

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON TUESDAY, JUNE 9, 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
Director of Senior Services M. Eileen Spellman
Highway Superintendent Richard C. Sherman
Planner Kurt L. Schwenzfeier
Town Clerk Gail Wolanin Young

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

MINUTES

May 6, 2009 Town Board Meeting

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

(RESOLUTION NO. 112 OF 2009)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the *Regular* Town Board meeting held *May 6, 2009* and does further waive the reading of the same.

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.

May 27, 2009 Town Board Meeting

No action was taken on these minutes.

PUBLIC PRESENTATIONS (PUBLIC COMMENTS)

Stormwater Issue - Surface water run-off

Susan Matt was present to put the Town on notice concerning a recurring water runoff problem at 36 Jordan Road, indicating the potential for possible serious future drainage problems due to the clearing and draining of property directly behind them. She feels her property has been devalued; adding that she can produce receipts for approximately \$10,000 she's spent on drainage improvements. Mrs. Matt understands that the Town works on stormwater issues and that she's worked with Senior Engineering Technician John Meagher, Codes Enforcement Officer Joseph Booth and has discussed this matter with Supervisor Reed and Town Attorney Gerald Green. Councilman Reynolds, who has visited the site, will make another on-site visit on June 10, 2009; Supervisor Reed will contact the property owner whose land is contiguous to the Matt property and obtain that property owner's input on this matter.

Lawn Care Chemicals

Patricia Todd had approached Councilman Reynolds about her concern of excessive use of lawn chemicals in her neighborhood and questioned what the Town Board could do to prevent exposure of the chemicals to children and pets and to adjoining neighbors. Ms. Todd alleged that some property owners have had their lawns treated with pesticides as much as six (6) times during the summer season. Granular pesticides are not as bad (although the granules can be tracked into homes by a person's footwear) but the spray applications have a bad odor and she was seeking guidance from the Town. Ms. Todd stated there are some countywide laws requiring neighbors to give advance notice of pesticide applications but the "opt in" clause did have a population restricted for some municipalities.

John Gracie of the NYS Department of Environmental Conservation (DEC), Bureau of Pesticide Management, noted that the state regulates not only commercial lawn care, but also farmers, exterminators, dealers, and agencies that apply pesticides along roadsides. Certified commercial lawn care is highly regulated and the person must be able to take and pass the statewide test, subject to inspection by DEC; if complaints are received, Mr. Gracie must perform on-site inspections. Pesticides are regulated by the federal government and then the state. "General use" refers to an individual who could purchase pesticides at a hardware/lumber store whereas "certified" means registered with the state. The state's "opt in" legislation, to which Ms. Todd referred, was adopted in 2000; if a county or a city of 1 million adopted the law, the applicator would be required to provide forty-eight (48) hour prior notice to an adjoining neighbor that they would be using pesticide on the lawn. This period of prior notice would give adjoining neighbors time to remove clothes from an outdoor clothesline, close windows, and bring children and pets inside.

Councilman Reynolds will ask Town Attorney Green to look at this matter from the Town's point of view and perhaps Oneida County also. Councilman Payne suggested that the Town's Website provide a link to the NYS DEC website on chemical use.

Property Maintenance – 14 Bradley Road

Jill Breckel presented a petition containing the signatures of approximately fifty (50) property owners and expressed concerns with regard to the adjacent vacant residence at 14 Bradley Road, such as:

- Uninhabited for approximately 2 years
- Stench from mold on the house exterior and roof
- Rotting trees
- Untrimmed weeds, grass and shrubbery
- Rodent (mice) population
- Water pipe burst in Winter 2008, flooding interior of home possibly causing structural damage
- How to maintain the integrity of the neighborhood with this eyesore

Despite numerous phone calls by Ms. Breckel to the property owner over the past two (2) months, the property owner [who lives in the Syracuse area] hasn't returned any phone calls.

Codes Enforcement Officer Joseph Booth stated that this is an Agenda item for tonight's Board meeting and he will be asking the Town Board for permission to proceed with action under the Town Code, Chapter 94, Property Maintenance.

Paul and Anna D'Ambrosio live next door to 14 Bradley Road and have seen an "incredible increase" of mice in their yard this year; have had pieces of the house blow into their yard during storms, and has chased kids away from the vacant house. The burst water pipe in Winter 2008 filled the vacant home's cellar and flowed down the street, creating a pond of frozen water that the City of Utica had to clear in order to eliminate a traffic hazard. Mr. D'Ambrosio believes the home's floors were falling in and that the structure is not secure.

Heather Mowat commented that when she worked for the City of Utica, they partnered with Oneida County and the City was allowed to get into NYS Supreme Court just to deal with these types of issues. She suggested that the Oneida County Health Department be contacted. Mrs. D'Ambrosio said she did call the County Health Department but they referred it back to the Town.

Codes Enforcement Officer Booth acknowledged that the County doesn't have an interest in these matters. He was told that if the property taxes go unpaid for three (3) years, the property could be placed for tax sale; in this case, the property would be eligible for tax sale in 2011. Despite the interior condition, Codes Enforcement Officer Booth stated that

the house at 14 Bradley Road is secure from entry; he is aware that the neighbors' concerns are more than about high grass.

Supervisor Reed and Codes Officer Booth will discuss the matter with the Town Attorney and further discuss the matter with County Attorney Linda Dillon. Councilman Payne suggested that the Town Police Department be notified of the property condition and ask for routine patrols; he will also provide updates to the D'Ambrosios.

REPORTS OF TOWN OFFICIALS

CODES ENFORCEMENT OFFICER:

Property Maintenance – Vacant Home 14 Bradley Road

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

(RESOLUTION NO. 113 OF 2009)

WHEREAS, the Town of New Hartford had adopted on September 24, 1994 a Local Law regulating property maintenance and which Law prohibits the accumulation of brush, grass, rubbish or weeds on any real property in said Town (Code, Chapter 94); and

WHEREAS, the Town Codes Enforcement Officer has received complaints about high grass and weeds upon premises located at 14 Bradley Road (Tax Map Parcel No. 329.020-7-63) in the Town of New Hartford, New York owned by Gary E. Bernstein whose last known addresses are 14 Bradley Road, P.O. Utica, New York 13501 and 9230 Meadowview Court, Manlius, New York 13104; and

WHEREAS, the property appears to be abandoned, and the Codes Enforcement Officer had communicated with said owners via certified mail at the aforesaid addresses;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Codes Enforcement Officer, through the Parks and Recreation Department, to proceed with mowing the lawn at 14 Bradley Road, and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2010 Town and County tax bill.

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**.

Appointment – Seasonal Clerical Position

This matter having been tabled at the May 27, 2009 Town Board meeting, Codes Officer Joseph Booth again requested the appointment of a Student Worker in the Codes Department for the Summer of 2009. After some discussion, the following Resolution was introduced for adoption by Councilman Payne and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 114 OF 2009)

RESOLVED that the New Hartford Town Board does hereby appoint Christine Krumbach as a returning Student Worker in the Codes Department, commencing June 16, 2009 and ending August 31, 2009, for a work week not to exceed thirty-five (35) hours to be monitored by Codes Officer Booth, and whose duties include, but are not limited to:

- Providing clerical support to the Codes/Zoning/Planning secretary during the busy summer construction season
 - Filing, photocopying, answering phones, typing correspondence; interacting with customers, data entry
- Covering for the Codes/Zoning secretary vacation time

Councilman Reynolds had investigated the request and found the work is considerable for this time of year. Codes Officer Booth noted that the position had been allocated in the 2009 Budget and that his department is under budget to date.

The foregoing Resolution was voted upon by 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**.

Property Appearance

Councilman Payne inquired whether there was any local law under which the Town could discuss with residents who placed wet clothes to dry on front yard bushes and who place a trampoline in the front or side yard. Codes Enforcement Officer Booth responded no.

MATTERS SUBMITTED BY COUNCILMEN

COUNCILMAN WOODLAND:

Annexation - Cherrywood Mobile Home Community – Set Public Hearing

Ralph Humphreys and his attorney, Murray Kirshtein, were present with regard to the proposed annexation of land in the Town of Kirkland to the Town of New Hartford. Councilman Woodland had met with Town Clerk Gail Wolanin Young on this matter and reported that the Town of Kirkland had chosen Thursday, July 16, 2009 as the date for the Joint Public Hearing to be held by the Towns of Kirkland and New Hartford. With regard to the venue for the Joint Public Hearing, Mr. Humphreys stated that the Butler Memorial Hall Community Meeting Room is larger than the Cherrywood Community Meeting Room; thereafter, Councilman Woodland offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 115 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby accept the Petition from five (5) Kirkland Town residents of the Cherrywood Mobile Home Community for the annexation of the lands upon which their homes are situate, into the Town of New Hartford and that a joint meeting with the Town of Kirkland be held on Thursday, July 16, 2009 at 6:00 P.M. at the Butler Memorial Hall Community Meeting Room, 48 Genesee Street, New Hartford, New York; and

BE IT FURTHER RESOLVED that the Town Board does hereby direct New Hartford Town Attorney Gerald Green to coordinate with Town of Kirkland Attorney Anthony Hallak to draft and publish said notices for this Annexation.

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**.

Annexation – Cherrywood – SEOR Lead Agency Status

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

(RESOLUTION NO. 116 OF 2007)

RESOLVED that the Town Board of the Town of New Hartford does hereby declare itself as Lead Agency in the matter of the Annexation Petition submitted by Town of Kirkland residents within the Cherrywood Mobile Home Community, Seneca Turnpike (aka NYS Route 5), to annex the lands upon which their homes are located into the Town of New Hartford; and be it

FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Clerk to forward copies of said Petition with all attachments to all interested and/or involved agencies for SEQR review.

Upon roll call, the Town Board 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**.

Annexation – Cherrywood - GML-239 Review

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

(RESOLUTION NO. 117 OF 2009)

WHEREAS, on May 6, 2009, five (5) Town of Kirkland residents of the Cherrywood Mobile Home Community, Seneca Turnpike, had filed a Petition for annexation of eleven (11) acres of land upon which their homes are situate, into the Town of New Hartford; and

WHEREAS, on or about May 6, 2009, the Oneida County Board of Elections duly certified that the signatories are qualified registered voters in the Town of Kirkland;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby refer the aforementioned Petition for Annexation to the Oneida County Planning Department and to the Town Planning Board for their review and written recommendation pursuant to General Municipal Law.

Upon roll call, the Town Board 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**. The Town Clerk noted that the Petitioners have not submitted the required Environmental Assessment Form (EAF) and that this is a required document for referral with regard to Lead Agency Status (Resolution No. _____ hereinabove) and GML-239 Review (Resolution No. ...

hereinabove); therefore, the Town Clerk cannot proceed with the referrals until the EAF has been delivered to the Town of New Hartford.

Permits & Codes Inspections – Kirkland portion of Cherrywood Mobile Home Community

The Town Clerk then read the recommendation of the Town Attorney with regard to issuance of permits and inspections for the Kirkland portion of the Cherrywood Mobile Home Community:

“The Town Board will not direct [Codes Enforcement Officer] Joe Booth to issue any interim building permits in the Town of Kirkland; there has been insufficient showing that Kirkland is not able to administer these permits in its own right.”

Attorney Kirshstein claimed that for over twenty (20) years the Town of New Hartford had issued building permits and certificates of occupancy for properties in the Kirkland area of the Cherrywood Community; the (Kirkland) residents thought they lived in the Town of New Hartford and had registered as voters in the Town of New Hartford. The entire Cherrywood Community is provided public water and sewer from the Town of New Hartford and he thought they might have paid New Hartford taxes. The only issues raised were related to fire and police services and those were resolved; that calls for fire/police were dispatched and it doesn't make any difference whether they live in New Hartford or Kirkland. Attorney Kirshtein stated that within the past year he went to NYS Supreme Court to order New Hartford to issue two (2) building permits for two (2) lots in the Kirkland portion of the Cherrywood Community.

Attorney Kirshtein inquired the reasoning behind this decision. Because Attorney Green had not been required to attend this meeting, the Town Board could not explain his reasoning for this decision. Councilman Reynolds did not believe that annexation was necessarily the solution to this situation, citing that Kirkland employs a Codes Officer.

Ralph Humphreys stated that the Town Clerk had received today a copy of the May 11, 2009 Kirkland Town Board Resolution giving New Hartford the right to issue permits. Town Clerk Young read the Resolution:

“RESOLVED, that the Kirkland Town Board agrees to cede authority to the Town of New Hartford and its Codes Enforcement Office to issue building permits and inspect the same for two lots requested by Ralph Humphreys in the Cherrywood Community located in the Town of Kirkland.” The Resolution was unanimously adopted.

Attorney Murray – annexation is a lengthy procedure. General Municipal Law (GML) allows a long time for a town board to make recommendations and render their decision that will affect these residents. He acknowledged that at the time the Petition was filed, the residents were registered voters in the Town of New Hartford, but as of “...a couple days ago,” they have re-registered as voters in the Town of Kirkland.

Codes Officer Booth stated that four (4) permits had been issued in the past [2006 and 2007] for Kirkland mobile homes; however, once the error was discovered, Codes Officer Booth wouldn't issue any permits for the Kirkland portion of the Cherrywood Community. With regard to Attorney Kirshtein's assertion that the Town of New Hartford had been issuing permits for Kirkland land for twenty (20) years, Codes Officer Booth stated "...that's an exaggeration." With regard to Councilman Payne's question to Codes Officer Booth about issuing permits for Kirkland property, Codes Officer Booth responded "...by what authority" do I have that right; no statutory authority and no inter-municipal agreement exists with the Town of Kirkland. The Town of New Hartford could be held liable for actions of the Codes Department.

Councilman Reynolds agrees with Attorney Green, that once you have discovered you made an error, you don't make the error again.

To compound matters, Codes Enforcement Officer Booth noted that the 11-acre Kirkland portion of Cherrywood Mobile Home Community is not zoned for mobile homes – by what authority does he have to go into another Town and issue building permits?

Attorney Kirshtein said that the Town of Kirkland issues are they can't file a map because Attorney Schindler and the original developer, Kenneth Coulter, are now deceased and their files cannot be found....so they can't file the map.

Councilmen Reynolds and Payne concurred that Codes Officer Booth is not to issue any permits for the Kirkland land pursuant to Attorney Green's recommendation.

Councilwoman Krupa and Councilman Woodland need to know Attorney Green's thoughts behind his recommendation and Councilman Woodland would like clarification on the past issuance of building permits for Kirkland lots in the mobile home community. The Town Board will contact Attorney Green for his deliberative reason and set up a special Town Board meeting for the week of June 15, 2009.

REPORTS OF TOWN OFFICIALS (CONT'D)

PLANNER:

Fiscal – Release of \$25,000 Retainer/Kellogg Road traffic signal (Benderson)

After having consulted with the Town Attorney, Highway Superintendent and Senior Engineering Technician, the Town Planner recommended release of Benderson's \$25,000 retainer. Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 118 OF 2009)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to sign a letter releasing the \$25,000 Performance Bond, No. 3SM916418, that had been submitted to the Town in October 1998 by Benderson Development Company to ensure that Benderson 85-1 Trust would satisfactorily provide

and complete a driveway and traffic signal modifications at the TOPS Plaza on Kellogg Road, New Hartford, NY (Prop #2282), said work having been satisfactorily performed.

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**.

Energy Committee

Councilman Payne reported that Chris Kalwara of Johnson Controls will be in town on Friday, June 12, 2009 and will review the application process to apply for federal stimulus monies for energy efficiency. Thereafter, Councilman Payne offered the following Resolution for adoption; Councilwoman Krupa seconded same:

(RESOLUTION NO. 119 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to apply for a grant for federal stimulus monies to be used for energy efficiency in Town buildings.

A roll call vote then 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**.

TOWN CLERK:

15th Annual Wine Tasting and Auction – NYS Liquor Authority

The Faxton-St. Luke's Healthcare Foundation is sponsoring their 15th Annual Wine Tasting and Auction on Saturday, August 22, 2008 and the NYS Liquor Authority has requested a letter from the Town acknowledging this event. Therefore, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 120 OF 2009)

RESOLVED that the New Hartford Town Board does hereby acknowledge that the Faxton-St. Luke's Healthcare Foundation will be sponsoring a Wine Tasting and Auction fundraiser on Saturday, August 22, 2009 within the Town of New Hartford and that the Board has no objection to this event; and be it

FURTHER RESOLVED that the Town Clerk be authorized and directed to issue a letter to this effect to said Healthcare Foundation.

Upon roll call, the Board 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**.

Training - Oneida County Association of Towns Meeting

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

(RESOLUTION NO.121 OF 2009)

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 any Department Head to attend the Oneida County Association of Towns Business Meeting on June 16, 2009 in the Town of Vernon, New York, with expenses to be borne by said Town as budgeted.

The 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**.

Training – Assessor

The Town Clerk presented the Assessor’s request to attend a seminar; the following Resolution was introduced for adoption by Councilwoman Krupa and duly seconded by Councilman Payne:

(RESOLUTION NO. 122 OF 2009)

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 Assessor Paul E. Smith to attend the New York State Assessors’ Association Seminar on Appraising from July 12 through July 17, 2009 in Ithaca, New York, with expenses to be borne by said Town as budgeted.

The 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**.

Raffle Consent – The One Charity Golf Classic

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

(RESOLUTION NO. 123 OF 2009)

RESOLVED that the New Hartford Town Board does hereby grant permission to The One Charity Golf Classic, 5911 Airport Road, Oriskany, New York 13424, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at various venues in the Town of New Hartford, 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	-	Aye
Councilman Reynolds	-	Aye

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

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

Appointment – Zoning Board of Appeals Vacancy

In behalf of Zoning Board Chairman Randy Bogar, the Town Clerk presented the Zoning Board’s recommendation that Kristen Shaheen be re-appointed to said Board. Thereafter, Councilwoman Krupa offered the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. 124 OF 2009)

RESOLVED that the New Hartford Town Board does hereby re-appoint Kristen T. Shaheen as a Member of the Zoning Board of appeals for a five-year term commencing June 10, 2009 and ending June 9, 2014 and in accordance with the 2009 salary schedule adopted December 29, 2008.

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**

Higby Road Water District Review Board

To the Town Board’s inquiry of the status of the Review Board for the Higby Road Water District, the Town Clerk responded that the Observer Dispatch had printed an article that the Town was seeking applicants to serve on this Board; to date, two (2) applications have been received. The submission deadline is Friday, June 12, 2009 at 4:00 P.M.

HIGHWAY SUPERINTENDENT:

Inter-municipal Agreement for Fuel – Village of New Hartford

Highway Superintendent Sherman reported that the Village of New Hartford has voted not to replace an unleaded gas tank adjacent to the Village Garage on Mill Street; they would like to purchase unleaded fuel from the Town. Thereafter, Councilman Reynolds presented the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 125 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby approve and does hereby authorize and direct the Town Supervisor to enter into and to execute an Inter-Municipal Agreement between the Town and the Village of New Hartford, wherein said Town will allow and provide said Village to purchase unleaded fuel for the Village Department of Public Works and Fire Department vehicles for the period beginning June 1, 2009 and ending December 31, 2012; said Village will be billed on a monthly basis for the Town's purchase cost of the fuel plus five cents (\$.05) per gallon for administrative costs.

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**.

REPORTS OF SPECIAL COMMITTEES

STORMWATER MANAGEMENT (ADVISORY) IMPROVEMENT COMMITTEE:

Authorization for Competitive Bid – Jubilee Stormwater Project

Highway Superintendent Sherman reported that the Stormwater (Advisory) Committee had met two weeks ago and recommended that the Town Board authorize the advertisement of bids for the second stormwater project near the Jubilee Estates development.

Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 126 OF 2009)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the Oxford Road and Kellogg Road Stormwater Detention Projects in accordance with specifications to be prepared by Shumaker Engineering; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Friday, the exact date to be determined after Oneida County review and approval since Oxford Road is a County highway, 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 does hereby authorize and direct the Town Clerk to publish the legal requisite Advertisement-Invitation to Bid in The Observer Dispatch.

The Town Board voted upon roll call as follows:

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

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

Drainage Improvement – Private Property

The Stormwater (Advisory) Committee will meet within the next few weeks to discuss accessing private property through easements to resolve surface water problems.

Oxford Road Drainage Improvement Project

Shumaker Engineering has looked at plans for the culvert and work should begin anytime.

Street Light – Higby Road-Mohawk Street-Sitrin Lane Intersection

Highway Superintendent Sherman is continuing to work on this matter, which was initially reported at the May 27, 2009 Town Board meeting.

MATTERS SUBMITTED BY COUNCILMEN (CONT'D)

COUNCILWOMAN KRUPA:

Personnel – Creation of Director of Budget

Personnel Technician II Barbara Aiello and the Oneida County Personnel Department identified a job title and description, which best suited the Town’s needs for financial oversight. Jurisdictional class for this position is exempt; at the same time, the NYS Civil Service agency will review the job description.

Thereafter, Councilwoman Krupa introduced the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 127 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby create and establish the position of Director of Budget in and for the Town of New Hartford, effective June 9, 2009, in accordance with the job description on file in the Oneida County Personnel Department and in accordance with New York State Civil Service rules and regulations.

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**.

Appointment – Director of Budget

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

(RESOLUTION NO. 128 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby appoint Heather Mowat as Director of Budget for said Town, effective June 9, 2009 at an hourly wage of Thirty-six Dollars (\$36.00), payable bi-weekly, for a not-to-exceed work week of thirty-five (35) hours; no overtime pay will be authorized for hours worked in excess of thirty-five (35) hours.

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**.

Pay as Independent Contractor – Financial Advisor

Councilwoman Krupa then offered the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 129 OF 2009)

RESOLVED that the New Hartford Town Board does hereby approve the payment of \$1,908.00 to Heather Mowat for services rendered as an independent financial consultant to the Town of New Hartford beginning May 27, 2009 through June 5, 2009; said amount is for fifty-three (53) hours worked at Thirty-six Dollars (\$36.00) per hour during such time when a job title had not been finalized.

Upon roll call, the Board 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**.

Creation of Citizens Committee on Budget Analysis

Councilwoman Krupa recommended that a committee be formed to define what a “reasonable amount” for a fund balance would be for the Town of New Hartford; she suggested this committee consist of perhaps two (2) Town Board members and some people from the public. Councilman Woodland agreed, stating that the Town has “...to get the public’s input and earn back their trust”; further, that the Board should also study its efficiencies of government and how the Town administers its government. The Town Board agreed that the committee should consist of Councilwoman Krupa, Councilman Woodland, Heather Mowat and a couple citizens. Thereafter, Councilman Payne introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 130 OF 2009)

WHEREAS, based upon a recommendation from the New York State Comptroller’s Office, stated in a July 2001 Bulletin to all municipalities with regard to a “reasonable amount” for a fund balance;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby create and establish, effective June 9, 2009, a five-member Citizens Committee on Budget Analysis that shall study what would be considered a “reasonable, appropriate” fund balance not only for individuals funds but for the Town as a whole; and be it

FURTHER RESOLVED that the Citizens Committee on Budget Analysis shall consist of:

- Position 1 – Town Board member – Councilwoman Krupa
- Position 2 – Town Board member – Councilman Woodland
- Position 3 – Director of Budget – Heather Mowat
- Position 4 – Town citizen – to be announced
- Position 5 – Town citizen – to be announced.

The Town 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**. The Town Board asked the Town Clerk to post this matter on the Town’s Website and in the Observer Dispatch.

Director of Budget - Report

Director of Budget Heather Mowat apprised the Board of her analysis, as a financial consultant from May 27, 2009 through June 5, 2009, of the Town's fund balances over the past fifteen (15) years as well as her review, inquiry and analysis of the 2008 Annual Financial Statement submitted to the State. She's had numerous consultations with the Town Board, Town Attorney and Department Heads regarding 2008 and 2009 actual versus budget financial projections. Director Mowat has responded to Bond rater inquiries and has performed an analysis of possible revenue streams and review of possible actions to be brought before the Town Board. RFP's have been issued for an auditor; due by June 12th. By the July 8, 2009 Town Board meeting, a report will be available as to what's left in the budget. Also, she has been working on the Higby Road Water District and credits due to some property owners; making sure there are no errors. She has been working with Highway Superintendent Sherman and Congressman Arcuri with regard to federal stimulus monies and has reached out to NYS Senator Griffo today. She has asked that every Department Head look for any reimbursements for 2008 that need to be made and have not yet been received. Bookkeeper Carol Fairbrother brought to Director Mowat's attention an excess of funds since 1999 in the Trust and Agency Account; these will be reviewed to see if the amounts can be closed out and combined with other funds. Director Mowat will be looking at the February 2006 [Police Officer Joseph] Corr homicide and evaluate the costs associated with that case.

COUNCILMAN WOODLAND:

Fiscal

Councilman Woodland asked Director of Budget Mowat what internal controls exist for the Town to have timely financial reporting. Director Mowat suggested the Town Board could adopt a resolution for the Accounting Department to close their books each month and submit monthly reports to the Town Board by a certain date. Director Mowat will look at the Town's purchasing policy to see if internal controls are up to date.

Director Mowat stated she's in contact with the State Comptroller's office daily and that the State sees massive risk management problems; however, to date, the Comptroller's Office has not mentioned an audit.

Councilman Payne referred to Director Mowat's suggestion that the Town Board adopt a resolution requiring month-end reports be submitted and asked if she were still determining a reasonable time. Director Mowat will make a recommendation at the July 8, 2009 Town Board meeting; she was been working with Bookkeeper Fairbrother, Account Clerk O'Sullivan and Personnel Technician Aiello "as a group".

Insurance Renewal

Councilman Woodland and Town Clerk Young had met with Bailey, Haskell & LaLonde with regard to insurance policy(ies) renewal due June 30, 2009; said agency had received a copy of the GASB 34, a list of the Town's assets, including buildings. The figures in GASB 34 will likely have an impact on the policy renewal premiums. The Brown &

Brown agency, which will look to submitting a proposal in the Spring of 2010 for the renewal period June 30, 2010-2011 had contacted Town Clerk Young on June 1, 2009.

Schedule Special Town Board meeting

Councilman Woodland offered the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 131 OF 2009)

RESOLVED that the Town Board of the Town of New Hartford does hereby schedule a Special Town Board meeting to commence at 6:00 P.M. on Wednesday, June 17, 2004 in Butler Memorial Hall, in said Town, to discuss:

- the proposed Cherrywood Annexation and the Town Attorney's recommendation that Codes Enforcement Officer Booth not be authorized to issue permits and inspect facilities in the Kirkland portion of the Cherrywood Community
- the insurance policy renewals to be submitted for the period June 30, 2009-2010.

The Town Board 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**.

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of Vouchers

On recommendation of the Town Supervisor, Councilwoman Krupa offered the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 132 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 #30		
Vouchers AA920-AA922	-	\$ 489.63
General Fund Whole-Town Abstract #31		

Vouchers AA923-AA934		
Vouchers AA942-AA994	-	\$ 72,636.46
General Fund Whole-Town Police #31A		
Vouchers AA935-AA941		
Vouchers AA995-AA1015	-	\$ 52,933.42
General Fund Whole-Town Abstract #32		
Vouchers AA1019-AA1020	-	\$ 2,368.00
General Fund Part-Town Abstract #17		
Vouchers BB96-BB103	-	\$ 11,656.90
Highway Fund Part-Town Abstract #13		
Vouchers DB409-DB426	-	\$ 45,792.60
Sewer Fund Abstract #15		
Vouchers SS38-SS41	-	\$ 3,735.41
Stormwater Drainage Capital Project Abstract #8		
Vouchers HU17-HU19	-	\$ <u>98,233.00</u>
	TOTAL	\$287,845.42

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***.

NEW BUSINESS:

FOIL APPEAL – RESUMES FOR FINANCIAL ADVISOR

Councilwoman Krupa acknowledged receipt of the FOIL Appeal filed by Catherine Lawrence. She invited Ms. Lawrence to explain her request, which was for all resumes submitted to the Town for the position to which Heather Mowat had been appointed on May 27, 2009; Ms. Lawrence also referred to various opinions she had provided from the Committee on Open Government.

Councilwoman Krupa had reviewed these opinions and the cases cited; however, noted that in one opinion it was stated that "...names and addresses need not be disclosed and portions of the application may be withheld on grounds that disclosure would constitute an invasion of privacy".

While Ms. Lawrence agreed that any identifying information could be redacted, the educational portion could not be withheld.

Councilwoman Krupa referred to various opinions/case law that deal with public employees not privately employed persons ... not specifically an applicant for public employment ... but people already publicly employed. After further discussion, Ms.

Lawrence stated she was willing to receive copies of resumes with appropriately redacted information as long as the educational background that would qualify the person for a financial position was not redacted. Councilwoman Krupa will respond to Ms. Lawrence in writing, with copies to the Town Board and COOG Executive Chairman Robert Freeman.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and seconded by Councilman Reynolds, the meeting adjourned at 7:51 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk