

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN ON
WEDNESDAY, DECEMBER 8, 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
Supervisor Patrick M. Tyksinski

ABSENT:

Councilman Richard B. Woodland, Jr.

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Assessor Paul E. Smith
Codes Enforcement Officer Joseph A. Booth
Deputy Town Supervisor Matthew Bohn III
Highway/Sewer Superintendent Richard C. Sherman
Parks and Recreation Director Michael W. Jeffery
Police Chief Michael S. Inserra
Town Attorney Herbert J. Cully
Town Clerk Gail Wolanin Young

Thereafter, a quorum was declared present for the transaction of business. As the NYS Route 12B and Route 5 ingress/egress from the Manors area were blocked due to a weather-related accident, Councilman Woodland was unable to attend this meeting.

MINUTES

November 17, 2010 Town Board Meeting

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

(RESOLUTION NO. 299 OF 2010)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held November 17, 2010 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

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

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

PUBLIC HEARING

7:01 P.M. Local Law Introductory “C” of 2010
Dog Licensing and Control Law

The Town Supervisor opened the Public Hearing at 7:01 P.M. The Town Clerk had available the Notice of Public Hearing with attached Local Law Introductory “C”, the Affidavit of Posting and the Proof of Publication (November 26, 2010 edition of The Observer Dispatch). The purpose of the Public Hearing was to offer the citizens an opportunity to speak in favor of, in opposition to, or to comment upon said Local Law Introductory which, if adopted, would amend Chapter 56 (DOGS AND PETS) of the Town Code to protect the health, safety, morals and general welfare of the inhabitants, visitors and property of the Town of New Hartford, from dog-related nuisance, damage, or injury, through the establishment and imposition of certain restrictions, regulations, responsibilities and requirements.

The Town Clerk explained that, effective January 1, 2011, the New York State Department of Agriculture and Markets would no longer be administering and enforcing dog licensing and control and that the local municipalities throughout the State would be required to adopt legislation in order to fulfill these duties within their jurisdictions. Local municipalities would be financially responsible for carrying out these duties, including among other items, the necessary office supplies and staff to produce dog license renewal notices on a monthly basis and the subsequent licensing/re-licensing of dogs; in addition, the time and use of a vehicle incurred by the Animal Control Officer(s) with regard to delinquent dog owners. As mentioned at prior meetings, anticipated expenses have been budgeted for 2011 with the exception of a dog census (enumeration), which the Town Board would have to authorize; the dog census (enumeration) fee provided for in the Local Law Introductory would be used to fund the hiring of part-time employees. The Town would also be responsible for issuing notice and publicizing the quarantine of dogs during certain times of the year with regard to deer depredation.

There having been no one who appeared in the matter, the Town Supervisor closed the Public Hearing at 7:03 P.M.

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Local Law No. Seven of 2010 – Administration and Enforcement of Dog Licensing and Control

Councilwoman Krupa then moved that Local Law Introductory “C” of 2010 be approved and adopted as Local Law No. Seven of 2010 as follows; seconded by Councilman Reynolds:

**Town of New Hartford, New York
Local Law No. Seven of 2010**

A Local Law to amend the Code of the Town of New Hartford, **Chapter 56** thereof entitled **DOGS AND PETS** by amending Article I, Section 56-1. Restrictions and regulations; dogs and Section 56-7. Seizure and redemption of dogs and by repealing Article II, License Fees and replacing it with a new Article II, Dog Licensing and Control Law.

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

Section 1. Repeal and Replace

Chapter 56 of the Code of the Town of New Hartford, Article II, License Fees, is hereby repealed and replaced with the following:

Article II
Dog Licensing and Control

Section 1. Authority:

This Local Law is enacted pursuant to the provisions of (Chapter 59; Part T of the Laws of 2010) Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

Section 2. Purpose:

The Town Board of the Town of New Hartford, County of New York, hereby finds and declares that the purpose of this Local Law is to protect the health, safety, morals and general welfare of the inhabitants, visitors and property of the Town of New Hartford, from dog-related nuisance, damage, or injury, through the establishment and imposition of certain restrictions, regulations, responsibilities and requirements, to wit:

- the licensing and identification of dogs, the cost of which shall be borne by those who own and harbor dogs in said Town to the greatest extent possible
- the control and protection of the dog population

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- the control and protection of persons, property, domestic animals and deer from dog attack and damage.

Section 3. Definitions:

All terms not specifically defined herein shall have the meaning assigned to such terms within Section 108 of the Agriculture and Markets Law of the State of New York.

As used in this Chapter, the following terms shall have the meanings indicated:

AGRICULTURE AND MARKETS LAW: The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter, as amended by this Chapter, and as thereafter amended.

DANGEROUS DOG – the term “dangerous dog” shall mean a dog that harasses, chases, molests, bites, exhibits aggression towards, or constitutes a physical threat or reasonably perceived physical threat toward a person or other domestic animal while not on the property of its owner or guardian.

DOG – shall mean any member of the species *canis familiaris*, regardless of age, breed, gender, or licensure status (licensed or unlicensed)

DOG (or ANIMAL) CONTROL OFFICER – the term “dog (or animal) control officer” shall mean any individual appointed by a municipality to assist in the enforcement of this local law, or any authorized officer, agent or employee of an incorporated humane society or other incorporated dog protective association under contract with the municipality to assist with the enforcement of this local law.

IDENTIFICATION TAG – a tag issued by the Town Clerk, which sets forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

OWNER – means and includes any person who owns, keeps or harbors, or has the care, custody or control of a dog or other animal. The dogs owned by minors shall be deemed to be in the custody of and control of the minor’s parent(s), legal guardian(s), or other head(s) of household where the minor resides.

OWNER OF RECORD – means the person in whose name a dog was last licensed pursuant to this Chapter.

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PERSON – a person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

RESIDENT – [A person] An individual who maintains a residence within the Town of New Hartford, County of Oneida, State of New York.

RUN AT LARGE – means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands

TOWN – means the Town of New Hartford, County of Oneida, State of New York.

Section 4. Licensing of Dogs; Application:

No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and laws of the Town.

All dogs within the Town that are four (4) months of age or older, unless otherwise exempted, shall be licensed on an annual basis, licensing fees and surcharges to be set forth herein and amended from time to time as the Town Board sees fit. No license shall be required for any dog that is under the age of four (4) months and which is not at large.

The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk a dog license application, together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town. Application may be made by visiting the Town Clerk's Office, or by mailing the appropriate forms/fees.

There will be no refund of fees.

Section 5. Licenses issued by Animal Shelters and Pounds

The Town of New Hartford does not allow the licensing of dogs by a shelter; all Town of New Hartford adoptive dog owners must apply for licenses with the Town Clerk of said Town. The shelter **MUST** instruct and send the adoptive dog owners to the Municipal Clerk of the Town or City in which the dog will be harbored for licensing.

Section 6. Proof of Vaccination against Rabies

Each license application shall be accompanied by a current Certificate of Rabies Vaccination proving that the dog has been vaccinated against rabies, or a statement from a licensed veterinarian that such vaccination would endanger the

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dog's life, in which case vaccination shall not be required. The latter statement must contain the veterinarian's signature and date signed.

Section 7. Proof of spaying/neutering

Each license application shall be accompanied by a certificate of spaying or neutering if the owner is claiming the dog's gender has been altered, thereby entitling the owner to the appropriate fee for a spayed or neutered dog.

Section 8. Term of License and Renewals

Each license issued pursuant to this Local Law, shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued. No license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed.

The Town Clerk will mail renewal applications to all dog owners one month prior to the expiration of the license. The renewal may be hand-delivered or mailed to the Town Clerk for processing, enclosing all appropriate fees. Dog owners are responsible for renewal of dog licenses and failure to receive a renewal application from the Town will not exempt an owner from this responsibility. If a renewal application is not timely received, an owner must report the oversight to the Town Clerk, verify that owner's address and contact information is correctly filed with the Town Clerk and request the renewal application in person, by telephone, written or electronic correspondence.

Section 9. Fees

A. Individual Dog License Fee

\$10.00 for a spayed or neutered dog

\$20.00 for an unspayed or unneutered dog

B. State-mandated Animal Population Control Surcharge

Each individual dog license for a spayed or neutered dog shall be subject to an Animal Population Control Surcharge in the amount of One Dollar (\$1), payable at the time the dog license application is filed.

Each individual dog license for an unspayed or unneutered dog shall be subject to an Animal Population Control Surcharge in the amount of Three Dollars (\$3), payable at the time the dog license application is filed.

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C. Late Fees

When a dog license is not timely renewed, a late fee shall be assessed in the amount of Three Dollars (\$3) per month for each month following the month in which the license expired and must be paid along with the requisite licensing fees.

D. Dog Enumeration Surcharge

Each dog found to be unlicensed or for which a prior license has expired and renewal has not been applied for at the time the enumeration is being conducted shall be subject to a Ten Dollar (\$10) dog enumeration surcharge, payable at the time the application is filed to license said dog.

E. Replacement Tag Fee

A replacement tag fee of Five Dollars (\$5) shall be charged to offset the costs associated with the provision and replacement of identification tags.

F. Service Dog Exemptions

There shall be no fee for any license issued for the following dogs, as defined in Article 7 of the State Agriculture and Markets Law; however, the owner must annually submit written documentation that the dog continues to be active in the specific classification in order to be exempt from dog licensing fees:

- Guide dog
- Hearing dog
- Service dog
- War dog
- Working search dog
- Detection dog
- Police work dog
- Therapy dog.

Each copy of any license for such dogs shall be conspicuously marked "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as may be appropriate, by the Clerk.

G. Fee Modification

The Town of New Hartford may and is hereby authorized to, by resolution of the Town Board and without formal amendment hereto or further adoption of a local law or the need for a public hearing, establish, modify, or disband with a schedule of dog licensing fees, enumeration fees, late fees, and tag

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replacement fees, within the restrictions of and pursuant to the requirements of New York State Agriculture and Markets Law Article 7, as the Board may seem fit from time to time.

Section 10. Issuance of license; identification tag

- A. Upon validation by the Town Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk of said Town. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.
- B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
- C. Change of Ownership, Lost or Stolen Dogs

Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.

In the event of a change in ownership of any dog that has been assigned an official identification number or, in the event of a change of address of the owner of record of any such dog, the owner of record shall, within ten (10) days of such change, notify the Town Clerk in writing. Such notification shall include the owner's signature and date.

In the case of a dog's death, the owner of record shall so notify the Town Clerk, in writing, either prior to renewal of the dog's license OR upon the time of such renewal.

- D. Identification tag

The Town Clerk shall assign a Town permanent official identification number to a dog when it is first licensed.

Tag numbers shall initially consist of ten digits, beginning with the Oneida County/New Hartford Town Code (3015) and commencing with the number 000001.

Such identification number shall be carried by the dog on an identification tag that shall be affixed to the collar of the dog at all times. Dogs

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participating in a dog show are not required to wear an identification tag during the show.

The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.

At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. If the tag becomes lost or becomes unreadable, the owner shall apply to the Town Clerk for a replacement tag at the owner's expense. Any person wishing to replace a tag previously issued shall pay the sum of Five Dollars (\$5) to the Town Clerk for a replacement tag.

Section 11. Purebred Dog License and Fee

There will not be distinct purebred licenses as previously provided for by the State. Any and all existing purebred licenses will now be required to comply with this Local Law.

Section 12. Seizure and redemption of dogs

Impoundment (Seizure) Fees

The owner of record of a dog or dogs that have been seized within a twelve (12) month period in violation of the Agriculture and Markets Law and this Local Law shall be liable for payment of the following impoundment (seizure) fees to the Town Clerk:

- \$15.00 – first impoundment
- \$25.00 – second impoundment
- \$35.00 – third impoundment
- \$45.00 – fourth impoundment

Redemption (Room and Board) Fees for impounded dogs.

The Town Board does hereby establish a room and board fee of Twenty Dollars (\$20) per day, or portion thereof, for all dogs impounded within said Town and sheltered either in the Town or through contract with an agency outside the Town. The Town shall retain Five Dollars (\$5) per day, or portion thereof, for each dog impounded; the balance shall be paid to the shelter agency. The room and board

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fees shall be periodically reviewed by the Town Board and changed by a resolution of said Board, if deemed necessary, and incorporated in the annual contract with a shelter agency.

Section 2. Chapter 56 of the Code of the Town of New Hartford is hereby amended as follows:

Section 56-1. Restrictions and regulations; dogs.

ADD

- E. Quarantine for the protection of deer will be enacted by the Town Board of the Town of New Hartford when certain environmental conditions are met and pursuant to Agriculture and Markets Law Section 120. The Town will publish in the official newspaper the starting and ending dates of such quarantine. Any dog found chasing or worrying deer during said quarantine can be seized. A dog which attacks a deer at any time, shall be in violation of this section and shall be subject to fines as set forth herein.

Section 56-3. Enforcement of regulations and orders.

CHANGE

Section 114 of the Agriculture and Markets Law to Section 113
Section 121 of the Agriculture and Markets Law to Section 123

Section 56-7. Seizure and redemption of dogs.

CHANGE

Section 118 to Section 117.

Section 3. All other provisions of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

Section 4. This Local Law shall become effective January 1, 2011 after filing with the Secretary of State.

A roll call vote ensued:

Councilwoman Krupa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	ABSENT
Councilman Backman	-	Aye

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Supervisor Tyksinski - Aye.

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

PUBLIC PRESENTATIONS

Zone Map Amendment Application – Sloan property, Seneca Turnpike

Town Attorney Cully reviewed Ned Walker's appearance and presentation at the November 17, 2010 Town Board meeting with regard to a Zone Map Amendment application submitted by Dean and Christopher Kelly (Jay-K Lumber). After declaring itself as Lead Agency for SEQR, the Town Board referred the application to the Town Planning Board for their review and recommendation; the Planning Board mentioned that hopefully this would not be a spot zoning and recommended that the Town approve the zone map amendment application subject to Mr. Sloan joining the zone map amendment process as well. Ross Sloan, who owns adjoining property, has made the decision to join the rezoning process so as not to be isolated. The Town Attorney has reviewed the Sloan application and the metes and bounds description is accurate and the application is complete.

Ned Walker of Walker Planning and Design reviewed the small section of land that had not been included in the Kelly/Jay-K Lumber zone map amendment application in November 2010. The Sloan family has now come forward with their request to change the Manufacturing (M) classification of their property to Retail Business (RB1). Mr. Walker asked that the Town Board accept the Sloan application and adopt similar resolutions as done on November 17, 2010 and have one public hearing for the Kelly/Jay-K and Sloan applications on the same night. Ross Sloan, who was present, said his property currently has some storage activity but their manufacturing has been moved to another site. Councilwoman Krupa inquired if the storage activity of the property would conform to the new zoning classification; Mr. Walker responded that he understood the existing use would be grandfathered for the existing company; if the building should burn down and/or there's a break in activity of a year, the non-conforming use would terminate. Councilman Backman expressed concern over the adjacent wetlands; Mr. Walker said they follow the creek but he doesn't know who owns it presently. Included in the Sloan rezoning application is a wetlands map, responded Mr. Walker. The Town Attorney noted that the Sloan application also includes reference to the Town's Comprehensive Plan, to show consistency.

SEOR – Lead Agency Status / Sloan Zone Map Amendment

Upon advice of the Town Attorney, Councilman Reynolds introduced the following Resolution for adoption and Councilman Backman seconded same:

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(RESOLUTION NO. 300 OF 2010)

RESOLVED that the New Hartford Town Board does hereby accept for processing the application of Cain and Ross Sloan for a zone map amendment with regard to their property on Seneca Turnpike, and be it

FURTHER RESOLVED that the said Town Board does hereby declare itself as Lead Agency in the matter of the above-referenced Zone Map Amendment application, to change the zoning classification of a 4.52 (plus or minus) acre parcel located at 8438 and 8440 Seneca Turnpike (NYS Route 5) from Manufacturing (M) to Retail Business (RB1) for the purpose of extending an adjoining RB1 district and allowing retail businesses; and be it

YET FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Clerk to forward copies of said Zone Map Amendment application to all interested and/or involved agencies for SEQR review.

Thereafter, upon roll call, the Town Board voted as follows:

Councilwoman Krupa	-	ABSTAINED, as she had a conflict of interest. Councilman Backman suggested she file a conflict of interest statement with the Town Board
Councilman Woodland	-	ABSENT
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

GML 239-Review / Sloan Zone Map Amendment

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

(RESOLUTION NO. 301 OF 2010)

WHEREAS, Cain and Ross Sloan had filed a Zone Map Amendment application with the Town Clerk on December 1, 2010 for a rezoning of their 4.52, plus or minus, acre parcel located at 8438 and 8440 Seneca Turnpike (NYS Route 5), for the purpose of extending an existing, adjacent Retail Business (RB1) zoning classification which would allow retail business operations; and

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WHEREAS, the Town Attorney has reviewed said Application and the Town Board has determined that the Application appears to be accurate and sufficient;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby refer the above-referenced Zone Map Amendment application to the Oneida County Planning Department and to the Town Planning Board for their review and written recommendation pursuant to General Municipal Law and the Town's Zoning Law.

Upon roll call, the Town Board voted as follows:

Councilwoman Krupa	-	ABSTAINED, as she had a
conflict of interest		
Councilman Woodland	-	ABSENT
Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Public Hearing Scheduled – Sloan Zone Map Amendment

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

(RESOLUTION NO. 302 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing at the second regularly-scheduled Town Board meeting to be held in January 2011 at **7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider a **Local Law to be introduced** and which, if adopted, would amend the Code, Chapter 118 thereof entitled **ZONING** and particularly the map coincidental thereto, as it pertains to the Sloan property (Tax Map Parcel No. 328.011-1-20.2), from Manufacturing (M) to Retail Business (RB1); and be it

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

A roll call vote ensued:

Councilwoman Krupa	-	ABSTAINED, as she had a
conflict of interest		

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

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

Jewel Ridge Drive - Snowplowing

Mrs. Sosy Faradyan was present to express concern that the Town does not snowplow Jewel Ridge Drive and hasn't offered this service in the three (3) years she and her family have lived on that street; as a result, school buses won't drive down the road and she must pay a private contractor to snowplow. The Town Attorney explained that the Town has sent a letter to the bonding company "calling" the bond that the developer had submitted to the Town. The Codes Enforcement Officer has attempted to contact the developer with certified letters but to no avail. Because the Town has not accepted Jewel Ridge Drive as a town road, there is no plowing service and the Town Attorney advised Mrs. Faradyan to contact her lawyer as she was raising legal questions. However, according to the Town Attorney, the Town has plowed some undedicated roads when the Town has an executed pre-development agreement and a bond, but the problem here is the developer faulted. Codes Enforcement Officer Booth will check to see if the Town has a pre-development agreement for this street; Codes Officer Booth confirmed that the developer had installed the binder on Jewel Ridge Drive. After further discussion, the Board concurred that if the Town has a fully executed Pre-Development Agreement and bond, even though the road is not dedicated, then the road would be plowed; Highway Superintendent Sherman noted that the snowplow would have to back up to get off the street as there is no turn-around.

State Comptroller Opinion – New Hartford Public Library

Edmund Wiatr Jr. had shared a letter with the Office of State Attorney General concerning the New Hartford Public Library and the Open Meetings Law. After some discussion, Councilman Backman introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 303 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Attorney to seek an informal opinion from the State Comptroller as to whether the New Hartford Public Library had violated the State's Open Meetings Law, whether said Library had the right to hire an attorney and whether the Library had the right to refuse to identify the anonymous donor who funded the hiring.

The Town Board then voted upon roll call:

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

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

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN

Public Works and Sewer Committee – Councilman Backman

Donovan Community Center Building

This community center building on Elm Street, Chadwicks has been winterized and closed for the season.

Higby Road School Traffic Signals

Since no children walk to this school, the traffic signals have been de-energized.

Elm Street, Chadwicks bridge

Bids will be received December 22, 2010 at 12 Noon.

Beechwood Road drainage

The Stormwater Management Improvement (Advisory) Committee is reviewing this matter.

Agreement - Snow and Ice Control 2009-12/Amendment

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

(RESOLUTION NO. 304 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor and Highway Superintendent to enter into and to execute an amended Agreement for Snow and Ice Control with the Oneida County Department of Public Works, for the 2009 – 2012 period, said amendment having been necessitated by the prior oversight of omitting the following sentence in paragraph four (4) of said Agreement:

“The Town further shall save the County from all claims for labor or materials used in the Town’s performance under this Contract.”

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and which sentence is now included in the amended Agreement.

The Supervisor polled the Board members who voted as follows:

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

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

Curbside Trash Collection Program

Having been approached by some Town residents concerned about the lack of curbside trash collection for 2011, Councilman Backman sought the Board's interest in establishing a permit system that would not involve taxpayer dollars to operate – the person using the permit system would pay the cost of the pick-up, particularly the elderly and handicapped persons; however, it was questioned who would determine persons qualified as handicapped. Councilman Reynolds stated that the refuse collectors operating in the Town have a system whereby they pick up specific items for a charge, which he believed was a better option. The remaining Board members did not favor the permit system.

2011 Fire Contracts - Councilman Reynolds

Agreement for Fire Protection - Village of New Hartford Fire Department

Councilman Reynolds moved the following Resolution for adoption and Councilman Krupa seconded same:

(RESOLUTION NO. 305 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the execution of the one-year Fire Protection Contracts commencing January 1, 2011 and ending December 31, 2011 between the Town of New Hartford and **District 1 and 2 and District 3**, Village of New Hartford and its Fire Department, as follows:

- Districts 1 and 2 - **\$619,505**
- District 3 - **\$ 53,960**

Upon roll call, the Board members voted as follows:

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

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

Agreement for Fire Protection - Willowvale Fire Company, Inc.

Councilman Backman moved the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 306 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the execution of the one-year Fire Protection Contract commencing January 1, 2011 and ending December 31, 2011 between the Town of New Hartford and **District 4, Willowvale Fire Company, Inc.**, in the amount of Three Hundred Ninety-one Thousand Four Hundred Sixty-three Dollars **(\$391,463)**.

Upon roll call, the Board members voted as follows:

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

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

Agreement for Fire Protection – Village of New York Mills Fire Department

Councilwoman Krupa moved the following Resolution for adoption and Councilman Reynolds seconded same:

(RESOLUTION NO. 307 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the execution of the one-year Fire Protection Contract commencing January 1, 2011 and ending December 31, 2011 between the Town of New Hartford and **District 5, Village of New York Mills and its Fire Department**, in the amount of One Hundred Thirty-two Thousand One Hundred Ninety-two Dollars **(\$132,192)**.

Upon roll call, the Board members voted as follows:

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

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

Parks and Recreation Committee – Councilman Reynolds

Parks & Recreation Advisory Committee

Councilman Reynolds had attended the November 30, 2010 meeting of the Parks and Recreation Advisory Committee and he distributed copies of the meeting minutes to the Town Board.

Veterans’ Memorial parking lot application/Planning Board

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

(RESOLUTION NO. 308 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to sign the Site Plan Review Application for the Veterans’ Memorial parking lot and does further refer said Site Plan Review Application to the Town Planning Board for their review and action.

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

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

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

Stormwater Management Improvement (Advisory) Committee

Highway Superintendent Sherman announced that a meeting has been scheduled for Tuesday, December 14, 2010.

MATTERS SUBMITTED BY COUNCILMEN / ATTORNEY

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Councilman Backman:

New Hartford Public Library Appointments:

The Town Board will be appointing two (2) trustees whose terms expire December 31, 2010 and Councilman Backman acknowledged that the Library had provided the Town with a list of proposed people. He noted that the Library is a quality of life issue versus a mandatory issue and he would like the Library to find other avenues to raise money and cut costs. Councilman Backman suggested the Board review the list and be ready to fill the vacancies at the next Town Board meeting.

Windpower – Wind Turbines

Councilman Backman cited problems with wind turbines in the Oneida-Herkimer County area, which have torn some communities apart. He suggested the Town look into adopting legislation to regulate this type of infrastructure, including but not limited to density, spacing, escrow account for removal when the turbine life expectancy has passed. Codes Enforcement Officer Booth confirmed that the Town has adopted legislation to regulate the height of towers but has not adopted legislation to regulation wind turbines. The Town Supervisor assigned this task to Councilman Backman who, with the assistance of the Town Attorney, will obtain sample legislation.

Town Board as Police Commission

Councilman Backman recommended that the Town Board, in the absence of a Police Commission, meet quarterly in that capacity to review matters involving the Police Department.

Former employee – unused sick time

Councilman Backman acknowledged a letter from a former employee who requested payment of unused sick leave; the Town Supervisor said he would review the request and pay it if warranted.

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of Vouchers

Councilman Backman presented the following Resolution for adoption; seconded by Councilman Reynolds:

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(RESOLUTION NO. 309 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:

Street Lighting Abstract #12	
Vouchers SL12	\$ 7,989.06
Street Lighting Abstract #13	
Vouchers SL13	\$ 8,365.45
Highway Fund Part-Town Abstract #17	
Vouchers DB779-DB781	\$ 34,310.75
General Fund Part-Town Abstract #17	
Vouchers BB121	\$ 6,013.41
General Fund Part-Town (Police)Abstract #19	
Vouchers BP263-BP269	\$ 47,499.84
General Fund Whole-Town Abstract # 43	
Vouchers AA1124	\$ 495.05
General Fund Whole-Town Abstract #44	
Vouchers AA1125-AA1130	\$ 13,652.42
General Fund Whole-Town Abstract #45	
Vouchers AA1131-AA1137	\$ 15,828.85
General Fund Whole-Town Abstract #46	
Vouchers AA1140-AA1153	\$ 34,690.14
Sewer Fund Abstract # 28 of 2010	
Vouchers SS81	\$ 1,522.63
Sewer Fund Abstract # 29 of 2010	
Vouchers SS82-SS84	<u>\$ 3,228.69</u>
TOTAL:	\$ 173,596.29

Upon roll call, the Board members voted as follows:

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

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

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Monthly Financial Report

The Town Supervisor will bring reports and any budgetary transfers that are needed to the December 22, 2010 Town Board meeting.

Open Bank Accounts

Citing problems in the past with a bank and the fact that in 2011 that bank will begin applying service charges, etc. to the Town's accounts which have never before been subject to such charges, the Town Supervisor requested permission to open accounts at two (2) different banks which have agreed not to charge fees and both of which have more technology and remote deposit, and for the Town to close out accounts at an existing bank.

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

(RESOLUTION NO. 310 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to open checking and money market accounts at NBT Bank for the following Funds, after which the like accounts currently at the Bank of America shall be closed out:

<u>Checking Accounts</u>	<u>Money Market Accounts</u>
General Fund Whole-Town	General Fund Whole-Town
General Fund W-Town/Police	Police Account
General Fund Part-Town	General Fund Part-Town
Highway Fund Part-Town	Highway Fund Part-Town
Water Fund	Water Fund
Special District Fund	Street Light/Fire District
Sewer Fund	Sewer Fund
Sewer Flow Credits	Sewer Flow Credits
Capital Fund	Capital Fund
Trust and Agency.	

Upon roll call, the Board members voted as follows:

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

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

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

(RESOLUTION NO. 311 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to open a new checking account for Fines and Forfeitures (Justice Court fees) at the Adirondack Bank.

The Supervisor polled the Board members who voted as follows:

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

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

Agreement – 2011 Animal Control Services/Town of Kirkland

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

(RESOLUTION NO. 312 OF 2010)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an Agreement between the Town of New Hartford and the Town of Kirkland, wherein the Town of New Hartford will provide animal control services to the Town of Kirkland during calendar year 2011, in accordance with the terms and conditions set forth therein..

A roll call vote ensued:

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

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

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New Business:

Part-time Secretary: Planning Board and Zoning Board of Appeals

Senior Office Specialist II Dolores B. Shaw retired effective November 26, 2010, having provided secretarial services to the Codes Department, Town Planning Board and Town Zoning Board of Appeals since 1984. The Planning and Zoning Boards have requested that Mrs. Shaw be brought back as Office Specialist I to record and transcribe minutes of their respective Board meetings. Thereafter, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilwoman Krupa:

(RESOLUTION NO. 313 OF 2010)

RESOLVED that the New Hartford Town Board does hereby appoint Dolores B. Shaw as Office Specialist I, effective December 9, 2010, at an hourly rate of Ten Dollars and Ninety-nine Cents (\$10.99), payable bi-weekly, to record and transcribe the minutes of the Town Planning Board and the Town Zoning Board of Appeals, the funds for which have been allocated in the 2011 Budget.

Upon inquiry of a Board member, the Town Supervisor explained that Mrs. Shaw would be working about eight (8) to ten (10) hours monthly unless business increased with either or both Boards.

A roll call vote ensued:

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

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

Computers

Deputy Supervisor Bohn will draft a proposal with regard to computers. Today, the hard drive at the Park office “died” but fortunately it was under warranty.

Assessment Grievance (Certiorari)

Upon recommendation of the Town Attorney, Councilwoman Krupa offered the following Resolution for adoption; seconded by Councilman Backman:

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(RESOLUTION NO. 314 OF 2010)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize New Hartford School Board Attorney Anthony Hallak to represent the Town in the matter of Fiona Markwood, 1351 Graffenburg Road, New Hartford, versus the Town of New Hartford in accordance with a previous agreement with said School District on behalf of school to handle for Town based upon 80/20 – Mark Wood; is the split correct? 90/10 or 80/20

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

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

Health Insurance Coverage

The Town Attorney circulated an update from Special Counsel Peter Jones with regard to comparable health insurance coverage.

EXECUTIVE SESSION

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

(RESOLUTION NO. 315 OF 2010)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the employment history of a particular person.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media and Department Heads, were then excused from the meeting at 8:08 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

The Town Attorney provided the following transcription on Thursday, December 9, 2010.

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 316 OF 2010)

RESOLVED that the New Hartford Town Board does hereby move to end its Executive Session and to reconvene the regular portion of the Town Board meeting.

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

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:37 P.M. The regular portion of the Town Board meeting was immediately reconvened.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion duly made and seconded, the meeting was adjourned at 8:38 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk