Norway spruce trees at a cost of Seven Hundred Ninety Dollars (\$790). The Town Attorney emphasized that he needs all this information in order to incorporate same in legal documents for this project. Thereafter, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Miscione:

**(RESOLUTION NO. 193 OF 2012)**

**WHEREAS**, since the Town Board adopted Resolution No. 154 on June 13, 2012 accepting the low quote submitted by Peck Construction for the Sedgewick Park Stormwater drainage project, said Peck Construction is unable to provide the proper insurance and would not be able to commence the project until October 2012;

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**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby declare null and void its acceptance of the quote submitted by Peck Construction and does hereby accept the quote submitted by L & P Trucking in the amount of \$16,342, awarding the contract for the Sedgewick Park Stormwater drainage project to said L & P Trucking; and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct an additional cost of Seven Hundred Ninety Dollars (\$790) for ten (10) 5-foot Norway Spruce trees to replace ten (10) trees that must be removed in order for the aforementioned project to be completed, all contingent upon the Town Attorney receiving all necessary information to prepare legal documents.

A roll call vote was duly held and resulted 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**.

**Roadside Ditching Agreement – Oneida County**

The Town Attorney having reviewed the roadside ditching agreement with Oneida County, Councilman Reynolds offered the following Resolution for adoption and Councilman Woodland seconded same:

**(RESOLUTION NO. 194 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor and Highway Superintendent to execute the 2012 Roadside Ditching Agreement between the Town of New Hartford and the County of Oneida acting through the Oneida County Department of Public Works wherein said Town agrees to furnish some machinery and labor to the County for the purpose of providing the County with roadside ditching services to keep Right of Way portions of the highway ditched in accordance with the rules and regulations as set forth by the County, which rules and regulations are made a part of said Agreement for the construction season dating from April 2012 through December 2012.

This Agreement is at the same rate as for calendar year 2011. The Town Supervisor then polled the Board members who voted as follows:

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

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

**Drainage Projects; Budget**

Highway Superintendent Sherman and the Town Supervisor had met with regards to some drainage projects, noting that the drainage budget is running low. Supervisor Tyksinski proposed transferring Ten Thousand Dollars (\$10,000) from the stormwater bond account into the drainage account to cover the cost of stormwater projects being performed by contractor John Spinella: Christopher Circle, Chapman Road, Carmen Lane, Bradley Road and Brantwood Road. The Town Supervisor noted that the Town is accomplishing more stormwater work by using a contractor; Councilman Reynolds agreed.

With regard to the National Emergency Grant provided to Oneida County by the NYS Department of Labor (NOTE: Refer to June 13, 2012 Town Board minutes), Highway Superintendent Sherman reported that the group of laborers had completed clean-up of Sauquoit Creek and are now going to clean-up the tributaries to Sauquoit Creek. Through the clean-up project, another sewer line was found to be exposed in the woods, but not ruptured; the Town needs to perform some work to protect the line. He has been informed by NYS Department of Environmental Conservation that additional monies will be forthcoming to the Town.

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

**(RESOLUTION NO. 195 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Accounting Department to transfer Ten Thousand Dollars (\$10,000) from Stormwater Capital Project Account HK8540.4 into General Fund Whole-Town Drainage Account AA8540.4 to cover several small stormwater drainage projects.

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

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

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Councilman Backman - Aye  
Supervisor Tyksinski - Aye.

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

Senior Citizen Committee – Councilman Reynolds

**Summer Mentoring Program**

The annual summer mentoring program included 46 volunteers and 35 children.

Assessor Committee - Councilman

**Training**

Upon request of the Town Assessor, the following Resolution was introduced for adoption by Councilman Miscione and duly seconded by Councilman Woodland:

**(RESOLUTION NO. 196 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 Paul E. Smith, Assessor, to attend the NYSAA Seminar on Assessment Administration from September 30, 2012 to October 3, 2012 in Lake Placid, NY with expenses estimated at Nine Hundred Dollars (\$900) to be borne by said Town as budgeted.

The Resolution was voted upon by 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**.

Town Clerk Committee – Councilman Woodland

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**Appointment – Dog Enumerators**

Upon recommendation of the Town Clerk, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Miscione:

**(RESOLUTION NO. 197 OF 2012)**

**WHEREAS**, on April 25, 2012 the Town Board authorized the Town Clerk to proceed with a dog enumeration (census), including the printing of forms and receiving applications for Dog Enumerators (Laborers) who shall be paid Seven Dollars and Seventy-five Cents (\$7.75) per hour on a bi-weekly basis, plus mileage at the current rate of \$.46 per mile;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby appoint Joseph Irwin and David Morey as Seasonal Laborers, effective August 13, 2012, to assist in performing the dog census with their workweek not to exceed thirty (30) hours.

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

**MATTERS SUBMITTED BY COUNCILMEN AND TOWN ATTORNEY**

**Councilman Backman:**

- status of Cable TV franchise agreement – wants to negotiate some kind of contract. Negotiate some things off. Would like rest of Town wired
- asked for loss run report from Bailey Haskell & LaLonde and haven't received this document. Heading into the 2013 budget process and wanting to make departments responsible; budget reserve for claims

**Councilman Reynolds:**

- regarding the Cable TV franchise agreement, his continuing concern is that the Town is receiving all franchise fees due (the Town has nine [9] different zipcodes)

**Town Attorney:**

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**Town of New Hartford vs Ralph Humphreys – Proposed Settlement on Zoning Matter**

The Town Attorney brought forth the request for a Resolution to approve this zoning matter settlement based upon Ralph Humphreys' right as a property owner to use a personal aircraft from his property and owner as a pilot and having invitees and not using the airstrip more than 30 times annually. In exchange, Mr. Humphreys would cease truck repairs on his property as of July 2012; and should he sell this property to another farmer, that farmer could repair his own vehicles on premises but no one else's. The Town can't sue him again for the same thing. Murray Kirshtein, attorney for Ralph Humphreys, had drafted the settlement and the Town Attorney had some input as well as Mr. Humphreys and the final agreement was made. Councilman Backman inquired whether any other person has the same right? The Town Attorney responded they would have to apply to the FAA and obtain approval; there are regulated airports and private landing strips...personal aircraft. Councilman Backman further asked if this settlement would have a "grandfather" effect on others who might have a landing strip. Councilman Woodland questioned the Town Attorney on how the Town goes forth and the question arose as to whether the Town would be creating a situation where the Town opens this up for lawsuit by others. Attorney Cully said the stipulation settlement deals with the truck repairs that in five (5) years will be shut down. Councilman Reynolds had no problem with the truck repair issue but has a problem with the airplane and asked that the settlement be further defined as to Mr. Humphreys' type of aircraft and size of the landing strip. Attorney Cully will include the type of aircraft, size/length of the landing strip in the stipulation settlement. The Town Attorney stated that Mr. Humphreys has been operating his plan for years; the Town received a complaint from a Paris Road resident about his plan taking off/landing and that Mr. Humphreys had an inspection station and was repairing "outside" trucks, which is not an allowed use in an agricultural area. Councilman Backman then offered the following Resolution for adoption; seconded by Supervisor Tyksinski:

**(RESOLUTION NO. 198 OF 2012)**

**RESOLVED** that, in the matter of the Town of New Hartford vs Ralph Humphreys (zoning matter pertaining to truck inspections and operation of an aircraft landing strip), the New Hartford Town Board does hereby authorize and direct Town Attorney Herbert J. Cully and Codes Enforcement Officer Joseph A. Booth to sign the stipulation settlement, which is to include specific details on the type of aircraft operated by Mr. Humphreys and the description of the landing strip to include length and pavement, all of which are to be agreed upon by Mr. Humphreys.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye



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

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

**Inter-municipal Agreement: Town of New Hartford/Village of New York Mills – Road Paving; Budget Transfer**

The Town Supervisor explained there is a strip of road deteriorating in the Village of New York Mills, that goes from the Main Street-Burrstone Road intersection down to the intersection of the Hapanowicz property and then out to Commercial Drive. The Village of New York Mills doesn't have funds to repair it and this area is an integral part of getting from Utica to the business district on Commercial Drive; Attorney Cully has reviewed the matter and confirmed that the Town can use mitigation fees to repair these sections of roads, which are owned by the said Village; however, an inter-municipal agreement is needed first. The estimated cost for paving is about \$76,411 plus striping about \$1,000 or \$2,000 – quote from SuitKote. This is a connector area between two (2) GEIS areas; as a result of increased usage of these connector streets due to increased commercial activity, it has been determined that mitigation funds can be used to remediate the situation. Councilman Backman believes this is wrong because the Village of New York Mills collects sales tax. The Town Attorney disagreed because the mitigation funds were generated because of commercial activity, etc. There are two (2) parts to this proposal: 1.) the inter-municipal agreement, and 2.) transfer of \$76,000 in mitigation fees.

Thereafter, Supervisor Tyksinski offered the following Resolution for adoption; seconded by Councilman Miscione:

**(RESOLUTION NO. 199 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby approve the Inter-municipal Agreement between the Town of New Hartford and the Village of New Hartford with regard to paving Henderson Street and Clinton Street through the use of fees in-lieu-of mitigation (FILM) and does hereby authorize and direct the Town Supervisor to enter into and to execute said Inter-municipal Agreement in accordance with the terms contained therein.

Councilman Backman objected to the proposal because the streets are not town-owned roads and with regard to taxes, the Village of New York Mills' property owners don't pay for police protection because they have their own police force, and they don't pay highway taxes. The Town Supervisor polled the Town Board members who voted as follows:

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

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

**Budget Transfer – FILM/Road Paving**

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

**(RESOLUTION NO. 200 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Accounting Department to transfer Seventy-six Thousand Four Hundred Eleven Dollars and Ten Cents (\$76,411.10) from the French-Burrstone Road-Champlin Ave GEIS mitigation account into the Part-town Highway Fund paving account for the purpose of paving Henderson and Clinton Streets as provided for by an Inter-municipal Agreement entered into between the said Town and the Village of New York Mills.

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

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

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

**Settlement – Notice of Claim (Summons and Complaint): Karen E. Hilton**

Upon presentation by the Town Attorney, Councilman Miscione offered the following Resolution for adoption and Councilman Reynolds seconded same:

**(RESOLUTION NO. 201 OF 2012)**

**WHEREAS**, Karen E. Hilton made a Notice of Claim, dated August 29, 2006, against the Town of New Hartford for alleged damages sustained to her residence at 1221 ½ Pleasant Street, P O Utica, New York, because of water run-off; and

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**WHEREAS**, a Summons and Complaint dated July 30, 2007, and filed in the Oneida County Clerk’s Office on October 1, 2007 in the matter of Karen E. Hilton, Plaintiff vs Earle Reed, as Supervisor of the Town of New Hartford, the Town of New Hartford, Anthony Picente, as Oneida County Executive, and the County of Oneida, Defendants, was subsequently served upon then-Supervisor Earle Reed; and

**WHEREAS**, the firm of *Smith, Sovik, Kendrick & Sugnet, P.C.* had been retained to represent the Town of New Hartford and Supervisor by the Town’s insurance company in the aforementioned litigation, which has now been settled;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby approve the settlement of this claim and does further authorize the reimbursement of Twenty-five Hundred Dollars (\$2500) to American Commercial Management, which is the deductible amount on the Town’s insurance policy for the policy period June 30, 2006 through June 30, 2007.

The Town Board members then 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***.

**Drugs (Bath Salts) – proposed legislation**

Supervisor Tyksinski noted that the area is experiencing threatening issues as a result of persons using drugs known as “bath salts” whose chemical compounds are known to produce violent tendencies. The Cities of Rome and Utica have implemented legislation regarding this matter and the Town Attorney has prepared a draft, including a minimum fine. The Federal Government has their own legislation on this matter. A problem with this type of drug is that the manufacturers of these synthetic compounds are three (3) steps ahead of law enforcement. Councilman Backman believes this matter should be regulated at the state level and referred to an Observer Dispatch article in this morning’s newspaper. The Town Attorney will finalize this local law including chapter numbers and format for presentation at the September 2012 Town Board meeting.

Councilman Reynolds (continued)

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**Veterans' Memorial Park**

Councilman Reynolds complimented the Parks and Recreation Director on the attractive sign that had been installed at the Veterans' Memorial Park.

**Grant – Safe Routes to School Funding**

In response to Councilman Reynolds' inquiry about the Safe Routes to School Funding grant, the Parks and Recreation Director said the only way to qualify for a grant is if the school has students walking; but New Hartford Central School picks up all students. The Parks and Recreation Director will look into this again, so that sidewalks could be extended in certain areas like Oxford to Kellogg Road and the area around the Myles Elementary School on Clinton Road (aka Route 12B), etc. The Town would need to submit a letter from the School that no bus picks up students in certain areas.

**Police Commission – resumes**

Because the announcement for receipt of resumes for Police Commissioner appointments was posted late on the Town's website, Councilman Backman has extended his window for receiving resumes until August 31, 2012. All Councilmen are to give a name to the Police Chief for background checks and the matter of appointments will be placed on the September 12, 2012 Town Board agenda.

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

**Finance:**

**Audit of Vouchers**

Upon presentation of the Town Supervisor, Councilman Miscione presented the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 202 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:

Rec. Center Bldg/Community Center Abstract #2	
Vouchers H72	\$ 1,385.00
Applewood Traffic Signal Abstract #4	
Vouchers HI6-HI7	\$ 9,008.92
Sauquoit Creek Sewerline Abstract #5	
Vouchers HT9-HT11	\$ 73,932.84
Elm Street Creek Banks Abstract #5	
Vouchers HN8	\$ 453.00

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Clinton Street Extension Abstract #5	
Vouchers HD15-HD16	\$ 32,774.44
Communications Abstract #6	
Vouchers HL16-HL18	\$ 2,722.30
General/Part-Town Police Abstract #18	
Vouchers BP141-BP145	\$ 32,870.58
General Part-Town Police Abstract #19	
Vouchers BP146-BP162	\$ 11,916.06
General/Part-Town Abstract #22	
Vouchers BB117-BB120	\$ 6,147.71
General/Part-Town Abstract #23	
Vouchers BB121-BB130	\$ 3,971.54
General/Whole-Town Abstract #29	
Vouchers AA833-AA846	\$179,198.15
General/Whole-Town Abstract #30	
Vouchers AA847-AA848	\$ 468.01
General/Whole-Town Abstract #31	
Vouchers AA849-AA852	\$ 4,612.70
General/Whole-Town Abstract #32	
Vouchers AA855-AA948	\$ 65,208.25
Highway/Part-Town Abstract #10	
Vouchers DB442-DB485	\$175,630.29
Route 840 Access Ramp Abstract #5	
Vouchers HE9-HE11	\$119,745.97
Sewer Abstract #22	
Vouchers SS61-SS64	\$ 565.59
Sewer Abstract #23	
Vouchers SS65	\$ 806.20
Sewer Abstract #24	
Vouchers SS66-SS73	\$ 8,646.23
Stormwater Series II Abstract #6	
Vouchers HK15-HK17	\$ 92,642.05
Trust and Agency Abstract #32	
Voucher TT139-TT140	\$ 4,866.29
Trust and Agency Abstract #33	
Vouchers TT141-TT148	\$ 14,388.42
Trust and Agency Abstract #34	
Vouchers TT149-TT157	\$ <u>14,082.48</u>
	<b>\$856,043.02 TOTAL</b>

Discussion ensued about expenses being paid that relate to the Business Park and which expenses total about \$145,000; at the last Board meeting it was reported that there was

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only a balance of \$85,000 of the \$1.1 million commitment; the Town Supervisor stated he had talked with developer Lawrence Adler today and Mr. Adler will talk to his accountant whether to reimburse the Town for any overages or pay the contractor directly. This finishes the Town's responsibility. 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 declared unanimously carried and duly ***ADOPTED***.

### **Financial report**

In the absence of the Finance Director who was out of town, the Supervisor distributed the monthly financial report. Finance Director Daniel Dreimiller had met in July 2012 with the department heads of Parks and Recreation, the Highway Department and Police Department and their budgets are pretty much in line with the 2012 budget.

### **EXECUTIVE SESSION**

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

#### **(RESOLUTION NO. 203 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the employment history of a particular employee and to discuss the Town's litigation strategy in the following lawsuits:

- Benderson lawsuit
- Case lawsuit
- Notice of Claim O'Neill vs Town
- incident report CIRAICO matter
- Summons and complaints
  - Sullivan
  - Anguish
  - Salatino
  - LeFevre
  - Carman
  - Pizzo

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- Wiatr
- Champion.

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 8:16 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, August 9, 2012.]

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 204 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:

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 8:52 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

**50-H hearing – O’Neill Notice of Claim**

Councilman Miscione introduced the following Resolution for adoption; seconded by

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Councilman Reynolds:

**(RESOLUTION NO. 205 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and allow Town Attorney Herbert J. Cully to proceed with 50-H hearings on the Renee O'Neill Notice of Claim against the said Town.

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

**Budget Transfer – Police Vehicle**

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

**(RESOLUTION NO. 206 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Accounting Department to transfer Twenty Thousand Dollars from the Seneca Turnpike-Commercial Drive Mitigation Fund to the General Fund Part-Town Police Equipment Account for the purchase of a new police vehicle.

A roll call vote was duly held and resulted as follows:

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***.

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of



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Councilman Backman and seconded by Councilman Reynolds, the meeting was adjourned at 8:55 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk