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The Town Attorney gave an overview of a resolution that had been drafted, after which Councilman Miscione introduced said legislation for adoption, seconded by Councilman Woodland:

(RESOLUTION NO. 261 OF 2012)

**RESOLUTION IN SUPPORT OF ADOPTING AMENDMENTS TO THE
TOWN OF NEW HARTFORD ZONING ORDINANCE AS IT RELATES TO
NATURAL GAS EXPLORATION AND EXTRACTION**

WHEREAS, it is the intent of the Town Board of the Town of New Hartford to clarify its zoning ordinance with regard to natural gas exploration and extraction and the associated uses of land for outdoor factories and the heavy industrial uses associated therewith, including treatment, storage and transportation of natural gas exploration and production wastes; and

WHEREAS, it is the further intent of the Town Board to clarify for the public, landowners and town officials that the use of land in the Town of New Hartford for the exploration and extraction of natural gas and the storage, transfer, treatment or disposal of natural gas exploration and production wastes is prohibited within the Town; and

WHEREAS, protection of the Town of New Hartford water source from potential contamination is an important goal for the Town; and

WHEREAS, the Town has heretofore adopted legislation involving storm water management erosion and sediment control (MS4); and

WHEREAS, there also are wetlands in the Town under the jurisdiction of the U.S. Army Corps of Engineers; and

WHEREAS, there are substantial areas in the Town of New Hartford where there are slopes greater than 15 percent; and

WHEREAS, the regulations promulgated under the State Environmental Quality Review Act (SEQR) permit a town to designate specific geographic areas as a critical environmental area (CEA) if it is found that such area has "an exceptional or unique character covering one or more of the following:

- a benefit or threat to human health;
- a natural setting (e.g. fish and wildlife habitat, forest and vegetation, open space and areas of important aesthetic or scenic quality);

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the Town's Comprehensive Plan, existing Zoning Ordinance and proposed Zoning Law that natural gas exploration and extraction are not permitted uses of any property in the Town; and

WHEREAS, the Town Board has received and reviewed the public comments received before, during and following a public hearing on the proposed amendments held on October 24, 2012, and

WHEREAS, a vast majority of the comments received by the Town Board before, during and following the public hearing were in favor of the proposed amendments; and

NOW, THEREFORE, the Town Board of the Town of New Hartford finds, declares, determines and ordains as follows:

- the exploration for natural gas, the extraction of natural gas and the storage, transfer, treatment or disposal of natural gas exploration and and/or petroleum wastes production wastes and the accompanying use of land for an outdoor factory and heavy industrial use in the rural environment of New Hartford poses a significant threat to its residents' health, safety, and general welfare;
- widespread environmental and human health impacts have resulted from natural gas exploration and extraction in other areas;
- natural gas exploration, and the extraction or the storage, transfer, treatment or disposal of natural gas exploration and production wastes within the Town, would endanger the health, safety and general welfare of the community through the deposit of toxins into the air, soil, water, environment, and in the bodies of residents;
- the protection of residents, neighborhoods, and the natural environment through its power to regulate and restrict the use of land for trade, industry or other purposes constitutes the highest and best use of such land use powers that the Town possesses;
- clean air and water are essential to most resources and activities in the New Hartford area and the quality of the air and the water will be degraded by natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes;
- natural gas exploration and extraction activities and the storage, transfer, treatment or disposal of natural gas exploration and production wastes may cause irreparable harm to public and private water supplies, pollution of the surface and

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- this amendment is enacted to protect and promote the health, safety and general welfare of present and future residents of the Town, and is an exercise of the Town's power to adopt land use regulations to protect the health, safety and general welfare of the current and future residents of the Town from adverse effects and impacts that would result if the Zoning Ordinance were to be interpreted as permitting land in the Town to be used for natural gas exploration and extraction and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes, and its police power and power to prohibit public nuisances;
- this amendment is enacted pursuant to the authority set forth in Town Law §§ 261, 262, 264 and 265.

BE IT RESOLVED THAT THE TOWN BOARD DECLARES A NEGATIVE DECLARATION UNDER SEQRA

BE IT RESOLVED THAT LOCAL LAW INTRODUCTORY "K", AS AMENDED, OF 2012 BE AND IT HEREBY IS ADOPTED AS AN AMENDMENT TO THE TOWN OF NEW HARTFORD ZONING ORDINANCE, TO BE KNOWN AS LOCAL LAW NO. TEN OF 2012:

Town of New Hartford, NY

Local Law No. Ten of 2012

A Local Law to amend the Code of the Town of New Hartford by creating a new Chapter 83 entitled "Natural Gas Exploration and Extraction".

Be It Enacted by the Town Board of the Town of New Hartford as follows:

SECTION 1. Title.

This chapter shall be known and cited as the "Natural Gas Exploration and Extraction" law.

SECTION 2. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Natural Gas" shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure

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No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials.

- (3) Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes.

No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.

- (4) Prohibition against Natural Gas and/or Petroleum Support Activities.

No land in the Town shall be used for natural gas and/or petroleum support activities.

Section 4. Severability.

If any clause, sentence, paragraph, word, section or part of this Code shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved in the controversy in which said judgment shall have been rendered.

Section 5. Effective date:

This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Thereafter, the Town Board members voted upon roll call, resulting as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye, stating that he doesn't see where hydrofracking fits in New Hartford
Councilman Woodland	-	Aye
Councilman Backman	-	Aye, noting that he is not opposed to the extraction of gas but to the technology of same which is not entirely safe; if the aquifer is damaged, it spoils the land for centuries
Supervisor Tyksinski	-	Aye.

The Resolution and Local Law No. Ten of 2012 were declared unanimously carried and duly **ADOPTED**.