

**SPECIAL MEETING OF THE TOWN BOARD OF
THE TOWN OF NEW HARTFORD, NEW YORK, HELD
AT BUTLER MEMORIAL HALL, 48 GENESEE STREET
ON MONDAY, AUGUST 25, 2008 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: Councilwoman Christine G. Krupa
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Earle C. Reed

ABSENT: Councilman Robert B. Payne III

OTHER TOWN OFFICIALS: Senior Engineering Technician John Meagher
Town Clerk Gail Wolanin Young

Thereafter, a quorum was declared present for the transaction of business. [NOTE: The Town Clerk had been contacted by Councilman Payne that he would be unable to attend this meeting and that he had also conveyed this information to Supervisor Reed and Councilman Reynolds.]

FOIL APPEAL:

The purpose of the Special meeting was to address the Freedom of Information Appeal directed to the Town Supervisor and filed by Catherine Lawrence on August 11, 2008, which sought relief on the following issues:

- 1) Not having received the enclosure noted on the Highway Superintendent's February 8, 2008 memo to Woods Highway residents as requested in her July 13, 2008 FOIL request; in her August 2008 Appeal, Mrs. Lawrence requested the Highway Superintendent's certification as to the truthfulness that no records were attached
- 2) The Town Supervisor's denial of access to a copy of the Debra Alessi letter, as requested in Mrs. Lawrence's July 11, 2008 FOIL request
- 3) Non-compliance with requests that Town documents be furnished electronically.

Town Action:

- 1) [NOTE: The Highway Superintendent signed a notarized certification on August 15, 2008 that there were no enclosures to his February 8, 2008 memo referenced

hereinabove and Mrs. Lawrence had been notified by the Town Clerk of its availability.]

- 2) Access to Alessi letter – based upon advice of the Town Attorney, the Town Board denied access to this letter, citing Section 50-a of the Civil Rights Law, FOIL-AO-9042 from the Committee on Open Government and FOIL-AO-17100 from the Committee on Open Government
- 3) Furnishing documents electronically – The Town does not have to create or prepare a record if one does not exist. If an e-mail contains non-disclosable/private information that cannot be redacted, the Town does not send the record by e-mail; the Town prints the e-mail, redacts non-disclosable information and provides the rest at a charge; otherwise, an electronic record will be sent electronically. If a document like a survey map or something large has to be reproduced or the document does not exist in electronic format, the Town can charge the actual reproduction cost for large items, or the statutory fee of \$.25 for paper up to 8.5 x 14 inches.

Ryan Matt, Attorney for Edmund J. Wiatr, Jr. and Catherine Lawrence, voiced his disagreement with the basis for denial of the Alessi letter and the Supervisor reiterated the section of law and advisory opinion numbers, which were the basis for denial of this communication.

The Town Clerk confirmed her phone conversation with Robert Freeman, Executive Director of the Committee on Open Government, this afternoon, the essence of which was that personnel files of police officers that are maintained to evaluate performance toward continued employment or promotion are confidential.

ADJOURNMENT

There being no further business to come before the Board, upon motion of Councilman Reynolds, seconded by Councilwoman Krupa, the meeting was adjourned at 6:05 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk

RECONVENE OF SPECIAL MEETING – AUGUST 25, 2008

At 6:08 P.M. the Supervisor reconvened the Special Town Board meeting for a vote on the denial of access to the Alessi letter.

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

(RESOLUTION NO. 204 OF 2008)

RESOLVED that, based upon advice of counsel, the New Hartford Town Board does hereby deny access to the Debra Alessi letter sent to the Town Supervisor on or about June 20, 2008, citing the Civil Rights Law, Section 50-a; the Committee on Open Government FOIL-AO-9042 and the Committee on Open Government FOIL-AO-17100.

Whereupon, the Town Board members voted as follows:

| | | |
|---------------------|---|--------|
| Councilwoman Krupa | - | Aye |
| Councilman Payne | - | ABSENT |
| Councilman Woodland | - | Aye |
| Councilman Reynolds | - | Aye |
| Supervisor Reed | - | Aye. |

The Resolution was declared unanimously carried and duly adopted.

ADJOURNMENT

There being no further business to come before the Board, upon motion of Councilwoman Krupa, seconded by Councilman Reynolds, the meeting was adjourned at 6:08 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk