

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, OCTOBER 24, 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 Booth  
Deputy Town Supervisor Matthew Bohn III  
Finance Director Daniel Dreimiller  
Highway/Sewer Superintendent Richard C. Sherman  
Parks and Recreation Director Michael W. Jeffery  
Police Chief Michael S. 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 Minutes**

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

**(RESOLUTION NO. 237 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held September 12, 2012; September 26, 2012 and October 3, 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

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

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

PUBLIC HEARINGS

7:02 P.M.                      Local Law Introductory “L” of 2012  
Town Code, Chapter 57, Synthetic Drugs

The Town Supervisor opened the Public Hearing at 7:02 P.M. with regard to Local Law Introductory “L” of 2012, which, if adopted, would amend the Town Code, Chapter 57 thereof entitled “DRUGS” by adding Article II to prohibit the sale and possession of synthetic drugs and other similar substances or compounds. [NOTE: The Town Clerk had available for public inspection the Notice of Public Hearing, Local Law Introductory, Proof of Publication (October 14, 2012 edition of the Observer Dispatch) and Affidavit of Posting.] The Town Attorney gave a brief introduction about the problems/serious issues that localities are experiencing with the synthetic drugs/compounds whose chemical substances are being changed from time to time. This legislation would ban selling and/or using these substances locally and prosecuted as a civil matter. He noted that the federal and state governments also have adopted their own legislation that would be prosecuted as criminal cases. The Town Board has received the Police Chief’s input, which is a valuable tool.

Supervisor Tyksinski asked those who wished to speak in favor of, in opposition to, or merely to comment upon Local Law Introductory “L” to state their name for the record and to limit their comments to three (3) minutes. Those speaking were:

- Margot Unkel, lives in Clinton NY – feels the legislation to be very beneficial for the health of those involved; negative effects of those using bath salts are felt.

There being no one further to speak in the matter, the Supervisor declared the Public Hearing closed at 7:04 P.M.

7:05 P.M.                      Local Law Introductory “K” of 2012  
Natural Gas Exploration and Extraction

At 7:05 P.M. the Town Supervisor opened the Public Hearing with regard to Local Law Introductory “K” of 2012, stating that anyone wishing to speak in the matter provide their name and limit their comments to three (3) minutes. [NOTE: The Town Clerk had available for public inspection the Notice of Public Hearing, Local Law Introductory,

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proof of publication (October 14, 2012 edition of the Observer Dispatch), and Affidavit of Posting; also, SEQR responses from six agencies. The Town Attorney commented that everyone is aware of the situation involving hydrofracking (hydraulic fracturing) or natural gas exploration and that New York State is in the process of conducting a review of this process. On its own motion, the Town Board drafted Local Law Introductory “K” with the intention of prohibiting the exploration and extraction of natural gas within the Town of New Hartford. This legislation has been drafted similarly to that of the Town of Dryden’s whose law has been supported by the Supreme Court. However, the Town Attorney recommended that Section 5 on Page 3 of the legislation be eliminated as municipalities don’t have the authority to override state and/or federal permits. Further, the Oneida County Planning Department also mentioned this in their SEQR recommendation. The Town Attorney referred to the 2007 Comprehensive Plan for the Town, addressing environmental features, farmland, water concerns, on-going protection of aquifers, air quality and so forth. Since the Town Board had not received the written recommendation from the Town Planning Board, no action will be taken this evening on Local Law Introductory “K” of 2012.

The Town Attorney acknowledged the efforts, time and information that Carleton Corey has put forth in this matter.....that he wasn’t able to be here tonight – but referred to his comments at a prior Town Board meeting.

Persons who came forth with comments included:

- Margot Unkel (from Clinton, NY) – rights of landowners. Health risks. Number of heavyweight trucks hauling in/out materials, bulldozers, etc., contaminating air with pollutants. Blatant disregard for property owners. Not in favor of hydrofracking.
- Ralph Humphreys (New Hartford resident) – the legislation doesn’t mention hydrofracking...don’t see any new activity from National Grid because you’re barring new gas stations or tanks and propane is supposedly the new thing for vehicles. Suggested the legislation be reviewed and rewritten to address these matters. Consider who you are going to exempt from this legislation.
- Jim Stewart (New Hartford resident) – agree with others. There’s anti smoking laws for bars and restaurants – we breathe the same air. It’s the same with hydrofracking. Your rights stop when you trample on the community.
- Brymer Humphreys (New Hartford resident) – referred to an article on hydrofracking that was published in Volume 27 of the “Talk of the Towns & Topics”, published by the Association of Towns of the State of New York. He had concerns with the exclusion of pipelines – can’t drill straight line down for

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- gas and/or oil. Thinks this legislation is inadequate for what the Town Board may be trying to do.
- Mary Chapin (New Hartford resident) – thanked the Town Board for protecting the residents, unlike other municipalities
  - Amy Buchholz (Town of Marshall resident) – the Town of Marshall is struggling with this and taking similar action to what you're doing. She thanked the Town Board "...because we're all sitting on one large aquifer". Concerned with contamination of the air.
  - Dick (Yonko ??) – someone charged in Pennsylvania – had been dumping sludge in stormwater sewers and directly into rivers. 40,000 fish killed and contaminants to other animals and people using water. Major concern – hazardous chemicals arrive on site.
  - (woman – last name Morelli ??; New Hartford Resident) – concerned with contamination of air, soil. Thanked Town Board for their action.
  - Mallory Road woman (Town resident) – hydrofracking a lot in Pennsylvania, which has 10% unemployment...doesn't make sense. Commended the Town Board for their action.
  - Nancy of Butler Road (Town of Paris) – there would be no need for exemptions if they (companies) weren't breaking the law. Only interested in making a profit. People in Pennsylvania are living in dangerous conditions....23 year old family man crushed with vehicle that was told couldn't be replaced because the company couldn't afford it. Toxicity involved. Doctors have gag order/can't discuss treatment of people.
  - Jeanette Brennan said the Town of Paris is currently working on a local law to address this matter. Natural gas won't enhance our farmland. Will prohibit future development. Don't want industrialization of lands here and she thanked the Town Board for their action and hope the Town of Paris follows suit.
  - Woman from Waterville – this could affect so many people adversely. Property values – article 3 weeks ago; total drop out somewhere in downstate NY. May have trouble getting insurance and mortgage on property. Look at Texas...where there's a boom, there's a bust. What was supposed to be benefits turned into disaster.

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- Jim Stewart – inquired about Planning Board’s recommendation. Herb said Planning board meetings are open to the public but they are not holding a public hearing on this matter.
- Teresa Morelle (formerly of New Hartford and now a Utica resident) – agrees with other people who have spoken against hydrofracking.

There being no one further to speak in the matter, the Town Supervisor closed the Public Hearing at 7:33 P.M.

Town Attorney Cully stated that Local Law Introductory “K” of 2012 deals with natural gas exploration and extraction and suggested that Mr. Humphreys read the definitions. Hydrofracking is part of drilling for natural gas and he believes this would apply. If someone had a storage tank (natural gas activities), it’s keyed into extraction to cover all bases. Councilman Backman asked “there’s nothing that would preclude other activities”? “Correct”, said Attorney Cully. The Town Board will be eliminating Paragraph 5 (invalidity of permits) and this matter will be on an Agenda for a November 2012 Town Board meeting once the Planning Board recommendation has been received.

**Adoption of Local Law Introductory “L” of 2012 as Local Law No. Eight of 2012**

Councilman Reynolds then moved that Local Law Introductory “L” of 2012 be adopted as Local Law No. Eight of 2012 in the following format; seconded by Councilman Backman:

**Town of New Hartford, New York  
Local Law Introductory “L” of 2012**

***A Local Law to amend the Code of the Town of New Hartford, Chapter 57 thereof entitled “DRUGS” by adding Article II to prohibit the sale and possession of synthetic drugs and other similar substances or compounds.***

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

**Section 1.** The Code of the Town of New Hartford, Chapter 57 thereof entitled “DRUGS”, is hereby amended by adding the following Article II:

**CHAPTER 57 ARTICLE II SYNTHETIC DRUGS-SECTION I**

Section 57-7 – Definitions

- A. 1-Pentyl-3- (1-naphthoyl) indole; some trade of other names: JWH-018; or

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- B. 1-Butyl-3- (1-naphthoyl) indole; some trade or other names: JWH-073; or
- C. 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole; some trade or other names: JWH-200; or
- D. 5-(1.1-dimethyloctyl)-2-[1R, 3S)-3-hydroxycyclohexyl [-phenol; some trade or other names: CP-47, 497; or
- E. 5-(1.1-dimethyloctyl)-2-[1R,3S)-3-hydroxycyclohexyl]-phenol; some trade or other names: cannabicyclohexanol; CP-47, 497 C8 homologue; or
- F. 4-methylmethcathinone (Mephedrone).
- G. 3, 4-methylenedioxypropylvalerone (MDPV)
- H. Any substance prohibited in an Order for Summary Action in the Matter of the Sale and Distribution of Synthetic Cannabinoids issued by the New York State Department of Health dated March 28, 2012 and any similar Order subsequently issued by the State of New York Department of Health.
- I. Any synthetic drug analog which shall mean a substance.
  - a. The chemical structure of which is substantially similar to the chemical structure of a Synthetic Drug as described above.
  - b. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a Synthetic Drug as described above.
  - c. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a synthetic drug as described above.

Section 57-8 No person shall sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any Synthetic Drug in the Town of New Hartford.

Section 57-9 No person shall be in the possession of any Synthetic Drug within the Town of New Hartford, New York, unless said synthetic Drug is expressly

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prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York, and at the time of the alleged violation, the person in possession of the Synthetic Drug is able to provide written proof to the law enforcement officer(s) that the Synthetic Drug was so prescribed

**Section 57-10**

Any person who violates any of the requirements of this Section or any regulation promulgated hereunder shall be subject to a fine of not more than \$250.00 and/or imprisonment for not more than 15 days for each such civil offense. With regard to the sale of Synthetic Drugs, each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

**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.

A roll call vote ensued:

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

Thereafter, Local Law Introductory “L” of 2012 was declared unanimously carried and duly ***ADOPTED*** as Local Law No. Eight of 2012.

**PUBLIC PRESENTATIONS**

Supervisor Tyksinski inquired if anyone present wished to address the Town Board on any matter. The following persons came forth:

- Mark Krasinski – has been following the windmill legislation; is there something in the near future?

The Town Supervisor responded there are some amendments that will be made to the legislation; he and Councilman Miscione have been working on this matter and he

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anticipates introduction of the revised legislation sometime in November 2012. Councilman Reynolds mentioned that the Town Board had received a copy of the Town of Litchfield legislation from Charles Newell and suggested providing a copy to Mr. Krasinski.

- Ralph Humphreys – you’re proposing a 3% decrease and then borrowing money. (BAN)

The Town Supervisor asked that Mr. Humphreys not “mince words”, stating that the Town could raise taxes and pay off the Bond Anticipation Note (BAN). Supervisor Tyksinski would trust that Mr. Humphreys and others in New Hartford allow the Town to BAN – “we’re not losing money, we’re making it”.

“  
Brymer – majority of speakers were not residents of the Town.

- Unidentified man – inquired if someone could appeal the natural gas law.

The Town Attorney responded that the person could apply for a variance.

**REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON**

**Public Works and Sewer Committee – Councilman Reynolds**

**Agreement – Snow and Ice Control with Oneida County**

The Town Supervisor had met with Oneida County Executive Anthony Picente with regard to a number of matters, one of which was the Snow and Ice Control Agreement on County roads; Supervisor Tyksinski had been reassured there would be no problem with the 2<sup>nd</sup> year of the contract and therefore recommended that the Town Board move forward with this 2-year Agreement. The following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Woodland:

**(RESOLUTION NO. 238 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Superintendent of Highways and the Town Supervisor to enter into and to execute an Agreement with the County of Oneida, by and through Dennis S. Davis, Commissioner, County Department of Public Works, 6000 Airport Road, Oriskany, New York, for the control of snow and ice on County Roads for the Snow Season dating from November 1, 2012 through April 30, 2014, and as more fully set forth in an Agreement to be filed in the New Hartford Town Clerk’s Office.

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Councilman Backman wants a clear message to be sent to the Oneida County Legislature that giving them what they want (signed 2-year agreement with no raises), that at the expiration of this Agreement, the Town expects a significant increase in the dollar amount per mile for plowing County roads....double digit. Highway Superintendent Sherman has met with other area town highway superintendents and the current reimbursement rate (\$55/per mile) is actually costing the towns to plow County roads. Thereafter, upon roll call, the Town Board voted as follows:

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

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

MATTERS SUBMITTED BY COUNCILMEN

Councilman Miscione:

**Approval of RFP for Mud Creek Basin Drainage Study**

Requests for Proposal for Mud Creek-related engineering work were sent to Dunn & Sgromo Engineers of East Syracuse, NY; T. D. K. Engineering Associates, PC, of Camillus, NY; and C & S Company of Buffalo, NY. Barton and Loguidice has canvassed the sole Proposal received from Dunn & Sgromo Engineers and believes it to be okay; the Highway Superintendent has checked the company background and found they do good work. The Scope of Services could be done by the end of December 2012. Councilman Miscione introduced the following Resolution for adoption; Councilman Reynolds seconded same:

**(RESOLUTION NO. 239 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the sole RFP submitted by DUNN & SGROMO ENGINEERS, PLLC, 5800 Heritage Landing Drive, East Syracuse, New York 13057, to perform the Scope of Services outlined for the Mud Creek Basin Drainage Study at a cost of Forty-four Thousand Five Hundred Dollars (\$44,500) to be paid from the GEIS mitigation fees; and does further authorize and direct the Town Supervisor to enter into and to execute all necessary contract documents with regard to said Drainage Study

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

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

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

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Senior Citizen Committee - Councilman Reynolds:

**2012 Donation/Budget adjustment**

Upon request of the Director of Senior Services, Councilman Reynolds offered the following Resolution for adoption and Councilman Miscione seconded same:

**(RESOLUTION NO. 240 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 following donations:

- \$ 100.00 from Earle Reed
- \$ 200.00 from the Make a Difference Breakfast
- \$ 825.00 from the Health Fair
- \$ 183.00 from CDPHP

all to be used for senior citizen activities at the New Hartford Adult Dining and Activity Center; and be it

**FURTHER RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Finance Department to make the following 2012 budget adjustments for the New Hartford Adult Dining and Activity Center:

- |  |   |             |
|--|---|-------------|
| • Increase General Fund Whole-Town Contractual Account A6772.4 | - | \$1,308.00  |
| • Increase General Fund Whole-Town Revenue A2705.1             | - | \$1,308.00. |

A roll call vote ensued:

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

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

Town Clerk Committee – Councilman Woodland:

**Public Hearing Scheduled – 2013 Preliminary Budget; Copies for Public**

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

**(RESOLUTION NO. 241 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford will conduct Public Hearings to commence at 7:00 P.M., or as soon thereafter as reached in the regular course of business, on Wednesday, November 7, 2012 in Butler Memorial Hall, 48 Genesee Street in said Town, to consider the following matters:

- the adoption of the 2013 Preliminary Budget as the 2013 Annual Budget; and
- the establishment of the ad valorem charges for the fiscal year beginning January 1, 2013 for the following special districts/improvement areas

Water Fund  
Fire Protection Districts No. 1 through No. 5,  
Inclusive  
Various Street Lighting Districts; and be it

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

The Resolution was then voted upon as follows:

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

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Supervisor Tyksinski - Aye.

The Resolution was declared unanimously carried and duly **ADOPTED**. In accordance with law, the Town Board directed the Town Clerk to make fifty (50) copies of the 2013 Preliminary Budget for the public.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Zoning (Codes) and Planning Committee – Councilman Miscione

**Local Law Introductory “M” of 2012 – Repeal Chapter 105, Swimming Pools**

The Town Attorney had discussed this proposed legislation with Codes Enforcement Officer Joseph booth and was satisfied that swimming pools are well covered under State law. [NOTE: Refer to Town Board minutes of October 3, 2012.] Thereafter, Councilman Miscione introduced the following legislation for the Town Board’s consideration at a future Public Hearing; co-sponsored by Councilman Woodland:

**Town of New Hartford, New York**  
**Local Law Introductory “M” of 2012**

A Local Law to amend the Code of the Town of New Hartford by repealing Chapter 105 entitled “SWIMMING POOLS”.

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

**Section 1.** The Code of the Town of New Hartford, Chapter 105 entitled SWIMMING POOLS, is hereby repealed in its entirety.

**Section 2.** This Local Law shall become effective immediately upon its filing with the Office of Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “M” of 2012**

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

**(RESOLUTION NO. 242 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, November 14, 2012 at **7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider **Local Law Introductory “M” of 2012** which, if adopted, would amend the Town Code by repealing Chapter 105 entitled “SWIMMING POOLS” in its entirety; and be it

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

A roll call vote ensued:

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

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

Requests For Proposals (RFPs) - Comprehensive Plan

In response to Supervisor Tyksinski's inquiry, Codes Enforcement Officer Joseph Booth stated that both companies that had submitted RFPs to update the Town's Comprehensive Plan are following similar paths in their quotes – the southern GEIS is a concern to all of us and he understood that the Town Board would like to hear from the companies how they would address this matter.

Margaret Irwin of River Street and John Behan of Behan Planning and Design then discussed their proposals, answering Board members' questions about the southern GEIS and how they would update same or leave "as is", budget proposals for the scope of work and how to approach the property; technical in-house expertise and experts; consideration of zoning, density, growth boundaries, development rights, etc.

The Town Attorney recommended a supplemental EIS to get a positive declaration and that it should be included in both RFPs. Ms. Irwin said that is included in their RFP; Mr. Behan commented that it starts in a town-wide fashion, get into it and be done with it.

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

**(RESOLUTION NO. 243 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the Request for Proposal for update of the Town's 2007 Comprehensive Plan submitted by River Street in the amount of \$71,435 and does hereby authorize and direct the Town Supervisor to enter into and to execute all necessary documents relating to said project.

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

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Councilman Miscione - Aye  
Councilman Backman - Aye; as representative of the Southern end of the Town, noting that River Street’s RFP is about Ten Thousand Dollars (\$10,000) less than Behan Planning and Design, and that River Street just finished a project in the Town of Paris and has a “..flavor of the southern part of the Town of New Hartford

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

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

At the October 3, 2012 Town Board meeting, Supervisor Tyksinski mentioned that in the past the Town had a citizens committee for input as the plan progressed and asked that each Board member select a representative to serve on such committee. Councilman Backman said he had “no one at this time”; Councilman Reynolds had “feelers” out; and Councilman Woodland was “..not ready at this time”. Supervisor Tyksinski suggested that Attorney John Maya be appointed and asked that the Councilmen submit their selections by the November 7, 2012 Town Board meeting.

**2013 Budget**

Councilman Miscione asked that about \$42,000 be added to the 2013 Budget for software update for the Codes Enforcement Office.

**Finance Director – Monthly Report**

Finance Director Dreimiller distributed copies of the September 2012 financial report that included bank account cash balances, cash roll-forward, actual to budget analysis, mitigation account summaries, capital project fund summaries and revenue summaries.

**Agreement – MS4 Services/Oneida County Soil and Water Conservation District**

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

**(RESOLUTION NO. 244 OF 2012)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute a Service Agreement between the Town of New Hartford and the Oneida County Soil and Water Conservation District for the period of November 1, 2012 to October 31, 2013 whereby said Conservation District will, for the sum of Twenty-five Hundred Dollars (\$2500), provide:

- Site visits and consultations regarding natural resource concerns

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- Site Plan Reviews for proposed development
- Construction site inspections for stormwater, erosion and sediment control
- Assistance to MS4 communities for permit compliance
- Education and outreach for municipal officials, residents and contractors
- Flood response and mitigation
- Survey, design and installation of conservation Best Management Practices
- Survey and design of Dry Hydrants
- Grant writing for proposed projects
- Streambank stabilization and stream maintenance including permit assistance
- Wetland development, and
- Hazard Mitigation Plan maintenance.

The Town Board members then voted upon roll call:

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

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

**2013 Town & County Tax Collection – Change of Banks**

Supervisor Tyksinski apprised the Board that Chase Bank handled part of the 2012 Town and County tax collections through a lockbox (post office box) but did not have a local branch for in-person payments. Two (2) local banks have been suggested for lockbox and in-person payments and Supervisor Tyksinski asked for approval of a Resolution to change banks for the 2013 Town and County tax collection. Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 245 OF 2012)**

**RESOLVED** that:

1. Manufacturers and Traders Trust Company (“M&T Bank”), a New York banking corporation, is hereby designated a depository for the Town of New Hartford (Tax Lockbox) and the officers or employees named herein or on a Rider hereto are hereby authorized to open one or more deposit accounts from time to time (each an “Account”) on behalf of the Town of New Hartford (the “Depositor):

Patrick M. Tyksinski – Town Supervisor  
Matthew Bohn III – Deputy Town Supervisor  
Gail Wolanin Young – Town Clerk

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2. M&T Bank may purchase, give credit for, cash, accept and pay from funds on deposit in the Account, without inquiry, all items signed, drawn, accepted or endorsed on behalf of the Depositor, whether under a title, the words "Authorized Signature" or otherwise, with the actual or purported facsimile signature of any one of the officials whose names, capacities and specimen signatures appear above or on a Rider hereto, or his or her successor in office (each an "Authorized Signer"), regardless of the circumstances under which the signature shall have become affixed so long as the signature is the actual signature of an Authorized Signer or resembles the facsimile signature of an Authorized Signer previously certified to M&T Bank. Depositor shall indemnify M&T Bank against all claims, damages, liabilities, costs and expenses (including, but not limited to, attorney's fees and disbursements) incurred by M&T Bank in connection with honoring any signature of any Authorized Signer (including any facsimile signature that resembles the facsimile signature of an Authorized Signer previously certified to M&T Bank or any refusal to honor the signature of any person who is not an Authorized Signer. Depositor acknowledges and agrees that any requirement of Depositor that any item or other instrument for the payment of money signed, drawn, accepted or endorsed on behalf of Depositor bear the signature of more than one Authorized Signer is solely an internal requirement of Depositor and imposes no duty of enforcement on M&T Bank.
3. Any authorized Signer may, on behalf of Depositor, transact with and through M&T Bank all such business as he or she deems advisable upon such terms as he or she deems proper, including, but not limited to, obtaining an undertaking and pledge of collateral for uninsured balances in the Account, entering into custodial agreements concerning such collateral, obtaining such loans and other extensions of credit as may be consistent with applicable law, discounting, selling, assigning, delivering and negotiating items, guaranteeing the obligations of others pursuant to applicable law, applying for letters of credit, electronic funds transfers, capital markets products, automated clearing house ("ACH") payments, cash management, trust and investment products and any other services or transactions, and in compliance with all applicable law and procedures, pledging, hypothecating, assigning, mortgaging, encumbering, granting security interests in and otherwise creating liens upon Depositor's property, whether real or personal, tangible or intangible ("Property"), as security for loans and other extensions of credit, and in connection with any such transaction of business do all acts or other things as he or she shall deem proper including, but not limited to, signing, drawing, accepting, executing and delivering items, guarantees, assignments, pledges, hypothecations, receipts, waivers, releases and other instruments, agreements and documents, making and receiving delivery of Property, accepting, receiving, withdrawing and waiving demands and notices and incurring and paying liabilities, costs and expenses.

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4. In the event an Authorized Signer acting on behalf of Depositor shall apply to or contract with M&T Bank for any electronic funds transfer service that M&T Bank may make available to Depositor, including, but not limited to, any service that contemplates M&T Bank's execution of payment orders initiated by Depositor for the wire or ACH transfer of funds to or from an Account of Depositor, such Authorized Signer shall be employed on behalf of Depositor to designate one or more persons (who may, but need not be, Authorized Signers), each of whom, acting alone, shall be authorized on behalf of Depositor to transmit payment orders to M&T Bank for the transfer of funds to or from Depositor's Account.
  
5. Each person identified as an Authorized Signer, and each person or persons designated by an Authorized Signer to act on behalf of Depositor (who may, but need not be, Authorized Signers), shall have the power and authority to transact business and bind Depositor through electronic medium (e.g., the Internet) and M&T Bank may rely on any of the following to the same extent as the actual signature and proof of identity of each such person to bind Depositor: any electronic signature or digital signature, under applicable law, of such person; any identifier issued by M&T Bank, its affiliates or any other party (e.g., Personal Identification Number associated with ATM or other card or any access device) to such person; or any other criteria that M&T Bank may reasonably rely on which may serve as an indicator of authentication for such person.

The M&T Bank Lockbox offers features that Chase Bank did not. The foregoing Resolution was subject to a vote upon roll call, resulting as follows:

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

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

**M&T Bank (Tax Lockbox) – Treasury Management Resolution**

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

**(RESOLUTION NO. 246 OF 2012)**

**RESOLVED:** That, from time to time, the Tow of New Hartford (Tax Lockbox) may obtain any Treasury Management services (“Services” from M&T Bank with respect to

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any of the Town's deposit accounts at M&T Bank or other accounts at M&T Bank over which the Town has authority ("Accounts");

**RESOLVED:** That any officer, representative or agent of the Town of New Hartford designated below ("Client's TM Signer(s)") may enter into and deliver to M&T Bank, on behalf of the Town for its own affairs or with respect to the affairs of any entity on behalf of which the Town is authorized to act, any agreements (including but not limited to the M&T Master Treasury Management Services Agreement), instruments, and other documents which relate to the Services provided or to be provided by M&T Bank with respect to any Accounts:

- Names of Client's TM Signer – Patrick M. Tyksinski, Town Supervisor

**RESOLVED** That, except as may be elected by the Town below, any one of the Town's TM Signers is also authorized to: (a) give notices, certifications, directions, and instructions under any such agreement, instrument, or document, (b) to execute or otherwise approve any relate documents, and (c) to delegate authority to any other person or entity to act on the Town's behalf in any way with respect to any Services, Accounts or other accounts over which the Town has authority, which persons and entities may or may not be signatories on one or more of the Accounts and may or may not have the ability to delegate authority to others. M&T Bank is not obligated to inquire into the circumstances or propriety of any such, notice, certification, direction, instruction or delegation;

**RESOLVED:** That M&T Bank be and hereby is authorized to rely on these TM Resolutions and the actual or purported signatures of any of the Town's TM Signers until M&T Bank's relationship manager for the Accounts has actually received and had a reasonable time to act on written notice from the Town revoking these TM Resolutions or such authority;

**RESOLVED:** That Client hereby ratifies and confirms all: (a) actions taken, (b) notices, certifications, directions and instructions given, and (c) all agreements, instruments, and other documents entered into, which relate to the Services provided or to be provided by M&T Bank with respect to any Accounts, that were given, taken or entered into prior to the date hereof; and

**FURTHER RESOLVED:** That the Town shall defend, indemnify and hold harmless M&T Bank from and against all liabilities, costs, and expenses (including, but not limited to, attorneys' fees and disbursements) incurred by M&T Bank in connection with honoring, or refusing to honor, any signature, instruction, or action of any of the Town's TM Signers.

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The Supervisor polled the Board members who voted as follows:

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

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

**Agreements for Services – School Resource Officers**

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

**(RESOLUTION NO. 247 OF 2012)**

**WHEREAS**, the Oneida-Herkimer-Madison Board of Cooperative Educational Services (hereinafter called “O-H-M BOCES”) Safe Schools/Healthy Students Initiative has need for a more intensive and coordinated approach to creating a safe and secure setting for the educational process to take place; and

**WHEREAS**, O-H-M BOCES Safe Schools/Healthy Students Initiative desires to engage the services of a School Resource Officer to deal with the problems that occur within the school environment; and

**WHEREAS**, the Town of New Hartford Police Department (Contractor) is desirous to provide personnel to O-H-M BOCES Safe Schools/Healthy Students Initiative to be utilized as School Resource Officer(s) at the times and places indicated in an Agreement for Services;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby agree to enter into Agreements for Services to provide to O-H-M BOCES Safe Schools/Healthy Students Initiative the services of police officers who will serve as School Resource Officers on a part-time basis for the period September 7, 2012 to June 30, 2013:

- Agreement between the Town of New Hartford Police Department, New Hartford Central School District and O-H-M BOCES at an annual sum of Thirty-seven Thousand Five Hundred Dollars (\$37,500) to be paid to the Town as more fully set forth in said Agreement

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- Agreement between the Town of New Hartford Police Department, Sauquoit Valley Central School District and O-H-M BOCES at an annual sum of Thirty-seven Thousand Five Hundred Dollars (\$49,500) to be paid to the Town as more fully set forth in said Agreement;

And be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute the aforementioned Agreements for Services.

The Town Board members were polled and voted as follows:

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

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

**2012 Assessment/Tax Certiorari – Retention of Counsel**

Upon recommendation of Town Attorney Cully, Councilman Miscione offered the following Resolution for adoption and Councilman Woodland seconded same:

**(RESOLUTION NO. 248 OF 2012)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby approve and authorize Anthony Hallak, Attorney for the New Hartford Central School, to represent the Town in the Fiona Markwood assessment certiorari proceeding vs the Town, as well as any other assessment certiorari filed in 2012, with the Town to be billed for a portion of Attorney Hallak’s time in each matter.

A roll call vote ensued:

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

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

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### **FOIL Appeal – domestic violence records**

With regard to a law firm that submitted an Appeal after the Police Chief denied access to domestic violence records, the Town Attorney had reviewed the matter and will provide the law firm with documents showing redacted information and await confirmation that the law firm is satisfied with the Town's response; otherwise, it is expected the law firm will go forward with their appeal to the Town Board.

### **2013 Tentative budget changes: 2013 Preliminary Budget**

Discussion on changes to the Supervisor's 2013 Tentative Budget followed:

- Review of salaries/expenses for administration in Whole-Town General Fund accounts and noting a mathematical miscalculation in the Records Management account, an increase for IT services under central communications. Supervisor to check on proposed salary for Highway Clerk
- Proposal that non-union employees contribute 5% of their health insurance premium in 2013, another 5% in 2014 and 5% in 2015, for a total of 15%. Councilman Backman suggested no raises in salaries and he and Councilman Miscione supported higher employee contribution over a 2-year period. Consensus was to initiate 7.5% employee contribution in 2013 and another 7.5% in 2014 and that raises stay in tact for all non-union employees. Exception for two department heads whose salaries are about maxed out.
- Councilman Backman – add \$5,000 to Town Board contractual for attendance at February 2013 State Association of Towns Meeting in New York City
- Buildings & Grounds (utility and light – police barracks now with lights, heat and showers ....where is additional cost – Councilman Backman suggested adding \$5,000 to cover same; Supervisor Tyksinski said the expense has been covered.
- Councilman Backman – suggested adding \$500 for Police Commission for someone to take minutes. Edmund Wiatr, Jr. offered to tape it for free and post it on the Town's Website. Councilman Reynolds believes someone from the Commission should take minutes. The Town Supervisor said to send them to his secretary to type. Money not approved.
- Councilman Backman said the debt service expense should be in Whole-Town General Fund (pg 1 of 1 Police), referring to a State Comptroller opinion. The Town Supervisor disagreed.
- Under revenue, Councilman Backman questioned whether the Town would approach the \$120,000 figure for miscellaneous police patrols.

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- BAN payments – Councilman Backman questioned why interest payments but not principle payments were shown. The Supervisor explained he plans to convert the BAN to serial bonds in 2013.
- Sewer Fund – Councilman Backman asked if the Board were going to make this fund whole and if so, when. The Supervisor responded “..at the end of the year.” To Councilman Reynold’s inquiry about the \$2,000 reduction in the foreman salary, the Finance Director will check into this.
- Councilmen Backman and Reynolds want to leave the tax rate the same as in 2012.
- Supervisor Tyksinski asked the Finance Director to add \$5600 for parks equipment. The Saturday morning basketball program and Swim Program have been eliminated.

Town Board consensus was to approve changes to the 2013 Tentative Budget, which now becomes the 2013 Preliminary Budget.

### **Betterment Project Agreement (Lighting Improvements) – NYS Route 5 (aka Seneca Turnpike) at Sangertown Square Mall entrance**

With regard to Resolution No. 224 adopted at the September 12, 2012 Town Board meeting, the Town Attorney presented the NYS Department of Transportation Agreement(s) to the Town Supervisor for his execution. The check from Sangertown Square Mall/Pyramid will be delivered to the Town on Thursday, October 25, 2012.

### **ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilman Backman, the meeting was adjourned at 10:13 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk