

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, JULY 14, 2010 AT 7:00 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 7:00 P.M. and led those in attendance in the Pledge of Allegiance to the American Flag. The roll was then taken with the following Town Officials and Department Heads being present during the progress of the meeting.

TOWN BOARD MEMBERS PRESENT:

Councilman Donald C. Backman
Councilwoman Christine G. Krupa
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Codes Enforcement Officer Joseph A. Booth
Deputy Supervisor Matthew Bohn III
Highway/Sewer Superintendent Richard C. Sherman
Police Chief Michael S. Inserra
Senior Engineering Technician John Meagher
Town Attorney Herbert J. Cully
Town Clerk Gail Wolanin Young

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

ANNOUNCEMENT

Town Supervisor Tyksinski introduced new Police Chief Michael S. Inserra, who is attending his first Town Board meeting since being appointed on June 16, 2010.

PUBLIC HEARING

7:02 P.M. Shift Operation into the Rensselaer County
 Empire Zone – YINCAE Advanced Materials, LLC

The Town Supervisor opened the Public Hearing at 7:02 P.M. with regard to a New Hartford-based business relocating to Rensselaer County. [NOTE: The Town Clerk had available the Notice of Public Hearing, Proof of Publication (June 30, 2010 edition of The Observer Dispatch) and Affidavit of Posting.] The purpose of the Hearing, pursuant to General Municipal Law Article 18-B, Section 959(a)(iii), is to solicit comments regarding the proposed relocation of YINCAE Advanced Materials, LLC, from New Hartford into the Rensselaer County Empire Zone.

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Jay Sherman, Coordinator of the Rensselaer County Empire Zone, stated that Wusheng Yin, who operates a small business, namely, YINCAE Advanced Materials, LLC, is interested in moving to Rensselaer County to benefit from services of the Rensselaer Polytechnical Institute and which services are not available locally. Upon relocation, Mr. Yin will be asking for Empire Zone benefits from Rensselaer County. New York State requires that a Public Hearing be held when a business moves from one empire zone to another. Mr. Yin is not definitely sure he will be moving, said relocation being dependent upon financial and pending patent matters.

As an aside, Mr. Sherman mentioned that he had emailed Town Clerk Young on a Sunday in June and that within about 20 minutes, the Town Clerk responded to his request. He said he has had business dealings with many Town Clerks who are good and complimented Town Clerk Young for her timely response to assist him and nonetheless, on a Sunday.

There having been no one further who appeared in the matter, the Public Hearing was declared closed at 7:08 P.M.

Thereafter, Councilman Backman introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 183 OF 2010)

WHEREAS, YINCAE Advanced Materials, LLC, is a developer, manufacturer and supplier of high performance coatings, adhesives and electronic materials in New Hartford for the past five years; and

WHEREAS, YINCAE Advanced Materials, LLC only employees are Wusheng Yin and Mary Liu, his wife, who are the founders of the company; and

WHEREAS, as the owner's family has relocated to the Albany, New York area, YINCAE Advanced Materials, LLC can no longer remain at 121 Harrogate Road, New Hartford, NY 13413; and

WHEREAS, the relocation provides close proximity and access to Rensselaer Polytechnic Institute's technical research facilities, staff, and graduating engineering students, enabling YINCAE Advanced Materials, LLC to achieve its corporate purpose, whereas these development/growth opportunities do not currently exist in its current location; and

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WHEREAS, as the Town of New Hartford Town Board has heard public comments that extraordinary circumstances exist to warrant relocation of YINCAE Advanced Materials, LLC into the Rensselaer County Empire Zone;

NOW, THEREFORE, be it hereby

RESOLVED that the Town of New Hartford consents to the relocation of YINCAE Advanced Materials, LLC from New Hartford to the Rensselaer Technology Park in the Rensselaer County Empire Zone.

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

Councilwoman Krupa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

MINUTES

Regular Town Board Meetings – May 26, 2010; June 16, 2010

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

(RESOLUTION NO. 184 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held May 26, 2010 and June 16, 2010 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 Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

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PUBLIC PRESENTATIONS (Public Comments)

Police Security/Patrols – Private Businesses

Edmund Wiatr, Jr. stated that Cathy Lawrence and he had been working together on a pretentious issue, i.e., the use of local law enforcement officials for local private businesses such as Cavallo's, AT&T, etc. While it "...hits you in the heart" referring to the May 2010 shooting at the AT&T store in New York Mills, Mr. Wiatr said "...it is legally, ethically and morally wrong" to provide police patrols at businesses. Cathy Lawrence has sent the Town Board copies of opinions in the matter. Mr. Wiatr said they aren't here to deny law enforcement officers private duty services but federal laws say it can't be done. Mr. Wiatr had discussed with Town Attorney Cully the Town's Local Law (Chapter 25 of the Town Code) that permits police patrols on private premises; however, Mr. Wiatr alleged that the Town's Local Law doesn't trump federal and state law. He says the officers should contract on their own and not build up their retirement, etc. by using town funds. Mr. Wiatr said the Town is charged with due diligence and the Town Board shouldn't allow these past services to continue. He knows the Town Supervisor wants transparency.

Addressing Mr. Wiatr, Supervisor Tyksinski responded that the issue of police patrols on private property had been discussed among Herbert Cully (Town Attorney), Matthew Bohn (Deputy Supervisor) and himself prior to January 1, 2010, when Supervisor Tyksinski began his term of office. Supervisor Tyksinski believed Mr. Wiatr's comments referred to police patrols at Faxton-St. Luke's Healthcare and the Sangertown Square Mall that had been authorized in 1993 and amended in 1994 by Local Law. The Town Attorney hasn't been able to check into whether Municipal Home Rule supersedes. With regard to police patrol at the relocated AT&T store in Consumer Square, Supervisor Tyksinski commented that everyone knows about the disgruntled customer who shot an employee and attempted to shoot another employee and that the shooter was shot and killed by an off-duty Rome City Police Officer who was present at that time.....a traumatic event that lead to AT&T closing that store's New York Mills location. On the Friday before AT&T opened at a new, AT&T contacted the Town Supervisor asking for police patrol to ease employees and customers and assure their safety in light of what had happened at the New York Mills store. The Town Supervisor explained that he called Police Chief Inserra to discuss the request and believed the Town couldn't leave these people alone and "hanging". The Town Supervisor said he gave the authority to the Police Chief to provide the patrol. It's short term and will end soon, said the Supervisor, who added that there's more to it than legal...not only does the Town have the legal ability but it may have an obligation to do this.

Mr. Wiatr alleged that the Town is not being reimbursed by private businesses for what it costs to put a police officer out there. The Town Supervisor said he had met with then-Acting Police Chief Timothy O'Neill months ago and figured every cost paid out for an

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officer, benefits including retirement, etc. Every cost was identified and is being reimbursed to the Town, except for the contractual agreements with Sangertown Square Mall and Faxton-St. Luke's Healthcare made prior to this administration; the Marquee Cinema no longer has police patrols. The Town is reimbursed for the costs, including the patrol car. He had asked the Personnel Technician to provide figures as well and they were nearly the same. The Town also provides a School Resource Officer for the New Hartford and Sauquoit School districts. Supervisor Tyksinski stated the Town might have a responsibility to provide extra patrols for incidents where someone has been physically assaulted in a store or wherever.

Cathy Lawrence asked if the Town Board should have a resolution setting forth the reimbursement rates? Town Attorney Cully replied no, that this is an emergency for only thirty (30) or forty-five (45) days maximum. The Town Supervisor believes the Town is being reimbursed \$60/hour for police wages plus \$30 for the patrol car.

Mr. Wiatr asked that the Town Board adopt the resolution he had emailed to Town Board members on July 9, 2010. The Town Attorney will continue research on the matter of police patrol for private businesses and the Town Board will consider the resolution at a future date when more information is available. Councilwoman Krupa expressed her interest in receiving an Attorney General opinion on the matter.

Southern New Hartford GEIS

Dr. Rao inquired where he could obtain a copy of the GEIS for the southeastern part of the Town; the Town Attorney directed him to the Town's web site. Dr. Rao further inquired about action on the GEIS Findings Statement of the Planning Board, whether the Town Board could override the Planning Board. The Town Attorney cited four (4) options:

1. adopt the Findings as recommended
2. suggest another study
3. accept it with modifications, or
4. do nothing.

Oneida County Sewer District Sauquoit Creek Pump Station – Repair of Tributary Municipal Collection and Conveyance Systems – Technical Engineering Review Assistance

The Barton & Loguidice firm had contacted Supervisor Tyksinski about the idea of bringing on an independent firm to evaluate the proposed Oneida County Part-County Sewer Inter-municipal Agreement that had been presented to the Town. Before signing on to a long-term agreement, the Supervisor wanted to consider possible alternatives including whether the Town of New Hartford would “go it alone”, apart from the other eight (8) constituent municipalities. Kenneth M. Knutsen, P.E., Senior Vice President of

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Barton & Loguidice, discussed the engineering technical review services that Barton & Loguidice would offer to assist the Town with various reports, agreements, plans and specifications, etc. that may be prepared by Oneida County.

Barton & Loguidice have been monitoring progress on the County project, which is driven by the NYS Department of Environmental Consent Order. Technical reviews by their firm would focus on the work proposed within the Town of New Hartford, associated costs, funding and user cost assessment plans. Their reviews would be performed with consideration for the best interest of the Town and to ensure that the burdens of the proposed County costs are being distributed fairly. They would also focus on cost saving opportunities including the utilization of Town work forces “self help” for rehabilitation/repairs of the Town’s sewer system and advise the Town on potential project funding at the Town level. They would act as a Technical Adviser, retained on an “on call” basis.

Supervisor Tyksinski noted that in January 2010 the Town Board entered into agreement with the County (Resolution No. 50, adopted January 27, 2010) for an alternative payment method (use of FILM for one year) toward the initial project debt service as opposed to a surcharge of \$1.05 per 1,000 gallons of water consumed by each user and gave the Town a year to look at another agreement for 2011. However, the County sped up the process and another agreement that would lock the Town into 15 years or more. The Town is still working with Oneida County on a second draft of their agreement; however, if the Town is forced to take the agreement from the County, it would be the Supervisor’s opinion to determine if the Town could do this more effectively and efficiently on its own, rather than as a group.

Town Board discussion included whether the Town would loose out on a grant, how to ensure the Town would be paying it’s fair share and in an equitable manner when a joint project is involved and whether an engineering firm could serve as a Clerk-of-the-Works. The Town Attorney noted that the County’s inter-municipal agreement has not been finalized so that the second draft might have even more changes. Recognizing a representative from Lochner Engineering who was present, the Town Board will offer that engineering firm an opportunity to learn about the services they could provide, after which the Town Board would make a decision whether to retain independent engineering services.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilwoman Krupa

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Raffle Consent

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

(RESOLUTION NO. 185 OF 2010)

RESOLVED that the New Hartford Town Board does hereby grant permission to the Ziyara Shriners, 251 Genesee Street, Utica, New York 13501, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

FURTHER RESOLVED that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Town Board voted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Public Safety and Courts – Councilwoman Krupa

Promotion to Sergeant

Upon recommendation of Police Chief Inserra, Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 186 OF 2010)

WHEREAS, a vacancy exists in a Sergeant position within the Town Police Department due to the June 16, 2010 appointment of Sgt. Michael S. Inserra as Provisional Town Police Chief B;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby promote Police Officer Michael T. Kowalski to fill the vacancy of Sergeant (contingent/permanent), effective Sunday, July 18, 2010, at an annual salary of \$64,250.30 payable bi-weekly, and in accordance with NYS Civil Service rules and regulations and the current union contract.

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Councilman Backman inquired what would happen if Provisional Police Chief Inserra doesn't fair well on the civil service test for chief to be administered in March 2011. Chief Inserra said he would return to the Sergeant classification. Thereafter, the Board members voted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Appointment of Part-time Police Officer

Councilwoman Krupa reported that the Police Department is down two (2) full-time and two (2) part time police officers. Upon recommendation of Police Chief Inserra, Councilwoman Krupa offered the following resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 187 OF 2010)

WHEREAS, a vacancy exists in the position of Part-time Police Officer due to the promotion of Part-time Police Officer W. Jason Freiberger to Full-time Police Officer;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby appoint Daniel P. Buley as Part-time Police Officer, effective Sunday, July 18 2010, to fill the aforementioned vacancy at an hourly wage of \$25.18, payable bi-weekly, and in accordance with NYS Civil Service rules and regulations and the current union contract.

Mr. Buley's application has been cleared through the Town's Personnel department and the Oneida County Personnel Department. Thereafter, the Supervisor polled the Board members who voted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

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Lease – Animal Control Truck

The Police Department, under whose auspices the Animal Control Officer works, has recommended a four-year lease of a truck for animal control purposes. The Town Supervisor had reviewed this matter with Lt. Timothy O’Neill and it is a budgeted item. Councilwoman Krupa then offered the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 188 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute a four-year lease with Van Bartel Ford, Inc., Victor, NY, for a 2010 Ford F-150 vehicle for the Animal Control division of the Police Department with quarterly payments of One Thousand Five Hundred Twenty-six Dollars and Sixty-five Cents (\$1,526.65), said lease being on State Contract No. PC65030; see Schedule “A” annexed hereto and made a part of this Resolution.

Councilman Backman asked if this matter could be postponed to Fall 2010; the Supervisor reiterated that the vehicle is already appropriated in the 2010 budget. The Town Board then voted upon roll call as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Parks and Recreation Committee – Councilman Reynolds

2010-2011 and 2011-2012 Recreation Center Ice Rates

Councilman Reynolds reported that the proposed ice rink rates for 2010-11 and 2011-12 had been discussed at length at the June 23, 2010 Parks and Recreation Advisory Committee meeting after which the Advisory Committee recommended the proposed rates be adopted. Parks and Recreation Director Michael said the proposed rates were based after reviewing area rinks in Whitestown, Clinton, and Morrisville. If adopted, the new rates would bring in additional revenue of \$47,133 in the first year and an additional \$13,995 in the second year. The Parks and Recreation Director has reviewed the rates with the ice rink users. Thereafter, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

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(RESOLUTION NO. 189 OF 2010)

RESOLVED that, upon recommendation of the Parks and Recreation Director and the Parks and Recreation Advisory Committee, the New Hartford Town Board does hereby adopt the following Recreation Center fees for the periods designated:

Recreation Center Ice Rates

<u>Fee Type</u>	<u>Oct 2010-Sept 2011</u>	<u>Oct 2011-Sept 2012</u>
Prime Rate	\$130.00/hour	\$135.00/hour
Non-Prime	\$105.00/hour	\$110.00/hour
Late night	\$ 95.00/hour	\$100.00/hour
Seasonal Locker Room charge	\$ 15.00/hour	\$ 20.00/hour

New Hartford Youth Rates

Contracts – Youth Hockey & Figure Skating

<u>Fee Type</u>	<u>Oct 2010-Sept 2011</u>	<u>Oct 2011-Sept 2012</u>
All Ice Time	\$ 90.00/hour	\$104.00/hour
Prime Time	\$ 93.00/hour	\$108.00/hour
Non-Prime	\$ 80.00/hour	\$ 88.00/hour
Late Night	\$ 75.00/hour	\$ 80.00/hour

Miscellaneous Fees

<u>Fee Type</u>	<u>Oct 2010-Sept 2011</u>	<u>Oct 2011-Sept 2012</u>
Public Skate	\$ 5.00/session	\$ 5.00/session
(*pre-paid pass for New Hartford residents available- 15 sessions for \$60.00)		
Student Parking	\$100.00/season	\$110.00/season
Skaters Edge	\$402.00/month	\$426.00/month

Regular Summer Rentals

<u>Fee Type</u>	<u>Oct 2010-Sept 2011</u>	<u>Oct 2011-Sept 2012</u>
Daily Rate	\$700.00/\$450.00	\$800.00/\$500.00
Evenings	\$350.00/\$225.00	\$400.00/\$250.00.

The foregoing Resolution was subject to a vote upon roll call resulting as follows:

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

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Councilman Backman - Aye
 Supervisor Tyksinski - Aye.

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

Senior Citizens Committee – Councilman Woodland

2010 Budget Adjustment

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

(RESOLUTION NO. 190 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct Bookkeeper Fairbrother to make the following 2010 Budget adjustments:

<u>Account Name & No.</u>	<u>Increase</u>	<u>Purpose</u>
Appropriations:		
Aging Contractual A6772.4	\$1,420.00	Toward publishing cost for Senior Services book (\$950) Toward 24 th Anniversary celebration/October (\$470)

<u>Account Name & No.</u>	<u>Increase</u>	<u>Source</u>
Revenue:		
Nutrition Site A2705	\$ 250.00	Resource Center for Independent Living
	\$ 125.00	Faxton – St. Luke’s Healthcare
	\$ 325.00	Estate Planning Law Center
	<u>\$ 720.00</u>	CDPHP Universal Benefits, Inc.
TOTAL: \$1,420.00		

Senior Services Director Eileen Spellman had noted that, to date, \$3,125 in advertisements has been realized for publishing the Senior Services book project. The Supervisor polled the Board members who voted as follows:

Councilwoman Krupa - Aye
 Councilman Woodland - Aye
 Councilman Reynolds - Aye
 Councilman Backman - Aye
 Supervisor Tyksinski - Aye.

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

Public Works and Sewer Committee – Councilman Backman

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Highway Department – Trash Drop-off

During June 2010 eleven (11) dumpsters of trash from residents had been transferred from the Sanger Public Works Garage location to the County solid waste facility, with tipping fees approximately Forty-eight Hundred Dollars (\$4800), which is considerably less than Highway crews picking it up. The Sanger Garage transfer station is getting accepted and Councilman Backman offered that the Town might consider buying its own tip containers next year.

Road Paving – CHIPS Funding

After meeting with the Highway Superintendent, Councilman Backman recommended that the following roads be repaved with CHIPS funding:

- Knight Road and Cosmo Court - \$44,752.16
- Viburnum Place - \$23,399.18
- Juniper Lane - \$35,089.11

Highway Superintendent Sherman recommended using a fibermat material which is cheaper than milling and paving the roads; the Town of Whitestown has used fibermat in their developments. The Town could “piggy-back” on Oneida County’s bid. Supervisor Tyksinski expressed concern that the manholes would then be two (2) inches below the road surface. The Highway Superintendent said the manholes would be raised. The above roads are for CHIPS money.

It was reported that the infrastructure in the Applewood Community had not been done properly.

After further discussion, Councilman Backman introduced the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 191 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby opt to “piggy-back” on Oneida County’s competitive bid for road paving and does hereby authorize and direct the Highway Superintendent to utilize CHIPS funding (expected to be \$126,075 for 2010) for paving of the following roads under the County’s contract:

- Knight Road
- Cosmo Court
- Viburnum Place
- Juniper Lane, and possibly other eligible roads to be approved at a future meeting.

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

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Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Road Paving – FILM; French-Burrstone-Champlin Ave GEIS Corridor

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

(RESOLUTION NO. 192 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct Bookkeeper Fairbrother to transfer the sum of One Hundred Four Thousand Five Hundred Eighty-one Dollars and Seventy-three Cents (\$104,581.73) from the French-Champlin-Burrstone Road GEIS Fees In Lieu of Mitigation (FILM), highway category, to the Highway Part-Town Fund, Account No. DB5112.2 (Highway Paving) for the purpose of paving Read Street, Davis Place, Washington Drive and a portion of Winchester Drive, all within the Bon Aire Estates within said GEIS area.

A roll call vote ensued:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Traffic Study - Controls

Councilman Backman has requested that the Police Chief and Highway Superintendent perform a traffic study of the Knight Road-Cosmo Court, Sessions Road-Cosmo Court area to determine if the installation of STOP signs is necessary; and if so, that the Town Attorney prepare the required local law and schedule a public hearing.

Jubilee Lane – status

Town Attorney Cully stated that he was the attorney for the developer of Jubilee Estates years ago and that he had submitted all paperwork to the Town for road dedication of Jubilee Lane but the Town Board had never acted on the matter. Senior Engineering

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Technician John Meagher has located the documents that were presented by Attorney Cully in 2002. Technician Meagher said the developer is still responsible for installing the topcoat on Jubilee Lane. The Town Supervisor asked why the Highway Department would maintain and plow the undedicated road. The ten (10) year limit is approaching where the Town would take the road by highway in use (highway and use??). The Town Board agreed that the developer should come before the Town Board and get the work done. Highway Superintendent Sherman (not the Superintendent in 2002) identified a Thirty-eight Thousand Dollar (\$38,000) retainer from the developer on this project; he is working on a quote to give to developer.

Sylvan Way – status

The Highway Superintendent is getting a quote; the road needs binder work and the topcoat; it has not been accepted (dedicated) as a town road.

Competitive Bid - Arlington Terrace Sewer Pump Station Repairs

Councilman Backman reported that this project is one-third (1/3 rd) done.

Elm Street, Chadwicks bridge replacement

Councilman Backman reported that the competitive bid process on this project is anticipated to begin in September or October 2010; further discussion will be held at the August 2010 Town Board meeting.

Sewers - Applewood Community; Woodberry Hills

Councilman Backman stated that the sewer agreement for Applewood Community and Woodberry Hills could not be located. He stressed that the homes in these two (2) areas need to be brought into the Consolidated Sewer District so that when tax bills are mailed in December 2010, the Town would collect the sewer fees in January 2011. The Town Supervisor responded that this is a budgetary item and will be taken care of for the 2011 tax bills.

Kellogg Road Community Center Building - status

Councilman Backman and the Highway Superintendent (Buildings and Grounds) discussed this facility today and specifically, the mold issue. Town staff will remove walls in the kitchen, bathroom and the wall facing the parking lot to determine the amount of mold present and the amount present will determine what action, if any, needs to be taken.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Financial:

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Audit of Vouchers

Upon presentation of the Town Supervisor, Councilwoman Krupa presented the following Resolution for adoption; seconded by Councilman Backman:

(RESOLUTION NO. 193 OF 2010)

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:

Repair to Bridges Abstract #1	
Vouchers HB1	\$ 6,757.50
Street Lighting Abstract #8	
Vouchers SL8	\$ 7,539.37
Highway Fund Part-Town Abstract #10	
Vouchers DB410-DB473	\$ 55,104.15
General Fund Part-Town Abstract #10	
Vouchers BB74-BB83	\$ 13,190.92
General Fund Part-Town (Police) Abstract #12	
Vouchers BP143-BP145;BP147-BP173	\$ 53,052.46
General Fund Whole-Town Abstract # 22	
Vouchers AA579-AA586	\$ 10,801.60
General Fund Whole-Town Abstract #24	
Vouchers AA593-AA695;AA697	\$ 91,473.62
Sewer Fund Abstract # 14 of 2010	
Vouchers SS41	\$ 1,224.29
Sewer Fund Abstract # 15 of 2010	
Vouchers SS42-SS47	<u>\$ 66,349.57</u>
TOTAL:	\$305,493.48

The Town Board then voted upon roll call:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

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Monthly Financial report

Board members had received the June 2010 report from the Town Supervisor who stated that departments are pretty much in line on the budget

Old Business:

Appointments – New Hartford Public Library

Action was withheld on making appointments to the New Hartford Public Library Board of Trustees, replacing the interim Trustees appointed at the June 16, 2010 Town Board meeting. When we make an appointment, the Supervisor said, people have thirty (30) days to take oath but the letters notifying the interim Trustees were dated June 22, 2010 so the Town Board would have to wait until July 22, 2010. This matter will be discussed at the August 11, 2010 Town Board meeting.

Town Attorney Cully reported that the New York State Education Department opined that the Library Board could continue to operate until the Town Board makes permanent appointments. The New Hartford Public Library has hired the Albany-area law firm of Whiteman, Osterman and Hanna to represent them with regard to the library appointments.

Edmund Wiatr, Jr., appointed on May 26, 2010 as a Library Trustee by the Town Board, said he has made the Town Board aware in the past that he's repeatedly asked for information from the Library Board and the Library Director and that the Library Director is adamant in not giving him anything or even recognizing Mr. Wiatr as a Library Board member. Mr. Wiatr asked that the Town Board direct the Town Attorney to write a letter to the Library Board/Director that they must respond to Mr. Wiatr's requests. After some discussion, Supervisor Tyksinski offered the following Resolution for adoption; seconded by Councilwoman Krupa;

(RESOLUTION NO. 194 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to contact Library Director Hans Plambeck and the New Hartford Public Library Board of Trustees to request that they furnish at least the last three (3) audit reports of said Library, a copy of IRS Form 990 for the Library for the last three (3) years and to provide same to Edmund J. Wiatr Jr.

A brief discussion followed after which the Supervisor polled the Board members who voted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye

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Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Contractual Payment – New Hartford Public Library

Councilman Backman then introduced the following Resolution; seconded by Councilwoman Krupa:

(RESOLUTION NO. 195 OF 2010)

RESOLVED that the New Hartford Town Board does hereby empower the Town Supervisor to pay the contractual amount budgeted for 2010 to the New Hartford Public Library at such time when the Town Supervisor deems the Library to be a duly constituted Board.

Upon roll call, the Town Board voted as follows:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Early retirement incentive

With regard to the early retirement incentive offered to eligible employees by the Town Board in May 2010, Senior Engineering Technician John Meagher, Real Property Tax Service Aide Margaret Jones, two (2) patrolman, and Senior Office Specialist Dolores B. Shaw have submitted their irrevocable letters of intent to retire prior to December 31, 2010. The last day to partake in this offer was July 13, 2010. The Town Attorney acknowledged that the Town Clerk and Mr. Wiatr had provided him with prior Town Board legislation for early retirement programs but believed a local law was not necessary at this time because the early retirement offer was not in conjunction with a program being sponsored by the New York State Employees Retirement System; however, the Town Attorney will review the matter.

Computer(s) status - networking

Deputy Town Supervisor Matthew Bohn continues to investigate computer networking issues, connectivity to the Parks Department on Route 12; looking at the server for the

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Sanger Public Works Garage and archiving email. He noted this is "...a pretty big project." There are problems being able to communicate freely across the network. There may be some solution to the Sanger building server within the next several weeks; money had been appropriated in the 2010 budget for some servers and he's looking at "refurbs" also and will report to the Town Board on pricing.

Town Code, Chapter 41 – Alarm Systems; penalties for offenses

New Hartford Fire Chief Thomas Bolanowski has requested that the Town update the penalties for offenses for false alarms in the Town, to be consistent with penalties established by the Village of New Hartford. Councilman Reynolds suggested posting the matter until the August 11, 2010 Town Board meeting; a local law must be prepared and presented to the Town Board before a Public Hearing can be scheduled.

Site Plan Review Retainer – Commercial Drive Walgreen's

Councilwoman Krupa introduced the following Resolution for adoption; seconded by Councilman Backman:

(RESOLUTION NO. 196 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Bookkeeper to release to Falls Bridge, LLC, P. O. Box 901, Deerfield, Illinois 60015, the Eight Thousand Two Hundred Fifty Dollar (\$8,250) retainer held in the Town's escrow account, said retainer having been deposited to ensure that site work would be completed when the Walgreen's store, 4855 Commercial Drive, (at that time partially in the Town of New Hartford and partially in the Village of New York Mills; Tax Map Nos. 317.013-1-35 through 38; 317.013-3-10 through 12 and 317.013-3-21.1) was being constructed

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

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Change Order – NYS Rte 5 Highway Improvements Plan

Upon presentation by Senior Engineering Technician John Meagher, Councilman Reynolds offered the following Resolution for adoption and Councilman Woodland seconded same:

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(RESOLUTION NO. 197 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Change Order No. 4 between the Town of New Hartford and Hanson Aggregates, with regard to the project entitled “NYS Rte 5 Highway Improvements Plan [Contract 2 – New Hartford Business Park]” for a deduct amount of Four Thousand Nine Hundred Forty-seven Dollars and Ninety-one Cents (\$4,947.91).

A roll call vote ensued:

Councilwoman Krupa	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Public Comment

There was no public comment at this time.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilwoman Krupa, the meeting was adjourned at 8:49 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk

SCHEDULE "A"
RESOLUTION AND DECLARATION OF OFFICIAL INTENT

Lessee: Town of New Hartford, New York-Police Department

Principal Amount Expected to Be Financed: \$22,151.00

WHEREAS, the above Lessee is a political subdivision of the state in which Lessee is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines the execution of one or more lease-purchase agreements ("Equipment Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally described below ("Property") and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description of Property:

(1) 2010 Ford 163 F150 Supercab 4x4 SS Vin #1FTVX1EV0AKE38664

WHEREAS, First Niagara Leasing, Inc. ("Lessor") is expected to act as the Lessor under the Equipment Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the property prior to its receipt of proceeds of the Equipment Leases ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

Section 1. The Lessee hereby determines that it has critically evaluated the financing alternatives available to it pursuant to 2 NYCRR Section 39.2 and that entering into the Equipment Leases and financing the acquisition of the Property thereby is in the best interests of the Lessee. Such evaluation shall be available as a public record.

The specific reason for such determination is that entering into such Equipment Leases results in a lower overall cost to the Lessee. Execution of the Equipment Leases will not cause the Lessee to be in violation of the limits contained in paragraph c of subdivision 6 of Section 109-b of the General Municipal Law.

Section 2. The Lessee is hereby authorized to acquire and install the Property (the "Project") and is hereby authorized to finance the Project by entering into the Equipment Leases. Any action taken by the Lessee in connection therewith is hereby ratified and confirmed.

Section 3. Either one of the Town Supervisor Patrick M. Tyksinski (each an "Authorized Representative") acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

Section 4. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

Section 5. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 6. The Lessee's obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee's obligations under the Equipment Leases shall not constitute general obligations of the lessee or indebtedness under the Constitution or laws of the State.

Section 7. It is hereby determined that the purpose of the Project is an object or purpose described in subdivision 32 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is] () years.

Section 8. It is hereby determined the term of the Equipment Leases authorized by this resolution will not be in excess of (4) years.

Section 9. The Governmental Body has determined that the Project is a Type II action that will not have a significant effect on the environment and, therefore, no other

determination or procedures under the State Environmental Quality Review Act (“SEQR”) is required.

Section 10. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee’s official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 11. **BANK QUALIFIED: LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265 (b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$30,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$30,000,000.**

Section 12. The Authorized Representative is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on Equipment Leases authorized by this resolution as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code.

Section 13. This resolution is not subject to any mandatory or permissive referendum pursuant to the Local Finance Law or Section 109-b of the General Municipal Law.

Section 14. This Resolution shall take effect immediately upon its adoption and approval.