

**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 11, 2012 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
Councilman Paul A. Miscione
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Assessor Paul E. Smith
Codes Enforcement Officer Joseph A. Booth
Deputy Supervisor Matthew Bohn III
Highway Superintendent Richard C. Sherman
Parks & 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

Town Board Meetings – June 2012

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

(RESOLUTION NO. 170 OF 2012)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held June 13, 2012 and the Special Town Board meeting held June 21, 2012 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye

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

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

PUBLIC HEARING

7:02 P.M. ***Local Law Introductory "I" of 2012
Code Chapter 59, Electrical Standards***

At 7:02 P.M. the Town Supervisor opened the Public Hearing on Local Law Introductory "I" of 2012, with the Town Attorney explaining that this legislation is a simple amendment to add the Central New York Electrical Services LLC as an agent for the Town to perform inspections and re-inspections of electrical installations. [NOTE: The Town Clerk had available the Notice of Public Hearing with Local Law Introductory, Affidavit of Posting and Proof of Publication (July 4, 2012 edition of The Observer Dispatch).]

The Town Supervisor invited those present to come forth who might desire to speak in support of, in opposition to, or to comment upon this legislation.

No one having come forth, the Public Hearing was closed at 7:03 P.M.

PUBLIC HEARING

7:04 P.M. ***Local Law Introductory "J" of 2012
Code Chapter 94, Property Maintenance***

Supervisor Tyksinski opened the Public Hearing on Local Law Introductory "J" of 2012 ; at 7:04 P.M.. The Town Attorney explained that this legislation is an amendment to the existing Code (Chapter 94) regarding property maintenance. The Town has received a lot of complaints about property owners not maintaining their properties to the detriment of their neighbors; some properties are in foreclosure status. By repealing the current Chapter 94 and replacing it with the legislation before the Town Board, the Codes Enforcement Officer will be able to take action against the property owner in a shorter timeframe as well as increase the charges for delinquencies. If a lawn is over 10 inches high, the landowner will have ten (10) days to abate the nuisance. Some minor changes have been made to Local Law Introductory "J" since it was introduced on June 21, 2012; namely, under *Excluded property*, "from a structure" has been added after the words "one hundred fifty (150) feet" in subparagraphs (3) and (4). Other than that, the legislation provides an administrative add-on fee of \$250 plus disposal fees and a \$25 lien charge. Under this legislation, the Town Board retains the right, if someone has a hardship, to

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release the property owner from those charges. Exceptions to this legislation are agricultural areas and those properties that are cultivated land for horticultural use.

The Town Supervisor invited anyone present to come forth who wished to speak in favor of, in opposition to, or to comment upon Local Law Introductory “J” of 2012. Those who came forth were:

Barbara Kivela – lives across from a property that’s been vacant for two (2) years, don’t know if it’s in foreclosure...concerned with the length of time the property can sit empty.... feces and live garbage. Has been in contact with the Codes Enforcement Office. Is state property involved in this exclusion? The Town Attorney responded that areas of natural habitat are excluded – determined by state/local agencies. He is aware that the Codes Officer is on top of these situations and in constant contact with him; all the Town can do is relieve the public nuisance and board up a structure but cannot foreclose on property...only the maintenance. Codes Officer Booth stated that properties with unpaid taxes take three (3) to five (5) years to foreclose.

Ralph Humphreys – noted that the first call (to property owner) isn’t made until the grass is 10 inches high – he thinks it should be shorter. Councilman Miscione explained that the minimum is 10 inches, which is dictated by the state.

Ms. Kivela - there’s also a problem at the corner of Fawncrest Boulevard and Clinton Road (aka NYS Route 12B) and the corner of Marley Place and Clinton Road (aka NYS Route 12B);people can’t see at these intersections. She has contacted the Town Highway Superintendent about this. The Town Attorney explained that these intersections involve county and/or state roads and that the Town can’t put a lien on county and/or state lands. You would have to call the County and/or State to maintain their rights of way/land.

Neil Prichard – does this include building lots – across from him are two (2) stormwater drainage lots that are an eyesore; how does the new law relate to these properties? The Town Attorney stated that “...(the properties) don’t get grandfathered in. If it’s within 150 feet of a structure, it would fall under this law. Trees are not included; vegetation is grass, etc.

Mary Thomas – living near a problem area. Appreciates the Town Board’s efforts in shortening time to resolve problems.

There being no one further to speak in the matter, the Supervisor closed the Public Hearing at 7:16 P.M.

PUBLIC PRESENTATIONS

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Proposed Entrance Fees to Town Parks

Bill Girvan, Fish Chairman of the Federated Sportsmen's Clubs of Oneida County and Co-Chairman of the Fish Committee of the NYS Conservation Council, Inc., stated that at the present time, at least 35% of all the trout that are stocked in Sauquoit Creek by the NYS Department of Environmental Conservation (DEC) Rome Fish Hatchery are stocked at the Donovan Memorial Park in Chadwicks and the Washington Mills Athletic Park, both located on Sauquoit Creek. He believes that charging non-residents to enter those parks to fish for trout that are paid for by New York State is a "poor idea"; people already pay \$25 for a fishing license. The Washington Mills Park is one of very few spots where disabled people can access a fishing spot. As a National Certified Therapeutic Recreation Specialist in Oneida County, he believes charging outside organizations such as local nursing homes, United Cerebral Palsy, ARC, House of Good Shepherd is not a good idea. Organizations along the Sauquoit Creek Basin that are against the proposed entrance fees include the Mohawk Valley Chapter of Trout Unlimited, Sauquoit Creek Fish & Game Club, New York Mills Sportsmen's Association, and the Wyndott Fish & Game Club. If entrance fees were instituted, they would ask DEC to stop stocking at the Town's parks and go to another municipality.

Hydrofracking

Bill Girvan thanked the Town Board for their action on hydrofracking.

Carleton Corey – recently heard from a NYS DEC official that the Governor is considering opening five (5) counties in the southern tier to hydrofracking; also mentioned was the idea that the Governor would honor municipalities who have determined that "fracking" is not for them. Mr. Corey urged the Town Board to educate the public on the process and timeline of enacting legislation to allow/disallow fracking. Also, he encouraged the Town Board to hear from pro-fracking people who focus on the economic impact, as well as look at the negative economic impact and what might impact human health. The Town Attorney explained that the hydrofracking legislation would be handled like these public hearings (tonight), be subject to SEQR review by various agencies, publication and then public hearing; Oneida County Planning has 30 days to submit their written recommendation while the Town Planning Board has 45 days. The Town's legislation has been prepared. It was Town Board consensus to go forth with the hydrofracking legislation and authorize the Town Clerk to initiate the SEQR process with a public hearing anticipated to be held at the first Town Board meeting in September 2012 by which time it is expected to have responses from all interested agencies.

Joanne Bianco – interested in when the Public Hearing would be heldSeptember 8, 2012.

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Jim Stewart – hydrofracking issue – opposed. Is an electrician and worked on some nuclear power plants....there’s proof that mining causes earthquakes, especially where fault lines are located. Believes all municipalities should ban hydrofracking.

Gary Colarusso – has been working trying to achieve moratorium to keep industry from contaminating the area and thanked the Town Board for pro-active measures.

Cristiano Subdivision – Lindale Ave Extension/Cul-de-sac

The Town Attorney reviewed action by the Town Board and Town Planning Board in 2005 with regard to the Cristiano 3-lot subdivision that had been approved based upon the “hammer-head” road to be owned and dedicated as a Town road with Mr. Cristiano being responsible for maintaining and plowing it. Since that time Mr. Cristiano has constructed his home on one lot and his daughter built her home on a second lot. The Town Board had agreed to accept the road as a town highway; however, Mr. Cristiano and/or his attorney did not follow through with preparation of a deed and the filing of same in the Oneida County Clerk’s Office; further, the Town cannot delegate maintenance and plowing to another party. [NOTE: Refer to minutes of Town Board dated July 20, 2005; April 25, 2012 and June 13, 2012.] After some discussion on how to resolve this matter, Supervisor Tyksinski introduced the following Resolution for adoption and Councilman Miscione seconded same:

(RESOLUTION NO. 171 OF 2012)

RESOLVED that the New Hartford Town Board does hereby amend the prior resolution adopted on June 20, 2005 to the extent that the Town of New Hartford will be given an additional thirty (30) feet of land adjacent to the Cristiano driveway and the Town will assume maintenance of the dedicated roadway, based upon an instrument survey and deed to be provided for recording at the Oneida County Clerk’s Office.

Upon roll call, the Town Board members voted as follows:

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

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

ENGINEERING REPORT

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Summary of various projects

Charles White of Barton and Loguidice provided a summary of current projects;

- Sauquoit Creek Sanitary Sewer Crossing – well underway. Majority of new sewer is installed. Contractor currently working on installation of the section across the stream. Substantial completion anticipated on or near end of July 2012. Barton & Loguidice providing part-time construction oversight.
- Beechwood Phase 1 – ALX Hunter has completed installation of remainder of the storm sewer pipe and is now working onsite restoration. Contractor on track to be substantially completed by end of July 2012. Barton & Loguidice providing part-time construction oversight.
- Beechwood Phase 2 – Environmental permitting efforts are underway (Indiana Bat and USACE/NYSDEC). Barton & Loguidice submitted Joint Application to USACE/NYSDEC.
- Route 5 Signal @ Applewood Boulevard – Signal has been installed and is operational. Expect to issue Notice of Substantial completion within the next week or two. Barton & Loguidice providing construction oversight.
- Route 840 Ramps and Clinton Street Extension – final paving and striping is complete. Contractor now working on minor items of work on punch list. Will be able to begin closeout of project pending placement of topsoil and turf and completion of punch list items. Barton & Loguidice providing construction oversight.

For the Clinton Street project, anticipate contractor will remobilize to complete remaining work soon (including placement of top course pavement, completion of drainage swales and associated infrastructure, and final site landscaping)

- Engineering Office organization – project is on-going. Ms. DeGironimo has worked on organizing, sorting through and began cataloging all maps, plans, reports, etc located in the Engineer's Office at Sanger Public Works Garage.

Change Order #2 – Route 840 Eastbound Ramps Project

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

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(RESOLUTION NO. 172 OF 2012)

RESOLVED that the New Hartford Town Board does hereby accept and approve Change Order #2 on the Route 840 Eastbound Ramps Project in the amount of Thirty-eight Thousand Five Hundred Twelve Dollars and Fifteen Cents (\$38,512.15) and which Change Order would provide temporary power to the roadway lights to perform the 10-day operational test and add four (4) inches of topsoil and establishment of turf on the roadway fore-slopes and back-slopes, and be it

FURTHER RESOLVED that the Town Supervisor be, and he hereby is, authorized and directed to enter into and to execute said Change Order #2.

Mr. White explained there was an allowance of \$50,000 built into this contract and that Change Order #2 would deplete the allowance by \$940.74. Finance Director Dreimiller confirmed that \$89,000 remains of the \$1.3 million bond money. The Supervisor polled the Board members who voted as follows:

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

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

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMEN

Zoning (Codes) & Planning Committee – Councilman Miscione:

Local Law Introductory “D” of 2012 (Code Chapter 118 entitled Zoning; Article XIA, Wind Energy Conversion Systems)

The Town Supervisor and Councilman Reynolds had concerns with the setback regulations of the towers and that this legislation was premature at this point, that some distances need to be changed. Councilman Backman believed that the regulations provided more protection than some studies and have exceeded the fall zones in many instances; he feels this is a reasonable solution. While Councilman Reynolds has no or little problems with residential towers, he had concerns with towers up to 500 feet in height and that they would have a negative impact. Supervisor Tyksinski agreed with Councilman Reynolds in that residential towers be allowed but not commercial towers. Councilman Woodland was okay with residential towers. Thereafter, Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Woodland:

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(RESOLUTION NO. 173 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford does hereby reject Local Law Introductory “D” of 2012, which, if adopted, would have amended the Town Code, Chapter 118 thereof entitled ZONING by adding Article XIA entitled Wind Energy Conversion Systems.

The Board members then voted upon roll call:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Nay
Supervisor Tyksinski	-	Aye.

The Resolution was declared carried *and Local Law Introductory “D” of 2012 being DEFEATED*. Councilmen Miscione and Backman will meet with Supervisor Tyksinski to review the defeated legislation to determine what changes could be made for future consideration. Codes Officer Joseph Booth noted that three (3) types of towers were proposed for regulations and that the Town Planning Board was against the setbacks for residential towers/areas.

Local Law Introductory “I” of 2012; Town Code, Chapter 59 entitled Electrical Standards

Councilman Miscione then moved that Local Law Introductory “I” of 2012 be adopted as Local Law No. Five of 2012, in the following format; seconded by Councilman Reynolds:

Town of New Hartford, NY
Local Law No. Five of 2012

A Local Law to amend the Code of the Town of New Hartford, Chapter 59 thereof entitled “ELECTRICAL STANDARDS”, by amending the list of Electrical Inspectors who are authorized and deputized as agents of the Town of New Hartford to make inspections and re-inspections of electrical installations.

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

SECTION 1. Chapter 59 of the Code of the Town of New Hartford, Section 59-4, is hereby amended by adding the following:

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Section 59-4. Electrical Inspectors

The Town of New Hartford does hereby add and appoint to the list of Electrical Inspectors the Central New York Electrical Inspection Services LLC.

SECTION 2. Chapter 59 of the Code of the Town of New Hartford, Section 59-6, is hereby amended by adding the following:

Section 59-6. Violations

The Town of New Hartford does hereby add the Central New York Electrical Inspection Services LLC to the previously designated Electrical Inspection agencies.

SECTION 3. All other provisions of Chapter 59 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 immediately upon its filing in the Office of the Secretary of State.

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

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

Local Law Introductory "I" of 2012 was declared unanimously carried and duly ***ADOPTED*** as Local Law No. Five of 2012.

Local Law Introductory "J" of 2012; Code Chapter 94 entitled Property Maintenance

Councilman Miscione then moved that Local Law Introductory "J" of 2012 be adopted as Local Law No Six of 2012 in the following format; seconded by Councilman Reynolds:

Town of New Hartford, NY
Local Law No. Six of 2012

A Local Law to amend the Code of the Town of New Hartford by repealing Chapter 94 entitled "PROPERTY MAINTENANCE", initially adopted by the Town Board on September 21, 1994 and subsequently amended in its entirety on December 29, 2008, and replacing Chapter 94 with new language.

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

Section 1. The Code of the Town of New Hartford, Chapter 94 entitled PROPERTY MAINTENANCE, is hereby amended by repealing the existing Chapter 94 and replacing it with the following new language:

Sec. 94-1. - Purpose and intent.

It is hereby declared to be the purpose of this chapter to protect public safety, health and welfare and enhance the environment for the people of the Town by making it unlawful for property owners and occupants to allow an environmental public nuisance or any public nuisance as defined in chapter 86 of the Town of New Hartford Code to exist.

Sec. 94-2. - Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely directory.

Authorized individual means the director of the department of code enforcement or one of his designees.

Environmental public nuisance means:

- (1) Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of ten (10) inches or more;
- (2) Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
- (3) A drainage or stormwater management facility as defined in Chapter 101 of the Town of New Hartford Code on private or governmental property, which facility has not been maintained as required by that chapter; or
- (4) Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- (5) Any property that constitutes a threat to health, safety and general welfare of the residents of the Town of New Hartford or represents a public nuisance as defined in chapter 86 of the Town of New Hartford Code

Equipment means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.

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Excluded property means:

- (1) Cultivated land in commercial, domestic, agricultural or horticultural use;
- (2) An existing natural or developed forest that does not create a health or safety hazard;
- (3) Vacant, open lands, fields or wooded areas more than one hundred fifty (150) feet from a structure;
- (4) A nature habitat area more than one hundred fifty (150) feet from a structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard;
- (5) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Department of public works;

Governmental property means real estate that is owned, leased, controlled or occupied by the United States, the State of New York, or any political subdivision thereof.

Occupant means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity who is from time to time in possession or exercising dominion and control over the real estate or any house or other structure located thereon. *Occupant* shall include any lessee of the property.

Owner means the record owner or owners as reflected by the most current records in the county assessor's office.

Private property means all real estate within the Town except governmental property.

Recipient means the owner or occupant to whom notice of violation has been directed.

Repeat violation occurs when a property owner or occupant who has previously been issued notice of a similar environmental public nuisance for the same property or who has been found by a hearing or judicial officer to have allowed a similar environmental public nuisance to exist at the same property allows a subsequent similar environmental public nuisance to exist at that property within eighteen (18) months of the date of the previous notice or finding of violation, whichever is later. A repeat violation does not occur when multiple violations of subsection (4) of the definition of environmental public nuisance are alleged and:

- (1) The owner or occupant can demonstrate that illegal dumping was the cause of the underlying violations; and
- (2) The owner or occupant has made a reasonable effort to prevent illegal dumping from recurring.

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Sec. 94-3. - Application of chapter.

(a) Each department or agency of the United States, the State of New York, or political subdivision thereof shall be required to keep governmental property within the Town free from environmental public nuisances.

(b) All owners, occupants, or other persons in control of any private property within the Town shall be required to keep the private property free from environmental nuisances.

Sec. 94-4. - Prohibited activity.

It shall be unlawful for any property owner or occupant to allow an environmental public nuisance to exist. This provision shall not apply to excluded property.

Sec. 94-5. - Determination of violation; notice of violation.

(a) Any department of the Town that receives a complaint regarding an environmental public nuisance on any property within the Town shall forward that complaint to the department of code enforcement, which shall make a record of such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that a violation exists, the department shall issue a notice of violation to the owner if the Town intends to proceed under the provisions of section 94-7 of this chapter and, in the department's sole discretion, to the occupant. A notice of violation issued for vegetation of a height of ten (10) inches or more remains in effect for the calendar year in which it is issued if the Town abates the environmental public nuisance under the provisions of section 94-7 of this chapter. After such abatement by the Town, without issuance of further notice, the Town may continue to reinspect the subject property and may abate subsequent violations of vegetation of a height of ten (10) inches or more and may recover its abatement costs under this chapter.

(b) Notice of violation described in subsection (a) shall be issued either by personal service or by first class United States mail, postage prepaid. Such notice shall state the nature of the alleged environmental public nuisance and the action deemed necessary to correct the condition, and shall fix a date not sooner than five (5) days from the date of the notice for vegetation of a height of ten (10) inches or more, and ten (10) days from the date of the notice for all other violations under this chapter, when the property will be reinspected. The notice shall inform the recipient that, if the condition is not corrected upon reinspection, the Town has the right to enter on the property to abate or correct the condition and bill the recipient for costs incurred in so doing. A notice to the occupant at the real estate or to the owner at the address to which property tax statements are sent as these addresses are shown by the most current records in the county assessor's office shall be sufficient notice under this subsection.

Sec. 94-6. - Correction upon reinspection.

If, upon reinspection, it is determined that the environmental public nuisance has been corrected, the recipient shall not be liable for any charges under section 94-7(b)(1) of

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this chapter.

Sec. 94-7. - Failure to abate after notice; abatement by Town.

(a) *Abatement by Town.* If, upon reinspection, it is determined by the authorized individual that abatement has not occurred, or if vegetation of a height of ten (10) inches or more is present on a property in the same calendar year in which the Town previously abated a violation of a similar nature on that property, then the director of the department of code enforcement, or his or her designee, may enter upon the premises and order that the environmental public nuisance be abated. The recipient shall be liable for the costs of abatement. After abatement is completed, the department shall, either by personal service or first class United States mail, postage prepaid, send the recipient a bill for the costs of abatement.

(b) *Responsibility of occupant or owner for costs of abatement.*

(1) *Abatement costs.* As reimbursement to the department of code enforcement for its costs, the recipient shall, within ten (10) days of the date of the bill, pay to the department the following fees and charges:

- a. An administrative fee of \$250.00, for such administrative tasks as inspecting the property to determine compliance, determining ownership and preparing and mailing notices;
- b. Any disposal fees actually incurred to dispose of litter and waste products removed;
- c. Any other reasonable fees actually incurred in abating an environmental nuisance; and
- d. Administrative, labor and equipment fees may be changed or established by regulation of the board of code enforcement as necessary to assure that such fees are adequate to reimburse the department.

(2) *Unpaid costs become lien upon affected property; perfecting of lien.* Upon the failure of the owner who was sent a bill to pay the appropriate fees and charges within the ten-day time period, the department of code enforcement shall have a lien upon the property on which the environmental public nuisance was abated for the amount billed in accordance with the fee schedule listed above. In addition, there will be a twenty-five dollar (\$25.00) charge for services necessary in order to perfect such lien. Such liens may be perfected in the following manner:

- a. By the adoption by the code enforcement at any regular or special meeting thereof of an assessment resolution, which shall give the name of the owner or owners, a description of the property on which the environmental public nuisance was abated, and the amount of the charges being assessed;

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b. The certification of such assessment resolution to the county auditor, who by special assessment shall cause the amount thereof to be placed on a tax duplicate for the property on which the environmental public nuisance was abated for collection as in the nature of a real property tax; and

c. Upon receipt of a written verified request from the purchaser, the department shall release liens perfected after the recorded date of conveyance of the property. The request must state that the purchaser was not an owner or occupant of the property at the time of the notice of violation or at the time of the Town's abatement without notice of a subsequent violation of a similar nature in a calendar year as provided in this chapter, had no knowledge of the notice of violation and has not been paid by the seller for the costs of abatement billed.

(3) *Civil action to recover costs of abatement.* Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the ten-day period, the department of code enforcement may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees.

Sec. 94-8. - Existence of violation; court action or administrative adjudication for ordinance violation; court action or administrative adjudication for repeat violation.

(a) In addition to or in lieu of the foregoing, if, upon inspection, it is determined by the authorized individual that a public nuisance exists, the department of code enforcement may initiate a civil court action or administrative adjudication for ordinance violation against the owner or occupant of the property. A court action shall be initiated in accordance with the Town of New Hartford Code sections 94-5, and 65-17B.

(b) Regardless of whether later abatement by the recipient has occurred, the department may initiate an administrative adjudication or a civil court action for any violation of this chapter.

Sec. 94-9. - Penalty.

Penalties shall be assigned in accordance with the Town of New Hartford Code 118-80

Sec. 94-10. - Release of liens.

The Town Board of the Town of New Hartford may release any liens for abatement costs or judgment liens for any other amount due pursuant to this chapter if it finds that the benefit to the Town outweighs the detriment caused by such a release. The board may require parties affected by the release to agree to whatever conditions the board deems appropriate; provided, however, all conditions shall be set forth in a conditional release of the lien and shall be recorded in the office of the county recorder. If the board finds that an affected party has failed to comply substantially with the conditions imposed by the board, the release shall be void and the lien affecting the property may be reinstated

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by the board.

Sec. 94-11. - Provisions of chapter declared severable.

In the event any section, subsection, clause, phrase, or portion of this chapter is for any reason held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remainder of this chapter. It is the legislative intent of the council that this chapter would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 2. This Local Law shall become effective immediately upon its filing with the Office of Secretary of State.

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

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

Thereafter, Local Law Introductory “J” of 2012 was declared unanimously carried and duly **ADOPTED** as Local Law No. Six of 2012.

Property Maintenance – 2 Tibbitts Road

Upon recommendation of the Codes Enforcement Officer, Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 174 OF 2012)

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 2 Tibbitts Road (Tax Map Parcel No. 339.015-1-13), New Hartford, New York owned by Rosemary A. Asselta whose last known address is 2 Tibbitts Road, New Hartford, New York; and

WHEREAS, the property appears to be abandoned, and the Codes Enforcement Officer had communicated with said owner via certified mail, with no response having come forth from Ms. Asselta;

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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 2 Tibbitts Road, and that the costs and expenses incurred by the Town in connection with said proceedings be assessed against the land on which said public nuisance exists; specifically, the Town Board does hereby authorize and direct Oneida County to levy such charges on the 2013 Town and County tax bill.

Upon roll call, the Board members voted as follows:

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

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

Parks and Recreation Committee – Councilman Reynolds:

Grant application – New Hartford Recreation Center outdoor skating rink

Upon recommendation of the Parks and Recreation Director, Councilman Reynolds introduced the following Resolution for adoption; seconded by Supervisor Tyksinski:

(RESOLUTION NO. 175 OF 2012)

RESOLVED that Michael W. Jeffery, Director of Parks and Recreation, Town of New Hartford, New York, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount not to exceed One Hundred Twenty-One Thousand Seven Hundred Dollars (\$121,700.00), and upon approval of said request, to enter into and to execute a project agreement with the State for such financial assistance to the Town of New Hartford for the New Hartford Recreation Center Outdoor Skating Facility and, if appropriate, a conservation easement/preservation covenant to the deed of the assisted property.

The Town's 2011 application for funding had been denied. This would be a 50% matching grant. The foregoing Resolution was duly put to a vote upon roll call:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye

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Councilman Backman - Aye
Supervisor Tyksinski - Aye.

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

Appointments – Seasonal employees

Upon recommendation of the Parks and Recreation Director, Councilman Reynolds introduced the following Resolution for adoption, duly seconded by Councilman Backman:

(RESOLUTION NO. 176 OF 2012)

RESOLVED that the New Hartford Town Board does hereby appoint the following individuals to the various part-time seasonal positions and for the hourly wages set opposite their several names, for the Parks and Recreation Department, commencing July 9, 2012 and ending August 10, 2012; all wages to be paid bi-weekly:

NAME	POSITION	RATE OF PAY
Kristin Holbert	Bus Driver	\$13.15/hour
David W. Butler	Bus Driver	\$13.15/hour
Joseph Donovan	Recreation Attendant	\$ 8.45/hour.

Whereupon, the Town Board voted upon roll call:

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

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

Town Clerk Committee – Councilman Woodland:

Dog Census – Enumerators

Upon recommendation of the Town Clerk, Councilman Woodland offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 177 OF 2012)

WHEREAS, on April 25, 2012 the Town Board authorized the Town Clerk to proceed with a dog enumeration (census), including the printing of forms and receiving

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applications for Dog Enumerators (Laborers) who shall be paid Seven Dollars and Seventy-five Cents (\$7.75) per hour on a bi-weekly basis, plus mileage at the current rate of \$.46 per mile;

NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby appoint Amy Topor and Susan Donnenwirth as Laborers to assist in performing the dog census, with the express understanding that their workweek cannot exceed five (5) hours due to their full-time employment with the Town; and does further appoint Rachel Stewart as a Laborer to assist in the dog census with her workweek not to exceed thirty (30) hours.

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

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

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

NYS Liquor Authority – Waiver

The Town Clerk has received a request from Gregg Starczewski, Attorney for Mitsuba Japanese Steak House, for a waiver of the thirty (30) day period for applying to the State Liquor Authority for renewal of that establishment’s liquor license. Councilman Woodland then offered the following Resolution for adoption and Councilman Reynolds duly seconded same:

(RESOLUTION NO. 178 OF 2012)

WHEREAS, the owners of the Mitsuba Japanese Steak House had experienced some delays with the purchase closing of the restaurant; and

WHEREAS, State Liquor Authority law requires applicant to wait at least thirty (30) days after notifying the Town of New Hartford before the applicant can submit an application to the Liquor Authority;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby waive the thirty (30) day timeframe, having been notified on July 2, 2012 that the Mitsuba Japanese Steak House was re-applying for their liquor license.

A roll call vote ensued:

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

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

Standard Work Day – William Virkler

This matter was placed on hold until the Town Supervisor could contact Mr. Virkler.

Public Works & Sewer Committee – Councilman Miscione:

Sewer Pump Stations

Highway/Sewer Superintendent Sherman reported that the Town currently has seven (7) sewer pump stations, with the Applewood site being the more troublesome system; he cited times when the station stopped working, creating overspill of sewage and having to notify the NYS Department of Health. He obtained three (3) proposals for a remote monitoring system to better monitor the stations. After further discussion, the Highway Superintendent will look into where the existing security system phone line terminates.

Road paving

The Highway Superintendent and Town Supervisor had met to discuss additional paving in 2012. As a result, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 179 OF 2012)

RESOLVED that the New Hartford Town Board does hereby accept and approve the paving of the following streets during 2012, with the understanding there will be a budgetary adjustment of \$209,000 from mitigation fees to cover same:

- Elm Street from NYS Route 8 to Mohawk Street
- Winn Ave and Alexandria Road
- Washington Drive
- Liberty Ave, Shepard Ave, Roberts Ave, Coxe Ave and Powell Ave
- Glendale Avenue
- Dixon Road, Osborne Road and Irving Road
- Tentatively, the Police Department parking lot

And be it

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FURTHER RESOLVED that the New Hartford Town Board does hereby authorize and direct the transfer of Two Hundred Nine Thousand Dollars (\$209,000) from the Seneca Turnpike-Commercial Drive GEIS mitigation fund and Sixty Thousand Dollars (\$60,000) from the Part-Town Highway Fund balance to cover the cost of paving the above areas, with said transfers to be made into the Part-Town Highway Fund Paving account.

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

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

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

GPS systems for vehicles

Highway Superintendent Sherman worked with Councilmen Reynolds and Backman, receiving three (3) quotes for GPS systems for Town vehicles (budgeted item in 2012). Thereafter, Councilman Reynolds offered the following Resolution for adoption and Councilman Backman seconded same:

(RESOLUTION NO. 180 OF 2012)

WHEREAS, the New Hartford Town Board desires to install GPS systems on Town vehicles and has received the following quotations:

- Track Star International, Inc. - \$20,225.00
- Brite - \$18,397.50*quote on less units than requested
- Haywood Associates Inc. dba
TransCOR Info Technologies- \$31,052.25;

NOW, THEREFORE, BE IT RESOLVED that said Town Board does hereby authorize and direct the Town Highway Superintendent to purchase from Track Star International, Inc. twenty-five (25) AVLS Gateway GPS systems, including appurtenances, for town vehicles at a cost not to exceed Twenty Thousand Two Hundred Twenty-five Dollars (\$20,225); in addition, once the GPS devices have been installed, the Town will incur software maintenance fees totaling a not-to-exceed sum of Five Thousand Dollars (\$5,000).

A roll call vote ensued:

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

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

Independent Contractor

The Highway Superintendent stated that occasionally he has small jobs that need to be done, particularly stormwater projects, and the Town doesn't own an excavator or bulldozer. He obtained four (4) quotes for hourly rates from contractors who would use their equipment and operator. Councilman Reynolds then offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 181 OF 2012)

WHEREAS, the Town Highway Superintendent has obtained the following quotes for hourly rates from contractors:

John Spinella Excavating 3274 Martin Road Clinton, NY	-	Track shovel with operator Mobilization Bulldozer with operator Labor	\$125/hour \$200/hour \$125/hour \$ 50/hour
L P Trucking 8290 Gore Road Rome, NY	-	Prevailing wage for Class A Operator Track-Hoe Rental Bulldozer Rental Mobilization to and from (each move)	\$75.54/hr \$ 55/hour \$ 55/hour \$300/hour

Oneida County DPW Bids (5 bidders)

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Highway Superintendent to contract with John Spinella Excavating as per the quotes submitted for projects on an "as needed" basis and that the Town Supervisor be authorized to enter into and to execute any contract required.

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

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

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

Sewer repairs using Oneida County bids

Highway Superintendent Sherman explained that in the past he has used Oneida County bid prices/contractors to perform some sewer repairs; currently, he is looking at repairs that need to be done in the Woodberry Hills and Arlington Terrace areas. After some discussion, Town Board consensus was for the Highway Superintendent to use current Oneida County bid prices/contractor(s) to accomplish additional sewer repairs.

Equipment Acquisition – Lease; Competitive Bid

The Highway Superintendent and Town Supervisor had previously discussed acquisition of Highway Department equipment for which \$25,800 had been budgeted for the current year; the Highway Superintendent has recommended the purchase of a new pick-up truck with snow plow, a 2012 John Deere front-end loader, and two (2) 2013 Mack plow trucks and one replacement dump box. By August 2012 the Highway Department will be down four (4) employees due to retirements, thereby realizing some savings in the budget. Thereafter, Councilman Reynolds introduced the following Resolution for adoption and Councilman Miscione seconded same:

(RESOLUTION NO. 182 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford, New York does hereby agree to enter into a 5-year Lease/Purchase Agreement with Baystone Financial, 1680 Charles Pl., Manhattan, Kansas 66502, for two (2) 2013 Mack Plow Trucks at a maximum cost not to exceed Three Hundred Ninety-nine Thousand Eight Hundred Ninety-five Dollars (\$399,895), with the first annual payment of approximately Eighty-five Thousand Dollars (\$85,000) to be due January 10, 2013 and that the said Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute a Letter of Intent with regard to this Lease.

Whereupon, the Town Board voted as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye

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Supervisor Tyksinski - Aye.

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

Upon request of the Highway Superintendent, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 183 OF 2012)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the purchase of one (1) new Pick-up truck 4 X 4 and Snow Plow, in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Tuesday, August 7, 2012 and then shall be publicly opened and read aloud at 11:00 A.M. on said date in the Butler Memorial Hall Community Meeting Room; and be it

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

The Town Board voted upon roll call as follows:

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

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

Senior Citizens Committee – Councilman Reynolds:

Appointment – Substitute Part-time Clerk

Upon request of the Director of Senior Services, Councilman Backman offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 184 OF 2012)

RESOLVED that the New Hartford Town Board does hereby appoint Angela Elias as a substitute Part-time Clerk for the New Hartford Adult Dining and Activity Center, effective July 11, 2012 at an hourly wage of Seven Dollars and Seventy-five Cents

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(\$7.75), payable bi-weekly; Ms. Elias to work on an “as-needed” basis when Part-time Clerk Camille Fuks or Substitute Part-time Clerk Bernard Green are unavailable.

A roll call vote ensued:

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

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

MATTERS SUBMITTED BY TOWN SUPERVISOR

Financial:

Finance Director Report; Budgetary adjustments

Finance Director Dreimiller distributed copies of the June 2012 financial reports, highlighting expenditures, revenue and cash balances with the Town Board, as well as year-to-date figures. There was no activity in mitigation funds for June and the Town has a balance of \$89,000 for the Business Park before the Town reaches its \$1.3 million threshold.

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

(RESOLUTION NO. 185 OF 2012)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Bookkeeper to make the following 2007 budget adjustment:

- *Increase* Account AA1120.0 Sales Tax Revenue - \$50,000
- *Increase* Account AA7410.4 Contractual/Library - \$50,000

- *Increase* Account AA1910.4 Insurance Liability - \$ 3,000
- *Decrease* Account AA1930.4 Reserve for Self Ins. - \$ 3,000
 - (adjust for actual invoice received)

- *Increase* Account AA1002.3 PILOT Agreement/Hotel - \$ 5,000

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- *Increase* Account AA9730.7 BAN Interest - \$ 5,000
 - (adjust to actual invoices).

The Resolution was subject to a vote upon roll call:

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

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

Audit of vouchers

Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 186 OF 2012)

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:

Rec. Center Community Center Bldg. Abstract # 1	
Vouchers H71	\$ 3,300.00
Sauquoit Creek Sewerline Abstract # 3	
Vouchers HT7	\$ 9,760.00
Sauquoit Creek Sewerline Abstract # 4	
Vouchers HT8	\$ 59,953.55
Elm St. Creek Banks Abstract # 4	
Vouchers HN7	\$ 34,966.50
Communications Abstract # 5	
Vouchers HL15	\$ 9,205.65
Street Lighting Vouchers #9	
Vouchers SL8	\$ 7,094.18
Trust & Agency Abstract #28	
Vouchers TT119; TT128	\$ 4,910.32
Trust & Agency Abstract #29	
Vouchers TT120-TT127	\$ 14,465.36
Trust & Agency Abstract #30	
Vouchers TT129	\$ 15,000.00

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Trust & Agency Abstract #31	
Vouchers TT130-TT138	\$ 13,813.42
General Fund Part-Town Abstract #20	
Vouchers BB103-BB105	\$ 5,848.01
General Fund Part-Town Abstract #21	
Vouchers BB106-BB116	\$ 3,745.20
General Fund Part-Town Police Abstract # 16	
Vouchers BP125-BP127	\$ 33,920.14
General Fund Part-Town Police Abstract # 17	
Vouchers BP128-BP140	\$ 4,688.96
General Fund Whole-Town Abstract #24	
Vouchers AA706	\$ 44.00
General Fund Whole-Town Abstract #25	
Vouchers AA707	\$ 88.00
General Fund Whole-Town Abstract #26	
Vouchers AA708-AA715	\$ 26,696.40
General Fund Whole-Town Abstract #27	
Vouchers AA716-AA720; AA799-AA800	\$ 5,315.84
General Fund Whole-Town Abstract #28	
Vouchers AA721-AA798; AA801-AA832	\$ 212,066.12
Highway/Part-Town Abstract #9	
Vouchers DB401-DB440	\$ 63,352.25
Highway/Whole-Town Abstract #1	
Vouchers DA1-DA2	\$ 400.00
Sewer Fund Abstract #19	
Vouchers SS53-SS55	\$ 657.16
Sewer Fund Abstract #20	
Vouchers SS56	\$ 894.78
Sewer Fund Abstract #21	
Vouchers SS57-SS60	\$ <u>9,209.41</u>
TOTAL:	\$ 539,395.25

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

Councilman Miscione	-	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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Release of Retainer – Plantation Twenty-two, LLC

Upon recommendation of the Town Supervisor, Councilman Backman introduced the following Resolution and Councilman Woodland seconded same:

(RESOLUTION NO. 187 OF 2012)

WHEREAS, Dr. and Mrs. Pfister (Plantation Twenty-two, LLC) had provided the Town with a Fifteen Thousand Dollar (\$15,000) retainer as part of the Pre-Development Agreement relating to the construction of a dental office on Middlesettlement Road (NYS Route 5B); and

WHEREAS, the Pfisters have now completed construction of said dental office in accordance with the Pre-Development agreement;

NOW, THEREFORE BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct the Accounting Office to release to Dr. and Mrs. Pfister, Plantation Twenty-two, LLC, their retainer in the amount of \$15,000.

A roll call vote ensued:

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

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

Appointment – Part-time Animal Control Officer

Upon recommendation of the Town Police Chief and Town Supervisor, Councilman Reynolds introduced the following Resolution, which was seconded by Councilman Miscione:

(RESOLUTION NO. 188 OF 2012)

WHEREAS, a vacancy exists in a Part-time Animal Control Officer position due to the appointment of Joseph Zwijacz, the former incumbent, as a Part-time Police Officer;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby appoint Eric Cappelli as Part-time Animal Control Officer, effective July 30, 2012, at an hourly wage of Twelve Dollars and Sixty-eight Cents (\$12.68), payable bi-weekly, to fill said vacancy created by Mr. Zwijacz’s appointment in the Police

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Department.

A roll call vote ensued:

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

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

**Adoption of Local Law Introductory "G" of 2012 as Local Law No. Seven of 2012 –
Creation of Police Commission**

Supervisor Tyksinski noted that at the June 13, 2012 Public Hearing, two (2) people raised the question of authority of the police commission. The Town Attorney responded that basically a police commission would be established with the types of work or authority defined in the by-laws incorporated in the legislation. He emphasized that the police commission would not usurp authority of the Town Board and would be an advisory board to the Town Board. Thereafter, Councilman Reynolds moved that Local Law Introductory "G" of 2012 be adopted as Local Law No. Seven of 2012 in the following format; seconded by Councilman Miscione:

Town of New Hartford, NY
Local Law No. Seven of 2012

A Local Law to amend the Code of the Town of New Hartford by creating a new Chapter 24 entitled POLICE COMMISSION.

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

Section 1. The Code of the Town of New Hartford is hereby amended by creating a new Chapter 24 entitled POLICE COMMISSION pursuant to the by-laws, which are incorporated and made a part of this Local Law.

Section 2. By-Laws

NEW HARTFORD POLICE COMMISSION

BY-LAWS

ARTICLE I: Name

- A. This organization shall be known as the New Hartford Police Commission created under Section 150 of Town Law.

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- B. The principal office of this Police Commission is at the Town of New Hartford Police Department.

ARTICLE II: Responsibilities

- A. The Commission shall review and make recommendations upon all matters, which may be referred to it by the New Hartford Town Board. It may conduct hearings when deemed necessary or directed by the Town Board. It is not the intent that this Commission usurp the powers of the Town Board with regard to issues, which have customarily been handled by the Town Board.

ARTICLE III: Management

- A. The business and affairs of the New Hartford Police Commission shall be managed and conducted by a Board of Commissioners consisting of five members who shall serve at the pleasure of the Town Board. Each Commissioner shall be appointed by the New Hartford Town Board as follows:

The initial membership of the Commission shall be made up of five members, to be selected by a lottery for terms as follows:

- a. Member one to be appointed through December 31, 2013
- b. Member two to be appointed through December 31, 2014
- c. Member three to be appointed through December 31, 2015
- d. Member four to be appointed through December 31, 2016
- e. Member five to be appointed through December 31, 2017

Each Town Board Member and the Supervisor shall be entitled to select one Commissioner subject to meeting all qualifications including a background check. Should any person entitled to make a nomination fail to do so for a period of sixty days from the date a vacancy occurs, the Town Board shall have the right to make the appointment and the Board Member who was entitled to appoint shall fill the vacancy on the Commission until the appointment is made and approved.

All Members will be selected after review of their résumés. After the initial terms, all appointments shall be for a five-year term and end on December 31st. No Commissioner shall be allowed to serve more than two full terms except that Members appointed for an initial term of less than

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five-years shall be entitled to serve two full five-year terms after said initial appointment.

- B. If a vacancy occurs, the New Hartford Town Board shall choose a replacement to serve the unexpired term.
- C. Only residents of the Town of New Hartford are eligible to be a member of the Board of Commissioners.
- D. If a Commissioner (1) fails to attend three consecutive Regular Meetings of the Board, or (2) is in violation of the Town of New Hartford Code of Ethics, there shall be a hearing before the full Board of Commissioners. If it is determined, by the majority vote of the other Commissioners, that good cause for dismissal exists, a recommendation for dismissal shall be forwarded to the New Hartford Town Board.
- E. The Town Board shall select the Chairperson for said Commission and thereafter shall select a Chairperson at the first meeting in January of each year.

Section 3. Statutory Authority

The adoption of this Local Law is made pursuant to Section 10 of the Municipal Home Rule Law and Section 150 of the Town Law of the State of New York.

Section 4. Severability

All other provisions of Chapter 24 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 5. Effective Date

This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

Whereupon, the Supervisor polled the Town Board members who voted as follows:

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

Local Law Introductory "G" of 2012 was then declared unanimously carried and duly **ADOPTED** as Local Law No. Seven of 2012.

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Police Commission members

The Town Board will need to fill the five (5) positions on the Police Commission once the Local Law has been filed with the Department of State, at which time the Local Law becomes effective. A notice will be posted on the Town's website that resumes from interested citizens are to be submitted to the Town Clerk's Office by August 8, 2012. Anyone submitting a resume/application must consent to a background check by the Town Police Department and such background check will be conducted once the people have been chosen to be a Police Commission member.

Eminent Domain – Scardina property, Beechwood Road Drainage Project

Upon recommendation of the Town Attorney who had received the appraisal for the eminent domain procedure on the Scardina property, Councilman Backman offered the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 189 OF 2012)

RESOLVED that the New Hartford Town Board does hereby accept the One Thousand Thirty Dollar (\$1,030) appraisal value for the Scardina easement on Beechwood Road and does further authorize and direct that a check be tendered to the Scardinas for the appraisal amount.

A roll call vote was duly held as follows:

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

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

Request for Proposal – Master Plan update

Upon motion of Councilman Backman and seconded by Councilman Reynolds, the following Resolution was introduced for adoption:

(RESOLUTION NO. 190 OF 2012)

RESOLVED that the New Hartford Town Board does hereby authorize that Requests for Proposal be received for the update of the Town's Comprehensive Plan, the Zoning Law and Zoning Map and the amendment of the southern GEIS for the Town of New Hartford.

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The Resolution was voted upon by roll call:

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

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

Miscellaneous

Councilman Backman noted that he wished to review the Town's insurance loss report once received from Bailey, Haskell and LaLonde.

With regard to the PILOT allocation agreement, the Town Attorney responded that he had presented this document to Shauna (EDGE) and the school district. Councilman Backman also noted that he hadn't received a copy of the contract with Lawrence Adler for the Business Park; Attorney Cully will provide the requested copy

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Miscione and seconded by Councilman Reynolds, the meeting was adjourned at 9:20 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk