

**REGULAR MEETING OF THE TOWN BOARD OF
THE TOWN OF NEW HARTFORD, NEW YORK, HELD
AT BUTLER MEMORIAL HALL, IN SAID TOWN ON
WEDNESDAY, FEBRUARY 7, 2007 AT 6:00 P.M.**

The Town Supervisor 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: Councilman John C. Waszkiewicz III
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Earle C. Reed

ABSENT: Councilman Robert A. Payne III

OTHER TOWN OFFICIALS: Highway Superintendent Roger A. Cleveland
Parks and Recreation Director Michael Jeffery
Police Chief Raymond Philo
Telecommunicator Supervisor Jeffrey P. Madden
Town Clerk Gail Wolanin Young, CMC/RMC and
Deputy Town Clerk I Margaret M. Jones
Town Attorney Gerald Green

Thereafter, a quorum was declared present for the transaction of business. Councilman Payne was absent due to out-of-town business for his employer.

Supervisor Reed complimented the Highway Superintendent and Highway crews for the wonderful job they have been performing in keeping the Town roads clear of snow and ice.

MINUTES APPROVAL

December 28, 2006; January 11 and January 17, 2007 Town Board Minutes

Councilman Waszkiewicz introduced the following Resolution for adoption, seconded by Councilman Woodland:

(RESOLUTION NO. 24 OF 2007)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the *Special* Town Board meetings held *December 28, 2006* and *January 11, 2007* and the *Regular* Town Board meeting held *January 17, 2007* and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

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Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

REPORTS OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT:

Utility Work Agreement

Upon recommendation of the Highway Superintendent, Councilman Woodland presented the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 25 OF 2007)

WHEREAS, the New York State Department of Transportation proposes the reconstruction of Route 5A (Commercial Drive); Route 5 to K-Mart in the Town of New Hartford in Oneida County, PIN 2802.71 and

WHEREAS, the State will include as part of the reconstruction of the above mentioned project the relocation and adjustment to sanitary mains, manholes and appurtenances, pursuant to Section 10, Subdivision 24, of the State Highway Law, as shown on the contract plans relating to the project and meeting the requirements of the owner, and

WHEREAS, the service life of the relocated and or replaced utilities has not been extended, and

WHEREAS, the State will provide for the reconstruction of the above-mentioned work, as shown on the contract plans relating to the above-mentioned project.

NOW, THEREFORE, BE IT RESOLVED that the Town of New Hartford approves of the relocation of and adjustment to their sanitary mains, manholes and appurtenances and the above mentioned work performed on the project and shown on the contract plans relating to the project and that the Town of New Hartford will maintain or cause to be maintained the adjusted facilities performed as above stated and as shown on the contract plans.

BE IT FURTHER RESOLVED that the Town of New Hartford Clerk has the authority to sign, with the concurrence of the Town of New Hartford Board, any and all

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documentation that may become necessary as a result of this project as it relates to the Town of New Hartford, and

BE IT FURTHER RESOLVED that the Clerk of the Town of New Hartford is hereby directed to transmit five (5) copies of the foregoing resolution to the New York State Department of Transportation.

Upon roll call, the Board members voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Training - Waste Water Conference

Upon recommendation of the Highway Superintendent, Councilman Woodland presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

(RESOLUTION NO. 26 OF 2007)

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Roger A Cleveland, Highway Superintendent to attend the Waste Water Conference in Watertown, New York from February 28, 2007 – March 1, 2007 with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

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Competitive Bid – Fuel System Upgrade

The Highway Superintendent distributed copies of the February 7, 2007 Bid Opening minutes for the Fuel System Upgrade and requested that the Town hold off any action on this Bid until he hears from the NYS Department of Environmental Conservation (DEC). He has written to DEC asking some specifics regarding what they are requesting of the Town. The Town had double-walled tanks installed several years ago and the last time the tanks were certified, these tanks containing double walls were sufficient for secondary containment. Now, DEC says the Town has to take a different route and he would like to oppose what DEC is requesting that the Town do. Further, he explained that there is a plan in place if the Town needs to go that far. The Town has sixty (60) days to accept either bid received this morning and resolve the matter with DEC. Councilman Reynolds inquired how often re-certification is required and if this is a budgeted item. Re-certification is completed every five (5) years and this particular matter was not budgeted as the re-certification papers arrived after the 2007 Budget was adopted.

Training – 18th Annual Local Government Conference

Upon request of the Highway Superintendent and Planning Board member Margaret Rotton, Councilman Woodland presented the following Resolution for adoption, seconded by Councilman Reynolds:

(RESOLUTION NO. 27 OF 2007)

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Highway Superintendent Roger A. Cleveland and Planning Board member Margaret Rotton to attend the 18th Annual Local Government Conference on March 29, 2007 in Watertown, New York, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

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Authorization for Competitive Bid – Gradall

The Highway Superintendent stated that he would like to go out for bids on a Gradall, explaining that the Town could continue to lease, but should look into the cost of acquiring this piece of equipment. In response to Councilman Reynold's question, the Highway Superintendent responded that the vendor would apply some of the lease to the cost of a Gradall. Thereafter, Councilman Woodland presented the following Resolution and moved its adoption, which was seconded by Councilman Reynolds:

(RESOLUTION NO. 28 OF 2007)

RESOLVED that the New Hartford Town Board shall receive sealed bids for the purchase of one (1) Used Multi-purpose Excavator, in accordance with Town specifications; all bids are to be received by the Town Clerk's Office no later than 10:45 A.M. on Monday, March 5, 2007 and then shall be publicly opened and read aloud at 11:00 A.M. on said date and in said Office; and be it

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

The Town Board voted upon roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Sidewalks

Councilman Reynolds could foresee that the maintenance of sidewalks in the Town might become an issue. He noted that the Village of New Hartford has been plowing the sidewalks from the Village boundary west to NYS Route 12 and that this experiment has been working favorably; however, he suggested that the Town explore removal of snow from the sidewalks that are outside this area, which are highly used. The Highway Superintendent agreed; Utica College officials have expressed concern over the fact that the owner of Friendly's Restaurant is not keeping the sidewalks around the area of his establishment cleared of snow and ice and the students residing in the adjacent college dormitories are forced to walk in the roadway.

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PUBLIC PRESENTATION

GEIS - \$150,000 County Contribution

Supervisor Reed welcomed Oneida County Comptroller Joseph Timpano and County Legislators Brian Miller and James D’Onofrio. Comptroller Timpano presented a check in the amount of One Hundred Fifty Thousand Dollars (\$150,000) to the Town to be used toward the Generic Environmental Impact Statement (GEIS) study of the southeastern sector of the Town of New Hartford. Legislator D’Onofrio stated that this is a small token of the County’s appreciation in recognition that the Town is the economic engine that drives Oneida County. The County recognizes that the Town of New Hartford does have great development and that there are impacts that affect the residents. Town and County Roads and storm water are huge issues for the Town and this study is needed. Supervisor Reed thanked the County representatives for the generous donation.

REPORTS OF TOWN OFFICIALS (CONT’D)

TOWN CLERK:

Raffle Consent – ALS

Upon the recommendation of the Town Clerk, the following Resolution was introduced for adoption by Councilman Waszkiewicz and duly seconded by Councilman Woodland:

(RESOLUTION NO. 29 OF 2007)

RESOLVED that the New Hartford Town Board does hereby grant permission to ALS of Utica, 9169 River Road, Marcy, New York 13403, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford, 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:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

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PARKS AND RECREATION DIRECTOR:

Appointment – Seasonal Employee

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

(RESOLUTION NO. 30 OF 2007)

RESOLVED that the New Hartford Town Board does hereby appoint Sean Dakus to the Seasonal Position of Sub Lifeguard for the Parks and Recreation Department commencing February 2, 2007 and ending March 31, 2007 at the hourly wage of Seven Dollars Ninety-Five Cents (\$7.95); payable bi-weekly.

Whereupon, the Town Board voted upon roll call:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Philip A. Rayhill Memorial Recreational Trail

The Parks and Recreation Director distributed a pamphlet describing the Rayhill Memorial Trail. This pamphlet will be posted on the Town's Website as well as at various sites around the Town to be available to persons who use the trail.

Parks & Recreation Quality of Life Brochure

Parks and Recreation Director Jeffery distributed a pamphlet outlining various year-round programs offered by the Parks and Recreation Department. This pamphlet will also be placed at various sites within the Town for residents and/or newcomers to the Town.

MATTERS SUBMITTED BY TOWN ATTORNEY/COUNCILMEN

TOWN ATTORNEY:

Claim – Stormwater Damage/ Turi property

Attorney Green explained the requirements of the Town's new insurance carrier with regard to tort claims; he stated that even if the Turi claim were approved and the Notice

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of Claim had been filed in a timely fashion, the insurance company would pay and asked to be reimbursed because the Town's deductible is higher than the claim. Councilman Waszkiewicz inquired as to the Town's responsibility in this matter. Attorney Green explained that the Town was partially responsible, that some of the work completed on the drainage area was due to the improper installation of the drainage basin, which partially diverted the water to Mr. Turi's property, but that some of this damage was also an "Act of God." The lip of the drainage basin is raised and does not allow for a natural flow of the water into the drainage pipe and water flows around the basin on to Mr. Turi's property. Councilman Waszkiewicz' concern is that he does not want to see the Town receive an influx of claims and have residents think that their damage will be repaired at the expense of the Town's insurance each time there is damage caused from an "Act of God". Councilman Waszkiewicz presented the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 31 OF 2007)

WHEREAS, on September 21, 2007 Benjamin Turi filed information with the Town Clerk's Office for stormwater damage to his property at 9 Beckwith Circle, New Hartford, New York, which allegedly occurred on or about July 22, 2006; and

WHEREAS, a letter was received on November 6, 2006, from American Commercial Management, the administrator for Clarendon National Insurance denying Mr. Turi's claim in the amount of Four Hundred Eighty-Four Dollars and Seventy-Six Cents (\$484.76) because Mr. Turi failed to perfect his claim within the ninety (90) day period after the claim arose as required by General Municipal Law Section 50-e; and

WHEREAS on December 11, 2006, Mr. Turi filed an action in Small Claims Court against the Town of New Hartford, for reimbursement for the damages to his property;

NOW, THEREFORE, BE IT RESOLVED on the advice of Gerald Green, Attorney for the Town of New Hartford, the Town Board does agree and consent to having the Bookkeeper, after proper release documents are signed by Mr. Turi, to issue a check in the sum of Four Hundred Eighty-Four Dollars and Seventy-Six Cents (\$484.76) to Mr. Turi as full settlement of his claim from the July 2006 incident.

The Board voted upon roll call:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Road Dedication - Kavod Road

Town Attorney Green explained that he has received the paperwork from Attorney Levitt for the seven hundred fifty (750) linear foot strip of land that the Town is taking title to. The matter might be ready to be placed on the March 14, 2007 Agenda.

Claim – Sewer Backup/Gupta property

Upon recommendation of Attorney Gerald Green, Councilman Woodland presented the following Resolution for adoption; seconded by Supervisor Reed:

(RESOLUTION NO. 32 OF 2007)

WHEREAS, on June 26, 2006, information was filed with the Town Clerk’s Office with regard to damages to the Subhasa Gupta basement flooded with sewerage backup allegedly emanating from the Town’s mainline sanitary sewer on June 14, 2006; and

WHEREAS, on June 27, 2006, this information and an invoice from Claim Masters totaling Four Thousand One Hundred Seventy-Nine Dollars and Ten Cents (\$4,179.10) for clean-up services had been forwarded to the Town’s insurance carrier, Clarendon National Insurance Company;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby approve the reimbursement of the Twenty-Five Hundred Dollars (\$2500) deductible on the Town’s insurance policy, said payment to be made to the Town’s insurance company, Clarendon National Insurance Company.

The foregoing Resolution was duly put to a vote upon roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Bond - Consumer Square

Benderson Development had deposited a One Hundred Thousand Dollar (\$100,000) Bond during construction of the Consumer Square shopping center. Attorney Green stated that the Planning Board, Highway Superintendent, Town Planner and/or Codes Enforcement Officer want to investigate whether any improvements were made or can be

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made to improve the traffic flow within the shopping center before the Town releases the bond.

Training – Stormwater Management/Planning Board

Upon the request of the Town Attorney, the following Resolution was introduced for Adoption by Councilman Reynolds and duly seconded by Councilman Waszkiewicz:

(RESOLUTION NO. 33 OF 2007)

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Planning Board members Hans G. Arnold, Robert Imobersteg, Robert A. Wood, Margaret S. Rotton, Jerome F. Donovan, Ellen S. Rayhill and Rodger C. Reynolds to attend the two (2) hour training conference on Stormwater management conducted by the Oneida County Soil and Water Conservation District retroactive to January 29, 2007, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

COUNCILMAN WASZKIEWICZ:

Agenda Items

- Citizens Committee to correspond with military unit – the Town has received notification that the Town has been formally designated as adopting, **Military Sealift Command MSCO Kuwait Camp Patriot APO AE 09337, our POC (Point of contact) is Mark Stappenbeck.** – Councilman Waszkiewicz recommended that the Town establish a citizens committee to correspond with the adopted unit. Councilman Waszkiewicz thought that the Town should give the American Legion the first opportunity to be on this committee.

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- Intermunicipal Agreement with Frankfort – Tabled until the March 2007 meeting.
- Site Plan/Floor Elevation with Building Permits - Resolutions requiring a site plan to be submitted, including first floor elevations, prior to the issuing of any new building permits so as to not negatively impact their neighbors (new construction) and a rough draft of a survey. The Highway Superintendent says Attorney Green has been meeting with staff and those types of situations are being discussed.
- Preswick Glen – Councilman Waszkiewicz would like to get information back on the Website in PDF format; he will get documents and show them to the Board.
- Southern Reservoir – There is some interest possibly for passive recreation use of the Southern Reservoir. Board consensus was for Councilman Waszkiewicz to continue to explore this possibility with no commitment to dollars.
- Letter to NYS Department of Transportation (DOT) - Councilman Waszkiewicz would like a letter sent to DOT regarding the Route 12/French Road Intersection because of numerous accidents at the Home Depot area. Police Chief Philo has told Councilman Waszkiewicz that there have been some accidents in this area, but not an extremely high number. Chief Philo will provide statistics to Councilman Waszkiewicz regarding this intersection.
- Received a letter from Attorney Green regarding a Resolution preventing the Sherman Hills-Tilden Avenue-Sherman Circle residents in the Higby Road or any new special water tax district. He is putting the Board on notice that he will prepare a Resolution from preventing them from being included in the Higby Road Water District, because the residents have paid for substandard water pressure for twenty (20) years. Town Attorney Gerald Green, and Highway Superintendent Roger Cleveland have met with Donald Weimer of the Mohawk Valley Water Authority. Councilman Waszkiewicz stated that he would like to be a part of any future meetings with the Water Authority.
- Councilman Waszkiewicz will give to the Town Clerk the Oneida County Empire Zone Board update.

MATTERS SUBMITTED BY TOWN SUPERVISOR

FINANCIAL:

Audit of Vouchers

On recommendation of the Town Supervisor, Councilman Woodland presented the following Resolution for adoption; seconded by Councilman Waszkiewicz:

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(RESOLUTION NO. 34 OF 2007)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the payment of the bills itemized on the following Abstracts, that have been duly audited by the Town Board:

General Fund Whole-Town Abstract No. 2	
Vouchers AA145-AA161	\$ 26,195.04
General Fund Whole-Town Abstract No. 3	
Vouchers AA162-AA235	
Vouchers AA259-AA268; AA274;	
Vouchers AA276-AA278	\$ 77,575.27
General Fund Whole-Town Police Abstract No. 3A	
Vouchers AA236-AA258;	
Vouchers AA269-AA275	\$ 51,380.78
General Fund Part-Town Abstract No. 2	
Vouchers BB12-BB14	\$ 1,852.00
General Fund Part-Town Abstract No. 3	
Vouchers BB15-BB25	\$ 3,508.26
Highway Fund Part-Town Abstract No. 2	
Vouchers DB22-DB61	\$111,135.93
Sewer Fund Abstract No. 2	
Vouchers SS8	\$ 2,754.76
Sew #3 SS9-12	\$45,838.84
Street Lighting Fund Abstract No. 2	
Voucher SL2	\$ 23.40
Street Lighting Fund Abstract No. 3	
Voucher SL3	\$ 9,061.33
TOTAL:	\$283,486.77

Whereupon, the Town Board members voted individually as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

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Eight (8) Bond Issues – Public Informational Sessions

The Town Board agreed to conduct Public Informational Sessions on the eight (8) bond propositions, which will be voted upon at the Special Election on March 29, 2007. The information sessions will be held on the following dates/places:

- February 28, 2007 at 6:00 P.M. in the Community Meeting Room at Butler Memorial Hall
- March 14, 2007 at 5:00 P.M. at the Willowvale Fire Company.

EXECUTIVE SESSION

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

(RESOLUTION NO. 35 OF 2007)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss potential litigation concerning Preswick Glen negotiations.

A roll call vote ensued:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

This Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media, were then excused from the meeting at 7:02 P.M. The Town Clerk was asked to stay in the event the Town Board took any action after Executive Session.

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 36 OF 2007)

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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Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

Retain Legal Services

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

(RESOLUTION NO. 37 OF 2007)

RESOLVED that the New Hartford Town Board does hereby retain the services of Attorney Daniel G. Vincelette, PC, 21 Everett Road Extension, Albany, NY 12205 with the following understanding: that the New Hartford School Board will be sharing in the expense (68%), the County of Oneida will also share in the expense (26%) and with further understanding that the retaining of Attorney Vincelette is for pre-litigation purposes only.

Upon roll call, the Board voted as follows:

Councilman Waszkiewicz	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Payne	-	Absent
Supervisor Reed	-	Aye.

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

ADJOURNMENT

There being no further business to come before the Town Board, upon a motion duly made and seconded, the meeting adjourned at 8:03 P.M.

Respectfully submitted,

Gail Wolanin Young, CMC/RMC
Town Clerk

Margaret M. Jones
Deputy Clerk I