

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, APRIL 27, 2011 AT 7:00 P.M.**

In the absence of the Town Supervisor who was out of state, Deputy Supervisor Matthew Bohn 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.

**ABSENT:**

Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

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

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

MINUTES

Action on Town Board minutes was deferred until the May 11, 2011 Town Board meeting.

PUBLIC PRESENTATIONS (Resident Comments)

Deputy Supervisor Bohn invited any resident to come forward at this time if they wished to make comment to the Town Board.

**Ethics Law**

Edmund Wiatr, Jr. said he has asked in the past and asks again about the Town's position on update of the Town ethics law. He said doesn't see anything happening and feels it's important that Town Board members/officials identify their clients. "I'm just asking for transparency," he said.

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### **Hydrofracking**

Carlton Corey wished to share two (2) things with regard to hydrofracking:

- there are towns currently in New York State that decided hydrofracking will have a negative impact on their community and have taken a stand against this procedure. He said the most viable tool is zoning; it's powerful and respected by State courts. He referred to a newspaper article in Cooperstown and Attorney Michele Kennedy. Hydrofracking includes pollution, noise, dirt and dust.....it's major industrialization. Thousands of tractor trailers will be on local roads. The Town will have increased traffic due to new retail or a senior housing complex but hydrofracking would far exceed this.
- he feels once hydrofracking is allowed into the community, municipalities will be married to it for life and the hydrofracking company(ies) may not be caring. Rules can change...the state can change rules.....we could end up with more than first anticipated. There is the potential for contamination of spills, farmlands, creeks, etc. and it's possible that carcinogens left in the soil could contaminate drinking water and affect our families in the future. He asked that the Town Board join other municipalities in opposing hydrofracking.

Town Attorney Cully noted that the presentation he gave to the Town Board was to regulate hydrofracking through its zoning law and he has discussed this with Codes Officer Booth. Hydrofracking is mining and is not a permitted category or use in the Town's Zoning Law; however, some could try to obtain a variance from the Zoning Board of Appeals. The Town Attorney apprised Mr. Corey that he had prepared legislation and delivered copies of it to the Town Board yesterday for their review and consideration. If the Town Board chooses to proceed, a public hearing will be required.

Dr. Rao expressed concern about contamination of underground water and asked what his rights were; the Town Attorney advised him to consult with his Attorney.

### **REPORTS OF TOWN OFFICIALS SUBMITTED BY STANDING COMMITTEE CHAIRPERSON**

Town Clerk Committee – Councilwoman Krupa

#### **Raffle Consent**

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

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**(RESOLUTION NO. 101 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to Kindred Spirits Greyhound Adoption, Inc., 6685 Reservoir Road, Clinton, NY 13323, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at the Sangertown Square Mall, 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 Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	ABSENT.

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

Public Works and Sewer Committee – Councilman Backman

**Jubilee Estates Subdivision**

Councilman Backman has had discussion with the Town Attorney about Jubilee Estates and the developer will pave it and get paperwork to that effect.

**Jewel Ridge Subdivision**

Councilman Backman reported that either the developer will finish the sewers and roads, or the Town will seize the developer's performance bond and arrange to have the work completed.

MATTERS SUBMITTED BY COUNCILMEN

Councilman Backman:

**New Hartford Business Park – Shumaker Engineering Invoice (Woods Highway Reconstruction)**

Councilman Backman agreed to have this matter adjourned until the Town Supervisor has returned and is present at the next Town Board meeting.

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### National Grid gas and electric bills

Councilman Backman wants to stay on top of his request at the April 13, 2011 Town Board meeting until the rates are changed. He said that the Town Supervisor was supposed to get information about why the rates are varied. Deputy Supervisor Bohn reported that Account Clerk O'Sullivan is preparing a spreadsheet.

### Receiver of Taxes & Assessments – Outsource duties

Councilman Backman stated that the Receiver of Taxes and Assessments position is in flux and he would like to compare the cost of the Town performing the job (two [2] employee salaries, both with benefits, and other internal expenses) versus outsourcing the work. He noted that Oneida County is already performing this task for some other municipalities. If there are considerable savings, the Town Board should analyze and make the proper decision. Councilman Reynolds reminded the Board that Councilman Woodland brought this up at the October 13, 2010 Town Board meeting and that the Town Board was waiting for the Town Attorney's report to see if and how it could be done. The Town Attorney responded that the matter never came up again. It was Councilman Backman's understanding that, if done, it must be done in November 2011 to take effect January 1, 2012 and he requested that this matter be placed on the agenda for the May 11, 2011 Town Board meeting.

### Applewood Community road paving – The Gorman Group

As a follow-up to discussion at the February 23, 2011 and March 9, 2011 Town Board meetings, Councilman Backman had been informed by the Highway Superintendent that – in response to the Town Attorney's letter – The Gorman Group is willing to accept the \$99,000 payment for road paving in the Applewood Community pursuant to their quote, which had contained a mathematical error, and is looking forward to receiving payment.

### Applicants – Stormwater Management (Advisory) Improvement Committee

Councilman Backman acknowledged the letters of interest to serve on the Stormwater Committee submitted by Ralph Humphreys, James Carucci and Anthony (Omar) Massoud. Sidney Perry said he had verbally informed Chairman Elisabette DeGironimo of his interest in serving on the Stormwater Committee.

### Surplus Sale – 2004 Chevrolet Silverado

Councilman Backman introduced the following Resolution for adoption; Councilman Woodland seconded same:

#### (RESOLUTION NO. 102 OF 2011)

**RESOLVED** that the New Hartford Town Board does hereby accept the high bid of Five Thousand Two Dollars and Ninety-nine Cents (\$5,002.99) submitted via E-bay by

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Brandon Carter for the purchase of the Town's surplus 2004 Chevrolet Silverado, VIN 1GCEC19T94E310060; and be it

**FURTHER RESOLVED** that if Brandon Carter reneges on his E-bay bid, the Town Board does hereby authorize the sale of the afore-described vehicle to the next highest bidder; and be it

**YET FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Supervisor to sign all necessary documents to effect the transfer of title of the 2004 Chevrolet Silverado to the purchaser. Upon written verification from the Highway Superintendent that said vehicle has been removed from Town property, the Town Clerk shall arrange to have vehicle insurance terminated on said vehicle.

**Surplus Sale – 2004 Turtle Top Bus**

Councilman Backman introduced the following Resolution for adoption; Councilman Woodland seconded same:

**(RESOLUTION NO. 103 OF 2011)**

**RESOLVED** that the New Hartford Town Board does hereby accept the high bid of Six Thousand One Hundred Dollars (\$6,100.00) submitted via E-bay by Bobby Lovelace, 3711 Mack Road, Fairfield, Ohio 45014 for the purchase of the Town's surplus 2004 Turtle Top Bus, VIN 1FDWE35SX4HA08469; and be it

**FURTHER RESOLVED** that if Bobby Lovelace reneges on his E-bay bid, the Town Board does hereby authorize the sale of the afore-described vehicle to the next highest bidder; and be it

**YET FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Supervisor to sign all necessary documents to effect the transfer of title of the 2004 Turtle Top Bus to the purchaser. Upon written verification from the Highway Superintendent that said vehicle has been removed from Town property, the Town Clerk shall arrange to have vehicle insurance terminated on said vehicle.

A roll call vote ensued:

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

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

REPORTS OF TOWN OFFICIALS SUBMITTED BY STANDING COMMITTEE  
CHAIRPERSON (Continued)

Zoning (Codes) and Planning Committee – Councilman Woodland

**Property Maintenance – 9 Cone Circle**

Upon request of the Codes Enforcement Officer, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilwoman Krupa:

**(RESOLUTION NO. 104 OF 2011)**

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

**WHEREAS**, the Town Codes Enforcement Officer has received complaints about high grass and weeds upon premises located at 9 Cone Circle (Tax Map Parcel No. 328.015-1-1), New Hartford, New York, owned by John and Shelley Furner whose last known address is 9 Cone Circle, New Hartford, New York; and

**WHEREAS**, the owners have abandoned the property and the Town has boarded up the residence and removed garbage from the aforesaid premises, and the Codes Enforcement Officer had communicated with said owners via certified mail, which was been returned by the U. S. Postal Service marked “Moved Left No Address”;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Codes Enforcement Officer, through the Parks and Recreation Department, to proceed with mowing the lawn at 9 Cone Circle at least one time weekly, or a minimum of one time every two (2) weeks and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2012 Town and County tax bill.

Upon roll call, the Board members voted as follows:

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

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Supervisor Tyksinski - ABSENT.

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

**Training**

Upon request of Zoning Board members, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilwoman Krupa:

**(RESOLUTION NO. 105 OF 2011)**

**WHEREAS**, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby grant permission to Zoning Board of Appeals' members Frederick Kiehm and John Montrose to attend the Continuing Education Program for Planning and Zoning Board of Appeals' members on June 1, 2011 in the Town of Schuyler, New York, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

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

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

**MATTERS SUBMITTED BY COUNCILMEN (Continued)**

**Councilman Reynolds:**

**Open burning/ recreational fire nuisance**

Having received a constituent complaint about fire pits becoming a residential neighborhood nuisance, Councilman Reynolds asked the Town Attorney to check into some type of law so as to eliminate such nuisance. Councilman Reynolds had met with a representative of the NYS Department of Environmental Conservation and learned that a municipality cannot do anything to regulate a controlled backyard burn (recreational fires), even though it may be troublesome; however, law prohibits the burning of such

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items as rubber and plastic because it creates noxious fumes. Councilman Reynolds requested that the Town Attorney research this matter.

MATTERS SUBMITTED BY THE TOWN SUPERVISOR

Financial:

**Monthly Financial Report:**

Deputy Supervisor Bohn noted that Town Board members had been provided copies of the monthly financial report.

**\$847,000 Bond Resolution – Elm Street bridge replacement/Elm Street culvert replacement**

The following resolution was offered by Councilman Backman, who moved its adoption, seconded by Councilman Reynolds, to-wit:

**(RESOLUTION NO. 106 OF 2011)**

**BOND RESOLUTION DATED APRIL 27, 2011.**

**A RESOLUTION AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE REPLACEMENT OF THE ELM STREET BRIDGE/CULVERT, IN AND FOR THE TOWN OF NEW HARTFORD, COUNTY OF ONEIDA, STATE OF NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$847,000 AND AUTHORIZING THE ISSUANCE OF \$847,000 BONDS OF SAID TOWN TO PAY THE COST THEREOF.**

**WHEREAS**, all conditions precedent to the financing of the capital projects hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; **NOW, THEREFORE**,

**BE IT RESOLVED**, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Board of the Town of New Hartford, Oneida County, New York, as follows:

Section 1. The replacement of the Elm Street Bridge/culvert, in and for the Town of New Hartford, Oneida County, New York, including incidental improvements and expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$847,000.

Section 2. The plan for the financing of the aforesaid maximum estimated cost is by the issuance of \$847,000 bonds of said Town, hereby authorized to be issued therefore pursuant to the provisions of the Local Finance Law.

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Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose of these improvements is twenty (20) years, pursuant to subdivision 10 of paragraph A of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Town of New Hartford, Oneida County, New York, and hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property in said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor of said Town, the chief fiscal officer. Such notes shall be of such terms, forms and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

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and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in full or summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

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

The resolution was thereupon declared duly adopted.

**Proposed \$87,000 Bond Resolution – Recreation Center Roof**

Board discussion ensued on whether to also include about \$25,000 for a new roof on the Records Center building; the matter was deferred until the May 11, 2011 Town Board meeting when the Town Supervisor would be present.

**Proposed \$216,000 Bond Resolution – Leaf Vac machines, computer and data system upgrades, telephone and communication system upgrades, purchase of trash containers**

This matter was deferred until the May 11, 2011 Town Board meeting when the Town Supervisor would be present.

**REPORT OF TOWN ATTORNEY**

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**Stormwater matter**

The Town Attorney apprised the Town Board that he has submitted a contract pertaining to the Cragnolin (aka Glen Acres, Inc.) property on Tilden Avenue, for stormwater improvements (detention basin).

**Court Case – Codes Violation**

The Town Attorney reported that Michael Duffy had appealed to Oneida County Court with regard to alleged codes violations at his Oneida Street property and Town Justice VanSlyke was upheld; as a result, Mr. Duffy was required to pay \$700 in fines for the violations, which has been received by Town Court.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. 107 OF 2011)**

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

A roll call vote ensued:

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

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 7:53 P.M. The Town Attorney remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, April 28, 2011.]

**END OF EXECUTIVE SESSION**

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

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**(RESOLUTION NO. 108 OF 2011)**

**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	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	ABSENT.

The Deputy Town Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:21 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public invited to rejoin the meeting.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and seconded by Councilman Reynolds, the meeting was adjourned at 8:22 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk