

**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 12, 2017, AT 6:00 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 6:00 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 James Messa  
Councilman Paul A. Miscione  
Councilman David M. Reynolds  
Councilman Richard B. Woodland, Jr.  
Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Town Attorney Herbert J. Cully  
Town Clerk Gail Wolanin Young

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

**2017 FLOOD:**

Town Supervisor Tyksinski opened the meeting with a few statements, saying, the Councilmen and Highway Department have been working nonstop since the flood hit the Town on July 1, 2017. The Supervisors office has been inundated with calls and they are trying to get to everyone who's called. His office, the Highway Superintendent and the Councilmen have been busy contacting people since and also have been out to residents homes. Town Officials have been in contact with State and County officials. State Assemblyman Brian Miller is trying to get funding through the state and believes County Legislator Jim D'Onofrio is coming later and he's also met with people. He will be talking about what the County is doing and funding through the State. There is funding coming through, mostly for the Town itself. However, there is a quarter million dollars of County monies for individual homeowners, but that program has not been set up yet or any policies or procedures established. The Supervisor advises residents to keep lists and receipts for damages they had for reimbursement for such time the policies and procedures come into place. The residents can call Town Offices for updates and the Town will also post the information on the Town's website. The County said the money was supposed to be available within 48 hours but didn't happen, however; the County Executive did state it is coming in the next few days. The Town and the Highway Department has been working hard around the clock and has a lot of debris, damage (roads, sinkholes etc.). The Town is prioritizing the damage to the bigger risks but will get to all. Town Supervisor Tyksinski stated that the Town is getting the dumpsters back into the Chadwicks area for leftover debris from flooding and encourages the residents to use them. (Highway Foreman Moran stated the dumpsters are already out on the roads in

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Chadwicks and available to residents). The dumpsters will be left as long as they are being used and needed.

Supervisor Tyksinski opens the floor up to the public to speak:

1) Dean Kelly – He would like to address the Board regarding a drainage study done in 2012. He said it is a drainage study done in Mud Creek and on the Mud Creek Basin where the water flows through Jay-K's Parking lot and Big Apple Music parking lot then down to Sangertown Square Mall and into New York Mills. Mr. Kelly spoke with Supervisor Tyksinski back in 2013 when this was first introduced. At that point, Supervisor Tyksinski was trying to research some funding for the retention ponds, Preswick Glen and the retention pond on Robinson Road. The report states it would significantly reduce the water flow from the Mud Creek corridor down through Sangertown Square Mall and through the Yahundasis and then on to Royal Brook Lane in Whitesboro. After that conversation, The County Executive Tony Picente called Mr. Kelly in May of 2014 and said they have the funding, as they have 2 to 3 million dollars from the Governor's Office to put the retention ponds in. From that Mr. Kelly has not heard another word from anybody. He is questioning where the money went and why this project never got done? He has two questions for the board tonight: When are they going to start taking seriously and take action on the retention ponds by the Presbyterian Home and by Robinson Road? With regards to the Sangertown Mall property, he's questioning the retention ponds were put in effect in 1980 and were meant to slow the water to the folks down beneath Sangertown Mall and to Mr. Kelly's knowledge they have never been dredged and he's not sure if they were even built correctly. They have no berm to restrict the water flow. Mr. Kelly wants to know if this board is going to take action against Sangertown Square and demand that they be built correctly and function the way they were originally put in place to do.

Supervisor Tyksinski replied to Mr. Kelly by stating in regards to the funding he's not sure how to "state" what needs to be stated without putting a bad light on the County Executive, but Supervisor Tyksinski is not sure that the funding was ever in hand. He says that because he did have a discussion with Tony Picente, the County Executive several weeks before this last flood, it was back in the beginning of June and they spoke specifically about that project and the study. Supervisor Tyksinski told Mr. Picente that the Town had the study and what the cost was projected on that study. County Executive Picente told Supervisor Tyksinski that he was getting funding for that project and he seemed pretty sure that he was going to get it from the State and he stated it was one of his top priorities. Supervisor Tyksinski feels the funding is coming but not sure when. He said he will stay on top of it with the County Executive. The Town may need to

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bond in the future but they are currently talking about doing the whole Mud Creek Project.

Supervisor Tyksinski then said with regard to Sangertown Mall, the Town did have it inspected a couple years ago after the last flooding in 2014; the engineers went through it and found no flaws or fault with it. At this point the Town has nothing to base any action against Sangertown Square Mall.

2) Jim D'Onofrio the County Legislator said he's been dealing with stormwater since he took office as County Legislator and his efforts are never enough when it comes to stormwater. They got to put something into stormwater as years ago they put \$500,000.00. He feels it's the most important funding they can spend money on. The County is trying to do something about the Jay-K intersection but the problem is that the project is so big that the County can't fund it. They thought they had State funding but something happened on the State level but it's still their highest priority. At that point the County was going to allocate a million dollars for Stormwater for cities and towns. However, between then and now we got the huge storm so now the County passed a resolution to fund \$2.75 million out of the County of Oneida, again, it's not enough. He said the State of New York needs to get involved and the Towns and Cities will need to have matching funds to do some of the required projects. (But it's not enough to complete the J-Kay project). Two million of the funds will be used for mitigation, meaning that the Towns can apply for this and they have to match the funds 50%. \$500,000 goes back to the Towns and Cities to reimburse them for the costs of waste pickup etc. That amount will not cover everything but it does help a little bit. The Town of New Hartford always ponies up, so he feels they should get a good a share of that money. He was told by the County Executive today, and he's still waiting for an announcement, but there may be some sort of funding from the State of New York. He continued to say that he does not understand Albany or that world so he can't promise anything. The 211 number, the way County Executive D'Onofrio understands it, is it's for personal effects lost or damaged (washer, dryer, hot water tank etc.). The Red Cross will monitor the number and monies being disbursed and a committee will look into each request. \$250,000 is not a lot of money but at least it's something. There were problems all over the place but he cares more about cellars being flooded than the arterial or parking garage because of the threat the people face when cellars flood. As far as the retention pond issue, the County will allocate its own monies. It will not come out of the monies already allocated because it's a County structure. The term mitigation in the way he understands it is the Town will apply for projects that the Town will mediate then the committee will approve the funds, the monies will go through the soil and water commission which has their own engineers. Mitigation basically corrects the problems that are flooding people. Some problems can't be corrected but some of the little problems can be with a little bit of money and that may save

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some residents from flooding cellars. He feels as a politician the Town has to do its best with the monies it has.

3) An unidentified resident asked County Legislator D'Onofrio how much of the allocated money is going to preventive methods. County Legislator D'Onofrio replied that's what mitigation is. The unidentified resident said this is the third flood since 2011 and we are dealing with the same issues in 2017. He commented that it took three floods to retrofit this. County Legislator D'Onofrio responded that residents have to communicate with Town Officials their problems and/or needs and then at that point the Town will have to see what can be done to fix the problem the best they can. The unidentified resident asked if it's a Town problem, a County problem, or a State problem. County Legislator D'Onofrio said all he can say is stormwater for all practical purposes is everyone's problem, including the residents. He said the Town of New Hartford has done more with stormwater than any other community that he's aware of and the Town has done a lot through bonding. He did say it's mainly a Town problem unless the problem is a plugged pipe going under a County road and then it becomes a County issue but from a politician standpoint, it's everyone's issues and everyone tries to solve it the best they can.

Town Attorney Cully replied to Mr. Kelly saying Preswick Glen is going forward with the detention ponds. They have been approved by the Planning Board to demolish one building and put up another building. Councilman Reynolds corrected Town Attorney Cully by saying that's not Preswick Glen but it's the Meadows and it's a separate matter but that the Meadows will be building their own retention ponds on their own property which will further mitigate the flooding problem but in fact it is a separate issue.

4) Clifford Flickinger of 160 Clinton Road, New Hartford spoke and said he has lived at that address since 1991 and that Clinton Road gets flooded every time it rains heavy. The water flows down his driveway toward Preswick Glen and is getting worse. He's called the State, County and the Town; each level blames the other level and says it's their problem but he and his neighbor are the ones suffering. He's asked for a ditch to be dug out and cleaned out across the street which has not been done in three or four years and now they're building apartment houses (Hartford Luxury Apartments). The problem is getting worse, although it has not gotten into his house yet but now it's flooding almost every time it rains. With the construction and the stripping of the land he is now having mud come down and they have no retention wall because it gave way with the last flood which made 3 to 5 inches come across the road. They called the police to close the road before someone gets hurt because no one slows down when running through the water. He wants to ask the Board who's responsible for

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controlling the water up there especially with the new apartments being built because if they put in a lot of blacktop, where is the water going to go? The contractors put a new driveway in and dug a ditch but its plugging everything up. The Town needs to make the contractors follow some sort of restrictions so the water flows properly. He's asking for help because he always gets the "two step". He's paying taxes and getting the run around; when he calls the State they pass the buck by saying it's a County or Town problem and so on.

Supervisor Tyksinski responded by saying with regards to the development across that the project hasn't been approved by the Town Board yet, they have been doing work on the land up there. He said he will personally take a ride with the Codes Enforcement Officer and take a look at what's going on. Supervisor Tyksinski said one thing this Board is very concerned about is stormwater and how any developer will take care of any stormwater they create. The Board and Codes Department has gone above and beyond what Town regulations say regarding stormwater. He continued to say many developers have gone above and beyond on their own for stormwater and have done extensively more work than what local ordinances calls for with regards to stormwater. Supervisor Tyksinski said that's the approach the Town, the Board, the Codes Department and he personally will take with that project because questions have already been raised. Before that plan gets approved, all stormwater questions will be answered and answered to the satisfaction of the Board to insure the problems do not get worse. The Codes Enforcement Officer Joseph Booth and Town Supervisor Tyksinski are going to go up on site on Monday to see what's going on. The size of the project will be the determination of the Board.

Councilman Reynolds said the public hearing on the project is next month and that's where people voice their concerns and points need to be made. Councilman Reynolds is aware of flooding and he mentioned that if the flood mitigation does not work, the Town has a mechanism in place to go back after the developers, Councilman Reynolds said they can't build or complete any project and walk away. He said the Board is with the residents and to be sure they attend the public hearing which will be advertised in the Observer Dispatch and on the Towns website. Supervisor Tyksinski said when he goes to look at the site with the Codes Enforcement Officer Booth, they will take a look at the ditches which Mr. Flickinger feels needs to be dug out.

5) Ryan Graziano of 158 Clinton Road, New Hartford spoke and said he has video of the last flood and what Clifford Flinckinger has failed to mention is there is a 4 ft. to 5 ft. wide creek that goes through his house when it rains that is not there on a regular basis. Supervisor Tyksinski asked him to email him the video.

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Mr. Graziano also wanted the Town Board to be aware of the safety issue the cars present when they come barreling down the road and start hydroplaning on Clinton Road.

County Legislator Jim D'Onofrio said Clinton Road is a State Road and the culvert is their responsibility where Roberts Road is a County Road so the County is responsible for the culverts.

6) Charles Staggs of 3553 Bleachery Place, Lot 15, Chadwicks spoke and said he's in the mobile home park that the Town could not care less about. The park flooded twice in 2011 and again in 2013 and this last time on July 1<sup>st</sup>. He wanted to know at the time of the first flood what could be done to alleviate the problem. He was told the Town was going to take care of the problem. They worked on the creek but all they did was move rocks from one side to the other to protect the property on that side of the creek but it did not help the mobile home park. They got 28 inches of water in their yards with this last flood and he has 10 inches of sand under his house along with all the mud and junk from the creek. He asked the Board what is going to be done about that.

Supervisor Tyksinski said after the 2013 flood he was up there with their engineers and determined that the creek had shifted, the Governor put out a moratorium so the Town didn't need to go through the permitting problem with DEC (Department of Environmental Conservation). The Town got there people in there and dredged the creek out trying to give the water an alternate route to flow so it was not hitting the bank walls which also changed the course of the flow of the creek. The Town honestly thought it would help the situation over there.

7) Mr. Staggs said at the time that was done, there was a contractor in the creek moving a rock and the contractor told him and other residents of the mobile home park that the State said they can only go down 2 inches because they did not want to disturb the fish. Mr. Graziano and the other residents of the park do not care about the fish; they care about the properties.

Supervisor Tyksinski replied that if the Town were to violate DEC rules and regulations that the fines are unbelievable to the tune of \$10,000 per day. Supervisor Tyksinski agrees with Mr. Staggs that human life comes before fish and wildlife and the entire Board has made that statement; however, the problem is the DEC does have the authority to fine the Town per day and they carry a lot of authority financially and in other ways. Also, the Town does have to abide by their rules and regulations. Supervisor Tyksinski apologized if the work the Town did in the creek did not help solve the problem but he said the work did divert the water and a lot of time and efforts were spent there.

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County Legislator D'Onofrio said the County met with the new DEC Commissioner (his name is unknown) who said he understands the Town of New Hartford's problems and the Commissioner knew they had to clean out the streams.

Mr. Staggs said after the 2011 flood there was a study done about construction up the hills from where they live. The study said if the Town continues on with the construction it's going to increase the flood water or stormwater 20% to 33% into the mobile home park in Chadwicks and will flood the mobile home park and it was totally ignored. The Town spent a lot of money to do a feasibility study and ignored it because the Board does not care about the mobile home park or the residents of Chadwicks.

Supervisor Tyksinski replied that that statement was not true and that the Board does care and has tried to do everything. Supervisor Tyksinski continued to say that with regards to the study Mr. Staggs is talking about, the Town is looking at a project up there now and that would make Mr. Staggs refute that statement. The whole idea of the project is to help to control the water coming down and flowing into the Sauquoit Creek, it would basically retain the water on the top of the hill and let the water come down in a slower fashion. The Board will address that project later in tonight's meeting. The Board would do nothing that would intentionally direct more water into the Sauquoit Creek and the Board is aware of the problems with the Sauquoit Creek. Supervisor Tyksinski referred to the Sauquoit Creek Basin Commission and said the Town of New Hartford has contributed about 75% of the funding to the Sauquoit Creek out of the 9 districts. He continued to say the Board knows the importance of this issue and the problems the residents of Chadwicks face and the Board would never do any project that would intentionally put more flow or more water into the Sauquoit Creek.

Mr. Staggs said with this last flood with all the trees going down the creek over onto Bleachery Place, which the Town cut down large trees and left them.

Supervisor Tyksinski said the Town will get to them and he also said one of the first things he spoke to the County Legislator about was the County Legislator's conversations with the Governor and asking the Governor for the moratorium on the DEC permitting because he said any time you go into a creek, even if it's just to remove a dead tree, the Town has to call the DEC. Supervisor Tyksinski is hoping that what the County Legislator D'Onofrio said is true (County Legislator stated he did not get a promise but that was his impression). Supervisor Tyksinski knows the County Legislator is working on this and they know that besides the

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money the Town needs to have a moratorium on the permits. The DEC gave the Town a 60 or 90 day moratorium for the last flood and that's what needs to happen now and is the first step in the process. Supervisor Tyksinski did say they do have a concern for the mobile home park and they are working on getting in there and the Board is trying not to neglect anyone. Supervisor Tyksinski also said they do have a project that is coming forth with the Board tonight and will finally get things moving. Mr. Staggs asked if there was any talk of FEMA coming in.

Supervisor Tyksinski replied that the problem with FEMA is that there's various levels that need to be hit, he said on a local level he thought it was around \$850,000 which the Town will come close and on a State level he thought was around \$250 million which he doubts they will come close to that because the only part of New York State that was hit was right here in our area. In 2011 & 2013 the entire state was hit which makes a difference so he doubts FEMA will be coming in at this point.

8) Judy Cusworth of Chadwicks spoke and said she had a meeting with Congresswoman Claudia Tenny and requested the Army Corps of Engineers to come in and review the Oneida Street culvert and the area where the glen is because she honestly feels it's above the Supervisor's pay grade. She does not feel the Town will be able to look at it and deal with it. She said unless the Town has three to five million dollars she does not believe it can be fixed. She has a map in hand from Colgate University (the professor who is the head of the Geology Department came in today after doing geology studies in the glen for over five years on her property). He told Judy Cusworth her ponds held; her ponds did not fail and her ponds did not cause the flooding in the Town, the culvert failed. Judy Cusworth continued to say she paid to put a culvert in at her house at her own expense and it flooded three times. She's done with the problem so she's taking the culvert out and putting in a bridge. She's done with culverts. She has pictures she would like the County Legislator Jim D'Onofrio to see which shows what's behind her chain-linked fence heading for the Town's Oneida Street culvert for the next storm. Mrs. Cusworth said if her ponds come down in a storm, Chadwicks will not be closed for a few days it will bury most of the houses for a long time. The damage up there is incredible, 90-year old trees came right off the banks with roots and all. She said she has no idea how anyone would ever get them out of the stream bed. The entire runway of the creek was clean when the storm hit and they cleaned it themselves. This is above anything anyone can imagine and it's close to going. Judy Cusworth continued to say everything in the base of the ponds is even worse; she has enough stuff in them to bury most of the Town. She does not believe FEMA is coming in and according to Kevin Revere, he does not feel FEMA is qualified.

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Supervisor Tyksinski has had discussions with County Legislator D'Onofrio as has Mrs. Cusworth. The Town would like to come up next week and look at the ponds with the Town engineers. Supervisor Tyksinski said he is not saying anything against the Army Corps of Engineers, but he said the minute they came into the Consumer Square project it took twelve years to complete because they went in. The Town does not have 12 years to wait for them to make a decision on Judys ponds. Supervisor Tyksinski said the Town has very good engineers. After the Town views the ponds, they can make a determination and/or recommendations on what can be done and go from there.

Judy Cusworth said she has had five neighbors around her property log their property which does not help the situation. Judy Cusworth said she can have her 65 acres logged and get very rich then stop paying her property taxes and then turn the property and the problems over to the Town. She's asking the Town to get some logging regulations and requirements to stop or slow the logging process which will further create a bigger water problem for the Chadwicks residents.

Supervisor Tyksinski reported that's how the Adirondack Park got started; someone logged it and then turned it over for taxes, jokingly he said the Town may start their own park.

9) Ann Falvey of 9278 Grange Hill Road, New Hartford said she has had some concerns which were taken care of by the Town and she would like to thank the Town because what she thought would be a "runway to hell" has been converted into at least she now has a chance. Ann Falvey said there was a landslide or mudslide where the water on the other side of Steve Maroccia's property and it came onto her property but it has been cleared out to the best of the Town's abilities. She also thanks Highway Foreman Moran for his help and she appreciates the Town taking away the debris. She's aware of a project that's been in the works for far too long where the Town is trying to remedy the problem on Grange Hill Road. She urges the Town to act very intelligently and expeditiously to clear up the problem because what's happening now is the other side of hill is now being impacted. The residents in her area have collected information and knowledge and would like to share with the Town the issues caused by the water and rocks cascading down the hill. Her property has flooded and she paid out of pocket to remedy the problem. She feels the Town needs to work with the residents because there's stuff that can be done together to solve issues. She and her neighbors are more than willing to help to expedite the project.

10) Mary Skorulski lives on Slusser Ave. between Golf Road and Wilbur Road. She said she would like to eliminate this kind of thing from happening. She said there is a bridge on Wilber Road and Golf Ave. that had work done with no test

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afterwords because there was no good storm to test the bridge. She said she believes that the work that was done did not help with this storm. The flood was more widespread than ever. She had mud and dirt over her driveway. Mary Skorulski said her and her neighbor's backyards and homes are getting worse. They would like to speak with someone to have this issues stopped before it becomes a tragedy. She told the Board that they could not believe how the water flows over Golf Ave; with such force then forms big puddles form the bottom of Liberty Mutual and stays for God knows how long.

11) Thomas R. Diefenbacher of 3262 Oneida Street, Chadwicks spoke and said he does not agree with Judy Cusworth on everything but one thing he does agree with her on is the culvert on Oneida Street is too narrow; it is pretty obvious as it flodded several times now and something different needs to be done because it just can't handle the water. When the Town does the study he would like them to consider widening the whole street and culvert. All the flooding in Chadwicks has nothing to do with the Sauquoit Creek; it's all from the Glen Creek.

12) Donald Wood spoke and said he lives on Oneida Street in Chadwicks which was hit again with another storm. He hears complaining all over and projects being done. He wants some assurance about accountability on part of the Town; the residents put their trust in the Board to get things completed. He said trying to sell his home in this area is torture. Any financial services received in the past have done nothing but drain bank accounts. He feels he gets no answers from anyone. He asked the Board at what point do the residents hold the representatives liable for the issues that the Town, County, and NYS are facing. He does not agree with County Legislator Jim D'Onofrio regarding the statement that towns needs to apply for monies so the County can approve it, it should be that the town just got hit hard so the County and State should step in and assist the Towns. He watched the City of Utica redo roads for the Boilermaker, while people still had stuff in yards and kids can't go outside and play. He understands the Boilermaker is important and brings in revenue but so are the residents in other communities. He asks what level of assurance from the Board that what they are saying tonight is actually going to happen? He's heard responses such as "call my secretary", a lot of "next week", He does not feel the Board holds it as serious as the residents in the room. He then thanked Councilman Jim Messa for his time and for showing up on his doorstep.

Supervisor Tyksinski assured Mr. Wood that a proposal will be brought to the Board tonight to get the project going on Grange Hill Road and that the Board has been working on it for about a year and a half so he expects they would get it going shortly.

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Mr. Wood asked if they can come to every Board meeting for updates.

Supervisor Tyksinski replied that's absolutely fine or he can call his office or Councilman Messa for updates.

Mr. Wood requested Town Board minutes to be posted on the Town's website to ensure they are not forgotten about.

Councilman Messa commented that the residents did lose a lot; he believes Mr. Woods's wife lost her car. He said the residents on Oneida Street do have messes in yards and kids can't play outside because they have no yards left. He's asking the Board if they can do a resolution or something to waive the private property regulation to clean up stones and mud from private properties.

Supervisor Tyksinski replied the Town is going to waive that requirement and that the Highway Superintendent Sherman and highway Foreman Moran are aware of this already. The Town waived that requirement in 2013. It is going to happen; however, the Town has some other things to deal with first such as sinkholes, etc.

County Legislator D'Onofrio commented that the County of Oneida did pass a resolution tonight which would allow them to go on private property but the Town does need to pass a resolution allowing the same.

13) Jean and Ken Driskell of 3325 Oneida Street, Chadwicks spoke. Mr. Driskell said that he presented stuff back in 2013 which showed culverts and things that need to be repaired and he hasn't seen any action with any of that regard. The Town has done a lot at the top of Kay Circle which incidentally looks very good. But then that's private property so he's not sure why a resolution is needed now. He asked if the Board is going to pass the resolution to go on private property.

Supervisor Tyksinski replied the Town has already been on private property to help clean up some of these areas, the mud and whatnot. If a resident owns a retention pond, the Town can go on private property. With regards to White Tail Meadows, if that's what Mr. Driskell is referring to he said where there are retention ponds, the Town owns them so that's Town property not private property. Mr. Driskell asked what the maintenance schedule on them is because the Town has not been there in four years.

Supervisor Tyksinski said the Town should be going every year and he knows the Town was up there last year. Supervisor Tyksinski said there is not a set schedule of maintenance but what happens is the Town Parks Department mows them three times a year which allows the ponds to work properly.

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Mrs. Driskell said they would like to see a set schedule in writing because the ponds are not being maintained and they are plugged which is why they are going over onto people's property and flooding basements. Mr. Driskell said nothing was done about the culverts at the top of Kay Circle in 2013 and the culverts at the bottom were damaged when they put in the development, it's partway caved in and never has been repaired and the concrete in front of it was damaged and nothing has been addressed.

Supervisor Tyksinski believes he had someone up there to work on it. He said Councilman Messa and himself will take a look at what he's talking about.

Mrs. Driskell added that they also need to address the creek.

Supervisor Tyksinski said the Town first needs to find out if it's Town property or private property.

Mrs. Driskell asked what difference it makes because the Town is already working up there for Mr. Barkett on private property. Mr. Driskell said the Town did a lot of work above the culvert which is not Town property.

Highway Foreman Moran said the Town installed a new culvert under the road that had collapsed. The pond was cleaned out so the pipe could be accessible. He was told it's a Town right-a-way that there's a drainage easement up there.

Mr. Driskell asked if anything was going to be done at the bottom because it was plugged and is why Oneida Street saw a lot of water.

Highway Foreman Moran commented that the retention pond to Oneida Street needs cleaning out and is on the list.

Mr. Driskell left his phone number with Councilman Messa and asked when the Town looks at it he would like to be there to discuss the problems with them. Mr. Driskell said where the Creek meets Oneida Street it floods out because of the angle that it was built. They hired their own engineer to walk the property and evaluate it. The engineer indicated they have 278 acres that drains completely downhill into the creek along with the logs, rocks and debris and then it meets a 45-degree angle. The culvert at the end is certainly not big enough and it's certainly not maintained. Mr. Driskell asked if the creek is private property.

Highway Foreman Moran responded that he believes the Town has a 20-foot easement.

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Supervisor Tyksinski did assure Mr. Driskell they will come up and look at the problem and the pond is already on list for cleaning and he will be notified so that he can be present as requested.

14) Edward Thomas, a former resident of Chadwicks, spoke and said he walked through Chadwicks after the flood and he's concerned with Grange Hill Road. He said the way the land and everything is being washed down hill and as usual businesses liked Hotel Willowvale and Spragues Collision suffered water and blacktop damage. He said two or three years ago the Town went out to bid three times for a pipe across Grange Hill Road. He feels if the culvert was put in at that time, it would have eliminated a lot of the flooding problems but the project has not been done to date. He added the project was bid 3 times and nothing has been done and now everything is washing downhill. He asked the Board that if they get another bad storm are they and the creeks prepared to handle this.

Highway Foreman Moran commented that the Town was in there today and removed over 40 truckloads of stone from the ditch and culverts near Ann Falvey's residence; he's not saying it's a permanent solution but it's a start and its better than it was.

15) Ann Falvey commented that now the pipes are actually connected which makes a huge difference on the drains.

Mr. Thomas replied that he is referring to the pipes that come down Grange Hill Road into Oneida Street and into the Sauquoit Creek.

Supervisor Tyksinski said that what Mr. Thomas is talking about has two faces and the bids came in extremely higher than what was anticipated.

Mr. Thomas asked why the Town couldn't get any help from County or State Officials but that they will reimburse these people for washer/dryers/ hot water tanks etc.

Supervisor Tyksinski said it's going to be brought up on phase one which is the retention ponds at the top of Grange Hill Road then the Town will move forward with the bottom of Grange Hill Road which is what Mr. Thomas is talking about, funneling the water to the creek. Supervisor Tyksinski added that the County is going to give money to the Town for the Grange Hill Road Project to the tune of about \$100,000 but they will match the Town and that the County Legislator D'Onofrio was a big part of getting the Town the funds.

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Mr. Thomas asked how the residents are getting reimbursed for home appliances; is it State, County or Town funds and are they getting some kind of help?

Supervisor Tyksinski said the County does have a program but he's not sure how much it will cover.

Councilman Messa said he's also frustrated with the bids but residents are not aware of everything going on and that this project is not done yet. He was not in office in 2013 when that flood took place but was aware of the situation and since he took office in 2014, they had people move and couldn't get easements because property owners change, he said they went to bid one year then had to do a study so it changed the project a bit and the next bid is double the cost and the third bid as double the second bid. They have to be good stewards of the taxpayer dollars also. He said everyone in the Town is working to get this project done and no resident is alone. The Board and Councilmen are in it with the problems and the worries and they are working hard to get the issues resolved.

16) Bob Corr, a New Hartford resident, has a couple comments on conversations that have taken place. He wanted councilman Messa to know that mitigation is basic maintenance and that cleaning out a culvert pipe is not mitigation. His understanding is the Town is understaffed and asked the Board how many people the Highway Department lost in the seven and a half years since this issue started.

Supervisor Tyksinski replied he thought it was four employees.

Mr. Corr said the Town does not have the staff to go clean the stuff on a regular basis and he's owned the house on Oneida Street for over 35 years and just recently sold it and he's heard FEMA is coming through. He's applied for monies from the State, County and Town and all sorts of programs and he said all he did was make photocopies and spend his own money and waste his own time. He noticed some big culverts were put on Snowden Hill Road recently so water will drain faster but he said that's not the solution. He said the Town does not want the water coming down the hill faster but they want the water held on the hilltop and to come down slowly so the creek can handle it. He commented the Town can put all the culverts it wants under the road but if the water has no place to go it's going to back up into cellars. He said the gentlemen across the street from him offered part of his land as a retention pond a few years ago to hold some of the stormwater. Twenty years ago the EPA (Environmental Protection Agency) came out with stormwater regulations which has to be held on property but he's sure the Board knows that. He said all that farm land at the top of Grange Hill Road is filled with all sorts of chemicals and debris and feces which is flowing right down the hill into everyone's basements and he feels the EPA would have a stroke

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knowing what he knows. He feels the solution is simple, maybe not cheap but simple: The Town has to build retention ponds at the top of the hill, he said if Supervisor Tyksinski can run a campaign for 2.1 million dollars then where's the monies going because that 2.1 million did not take a gallon of water out of anyone's basement.

Supervisor Tyksinski said the projects that covered the 2 million dollars all worked, but unfortunately with the Grange Hill Road project the Town ran into problems. Some problems were financial and some were studies needed and as commented earlier by Councilman Messa every time the Board went out to bid the project, the bid literally doubled. Originally it went from \$140,000 to \$300,000 and now came in at \$650,000 which is six times the cost over a year and a half ago. Supervisor Tyksinski said the Town is getting gouged and the Board is not going to let that happen. Supervisor Tyksinski continued to say that Councilman Messa and himself has worked on a proposal and they want to get that project done and it will work. Also, the Town has done more than 2.1 million in projects and it all worked and this project will pass tonight.

Mr. Corr asked about the ponds on Judy Cusworth's lands?

Supervisor Tyksinski said he wanted to look at them years ago but couldn't because it's not Town property but now Mrs. Cusworth will give the Town permission to look at them.

Mr. Corr said there is a lot of vacant farm land up there and Bill Schuster would be happy to donate part of his land for ponds.

Supervisor Tyksinski said the Town could get a lot of people to put retention ponds on their properties; the problem is it costs money.

The residents got upset saying they have been hearing its getting done for seven and a half years and nothings been done at all. Then there was discussion on the time frame it's taking to get this project done and all the residents were told and things are not done.

Mr. Corr commented the minutes on the Town's website were from five years ago.

Supervisor Tyksinski stated that's not true, once the Board passes them, they are posted and that was confirmed with Town Clerk Gail Wolanin Young.

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17) Ken Empey lives at 3421 Oneida Street near Steve Marcoccia's lot. He just wanted to say maintenance seems to be a big issue and that's why residents suffered the last 2 times with flooding property damage. It's just when the culverts overflow, he then gets hit by water coming from 3 different directions. It comes down Oneida Street and then his back yard will overflow. A lot of times it just the culverts can't handle the water because they're plugged up. He feels a maintenance schedule would be great.

18) Stephanie Sheehan, a New Hartford resident, spoke and she wanted to commend the Supervisor on his civil behavior but then said he blew it a few minutes ago. She wanted to ask Town Attorney Cully if he forwarded the Notice of Claim on her behalf to Travelers Insurance yet. Town Attorney Cully said yes it was and he spoke with the agent from Travelers in length in this regards and returned her call yesterday and left her a message but unfortunately they did not speak and that's where the claim stands. Stephanie Sheehan said it's not litigation. Town Attorney Cully explained that a Notice of Claim gives her the right to commence litigation. Mrs. Sheehan said the Insurance Company denies receiving it. Town Attorney Cully said he spoke with Tanya in length from Travelers. Town Attorney Cully did say he would be happy to call again tomorrow to confirm they received everything.

19) Tim Quinn 3435 Oneida Street, Chadwicks said what they have been noticing is that the land erosion is really bad and changed the complexion of his property and probably other residents also. He's been proactive since the last flood and put the furnaces on the ceiling and went to a tankless water system and now they have had 2 driveways washed away and they don't know what to do. They have a river flowing off the hill and he does not feel even with retention ponds the situation is going to get any better.

20) Deborah Murray Quinn who lives at 3435 Oneida Street, Chadwicks said she has been a neighbor of Judy Cusworth and she knows it's not her fault however she gets so much water from her property and all she can do is stand and watch it flood her basement. She has no control about the broken levy on Grange Hill Road that has not been fixed yet but she does not know what to do. It's got to hold because she's so tired of floods. She is still shoveling filth and animal feces from her basement. She's asking someone to do something as way too many people are suffering emotionally and physically. She knows people with lung disease due to black mold in homes and financially it's hurting everyone. She knows the Board feels for the residents but she's not sure that they actually know what the residents are really going through as far as pain and suffering.

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21) Ryan Chamberlain of Grange Hill Road said he's only been here a month and a half but starting to lose his foundation? He said luckily he has not lost as much as some residents but that he does not have flood insurance. He's been in contact with Town Officials and signs documents and waits and hears nothing. They have three horses and he can barely get to them to give them hay. He feels if it's going to be years before it gets fixed he might not stay.

22) Dana Simmons lives at 4 Cascade Drive up from Valley View and there is a bridge that goes over a culvert, over her driveway and the water comes from all directions. The culvert and roads are cracked and under the bridge is destroyed. Her husband spoke with Highway Superintendent Sherman and he's not very nice and no one will come look at her problem. The water was coming from all directions. She said her kids can't play in her yard because it's filled with mud, muck and rocks. The day of the flood she had 28 inches of water filling up in her cellar. The contractors cleaned out from Cascade Drive to the Reservoir and she had three pumps going and it could not keep up. Dana Simmons said her family members could not get to her and she could not get off her property. The culverts need to be cleaned. She continued to say the Highway Superintendent Sherman is looking into who built the bridge, but the road and driveway keeps eroding away. Town Attorney Cully asked if she has any kind of property survey which shows her front property line. Dana Simmons replied that she does not know if that was done or who put the bridge in. Town Attorney Cully asked Codes Officer Booth for a copy of the building permit that was done when the house was built in 1985 and took Mrs. Simmons phone number. After Town Attorney Cully looks at the building permit application, he will try to furnish Mrs. Simmons with some information.

Highway Foreman Moran said the Town had a mini-excavator in there at that sight trying to clear it out. He said the outlet of that creek leads into the reservoir. Highway Foreman Moran also said that was cleaned once before and the Town got into some trouble with the Mohawk Valley Water Authority because they feel the old Valley View Dump Site may still be contaminated under the road. The creek is supposed to go around the reservoir but when it floods it goes through the reservoir. That is on the list of jobs to be bid out; he continued to say the pipes under the road need to be cleaned, there's a head wall missing and that it's a large project. He responded to Town Attorney Cully by saying the bridge is off the roadway but it's not on the right-of-way and that the previous owner allowed them to clean the ditch. He's not sure if the Town ever took ownership of that bridge?

Councilman Miscione said her neighbor to the left of her actually called him and he went up and looked at the property and the biggest problem he sees and that he

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proposed to the Highway Superintendent is they need a steel metal bridge in the street which would eliminate most of those problems. Because the culvert pipes underneath are getting clogged and they keep putting cinderblock walls up that fell down, someone could have been killed. Councilman Miscione would like to bid out a bridge project for that area which would take on a lot of the issues of why she's getting the water. Highway Superintendent Sherman is looking into the cost of a bridge. The Town just needs to fix this right because a band-aid will cost the Town more money. The bridge would eliminate the backup and water veering towards her house. Councilman Miscione spoke to Highway Superintendent Sherman who said he does not have the manpower to go up there and get those culverts cleaned out all the time. The road is eroding and the culverts underneath can't handle the stress. Eventually, the whole road will collapse.

Highway Foreman Moran said as soon as that happened they removed the wall right out so it did not block the culvert.

Supervisor Tyksinski said the Town Attorney will look into the matter and someone from the Town will stop and also look at her property.

23) Mike Kennedy of 9 Beechwood Road, New Hartford spoke about the bottom of the hill on his road. He said he went through several boards to get some relief with the water at the top of Beechwood Road. He thanked Town Supervisor Tyksinski and Councilman Reynolds and more recently Councilman Messa. He knows the Town guys are stretched thin and he knows they're working hard but there are not a lot of them to clean the culverts and to do the other stuff on a regular basis so he feels the Town guys are doing a good job behind the scenes. He said the Town put a ton of money and resources up there and thought they had the water problem beat but he asked the Board what happened with this storm. He asked why did it breach the retention pond and where did that river come from again?

Highway Foreman Moran replied and said he checked them the next day and all three retention ponds had overflowed and that it was just too much water. The culvert couldn't handle it. He explained the structure of the ponds had two inlets which have two levels of entry which is meant to slow the water down and when that can't handle it. The water is supposed to come over the top of the grate of the catch basin and what happens is the debris that comes down through just sits on top of the catch basins and it just was too much to handle. Subsequently, the water cascades down from pond to pond. Highway Foreman Moran did say the tops and inlets are now cleaned and he was surprised at how little debris was in the pond. He said that unless he's right there to see the debris on them there's little to be done. If someone happens to notice debris on top of the basins then it would help

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if they would call the Highway Department and he will come and be able to see the situation and also clean them up.

Supervisor Tyksinski said anytime an engineering study is done for stormwater, there are various degrees that they give you and he mentioned the very first study which was supposed to handle a 50-year storm. What that means is one out of every 50-years; you have that kind of storm. The Town said no to that and went to a 100 or 150-year storm because the Town wants the best it can get. Supervisor Tyksinski said what they had the other day probably topped the 100-year storm capacity. The problem is that when the Town is there the Town tries to plan for the worst to be safe but then the storm happens and it's worse than predicted. Supervisor Tyksinski did say the solution has worked up in that area until the Town got hit by this horrible storm and although they had a stream in the yard, the water did stay out of basements.

Mr. Kennedy suggested maybe some regular maintenance or paying a small tax so they can have more hands on the ground for maintenance.

Supervisor Tyksinski said the job can be done more efficiently and on a better schedule if the Town hires it out to a contractor and that also frees up Town guys so they can focus on other things within the Town. Supervisor Tyksinski said this will be brought up again later tonight. This process was also discussed by this Board last November. Supervisor Tyksinski did say the Town was down four (4) Highway Employees but that really affects the Town during the winter months with snowplowing which is being changed around to one man plowing. The Highway Department still has over 20 employees. The savings came from the difference of two men per plow trucks.

24) Steve Lenard of 3397 Oneida Street, Chadwicks and the owner of Hotel Willowvale spoke and he said in 26 years he's been flooded 16 times by five (5) feet or more. He's not blaming this administration for its failures because 26 years ago he had a meeting at Donovan Hall and a study was done with the Town Engineer he believes was John Meager at the time. He said monies were set aside to do the work then. He said he does not want to beat the Grange Hill project to death but all these people are in the same position as him and losing equipment, compressors, boilers, hot water heaters etc. They try to take care of the problems themselves but when he can't even enjoy a dinner out with his wife without worry and the stress, it's a problem. The last time he was at a Town Board meeting was in 2013 and he says shame on the Board. During that meeting, the Board told him that nothing was ever done to put stormwater from one resident's property to someone else's property and they said the same thing again today. He continues to say that Bray Excavating was up cleaning Steve Marcoccia's property, removing

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gravel and there was a berm placed several years ago making a headwall to the main drain and it was removed.

Highway Foreman Moran said Ann Falvey asked him to remove it as she was worried about the debris in her yard.

Mr. Lenard said that berm was the only thing that saved the rest of the homes and businesses all these years because it diverted it down the street or into the pipe. He said that again, the Board told them that they would never divert water from another person's property. Also, behind Steve Marcoccia's house is a drainage ditch that was discussed before. Mr. Marcoccia opened it up and cleaned it out and it dumped right in the back of the old parking lot of the old EJ Peters property. He's diverting water. Also, Mr. Lenard said he's not sure why the bids have doubled and tripled three times as stated, these contractors are not stupid. Every time they see one of these 50-year or 100-year storms are and the Town has had four of them in six years. The contractors are not stupid and of course the rates are not going to get cheaper. Mr. Lenard asks why these projects have not been done years ago so the residents and businesses don't have to continue to suffer. Mr. Lenard feels that it's the only disservice this administration has done is allow the bids to get more expensive and are now tripling. The residents pay the taxes and yes the Board has done a good job with money but this problem is ongoing for 26 years and the Town has spent more money on studies than what the project would have cost the Town if the Board approves it tonight. Mr. Lenard feels the retention ponds may help but it not unless the Town does the bottom two ponds.

Supervisor Tyksinski responded by saying only one study was done and it was paid for by the County and he's unaware of any other studies by any other administrations. Supervisor Tyksinski feels the whole project needs to be bid, not just the top but the bottom two. However the Town needs permitting from DEC to get the final plans for the lower half bid. Supervisor Tyksinski agrees with Mr. Lenard and also said there Engineers could not guarantee that just the upper ponds alone are going to prevent anything down below without the second half being done. Supervisor Tyksinski said he's the one that said the Town is doing the whole thing or nothing because it's getting done right and that later in tonight meeting, he's bringing up a proposal to the Board that's going to be a lot less than what the last bid was. The Board is pushing the County Legislator to get the State to get the DEC to approve the plans for the second half and as soon as they get it; the Town is going out to bid on the second half, the bottom portions, because they are getting all this done this year. Hopefully with the Boards approval tonight, the project will start in the next few weeks on the ponds above, and once done, the Town will immediately go to the second half, down below. Supervisor Tyksinski

did say that he agrees the project will not work unless both top and bottom are done.

Mr. Lenard responded that he hears the Supervisor but sometimes the Board needs to think what it's doing year after year to the residents. He feels everyone who bids on the project is a local guy who knows the area and the problems. Mr. Lenard stated that of course the bids are not going to get cheaper.

**With no further discussion from residents, the Board continued with the regular meeting at 7:55 P.M.**

MINUTES:

May 10, 2017 & May 30, 2017 Town Board Meeting

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

**(RESOLUTION NO. 128 OF 2017)**

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held May 10, 2017, and May 30, 2017, and does further waive the reading of the same.

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

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

The Resolution was declared unanimously carried and ADOPTED.

TOWN OFFICIAL REPORTS:

Appointment – Seasonal Employees

Upon recommendation of Director of Recreation Center John C. Cunningham, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Messa:

**(RESOLUTION NO. 129 OF 2017)**

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RESOLVED the New Hartford Town Board does hereby appoint the following individuals to the various part-time seasonal positions to replace previously hired employees that were unable to fulfill the job requirements and for the hourly wages set opposite their several names, for the Parks and Recreation Department, commencing June 27, 2017, and ending August 11, 2017; and wages are budgeted and to be paid by-weekly:

Joshua Farmer – Basketball Attendant 1	\$9.00 Per Hour
Collette Bertrand – Rec Attendant II	\$9.25 Per Hour

FURTHER RESOLVED the New Hartford Town Board does hereby appoint Richard Hammond as a substitute Bus Driver to replace the bus driver that left and this is also budgeted:

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

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

The Resolution was declared unanimously carried and ADOPTED.

Seasonal Appointment – Job Title Change:

Upon recommendation of Director of Recreation Center John C. Cunningham, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Messa:

**(RESOLUTION NO. 130 OF 2017)**

RESOLVED that the New Hartford Town board does hereby change the Job Title of Ashley Tremblay from Rec Attendant II to Assistant Director for the Parks and Recreation Department, effective immediately at the hourly rate of \$10.25 per hour and to be paid bi-weekly:

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

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

Supervisor Tyksinski - Aye.

The Resolution was declared unanimously carried and ADOPTED.

Refund – 2017 Summer Playground Program

Upon recommendation of Director of Recreation Center John C. Cunningham, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Messa:

**(RESOLUTION NO. 131 OF 2017)**

RESOLVED that Melissa Smith registered her child to attend the six-week 2017 Summer Playground Program and paid the \$180.00 registration fee but her child did not participate in the program, after which Melissa Smith asked for a refund.

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize the and direct the Accounting/Finance Department to issue Melissa Smith the refund in the amount of \$180.00 from account A2089.0 for the Parks and Recreation Summer Playground Program because her child did not attend the program.

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

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

The Resolution was declared unanimously carried and ADOPTED.

Kelberman Center Discount Letter: Discussion

Councilman Reynolds informed the board that a letter was received from the Kelberman Center requesting a break/consideration on Recreation Center rental. Councilman Reynolds already spoke with Parks Director Cunningham and he's already provided the company a lower rate based on what they will be doing in there. Also, what the Town's commitment is in terms of manpower and cleaning and whatever else? With no further comments on this topic, the Board moved on.

Sallustio Update: Glendale Ave.

Attorney Cully has an update on Mr. Sallustio who's here and they have been talking with the Codes Enforcement Officer Joseph Booth. The Town Board had the hearing scheduled and deferred any action based upon Mr. Sallustio indicating that he intended to

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try and work something out with the Town Codes Officer Booth to rectify the existing structure. Attorney Cully asked Codes Officer Booth if any proposal has come forward.

Codes Enforcement Officer Booth responded yes, that Mr. Sallustio had submitted a written proposal and that he backfilled the existing foundation leaving the deck on the foundation and the foundation in place. He said Mr. Sallustio feels he should be able to do this without insurance.

Attorney Cully asked Codes Officer Booth if the Town required insurance?

Codes Officer Booth responded yes.

Mr. Sallustio responded they had liability insurance.

Attorney Cully asked if a contractor is coming in to fill it in?

Codes Officer Booth responded he believes so and it will be the height of the structure which is above ground and will it be filled in level.

Mr. Sallustio responded to Attorney Cully by saying they can't fill it in level because there are basement windows that have to be covered up.

Attorney Cully clarified Mr. Sallstio's intent was to fill in the sides but that this is above ground by about 4 feet.

Mr. Sallustio responded it's by 2 feet and the deck on top will be about another foot.

Again Attorney Cully asked that this is sticking out about 3 feet above ground?

Mr. Sallustio replied yes.

Attorney Cully clarified that they intend to fill it in all around and asked Mr. Sallustio about inside the structure itself.

Mr. Sallustio responded that nothing will happen inside the structure.

Attorney Cully asked if there was some concern about the integrity of the walls based upon some kind of basement.

Codes Officer Booth responded that some kind of backfill is essential for the integrity of the walls.

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Mr. Sallustio said no it's not essential for the integrity of the walls and suggested that the Codes Officer Booth read the builders guide on Superior Walls.

Attorney Cully asked Codes Officer Booth what his feelings were.

Codes Officer Booth responded that the backfill is essential for the structure to be safe and sound and even if he backfills his foundation, the Town and his neighborhood will be stuck with an eyesore with rotting wood exposed to the elements.

Attorney Cully asked Mr. Sallustio if it's his intention to proceed with the construction of this home.

Mr. Sallustio responded no.

Attorney Cully then asked how long he intends on leaving it.

Mr. Sallustio cut Attorney Cully off and said he finds this very offensive and that he was under the impression from the Town Supervisor that the hearing would reconvene and this is not happening in this format. He said that the Town has wasted many hours of his time. Mr. Sallustio added that no he does not intend on building on that property at any time because that house and foundation was structurally deficient at the time it was put in the ground. He had asked and demanded in writing and now he's tired because he received a letter from the Town to come down here on May 24, 2017, because he was in violation of the Town Code. The issue was corrected when the Town had the other hearing. He also said that hours of his time were wasted there. The property and foundation were structurally deficient right from the get go and there is no way they could build on it. They had demanded and asked for the removal of it but the Town Codes Officer Booth refused to make the contract to remove it even though it was built illegally without a permit. Mr. Sallustio continued to say the Towns Codes Department permit applications were in violations of the Town's Codes and then he turned around and said he would not have them dig it out because it would be too expensive for them. If Codes Officer Booth denies it, then he's lying.

Attorney Cully then said it was his understanding that at the last meeting that Mr. Sallustio and Mr. Booth were going to get together for a resolution.

Mr. Sallustio cut Town Attorney off and said no it is not.

Attorney Cully asked to finish what he was saying and continued to say that he was supposed to come up with an agreeable solution to resolving this issue and he then asked Mr. Sallustio if he's in agreement that he and Codes Officer Booth have not agreed upon a solution?

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Mr. Sallustio responded that it was his understanding that when the hearing was closed and to be reconvened today that Mr. Sallustio was to send him a written proposal and that Codes Officer Booth was going to turn around and determine whether or not he would agree with that proposal. He said he never got a response from Codes Officer Booth who had the proposal on July 1, 2017, because he mailed it certified. He never received any response just like he never received any response after the trial when he asked for a written remedy from the Codes Office, the Town Board and Town Attorney which is required by the Towns government. Mr. Sallustio feels he did nothing and all this has been harassing for him and his wife along with a real financial strain.

Town Attorney Cully asked Codes Officer Booth if he was unhappy with the proposal.

Codes Officer Booth responded yes.

Town Attorney Cully asked the Board to reconvene the Unsafe Building hearing so he can have the court reporter here at the next meeting on August 9, 2017, and that the Public Hearing will start at 5:30. He told Mr. Sallustio to bring whomever he chooses that can offer any testimony as it relates to his proposal and hopefully the Town Board can render a decision at that time.

Mr. Sallustio said he's sick and tired of getting screwed over and the contractor getting all the benefits.

As the Town Codes Department and Mr. Sallustio were unable to come with an agreeable solution, it is the consensus of the Town Board to defer the scheduled Unsafe Building Hearing until the August 9, 2017, Town Board Meeting and it's to start at 5:30 P.M. so a Court Reporter can be contacted.

Monthly Financial Reports:

Supervisor Tyksinski asked the Board to review the financial reports. None of the Town Board members had any questions relating to the monthly financial reports that the Finance Director had submitted to them.

PUBLIC HEARING-LOCAL LAW – Hartford Luxury Apartments:

Councilman Miscione made a motion upon the recommendation of Town Attorney Cully to reschedule the public hearing on the Local Law regarding the zoning Change for the Hartford Luxury Apartments to August 9, 2017. The motion was duly seconded by Councilman Woodland. Town Attorney Cully said the Hartford Luxury Apartments have already gone through the Planning Board process and the Site Plan was approved by the Planning Board. He said the Site Plan shows structures, houses, paving, Stormwater management etc. The Town Board needs to approve the zoning change. The Town ran

into difficulties getting the notice published in time. The Observer Dispatch requires three days to publish the notice.

**(RESOLUTION NO. 132 OF 2017)**

RESOLVED that the Hartford Luxury Apartments Public Hearing for the Zoning Change Local Law is rescheduled to August 9, 2017, at 6:00 P.M. in Butler Memorial Hall. Town Attorney Cully said the Hartford Luxury Apartments have already gone through the Planning Board process and the Site Plan was approved by the Planning Board. He said the Site Plan shows structures, houses, paving, Stormwater management etc. The Town Board needs to approve the zoning change. The Town ran into difficulties getting the notice published in time.:

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

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

The Resolution was declared unanimously carried and ADOPTED.

Storm Water Committee: Discussion:

Councilman Messa is requesting to bring back the stormwater committee.

Supervisor Tyksinski says no. The committee the Town had years ago were looking at bonds and they were going to decide which projects to use the funding for and that's over. He feels it's easier if one Board deals with the problems initially instead of referring them out and he feels the sooner it comes to this Board the sooner the problem gets rectified.

Councilman Reynolds said he felt the value of that committee was prioritizing projects. The committee took a look at all the projects affecting the Town and prioritized on most important and so on. They looked at how many residents and infrastructures were affected and so on.

Attorney Cully said that committee did a nice job. One problem he saw with the committee was they lost members and were not replaced and the committee took a lot of heat for some of the decisions made.

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Supervisor Tyksinski said all the projects done by them were all under \$10,000 and this Board has larger projects.

Councilman Reynolds said that's how Beechwood came about.

Councilman Messa just said it's something to think about. The discussion was tabled.

Sherrill Lane – Sewage Backup: Discussion:

Councilman Messa is receiving calls from his neighbors on Sherrill Lane regarding sewage backup especially when the sewage pump station loses power. The Town did a study and he's not sure if it's the level of rain but it's a continuous problem.

Highway Foreman Moran commented that there is no pumping station in that area but the problem is that area is very close to a large diameter to the Oneida County Sewer Interceptor. It's not handling the water during large storms and there's nothing the Town can do. The County was supposed to do a study. Highway Foreman Moran said originally they talked about going into people's homes and making them disconnect sump pumps and whatnot but he said that never happened. He said there have been millions of sewer line repairs in the Town over the past 10 years. Now they are looking at lateral connections from houses and repairing 5 feet but after this is done is just what is coming from people's houses and their property. Highway Foreman Moran said he has no idea how to make the County Interceptor flow faster.

Supervisor Tyksinski said the residents may need new flaps.

Councilman Messa believes they have already done that.

Highway Foreman Moran said sewers are tough because a lot of solids go through them and something can hold the flap open at times if it gets caught but if a flap is on the sewers it has got to be somewhere accessible where the homeowner can check on it, as it can't be buried.

Councilman Messa will check on that with the neighbors and asked the Board if they could revisit this with the County. This has been a problem area for years with no answers. Councilman Messa also said the flow meters were done a few years ago and a TV camera was left for a few weeks to assess the situation to see what was going on. The discussion was tabled.

Small Stormwater Issued – Various Districts:

Councilman Miscione asked the Board what they were now going to do with the small stormwater problems in various districts as the Highway Department does not have the time to do the work or the manpower. He said the Town has had some on-going small

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problems and asked the Board how the money is going to be disbursed to prevent future problems for residents? Is the council people going to have some kind of authorization to get some of these projects done or will a group of projects get put together? He said the Board needs to get the small things done, dug out and/or cleaned out to eliminate future flooding and problems. Councilman Miscione would like to have answers for residents when asked about what the Town Board will do for the residents at this time. He asked if the Town can hire part-time help to get these things done and it needs to be done tonight, or else another special Board meeting needs to happen but this needs to be solved before the next scheduled board meeting.

Supervisor Tyksinski said the same thing happened in 2013 and the Town had a full Highway Department and the Board needs to get off of that comment because they had the same situation as they do now and nothing got done back then either. He said the short hand comment is nonsense. He said if the Board remembers in 2015 the Rayhill Trail got done by someone else because it had to get done and the Highway guys did not have time to do it. Which is why they hired someone else and the Board did not want to pay them. Now they want to do the same thing again. Supervisor Tyksinski said he has a proposal he's bringing up later tonight to the Board. He said this is not a normal circumstance and the Town can't hire four to six guys. He said our guys and Highway Foreman Moran are doing a great job and the Town is looking at bringing on temporary help which will be discussed tonight. He said in the last budget he wanted an independent guy to do stormwater and retention ponds and maintenance. He feels the process was done properly.

Councilman Reynolds feels the process was not done properly at that time but feels if it is done properly he would not have an issue with additional help. He also feels the Board should have revisited the resolution to cover a subsequent year.

Town Attorney Cully explained the Town today is dealing with a different situation because the Town is dealing with a declared State of Emergency. The Town has residents, some of whom were speaking tonight, and can confirm this situation is an emergency situation especially with Grange Hill Road. He feels if the rain as predicted comes then a month from now may be too late.

Councilman Miscione commented that if Royal Brook Lane and the retention ponds were cleaned on a regular maintenance maybe we still would have gotten stormwater but not as much as they did. A lot of stuff on Taber Road and the issues that occurred has been ongoing. He said it's not something that happened because of the storm, because basements are flooding even with small rain storms. These issues can be easily fixed with a little maintenance and repair and that's what he's asking for tonight. He asked how the Board is going to determine who gets stuff done. He understands a lot was done with the

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contractor Spinella and stormwater but none of that helped these residents or helped with getting people out there.

Supervisor Tyksinski said he does not know what problems Councilman Miscione has but he said the Town has done four projects up on Taber Road with storm water and they worked because he called the residents himself and he said no complaints have come across his desk. Also, he's unaware if Highway Superintendent Sherman has been made aware of any of these problems.

Councilman Miscione said Highway Superintendent Sherman does know about the issues because Councilman Miscione has asked him for help and the Highway Superintendent Sherman said he does not have the manpower to help or do anything so he's asking the Board how the councilmembers get these little projects done.

Town Supervisor Tyksinski just said he's going to bring that up later in tonight's meeting.

With no further discussion, the matter was tabled.

Agreement – 2017 Pavement Marking:

The Town Clerk had received from Oneida County the 2017 Pavement Marking Agreement and upon recommendation of the Highway Superintendent, Councilman Miscione introduced the following Resolution for adoption and Councilman Reynolds seconded same:

**(RESOLUTION NO. 133 OF 2017)**

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor and the Highway Superintendent to enter into and to execute the Pavement Marking Agreement for 2017 between the Town and the County of Oneida wherein the Town has identified fourteen miles of streets and roadways named in Exhibit "A" attached and to be paved for the base amount of \$18,579.56 and as more fully defined is said agreement. With there being no further discussion.

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

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

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The Resolution was declared unanimously carried and ADOPTED.

STOP SIGN-Narla Lane & Beckwith Circle:

Local Law Introductory "H" of 2017

Councilman Miscione introduced Local Law Introductory "H", co-sponsored by Council Messa for a stop sign to be installed on Narla Lane at its intersection with Sylvan Glen Road and Beckwith Circle. Police Chief Inserra made an on-site inspection and had no objections. Police Chief Inserra said there was no need at the time the road was created for a stop sign and there is no record of accidents but he sees where a stop sign would be beneficial to the property owners and traffic. Councilman Miscione presented a diagram and Town Clerk Gail Wolanin Young will prepare the legislation for the Public Hearing

**(RESOLUTION NO. 134 OF 2017)**

RESOLVED that the Town Board does hereby schedule a Public Hearing to begin at 6:00 P.M. on Wednesday, August 9, 2017, in Butler Memorial Hall, New Hartford, New York to consider adoption of the proposed legislation to name additional stop and through streets in the Town's Code, Chapter 113, Vehicles and Traffic, particularly Narla Lane, Sylvan Glen Road and Beckwith Circle.

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

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

The Resolution was declared unanimously carried and ADOPTED.

Retention Ponds Maintenance:

Councilman Messa would like Town Attorney Cully to prepare a resolution for the owners of retention ponds like Sangertown Mall and the different areas that have retention ponds to keep them maintained and cleaned on a regular basis so when we do have storms they are working properly.

Town Attorney Cully said the Town already has the law but what really bothers him is Sangertown Square, he would like to look into that matter further and do something against Sangertown Square because he does not fully understand what the situation is but he knows that Mr. Kelly commented that the ponds do not retain the water, it just runs straight through them.

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Codes Enforcement Officer Joseph Booth made a comment that Sangertown Square has a permit application into his office to clean out the retention ponds but it is maintenance only... Their engineer claims they don't need a S.W.P.P.P. (Storm Water Pollution Prevention Plan) but to check with the DEC. Codes Enforcement Officer Booth said they are digging out a vast amount of dirt which could require a S.W.P.P.P. (Storm Water Pollution Prevention Plan) and no grading permit was required.

Town Attorney Cully asked if the Highway Superintendent Sherman currently has a list of the retention ponds and where they're located. Highway Foreman Moran replied the Highway Department does have such a list and Town Attorney Cully requested it be sent to him for his review and this will be revisited at a later date.

### Grange Hill Road Bid Project:

Supervisor Tyksinski discussed the bids for part of Grange Hill Road and it's his understanding that the Town received one bid for \$650,000.00. The Town Clerk Gail Wolanin Young confirmed one bid was for \$651,063.10 for combined projects. That one bidder bid two projects. The Supervisor said this is a lot of money and the Town has a bond resolution for \$900,000. With this bid it leaves the Town \$250,000.00 to complete the rest of the project and he's not sure where the monies for the bottom half will come from. At the meeting with the engineers, the engineers estimated the project to be \$800,000.00 and thought they would be close to \$100,000.00 for the entire project which is why they bonded. Supervisor Tyksinski recommends the Board reject the bid. In place of that bid the Board can hire Spinella Excavating who's on the County bid list. Total inclusiveness would not exceed \$350,000 and with some help from the Highway Department such as going out and transporting equipment that it would significantly reduce cost. Again this is the County bid list for April 2017 through May 2018 which covers the areas the Board discussed and Spinella is the low bidder out of eight bids. The Town Supervisor Tyksinski had Town Attorney Cully check this out for legality.

Town Attorney Cully said this is allowed under the General Municipal Law Statue 103 for the State of New York. Town Attorney Cully stated there is a requirement if it has gone out to bid by the political subdivision and bids had been received there has to be a determination made that the cost would be for a lower price through the County Bid list than if the Board accepted on of the bids.

Councilman Reynolds requested to see the Bid List. Town Attorney Cully presented the Bid List to Board members for their review.

Supervisor Tyksinski and Town Attorney Cully did say if the Town is bound to the maximum price of \$350,000.00 then the Town does indeed meet that requirement.

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Councilman Miscione asked Supervisor Tyksinski if he wrote anything up for the Board members.

Supervisor Tyksinski responded this came in today and presented an e-mail.

Councilman Miscione said he spoke with Highway Superintendent Sherman before the meeting because he wanted clarification that the Town will be obligated to use employees and trucks and asked the Board if the Highway Department does not have the guys to do it now, what does the Board do then?

Supervisor Tyksinski replied that the Highway Department currently has the guys to do the work. Supervisor Tyksinski replied then the maximum price would be \$350,000.00. All Spinella is saying is if the Town could spare a truck and a couple of guys here and there then that price would come down and be significantly less than the \$350,000.00. He's saying the the \$350,000.00 is a totally complete job unless the Town needs any surveying or testing which is not part of the bid. He continued to say the Town already got easements.

Councilman Woodland asked why he did not bid on the project this last time.

Supervisor Tyksinski replied he didn't have the time, he went away and came back and it was over.

Councilman Reynolds asked why he didn't bid twice as he had two opportunities. Councilman Reynolds said he is in full support of this project getting completed and he knows Mr. Spinella does great work but he's not sure how it happened. He feels the Town got into a ball game due to previous work, he's not questioning the quality of his work but he's wondering why the Town can't bid the project and bid his figure as a maximum.

Supervisor Tyksinski said the Town can go out to bid but that's another 30 days at least and may hold up the start project because the Town wanted to do this later this year in October or November. He said the earlier it gets done the better because residents need time for the grass to grow. He feels the grass needs time to secure itself in and if it doesn't then come next spring, the Town will have a mud hole to deal with and the mud will flow down into the pipes. He said this was not looked at before. He continued to say he's offering the Board a legitimate offer that the Town Attorney has reviewed and asked for any questions.

The Board discussed Spinella's first bid which came in at \$245,000.00 and all commented he was the second lowest bid.

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Councilman Reynolds said he feels it should be bid and Spinella can put his figures to specifications even though he understands the time constraints.

Councilman Messa said he's at the Board's mercy if this way is legal and binding then he's good with it because the residents needs this project to be completed.

Councilman Reynolds would like the minutes to specifically state that as of advice of counsel, based on A,B & C..

Councilman Miscione asked how he got on the County List because he was not on the list previously.

Supervisor Tyksinski stated that you don't have to be on the County List every year. The list is put out by Oneida County D.P.W. relating to construction materials and equipment rental, etc.

Town Attorney Cully said this reflects a charge of \$1,500.00 a day for the use of an excavator, \$1,200.00 per day for the use of an excavator and \$95.00 Per Day for a dump truck and \$150.00 for an end dump truck. Town Attorney Cully then asked Highway Foreman Moran if the Town has used this list before.

Highway Foreman Moran responded: Yes, all the time it's where the Town purchases materials and other things but he's not sure if the approved County List has ever been used for excavating rental or manpower.

Councilman Reynolds asked what the hourly rate per day is.

Town Attorney Cully read from the approved County List that it's a per day rate of \$1,500.00 for excavator 1 and \$1,200.00 for excavator 2.

Councilman Reynolds asked if that was for the equipment or the operator.

Highway Foreman Moran responded it's both, man and machine.

Town Attorney Cully asked Highway Foreman Moran how many times the Highway Department has used the County Bid List?

Highway Foreman Moran responded all the time for materials but he does not recall going off that list to hire anyone or for equipment.

Town Attorney Cully clarified: opposed to going out to bid or getting three quotes for materials the Highway Department will go off the County List.

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Highway Foremen Moran responded yes and when the purchase orders go through the Highway Department they will attach the County Bid number to it.

Councilman Miscione stated there is a bunch of guys on the list.

Town Attorney Cully read their names or the company names and locations from the list.

Councilman Reynolds asked if any of the other guys put any bids in for this project at any time.

Councilman Messa responded he thought Alliance might have submitted a bid and he verified with the Town Clerk Gail Wolanin Young who responded no, that company did not bid this project.

Town Supervisor Tyksinski addressed the Board that he's giving them an option, If they want to go out to bid, excavators are in big demand now and the next bid could be more money. The Town is a month behind already. Supervisor Tyksinski continued to say he's given the Board the option, they heard from legal counsel and the residents who are here tonight are crying for help; he said this is a solution and he does not know what the hesitation is from the Board members. They have a County Bid List.

Upon recommendation of the Town Supervisor, Councilman Messa made a motion that the Town hire Spinella Excavating Corp. upon Councilman Reynolds suggestions of adding A..B...& C; the motion was duly seconded by Councilman Miscione but no roll call was taken.

Motion Discussion Follows:

Town Attorney added that the bids received have to be rejected first before they can continue with this motion.

Councilman Miscione addressed the Board by saying all these people sit here tonight and the Board was down at their homes and he then agreed with Councilman Reynolds that something does not smell right with this but after going through all the bidding processes already that the Town went through; Spinella was the first bidder with a bid of \$241,000.00 and now the Town is paying \$350,000.00. Now he's taking it. Councilman Miscione continued to say he does not like it either but the residents cant suffer anymore and the Board needs to get this done tonight. The Town has to get someone in to do the work.

Councilman Messa added that the whole thing smells.

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Councilman Reynolds said that Spinella Excavating got the Town into this.

Councilman Messa agreed with Councilman Reynolds and mentioned the last bills Spinella Excavating submitted to the Town. He said he agrees with Councilman Reynolds that the whole thing smells but without going back down the road with Spinella again, the Board has to do something for the residents.

Councilman Miscione said this is got to happen and the Board can't go another month telling residents the Town will be there and not follow through. In his opinion, the Board needs to get something done. Councilman Miscione added that the only reason he is seconding this motion is for the residents, not for the bidding process or the way it is because he does not like it at all. He also agrees with Councilman Reynolds but if the Board goes back out to bid again, it's going to be another month, then the Board looks at the Bids received again and the price may go up or down but if Spinella will do the project for \$350,000.00 and that's the cap, not to exceed \$350,000.00 and the Town does not have to use Town Employees and the Board can then get this project done; then the residents will have some kind of hope that it's going to get done then he's got to support Councilman Messa on that.

Town Attorney Cully asked if Spinella was bidding the exact scope of the project that was put out to bid?

Councilman Reynolds said another problem is that the Board does not know what Spinella Excavating is bidding on. If the Town goes out to Bid, the bidder gets presented with a bid package that comes back for the Board to review and everyone knows just what the contractor will do and that process has not happened. He then asked if there's anyway to expedite the bid process.

Councilman Miscione said that Town Attorney Cully just explained that Spinella is going to do the exact same job that was in the last bid package.

Town Attorney Cully said that no, he does not know that for fact and he does not have a gross figure. What Town Attorney Cully has is a per day figure for each excavator and the trucks. What Spinella has done is give the Board a quote that Spinella would agree to a not-to-exceed figure and what Town Attorney Cully is explaining to the Board is that's what he has. He continued to say that in the resolution it would state that it's a not-to-exceed figure based upon the scope of work that's set forth in the specifications.

Town Supervisor Tyksinski said the work to be done is Contract 1 which is what they put on the sheet.

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Councilman Miscione spoke to the Board saying maybe the most ethical way to go is to give the work to D.J. Smith. His company did a good professional job on Royal Brook Lane for the Town. He says yes it's more money but the Board has a bid and knows what work is going to be done.

Councilman Reynolds said no one is arguing that the work needs to get done, his argument is the way the Board goes about doing it and again he asked if the bid process could be expedited and a special meeting can be held by the Board when the bids are opened so it's not being put off another month.

Town Clerk Gail Wolanin Young said the Board would need Barton & LoGuidice to redo the Bid Specifications again.

Councilman Miscione added it's the same specifications as previous.

Town Clerk Gail Wolanin Young said she's sure dates and other information may need changing by Barton & LoGuidice and the Town will need the bid documents from them.

Councilman Reynolds said that the Town can contact Barton & LoGuidice for the specifications tomorrow or the next day and he feels the bidding process is important and has to be done. Also, he said the Board has nothing attached to a bid document other than one e-mail that Spinella sent.

Councilman Miscione said that the Town has the bid specifications on paper right in front of him and it's done. It may be worth spending a little bit more money and no one knows where Spinella is going to be so the Town should hire D.J. Smith because the bidding process was done professionally and ethically and it was done the right way. He continued to say the residents need relief. If Spinella Excavating really wanted this job he should have gone through the bidding process all three times not once.

Town Supervisor Tyksinski stated to add the wording in the resolution to say what Councilman Reynolds wants it to say "as to the specifications" or "subject to entering into a written contract attached by the specification" Town Supervisor Tyksinski asked why spend another \$310,000.00 when the Town does not have to.

Both Councilman Reynolds and Councilman Miscione agreed and said that's not what they're saying and that's not an option.

Town Supervisor Tyksinski also said the Town Clerk Gail Wolanin Young was right that the specifications will have to come from the engineers and how soon they get them to the Town is unknown.

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Councilman Reynolds asked if the engineers work for the Town, why this can't be expedited or shipped to the Town the next day; He said whatever it takes.

Supervisor Tyksinski responded by saying that's not the way it works and the Town is not Barton & LoGuidice's only client. Supervisor Tyksinski confronted Councilman Reynolds and asked him to say that if he does not want to help the guys in the back of the room or accept the legitimate, reasonable and legal offer with the Town Counsel opinion to get this project done. He told Councilman Reynolds that if he says no to this then he's turning his back on these guys and everyone else here tonight. He continues to say it was done before to the residents. The Town can get this done for \$310,000.00 less than the bid. He told Councilman Reynolds to stop spinning things to make himself look better and accept the offer.

Councilman Reynolds responded to Supervisor Tyksinski that the only one spinning things by not bidding the project out, is the Supervisor and that bidding is a simple process.

Supervisor Tyksinski responded by saying the Town did bid it out three times and the price has gone up 600% since the first bid and asked Councilman Reynolds what makes him think the bid will go down and why wait on yet another bid when the Town can take it off County Contract.

Councilman Reynolds responded by saying what Supervisor Tyksinski has does not detail what Spinella is going to do or what work is getting completed.

Supervisor Tyksinski said it does tell you what he is capable of doing.

Councilman Miscione commented that putting this process out to bid again is not an option at this point and it's unethical. He says they either accept the County Bid or the second lowest bid right now, tonight. It's got to get done tonight, so these people can live in their homes peacefully.

Town Attorney Cully said the Town will enter into a written contract with whoever is accepted off the County List. The Town will just piggyback from the County List, and it's legal and the Specifications will be attached and the scope of work will be what's in the Specifications for a cost not to exceed \$350,000.00.

Grange Hill Bid Rejection

By request of Town Attorney Cully, Councilman Messa makes a motion to reject D.H. Smith's sole Bid and it was duly seconded by Miscione. With no further discussion;

**(RESOLUTION NO.135 OF 2017)**

RESOLVED that the Grange Hill Bid is rejected by the Town Board and Town Clerk's Office is authorized to return the bid bonds.

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

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

The Resolution was declared unanimously carried and ADOPTED.

Hire-County Bid List-Grange Hill Road Project-Contract:  
Councilman Messa makes a motion to hire the Contractor Spinella Excavating off the County List according to the Specifications in Contract 1 and that the work will be completed at a lessor cost than the prior bids. The motion was duly seconded by Councilman Miscione;

**(RESOLUTION NO. 136 OF 2017)**

RESOLVED the Board approved to hire off the County Bid List the Contractor Spinella Excavating to complete Contract 1 in the Grange Hill Road Project Specifications at a cost not to exceed \$350,000.00, Per the Town Attorney's written contracts and/or agreements. The project work will start immediately upon signing the contracts and agreements.

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

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

The Town Supervisor declared the Resolution carried and duly ADOPTED.

Discussion pursues: Councilman Reynolds asks how the Resolution is going to be worded?

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Town Attorney Cully read the Statute that says, “The Board, in using the County Bids has to when bids have been received for the services, there has to be a determination made that by using the County Bid upon the same terms, Conditions, and specifications that the price will be lower”. That’s why in the contract/agreement Town Attorney Cully draws; he has to make sure it’s on the same terms, conditions and specifications as was previously bid. The Board will have to pass a resolution that it will get done at a lower price than the bids received. It’s Statute 103 of the General Municipal Law that allows the Board to do this.

Upon Town Attorney Cully’s recommendations, Councilman Messa made a motion that after the two hour public hearing where numerous residents of the Chadwicks and the Grange Hill area came and expressed serious problems that they have sustained throughout the past several years due to stormwater and more specifically the past two weeks as a result of substantial flooding which has not been improved over time; as well based upon the fact that they expressed serious concerns and fears relating to the storms that are predicated to occur within the next couple days, the Board does confirm that they deem this to be an emergency situation. The motion was seconded by Councilman Miscione and there being no further discussion.

**(RESOLUTION NO. 137 OF 2017)**

RESOLVED the Grange Hill Road Project is an emergency Situation. The project was bid three times and the prices of the bid were extremely high. Per General Municipal Law, Statute 103, the Board does approve the hiring of Spinella Excavating off the County Bid List and that by using the County Bid list upon the same terms, Conditions, and specifications that the price will be lower” than all bids received previously.

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

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

The Resolution was declared unanimously carried and ADOPTED.

Emergency - Oneida Street Sinkhole:

Supervisor Tyksinski stated the sinkhole that occurred on Oneida Street a few days after the July 2017 storm is also an emergency situation. Highway Superintendent Sherman, Highway Foreman Moran and himself went out to inspect the hole. One hole was filled in

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and right after that and another one occurred and was dangerous. The road was actually falling out from the surface. The road was closed and Highway Superintendent Sherman called Bray Excavating to order the pipe and complete that work. The pipe alone was \$28,000.00 and it's probably going to cost the Town another \$20,000.00 to finish the work. It's going to be around \$50,000.00 to fix completely. However; since it was an emergency situation and a hazard to the community, the Town had to get it done and do something at the time it happened because the road was closed. It is Town policy that the Board recognizing this was an emergency situation and Bray Excavating was hired spontaneously.

Councilman Reynolds asked how Tilden Ave. got done. The pipe washed out up there and that road was closed for several days. Supervisor Tyksinski was unaware anything up there was done.

Highway Foreman Moran said Highway Supervisor Sherman received three quotes for that job and it was originally part of the paving project. The contract went to Bray Excavating and they put it back together for the Town after the storm damage. Both emergencies will be separate resolutions.

Upon recommendation of Highway Supervisor Sherman, Councilman Reynolds made motion and it was duly seconded by Councilman Woodland.

**(RESOLUTION NO. 138 OF 2017)**

RESOLVED that the Town recognizes that Highway Supervisor Sherman hired Bray Excavating to do the repairs on the sinkhole on Oneida Street in an emergency basis as the road conditions poses a dangerous hazard to the community. The Board recognizes the work on Oneida Street could cost over \$50,000.00 when said and done. Because it was an unforeseen emergency situation, the Board could not wait for quotes or the Bid process. With there being no further discussion.

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

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

The Town Supervisor declared the Resolution carried and duly ADOPTED.

Emergency – Tilden Ave. Road Repairs

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Upon recommendation of Highway Foreman Moran, Councilman Reynolds made a motion to declare the road repairs to Tilden Ave. an emergency situation as the damage was unexpected and caused by the June 1, 2017 Storm and it was seconded by Councilman Miscione.

**(RESOLUTION NO. 139 OF 2017)**

RESOLVED that the Board does approve to pay Bray Excavating an unknown amount for emergency road repairs on Tilden Ave. that were unexpected and caused by the June 1, 2017 storm. Since it was an emergency situation and a hazard to the community, the Town had to get it repaired at the time it happened. It is Town policy that the Board recognizing these repairs was an emergency situation and Bray Excavating was hired spontaneously.

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

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

The Town Supervisor declared the Resolution carried and duly ADOPTED

Emergency – Snowden Hill Road Repair:

Upon recommendation of Highway Foreman Moran, Councilman Messa made a motion that was duly seconded by Councilman Miscione to hire Bray Excavating on an emergency situation to repair damage to Snowden Hill Road after the July 1, 2017 storm.

**(RESOLUTION NO. 140 OF 2017)**

RESOLVED that the Board declared Snowden Hill Road repair an emergency situation as culverts and driveways were washed out after the July 1, 2017 storm. The Board agrees to pay Bray Excavating an unknown amount of money for the emergency repairs and also for the clean-up at the bottom of the glen (where Oneida Street meets Bleachery Ave.). This was a two-or three-day emergency job. The Town had a bulldozer and excavator and did emergency clean-up creek detail. The job was started by the Town which they removed the trees out of the culvert and it was completed by Bray Excavating with his bulldozer and excavator on an emergency situation.

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

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

The Town Supervisor declared the Resolution carried and duly ADOPTED.

Emergency – Snowden Hill Road Repairs:

Councilman Messa made a motion upon recommendation of Highway Foreman Moran to hire Bray Excavating on an emergency situation to clean up of the culverts and driveways where sinkholes appeared along Snowden Hill Road caused by the July 1, 2017 storm and the motion was duly seconded by Councilman Messa.

**(RESOLUTION NO. 141 OF 2017)**

RESOLVED that the Board agrees to pay Bray Excavating an undetermined amount for the work completed on an emergency situation on Snowden Hill Road. The July 1, 2017 storm caused culverts and driveways to be washed away and the repairs were needed immediately and could not wait for quotes or the bid process.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Ney

The Town Supervisor declared the Resolution carried and duly ADOPTED

Emergency - Whitetail Meadows-Kay Circle Repair:

A motion was made by Councilman Messa to confirm repairs done on Kay Circle in Chadwicks By Bray Excavating on an emergency basis in the nature of tree removal, debris clean up and road repair pipe replacement, pond cleaning for an undetermined amount of money, and seconded by Councilman Reynolds:

**(RESOLUTION NO. 142 OF 2017)**

RESOLVED the Board does agree to pay Bray Excavating an undetermined amount for work completed on an emergency basis on Kay Circle in Chadwicks. The Highway Supervisor hired Bray Excavating to remove trees, debris and repair and replace piping in

the road; they also cleaned out retention ponds that were filled. The damage was caused by the July 1, 2017 storm.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Nay

The Town Supervisor declared the Resolution carried and duly ADOPTED

Emergency - Grange Hill Road Tree Removal:

Councilman Messa made a motion upon recommendation of Highway Foreman Moran to hire Bray Excavating on an emergency basis for tree removal on Grange Hill Road. The motion was seconded by Councilman Woodland.

**(RESOLUTION NO. 143 OF 2017)**

RESOLVED that the Board does agree to pay Bray Excavating an undetermined amount as he was hired on an emergency basis for tree removal and debris clean up on Ann Falvey's Property on Grange Hill Road. The damage was caused by the July 1, 2017 and was an emergency because of concerns over pending storms and also due to concerns over future storms.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye

The Town Supervisor declared the Resolution carried and duly ADOPTED.

Emergency - Sherrill Lane Emergency Repairs:

Councilman Messa requested a motion for emergency work that was completed on Sherrill Lane in nature of securing bank erosion to be emergency situation which was done by Murphy Excavating and the motion was duly seconded by Councilman Miscione.

**(RESOLUTION NO. 144 OF 2017)**

RESOLVED that the Board agrees to pay Murphy Excavating an undetermined amount of money for the emergency work completed on Sherrill Lane that was caused by the July 1, 2017 Storm. Murphy Excavating secured the bank erosions on Sherrill Lane.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye

The Town Supervisor declared the Resolution carried and duly ADOPTED

Emergency - Cascade Drive Repairs:

Councilman Miscione made a motion for the emergency repairs to Cascade Drive in the nature of plugged culverts and a collapsed bridge along with the removal of the head wall which was referenced at the public hearing by a resident and repaired by Bray Excavating. The motion was duly seconded by Councilman Reynolds.

**(RESOLUTION NO. 145 OF 2017)**

RESOLVED that the Board agrees to pay Bray Excavating an undetermined amount of money for the emergency repairs of the plugged culverts, the collapsed bridge and the removal of the head wall as it caused a dangerous situation to residents. The damage was unexpected and caused by the July 1, 2017 storm and could not wait for repairs.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye

The Town Supervisor declared the Resolution carried and duly ADOPTED

Homeland Security Discussion:

Highway Foreman Moran said that the Homeland Security was in the Highway Department today and he brought them over to some pending sights and they are doing

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an initial assessment for FEMA. Supervisor Tyksinski commented that Highway Supervisor Sherman is keeping track of all costs involved and the Town will submit costs to the County for reimbursement as soon as they get their policy or procedure to fund the Town.

Councilman Miscione made a motion upon Supervisor Tyksinski's request that the Town needs to put some money into the Highway Garage as they are almost up to the overtime limit with employees. The motion was duly seconded by Councilman Messa.

**(RESOLUTION NO. 146 OF 2017)**

RESOLVED that the Board agrees to put \$250,000.00 from the Highway Fund Balance up into a special account which is going to be labeled Storm Disaster Expenditures 2017 and will be account DB1991-4. The Highway Garage is almost up to the overtime limit with employees.

Councilman Reynolds asked if some of the monies will be reimbursable.

Supervisor Tyksinski replied that yes, some of it may and will at least cover some of the costs. Oneida Street alone is going to be \$50,000.00 and will be submitted to the County for reimbursement. With there being no further discussion.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye

The Town Supervisor declared the Resolution carried and duly ADOPTED

An unidentified resident of Grange Hill Road stood up and thanked the Board for coming up with a solution as he and his wife gave up 32 years to move here and all its done is rain since he arrived. He said he spent his own monies and he understands things happen beyond anyone's control. He feels as long as the specifications for the Grange Hill Road job are written into the contract; he's comfortable with that as a taxpayer. He knows something's don't sound right but he thanks the Board for sucking it up and getting some things done here tonight.

Small Town Projects – Discussion:

Supervisor Tyksinski is requesting the Board choose how to handle the small projects. He addressed the Board by saying everyone has a bunch of stuff to get completed. The

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Highway Superintendent Sherman was going to use the County Bid list which is available and would be immediately for hiring workers, equipment and supplies and legitimate or the Board can choose to put it out to bid and have someone on hand as needed. A list of projects will need to be turned over by each councilperson to the Highway Department as they are the most capable department to handle these jobs and also figuring out what is most pressing and needs to be done first.

Councilman Miscione asked if each councilperson can put a list together of little projects in their district that needs to be completed for the next Board meeting, The Board can then agree on the projects and they will be on record so everyone is on the same page, then asked if each councilman can go out and hire off the County Bid List to get people in there to get the jobs done.

Attorney Cully clarified the jobs need to be under \$35,000.00 each.

Councilman Miscione replied it can even be under \$5,000.00. Councilman Miscione feels a lot of projects need to get done and have been going on too long and the summer is coming to close. He feels if the councilmen can take charge and handle their own projects in their districts, it will take work off the Highway Superintendents shoulders, and small projects will get completed.

Attorney Cully asked who's going to define the scope of work to be completed for each project.

Town Supervisor Tyksinski said he feels these small projects should go through the Highway Department or the Supervisor's Office because the councilmen do not have the authority to contract on an individual basis. Supervisor Tyksinski feels having one entity coordinating this and knowing where guys are and what projects are getting completed is the best way to go.

Councilman Miscione asked how the Board puts accountability to get these projects done. He gave an example that last year he requested \$4,000.00 for a few places to get stormwater projects done. He's been asking for the funding all year and the projects are still not done and residents flooded out again. If some of these projects were done sooner, he said it would have taken care of a few situations.

Councilman Reynolds replied that's where Councilman Miscione needs to work and coordinate with the Highway Superintendent the importance and getting the job moved up on the list.

Councilman Miscione would like to generate a list of small projects for the Board for the next Board meeting so everyone understands where they need to be so the Highway

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Superintendent can get them done. He said what happens is something takes priority and these projects never get completed.

Town Supervisor Tyksinski did say Highway Superintendent Sherman already has a two (2) page list of small projects to get completed.

Highway Foreman Moran said right now the Highway Department is concentrating on flooding but there's still tree trimming and green waste and a number of numerous other things that come into play.

Councilman Miscione said the Highway Department will just be going off the County List and calling guys in to get stuff done and that the Highway Department will not actually be doing the work.

Highway Forman Moran replied that when you go off the County Bid list, depending on what you need, you're going to get charged for an excavator and an operator, if they have to bring a dump truck there going to charge, if any labor is involved, they will bring in a laborer and charge the Town. He wants the Board to understand it's not just one price, it really depends on what you need off the list.

Councilman Reynolds commented the Board did this two years ago and he would like to get this set up to do it again, to do it right and set a time frame (one or two years. etc.).

Councilman Messa read general instructions received from Highway Supervisor Sherman about hiring off the County Bid List and supplied the Board with a copy of the list for creek projects and would like to have sealed bids to be opened on August 24<sup>th</sup>, 2017.

Councilman Woodland asked how the Town plans on paying for all of this.

Supervisor Tyksinski said he's trying to get these small projects done but the Town did not expect Oneida Street to cave in and the cost associated with that, but when that kind of stuff happens the Town has to reallocate funds. He said it's going to be a priority list but obviously is going to be subject to events that can occur afterward. He feels the Highway Supervisor can produce reports for the Board on updates as to who was assigned what work and what projects got completed.

Highway Foreman Moran said a lot of these projects, especially the stormwater stuff is hard to complete because once you actually get into things, its then you realize more and more needs to be done and the problem may be bigger than intended. With the normal everyday projects if the Board is talking about bidding those, then someone has to physically take "however many" contractors each project to bid on and that process takes time. He said a project may intend to take one day but once started lasts four days.

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Town Supervisor Tyksinski replied to Highway Forman Moran by saying the Board is not bidding projects, the Board is bidding a guy on an hourly rate, just as the Town did a few years ago and by doing this, then the contactor will be on call.

Council Reynolds made a motion upon recommendation of the Town Supervisor to go out to bid as prescribed in the Boards notes above and it was duly seconded by Councilman Miscione:

**(RESOLUTION NO. 147 OF 2017)**

RESOLVED that the Board will go out to bid on a one-year contract for an independent contractor to perform work on an as needed basis for the Town. The jobs must be done under the cost of \$35,000.00 each and will be completed under the supervision of the Highway Department. The bid will be August 24, 2017, and presented at the next board meeting.

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye

The Town Supervisor declared the Resolution carried and duly ADOPTED.

Solar Power Issue – Discussion:

Councilman Reynolds wanted to further discuss from the last board meeting the solar power issues by asking the Town Codes Officer Booth if, after the Town queried Barton & LoGuidice, what their response was.

Town Codes Officer Joseph Booth said Barton & LoGuidice has not responded back yet.

Councilman Reynolds requested to schedule another meeting within the next five days or so to meet with Codes Officer Booth, he said the meeting can be with or without Barton & LoGuidice present.

Supervisor Tyksinski asked Codes Officer Booth who he spoke with from Barton & LoGuidice.

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Codes Officer Booth replied he didn't talk to anyone but the Town Attorney cut in and said Chris Lawton has expertise to assist the Town with this issue.

Councilman Reynolds replied he would like to do that right along. The discussion was tabled.

Dispatch Contracts-Discussion:

Councilman Reynolds asked the Supervisor where the Town stands with the Dispatch Contracts. Town Attorney Cully replied it's been signed and is done. No further discussion pursued.

Emergency Response – July 1, 2017 Storm:

Councilman Miscione thanked the Police Department, the Fire Department, the Highway Department and anyone else, all the other facilities, agencies and Town Departments who were out there on Sunday, July 1, 2017 after the storm for the amazing job they all did. He thanked Supervisor Tyksinski for getting the dumpsters out on the roads for residents quickly and he wants the Board to know this community has pulled together and is helping neighbors clean up, helping each other financially and whatever with whatever else is needed. He's amazed at how this Town comes together to help each other in a time of need. Councilman Reynolds said New Hartford Fire Department alone did 114 calls in 14 hours after the storm.

Adjournment:

With there being no further business to come before the Town Board, upon motion of Councilman Reynolds and duly seconded by Councilman Miscione, the Town Board Meeting was adjourned at 9:24 P.M.

Respectfully Submitted,

Melody K. Fancett  
Deputy Clerk 1