

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN ON  
WEDNESDAY, NOVEMBER 17, 2010 AT 7:00 P.M.**

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

**TOWN BOARD MEMBERS PRESENT:**

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

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

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

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

**MINUTES**

**October 27 and November 3, 2010 Town Board Meeting**

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

**(RESOLUTION NO. 282 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held October 27, 2010 and the minutes of the Regular Town Board meeting held November 3, 2010 as clarified (*no change in tax rate for General Fund Part-Town from the Tentative to the Preliminary Budget*) and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

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

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

**PUBLIC PRESENTATIONS**

Zone Map Amendment Application – Kelly (Jay-K Lumber property)

Town Attorney Cully briefed the Town Board in the matter of the application of Christopher and Dean Kelly (owners of Jay-K Lumber) before the Zoning Board of Appeals for a use variance to allow a retail business (Aldi's) on their manufacturing-zoned property. The Messrs. Kelly were not successful and have now submitted a Zone Map Amendment Application for the Town Board's consideration; they are seeking a rezoning from Manufacturing (M) to Retail Business (RB1) that would be consistent with the proposed retail use.

Ned Walker, consultant and owner of Walker Planning and Design, stated he has been working with Dean and Christopher Kelly to have the Jay-K Lumber property brought into conformance with the Zoning Law as the Manufacturing (M) classification is a non-conforming designation, as well as to allow the development of a mercantile use – lease hold parcel. Mr. Walker reviewed a glitch in the map and metes and bounds description that has been corrected and reduces the involved acreage from 23.17 to about 22.38 acres. It was noted that part of the Jay-K Lumber property is zoned RB3 and Mr. Walker asked that the Town Board allow the Messrs. Kelly to rezone 22 plus or minus acres that are entirely within the Manufacturing-zoned district. The adjacent Zebbs restaurant is zoned RB1 and others are also. Besides frontage on Seneca Turnpike, the Jay-K parcel has 200 feet frontage on Middlesettlement Road (aka NYS Route 5B) and the survey map has been resurveyed and recertified along with a new description. The Mudd Creek flows through the site from west to east and flows to the Sangertown Mall property in that flood-control area. Mr. Walker asked for confirmation that their application is now complete.

**SEOR – Lead Agency Status / Kelly (Jay-K Lumber) Zone Map Amendment**

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

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**(RESOLUTION NO. 283 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby accept for processing the application of Christopher and Dean Kelly, as revised, for a zone map amendment with regard to the Jay-K Lumber property on Seneca Turnpike, and be it

**FURTHER RESOLVED** that the said Town Board does hereby declare itself as Lead Agency in the matter of the above-referenced Zone Map Amendment application, to change the zoning classification of a 22.38 acre parcel located at 8448 Seneca Turnpike (NYS Route 5) from Manufacturing (M) to Retail Business (RB1) for the purpose of extending an adjoining RB1 district and allowing retail businesses; and be it

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

The Town Attorney had discussed the map/metes and bounds description with Attorney Daniel Cohen who represents the applicants and received his OK for these revisions. Also the Town Attorney inquired about the Sloan property adjoining the Jay-K parcel and Mr. Walker replied it is inactive and is not part of this request. Mr. Walker noted that Zebb's upper driveway is on the Jay-K Lumber property. If the Kelly's are successful with the zone map amendment, Town Attorney Cully stated that they must still go through site plan review before the Town Planning Board. Thereafter, upon roll call, the Town Board voted as follows:

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

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

**GML 239-Review / Kelly (Jay-K Lumber) Zone Map Amendment**

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

**(RESOLUTION NO. 284 OF 2010)**

**WHEREAS**, Dean and Christopher Kelly, as owners of the Jay-K Lumber property, had filed a Zone Map Amendment application with the Town Clerk on November 10, 2010 for a rezoning of the Jay-K 22.38-acre parcel located at 8448 Seneca Turnpike (NYS

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Route 5), for the purpose of extending an existing, adjacent Retail Business (RB1) zoning classification which would allow retail business operations; and

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

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

Upon roll call, the Town Board voted as follows:

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

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

**Public Hearing Scheduled – Kelly (Jay-K Lumber) Zone Map Amendment**

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

**(RESOLUTION NO. 285 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford shall conduct a Public Hearing at the second regularly-scheduled Town Board meeting to be held in January 2011 at **7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider a **Local Law to be introduced** and which, if adopted, would amend the Code, Chapter 118 thereof entitled **ZONING** and particularly the map coincidental thereto, as it pertains to the Kelly/Jay-K Lumber property, from Manufacturing (M) to Retail Business (RB1); and be it

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

A roll call vote ensued:

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

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

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

Parks and Recreation Committee – Councilman Reynolds:

**Agreements- Ice Rental and Concessions**

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

**(RESOLUTION NO. 286 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an Ice Rental Agreement for the 2010-2011 Ice Season between the Town of New Hartford and the New Hartford Central School District, subject to the review and approval of the Town Attorney.

The Parks and Recreation Director confirmed that the School District had provided the Town with the appropriate Certificate of Insurance. Thereafter, the Town Board members voted as follows:

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

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

**Appointment – Seasonal Employees**

Upon recommendation of Parks and Recreation Director Michael Jeffery, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilwoman Krupa:

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**(RESOLUTION NO. 287 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby appoint the following individuals to the various part-time seasonal positions and for the hourly wages set opposite their several names, for the Parks and Recreation Department, commencing December 6, 2010 and ending March 31, 2011; all wages to be paid bi-weekly:

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Gyda Capanna	Recreation Director	\$17.00/hour
Margaret Brady	Recreation Attendant	\$13.75/hour
Tyler Gardinier	Recreation Attendant	\$ 9.75/hour
Dennis Philipkoski	Recreation Leader	\$10.00/hour.

Whereupon, the Town Board voted by roll call:

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

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

Zoning (Codes) and Planning Committee – Councilman Reynolds

**Open fire pits**

A constituent had approached Councilman Reynolds, expressing her concerns with state and county laws on opening burning and particularly with regard to residents' use of fire pits, such as the metal containers people use throughout summer months for recreational fires, and she is looking for the Town to ban their use. The Town Attorney advised that the constituent could approach the Town Board at a public time and submit a petition. In response to the Town Attorney's question, Codes Enforcement Officer Joseph Booth replied that recreational fires are allowed under Statute and any change would have to be made through the Department of State to have a more restrictive law. Councilman Reynolds will relay this information to his constituent.

**Criminal Trial – the late Joseph Corr, Police Officer**

Councilman Reynolds complimented the New Hartford Police Department on a job well done for the recent conviction of those responsible for the 2006 death of Police Officer Joseph Corr.

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Town Clerk Committee – Councilwoman Krupa

**Raffle Consent**

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

**(RESOLUTION NO. 288 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to the Herkimer Area Resource Center, 350 South Washington Street, Herkimer, New York, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at Sangertown Square Mall, New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

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

Upon roll call, the Town Board voted as follows:

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

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

**Raffle Consent**

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

**(RESOLUTION NO. 289 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to the Verizon Foundation/Pioneers, 280 Genesee Street, Utica, NY 13502, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets at Sangertown Square Mall, New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

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

Upon roll call, the Town Board voted as follows:

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

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

**Local Law Introductory “C” of 2010 – Administration and Enforcement of Dog Licensing and Control**

Councilwoman Krupa stated that proposed legislation has been drafted for the Town Board’s consideration and has been authorized pursuant to the provisions of (Chapter 59; Part T of the Laws of 2010) Article 7 of the Agriculture and Markets Law and the Municipal Home Rules of the State of New York. As previously reported, the NYS Department of Agriculture and Markets is terminating its role in dog licensing and control effective January 1, 2011 and the towns and cities must adopt local laws in order to administer and enforce this Article. The proposed legislation provides for the licensing and identification of dogs, the control and protection of the dog population, and the control and protection of persons, property, domestic animals and deer from dog attack and damage. Councilwoman Krupa then introduced the following legislation for the Town Board’s consideration at a future meeting; co-sponsored by Councilman Backman:

**Town of New Hartford, New York  
Local Law Introductory “C” of 2010**

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

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

**Section 1. Repeal and Replace**

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

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Article II  
Dog Licensing and Control

**Section 1. Authority:**

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

**Section 2. Purpose:**

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

- the licensing and identification of dogs, the cost of which shall be borne by those who own and harbor dogs in said Town to the greatest extent possible
- the control and protection of the dog population
- the control and protection of persons, property, domestic animals and deer from dog attack and damage.

**Section 3. Definitions:**

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Section 4. Licensing of Dogs; Application:**

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

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

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

There will be no refund of fees.

### **Section 5. Licenses issued by Animal Shelters and Pounds**

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

### **Section 6. Proof of Vaccination against Rabies**

Each license application shall be accompanied by a current Certificate of Rabies Vaccination proving that the dog has been vaccinated against rabies, or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required. The latter statement must contain the veterinarian's signature and date signed.

### **Section 7. Proof of spaying/neutering**

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

### **Section 8. Term of License and Renewals**

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

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

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filed with the Town Clerk and request the renewal application in person, by telephone, written or electronic correspondence.

**Section 9. Fees**

**A. Individual Dog License Fee**

\$10.00 for a spayed or neutered dog  
\$20.00 for an unspayed or unneutered dog

**B. State-mandated Animal Population Control Surcharge**

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

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

**C. Late Fees**

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

**D. Dog Enumeration Surcharge**

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

**E. Replacement Tag Fee**

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

**F. Service Dog Exemptions**

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

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

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

### **G. Fee Modification**

The Town of New Hartford may and is hereby authorized to, by resolution of the Town Board and without formal amendment hereto or further adoption of a local law or the need for a public hearing, establish, modify, or disband with a schedule of dog licensing fees, enumeration fees, late fees, and tag replacement fees, within the restrictions of and pursuant to the requirements of New York State Agriculture and Markets Law Article 7, as the Board may seem fit from time to time.

### **Section 10. Issuance of license; identification tag**

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

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

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

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

### D. Identification tag

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

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

Such identification number shall be carried by the dog on an identification tag that shall be affixed to the collar of the dog at all times. Dogs participating in a dog show are not required to wear an identification tag during the show.

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

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

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

### **Section 11. Purebred Dog License and Fee**

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

**Section 12. Seizure and redemption of dogs**

**Impoundment (Seizure) Fees**

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

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

**Redemption (Room and Board) Fees for impounded dogs.**

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

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

Section 56-1. Restrictions and regulations; dogs.

ADD

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

Section 56-3. Enforcement of regulations and orders.

CHANGE

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

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Section 56-7. Seizure and redemption of dogs.

CHANGE

Section 118 to Section 117.

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

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

Councilman Backman commented whether a cap should be imposed on late fees when dog owners fail to timely renew their dogs' license; a Board member responded that a responsibility of a dog owner is to ensure that their dog is licensed in a timely manner. In response to some Board inquiries, the Town Clerk stated that she had budgeted for this additional work and office expense. The only item not budgeted was funds for a dog census that would have to be authorized by the Town Board; however, dog census fees are provided for in the legislation and would be used toward the wages paid to persons conducting the census. Software changes have been necessitated and Business Automation Services (BAS) has instituted these changes at no cost to their customers. The legislation prohibits any animal shelter from issuing dog licenses for the Town of New Hartford. Also, the Town Clerk stated that if she is to be responsible for the dog tags (which represent money) and the money for issued licenses, then that authority will not be transferred to an outside agency.

**Public Hearing Scheduled – Local Law Introductory “C” of 2010 (Dog Licensing and Control)**

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

**(RESOLUTION NO. 290 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, **December 8, 2010 at 7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street, New Hartford to consider **Local Law Introductory “C” of 2010** which, if adopted, would amend the Code, Chapter 56 thereof entitled **DOGS AND PETS** by amending Article I, Section 56-1. Restrictions and regulations; dogs and Section 56-7. Seizure and redemption of dogs and by repealing Article II, License Fees and replacing it with a new Article II, Dog Licensing and control; and be it

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

A roll call vote ensued:

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

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

Public Works and Sewer Committee – Councilman Backman

**Intermunicipal Agreement – Garbage/trash collection from Town-owned buildings**

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

**(RESOLUTION NO. 291 OF 2010)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to enter into and to execute an Intermunicipal Agreement between the Town and the Village of New Hartford, the latter of which shall provide the collection of garbage/trash and recyclables from the Town’s Recreation Center, the Jerome K. Madden Justice Building and the Sanger Public Works Garage, effective December 1, 2010. In consideration of this service, the Town shall pay Sixty Dollars (\$60.00) per site for the three locations for a total of One Hundred Eighty Dollars (\$180.00) per month.

The Supervisor polled the Board members who voted as follows:

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

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

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Stormwater Management Improvement (Advisory) Committee

Chairman Elisabetta DeGironimo reported that the Stormwater had not met in November 2010.

Public Works and Sewer Committee (Cont'd)

**Beechwood Road area stormwater project**

With regard to the Beechwood Road stormwater matter, the Highway Superintendent stated that he had verbal okays for easements from all property owners involved and requested permission to proceed with RFP's. Thereafter, Councilman Backman introduced the following Resolution, seconded by Councilman Reynolds:

**(RESOLUTION NO. 292 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Highway Superintendent to proceed with the preparation of and solicitation of Requests For Proposal (RFPs) for engineering services with regard to the proposed Beechwood Road stormwater project.

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

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

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

**Elm Street, Chadwicks, bridge**

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

**(RESOLUTION NO. 293 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to affix his signature to the Title Sheet of the Plans entitled TOWN OF NEW HARTFORD REPLACEMENT OF THE ELM SREET BRIDGE OVER SAUQUOIT CREEK, BIN 2205890; and be it

**FURTHER RESOLVED** that said Town Board shall receive sealed bids for the aforementioned Bridge Replacement until 12:00 P.M. on Wednesday, December 22,

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2010 in the New Hartford Town Clerk's Office, 48 Genesee Street, New Hartford, NY 13413, in accordance with bid/plan specifications; and be it

**YET FURTHER RESOLVED** that the Town Clerk be, and she hereby is, authorized to publish the legal requisite Invitation to Bid in the Observer Dispatch.

A roll call vote ensued:

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

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

MATTERS SUBMITTED BY COUNCILMEN / ATTORNEY

Councilman Backman:

**Civilian Police Review Board:**

At the time the Town Board abolished the Police Commission in February 2010, a suggestion had been made that a committee or board be created to replace the Police Commission. Councilman Backman recommended that the Town Board create a civilian board for the purpose of reviewing all written complaints made against the police department and further suggested that said board be comprised of five (5) resident members, one (1) from each Ward and one (1) selected by the Town Supervisor. He suggested that the Town Board consider term limits and restrictions such as committee/board members not fraternizing with Police Department members, and that the committee/board meet on a monthly basis and have no police powers whatsoever, etc.; no conflicts of interest. Police Chief Michael Inserra interjected that Police Officers have a lot of rights and cautioned that the Town not violate these rights.

The Town Attorney also cautioned the Town Board inasmuch as there is a pending lawsuit (Village of New Hartford vs Town of New Hartford) that could be on appeal with regard to the abolished Police Commission. A civilian committee/board should not be created while this matter is pending. Discussion continued with no action being taken.

PRESENTATIONS (Cont'd)

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### **Boy Scouts – Citizen Badge**

Town Supervisor Tyksinski acknowledged the presence of members of New Hartford Boy Scout Troop 4, who meet at the Myles Elementary School and who are currently working on their Citizen Badge.

## **MATTERS SUBMITTED BY TOWN SUPERVISOR**

### **FINANCIAL:**

#### **Monthly Report**

Supervisor Tyksinski stated that he had previously distributed the October 2010 monthly financial report to each Town Board member.

#### **Bookkeeper vacancy – job duties**

Councilwoman Krupa inquired who is taking over the bookkeeping duties since Bookkeeper Carol Fairbrother resigned effective November 12, 2010. The Supervisor responded that this would be addressed later during the meeting.

#### **Whitetail Meadows Development – retention pond**

The Town Supervisor stated that several meetings ago a situation involving the Whitetail Meadows Development surfaced, a situation that occurred before he became Town Supervisor; specifically, an invoice dating back to December 2006 for the acquisition of a lot for a retention basin. Supervisor Tyksinski believed the last time the Town Board discussed this matter, that the Board wanted valuation figures from Assessor Smith and the Board received documents showing that the lot is closer to a value of \$52,000. The Town Supervisor emphasized that the Town Board needs to act on this 4-year old Claim for Payment that includes interest charges. Councilman Backman referred to a letter from then-Town Attorney Gerald Green to now-Highway Superintendent Sherman and he suggested that former Highway Superintendent Roger Cleveland be contacted to determine who gave him direction to construct the retention pond at the Town's expense. Town Attorney Cully said he had heard of some discussion involving former Highway Superintendent Cleveland about the matter but apparently there was no written agreement; at the same time, he was doubtful that Mr. Barkett would have dug the retention pond without approval of the Town. Stormwater Committee Chairperson DeGironimo said she has made on-site inspections and reported that the retention pond is working but needs maintenance; she said the infrastructure is providing some benefit to the Town's stormwater program and a relief to neighboring properties.

After further discussion among Board members, Council members Backman, Woodland and Krupa do not want to pay the December 2006 invoice to John Barkett, while Councilman Reynolds wants to discuss the matter further with the Stormwater Management Improvement (Advisory) Committee. He said this is the first he's seen this

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Claim for Payment. Thereafter, the Town Supervisor directed the Town Attorney to send a letter to developer John Barkett that the Town will not process payment for acquisition of the retention pond.

**Surplus Sale of "Senior" Turtle Top Bus**

The Town Supervisor reported that the Town has not received any bids for the surplus Turtle Top Bus. After some discussion, Councilman Backman offered the following Resolution for adoption and Councilwoman Krupa seconded same:

**(RESOLUTION NO. 294 OF 2010)**

**WHEREAS**, on September 22, 2010 the New Hartford Town Board declared the Turtle Top Bus, used for senior citizen activities, as surplus and authorized its sale via eBay; and

**WHEREAS**, on October 27, 2010 the Town Board established a minimum starting bid price of Twelve Thousand Dollars (\$12,000) for this vehicle; and

**WHEREAS**, after placing the surplus vehicle for sale on eBay, the Town has not received any bids;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby authorize and direct the re-advertisement on eBay for the sale of the Turtle Top Bus and does hereby establish the minimum starting bid price at Nine Thousand Dollars (\$9,000).

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

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

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

**2011 Planning Board vacancy**

Supervisor Tyksinski announced there would be one (1) Planning Board vacancy effective January 1, 2011 as current Planning Board member Elisabetta DeGironimo may be accepting a part-time position with the Town.

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**2011 Zoning Board of Appeals vacancy**

The Town Supervisor further announced that there would be a Zoning Board of Appeals vacancy in June 2011.

**Bookkeeper Duties – Assignment**

Supervisor Tyksinski presented the following Resolution, which was introduced for adoption by Councilman Reynolds and duly seconded by Councilwoman Krupa:

**(RESOLUTION NO. 295 OF 2010)**

**WHEREAS**, Carol Fairbrother has resigned as Bookkeeper, with her last day of work having been Friday, November 12, 2010; and

**WHEREAS**, Janice O’Sullivan, Account Clerk, has agreed to perform the bookkeeper duties in addition to her own duties as Account Clerk;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby increase Ms. O’Sullivan’s salary to Twenty-nine Thousand One Hundred Twenty-six Dollars (\$29,126), effective Monday, November 15, 2010, payable bi-weekly.

The Town Supervisor clarified that a few of the Account Clerk duties would be performed by his Secretary Carol Ryan and Personnel Technician Barbara Schwenzfeier. Thereafter, the Town Board voted upon roll call:

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

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

**NYS Route 840 Break-in Access: Adoption of Findings Statement**

The Town Attorney read the following Resolution that was then offered for adoption by Supervisor Tyksinski and duly seconded by Councilman Woodland:

**(RESOLUTION NO. 296 OF 2010)**

**Town of New Hartford**  
**NYS Route 840 Break-in Access**  
**Adoption of Findings Statement**

**WHEREAS**, the Town Board of the Town of New Hartford in its role as continuing lead agency for the SEQRA review has issued a positive declaration of the NYS Route 840

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Break-in Access Project, requiring the preparation of a Draft Supplemental Environmental Impact Statement (DSEIS) on the project;

**WHEREAS**, a DSEIS has been developed and submitted evaluating the impacts of the New York State Route 840 Break-in Access at Woods Highway Extension; and

**WHEREAS**, the Town Board has determined that the DSEIS is complete and sufficient for public review as required by SEQRA; and

**WHEREAS**, the Town Board accepted public comments on the DSEIS for a 30-day period expiring on October 8, 2010, including a public hearing on September 27, 2010; and

**WHEREAS**, an FSEIS has been developed and submitted considering all relevant public comments, providing responses and identifying appropriate revisions made to the DSEIS and

**WHEREAS**, the DSEIS has been appropriately revised according to public comments;

**WHEREAS**, the Town Board has determined that the FSEIS is complete;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board adopts the NYS Route 840 Break-in Access Findings Statement.

Attorney Cully noted this is the same Resolution as adopted about a month ago and it adopts the NYS Route 840 Break-in Access Findings Statement. In response to Councilman Backman's inquiry, Attorney Cully said adoption of this Resolution does not bind the Town to anything. Thereafter, the Board members voted as follows:

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

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

**2010 Sales Tax Revenue**

Supervisor Tyksinski acknowledged receipt of the third quarter sales tax check which, compared to the 2009 third quarter check, is over \$200,000 higher.

**Zone Map Amendment Proposal**

Supervisor Tyksinski had received literature from Affordable Housing through New York, which will come before the Town Board for a rezoning of the Julian property on

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Middlesettlement Road (County highway) because the Zoning Board of Appeals had denied them a use variance.

**2011 Annual Budget**

The Town Supervisor reported that the adopted budget has been sent to the Oneida County Finance Department.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. 297 OF 2010)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss union negotiations.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media and Department Heads, were then excused from the meeting at 8:12 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

The Town Attorney provided the following transcription on Thursday, November 18, 2010

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 298 OF 2010)**

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

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

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

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

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion of Councilwoman Krupa and seconded by Councilman Reynolds, the meeting was adjourned at 8:38 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk