

**REGULAR MEETING OF THE TOWN BOARD OF  
THE TOWN OF NEW HARTFORD, NEW YORK,  
HELD AT BUTLER MEMORIAL HALL, NEW HARTFORD  
ON WEDNESDAY, DECEMBER 15, 2004 AT 6:15 P.M.**

The Town Supervisor called the meeting to order at 6:15 P.M.; the roll was then taken with the following Town Officials and Department Heads being present during the progress of the meeting:

**TOWN BOARD MEMBERS:** Councilman Donald C. Backman  
Councilman John C. Waszkiewicz III  
Councilman David W. Butler  
Councilman Richard B. Woodland, Jr.  
Supervisor Ralph B. Humphreys

**OTHER TOWN OFFICIALS:** Codes Enforcement Officer Gerald F. Back  
Highway Superintendent Roger A. Cleveland  
Planner Kurt Schwenzfeier  
Police Chief Raymond Philo (left at 6:46 PM)  
Senior Engineering Technician John Meagher  
Town Clerk Gail Wolanin Young, CMC/RMC

**PLANNING BOARD MEMBERS:**  
Chairman, N. Joseph Yagey  
Member Gerald J. Green  
Member Hans G. Arnold  
Member Ronald Morelle  
Member Jerome F. Donovan  
Member Robert Imobersteg

**OTHERS:** New York Mills Trustee John Montrose

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

**PLANNING BOARD**

**Process for projects, such as Pier I parking space increase**

Councilman Waszkiewicz had raised questions at the November 17 and November 18, 2004 Town Board meetings as to whether Town Planning Board approval was required for the twelve (12) additional parking spaces for Men's Warehouse, Commercial Drive, referenced in a Pre-Development Agreement/MOU presented by the Highway Superintendent. He reasoned that if the Planning Board was required to approve the Site Plan Review of the initial project, why wouldn't the Planning Board be required to approve any modification and he sought clarification as to what proposals need Planning Board approval and what doesn't but added that if the process is working, don't change anything.

## **REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 2**

Planning Board Chairman N. Joseph Yagey responded that the Town's Zoning Law (Section 118 of the Town Code) requires approval of modifications but not necessarily by the Planning Board. Planner Kurt Schwenzfeier stated there is no requirement in an RB1 zone classification to go to the Planning Board for a minor change.

Codes Enforcement Officer Gerald Back said that Town staff was given authority to approve some changes in a GEIS area when the Zoning Law was revised in 1999, and that the developer would offer mitigation fees. He stated that this change/authority was granted because years ago the Planning Board Chairman said there were too many cases coming before the Planning Board and in an effort to reduce the load, Town staff was given authority to approve modifications in some instances.

Planning Board member Hans Arnold recited from the Zoning Law, Section 118-19, Amendment to final approval of Site Plan:

*"If, after an applicant receives the Planning Board's final approval on a site plan, the applicant wants to amend said site plan, the applicant shall submit a letter to the Planning Board for its review and pay the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board."*

Member Hans Arnold suggested that Town staff make recommendations for any changes, some sort of rule to establish a threshold over which Planning Board approval would be needed.

### **Water Studies Stormwater Management**

Town Board and Planning Board members discussed whether the proposed *Longworth Acres* development on Tibbitts Road (some lots back up on to Snowden Hill Road) would further contribute to the existing stormwater runoff from the Snowden Hill Road area affecting Oxford and Tibbitts Roads. The Developer's consultant did not answer this question in their stormwater study, according to Planning Board Chairman Yagey.

### **Parks Master Plan Trail System /Recreation Areas – Green Space / Subdivision Regulations (dovetailed)**

Councilman Waszkiewicz acknowledged the Town Planner's research of Town Law, the section governing Park Land. Attorney Rossi interjected that the Planning Board needs to make a finding relative to the amount of park lands/recreation area/green space in the Town – whether it be that the amount of lands is in balance or is insufficient or needs to be enhanced, so that future developers can be made to allocate park or recreational space within their developments for the residents to offset the imbalance, or provide the Town with funds to do so. Attorney Rossi reminded the Boards that he had sent them a letter in this regard about one and one-half (1 ½) years ago.

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 3**

After the Town Planning Board members left the meeting at 7:03 P.M., the Town Supervisor continued the meeting, leading those in attendance in the Pledge of Allegiance to the American Flag.

**OTHER TOWN OFFICIALS PRESENT:**

Assessor Paul Smith (Arrived at 7:25 P.M.)  
Director of Senior Services M. Eileen Spellman (Arrived  
at 8:22 P.M.)  
Deputy Town Clerk I Margaret M. Jones (Arrived  
at 7:00 P.M.)  
Attorney Vincent J. Rossi, Jr. (Arrived at 7:00 P.M.)

**MINUTES**

**November 3, 2004 Town Board minutes**

After reviewing minutes that had been mailed to all Board members, Councilman Waszkiewicz introduced the following Resolution for adoption, seconded by Councilman Woodland:

**(RESOLUTION NO. 407 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the **Regular** Town Board meeting held **November 3, 2004** and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

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

**November 17, 2004 Town Board minutes**

Councilman Butler introduced the following Resolution for adoption, seconded by Councilman Waszkiewicz:

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 4**

**(RESOLUTION NO. 408 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve the minutes of the *Regular* Town Board meeting held *November 17, 2004* with the following clarification

*Page 6, First part of 1<sup>st</sup> sentence should read:  
“The other requested submittals for the Higby Road Water District have been provided to Burley & Guminiak as well as ...”*

and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

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

**November 18, 2004 Town Board minutes**

Councilman Waszkiewicz then introduced the following Resolution for adoption, seconded by Councilman Butler:

**(RESOLUTION NO. 409 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the *Special* Town Board meeting held *November 18, 2004* and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

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

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 5**

**REPORTS OF TOWN OFFICIALS**

**TOWN CLERK:**

**Raffle Consent**

Upon recommendation of the Town Clerk, the following Resolution was introduced for adoption by Councilman Wood and duly seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 410 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to the American Heart Association, 120 Lomond Court, Utica, New York, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at Sangertown Square Mall, New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

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

Upon roll call, the Town Board voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Board of Assessment Review Members (Permanent and Temporary)**

Supervisor Humphreys received notice from the Town Clerk about the term expiration of Board of Assessment Review (BAR) Member Jonathan Purdy and five (5) temporary BAR members, all on September 30, 2004. The Town Supervisor will contact BAR Chairman Matthew Bohn to obtain his recommendations on re-appointments. The Supervisor asked if the temporary members could be appointed later in 2005; the Town Clerk cautioned that sufficient time should be allowed so that the temporary appointees may attend the required training session(s). The matter was tabled until the December 29, 2004 special Town Board meeting.

**MATTERS SUBMITTED BY COUNCILMEN & ATTORNEY**

**COUNCILMAN BACKMAN:**

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 6**

**Agenda items**

- *Dr. Wilcox well, Sessions Road* – Attorney Rossi talked to Dr. Wilcox’s attorney, Leighton Burns, and told the attorney that the Town would pay One Thousand Dollars (\$1,000) for the digging of the trench and pay for the water line but the Town would only pay for one-half (½) of the cost of the pump. Councilman Backman asked Attorney Rossi to begin preparing documents to have the road surveyed that is being built. The Town needs to hire a land surveyor, which will probably cost approximate One Thousand Dollars (\$1,000).

The Town Supervisor Ralph Humphreys says to expedite payment of bills relating to the Sessions Road well, would like motion to pay the bills as they are received minus one-half (1/2) the cost of the pump. Upon the recommendation of the Town Supervisor, Councilman Backman presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 411 OF 2004)**

**WHEREAS**, the Town of New Hartford while reconstructing part of Sessions Road caused damage to the spring-fed well on the Wilcox property; and

**WHEREAS**, due to this damage the water to the Wilcox property has been interrupted;

**NOW, THEREFORE, BE IT RESOLVED** the Town Board of the Town of New Hartford does authorize that the bills received for digging of a new trench, cost and placing of water pipe line and one-half (1/2) the cost of the pump in an amount not to exceed Five Thousand Dollars (\$5,000) are to be paid.

Upon roll call, the Town Board voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Nay
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

- *Status of Final Water District Application* – Has Burley & Guminiak filed the paperwork yet? Highway Superintendent Cleveland stated “yes”. Attorney Rossi stated that he had been in contact with officials in Albany who confirmed that the money is available.

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 7**

Councilman Backman presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 412 OF 2004)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct Vincent J. Rossi, Jr., Attorney for the Town of New Hartford, to send a letter to Phillip Hale, 2256 Broad Street, Frankfort, New York, notifying him that the Town is exercising its option under the March 24, 2004 Option Agreement to purchase the proposed water tank site for the Option Price of Thirty-Five Thousand Dollars (\$35,000).

Upon roll call, the Town Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

- Personnel Issue (Executive Session) – employment history of a particular employee

**COUNCILMAN WASZKIEWICZ:**

**Agenda items**

- Annexation/New York Mills, property on corner of Henderson and Commercial Drive – Reach consensus on area per the map which was distributed to the Board Members at the last meeting to pre-approve annexation petition. Councilman Waszkiewicz stated that properties were identified that are currently outside the Village of New York Mills, but within their first “response” area, that the properties are either owned or will be owned by the developer at the corner of Henderson and Commercial so that the Town can get the same type of consensus from the Village of New York Mills’ Trustees. Town Police Chief Philo had written a letter a couple of months ago indicating that New York Mills was first “response” for police and fire.

Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

**(RESOLUTION NO. 413 OF 2004)**

**REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 8**

**RESOLVED** that the Town Board of the Town of New Hartford does not take exception to the annexation of property at the corner of Henderson Street and Commercial Drive into the Village of New York Mills as outlined in a previously distributed map.

The foregoing Resolution was put to vote as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

- Town Questionnaire – Councilman Waszkiewicz sent the questionnaire to Webmaster for posting on the Town’s official website
- Street Light - Tilden Avenue/Tabor Road Intersection – Councilman Waszkiewicz will present a petition for a street light at this intersection for safety reasons, and requests to include this streetlight in the General Town Street Light District. Councilman Backman suggested that the Town should set criteria for placement of streetlights; such as,
  - does the streetlight benefit motorists
  - is the area on a fairly well- traveled road.

Highway Superintendent Cleveland stated that there are presently a couple of lights on Tilden Avenue and they are in the General Town Street Light District. There is no special lighting district at this intersection. Niagara Mohawk quoted an approximate annual cost of One Hundred Twenty-Eight Dollars (\$128). This matter was deferred until the December 29, 2004 Town Board Meeting when the Petition will be submitted.

- Property Assessments listed on the Town Official Website – Need time line for uploading to the Web
- Improve existing Town Offices – Administrative office layout paid by Butler Memorial Hall Trust not available at time of printing the agenda. If completed, I will submit for distribution only
- Inter-municipal Agreement – with Town of Frankfort addressing stormwater management. Consensus to approve discussion with Frankfort Town Supervisor
- Subdivision Regulations – Parks Master Plan Trail System – recreation areas green space – Recommend again that the Planning Board review and communicate their recommendations



**REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 9**

- Tilden Avenue area stormwater problems – State Assemblyman Townsend has confirmed that \$4,000 had been allocated to help mitigate stormwater problems in the Tilden Avenue area, speed and direction of water flow.

**COUNCILMAN BUTLER:**

- Street Lights – Grandview Avenue at Sherman Oaks Drive – Councilman Butler has received requests from the Sherman Oaks residents for installation of a street light at the Sherman Oaks Drive intersection with Grandview Ave. Highway Superintendent Cleveland stated that he has obtained the costs from Niagara Mohawk and Councilman Butler requested that the cost be charged to the General Town Street Light District. Councilman Butler stated that this light would not illuminate NYS Route 12. The area for which the light is requested is a very dark area and is located at the lower entrance of Grandview Avenue. Councilman Backman stated that the general public does not traverse Sherman Oaks Drive, which is a private development and a private road.

Councilman Butler presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**(RESOLUTION 414 OF 2004)\*DEFEATED**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct Niagara Mohawk Power Corporation to install one (1) high-pressure sodium street light at the lower entrance of Grandview Avenue with its intersection at Sherman Oaks Drive, with all associated costs and future energy costs to be borne by the General Town Street Light District.

Supervisor Humphreys stated that he would like to see a plot plan of where the light will be installed, that he is concerned that the light might be on private property. Councilmen Backman and Woodland believe that the additional light is a benefit to private property owners.

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Woodland	-	Nay
Councilman Butler	-	Aye
Councilman Backman	-	Nay
Supervisor Humphreys	-	Nay.

The Resolution was declared **DEFEATED.**

**MATTERS SUBMITTED BY ATTORNEY FOR THE TOWN**

**Assessment Certioraris**

Attorney Rossi report that a settlement has been reached on the certiorari for Dr. Jeffrey Amidon and that the Sangertown Square Mall trial will be continuing next week.

**REPORTS OF TOWN OFFICIALS (CONT'D)**

**HIGHWAY SUPERINTENDENT:**

**Sauquoit Creek Basin Commission**

For the past two years, the NYS Department of Environmental Conservation (DEC) has contracted with the Herkimer-Oneida Counties Comprehensive Planning Program (HOCCPP) to act as administrative support staff to the Sauquoit Creek Basin Commission as they worked towards becoming a legal entity. The legal entity has now been formed and the DEC contract will expire at the end of this calendar year. Highway Superintendent Cleveland, who is the Chairman of this Intermunicipal Commission, wrote to each of the participating municipalities and asked that they consider retaining HOCCPP to continue their support services for a variety of tasks including, but not limited to, GIS mapping, grant writing, clerical support, mailings, etc. As there was a positive reaction from the Commission members, Superintendent Cleveland solicited a proposal from HOCCPP and from that proposal generated an estimated budget for services in 2005. The estimated earned fee would be Fifteen Thousand Seven Hundred Dollars (\$15,700) and to fund that amount, would need monetary contribution from each of the six (6) member municipalities. To arrive at each municipalities' share, a base amount of Seven Hundred Fifty Dollars (\$750) would be assessed to each of the six municipal members municipalities, then a sliding scale for the remaining amount would be based on the municipality's annual budget. The Town of New Hartford's total share would be an estimated maximum of Six Thousand One Hundred Twenty-Six Dollars (\$6,126). The Village of Whitesboro has already agreed to its share via a Memo received by the Commission the previous evening, and the Mayors of both the Village of New Hartford, and New York Mills have indicated their concurrence with their proposed shares and expect passage of a Resolution agreeing to such at their next scheduled Village Board meeting. Upon recommendation of Highway Superintendent Cleveland, Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

**(RESOLUTION 415 OF 2004)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the expenditure of Six Thousand One Hundred Twenty-Six Dollars (\$6,126) from the **2005 Town of New Hartford Budget** to be used as its equitable share of

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 11**

retaining HOCCPP for 2005 for technical support services to the Sauquoit Creek Basin Commission.

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

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Appointments – Full-time Laborer & Temporary Laborers (Wingmen)**

Upon recommendation of the Highway Superintendent, Councilman Butler presented the following Resolution for adoption, seconded by Councilman Backman:

**(RESOLUTION NO. 416 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Jazmond Davis as a full-time Laborer in the Highway Department effective December 16, 2004, at an hourly rate of Ten Dollars (\$10) for Laborers without a Commercial Driver's License, payable bi-weekly; this appointment fills a vacancy created in the Spring of 2004 by the retirement of Gary Locke.

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

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

Upon recommendation of Highway Superintendent Cleveland, Councilman Butler presented the following Resolution for adoption, seconded by Councilman Backman:

**(RESOLUTION NO. 417 OF 2004)**

**REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 12**

**RESOLVED** that the New Hartford Town Board does hereby appoint Bryon Rich and Christopher Roberts as Temporary Laborers (Wingmen) in the Highway Department to work on an “on-call” basis, twenty-four (24) hours a day, seven (7) days a week, effective December 16, 2004, at an hourly rate of Eight Dollars and Fifty Cents (\$8.50), payable bi-weekly.

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

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Curbside Brush Collection**

The Highway Superintendent stated that his Department has completed the sixth (6<sup>th</sup>) tour of the Town for picking up brush and leaves even though the program officially concluded at the end of October 2004. The fact that there has been no snow has been very helpful; however, this collection program needs to be re-addressed next year because contractors and homeowners continue to place debris onto the streets.

**PARKS AND RECREATION DEPARTMENT**

Attorney Peter Jones and Parks & Recreation Director Michael Jeffery had reviewed the Parks and Recreation Union contract and worked out a couple minor issues. Councilman Woodland presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 418 OF 2004)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby ratify the Parks and Recreation Department Union Contract and does hereby authorize and direct the Town Supervisor to execute the four-year Contract that will expire December 31, 2007, **contingent upon review and approval of Attorney Vincent J. Rossi, Jr.**

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 13**

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

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

**FINANCIAL:**

**Audit of Vouchers**

On recommendation of the Town Supervisor, Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 419 OF 2004)**

**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:

General Fund Whole-Town Abstract No. 65 Vouchers A2111-A2116	\$ 2,542.56
General Fund Whole-Town Abstract No. 66 Voucher A2117	\$219,155.00
General Fund Whole-Town Police Abstract No. 67 Vouchers A2118-A2119	\$214,988.00
General Fund Whole-Town Abstract No. 68 Vouchers A2120-A2184; A2200-A2205	\$ 21,576.35
General Fund Whole-Town Police Abstract No. 69 Vouchers A2186-A2199	\$ 5,831.17
General Fund Part-Town Abstract No. 31 Vouchers B208-B213	\$ 351.12
General Fund Part-Town Abstract No. 32 Voucher B214	\$ 27,830.00
Highway Fund Whole-Town Abstract No. 1 Voucher DA1	\$ 200.00
Highway Fund Part-Town Abstract No. 25 Vouchers DB569-DB588	\$134,100.54
Highway Fund Part-Town Abstract No. 26 Voucher DB590	\$143,673.00
Highway Fund Part-Town Abstract No. 27 Vouchers DB589; DB591	\$159,334.20
Sewer Fund Abstract No. 25 Voucher SS93	\$ 998.52
Sewer Fund Abstract No. 26 Voucher SS94	\$ 241.80

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 14**

Sewer Fund Abstract No. 27	
Voucher SS95	\$ 25,902.00
Sewer Fund Abstract No. 28	
Voucher SS96	\$ 986.00
Street Lighting Abstract No. 13	
Voucher SL13	\$ 7,291.46
Capital Drainage Account Abstract No. 17	
Voucher HC108	<u>\$ 88.00</u>
<b>TOTAL:</b>	<b>\$965,089.72</b>

Upon roll call, the Board members voted as follows:

2005 Highway budget be adjusted downward for the 2005 International truck received in 2004	Councilman Waszkiewicz	-	Aye, with understanding that
	Councilman Butler	-	Aye
	Councilman Backman	-	Aye
	Councilman Woodland	-	Aye
	Supervisor Humphreys	-	Aye.

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

**Salaried vs Hourly Employees – 27<sup>th</sup> (lag) payroll**

Assessor Paul Smith, Codes Enforcement Officer Gerald Back, Town Engineer John Meagher, Town Planner Kurt Schwenzfeier and Director of Senior Services Eileen Spellman were present to discuss the twenty-seventh (27<sup>th</sup>) paycheck in 2004. The Town Supervisor was concerned that some employees (i.e., those who aren't entitled to compensatory time or overtime pay) would be receiving double payment on their salaries. In 1992 the Town tried dividing pay by twenty-seven and cutting employees back, but then went forward and this didn't solve the problem and then the Town continued to pay the annual twenty-six (26) paychecks. Now, the "lag" year is here again and the Town Supervisor wants to eliminate the problem before it presents a problem again in twelve (12) years. The Town Supervisor would like to divide the employees' salary by the number of days worked, thereby getting a daily rate and then every two (2) weeks the employee would be paid for ten (10) days. There will be a time of year that the employee is going to be one (1) day short, but by the end of the year the employee would be paid for that day.

The Assessor stated that the employee would be short pay if the salary were figured in this manner. The Town Supervisor asked when any employee was shorted in their pay. Assessor Smith referred to the Fair Labor Standards Act (FLSA) regarding quality and quantity of work. Attorney Rossi stated that this matter needs clarification; there are two

## **REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 15**

(2) different standards at issue – the FLSA and a simple contract aspect. The FLSA is confusing and somewhat irrelevant ... its only relevant if you get overtime. Everyone knows that these affected employees don't get overtime because they are high-ranking employees. The problem the Board is facing is what the understanding is between the Town and employee. Attorney Rossi believes that the Supervisor is saying if the Town agreed to hire a person at Fifty-Two Thousand Dollars (\$52,000) a year, the only way to account accurately that you're paid Fifty-Two Thousand Dollars (\$52,000) each year is divide that sum by two hundred sixty-one and one-quarter days (261.25) and you get the per-day salary amount, and multiple this amount by a ten (10) day work period for an accurate amount.

The Town Planner cited a ruling from the Association of Surrogate Court Judges in 1992. Attorney Rossi asked Mr. Schwenzfeier for specifics regarding this ruling; the Town Planner refused to give the Attorney Rossi the requested information and left the meeting at 8:29 P.M. Councilman Backman commented that the affected employees would have a difference of one and one-quarter (1 ¼) days and every twelve (12) years the employees would receive a paycheck for that difference. Councilman Backman was wondering if any employee affected by this rule would be employed by the Town twelve (12) years from now. The Councilman spoke with Bookkeeper Carol Fairbrother and then to Financial Advisor Patrick Tyksinski, the latter of whose solution was to cut the twenty-seventh (27<sup>th</sup>) paycheck for the actual number of days worked, then go back to the first paycheck of 2004 and determine the number of days worked in 2003 which were paid in 2004, subtract that amount from the total paid and guarantee that the employee gets what they were supposed to earn in 2004 and then the Town would not have a problem in the future.

Nathaniel Richmond, 30 Woodberry Road, New Hartford suggested that the Town simply pay the employees bi-monthly, and that the total of the resulting twenty-four (24) paychecks would reflect the correct wages on Form W-2. This is the method that is used where he is employed and it works. Assessor Smith will be the spokesperson for the group and will meet with Supervisor Humphreys to figure out the wages.

### **Year-end Special Town Board Meeting**

In accordance with the Rules of Procedure adopted for 2004, there will be a special year-end Town Board meeting on December 29, 2004 at 7:00 P.M. in the Community Meeting Room of Butler Memorial Hall to take care of financial matters.

### **Appointment of Sub-Clerk – Codes Enforcement Office**

Upon recommendation of the Codes Enforcement Officer, Councilman Backman presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 16**

**(RESOLUTION NO. 420 OF 2004)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Anya Richmond as a Sub-clerk in the Codes Enforcement Office, effective December 20, 2004, at an hourly rate of Seven Dollars and Seventy-Five Cents (\$7.75); payable bi-weekly.

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

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**2005 Plumbing Inspector Salary – Cell Phone Use**

Upon recommendation of Codes Enforcement Officer Gerald Back, Councilman Backman presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 421 OF 2004)\*Amended 2-2-2005**

**RESOLVED** that the Town Board of the Town of New Hartford does authorize and direct that the 2005 salary of Six Thousand Dollars (\$6,000) for Part-Time Plumbing Inspector Ronald Thomas be increased by three (3%) percent, which will help offset the Inspector's expense in use of his personal cellular phone for Town business.

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

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Faulty Work Legislation**

The Town Supervisor asked that Codes Enforcement Officer Back draft legislation relative to people who perform faulty work that results in additional inspection(s) being necessitated by Town Departments, including fees for those additional inspections.



**REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 17**

**Landing Strip -Airport**

Town Supervisor Humphreys, who operates his private plane from his Tibbitts Road property, would like to have federal and state approval of his landing strip. The Federal Aviation Administration has completed their study and has no objection to the proposed use of airspace. Codes Enforcement Officer Back stated that the area designated to be used for a landing strip - airport is in an agriculturally-zoned district and a "use variance" would be required from the Zoning Board of Appeals. State review of this proposal is also required. The following Resolution provided by the Town Supervisor was introduced for adoption by Councilman Waszkiewicz and duly seconded by Councilman Butler:

**(RESOLUTION NO. 422 OF 2004)**

**TOWN BOARD RESOLUTION TO NEW YORK STATE; GENERAL BUSINESS LAW SECTION 249**

**WHEREAS**, Ralph B. Humphreys is the owner of a certain parcel of real property located on 8705 Tibbitts Road, Town of New Hartford, County of Oneida, State of New York; and

**WHEREAS**, New York State General Business Law, Section 249 provides that no person shall establish or improve a privately-owned airport except by authorization of the governing board of the Town in which such private airport is proposed to be established or improved; and

**WHEREAS**, New York State General Business Law, Section 249 provides that the governing body of a Town shall not authorize the establishment or improvement of a private airport at the requested location unless in accordance with the standards prescribed by the Commissioner of Transportation of the State of New York; and

**WHEREAS**, the airport proposed to be established or improved will be privately owned and the owner of the real property upon which the establishment is to take place has consented to such establishment;

**NOW, THEREFORE, BE IT RESOLVED** that the New York State Commissioner of Transportation is hereby requested to make a determination as to whether or not the establishment or improvement of such a privately-owned airport complies with his standards adopted pursuant to Section 249 of the New York State General Business Law.

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

Councilman Waszkiewicz - Aye

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 18**

Councilman Butler - Aye  
Councilman Woodland - Aye  
Councilman Backman - Aye  
Supervisor Humphreys - ABSTAINED, as he is the  
petitioner and owner of the referenced property.

Thereafter, the Resolution was declared carried and duly *ADOPTED*.

**2004 Budget Revisions – Programs for the Aging**

Upon request of the Bookkeeper, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Backman:

**(RESOLUTION NO. 423 OF 2004)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct Bookkeeper Carol Fairbrother to make the following revisions in the 2004 Budget for payment of a new bus for use by the New Hartford Adult Dining and Activity Center and additional expenses for the maintenance of the bus:

Increase Account	A3089.4 State Grant/Seniors Bus	\$ 5000.00
Increase Account	A1989.0 Community Foundation Grant	44,226.47
Increase Account	A6772.2 Equipment	49,226.47

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz - Aye  
Councilman Butler - Aye  
Councilman Woodland - Aye  
Councilman Backman - Aye  
Supervisor Humphreys - Aye.

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

**Budget Expense - Ironman Award**

Upon presentation of the Town Supervisor, the following Resolution was introduced for adoption by Councilman Butler and seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 424 OF 2004)**

**WHEREAS**, it has been the practice of the Town of New Hartford for over a decade to purchase an “Ironman” plaque for presentation to a volunteer firefighter who has shown outstanding service to his/her fire department;

**REGULAR TOWN BOARD MEETING**

**December 15, 2004**

**Page 19**

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby authorize the Town Supervisor to purchase three (3) Ironmen Awards, one each for the Willowvale Fire Company, Inc., the New Hartford Fire Department, and the New York Mills Fire Department for presentation at their respective 2005 Installation Banquets.

The Town Board was polled and voted individually as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Road Dedication – Applewood Community**

In response to the Town Clerk's inquiry about road dedication documents pending since the September 1, 2004 Town Board meeting, Attorney Rossi responded that the Developer and/or his attorney still needs to submit a variety of documents as well as the road footage to be accepted on each street. This matter will be placed on Agenda for the December 29, 2004 Town Board meeting.

**Quotes - Computer Support Contract**

The Town Supervisor received the following quotes for computer support and service for calendar year 2005:

- Integrated Software (ISS) - \$55 per hour for all equipment
- ESI
  - \$50 per hour for PC's and servers and
  - \$75 over for hardware service

Although a Syracuse-based firm, ISS has a Service Technician who resides in New Hartford and who has readily addressed problems, which had arisen during the year. Thereafter, Councilman Woodland presented the following Resolution for adoption, seconded by Councilman Butler:

**(RESOLUTION NO. 425 OF 2004)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby accept the quote furnished by Integrated Software (ISS), 5925 Todd Way, Liverpool, New York at a rate of Fifty-Five Dollars (\$55) per hour for a block of One Hundred Fifty (150) hours to service the Town's computers/servers during calendar year 2005.

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 20**

The Town Board was polled and voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	ABSTAINED, as he is in the computer business.
Supervisor Humphreys	-	Aye.

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

**2004 Payroll – Resolution No. 32 adopted January 7, 2004**

Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Butler:

**(RESOLUTION NO. 426 OF 2005)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct that all hourly employees not covered by union contracts, with the exception of Assessor Paul Smith, Codes Enforcement Officer Gerald Back, Deputy Highway Superintendent Anthony DeCuffa, Parks and Recreation Director Michael Jeffery, Police Chief Raymond Philo, Director Senior Services M. Eileen Spellman, Senior Engineering Technician John Meagher, and Town Planner Kurt Schwenzfeier, be paid on a two hundred sixty (260) day year, the same as the union contract beginning January 1, 2004.

The Town Board was polled and voted individually as follows:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Humphreys	-	Aye.

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

**Sitirin Healthcare - Cedarbrook Project**

Michael Stephens, lawyer for the Oneida County Industrial Development Agency (OCIDA) confirmed it's the Town's call as far as granting tax exempt status for the Cedarbrook Project proposed by the Charles T. Sitirin Healthcare facility, and the OCIDA won't grant any exemption unless the Town okays it and puts it in writing.

**REGULAR TOWN BOARD MEETING**  
**December 15, 2004**  
**Page 21**

**Consolidation of Town Administrative Offices - Partlow Building**

At the request of the Town Supervisor, Planner Schwenzfeier had prepared a plot plan of the Partlow property and adjoining parcel that would allow for two hundred (200) parking spaces. Supervisor Humphreys has asked HBMA, PLLC to prepare a revised interior layout for the building, allowing for more spaces for the seniors.

**Subdivision Regulations**

A brief discussion was held with Attorney Rossi, who had recently received a copy of the fifty-two (52) page draft that he will review. Attorney Rossi will meet with Senior Engineering Technician Meagher and Highway Superintendent Cleveland to discuss this matter on December 16, 2004.

**EXECUTIVE SESSION**

Councilman Butler introduced the following Resolution for adoption and Councilman Waszkiewicz seconded same:

**(RESOLUTION NO. 427 OF 2004.)**

**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.

A roll call vote ensued:

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media, Town Clerk and Deputy Clerk, were then excused from the meeting at 9:58 P.M.

**END OF EXECUTIVE SESSION**

Councilman Waszkiewicz then offered the following Resolution for adoption and Councilman Butler seconded same:

**(RESOLUTION NO. 428 OF 2004.)**

**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**  
**December 15, 2004**  
**Page 22**

Councilman Waszkiewicz	-	Aye
Councilman Butler	-	Aye
Councilman Backman	-	Aye
Councilman Woodland	-	Aye
Supervisor Humphreys	-	Aye.

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 10:35 P.M. The regular portion of the Town Board meeting was reconvened at 10:36 P.M.

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of Councilman Waszkiewicz, seconded by Councilman Backman, the meeting adjourned at 10:37 P.M.

*Respectfully submitted,*

*Gail Wolanin Young, CMC/RMC*  
*Town Clerk*

*Margaret M. Jones*  
*Deputy Town Clerk I*

\*Page 16, Resolution No. 421 was amended February 2, 2005; the Town Supervisor acknowledged that the incorrect amount

had been furnished to the Town Clerk; the salary should read \$6,500 with a Three Percent (3%) increase for 2005.