

**REGULAR MEETING OF THE TOWN BOARD OF
THE TOWN OF NEW HARTFORD, NEW YORK,
HELD AT BUTLER MEMORIAL HALL ON
WEDNESDAY, DECEMBER 10, 2008 AT 6:00 P.M.**

The Town Supervisor called the meeting to order at 6:00 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 Robert A. Payne, III
Councilman David M. Reynolds
Councilman Richard B Woodland, Jr.
Supervisor Earle C. Reed

ABSENT: Councilwoman Christine G. Krupa

OTHER TOWN OFFICIALS: Codes Enforcement Officer Joseph Booth
Director of Senior Services M. Eileen Spellman
Highway Superintendent Richard C. Sherman
Parks & Recreation Director Michael W. Jeffery
Planner Kurt L. Schwenzfeier
Senior Engineering Technician John J. Meagher
Supervising Public Safety Telecommunicator
Jeffrey P. Madden
Town Attorney Gerald J. Green
Town Clerk Gail Wolanin Young

Thereafter, a quorum was declared present for the transaction of business. Councilwoman Krupa was out of town and was uncertain whether she would be able to attend the meeting due to weather-related and road conditions.

REPORTS OF TOWN OFFICIALS

ENGINEERING DEPARTMENT:

Acquisition of Real Property for Stormwater Purposes (Donation by Nelson Soggs)

Upon explanation of Senior Engineering Technician John Meagher, Councilman Payne offered the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 298 OF 2008)

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WHEREAS, Nelson Soggs has offered to donate to the Town of New Hartford a small parcel of land on Woodberry Road, identified as Tax Map No. 339.007-5-33; and

WHEREAS, the Town of New Hartford is interested in accepting this real property donation for stormwater management purposes;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct Town Attorney Gerald J. Green to proceed with acquiring the aforementioned parcel at no cost to the Town, except for filing files at the Oneida County Clerk's Office and possibly a land survey.

Whereupon, the Town Board voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

The Resolution was then declared unanimously carried and duly **ADOPTED**. Senior Engineering Technician John Meagher will follow up on this matter with Attorney Green.

Acquisition of Real Property for Stormwater Purposes (Glen Acres, Inc.)

Upon further explanation of Senior Engineering Technician Meagher, the following Resolution was introduced for adoption by Councilman Payne and seconded by Councilman Reynolds:

(RESOLUTION NO. 299 OF 2008)

WHEREAS, in the early 1990's the Town of New Hartford had built a storm basin on Tilden Avenue, for which there has existed "handshake" agreements for maintenance; and

WHEREAS, the owner of the property upon which this stormwater structure exists, namely, Glen Acres, Inc., identified as Tax Map Parcel No. 340.008-1-16.5, has indicated a willingness to sell the property to the Town; and

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WHEREAS, the Stormwater Management Improvement (Advisory) Committee has recommended that Town Attorney Gerald J. Green obtain an appraisal of said parcel and proceed with taking ownership of the real property; and

WHEREAS, the Oneida County Soil & Water Conservation Agency has indicated that if the Town takes ownership of the aforesaid parcel, the Town can then make improvements and retain water at the site;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct Town Attorney Gerald J. Green to proceed with the acquisition of the aforesaid parcel, with the understanding that the property owner, Glen Acres, Inc., has indicated a willingness to share in the appraisal cost of this real property.

The Town Board then voted upon roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

New Hartford Business Park – Contract 1

Upon presentation of Senior Engineering Technician John Meagher, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 300 OF 2008)

WHEREAS, the Town of New Hartford did authorize bid letting for Bid Package No. 1 (Contract 1), Infrastructure Improvements to the New Hartford Office Park; and

WHEREAS, *Fred Burrows Trucking & Excavating, LLC*, sole bidder, had acknowledged and agreed to the reduction in Bid Price from One Million Three Hundred Thirty-two Thousand Eight Hundred Ninety-five Dollars (\$1,332,895) to One Million One Hundred Forty-eight Thousand Eight Hundred Sixteen Dollars (\$1,148,816), reflecting the reduction in price for the elimination of road paving; and

WHEREAS, by Resolution No. 166 adopted June 18, 2008, the New Hartford Town Board had awarded Contract No. 1 to *Fred Burrows Trucking & Excavating, LLC*, in the amount of One Million One Hundred Forty-eight Thousand Eight Hundred Sixteen Dollars (\$1,148,816), subject to conditions set forth in said Resolution No. 166; and

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WHEREAS, subsequent to the award of the above-referenced Contract, the Town of New Hartford and *Fred Burrows Trucking & Excavating, LLC*, agreed that *Fred Burrows Trucking & Excavating, LLC* should proceed and did complete the paving originally included in the bid specifications;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby reinstate the sum of One Hundred Eighty-four Thousand Seventy-nine Dollars (\$184,079) to the aforesaid Contract awarded to *Fred Burrows Trucking & Excavating, LLC* on June 18, 2008.

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

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Road Dedication – New Hartford Business Park

Town Attorney Gerald Green noted that Oneida County, New Hartford Central School and the Town had approved the Allocation (PILOT) Agreement with regard to the New Hartford Business Park. The Town has received the Letter of Credit from the developer and has a guarantee on cost overruns. He presented a resolution for dedication of Business Park roads “C” and “D” as public highways. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 301 OF 2008)

WHEREAS, the Allocation Agreement as relates to the New Hartford Business Park having been accepted and approved by this Board at its October 7, 2008 meeting upon conditions; and

WHEREAS, those conditions now having been met or otherwise satisfied in whole or substantial part, to wit:

1. Approval of the same Allocation Agreement by both the New Hartford School Board and the Oneida County Board of Legislators; and
2. Letter of Credit from the Developer; and

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3. Written guaranty from the same Developer for cost overruns associated with Bid Contracts 1 and 2; and
4. The land upon which Roads C and D are to be constructed under Bid Contract 1 is to be transferred to the Town with good and proper title; and

WHEREAS, under the terms of the Allocation Agreement the Town approved financing in the amount of \$2.3 mil. to cover, in whole or part, Bid Contracts 1 and 2; and

WHEREAS, Bid Contract 1 was awarded and work constructing Roads C and D in the Business Park is near completion; and

WHEREAS, the process for awarding Bid Contract 2 was begun but not completed by Roger Cleveland; and

WHEREAS, it is expected that Bid Contract 2 will be awarded in the Spring of 2009; and

WHEREAS, under the guidance of John Shehadi of Fiscal Advisors Marketing, Inc. and Attorney Tom Myers of Orrick, Herrington & Sutcliffe, LLP, Fiscal Advisors has banned for \$1.4 mil. to cover Bid Contract 1; and

WHEREAS, Fiscal Advisors plans to add the remaining .9 mil. for Bid Contract 2 in the Spring of 2009 to the \$1.4 mil. just recently borrowed for a total of \$2.3 mil. and further plans to convert the existing 5 year BAN to a 15 year Bond for this financing; and

WHEREAS, to that end, Attorney Myers has prepared such a resolution which will be introduced to the Board by Mr. Shehadi calling for that conversion and further calling for a public vote of approval for the 15 year financing; and

WHEREAS, monies from the \$1.4 mil. BAN are expected to become available to the Town to begin paying for the work performed by Fred Burrows Trucking & Excavating, LLC under Bid Contract 1; and

WHEREAS, the work performed by Burrows under Bid Contract 1 was observed and monitored by Robert Peruzzi, Resident Engineer for the Town; and

WHEREAS, Peruzzi, by letter dated November 19, 2008 has attested to the quantity and quality of the work performed by Burrows under Bid Contract 1; and

WHEREAS, approved plans and as-built drawings have been provided the Town; and

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WHEREAS, Allied American Abstract Co. has reviewed title to the land upon which Roads C and D were constructed, including the Cell Tower parcel and the National Grid parcel, and deems same acceptable; and

WHEREAS, while neither the Cell Tower parcel nor the National Grid parcel have yet to be transferred to the Town, work to that end is proceeding in an orderly and timely fashion without issues that cannot be readily overcome; and

WHEREAS, an easement agreement has been prepared whereby the Town grants New Hartford Office Group an easement to maintain the sanitary sewer line constructed at, near, under and along Road C which awaits review and signature by the New Hartford Office Group; and

WHEREAS, a final Warranty Deed has not yet been presented to the Town legally describing Road C, Road D, the Cell Tower parcel, the National Grid parcel and the easement for the sanitary sewer line mentioned above along with a corresponding map; and

WHEREAS, preliminary review of the proposed Deed, descriptions and map appear satisfactory to Town Staff and Town Attorney; and

WHEREAS, the Town Engineer, Town Planner and Town Highway Superintendent have visited the subject Roads C and D and observed their status and condition; and

WHEREAS, it appears substantial performance of Bid Contract 1 has been achieved and monies are rightfully due and owing Burrows for work performed; and

WHEREAS, certain other work remains outstanding or incomplete, including, among other things, lighting, paving, curbing, sidewalks, stormwater drainage work and the transfer of the Cell Tower and National Grid parcels; and

WHEREAS, in the interest of public safety and fairness to Burrows who has substantially performed Bid Contract 1 without compensation to date; and

WHEREAS, it appears a portion of the monies due and owing Burrows can be paid and a portion can be held back to cover and ensure full and complete performance of Bid Contract 1 in reasonable time.

NOW, THEREFORE, be it resolved that the Town Board does hereby do the following:

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1. Dedicate Roads C and D to the Town and direct the Highway Superintendent to begin maintaining same with regard to sanding and plowing upon satisfaction of the following conditions:
 - a) Proper transfer of the land upon which Roads C and D are constructed including the Cell Tower and National Grid parcels.
 - b) Duly executed Easement Agreement by and between the Town and New Hartford Office Group as relates to a sanitary sewer line running under Road C.
 - c) Receipt of a Warranty Deed legally describing Road C, Road D, the Cell Tower parcel, the National Grid parcel and the sanitary sewer line easement along with corresponding map to the satisfaction of the Town Staff.
2. Authorize a partial payment to Burrows for his work performed under Bid Contract 1.
3. Direct the Staff, as defined in the Code of the Town of New Hartford, consisting of the Highway Superintendent, Engineer, Planner, Code Enforcement Officer and Planning Board Chairman, meet to determine the amount of money to be held back to ensure timely and satisfactory completion of the work to be performed under Bid Contract 1 and the proper transfer of property.
4. Further direct that Staff then meet with Burrows to come to agreement on the amount to be withheld from, and the amount to be paid to Burrows.
5. Direct the Town Attorney to complete the real estate transfers in question.
6. Authorize the release of the monies being held back from Burrows upon completion of the outstanding work upon the unanimous satisfaction of Staff.

Whereupon, the Town Board voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

PUBLIC PRESENTATIONS (RESIDENT COMMENTS)

NYRI Update – Steve DiMeo

Steve DiMeo, current chairman for Communities against NYRI (a loosely-knit coalition of small number of communities that would be impacted by the 2006 proposed power line and which communities oppose the power line) reported that the State Power Authority had deemed NYRI's application complete for the evaluation process and determining whether the project warrants approval. The Federal Energy Power Act allows the creation of electrical transmission corridors, one of which is the mid-Atlantic region that includes New York State. If states don't act on [NYRI's] an application within a specified period of time, the applicant can proceed under the Federal Energy Power Act and; if the planned route is within a corridor, the federal agency may issue a certificate allowing the applicant's plans to proceed. A decision should be coming from the courts shortly after January 1, 2009. The State Public Service Commission is looking to raise questions that NYRI must answer. There have been three (3) public statement hearings, the latest of which was held locally on October 22, 2008. There is a question of whether this power line is actually needed; and if needed, this is the wrong route. An alternative route could be the existing Marcy South Corridor, or follow the NYS Thruway. The Communities against NYRI group joined the City of Utica in 2008 in making an appeal and has received funding from the City. Mr. DiMeo stated that the group would accept any funding that the Town of New Hartford might be willing to provide.

Building Committee Recommendation – Acquisition of Real Property for Town offices

N. Joseph Yagey and Attorney Peter Rayhill reiterated the December 3, 2008 presentation with regard to overcrowded Town Court facilities and other administrative offices. Good questions had been raised at the December 3rd Town Board meeting and Mr. Yagey indicated that he had a proposal that answers those questions and which had been given to the Town Board; many of the questions were the same questions brought in during former Supervisors' office (i.e., William Keiser and Ralph Humphreys). Based on that and the need of the court system, Mr. Yagey believed it was imperative that the Town take action on the space needs, especially for the courts. Upon presentation by Attorney Rayhill, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 302 OF 2008)

WHEREAS, the Town of New Hartford has experienced significant growth in the last thirty years, including significant growth of the commercial sector; and

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WHEREAS, this growth has placed increasing and overwhelming demands on the Town's public space; and

WHEREAS, as a result of this growth and the corresponding demands on public space, the Town's police station, court facility and professional office space are now inadequate to serve the Town's populace; and

WHEREAS, Town officials have identified, investigated and considered numerous alternatives and options to resolve the demands on public space over the past thirteen years; and

WHEREAS, the Town Board, in consultation with the Town's engineering department, the Police Department, the Town Justices, the administrative offices of the Presiding Judge of the Fifth Judicial District of the New York Court System, and the Town's architects, has developed a plan for a "build out" of the interior of 19 Campion Road to efficiently and effectively meet the diverse needs of the various Town offices and departments; and

WHEREAS, 19 Campion Road, as conceived, provides a long term, cost effective solution to a significant problem facing the town, as well as providing a convenient location for Town residents; and

WHEREAS, the Town Board has found that purchasing and remodeling 19 Campion Road would constitute an unlisted action under SEQRA; and

WHEREAS, the Town Board finds 19 Campion Road as currently constructed with the planned "build out" proposed will have no significant negative impacts, now, therefore, be it

RESOLVED, that the Town of New Hartford will enter into an agreement to purchase the building located at 19 Campion Road, Village of New Hartford from JMLV, LLC pursuant to a contract between the Town and JMLV, LLC. The total cost of the building, including all "build out" (remodeling), is \$1,500,000. The Town will authorize an additional cost of up to \$200,000 to cover necessary attendant costs to complete the transaction and open and operate the building including, but not limited to, appropriate professional assistance to the Town necessary for the completion of the design of the build out, the acquisition of the building and supervision of the remodeling, as well as signage and furniture, and be it

FURTHER RESOLVED, that the "build out" will be completed in accordance with architectural and engineering drawings conceived and approved by the Town Board in

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conjunction with the architectural firm Alesia and Crewell which have been provided to JMLV, LLC and which form the basis for the price of the build out, and be it

FURTHER RESOLVED, that the acquisition of 19 Campion Road with the build out shall be financed by the issuance of General Obligation Bonds by the Town and such acquisition shall be expressly conditioned upon the approval of the acquisition and financing by the residents of the Town pursuant to a public referendum on the question, and be it

FURTHER RESOLVED, that the Town Board, in accordance with the provisions and requirements of New York Town Law shall initiate the calling of a public referendum on the purchasing and financing of the acquisition of 19 Campion Road with build out.

Edmund Wiatr, who had attended the December 3, 2008 Town Board meeting, raised an issue with Mr. Yagey’s comment about the appraisal amount received for this property at 19 Campion Road. Mr. Yagey clarified that the building cost and build out would be \$1.5 million and fees for moving, legal, architectural, etc. would cost an extra \$200,000.

Whereupon, the Town Board voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

REPORTS OF TOWN OFFICIALS (CONT'D)

TOWN CLERK:

Games of Chance – Raffle Consent

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

(RESOLUTION NO. 303 OF 2008)

RESOLVED that the New Hartford Town Board does hereby grant permission to Herkimer County College Foundation, 100 Reservoir Road, Herkimer, NY 13350, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford,

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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:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

HIGHWAY SUPERINTENDENT:

Award of Competitive Bid – Truck Purchase

Upon request of the Highway Superintendent, the following Resolution was offered for adoption of Councilman Payne and duly seconded by Councilman Woodland:

(RESOLUTION NO. 304 OF 2008)

WHEREAS, the Town Superintendent of Highways did, on the 10th day of December, 2008, duly recommend the purchase of certain equipment pursuant to the provisions of Section 142 of the Highway Law;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize the Town Superintendent of Highways to purchase, in accordance with the provisions of Article 5-A of the General Municipal Law, one (1) 1997 Chevy Bucket Lift Truck from Tallman Sales & Service, the sole bidder, for a maximum aggregate price of Fourteen Thousand Three Hundred Dollars (\$14,300), delivered at the Sanger Public Works Garage, 111 New Hartford Street, New Hartford, New York, by December 11, 2008. Upon delivery of the above-referenced vehicle, the Town Supervisor shall pay the amount of Fourteen Thousand Three Hundred Dollars (\$14,300) from budgetary appropriations for purchase of equipment.

A roll call vote was duly held as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye

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Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Declaration of Surplus Vehicles – Authorization to Sell

Upon request of the Highway Superintendent, the following Resolution was offered for adoption by Councilman Reynolds and duly seconded by Councilman Payne:

(RESOLUTION NO. 305 OF 2008)

RESOLVED that the Town Board of the Town of New Hartford does hereby declare as surplus one (1) 1985 Ford F7M Utility (Bucket Lift) Truck, Vehicle Identification Number 1FDWK74N6FVA57474;

and be it

FURTHER RESOLVED that the aforesaid vehicles shall be placed for sale on e-Bay and once sold, the Town Clerk's office shall be notified and shall arrange to terminate insurance coverage on said vehicle.

The foregoing Resolution was voted upon by roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Councilman Reynolds	-	Aye
Supervisor Reed	-	Aye.

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

Authorization for Competitive Bid – Loader Buckets

Upon request of the Highway Superintendent who indicated monies were available in the 2008 Highway budget, Councilman Payne presented the following Resolution and moved its adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 306 OF 2008)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the purchase of two (2) JRB loader buckets (clam style), or equivalent, for 624J John Deere Loaders, in accordance with Town specifications; all bids are to be received by the Town

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Clerk's Office no later than 10:45 A.M. on a date to be determined by the Highway Superintendent 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.

He had obtained quotes and the approximate cost per loader bucket is Fourteen Thousand Dollars (\$14,000). The Town Board voted upon roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Councilman Reynolds	-	Aye
Supervisor Reed	-	Aye.

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

Declaration of Emergency Situation – Stainless Steel Sander Body

Upon recommendation of the Highway Superintendent who indicated sufficient monies were available in the 2008 Highway Budget, the following Resolution was introduced for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 307 OF 2008)

WHEREAS, the Highway Superintendent has reported that a stainless steel sander body/hose spreader assembly has major rust and holes in the unit, with the imminent potential to fall apart and leaving the Highway Department short one sander for controlling snow and ice on public highways; and

WHEREAS, the Town Board has determined that the stainless steel sander body/hose spreader assembly requires immediate replacement for the health, welfare and safety of the residents of the Town during this Winter Season;

THEREFORE, BE IT RESOLVED that, due to the imminent health, safety and welfare situation created by this situation, the Town Board does hereby declare this matter an emergency situation and does hereby authorize and direct Highway Superintendent Richard Sherman to purchase one (1) Air Flow AF2000 Stainless Steel Sander Body, 10', from Tracey Road Equipment at a cost not to exceed Fourteen Thousand Two Hundred Nine Dollars (\$14,209).

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The Resolution was voted upon by roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Acquisition of Truck on State Contract

Upon request of the Highway Superintendent who stated that sufficient monies were available in the 2008 Highway Budget, Councilman Payne offered the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 308 OF 2008)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Highway Superintendent to purchase on State Contract, PC62886, one (1) 2009 Ford F250, 4 x 4, Regular Cab Pick-up Truck from VanBortel Ford at a cost not to exceed Nineteen Thousand Three Hundred Sixty-nine Dollars and Fifty Cents (\$19,369.50).

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

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Acquisition of Miscellaneous Equipment

Upon further request of the Highway Superintendent who reported that funds are available in the 2008 Highway Budget, the following Resolution was introduced for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 309 OF 2008)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Highway Superintendent to purchase from McQuade and Bannigan the following equipment:

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- One (1) vibrating plate tamper, GP 5500 Honda gas engine - \$1,416.00
- One (1) Stihl cut-off saw, TS420 14" - \$765.00.

A roll call vote ensued:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

REPORT OF SPECIAL COMMITTEE

ENERGY COMMITTEE:

George Bertrand, chairman of the Energy Committee, provided a slide presentation, attached hereto as Schedule "A", stating that the Committee's mission is to improve the economic operation of the New Hartford Town and Village governments by reviewing current energy costs, investigating alternative renewable energy sources, and making recommendations to the town and village boards about, but not limited to:

- Existing village/town contracts
- Building efficiencies
- Vehicle efficiencies
- Existing technologies
- New technologies.

Chris Kalwara of Johnson Controls then provided a slide presentation, attached hereto as Schedule "B" with regard to energy audits and savings, etc.

REPORTS OF TOWN OFFICIALS (CONT'D)

AGING (DIRECTOR OF SENIOR SERVICES):

Appointment of Part-time Employees

Upon request of the Director of Senior Services, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Woodland:

(RESOLUTION NO. 310 OF 2008)

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RESOLVED that the New Hartford Town Board does hereby appoint Ruth Irwin and Lesli Anweiler as Part-time Clerks for the New Hartford Adult Dining and Activity Center effective December 11, 2008, at an hourly wage of Seven Dollars and Seventy-five Cents (\$7.75); all wages to be paid bi-weekly:

Whereupon, the Town Board voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

CODES ENFORCEMENT OFFICER:

Local Law Introductory “G” of 2008 – Chapter 94 of the Town Code

The Town Board having received the Code Enforcement Officer’s proposal to update Chapter 94 (Property Maintenance) of the Town Code that would expand the Code to abate any condition that constitutes a threat to the health, welfare, and safety of Town residents, Councilman Payne 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 “G” of 2008

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF NEW HARTFORD, CHAPTER 94 THEREOF ENTITLED “PROPERTY MAINTENANCE”, BY REPLACING THE EXISTING TEXT ADOPTED IN 1994 IN ITS ENTIRETY WITH NEW LANGUAGE.

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

SECTION 1. Chapter 94 of the Code of the Town of New Hartford, is hereby amended as follows:

REPLACE the existing Chapter with the following new language:

§ 94-1. Prohibited property conditions

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Any property condition that is deemed to be in violation of the New York State Property Maintenance Code or the Code of the Town of New Hartford and by its nature represents a direct threat to life, public safety, health, general welfare or represents a public nuisance as defined in Chapter 86 of the Code of the Town of New Hartford.

§ 94-2. Notice to abate nuisance; service of notice.

In the event that the Town Board of the Town of New Hartford determines that a property condition constitutes a threat to health, safety and general welfare of the residents of the Town of New Hartford or represents a public nuisance as defined in Chapter 94 herein, the Town Board shall direct the Code Enforcement Officer to give written notice to the owner of such real property to abate the prohibited property condition as may be necessary to remove such hazard or nuisance. Such notice shall be given, in writing, by personal service or registered mail, to the owner of such property at owner's last known address as appears on the latest Real Property Tax Assessment Roll of the Town of New Hartford. Such notice shall direct that such hazard or nuisance be removed within 10 days of the mailing of such notice.

§ 94-3. Abatement by town; lien.

If, within said 10 days, the owner or occupant should fail, refuse or neglect to abate the hazard or nuisance, the Town Board of the Town of New Hartford may after presentment by the Code Enforcement Officer direct the Code Enforcement Officer to abate the same through the use of Town facilities or equipment, or the Town Board of the Town of New Hartford may contract with an independent contractor or contractors to do the work and cause the hazard or nuisance to be abated. In either event, the costs incurred by the Town of New Hartford to accomplish the abatement of the hazard or nuisance shall be assessed against and be a lien upon the lot, tract or parcel of land where the hazard or nuisance was found to exist.

§ 94-4. Penalties for offenses.

Civil Penalties. A violation of the code or this article shall constitute a civil offense punishable by a fine and/or imprisonment as prescribed in §118-80 of the Code of the Town of New Hartford. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

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.

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SECTION 3. This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

Local Law Introductory "H" of 2008 – Chapter 98 of the Town Code

The Town Board having received the Code Enforcement Officer's proposal to update Chapter 65 (Sewers) of the Town Code to current standards, Councilman Payne introduced the following legislation for the Town Board's consideration at a future public hearing; co-sponsored by Councilman Reynolds:

TOWN OF NEW HARTFORD, NEW YORK
Local Law Introductory "H" of 2008

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF NEW HARTFORD, CHAPTER 98 THEREOF ENTITLED "SEWERS" BY REPLACING ARTICLE I (INDIVIDUAL SEWAGE TREATMENT SYSTEMS) IN ITS ENTIRETY WITH NEW LANGUAGE.

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

SECTION 1. Chapter 98 of the Code of the Town of New Hartford, is hereby amended as follows:

REPLACE the existing Article I with the following new language:

Article I

§ 98-1. Purpose.

A. The purpose of these regulations shall be to protect the health, safety, and general welfare of the residents of the Town of New Hartford by regulating individual sewage treatment systems in accordance with Appendix 75-A Wastewater Treatment Standards- Individual Household Systems to ensure among other things that:

- (1) Drinking water supplies will not be contaminated.
- (2) A breeding place for insects, rodents and other possible carriers, which may come into contact with food and drinking water will not be created.
- (3) A health hazard will not be created as the result of sewage exposed on the surface of the ground.
- (4) Waters of any recreational area will not be polluted.
- (5) A nuisance resulting in obnoxious odors and unsightliness will not be caused.
- (6) Safety hazards will not be created
- (7) Attractive nuisances will not be created

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B. Nothing contained in these regulations shall be construed to permit the installation or continued operation of treatment facilities that are or may become a nuisance.

§ 98-2. Application; fee.

A. No permit for the installation, alteration or extension of any septic tank, tile field, leaching pit, chemical toilet, privy, pipe or other means for the treatment or discharge of sewage or sink wastes shall be issued, nor shall the construction or erection of any structure intended for human occupancy be commenced, until an application has been duly completed by the applicant on forms supplied by the Codes Enforcement Officer of the Town of New Hartford including the following information:

(1) A tax map, plot plan, or survey map of the parcel on which the applicant intends to install the treatment system including tax map number and legend/scale. Said map shall depict the intended location of the treatment system, the location of all property lines, permanent structures, water supply systems, easements and rights of way on the parcel. A licensed survey may be required where the Code Enforcement Officer deems it to be necessary.

(2) A design drawing of the treatment system the applicant intends to install on the parcel which is stamped by a New York State licensed engineer or architect.

3) Upon completion of the installation, the architect or engineer of record shall file a certificate of completion with the officer stating that, to the best of his/her knowledge, and based on his/her or his/her designee's inspection(s), the system has been installed in conformance with the submitted drawings and conforms to all applicable design standards.

B. Exception: Installations or repairs made to existing treatment systems that require removal or replacement of less than 50 % of the system shall not be required to be designed and inspected by a New York State licensed engineer or architect.

C. Alternative or Experimental System: Any system deemed to be an alternative or experimental system shall also be submitted and approved by the Oneida County Department of Environmental Health or the New York State Department of Health if those services are not available through Oneida County.

D. All new installations or repairs to existing systems shall require a Certificate of Compliance or Certificate of Occupancy to be issued by the Code Enforcement Officer.

E. Fees shall be paid in accordance with the established fee schedule in 118-93D(10) of the Code of the Town of New Hartford.

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§ 98-3. Penalties for offenses.

Civil Penalties. A violation of the code or this article shall constitute an offense punishable by a fine and/or imprisonment as prescribed in §118-80 of the Code of the Town of New Hartford. A violation of the code or this article shall constitute a civil offense punishable by a fine not to exceed an amount established by the Town Board and/or imprisonment for a term not to exceed that established by the Town Board. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

§ 98-4. Forms to be obtained.

All appropriate forms shall be obtained from the Codes Enforcement Officer of the Town of New Hartford whose office is located at 111 New Hartford Street, New Hartford, New York.

§ 98-5. Waivers for existing systems.

In cases where existing systems fail and cannot be corrected to the standards set forth by the New York State Department of Health, a waiver may be requested from the Oneida County Department of Health. The purpose of this waiver provision is to allow for reasonable compromises regarding design standards for existing traditional systems, where the use of an alternative disposal system is not feasible. This application must contain statements from the Oneida County Sanitary Inspector, a New York State Sanitary Engineer, or other qualified individual experienced in sewage treatment systems detailing what factors prevent the use of a system designed in conformance with the requirements of the "Waste Treatment Handbook, Individual Household Systems."

§ 98-5.1. Amendments.

All amendments to this article shall be in accordance with the provisions of the Town Law and Oneida County Department of Health regulations applicable thereto.

§ 98-5.2. Certificate of Compliance

Upon the issuance of a Septic permit for a sewage treatment system the Town Codes Enforcement Officer shall issue a Certificate of Compliance. No person shall occupy a residence until such time as the Certificate of Compliance or Certificate of Occupancy is issued.

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SECTION 2 All other provisions of Chapter 98 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.

Schedule Public Hearing – Local Laws Introductory “G” and “H” of 2008

Councilman Payne offered the following Resolution for adoption, seconded by Councilman Reynolds:

(RESOLUTION NO. 311 OF 2008)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing on **Monday, December 29, 2008 at 6:00 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 Laws Introductory “G” and “H” of 2006** which, if adopted, would amend the Code, as follows:

- Introductory “G” – repeal and replace the existing Chapter 94 entitled Property Maintenance to broaden the scope of abatement of nuisances on properties
- Introductory “H” – repeal and replace Article I of Chapter 98 entitled Sewers, specifically related to individual septic systems, to bring the law up to current standards

and be it

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.

Whereupon, the Town Board voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

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Proposed Legislation – Updates to the Code, Chapter 65 and Chapter 118

The Codes Enforcement Officer has been working on updates to the Code, Chapter 65 entitled “Fire Prevention”, and Chapter 118 entitled “Zoning”, and expects to submit the final proposal at the December 29, 2008 Town Board meeting. A part-time Codes Enforcement Officer will be needed to handle the inspections related to this legislation, to be funded through these fees and ancillary costs.

Post Vacancy – Part-time Codes Enforcement Officer

Upon request of Codes Enforcement Officer Joseph Booth who had discussed the matter with the Personnel Technician, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Woodland:

(RESOLUTION NO. 312 OF 2008)

RESOLVED that the New Hartford Town Board does hereby grant permission to the Personnel Technician to post the opening for a Part-time Codes Enforcement Officer to handle inspections related to proposed changes in the Code, Chapters 65 and 118.

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

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Appointment of Student Worker

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

(RESOLUTION NO. 313 OF 2008)

RESOLVED that the New Hartford Town Board does hereby appoint Christine Krumbach as a Student Worker from December 22, 2008 through December 31, 2008 at an hourly wage of Seven Dollars and Seventy-five Cents (\$7.75), payable bi-weekly; Ms. Krumbach will cover the Codes Office for employee vacation.

Whereupon, the Town Board voted upon roll call:

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Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Lot sizes & Subdivision - Sherman Drive

With regard to the comments made by Barbara Morris at the November 19, 2008 Town Board meeting, Codes Enforcement Officer Joseph Booth offered the following:

“Mrs. Morris’ first point of concern revolved around the Town requiring a survey when a new lot is created. In response to this I’d just like to say that the Town not only gets a licensed survey before a subdivision is approved by the Planning Board or staff, but the Codes Department also gets an as built survey before a certificate of occupancy is issued.”

“Mrs. Morris’ second concern was for uniform enforcement of both building and zoning codes to assure that a home is not in her words ‘stuffed on a lot’.”

“I can assure Mrs. Morris that not only are our codes enforced uniformly but they are applied via the NYS Uniform Fire Prevention and Building Code and also the Code of the Town of New Hartford which sets forth stringent limitations on how a home is constructed, the maximum permissible coverage of a lot and the appropriate setback distances from adjoining property lines.”

“In closing, [Codes Officer said] that Mrs. Morris’ concerns have not gone unnoticed by the Codes Committee, namely Dave Reynolds, and as a result the new subdivision regulations will be revisited with regard to notice given to adjoining neighbors when a minor subdivision is being processed.”

Codes Enforcement Officer will mail a copy of his comments to Mrs. Morris.

PARKS AND RECREATION DIRECTOR:

Personnel - Parks Laborer Upgrade

Upon recommendation of the Parks and Recreation Director who had approval from the Town Personnel Office, Councilman Payne introduced the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 314 OF 2008)

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RESOLVED that the Town Board of the Town of New Hartford does hereby promote Crew Supervisor/Laborer Robert Ahrendtsen to the position of Recreation Maintenance Worker for the Parks and Recreation Department effective January 2, 2009, at an hourly wage of Twelve Dollars and Ninety-two Cents (\$12.92), payable bi-weekly.

The Town Board voted upon roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Councilman Reynolds	-	Aye
Supervisor Reed	-	Aye.

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

PLANNER:

COR Development - Release of retainer

Upon recommendation of Planner Schwenzfeier, the following Resolution was offered for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 315 OF 2008)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct Bookkeeper Carol Fairbrother to release the retainer sum of Two Hundred Eight Thousand Dollars (\$208,000) to COR Development for the Lowe's project on Middle Settlement Road (County highway) inasmuch as their project has been completed in accordance with their Pre-Development Agreement with the Town.

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

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Southern GEIS – Mailing Expense

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

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(RESOLUTION NO. 316 OF 2008)

RESOLVED that the New Hartford Town Board does hereby approve the expenditure of Fifteen Hundred Dollars (\$1500) from the Planning Board budget in fiscal year 2009 for a mailing to all property owners within the Southern GEIS study area, with a public workshop to be scheduled for March 2009.

Upon roll call, the Town Board voted as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

POLICE CHIEF:

Personnel – Animal Control Officer Vacancy

In behalf of the Police Chief who had a conflicting meeting, the Town Clerk presented the following Resolution for the Board's consideration. Thereafter, the Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Woodland:

(RESOLUTION NO. 317 OF 2008)

WHEREAS, Animal Control Officer Shawn Morgan had applied for and had been granted retirement through the New York State Employees Retirement System; and

WHEREAS, Nicholas Morosco had been appointed as temporary, full-time Animal Control Officer to fill said vacancy; and

WHEREAS, Nicholas Morosco has expressed his desire to fill this position on a permanent, full-time basis;

NOW, THEREFORE, BE IT RESOLVED that, upon recommendation of the Town Police Chief, the New Hartford Town Board does hereby appoint Nicholas Morosco as permanent, full-time Animal Control Officer for the Town of New Hartford, effective December 7, 2008, at an hourly wage of \$18.36, payable bi-weekly.

Thereafter, the Supervisor polled the Board members who voted as follows:

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Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of bills

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

(RESOLUTION NO. 318 OF 2008)

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. 32	
Vouchers AA1776-AA1782	\$ 22,049.71
General Fund Whole-Town Abstract No. 33	
Vouchers AA1783-AA1831;AA1841- AA1846;AA1853-AA1858	\$125,432.59
General Fund Whole-Town Abstract No. 33A(Police)	
Vouchers AA1832-AA1840;AA1847- AA1853	\$ 44,418.82
General Fund Part-Town Abstract No. 28	
Voucher BB167	\$ 19.00
General Fund Part-Town Abstract No. 29	
Vouchers BB168-BB179	\$ 5,900.92
Highway Fund Part-Town Abstract No. 24	
Vouchers DB524-DB559	\$445,704.21
Sewer Fund Abstract No. 28	
Voucher SS114	\$ 2,668.93
Sewer Fund Abstract No. 29	
Vouchers SS115-SS121	<u>\$ 10,368.51</u>

TOTAL: \$656,562.69

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Whereupon, the Town Board members voted individually as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Training – Association of Towns Meeting

The following Resolution was then introduced for adoption by Councilman Reynolds and duly seconded by Councilman Payne:

(RESOLUTION NO. 319 OF 2008)

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

THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize the following Town Officials to attend the February 2009 New York State Association of Towns educational seminar in New York City, New York:

- Councilwoman Krupa
- Councilman Woodland
- Highway Superintendent Richard C. Sherman
- Codes Enforcement Officer Joseph A. Booth
- Zoning Board of Appeals member
- Planning Board member

and be it

FURTHER RESOLVED that the Town of New Hartford shall pre-pay the conference registration and hotel accommodations for each of the above-referenced Town Officials who then shall be advanced the sum of Five Hundred Dollars (\$500) for meals and round-trip transportation; upon return from said educational seminar, each Town Official shall substantiate their expenditure of Five Hundred Dollars (\$500) upon a Town voucher with supporting documents/receipts and/or deliver any unexpended funds to the Town Bookkeeper.

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The Town Board then voted upon roll call:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Transportation Allowance – Association of Towns Meeting, New York City

The following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Payne:

(RESOLUTION NO. 320 OF 2008)

WHEREAS, the Town Board has authorized certain Town officials and employees to attend the February 2009 Association of Towns annual seminar in New York City; and

WHEREAS, various modes of transportation will be utilized to and from the seminar;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby establish the ***maximum transportation allowance*** not to exceed the cost of a round trip train fare from Utica, New York to New York, New York, whether officials/employees:

- pay round-trip bus fare
- pay round-trip train fare from Utica to New York, NY
- pay round-trip train fare from Albany to New York, NY, including any round-trip mileage from Utica to Albany.

Any Town Official/employee who drives his/her automobile to the seminar shall do so wholly at his/her own expense.

The Town Board members then voted upon roll call that resulted as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Extend Maximum Maturity of Bonds Beyond Five Years – Business Park

John Shehadi of Fiscal Advisors stated that the original bond resolution with regard to the Business Park, adopted in April 2008, restricted the term of the bond to five (5) years; this proposed resolution would amend the term of the bond to fifteen (15) years, and would coincide with the Developer's annual payments to the Town.

The following Resolution was offered by Councilman Payne, who moved its adoption, seconded by Councilman Reynolds, to-wit:

(RESOLUTION NO. 321 OF 2008)

AMENDATORY BOND RESOLUTION DATED DECEMBER 10, 2008

A RESOLUTION AMENDING A BOND RESOLUTION ADOPTED BY THE TOWN BOARD OF THE TOWN OF NEW HARTFORD, ONEIDA COUNTY, NEW YORK, IN CONNECTION WITH THE CONSTRUCTION OF IMPROVEMENTS IN AND NEAR THE NEW HARTFORD BUSINESS PARK, INCLUDING WOODS HIGHWAY, TO EXTEND THE MAXIMUM MATURITY OF BONDS AUTHORIZED TO BE ISSUED BEYOND FIVE YEARS.

WHEREAS, the Town Board of the Town of New Hartford, Oneida County, New York, duly adopted a bond resolution on April 9, 2008, authorizing the issuance of \$2,900,000 bonds and \$500,000 in fees in lieu-of-mitigation of said Town to pay the cost of the construction of improvements to the New Hartford Business Park, including Woods Highway and surrounding areas located in or near the New Hartford Business park, including the Seneca Turnpike/Woods highway intersection realignment with traffic signal; Woods Highway reconstruction; Woods Highway extension; Route 840 intersection-Right-in/Right-out or other suitable connection; other additional road construction, public utility improvements, land acquisition or rights-in-land, sidewalks, curbs, gutters, landscaping, grading or improving rights-of-way, as well as related improvements and expenses in connection therewith, in and for said Town; and

WHEREAS, such bond resolution restricts the maximum maturity of the bonds to five years; and

WHEREAS, it is now desired to remove such restriction and authorize the financing of \$2,900,000 over the period of probable usefulness assigned thereto; **NOW, THEREFORE, BE IT**

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RESOLVED, by the affirmative vote of **not less than two-thirds of the total voting strength** of the Town Board of the Town of New Hartford, Oneida County, New York, as follows:

Section 1. The bond resolution set forth in the preambles is hereby amended to provide that the maximum maturity of the bonds therein authorized will be fifteen years and will thus exceed five years with respect to the issuance of \$2,900,000 bonds authorized therein.

Section 2. Upon this resolution taking effect, the same shall be published in summary form in the **Observer Dispatch**, the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 3. This resolution is adopted subject to permissive referendum in accordance with section 35.00 of the Local Finance law. Pursuant to the provisions of Section 94 of the Town Law, the Town Board hereby elects, upon its own motion, to cause a proposition with respect to this resolution to be submitted for the approval of the qualified electors of the Town of New Hartford, Oneida County, New York, residing within the Town, such election to be held and conducted in the manner prescribed by the applicable provisions of the Town Law and the applicable provisions of the Election Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

The resolution was thereupon declared duly **ADOPTED**.

Special Town Election – Extend Maximum Maturity of Bonds/Business Park

The following resolution was offered by Councilman Payne, who moved its adoption, seconded by Councilman Reynolds, to- wit:

(RESOLUTION NO. 322 OF 2008)

RESOLUTION DATED DECEMBER 10, 2008

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A RESOLUTION PROVIDING FOR THE HOLDING OF A SPECIAL TOWN ELECTION OF THE TOWN OF NEW HARTFORD, ONEIDA COUNTY, NEW YORK, FOR THE PURPOSE OF SUBMITTING A PROPOSITION OF THE QUESTION OF AMENDING THE PERIOD OF PROBABLE USEFULNESS OF A BOND RESOLUTION DATED APRIL 9, 2008.

WHEREAS, the Town Board of the Town of New Hartford, Oneida County, New York, has, at a meeting duly called held and conducted on December 10, 2008, adopted an amendatory bond resolution to extend the term of financing from five years to fifteen years for \$2,900,000 bonds of the Town of New Hartford, Oneida County, New York to pay costs of the construction of improvements to the New Hartford Business Park, including Woods Highway and surrounding areas located in or near the New Hartford Business park, including the Seneca Turnpike/Woods highway intersection realignment with traffic signal; Woods Highway reconstruction; Woods Highway extension; Route 840 intersection-Right-in/Right-out or other suitable connection; other additional road construction, public utility improvements, land acquisition or rights-in-land, sidewalks, curbs, gutters, landscaping, grading or improving rights-of-way, as well as related improvements and expenses in connection therewith, which does not take effect until a proposition for the approval thereof has been approved at a special election by the qualified electors of said Town; and

WHEREAS, this Town Board now desires to call such a special election of said Town for the submission of such proposition; **NOW, THEREFORE, BE IT**

RESOLVED, by the Town Board of the Town of New Hartford, Oneida County, New York, as follows:

Section 1. A special election of the qualified electors of the Town of New Hartford, Oneida County, New York, shall be held on the 10th day of February, 2009, in said Town for the purpose of voting upon a proposition with respect to the bond resolution referred to in the preambles hereof. Voting shall be by voting machine and the polls at such special election shall be kept open between the hours of 12:00 o'clock P.M. to 8:00 o'clock P.M., Prevailing Time.

Section 2. Personal registration is required and electors shall only be entitled to vote at said special election unless his or her name appears on the register of said Town prepared for such special election, or such elector registers as hereinafter provided. The Town Board of Registration shall prepare a register for said special election, which register shall include all electors registered under the provisions of Article 5 of the Election Law. Any registered elector whose name appears on such register need not register again for such special election.

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Section 3. The Town Clerk is hereby authorized and directed to give notice of such special election by publication in the **Observer Dispatch**, a newspaper published in said Town, at least ten days prior to the time of such special election. In addition, the Town Clerk shall post or cause to be posted a copy of such notice on the sign board maintained pursuant to subdivision 6 of Section 30 of the Town Law at least ten days prior to such election. Said notice shall be in substantially the form attached hereto as Exhibit A and hereby incorporated herein.

Section 4. The following persons are hereby selected from the list of election inspectors and ballot clerks previously designated by this Town Board for general election purposes, pursuant to the Election Law, to act as election inspectors and ballot clerks for said special election to be held on February 10, 2009:

Barbara A. Zogby	Celia Marriott	William Ashmore
Betty Gallup	MaryAnn Schloop	Violet Rose
Audrey Sotendahl	Leonard LaSacla, Jr.	Anthony Carlo, Sr.
Jane Blaszcak	D. Penny Assaro	Patricia Thomas
Jacqueline Nicholas	Gloria Cappelli	Robert Einstein
Victoria Argen	Neil Prichard	Rochelle Jordan
Nancy Bien	Patricia Cosgrove	Domenica Mazzatti
Loretta Einstein	Kathryn Goppert	MaryAnn Smith
Doris K. Collins	Virginia Cecelia	Thomas Mazzatti
Mary Appler	Martha Barrick	Frances Utton
Barbara Reinshagen	Rosemari Bennett	Anita H. Ouimette
Arthur Christopher	Kara Bennett	Eva Collins
Norma Mahoney	Mary Sheheen	Jane S. Lis
Philip Eastman	Thomas Esrich	Arlene Stillwell
John Rudwall	Ina Esrich	Marilyn Major
Josephine Gargash	Douglas Preston	Andrea K. Toomey
Gayle Cleveland	Ronald C. Ouimette	Paul Toomey
Edmund Dembowski	Fredna Pickerd	

Section 5. The persons named above shall be paid as follows: the sum of \$100 for each Chairman, \$95 for each inspector and \$85 for each Clerk for their services.

Section 6. This resolution shall take effect immediately.

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EXHIBIT A

NOTICE OF SPECIAL ELECTION
AND PERSONAL REGISTRATOIN

Town of New Hartford, Oneida County, New York

NOTICE IS HEREBY GIVEN that a special election of the Town f New Hartford, Oneida County, New York, will be held at:

- Ward 1 District 1 - Moravian Church of the Good Shepherd, 350 Higby Rd
- Ward 1 District 2 - Willowvale Fire Company, Inc., 3459 Oneida Street
- Ward 1 District 3 - Willowvale Fire Company, Inc., 3459 Oneida Street
- Ward 1 District 4 - Willowvale Fire Company, Inc., 3459 Oneida Street
- Ward 1 District 5 - Immanuel Baptist Church, 9501 Weston Road
- Ward 2 District 1 - New York Mills High School, 1 Marauder Boulevard
- Ward 2 District 2 - New York Mills High School, 1 Marauder Boulevard
- Ward 2 District 3 - Hughes Elementary School, 340 Higby Road
- Ward 2 District 4 - Hughes Elementary School, 340 Higby Road
- Ward 3 District 1 - New Hartford High School, Daly Place entrance
- Ward 3 District 2 - United Methodist Church, 105 Genesee Street
- Ward 3 District 3 - New Hartford High School, Daly Place entrance
- Ward 3 District 4 - New Hartford Fire Department, Oxford Road
- Ward 4 Districts 1, 2, 3 and 4
Myles Elementary School, 90 Clinton Road

on the 10th day of February, 2009, at which the polls will be kept open between the hours of 12:00 P.M. and 8:00 P.M., Prevailing Time, for the purpose of voting by voting machine, on the adoption or rejection of a proposition with respect to a bond resolution dated and duly adopted December 10, 2008 by the Town Board of said Town.

The polls will be kept open for the purpose of voting during the aforesaid hours and the proposition to be voted upon will be in substantially the following form, to-wit:

PROPOSITION

Shall the bond resolution dated December 10, 2008 amending a bond Resolution dated April 9, 2008, authorizing the issuance of \$2,900,000 Bonds to pay costs of the construction of improvements to Woods Highway in the New Hartford Business Park, providing that the period of probable usefulness will be fifteen years and that the maximum maturity of such serial bonds will exceed five years, delegating to the Supervisor the power to sell and issue such serial bonds and to

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authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of such serial bonds, pledging the faith and credit of the Town to the payment of the principal of and interest on such obligations, and providing for an estoppel provision, be approved?

NOTICE IS HEREBY FURTHER GIVEN that persons qualified to vote at such special election shall be qualified electors of the Town of New Hartford, Oneida County, New York.

NOTICE IS HEREBY FURTHER GIVEN that personal registration is required and electors shall only be entitled to vote at said special election unless his or her name appears on the register of said Town prepared for such special election, or such elector registers as hereinafter provided.

NOTICE IS HEREBY FURTHER GIVEN that the Board of Registration shall meet from 4:00 P.M. (Prevailing time) until 8:00 P.M. (Prevailing Time) on January 27, 2009, at Butler Memorial Hall in New Hartford, New York, for the purpose of preparing the registers for said Special Election, at which time any person shall be entitled to have his/her name placed upon such registers, provided that at such meeting of the Board of Registration, he/she is known or proved to the satisfaction of such Board of Registration to be then or thereafter entitled to vote at said Special Election. At such hours and place, any person who is not currently registered under permanent personal registration on the lists of registered voters furnished by the Oneida County Board of Elections as of January 18, 2009 must, in order to be entitled to vote at said Special Election to be held on February 10, 2009, present himself or herself personally for registration. The Town Board of Registration shall prepare a register for aid special election, which register shall include all electors registered under the provisions of Article 5 of the Election Law. Any registered elector whose name appears on such register need not register again for such special election.

NOTICE IS FURTHER GIVEN that application for absentee ballots for qualified electors may be applied for at the Office of the Town Clerk, at least seven days before such special election if the ballot is to be mailed to the qualified elector or the day before such special election if the ballot is to be delivered personally to the vote, or his or her agent.

NOTICE IS HEREBY FURTHER GIVEN that absentee ballots must be returned to the Town Clerk and received by the Town Clerk not later than 5:00 P.M., Prevailing Time, on the date of the election, February 10, 2009. A list of all qualified electors to whom absentee ballots have been issued will be available in the Office of the Town Clerk where it will be available for public inspection during regular office hours until the day of the election. Any qualified elector may, upon examination of such list, file a written

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challenge to the qualifications of any elector to receive an absentee ballot, stating the reasons for such challenge. Such written challenge shall be filed with the Town Clerk who will transmit the same to the Inspectors of Election prior to the close of the polls.

Dated: New Hartford, New York

BY ORDER OF THE TOWN BOARD OF
THE TOWN OF NEW HARTFORD,
ONEIDA COUNTY, NEW YORK

By: _____
Town Clerk

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

The resolution was thereupon declared duly ***ADOPTED***.

MATTERS SUBMITTED BY COUNCILMEN/ATTORNEY

COUNCILMAN PAYNE:

Training

The following Resolution was introduced for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 323 OF 2008)

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Personnel Technician II Barbara Aiello to participate in a Teleconference on W-2's on Tuesday, December 16, 2008 on Web Training, with any expenses to be borne by said Town as budgeted.

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The Resolution was voted upon by roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

Training

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

(RESOLUTION NO. 324 OF 2008)

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Planner Kurt Schwenzfeier, Councilman Robert Payne and any member of the Energy (Advisory) Committee to attend the Community Energy Issues Workshop on January 20, 2008 in Boonville, New York, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

ATTORNEY GREEN:

Over-time pay – Bookkeeper

Attorney Green summarized the history of the Town Bookkeeper's overtime hours from 2002 – 2007 and action taken by the Town. An Agreement to be entered into between Bookkeeper Carol Fairbrother and the Town will require that the Bookkeeper submit any

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overtime requests in writing and that the Town Supervisor shall respond in writing whether approved or not; she will also be required to sign a General Release. The Town Board had read the proposed resolution that the Attorney had previously submitted. Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 325 OF 2008)

WHEREAS, the Town Board having previously retained the services of independent Special Counsel to review the matter of overtime pay claimed to be due and owing Town Bookkeeper Carol Fairbrother; and

WHEREAS, special counsel having met with Ms. Fairbrother, reviewed related documents and information, conducted the necessary legal research and having determined she is a non-exempt employee entitled to overtime pay; and

WHEREAS, said determination having been communicated to Ms. Fairbrother by Supervisor Reed; and

WHEREAS, Supervisor Reed having asked Ms. Fairbrother to prepare a calculation of overtime monies claimed to be due and owing for years 2002, 2003, 2004, 2005, 2006 and 2007; and

WHEREAS, Ms. Fairbrother having calculated the amount due and owing from records kept by her during the period in question; and

WHEREAS, the Town Board having verified the accuracy of Ms. Fairbrother's calculations and the legitimacy of her claim.

NOW, THEREFORE, the Town Board moves to accept the calculation as presented and directs the following:

1. Execution by the Town Supervisor of the written Agreement prepared by the Town Attorney which memorializes this settlement and properly released the Town from further obligation to Ms. Fairbrother for overtime compensation for the identified years to date.
2. Presentment of the subject Agreement and General Release to Ms. Fairbrother for her review and signature.
3. Payment to Ms. Fairbrother within 30 days after receipt of the signed Agreement and General Release from the proper Town account in the sum

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of \$71,544.81 less any and all applicable local, State and Federal withholdings as calculated, determined and verified by the Town Personnel Director.

4. Credit, if any, to Ms. Fairbrother's Town pension with the NYS Retirement System for monies paid pursuant to the settlement and Agreement of the parties hereto as calculated by said Retirement System.

Upon roll call, the Board members voted as follows:

Councilwoman Krupa	-	Absent
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

MINUTES

November 19, 2008 Town Board meetings

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

(RESOLUTION NO. 326 OF 2008)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held November 19, 2008 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilwoman Krupa	-	Absent
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

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EXECUTIVE SESSION

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

(RESOLUTION NO. 327 OF 2008)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss potential litigation involving Daniel Appler.

A roll call vote ensued:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media, were then excused from the meeting at 8:03 P.M.. The Town Clerk was asked to remain in the event the Town Board wanted to take action after the Executive Session.

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 328 OF 2008)

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:

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:19 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public was invited to re-join the meeting.

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Health Insurance Coverage – Retired Police Officer Daniel Appler

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

(RESOLUTION NO. 329 OF 2008)

WHEREAS, Appler retired from the New Hartford Town Police Department on June 25, 2005 with one hundred (100) accumulated sick days for which he received from the Town the sum of \$22,152; and

WHEREAS, at the time of Officer Appler's retirement, negotiations were in progress for the Police Benevolent Association Union Contract for period January 1, 2005 through December 31, 2008; and

WHEREAS, the PBA Union Contract was ratified in 2006. Said contract, among other things, made available health insurance coverage for retired police officers until the age of 65 with the following eligibility requirements:

- the retired police officer must turn in one hundred (100) sick days to the Town of New Hartford.
- The retired police officer must contribute Fifteen Percent (15%) of the total annual cost of the health insurance.

And

WHEREAS, Appler notified the Town of his desire to become eligible for continued health coverage through the Town and to that end expressed a willingness to pay 15% of the total annual cost of the subject coverage and reimburse the Town the sum of \$22,152 for the 100 accumulated sick days for which he had been paid; and

WHEREAS, Appler requested the Town allow him to reimburse said \$22,152 over a six (6) year period in seventy-two (72) equal monthly payments of \$307.67; and

WHEREAS, at a Town Board meeting held September 6, 2006 the Town Board adopted a resolution agreeing to provide retiree health benefits and coverage to Appler commencing October 2006 and further agreeing to allow Appler a period of 72 months to reimburse the Town the subject \$22,152; and

WHEREAS, to that end, Appler was sent a letter dated November 29, 2006 from the Town Bookkeeper notifying him of the Town Board resolution and directing the 72 month reimbursement commence immediately; and

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WHEREAS, Appler accepted the terms and conditions set forth above; and

WHEREAS, THE Town did begin providing Appler with retiree health insurance benefits in accordance with the aforementioned PBA Union Contract in October 2006; and

WHEREAS, Appler did begin reimbursing the Town as follows:

<u>Date Payment Received</u>	<u>Appler Check #</u>	<u>Amount of Check</u>
4/9/07	2803	\$ 100
5/7/07	9523	\$ 100
6/5/07	9529	\$ 100
7/20/07	9540	\$ 100
8/9/07	9549	\$ 200
8/31/07	9755	\$ 200
10/3/07	9769	<u>\$ 200</u>
		<u>\$1,000</u>

WHEREAS, no further reimbursement monies were remitted by Appler to the Town after 10/3/07; and

WHEREAS, by letter dated May 2008, the Town notified Appler of the above-referenced deficiencies; and

WHEREAS, in response to said May 2008 letter, Appler contacted Supervisor Reed expressing a desire to continue receiving retiree health benefits and promising to bring the delinquencies and deficiencies up to date; and

WHEREAS, based on said conversation with Appler the Town Board directed the Town Attorney to prepare written agreement whereby Appler would pay the Town all delinquent monies on or before November 30, 2008 in the sum of \$6,999.42; continue monthly installment payments thereafter in the sum of \$307.67 until said \$22,152 was paid in full; and continue to pay 15% each month as and for his contribution to the cost of the subject health insurance; and

WHEREAS, Appler has failed, refused or neglected to sign the written agreement presented to him; and has failed, refused or neglected to remit past monies due and owing the Town.

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NOW, THEREFORE, be it resolved, that the Town Board hereby directs the Town Personnel Director to cancel Appler's insurance coverage by and/or through the Town/PBA Union Contract as soon hereafter as same can be effectuated and further directs the Town Attorney to initiate legal proceedings against Appler to recover any and all damages the Town may have incurred by and through its actions and dealings with Appler in this matter.

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

Councilwoman Krupa	-	Absent
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Aye
Supervisor Reed	-	Aye.

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

ADJOURNMENT

There being no further business to come before the Board, upon motion of Councilman Reynolds, seconded by Councilman Woodland, the meeting was adjourned at 8:21 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk