

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, MARCH 25, 2009 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 PRESENT:

Councilman Robert A. Payne III
Councilwoman Christine G. Krupa
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Earle C. Reed

OTHER TOWN OFFICIALS PRESENT:

Codes Enforcement Officer Joseph Booth
Highway Superintendent Richard C. Sherman
Parks and Recreation Director Michael W. Jeffery
Planner Kurt L. Schwenzfeier
Senior Engineering Technician John Meagher
Town Clerk Gail Wolanin Young and Deputy Clerk
Melody K. Fancett

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

PUBLIC HEARING

6:01 P.M. Local Law Introductory "C" of 2009
Vehicles & Traffic – Parking Prohibited

The Town Supervisor opened the Public Hearing at 6:01 P.M. and the Town Clerk had available the Notice of Public Hearing, Affidavit of Posting and Proof of Publication (March 16, 2009 Edition of the Observer Dispatch); the purpose of the Hearing was to offer Town residents an opportunity to speak for or against, or to comment upon, Local Law Introductory "C" of 2009 which, if adopted, would amend the Town Code, Chapter 113 thereof entitled VEHICLES & TRAFFIC by adding a section of Ney Ave to Section 113-45. Schedule XI: Parking Prohibited at all times.

Supervisor Reed turned the Hearing over to Councilwoman Krupa who represents the area involved. Councilwoman Krupa stated that presently there is a no parking restriction on one side of Ney Ave near the Utica College parking lot but that residents have requested no parking on the other side of the street as well because Utica College students park along the unrestricted side of Ney Ave, making it difficult for property

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owners to access/exit their driveways and that the students also park on the residents' lawns. The Public Relations Department of Utica College attempted to assist the neighboring property owners by informing the students of the problem, but with no results.

Stephen Best came forward, stating that he had presented a list of concerns to Utica College President Todd Hutton at the end of January 2009. Mr. Best said he was also representing Ney Ave property owners Freda Salie and David Cole, the latter of whom had a car accident with a vehicle blocking his egress. The area involved is property owned by Utica College, except for these three (3) residences. Students leave their cars parked on the road all day long.

Councilwoman Krupa read the March 25, 2009 letter from Utica College President Hutton. All homeowners in that area and Utica College are in agreement about the no parking ban. When asked if anyone else wished to speak in the matter, Mrs. Salie referred to Mr. Best saying "...he said it all".

While the Police Department did not conduct a traffic count, Chief Philo stated that a traffic study had been done.

There being no one further to speak in the matter, the Hearing was closed at 6:07 P.M.

Adoption – Local Law No. Four of 2009

Councilwoman Krupa then moved that Local Law Introductory "C" of 2009 be adopted as Local Law No. Four of 2009, in the following format; seconded by Councilman Reynolds:

**Town of New Hartford, New York
Local Law No. Four of 2009**

A Local Law to amend the Code of the Town of New Hartford, **Chapter 113** thereof entitled **VEHICLES AND TRAFFIC**, by adding a section of Ney Ave to Section 113-45. Schedule XI: Parking Prohibited at All Times.

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

SECTION 1. Chapter 113 of the Code of the Town of New Hartford, Section 113045, is hereby amended to include the following:

Section 113-45. Schedule XI: Parking Prohibited at ALL Times

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<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Ney Ave	West	From the northern property line of 1468 Ney Ave to the south property line of 1480 Ney Ave (Refer to map on file).

SECTION 2. All other provisions of Chapter 113 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.

A roll call vote ensued:

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

Thereafter, Local Law Introductory "C" of 2009 was declared unanimously carried and duly adopted as Local Law No. Four of 2009.

MINUTES

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

(RESOLUTION NO. 49 OF 2009)

RESOLVED that the New Hartford Town Board does hereby accept as submitted the minutes of the **Regular** Town Board meeting held **February 25, 2009** and does further waive the reading of the same.

The Supervisor polled the Board members who voted as follows:

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

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

PUBLIC PRESENTATIONS (PUBLIC COMMENTS)

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Abandoned Cemetery(ies)

Robert Dicker of the New Hartford Historical Society relayed complaints from neighbors and others about the condition of the (abandoned) Lasher cemetery, which is located on a steep hill to the west of Oneida Street (Willowvale) and can be accessed across private property in the Oxford Heights development, off Oxford Road. Hardly visible from the road, the cemetery is overgrown with trees and wild shrubs and a fence is in need of repair. Mr. Dicker recommended that a flag base and flag be installed as William Lasher, buried in the cemetery, was a Civil War veteran; his headstone might also need repair. The last known care of this cemetery was in 1971 when a local Boy Scout made the cemetery his Eagle Scout project.

Councilman Payne said a similar situation had arisen in 2007 and then-Councilman Waszkiewicz had been looking into this matter when he unexpectedly passed away.

The Lasher cemetery dates back to 1869 and a cemetery on Higby Road dates back to 1804. There is a cemetery on Mallory Road and the East Hill Cemetery is located at the corner of Higby Road and Mohawk Street; however, East Hill Cemetery is still active.

The Town Board will review this matter, determine what responsibilities the Town might have under the State's cemetery law and investigate whether funds might be available through the State cemetery fund, built by funeral directors.

REPORTS OF TOWN OFFICIALS

CODES ENFORCEMENT OFFICER:

Schedule Public Hearing – Local Law Introductory “I” of 2008

Codes Officer Joseph Booth noted that legislation had been introduced at the December 29, 2009 Town Board meeting, addressing Fire Prevention and he requested that a Public Hearing be scheduled as this legislation (Local Law Introductory “I” of 2008) would dovetail with proposed changes in the Zoning Law (Local Law Introductory “A” of 2009). Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO 50 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby schedule a Public Hearing to commence at **6:00 P.M.**, or as soon thereafter as reached in the regular course of business, on **Wednesday, April 8, 2009** in Butler Memorial Hall to consider Local Law Introductory “I” of 2008 which, if adopted, would amend the Town Code by repealing the existing Chapter 65 entitled “Fire Prevention” and replacing it with a new Chapter 65; and be it

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

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

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

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

Appointment – Student Worker

Upon request of Codes Officer Booth, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 51 OF 2009)

RESOLVED that the New Hartford Town Board does hereby appoint Christine Krumbach as a Student Worker to cover for staff vacation in the Codes Department for the week of April 13, 2009, at an hourly wage of Seven Dollars and Ninety-eight Cents (\$7.98), payable bi-weekly.

Upon roll call, the Board members voted as follows:

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

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

Proposed Annexation – Cherrywood Mobile Home Community

Codes Officer Booth will be meeting with staff to discuss the proposed annexation of a small portion of the Cherrywood Community from the Town of Kirkland into the Town of New Hartford; he will report back to the Town Board.

HIGHWAY SUPERINTENDENT:

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Refund Bid Security Deposit – Highway Department Laundry/Dry Cleaning

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

(RESOLUTION NO. 52 OF 2009)

WHEREAS, on February 27, 2009 the Town Board had received bids for the Highway Department Laundry/Dry Cleaning and, on March 11, 2009 had awarded the 3-year contract to **Aramark**, the low bidder;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Bookkeeper to refund from the Trust and Agency Account the bid security deposits submitted by Aramark and Tri-State Laundries.

A roll call vote ensued:

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

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

Declaration of Surplus Equipment – Authorization to Sell

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

(RESOLUTION NO. 53 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby declare as surplus two (2) JRB clam-style buckets for pay loaders and does further authorize that the aforesaid equipment shall be placed for sale on e-Bay and once sold, the Town Clerk's office shall be notified and shall arrange to terminate any insurance coverage on said equipment; if the aforesaid equipment is not sold on e-Bay, the buckets will be sold for scrap.

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

Councilwoman Krupa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye

Councilman Payne - Aye
Supervisor Reed - Aye.

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

Miscellaneous Matters

- *Employee shifts change to the summer schedule on Monday, March 30, 2009*
- *Spring clean-up of roads has begun*
- *Curbside brush collection begins the week of April 6, 2009*
- *First dumpster day at the Sanger Public Works Garage is Saturday, April 25, 2009*
- *OSHA training course on April 21 at the New Hartford Fire House for all Highway Department employees and some Parks Department employees*
- *AYSO – Port-a-Potty – met with Councilwoman Krupa with regard to location of bathroom facility in Spring and Fall; Town Attorney to prepare an agreement between the Town and AYSO. Councilman Payne to report to AYSO.*

Shared Labor Pool (Parks Department – Highway Department)

Discussion ensued among the Highway Superintendent, Parks and Recreation Director and Town Board members with regard to the hiring of seasonal, non-union laborers as Town laborers, with the flexibility of sharing said employees between the Parks and the Highway Department on an as-needed basis. Hourly wages would be uniform, with rates in conformity with beginning and/or returning laborers, identified as Park Laborer 1 and Park Laborer 11. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 54 OF 2009)

RESOLVED that the New Hartford Town Board does hereby establish the following policy with regard to the employment of seasonal, non-union laborers:

- Employees will be hired as a Town laborer, assigned to either the Parks & Recreation Department or the Highway Department
- All such laborers shall be paid the beginning and/or returning employee hourly wage as set forth in the Parks Laborer 1 / Parks Laborer 11 positions
- From time to time, on an “as-needed” basis, a laborer may be temporarily transferred between the Parks and the Highway Department; supervision shall be provided by the Department for which the employee is working or temporarily transferred
- Temporary transfer of laborer to another department is subject to the primary departmental supervisor’s approval.

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

Councilwoman Krupa - Aye
Councilman Reynolds - Aye

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

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

REPORTS OF SPECIAL COMMITTEES

STORMWATER MANAGEMENT (ADVISORY) IMPROVEMENT COMMITTEE:

Bid Results – Oxford Road Area Drainage Improvement

Highway Superintendent Sherman provided the results of the March 20, 2009 Bid Opening on this project:

<u>Bidder's Name</u>	<u>Total Bid</u>
D. H. Smith	\$389,634.73
Murphy Excavating	\$457,600.00
CCI	\$416,500.00
Marcy Excavation	\$417,000.00
Fred Burrows Trucking	\$356,900.00.

Shumaker Engineering has canvassed the bids and recommends the acceptance of the low bid submitted by Fred Burrows Trucking & Excavating. The project is expected to start in thirty (30) days and is expected to be completed by mid-July 2009. During working hours, Oxford Road will be down to one (1) lane with a flagman; during non-working hours, a solar-powered traffic light will be operational.

Senior Engineering Technician John Meagher stated that Oneida County might help the Town financially with this project, as it affects their county-owned road and right of way.

Award of Competitive Bid – Oxford Road Area Drainage Improvement

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

(RESOLUTION NO. 55 OF 2009)

RESOLVED that the New Hartford Town Board does hereby accept and approve the low bid submitted by Fred Burrows Trucking and Excavating, LLC (“LLC”) for work to be performed on the Oxford Road Area Drainage Improvement project upon the following conditions:

1. Receipt of a corporate resolution authorizing Mr. Fred Burrows, or some other designated corporate representative, to sign the subject bid and resulting contract on behalf of the LLC, as prescribed in the formal bid/contract papers
2. Proof of insurances in adequate amount naming the Town as an additional insured

3. Proof of a performance bond in adequate amount.

Thereafter, the Board members voted upon roll call, resulting as follows:

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

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

MATTERS SUBMITTED BY COUNCILMEN

COUNCILMAN REYNOLDS:

Training Requirements – Planning Board; Zoning Board of Appeals’ members

To be in compliance with State Law, Councilman Reynolds moved the adoption of the following Resolution; seconded by Councilman Woodland:

(RESOLUTION NO. 56 OF 2009)

WHEREAS, Town Law Sections 267 and 271, provide that, effective January 1, 2007, all planning board and zoning board of appeals members in New York State, as well as alternate members of those boards, must complete a minimum of four hours of training each year; and

WHEREAS, the above sections of state law provide that a planning board or zoning board of appeals member shall not be eligible for reappointment to such board if they have not completed the training required by law; and

WHEREAS, the above sections of state law provide that the legislative body of the town specifies which activities qualify as training to satisfy the state requirements;

NOW, THEREFORE, be it

RESOLVED, that the following list of agencies, commissions, associations, universities, and other organizations are approved to provide training to meet the state requirements when the training they provide pertains to municipal planning, zoning, community design, environmental issues, economic development, and local government functions and practices:

1. the NYS Department of State; Department of Agriculture and Markets; Office of the State Comptroller; Department of Health; Department of Transportation; Department of

Environmental Conservation; Office of Parks, Recreation, and Historic Preservation; Hudson River Valley Greenway; and

2. the New York State Association of Towns, the New York Conference of Mayors, the New York State Association of Counties, the New York Planning Federation, the American Planning Association, the Upstate New York Chapter of the American Planning Association and its sections, and the Metro New York Chapter of the American Planning Association and its sections; and
3. the Capital District Regional Planning Commission, Central New York Regional Planning and Development Board, Herkimer-Oneida Counties Comprehensive Planning Program, Lake Champlain-Lake George Regional Planning Board, Long Island Regional Planning Board, Southern Tier Central Regional Planning and Development Board, Southern Tier East Regional Planning Development Board, Southern Tier West Regional Planning and Development Board, Genesee-Finger Lakes Regional Planning Council, Hudson Valley Regional Council, Tug Hill Commission, and Adirondack Park Agency; and
4. the Oneida County Planning department(s); and Oneida County Soil and Water Conservation districts; and
5. the Albany Law School Governmental Law Center and Institute for Legal Studies, Pace Law School, Cornell University and its cooperative extension; and
6. on-line planning and zoning training programs offered by the New York Municipal Insurance Reciprocal, Pace University and Land Use Law Center, and the Lincoln Institute of Land Use Policy;

And Let It Further be

RESOLVED, that other training activities may be approved on a case-by-case basis by the Town Board upon the request of a planning board or zoning board of appeals member; and be it further

RESOLVED, that any new member appointed to fill the last 12 months of a term shall not be required to have attended training to be reappointed to a first full term, but must thereafter comply with the municipal training policy as provided elsewhere herein; and be it further

RESOLVED, that training received by a planning board member or zoning board of appeals member in excess of four hours in any one year may be carried over by the member into succeeding years; and be it further

RESOLVED, that the Secretary to Planning and Zoning Board of Appeals shall create and maintain a system of tracking the training individual members complete annually; and such information shall be presented to the appointing authority prior to considering a member for reappointment.

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

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

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

REPORTS OF TOWN OFFICIALS (CONT'D)

PARKS AND RECREATION DIRECTOR:

Philip Rayhill Memorial Trail

Parks and Recreation Director Michael Jeffery had developed an educational brochure entitled "Geese Habitat Awareness" for walkers using the Rayhill Memorial Trail; copies of the brochure will be available along the trail and signage will be posted at the trailheads cautioning people to be aware of and stay away from the geese.

Appointments – Seasonal Employees

Upon request of the Parks and Recreation Director, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 57 OF 2009)

RESOLVED that, pending approval of Personnel Technician II Barbara Aiello, the New Hartford Town Board does hereby appoint the following individuals to the various seasonal Parks Department positions and wages set opposite their several names, commencing April 6, 2009; all wages to be paid bi-weekly:

<u>Name</u>	<u>Title</u>	<u>Hourly Wage</u>
Richard Davies	Park Laborer II/Crew Supervisor	\$ 9.30
Christian Lutz	Park Laborer 11	\$ 8.90
Daniel M. Dreimiller	Park Laborer 11	\$ 8.90
Sean Dakus	Park Laborer 11	\$ 8.90
Michael Kelly	Park Laborer 11	\$ 8.90
Michael Matt	Park Laborer 1	\$ 8.25
Andrew Roemer	Park Laborer 1	\$ 8.25
John Snyder	Park Laborer 1	\$ 8.25
Nicholas Hanretty	Park Laborer 1	\$ 8.25

Robert Cooper Park Laborer 1 \$ 8.25

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

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

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

Miscellaneous Matters

- Ice season at the Recreation Center will conclude on Sunday, March 29, 2009
- The Parks flier will be on the Town website April 1, 2009, in the Town Crier and in the mail to residents. If good weather continues, will try to have the parks open early this year.

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of Vouchers

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

(RESOLUTION NO. 58 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the payment of the bills itemized on the following Abstracts, which had been duly audited by the Town Board:

General Fund Whole-Town Abstract #13	
Vouchers AA553-AA593; AA604-AA606	\$29,965.78
General Fund Whole-Town Police Abstract #13A	
Vouchers AA594-AA603	\$ 6,377.59
General Fund Part-Town Abstract #11	
Vouchers BB54-BB63	\$ 1,865.33
Highway Fund Part-Town Abstract #8	
Vouchers DB278-DB304	\$37,626.38
Sewer Fund Abstract #9	
Vouchers SS21-SS23	\$ 3,370.48
Stormwater Drainage Abstract #5	
Voucher HU9	\$ 100.79
	<u>\$79,306.35</u>

Upon roll call, the Board members voted as follows:

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

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

MATTERS SUBMITTED BY TOWN ATTORNEY

Revision - Higby Road Water District Committee Report and Recommendation

In behalf of the Town Attorney, the Town Clerk presented the revised Higby Road Water District Report and Recommendation, the original of which had been approved at the March 11, 2009 Town Board meeting. This revised Report and Recommendation now includes a minor change on Page 15 with regard to future development of a now-vacant lot owned by the Sitrin Home; specifically, “outside the Sitrin business structure” has been added with regard to Tax Map Parcel No. 340.000-2-21.1

Revision – Local Law No. Three of 2009 (Water Service)

Also, the Town Attorney had prepared a revision to Local Law No. Three, adopted March 11, 2009 in conjunction with the Higby Road Water District Committee’s Report and Recommendation; the minor revision in Section 1. Purpose; Limitations of Service, brings the Local Law into conformity with the terms and conditions of the Agreement dated April 12, 2005 by and between the Town of New Hartford and the MVWA.

Adoption – Revised Higby Road Water District Committee Report and Recommendation and Local Law No. Three, As Amended, 2009

Thereafter, Councilman Payne offered the following Resolution for adoption and Councilwoman Krupa seconded same:

(RESOLUTION NO. 59 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford hereby accepts and approves the revised Report and Recommendation (attached as Schedule “A”) of the Higby Road Water District Committee presented this 25th day of March, 2009 and moves further to adopt same along with the revised Local Law No. Three of 2008 also presented March 25, 2009, as follows:

TOWN OF NEW HARTFORD, NEW YORK Local Law No. Three, As Amended, of 2009

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF NEW HARTFORD, BY ADDING A NEW **CHAPTER 117** ENTITLED “**WATER SERVICE LOCAL LAW**”.

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

Sec. 117-1. PURPOSE; LIMITATIONS OF SERVICE

- A. The Town Board recognizes that the future health, safety, and prosperity of its residents and businesses depend upon an adequate supply of clean, potable water and the establishment and ongoing maintenance of an effective water system constructed, in whole or part, by the Town of New Hartford (“Town”) and owned and maintained by the Mohawk Valley Water Authority (“MVWA”) all in accordance with the provisions set forth in the Agreement dated April 12, 2005 by and between the Town and the MVWA. Such can be assured through careful, vigilant management and a local law which provides the mechanisms and safeguards to prudently manage, conserve and distribute this valuable but limited resource and assures the funding necessary to achieve these goals.

- B. While it is the desire of the Town to provide such water to all who have reasonable need for the same and are willing to abide by the conditions of service and pay the necessary administrative and other charges therefor, as described hereinafter, all users of the system, present and future, should be aware of the following limitations, which the Town Board deems to be reasonable and necessary.
 1. The first priority is to assure a fair and equitable distribution of water with adequate pressure to all residents and businesses of the Town, with due regard to the fact that, at all times, there must be a sufficient reserve within the Town water system to provide for growth and development within the Town, adequate fire protection, other emergencies, droughts and the unexpected.
 2. All of the users of the system must recognize that the MVWA may, in its discretion, interrupt and/or withhold services to everyone using the system, from time to time, for emergency purposes and/or that the water supply or pressure may be discontinued, delayed, diminished, and/or interrupted due to water shortages for whatever reason and that in such an eventuality, neither the Town, the water district, or the MVWA shall be held responsible for damages.
 3. Any and all current or future users accept continued or future service subject to the above basic purposes and limitations and the terms hereinafter described, as their use of the Town water supply constitutes a contractual relationship whereby the user, in return for a supply of water, agrees to the policy, purposes, regulations and penalties set forth herein, agrees to pay the rates established hereinafter and also agrees to allow the Town or MVWA employees access to the user’s property for the purposes hereinafter described.

Sec. 117-2. CONDITIONS OF SERVICE

- A. When any person, firm, business, entity or corporation, hereinafter called the “user” who owns or otherwise uses property situate within the Town and desires to in any way connect into the Town water system or otherwise use water, for any purpose, such user shall, prior to any such use or consumption of water, be required to first prepare and file a written application with the MVWA and/or Town which shall be accompanied by whatever application fee the Town and/or MVWA shall prescribe pursuant to this local law and/or the other valid requirements.
- B. Any user applying for service and accepting service from the Town accepts such service upon the express condition, agreement and/or understanding that such user shall not permit any other user to connect or use water from said tap and also that such water shall be used solely and exclusively for the use of the building and/or the purposes defined in said application.

Sec. 117-3. CONNECTIONS

- A. Notwithstanding any provisions of this local law to the contrary, it shall be a violation of this local law to make any connection to the water supply system or any private main serviced by Town water outside the corporate limits of the Town without obtaining written consent of the MVWA and/or the Town.
- B. The connection of any pumps or heat pumps or similar devices, which extract heat or cold from water, to the water supply system is expressly prohibited.

Sec. 117-4 PERMIT REQUIRED FOR ADDITIONAL OR OTHER USE OF WATER

Permits shall be those required by the MVWA Rules, Regulations and Charges at the time of proposed uses or addition.

Sec. 117-5 CHARGES FOR ALTERNATION OF SERVICE AND FILLING OF SWIMMING POOL

Charges shall be those imposed by the MVWA Rules, Regulations and Charges at the time service is provided.

Sec. 117-6. INSPECTIONS; REPAIR OF CONDITIONS CAUSING WASTE OF WATER REQUIRED

- A. Any authorized Town official or employee of the MVWA shall have the right of entry into any building to which water is furnished, during reasonable hours for the purpose of making inspection of the plumbing system installed in such building or premises. The owner of such premises must, within the specified number of days (minimum 10) of such notice to him/her or to his/her tenant,

repair or cause to be repaired any defective faucet, meter, appliance or any other condition which is causing the wasting of water. Upon failure to do so, the MVWA shall have the right to summarily and without further notice discontinue the furnishing of the water to said premises, in addition to the other penalties described hereinafter. In the event of an emergency as determined by the Town and/or the MVWA, the notice period may be extended, and in such event, the Town and/or the MVWA shall have the right to impose reasonable requirements upon the owner and/or user and also to discontinue the furnishing of water to such owner and/or user if he/she fails to comply therewith.

Sec. 117-7. LIABILITY OF OWNER

The liabilities of an owner under this local law shall include those imposed by the MVWA Rules, Regulations and Charges and additional liabilities imposed by resolution of the New Hartford Town Board.

Sec. 117-8. INTERRUPTIONS OF SERVICE

The Town of New Hartford and the MVWA, its agents and employees shall have the right at any time, without notice, to ration water and/or shut off the water in the mains, or any of them, in cases of conflagration, for making repairs or extensions, or for other purposes. All users having boilers within their premises, which depend upon the pressure in the pipes to keep them supplied, operate the same at their own risk. Risk of loss or damage in all cases shall be exclusively by the user.

Sec. 117-9. LIABILITY OF TOWN

The Town of New Hartford undertakes only to use reasonable care and diligence to provide a constant supply of water through its mains to consumers. In any case, the Town shall not be responsible for any problems that occur from the point where the user connects to the water main line to the user's structure or within the structure itself. Although it is manifestly in the interest of the Town that no break, failure or accident should occur, it is provided, however, that in the event of such occurrence, the Town of New Hartford shall not be liable to any user or property owner for any damages resulting from the public enemy, the elements or any accident, misfortune, failure and break in the reservoir or mains of the Town and/or the MVWA. Anyone who applied for and/or uses Town/MVWA water accepts the same with that understanding.

Sec. 117-10. MAINTENANCE TO BE RESPONSIBILITY OF OWNER

It shall be the duty of each property owner and/or user to maintain all faucets, valves and private water pipes in a state of good repair and ensure that there shall be no unnecessary waste of water. All owners shall maintain access to curb stops to enable MVWA employees to control flow to the building served. Owners or their tenants shall not re-grade the ground over the water mains or any related easements without first obtaining permission from the Town and/or MVWA.

Sec. 117-11 TRANSFER OF PROPERTY; CHANGE OF USE

All transfers of property or changes of use shall comply with the MVWA Rules, Regulations, and Charges at the time of proposed change or transfer.

Sec. 117-12 TAMPERING WITH HYDRANTS; PENALTIES FOR OFFENSES

- A. No person, except employees of the MVWA or member of a duly organized fire company, fire district or fire protection district shall take water from any fire hydrant, or shall operate, use or disturb any hydrant. No person shall obstruct any fire hydrant in any manner, such as, but not limited to the placing of vehicles, debris or snow anywhere near a hydrant. Hydrants shall be kept accessible from all directions. Fire company/district members shall not open a hydrant without notification and consent of the MVWA, except in an emergency.
- B. Any such offenses shall be subject to rule and fines of the MVWA Rules, Regulations, and Charges as in effect at the time of the offense.
- C. Any unauthorized person tampering with Town/MVWA hydrants shall also be subject to all of the provisions of the Penal Law of the State of New York and shall also be subject to a fine or five hundred dollars (\$500.00) for each such violation.

Sec. 117-13 RIGHT TO CHANGE RULES AND REGULATIONS

The Town Board reserves the right to add, delete, and modify its rules, regulations and rates from time to time, by resolution of the Town Board. The right is also reserved to make such additional rules and regulations, by resolution of the Town Board, as the Town Board sees appropriate, to promote the health, safety, morals and welfare of the inhabitants of the Town of New Hartford.

Sec. 117-14 USE AT CONSTRUCTION SITES

These uses shall comply with the MVWA Rules, Regulations and Charges.

Sec. 117-15 PAYMENT DATES: PENALTY FOR LATE PAYMENT

- A. Water payments for Debt Service and/or Capital Reserve for any water district located within the boundaries of the Town will be billed and are payable in conjunction with the Town/County annual property tax bill on January 1 of each year and are subject to all the laws of New York State as related to tax collection and late payment. It shall be the duty of the water customer unconnected or connected, in the event he/she shall not receive a bill, to contact the Town Office concerning payment within the time period allowed for payment without penalty.

- B. Payment for Operation and Maintenance (O & M) will be made to the MVWA and is based on metered water usage. Water usage and O & M charges will be paid directly to the MVWA subject to MVWA Rules, Regulations and Charges, Latest Edition.
- C. Benefited properties in a newly created water district may be billed for interest charges only, on any debt service principal or bond anticipation notes incurred as result of the water district during the transitional (first) year prior to the establishment of a special district budget. The interest-only payment on the water district debt will be billed directly by the Town to the benefited property owners in the water district. Refer to Section 117-21 “Equivalent Dwelling Unit Schedule” for the payment rate per benefited property.

Sec. 117-16 COLLECTION OF PAST-DUE PAYMENTS

- A. Water District Debt Service – Refer to legislation governing rules and procedures for real property taxation collection – State of New York and Oneida County Department of Taxation and Finance.
- B. Water usage and Operation and Maintenance shall comply with the MVWA Rules, Regulations and Charges as in effect at the time of such collection.

Sec. 117-17 MISREPRESENTATIONS; ABUSES OF SERVICE

Any and all cases of fraudulent misrepresentation by an applicant or user related to waste or improper use of water, including but not limited to the following reasons, shall be subject to any penalties and actions described in the MVWA Rules, Regulations and Charges, Latest Edition, or such further penalties and actions as the Town Board may prescribe:

1. For use of water other than as represented in a customer’s/user’s application or through a branch connection on the street side of the meter or place reserved therefore.
2. For willful waste by the use of water through improper and imperfect pipes or by any other means.
3. For molesting any service pipe, seal, meter or any other appliance owned by the water district.
4. For non-payment of bills for water or services rendered.
5. For cross-connecting pipes carrying water supplied by the water district with any other source of supply.
6. For refusal of reasonable access to the property for the purpose of reading,

repairing, testing or removing meters, or inspecting water piping and other fixtures.

7. For violation of this local law.

Sec. 117-18 PENALTIES FOR OFFENSES – DUE PROCESS

- A. In addition to any penalties herein provided and those penalties provided by the Penal Law of the State of New York, any public water user and/or applicant who violates any of the provisions of this local law, the rules and regulations of the MVWA or emergency declarations shall be subject to the following penalties and/or fines:
 1. The discontinuance of water supply.
 2. A fine of up to five hundred dollars (\$500.00) for each violation.
 3. Any and all court costs and the reasonable legal fees and disbursements of the Town Attorney and/or the prosecuting attorney.
 4. Other fines, penalties and/or conditions as may be imposed by the Court.
- B. When a violation of any of these provisions is continuous, each day thereof shall constitute a separate and distinct violation, subjecting the offender to additional penalties.

Sec. 117-19 SEVERABILITY

All ordinances, statutes, or local laws of said Town of New Hartford, or parts thereof, which in any manner conflict with the terms and provisions of this local law are hereby repealed.

Sec. 117-20 SERVICE CONNECTION FEE

These fees shall be in accordance with the MVWA Rules, Regulations and Charges.

Sec. 117-21 EQUIVALENT DWELLING UNIT SCHEDULE

The number of benefited units (Equivalent Dwelling Units) allocated to a given property type within the district shall be determined or modified by Resolution of the Town Board of the Town of New Hartford from time to time enacted and therefore filed with the Town Clerk.

No.	Classification	# of Benefited User Units Per Classification
1.	One-Family Residence with or without attached vacant parcels	1 Unit
2.	Two-Family Residence with or without attached vacant parcels	2 Units

3.	For each additional Family or Apartment over listing described	1 Unit
4.	Office (Per 5 employees and/or minimum charge)	1 Unit
5.	Commercial Use without living quarters (eg. Store)	1 Unit
6.	Commercial Use with living quarter for one family	2 Units
7.	Commercial Use with living quarters for two families	3 Units
8.	Gas Stations and Garages	1 Unit
9.	Churches	1 Unit
10.	Restaurant without living quarters	2 Units
11.	Restaurant with living quarters for one family	3 Units
12.	Bar with Bar Menu	2 Units
13.	Bar with Restaurant (Full Menu)	3 Units
14.	Bar only living quarters for one family	3 Units
15.	Beauty Shops or Barber Shops	1 Unit
16.	Laundromat (per washer)	¼ Unit
17.	Post Office	1 Unit
18.	Tourist Home (per rented bedroom)	1 Unit plus ½ Unit per bedroom
19.	Car Wash (per wash bay)	3 Units
20.	Vacant lots (standing alone or with another vacant lot)	½ Unit
21.	Hotel and Motel	1 Unit plus ½ Unit per bedroom
22.	Institutional or similar development	Units based on water consumption

Sec. 117-22 EFFECTIVE DATE

This local law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with the Municipal Home Rule Law.

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

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

The Resolution and Local Law were declared unanimously carried and duly ***ADOPTED***.

PUBLIC PRESENTATION (PUBLIC COMMENT) – CONT'D

Stormwater

With regard to the Oxford Road Area Drainage Improvement project, James Messa had concerns with a creek and trees; Highway Superintendent Sherman responded that trees will be marked for cutting.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Reynolds, seconded by Councilwoman Krupa, the meeting adjourned at 6:48 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk