

**SPECIAL MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON TUESDAY, SEPTEMBER 22, 2009 AT 5:00 P.M.**

The Town Supervisor called the meeting to order at 5:00 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:

Director of Budget Heather Mowat
Highway Superintendent Richard C. Sherman
Town Clerk Gail Wolanin Young

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

SEWER RELATED ISSUES

Flow Credit Resolution Overview and Resolution

Roger Cleveland addressed the Town Board:

“In the Spring of 2008, this Board, by Resolution, established a Sewer Bank for the storage of off-set Flow Credits, and further, established a sale price of \$4 per Flow Credit.

Even with the adoption of this Resolution, there remained some outstanding questions such as

- *What happens if there are inadequate Flow Credits in the Bank*
- *What is the protocol related to selling these Credits*
- *What is the Town’s position on requiring an applicant do an Inflow/Infiltration (I/I) removal project rather than purchasing Flow Credits from the Bank.*

Earlier this year the Town contracted with me to draft a Resolution to establish written policy for the sale of Flow Credits, and to consider these referenced issues.

As this Board will recall, in accordance with and in response to the NYS Department of Environmental Conservation Consent Order and the Oneida County Sewer District’s

Offset Plan, any NEW sanitary flow entering the sanitary collection system must be offset by the removal of 5 times that amount of extraneous infiltration and inflow (I/I) in the system. In layman's terms, for each gallon of new sanitary flow entering the sanitary sewer system, 5 gallons of I/I, meaning stormwater, snowmelt or groundwater that is entering the system both from illicit connections such as roof leaders, foundation drains, and catch basins, and from deficient pipes and manholes, must first be removed. Each 5 gallons of clean water removed from the sanitary sewer system generates one Flow Credit.

A municipality such as New Hartford, would generally acquire Flow Credits by either completing I/I Removal projects on its own, or by funding the cost of Removal projects completed by someone else, and that someone else, then, transferring those Credits to the Town's Sewer Bank, the latter approach being the situation between the Village of New York Mills and the Town. The Village contracted for the work to be done, and the Town funded the project cost. And just to clarify a point, Flow Credits from a Removal project that is completed by an applicant for a new sewer connection permit would be applied to the applicant's project, not transferred to the Town's Sewer Bank.

The Resolution before you reiterates the fact that the Town of New Hartford is in the Consent Order area, i.e., its sanitary sewer discharge is tributary to the Sauquoit Creek Pump Station and is, therefore, subject to the Off-Set requirements. Any applicant for new sewer flow within the sewered area tributary to the Pump Station, is therefore, also subject to the Off-Set requirements.

This Resolution limits itself to the protocol of selling of Flow Credits; it does not address the matter of, or the protocol for applicants completing an I/I Removal project. The direction to do an I/I Removal project rather than selling credits is left to the Oneida County Commissioner of Water Quality and Water Pollution Control, and until and unless the Commissioner so directs, and given that the Town has Flow Credits to sell, it is proposed that the Town sell and continue to sell the Credits accumulated in the Sewer Bank with first priority going to a single family home applicant over any other applicant.

The Resolution also states that all proceeds to the Town from the sale of Flow Credits shall be used to advance the removal of extraneous I/I in the sanitary system.

The Resolution presents examples of how the number of required Flow Credits are calculated for various types of projects, upon what that number of required Flow Credits is based, attaches the calculation sheet itself, and finally, presents a proposed price per Flow Credit. And if this Resolution is approved, the cost per Flow Credit in this Resolution will supersede the price adopted in the April 2008 Resolution.

The original price of \$4 per Flow Credit was based on gross calculations of total I/I to be removed in the system vs. the former project cost estimate of \$66M, and also from best available information at the time as to what was believed to be typical manhole repair costs.

Upon further review, and as presented in this Resolution, it was decided to recommend a different method for computing the sale price. Recommended now is the approach of using a weighted average, and the initial sale price based on the two New York Mills Projects, the only I/I Removal projects actually completed or currently in the works as of this date that have or will generate Flow Credits to the Town's Sewer Bank. The weighted average approach results in a more accurate depiction of the Town's cost to acquire these Credits. This method results in a cost of about \$.59, to which is added an administrative charge of 25% for staff time coordination and support resulting in a total cost per Credit of \$.75. Basing the sale price on actual costs, the Town should not be subject to claims of over-pricing. And as this proposed Resolution reads, whenever new Flow Credits are added to the Sewer Bank, it automatically triggers a Town Board review to consider the matter of amending the sale price as acquisition costs go up or down, however, it is expected that over time cost per credit will increase once the less costly, or low hanging fruit, projects are identified and completed.

Speaking to the issue of purchase of Flow Credits vs. implementing I/I removal projects, I think I can safely say that all homeowners and most nearly all developers are not versed in the mechanics of I/I removal. Most would not know where to begin, and homeowners, especially, do not have the resources or the knowledge to hire specialty contractors for sanitary sewer repairs. Additionally, commercial and industrial applicants are generally more familiar with contractors whose expertise is in installing new infrastructure, not repairing manholes, sealing pipe joints and installing non-invasive pipe liners. Added to this, there are a host of issues related to private contractors removing I/I on both public and private property and the relationship of this work and these issues to the Town. These issues include, but are not limited to liability, bonds and insurances, engineering, and inspection. Given the above and given that the sale price of Flow Credits has its roots in actual acquisition costs, not gross figures, and that the protocol for selling Flow Credits is so straightforward and time sensitive, it is difficult to envision a situation where an applicant would request to complete a Removal project rather than purchasing the required number of Credits, a process that could take months rather than minutes.

If in the future, the Town depletes its Sewer Bank and if applicants cannot purchase Flow Credits from another source, applicants will have to do a Removal project. When and if this happens, significantly more staff time and legal time will be required to deal with the issues referenced above. For now though, the Town has nearly 90,000 Flow Credits in its Sewer Bank, and is anticipating the addition of another 21,000 Credits from a second removal project in New York Mills; it is believed that we will be well into the future before the Town ever need concern itself with insufficient Credits, especially as any receipts generated from the sale of Credits must be used to complete additional Removal projects and the Credits generated from those projects must be credited to the Sewer Bank.

I am asking you tonight to consider the adoption of this Resolution that establishes written policy on the matter of selling Flow Credits from the Town's Sewer Bank, and to specifically recite in the adoption language, that upon adoption, this Resolution and its Attachments now supersede and make null and void the previous Flow Credit sale price

of \$4/Credit contained in the April 2008 Resolution, and in its place adopts a sale price of \$.75 per Flow Credit.”

Mr. Cleveland thanked the Board for its time and consideration of this matter, as well as Town staff and the Town Attorney for their input as whatever protocol is adopted must be implementable, pragmatic and defensible, which he believes the Resolution is.

After brief discussion, it was clarified that

- the \$.75 per Flow Credit applies to both residential and commercial properties.
- the Town has the Bank and approves/disapproves the sale of Flow Credits
- the Town can bring legal action to stop the transfer of its Flow Credits to some other municipality.

Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Payne:

(RESOLUTION NO. ... OF 2009)

**FLOW CREDIT SALE POLICY
FOR
TOWN OF NEW HARTFORD**

WHEREAS, the Town of New Hartford (Town) is one (1) of fifteen (15) member municipalities that constitute the Oneida County Sewer District (OCSD). The OCSD is administered by the County of Oneida (County) which both operates collection and treatment facilities that serve the member municipalities, and which holds the State Pollution Discharge Permit Elimination System (SPDES permit) for discharges from the OCSD to the Mohawk River. Each member municipality, however, continues to own and operate its own collection system and does so under the rules and regulations of the Oneida County Sewer Ordinance; and

WHEREAS, on July 11, 2007, the County entered into a Consent Order (CO), Case Number R620060823-67 with the New York State Department of Environmental Conservation (NYSDEC), pertaining to wet weather discharges at Outfall 002 into the Mohawk River, among other state waters, from the Sauquoit Creek Plumbing Station (SCPS) [see Attachment 1]. Sanitary Sewer Overflow (SSO) violations at the SCPS occur when a wastewater collection system, by design, includes sewage, but incidentally includes stormwater-related inflow and infiltration (I/I) discharges to state waters. Eight of the fifteen member municipalities referenced above, including the Town and an area under contract to the OCSD, are tributary to the SCPS; and

WHEREAS, the CO lists a number of reports or plans to be submitted by the County to NYSDEC including a plan and implementation schedule that brings Outfall 002 into compliance with said CO by October 31, 2014; and

WHEREAS, included among the reports/plans required of the County under the CO is a plan, hereinafter referred to as the Offset Plan, insuring that any new connection to the collection system of Outfall 002 by offset by removal of I/I in an amount of five (5) times the flow the new connections are expected to contribute to the collection system until discharges are in compliance with the SPDES permit; and

WHEREAS, said Offset Plan was submitted to and approved by NYSDEC on April 2, 2008, and amended on September 22, 2008 [see Attachment 2]; and

WHEREAS, the CO also required the County to submit Intermunicipal agreements and other enforceable legal documents ensuring the County's authority to implement the I/I offset program. This was accomplished with the adoption of an updated Oneida County Sewer Use Ordinance, dated August, 2008 [see Attachment 3]; and

WHEREAS, the Offset Plan allows, among other things, the County to establish a OCSD Sewer Bank (Sewer Bank), where flow credits generated from the successful completion of NYSDEC, OCSD, and member municipality approved I/I remediation projects and initiatives can be deposited, withdrawn or transferred; and

WHEREAS, the now established Sewer Bank consists of individual sub-accounts for each member municipality which are administered by the Oneida County Commissioner of Water Quality and Water Pollution Control (Commissioner) who reviews and sign offs on all member municipality applications for Sewer Bank deposits, withdrawals, and transfers. Flow credits deposited in the individual sub-accounts of member municipalities can and shall be used to offset new connections to the collection system by deducting one (1) flow credit from the member municipality sub-account for every five (5) gallons per day the new connections are expected to contribute to the collection system. At present, the Town has deposited approximately 88,434 flow credits into its individual sub-account with the Sewer Bank with an additional 21,622 flow credits expected to be deposited by the Town upon completion of a second NYSDEC and OCSD approved remediation project in New York Mills; and

WHEREAS, the Town continues to receive residential and commercial development applications that require compliance with the I/I removal ration for new sewer flow, and

WHEREAS, in order for the Town to progress measured residential and commercial development until such time as compliance is achieved, the Town desires to establish a written policy for selling or otherwise transferring the flow credits it has deposited with the County for purposes of facilitating such development.

NOW THEREFORE, BE IT RESOLVED, that the County is party to a CO with the NYSDEC to remove extraneous I/I from that portion of the OCSD tributary to Outfall 002, which is operated in conjunction with the SCPS; and it is further

RESOLVED, that the Town is a member municipality of the OCSD and is in the area that is tributary to Outfall 002; and it is further

RESOLVED, that in compliance with the CO, the County has submitted an Offset Plan to the NYSDEC which has accepted and approved same; and it is further

RESOLVED, that said Offset Plan requires that any new connection to the sanitary sewer collection system of Outfall 002 first remove stormwater and groundwater I/I in an amount equal to five (5) times the amount of sanitary flow the new connection is expected to contribute to the sanitary sewer system; and it is further

RESOLVED, that said Offset Plan additionally allows for the establishment of a Sewer Bank consisting of individual sub-accounts for each member municipality in the OCSD; and it is further

RESOLVED, that into each member municipality sub-account shall be deposited flow credits generated from the successful completion of NYSDEC and/or OCSD and/or member municipality approved I/I remediation projects; and it is further

RESOLVED, that one (1) flow credit is generated for every (5) gallons per day of existing stormwater I/I that is removed from the Oneida County sanitary sewer system tributary to the SCPS by and with completion of an approved remediation project, and it is further

RESOLVED, that each NYSDEC, OCSD or member municipality approved I/I remediation project shall be pre-assigned and receive a predetermined number of gallons per day of existing stormwater I/I the completed project will remove from the subject sanitary sewer system; and it is further

RESOLVED, that the Town, as a member municipality, has undertaken and completed a NYSDEC and/or OCSD and/or member municipality approved I/I remediation project in New York Mills that removed approximately 442,170 predetermined gallons per day of existing stormwater I/I. By and through the successful completion of this approved project, the Town expects to deposit an additional 21,622 flow credits into its sub-account with the Sewer Bank; and it is further

RESOLVED, that in an effort to progress and facilitate measured residential and commercial development in the Town in accordance and compliance with the mandates of the CO and the Offset Plan incident thereto, the Town hereby establishes the following procedure and guidelines for the sale of flow credits to homeowners and commercial developers:

- 1.) Application shall be made to the Town Engineer who shall act and serve as agent for the Town in this matter.
- 2.) Application to the Town Engineer shall be made on form “Application for New Sewer Connection Permit” [see Attachment 4].
- 3.) Said form shall be used in conjunction with Table 4-1 of the OCSD I/I Offset Plan [see Attachment 5] to calculate the number of flow credits needed by the Applicant and the cost of the purchasing same.
- 4.) Said completed Application shall be sent to the Commissioner for review and approval.
- 5.) Upon receipt of County approval, the Commissioner shall deduct the proper number of sold flow credits from the Town’s sub-account and the Town shall deposit the funds derived from the sale of the flow credits into a Town-designated reserve account to be used by the Town to advance the I/I removal process.
- 6.) The Town shall grant first priority in the sale of flow credits to the Applicant for an individual single family home over an Applicant for commercial development.
- 7.) The period of time within the sold Flow Credits can be utilized by the Applicant shall be determined by the Commissioner and shall be stated on the completed Application [see Attachment 4].
- 8.) For economic development applications within a Generic Environmental Development Statement (GERIS) area that impact off-site issues of environmental significance for the category of Sanitary Sewer, the cost of purchasing Flow Credits, and/or the cost of an I/I removal project shall be deemed as meeting the requirement to mitigate the category of Sanitary Sewer, and shall be reflected as such in both the Pre-Development Agreement and Memorandum of Understanding.
- 9.) Should the Offset plan be updated, the terms used in the most current edition shall prevail.
- 10.) The Town reserves the right to increase the sale price of individual flow credits for good and justifiable reason.
- 11.) As referenced in the CO at paragraph 5.3, the County shall have the right to direct and authorize I/I removal projects be undertaken by an Applicant rather than and instead of approving the sale of flow credits as described above.

- 12.) The cost per flow credit is determined by a weighted average method on a rolling admissions basis to reflect the most recent Flow Credit acquisition cost in the calculation, plus the addition of a 25% administrative fee.

As additional sewer Flow Credits become available for distribution for new sewer connection permit applications, the weighted average schedule will be updated by the Town Engineer and presented to the Town Board for the Board's consideration in adjusting the approved sale price [see Attachment 6].

Examples of Flow Credit purchase cost:

A. Residential Home Fees are as follows:

Refer to Attachment 5, OCSD I/I Offset Plan, Table 4-1, attached and made a part of this Resolution.

Example, for a three bedroom home:

400 gal. per day of new flow = 400 flow credits required times (x) the established cost per flow credit = total cost to purchase required flow credits

B. Apartments

Refer to Attachment 5, OCSD I/I Offset Plan, Table 4-1, attached and made a part of this Resolution

Example: for a two (2) bedroom apartment 300 gal./per day of new flow = 300 flow credits required times (x) the established cost per flow credit = total cost to purchase required flow credits

C. Office Building

Refer to Attachment 5, OCSD I/I Offset Plan, Table 4-1, attached and made a part of this Resolution

Example:

Based on the larger of the following two calculations for a 10,000 SF building:

15gpd times the number of employees

OR

0.1gpd times the total square footage of space

The larger of the two calculations = the calculated new flow in gal. per day = the number of flow credits required times (x) the established cost per flow credit = total cost to purchase required flow credits.

D. Restaurants

Refer to Attachment 5, OCSD I/I Offset Plan, Table 4-1, attached and made a part of this Resolution

Example:

Ordinary restaurant: 35gpd/seat times the number of seats=new flow in gal. per day=flow credits required times the established cost per flow credit=total cost to purchase flow credits

Small Restaurant or Tavern: 20gpd/seat times the number of seats=new flow in gal. per day=flow credits required times the established cost per offset credit=total cost to purchase required flow credits.

E. Industrial and other sources such as stores, motels/hotels/recreational facilities, etc.

Refer to Attachment 5, OCSD I/I Offset Plan, Table 4-1, attached and made part of this Resolution for details and instructions.

AND IT IS FURTHER RESOLVED, that with the adoption of this Resolution, the previously adopted New Hartford Resolution 98 of 2008 establishing Flow Credit sale prices is hereby amended.

The Supervisor polled the Town Board members, which voted as follows:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. The Town Clerk was asked to post this Resolution on the Town's Website.

REPORTS OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT:

Competitive Bids/Reject – Sewage Pump Station Upgrades, Contract 4 - Arlington Terrace

Highway Superintendent Richard Sherman discussed the Arlington Terrace pump station upgrade project. Bids were received on August 5, 2009. He advised the Town Board that he wants to re-evaluate the options for making the necessary improvements including specifications for alternative equipment and possible phasing of the work. He therefore recommended that the Town Board reject the bids as he is not in a position to recommend a contract award at this time. Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. ... OF 2009)

RESOLVED that, upon the recommendation of the Highway Superintendent, the New Hartford Town Board hereby exercises its rights as stated in the bidding documents for the project titled Sewage Pump Station Upgrades, Contract 4 – Arlington Terrace, to

reject all bids received on August 5, 2009 for the purpose of re-evaluating the Town's options for undertaking improvements at the pump station.

The Town Board members voted as follows:

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

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

Authorization for Competitive Re-Bid – Sewage Pump Station Upgrades, Contract 4 - Arlington Terrace

Upon recommendation of the Highway/Sewer Superintendent, Councilman Reynolds presented the following Resolution and moved its adoption, which was seconded by Councilman Woodland:

(RESOLUTION NO. ... OF 2009)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the ***Arlington Terrace Sewer Pump Station***, in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on a date to be determined and approved by the Town Board; all bids received 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.

A roll call vote resulted as follows:

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

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

Award of Competitive Bid – Sanitary Sewer Replacement Route 5A & Sanitary Sewer Relocation Jordan Road

Highway/Sewer Superintendent Richard Sherman reported that the following bids were received on September 2, 2009 for the Jordan Road and Route 5A sewer projects:

<u>Vendor</u>	<u>Total Bid, including base bid, contingency and allowance for general construction</u>
L. P. Trucking & Excavating, Inc.	- \$118,875.25
Bat-Con, Inc.	- \$169,990.00
Murphy Excavating Corporation	- \$288,232.00
Jablonski Excavating, Inc.	- \$197,245.00
Fred Burrows Trucking & Excavtg	- \$156,900.00.

Thereafter, upon recommendation of the Highway/Sewer Superintendent, the following Resolution was offered for adoption by Councilwoman Krupa and duly seconded by Councilman Woodland:

(RESOLUTION NO. ... OF 2009)

WHEREAS, the Town Superintendent of Highways/Sewers did, on the 22nd day of September 2009, duly recommend sewer relocation on Jordan Road and sewer replacement on Commercial Drive (aka NYS Route 5A) pursuant to competitive bid;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby accept the low bid of and award the contract to L. P. Trucking & Excavating, Inc., in accordance with the provisions of Article 5-A of the General Municipal Law, for the aforementioned sewer repairs for a maximum aggregate price of One Hundred Eighteen Thousand Eight Hundred Seventy-five Dollars and Twenty-five Cents (\$118,875.25). A contract for the work to be completed shall be duly executed between the Town of New Hartford and such vendor; when the contract has been executed and upon completion of the aforementioned projects, the Town Supervisor shall pay the amount of \$118,875.25 from budgetary appropriations for purchase of equipment.

All insurance documents from the low bidder will be reviewed by Town Attorney Green; thereafter, 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 Town Supervisor declared the Resolution unanimously carried and duly ***ADOPTED***.

Authorization for Competitive Bid – One (1) New Trailer Mounted Vacuum Debris Collector

Highway Superintendent Sherman informed the Board that the Highway Department had five (5) vacuum collectors, one of which is storage and not useable. Of the four (4) remaining, last year two (2) machines had engine problems and were not worth fixing. Parts from three (3) machines were taken and made into one (1) machine. Director of Budget Mowat confirmed that the Highway Superintendent has money in the budget for

this expenditure, with some money being transferred from the diesel and other line items into the machinery line item. If the Town doesn't pick up leaves, the Town may be exposed to insurance liability and drainage problems. Upon request of the Highway Superintendent, Councilman Reynolds presented the following Resolution and moved its adoption, which was seconded by Councilman Payne:

(RESOLUTION NO. ... OF 2009)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the purchase of ***One (1) New Trailer Mounted Vacuum Debris Collector***, in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Tuesday, October 6, 2009 and then shall be publicly opened and read aloud at 11:00 A.M. on said date and in said Office; and be it

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

The Town Board voted upon roll call as follows:

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

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

Authorization for Request for Proposal (RFP) – Elm Street, Chadwicks Bridge
Highway Superintendent Sherman noted that the New York State Department of Transportation inspects bridges once a year and notified the Town in 2008 of structural deficiencies with the Elm Street, Chadwicks, bridge; out-going Highway Superintendent Cleveland brought this to the Town Board's attention at an October 2008 Town Board meeting. The subject bridge was constructed in 1957. Upon request of the Highway Superintendent, Councilman Payne presented the following Resolution and moved its adoption, which was seconded by Councilman Reynolds:

(RESOLUTION NO. ... OF 2009)

RESOLVED that the New Hartford Town Board shall receive Requests For Proposal (RFPs) for engineering services, including design for the necessary improvements to the Elm Street, Chadwicks, bridge, said services not to exceed Fifty Thousand Dollars (\$50,000) and shall be paid from the 2009 Highway Whole-Town Fund.

The Town Board voted upon roll call as follows:

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

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

Competitive Bid, Conditional Award – Bituminous Concrete Paving/Woods Highway

On September 14, 2009 the following bids were received for the referenced project:

- Ocuto Blacktop & Paving Co., Inc. - \$75, 087.20 per addendum
- Barrett Paving Materials, Inc. - \$83,338.00
- Hanson Aggregates - \$66,131.00 per addendum.

Subsequent to the Bid Opening, Scot Owens of Barrett Paving Materials said he didn't receive the addendum and that his company's bid would have been lower had he known about the addendum. Attorney Green stated he had contacted the New York State Association of Towns for a legal opinion but hasn't been able to verify the matter with the State Comptroller's Office. When the Town Clerk was furnished with the addendum late Friday, September 11, 2009, she e-mailed all prospective bidders via the e-mail addresses they had provided when they picked up specifications. In actuality, the contact person for Barrett Paving Materials was not in his office on September 11, 2009 and came in to work late Monday, September 16, 2009. The Town Attorney cited two (2) options the Town Board has – conditionally award the bid to the lowest bidder until he receives an opinion that proper procedures have been met OR schedule a Special Town Board meeting within 24-48 hours. His recommendation is the first option and the Town Attorney will confirm if the Town is violation of any law. Attorney Green said the Town properly notified prospective bidders of all changes; the Town is not at fault that the person wasn't at work.

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

(RESOLUTION NO. ... OF 2009)

WHEREAS, the Town Superintendent of Highways did, on the 22nd day of September, 2009, duly recommend the purchase of bituminous concrete paving for a section of Woods Highway in accordance with 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, bituminous concrete paving for a section of Woods Highway from low bidder, Hanson Aggregates, for a maximum aggregate price of Sixty-six Thousand One Hundred Thirty-one Dollars (\$66,131.00), conditioned upon the Town Attorney's determination that the Town had met criteria in

notifying all prospective bidders of Addendum No. 1 for this project. A contract for the item(s) purchased shall be duly executed in triplicate between the Town Superintendent of Highways and such vendor at which time it shall become effective. When the contract has been executed and approved, and upon completion of the paving project, the Town Supervisor shall pay the amount of \$66,131.00 from Fees In Lieu of Mitigation from the Seneca Turnpike-Commercial Drive GEIS study area.

Upon roll call, the Town Board voted as follows:

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

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

DIRECTOR OF BUDGET:

2009 Budget Modifications

Director of Budget Mowat submitted a list of 2009 Budget modifications and transfers; all changes had been discussed with and agreed upon with the respective department heads with no negative comments. She noted that the Town has received two (2) of the quarterly sales tax checks from Oneida County that are similar to last year's but are below what was expected.

Thereafter, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. ... OF 2009)

RESOLVED that the New Hartford Town Board does hereby approve and authorize the following 2009 Budget modifications and transfers, as presented by Director of Budget Heather Mowat:

(See Attached Schedule)

A roll call vote was then duly held and resulted as follows:

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

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

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and duly seconded by Councilman Reynolds the meeting adjourned at 5:52 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk