

**REGULAR MEETING OF THE TOWN BOARD OF  
THE TOWN OF NEW HARTFORD, NEW YORK,  
HELD AT THE KELLOGG ROAD COMMUNITY CENTER  
BUILDING IN SAID TOWN ON WEDNESDAY,  
MAY 4, 2005 AT 7:00 P.M.**

The Town Supervisor 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:** 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:** Director of Senior Services  
Highway Superintendent Roger A. Cleveland  
Planner Kurt Schwenzfeier  
Senior Engineering Technician John Meagher  
Telecommunicator Supervisor Jeffrey P. Madden  
Town Clerk Gail Wolanin Young, CMC/RMC  
Town Police Chief Raymond Philo

**OTHERS:** Attorney Vincent Rossi, Jr. (Arrived at 7:20 P.M.)

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

**PUBLIC PRESENTATIONS**

**STORMWATER MANAGEMENT STUDY – AREA OF OXFORD-SNOWDEN  
HILL-TIBBITTS ROAD:**

Highway Superintendent Cleveland reviewed stormwater issues in the Tibbitts-Oxford-Kellogg Road area that had been identified in November 2004 and his request at that time that the Town Board authorize about \$25,000-\$26,000 for a study of that area going down to Sauquoit Creek, and the reasons why – future and right now. At that time, the Town Board asked for the Town Planning Board’s opinion, which was affirmative. In the meantime, questions were raised, additional research done, and additional information was received from Oneida County and the study cost rose to \$31,000. Today a “full-blown” study proposal was received and a portion of what the Town Board had asked for – could be down to the \$25,000 to \$26,000 range. He supports doing a full-blown study – good planning practice and that area of the Town will be changing rapidly – economic development plans in this section of town.

## **REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 2**

Planning Board member Gerald Green said he's spent time with consultant Curt Nichols of Shumaker Engineering this week and he's outlined and the Planning Board will make available the findings for the study. The Planning Board has had the proposed Longworth Acres project before them for nearly a year and they're trying hard not to mirror the mistake made with the Jubilee Estates development and thus are relying on and support, together with the Highway Superintendent and Town Planner, the recommendations of Curt Nicols for what needs to be done. Of concern is the source of water above the Longworth Acres project and which water continues its flow to the Sauquoit Creek along Kellogg Road. The Planning Board had accepted Mr. Nichols' recommendation and Planning Board member Green understood that their request had been denied by the Town Board. Planning Board member Green recommended that this study be broken down into parts and the cost approximates the \$25,000-\$26,000 range. The Planning Board concerns are not only with the quantity and rate of water run-off but also downstream concerns and where the retention basin is needed to be located...this is a large parcel; size is another concern – we're relying on experts. Planning Board member Green asked that the Town Board give expeditious consideration to the Shumaker study proposal and that the study be funded out of the Town budget. He stated that this would not be a duplication of service or study if in the future a full-blown GEIS is done, this would be included in the GEIS.

Planning Board member Hans G. Arnold had chaired a couple meetings during the past winter at the request of Chairman Yagey and after reviewing the Longworth Acres project, that Board could see this area being the next significant area of development in the Town – "... commercial where we're sitting and the area of Oxford Road." This study is a necessity and required planning on the part of the Town – preparing for stormwater management. The Planning Board looks to the future and tries to project. He said that the Planning Board could deal with development on a "case-by-case" basis, OR, by a more comprehensive way thus making it more efficient. Instead of having several stormwater basins, there could be a smaller number and easier to maintain. It must be figured how the Longworth Acres project fits into the area watershed. "As Jubilee [Estates development] goes forward, Longworth goes forward; public drinking water will come forth in the future, but we need to address stormwater management now," said Member Arnold.

Planning Board Chairman N. Joseph Yagey said that Board has looked at the Longworth Acres project for over a year and needs to move forward. Before this, he noted the town's two GEIS studies for future planning of highway, police, sewer, stormwater, etc.

[NOTE: Attorney Rossi joined the meeting at 7:20 P.M.]

Discussion ensued among the Planning Board members and the Town Supervisor about the amount of water run-off depending on crop rotation at the top of Snowden Hill Road.

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 3**

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

**(RESOLUTION NO. 115 OF 2005)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct a stormwater study to be conducted by Shumaker Engineering for the area encompassing the Oxford-Snowden Hill-Tibbitts-Kellogg Road area at a cost not to exceed Twenty-eight Thousand Dollars (\$28,000) contingent upon the Town having sufficient monies in the stormwater bonding account to perform the study.

Whereupon, 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	-	Nay.

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

**Coordination of Duties for Town Planner**

To better organize the Town Planner's workday, Highway Superintendent Cleveland and Planning Board Chairman Yagey asked that the Town Board and Town Planning Board submit their planning-related requests to Highway Superintendent Cleveland who is the Planner's supervisor. In this way, the Planner's workday will be better coordinated and he won't "...have ten (10) bosses... and be running every which way." The Town Board concurred with this request.

**Municipal Services Agreement (MSA) – Preswick Glen**

Jerome Donovan addressed the Town Board on the Preswick Glen MSA and wanting "...to learn on what grounds the Town overruled the Town Assessor who denied the Preswick application for exemption as a charitable entity under Sec. 420-a of the Real Property Tax Law (RPTL)." After reviewing seven (7) MSA's and one (1) PILOT agreement for "similar" projects elsewhere in New York State, Mr. Donovan noted that each of the sponsoring "...not-for-profit organizations is a 'Charitable Retirement Communities', serves low and moderate-income individuals or provides subsidized housing. Each provides real and substantial charity to its tenants as required by the law. Preswick Glen does not share this characteristic....". Mr. Donovan clarified that what he's challenging is the "...tax-exempt status of the Preswick property, not Preswick's not-for-profit status or the town's ability to enter into a MSA.

## **REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 4**

Fred Carville was concerned with what action the Town might take, noting that there's some conflicting information on Mr. Donovan's comments and what's been given by the Town. Supervisor Humphreys suggested to Mr. Carville that anyone could report this matter to the State Attorney General "who would sue the Town..." and if Preswick Glen were determined not to qualify under RPTL, Section 420-a, the property would be put back on the assessment/tax rolls.

Attorney Rossi confirmed that Mr. Donovan's question was whether or not the Preswick Glen property is tax exempt, whether it meets Section 420-a of the RPTL. Attorney Rossi stated that the MSA provides that the exemption will be afforded so long as the project meets the requirements of Section 420-a. Fred Carville and Russell Cerminaro questioned who would be responsible for monitoring the MSA to ensure Preswick Glen meets RPTL Section 420-a.

Ray Garrett, Executive Director of the Presbyterian Home, stated that the Preswick Glen offering was outlined and that there's "...no way to thoroughly test it until it exists." Responding to Jerome Donovan, Mr. Garrett said they don't have subsidized housing, adding that the law says support, supportive health services through brokering services and arranging services not necessarily by the Presbyterian Home; portion of entrance fee goes into a charitable fund – can't build the project without the entrance moneys. He said the project was designed to serve people having available resources of \$35,000 or more. Mr. Garrett said they meet criteria.

### **MINUTES APPROVAL**

#### **April 6, 2005 Town Board Meeting**

After reviewing minutes that had been mailed to all Board members and a discussion with Attorney Rossi as to the Board's intent on Resolution No. 84, Page 8 of the April 6, 2005 minutes, Councilman Waszkiewicz introduced the following Resolution for adoption, seconded by Councilman Butler:

#### **(RESOLUTION NO. 116 OF 2005)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the *Regular* Town Board meeting held *April 6, 2005* with the following amendment:

- On Page 8, omit Paragraph itemized as "3. ....".

and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 5**

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

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

**REPORTS OF TOWN OFFICIALS**

**CODES ENFORCEMENT OFFICER:**

**Amendment – Code Chapter 92 and Chapter 118, Re-inspection Fees**

Upon recommendation of Codes Enforcement Officer Gerald Back, the following Resolution was introduced for adoption by Councilman Butler and duly seconded by Councilman Woodland:

**(RESOLUTION NO. 117 OF 2005)**

**RESOLVED** that, pursuant to General Municipal Law and the Town’s Zoning Law, the New Hartford Town Board does hereby refer to the Town Planning Board and Oneida County Planning Department the proposed amendment to Chapter 92 (Plumbing) and Chapter 118 (Zoning) to provide for re-inspection fees in certain circumstances; i.e., work not ready for inspection when initially scheduled, corrective measures not taken on defective work requiring an additional inspection, and deviation from an approved plan.

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**.

**HIGHWAY SUPERINTENDENT:**

**Authorization for Competitive Bid – Higby Road Water Project**

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

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 6**

**(RESOLUTION NO. 118 OF 2005)**

**RESOLVED** that the New Hartford Town Board shall receive sealed bids for the construction of the Higby Road Water Project, in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Friday, May 27, 2005 and then shall be publicly opened and read aloud at 11:00 A.M. on said date and in said Office; and be it

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

The Town Board voted upon roll call 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**.

**Debris Pick-up Program along Roads**

Starting the week of April 25, 2005, the Highway Department has used the services of the Oneida County Sheriff's Offenders Program for the pick-up and bagging of debris along the Higby-Valley View Road area and Seneca Turnpike.

**Promotion – Highway Department Employees**

Upon recommendation of the Highway Superintendent, the following Resolution was introduced for adoption by Councilman Backman and duly seconded by Councilman Butler:

**(RESOLUTION NO. 119 OF 2005)**

**RESOLVED** that the New Hartford Town Board does hereby approve the promotion of Highway Department Laborers Wayne Smoulcey and Thomas Panzone, Jr. to Motor Equipment Operators (MEO), effective May 2, 2005, at the hourly rate equal to minimum for an MEO in accordance with the Teamsters Union Agreement, said wages to be paid bi-weekly.

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

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 7**

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

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

**Appointment – Seasonal Highway Employee**

Upon recommendation of the Highway Superintendent and the matter having been reviewed with the Town’s Personnel Assistant, the following Resolution was introduced for adoption by Councilman Waszkiewicz and duly seconded by Councilman Butler:

**(RESOLUTION NO. 120 OF 2005)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Robert Reynolds as a Seasonal Laborer in the Highway Department, effective May 9, 2005 and at the hourly wage of Eight Dollars (\$8.00), payable bi-weekly.

Whereupon, the Town Board voted upon roll call:

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

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

**Councilman Waszkiewicz’ Agenda items**

- Intermunicipal/multi-county agreement between Towns of New Hartford and Frankfort to seek funding for Stormwater Analysis of flows between the tow towns. Frankfort Town Board and Attorney are reviewing. Consensus was to await Frankfort’s response
- Slaytonbush Lane/Terrace – Supervisor Humphreys to sign letter of thanks to Town of Frankfort for quick repair on Slaytonbush

**Judd Road Connector – Effects on Estates Drive and Ontario Ave**

Niagara Mohawk and the New York State Department of Transportation will meet and discuss mitigation measures regarding vehicles using Estates Drive and Ontario Ave due to a change in traffic patterns once the Judd Road connector opens. The Highway

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 8**

Superintendent will work with Councilmen Woodland and Waszkiewicz to craft a resolution.

**TOWN CLERK:**

**Zoning Board of Appeals' vacancies**

The Town Clerk reminded the Town Board that the terms of office for Zoning Board of Appeals' members Randy Bogar and Timothy Tallman would expire June 9, 2005.

**Liquor License – Piggy Pat**

The Town Clerk presented the request of Patrick McCann for a waiver regarding Piggy Pat's liquor license; after a brief discussion, Councilman Backman introduced the following Resolution for adoption, seconded by Councilman Waszkiewicz:

**(RESOLUTION NO. 121 OF 2005)**

**RESOLVED** that, as provided for under the State Alcohol Beverage Control Law, the New Hartford Town Board does hereby waive the thirty (30) day waiting period for Piggy Pat's application for a liquor license associated with the bar addition to that establishment on Kellogg Road.

The Town Board then voted upon roll call as follows:

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

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

**MATTERS SUBMITTED BY COUNCILMEN**

**COUNCILMAN BACKMAN:**

**Agenda Items:**

- Request audit from NYS sales tax for 13501 zip codes in New Hartford (is sales tax for registered vehicles going to Utica?) – write to NYS Tax Dept and give them Town streets with 13501 zip codes and determine if sales tax is going to Utica instead of Town of New Hartford

## **REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 9**

- Cedarbrook (awaiting response from Sitrin) – Attorney Rossi received a response from Sitrin but has not had the opportunity to review it yet.

### **COUNCILMAN WASZKIEWICZ:**

#### **Agenda items:**

- Annexation of New York Mills – waiting on the appropriate petitions to coordinate with New York Mills Mayor
- Current Tentative Property Assessments listed on the Town's official Web Site – JC will prepare something and pass by the Webmaster and Town Board.
- Appointment process – Personnel Assistant will post Zoning Board positions to be posted
- Improve existing Town Offices – Timing of installation and review floor plan for Butler Memorial Hall First Floor before new equipment arrives; set up sub-committee to report to Board
- Sample noise ordinance & Nuisance Abatement Legislation – the sub-committee has met; regarding noise legislation, the committee recommends “No action at this time.” Relative to nuisance abatement, the committee is still reviewing options; a recommendation was not available at the time of this agenda printing. Police Chief and JC will meet with Codes Enforcement Officer on nuisance abatement.
- Taking credit cards for fines and Court Payment – After discussing the potential and possibilities with a few other towns' representatives at the Association of Towns meeting, it appears that payment of fines can be expedited and the collection cost savings, i.e., Bench Warrants, more than justifies any fees or charges that would be imposed. I have provided the paperwork and contact names to our Chief Justice and it appears he would be supportive with the Town Board's approval.
- Mohawk Valley Water Authority – Awaiting official response from MVWA for use of unused holding ponds in the Southern Reservoir system for stormwater management detention basins.

### **MATTERS SUBMITTED BY TOWN SUPERVISOR**

#### **FINANCIAL:**

##### **Audit of Vouchers**

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

**REGULAR TOWN BOARD MEETING**  
**May 4, 2005**  
**Page 10**

**(RESOLUTION NO. 122 OF 2005)**

**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, that have been duly audited by the Town Board:

General Fund Whole-Town Abstract No. 15	
Vouchers AA650-AA655	\$ 2,951.49
General Fund Whole-Town Abstract No. 16	
Vouchers AA656-AA691; AA699-AA701	\$ 67,418.44
General Fund Whole-Town (Police) Abstract No. 16A	
Vouchers AA692-AA698	\$ 21,474.57
General Fund Part-Town Abstract No. 11	
Voucher BB65-BB67	\$ 2,360.90
Highway Fund Part-Town Abstract No. 10	
Voucher DB229-DB249	\$ 27,363.10
Sewer Fund Abstract No. 10	
Voucher SS28	\$ 2,246.00
Sewer Fund Abstract No. 11	
Vouchers SS29-SS34	<u>\$ 12,191.06</u>
<b>TOTAL:</b>	<b>\$136,005.56</b>

Whereupon, the Town Board members voted individually as follows:

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

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

**Town Code, Chapter 56 [Dogs and Pets]**

Attorney Rossi reported that James Seeman made a tardy appearance at his Dog Barking Trial in Town Court, noting showing until after he and the witnesses had left. He noted that the fine for a second offense is only Fifty Dollars (\$50) and after concurrence by the Town Board, Attorney Rossi will work with the Town Clerk in preparing legislation to increase the fine provision.

**EXECUTIVE SESSION**

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

**REGULAR TOWN BOARD MEETING**  
**May 4, 2005**  
**Page 11**

**(RESOLUTION NO. 123 OF 2005)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss pending litigation (Collins) and a labor issue/grievance.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media and Town Clerk, were then excused from the meeting at 10:38 P.M.

{NOTE: The Town Supervisor provided the following on Monday, May 9, 2005.}

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 124 OF 2005)**

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 10:50 P.M. The regular portion of the Town Board meeting was immediately reconvened.

**REGULAR TOWN BOARD MEETING**

**May 4, 2005**

**Page 12**

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion duly made by Councilman Waszkiewicz and seconded by Councilman Backman, the meeting was adjourned at 10:51 P.M.

**Respectfully submitted,**

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