

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, SEPTEMBER 26, 2012 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
Councilman Paul A. Miscione
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 Supervisor Matthew Bohn III
Finance Director Daniel Dreimiller
Highway Superintendent Richard C. Sherman
Parks & Recreation Director Michael W. Jeffery
Police Chief Michael Inserra
Town Attorney Herbert J. Cully
Town Clerk Gail Wolanin Young

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

MINUTES

Town Board Meeting – September 12, 2012

Action was deferred, as minutes were not complete.

PUBLIC PRESENTATIONS

Supervisor Tyksinski inquired if anyone present wished to address the Town Board on any matter. Those speaking were:

- ***Douglas Peterson of ESI Employee Assistance Group*** gave a presentation on TotalCare EAP Benefits including information on lost productivity of employees affected by a significant change in career/workplace as well as substance abuse, stress, loss and grief, financial problems, elder care, legal concerns, weight loss, relationship issues and health and wellness. Their employee assistance program offers benefits for employees and services for management and counseling/referrals

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are available no matter the time of day. He distributed a proposal for the Town Board's review and consideration.

- **James Zalewski** – contractor – voiced disapproval of the exterior renovations to the former Kellogg Road Community Center Building that will be used for police locker rooms. He claimed that the materials chosen were inappropriate and are a blemish on the Town, which did not seek architectural input for this project. The Town Supervisor explained this was a low-budget operation, needed space at police/courts – at least 20 years needed more space and the Town had leased a trailer for close to 20 years. Prior to renovations, the building contained mold and could not be used by the public. The Town was able to complete this project for under \$100,000 including the parking lot. It was Town Board consensus to keep the building looking like the adjacent police/court building (rather than a train station) and have a brick façade and vinyl on other walls. Councilman Reynolds stated that the train station building (Donovan Memorial Community Center) on Elm Street in the hamlet of Chadwicks is an historical building but the Kellogg Road building is not historical. Mr. Zalewski asked the Town Board to stop work on the building and find better material to install. The Town Supervisor emphasized that retaining an architect to redesign the building would be expensive and would cost more to side the exterior; further, the Town has already entered into and executed an agreement for this project.

Roy and Mary Senn's e-mail to the Town Supervisor and Councilmen referencing Joseph Bolton's letter about the New Hartford Public Library read into the September 12, 2012 Town Board minutes by the Town Attorney. The Senn's asked for the same courtesy. Board members noted that Mr. Bolton's letter was read aloud because he had a conflict and couldn't attend the September 12th meeting and that's why his letter was read, but the Senn's letter doesn't seem the same case. Councilman Backman commented "...read this one and then establish policy of compelling circumstances." Roy Senn identified himself as a part-time employee of the Library and he set forth his responses to Mr. Bolton's criticism of Library President Linda Romano and other Library Board members.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Parks & Recreation Committee – Councilman Reynolds:

Agreements- Ice Rental

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

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(RESOLUTION NO. 226 OF 2012)

RESOLVED that, contingent upon approval by the Town Attorney, the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Ice Rental Agreements for the 2012-2013 Ice Season between the Town of New Hartford and the following organizations:

- New Hartford Youth Hockey Association, Inc.
- New Hartford Figure Skating Club
- Mohawk Valley Old Timers League

all of which groups have provided the Town with the appropriate Certificate of Insurance.

The Town Board members voted as follows:

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

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

Town Clerk Committee – Councilman Woodland:

Training - Oneida County Association of Towns Meeting

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

(RESOLUTION NO. 227 OF 2012)

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 Town Attorney Cully, Councilman Backman, Highway Superintendent Sherman, Codes Enforcement Officer Booth and Deputy Supervisor Bohn to attend the Oneida County Association of Towns Meeting on Tuesday, October 16, 2012 in Forestport, New York, with expenses to be borne by said Town as budgeted.

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The speaker will address the importance of towns and villages having a strong zoning law and comprehensive plan. The Resolution was voted upon by roll call as follows:

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

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

Public Works & Sewer Committee (Buildings and Grounds) – Councilman Reynolds

Competitive Bid – Refund of Bid Security

The Town Clerk had received written verification from the Highway Superintendent that the new pick-up truck had been delivered to the Town and meets specifications. Therefore, Councilman Reynolds introduced the following Resolution for adoption, seconded by Councilman Miscione:

(RESOLUTION NO. 228 OF 2012)

WHEREAS, the Town received three (3) bids on August 7, 2012 for the purchase of one (1) Pick-up Truck, 4 X 4, with plow, and subsequently accepted the bid submitted by Steet - Ponte; and

WHEREAS, the Town Clerk received written confirmation from the Highway Superintendent on September 24, 2012 that the afore-described vehicle has been delivered to the Town and meets Town specifications;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby authorize and direct the Accounting Department to release the Bid Security Deposits from the Trust and Agency Account to the following bidders for the project noted:

- Van Bortel Ford, East Rochester, NY - \$1,825.00
- West Herr Ford, Blasdell, NY - \$2,445.95
- Steet – Ponte Ford, Yorkville, NY - \$1,331.40.

The foregoing Resolution was voted upon by roll call as follows:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye

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Councilman Reynolds	-	Aye
Councilman Backman	-	Aye
Supervisor Tyksinski	-	Aye.

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

Requests for Proposal (RFP) – Mud Creek flooding

Councilman Miscione, who has been working in concert with Highway Superintendent Sherman, requested funding from the mitigation fund to support a Request for Proposal (RFP) to assess the problems of Mud Creek, history and distance, and to permit the development of a plan to mitigate effects of economic development that would also address the following questions:

- Who is presently affected by the Creek when it overflows
- Why does it overflow
- What kind of storm does it take to overflow and an outline of velocities
- What is the geographic nature of the Creek. Where does it start and are other municipalities involved
- Is there water drainage coming into the Creek from other properties that is then flowing on
- Why was a trail ever discussed and might it really mitigate
- Does the Town really own land that could help mitigate the problem
- Are there new facts since 2006 available through the DEC, US Army Corps of Engineers and County Planning that need to be shared
- Can the Study isolate a menu of potential short-term and long-term options with dollar and time estimates that also include the net effect in mitigating damage
- Outline additional State and Federal funding that still may be available for repairs to creeks.

Councilman Miscione requested that the Town Board allocate Forty Thousand Dollars (\$40,000) from mitigation funds to issue RFPs from engineering firms to perform the assessment and offered the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 229 OF 2012)

RESOLVED that the New Hartford Town Board does hereby authorize the solicitation and receipt of Requests for Proposal (RFP) from engineering firms to perform an assessment of the history and flooding of Mud Creek that has affected property owners in the Royal Brook Lane, Burr Ave, Henderson Street and Clinton Street area during recent storms and that said assessment include areas up to the Kirkland Town boundary; funds

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for this project, estimated to be \$40,000, are hereby authorized to be paid from the Seneca Turnpike-Commercial Drive GEIS mitigation account.

It was Board consensus that Councilman Miscione ask Barton and Loguidice to prepare the RFP but that would exclude them from bidding. Thereafter, the Town Board members voted as follows:

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

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

MATTERS SUBMITTED BY COUNCILMEN

Councilman Backman:

- **Petition: Extend Water District on Grange Hill Road**
With regard to the Petition discussed at the September 12, 2012 Town Board meeting for extension of a water district to serve about fifteen (15) properties beyond the existing water tank on Grange Hill Road, Councilman Backman stated there is “a little resistance” for the expansion from property owners going further up to the Butler Road intersection. William and Susan Schuster were present to inquire whether this petition is “a go”. Referring to the Mohawk Street expansion of a water district several years ago as an example, Councilman Backman explained that the costs to the property owners could be \$400 to \$500 annually on their Town and County tax bill.
- **New Hartford Public Library - Budget**
The Library Board has begun their 2013 budget process and has assigned tasks to all Library Trustees. It is anticipated that the Town Board will contribute \$400,000 to the Library in 2013.
- **Redistricting – Election Ward System**
According to the Oneida County Board of Elections, any redistricting of the Town’s four (4) Wards in order to balance population would have to be done by April 2013. Councilmen Reynolds wasn’t in favor of this action and Councilman Woodland was “..not in favor at this time”. Councilman Backman was in favor because of numbers and feel it’s unfair. The redistricting would require a lot of work and he asked Councilman Miscione for his opinion. Councilman Miscione

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doesn't feel it's necessary, that it doesn't have anything to do with his Ward; "don't do the work". Supervisor Tyksinski stated that it doesn't make any difference to him. .

- **Spoils policy** – the Town had received complaints that Highway Department trucks were delivering dirt up Higby Road to the D'Alessandro property where the owner is attempting to fill in a hole on his property. Highway Superintendent Sherman stated that when his crews are clearing ditches and areas of dirt for stormwater remediation that he is running out of places to dump the dirt. After some discussion, it was the consensus of the Town Board that this "spoils" dirt accessibility would be posted on the Town's Web site and that the Highway Superintendent would maintain a list of persons who would like this waste material, with preference being given to Town residents.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Windmill legislation

The Town Supervisor and Councilman Miscione have been reviewing the proposed windmill legislation to determine how it could be revamped to eliminate all large windmills and he asked for direction from the Town Board on this. He asked that the Board's input for permitting only residential windmills and a restriction to height be given to the Town Attorney before he revises the legislation. The Town Supervisor and Councilman Miscione will continue to work on this.

Chairman – Police Commission

Councilman Reynolds introduced the following Resolution for adoption; seconded by Supervisor Tyksinski:

(RESOLUTION NO. 230 OF 2012)

WHEREAS, Councilman Reynolds has nominated Patrick Cardinale to be appointed Chairman of the Police Commission that had been created by Local Law No. Seven of 2012;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby appoint Patrick Cardinale to be Chairman of the Police Commission for a one-year period ending December 31, 2013.

The Board members voted as follows:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye

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Councilman Backman	-	Aye
Councilman Reynolds	-	Aye
Supervisor Tyksinski	-	Aye.

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

2013 Tentative Budget

The Town Supervisor noted that the Tentative Budget for Fiscal Year 2013 is due by September 30, 2012 and he anticipates filing this Budget with the Town Clerk before the close of business on Friday, September 28, 2012.

Dog License penalties

Some complaints had been received about the penalty for dog licenses that are not timely renewed. Despite the mailing of Dog License renewal forms from the Town Clerk's Office one month prior to expiration of dog licenses, and phone calls from Town Clerk staff in mid-month and a week prior to dog license expiration, some dog owners have failed to renew their dog licenses for one or two years; often, unlicensed dogs are not up to date on their rabies vaccination which is a public safety and health concern. The Town Supervisor suggested more aggressive action on the part of the Animal Control Office to ensure dog licenses are renewed in a timelier manner, which would result in lesser penalties.

Drugs – "Bath salts" – Local Law Introductory "L" of 2012

The Town Supervisor had distributed copies of legislation that had been prepared by the Town Attorney to prohibit the sale and possession of synthetic drugs. Thereafter, Councilman Miscione introduced the following legislation for the Town Board's consideration at a future Public Hearing; co-sponsored by Councilman Woodland:

**Town of New Hartford, New York
Local Law Introductory "L" of 2012**

A Local Law to amend the Code of the Town of New Hartford, Chapter 57 thereof entitled "DRUGS" by adding Article II to prohibit the sale and possession of synthetic drugs and other similar substances or compounds.

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

Section 1. The Code of the Town of New Hartford, Chapter 57 thereof entitled "DRUGS", is hereby amended by adding the following Article II:

CHAPTER 57 ARTICLE II SYNTHETIC DRUGS-SECTION I

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Section 57-7 – Definitions

- A. 1-Pentyl-3- (1-naphthoyl) indole; some trade or other names: JWH-018; or
- B. 1-Butyl-3- (1-naphthoyl) indole; some trade or other names: JWH-073; or
- C. 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole; some trade or other names: JWH-200; or
- D. 5-(1.1-dimethyloctyl)-2-[1R, 3S)-3-hydroxycyclohexyl]-phenol; some trade or other names: CP-47, 497; or
- E. 5-(1.1-dimethyloctyl)-2-[1R.3S)-3-hydroxycyclohexyl]-phenol; some trade or other names: cannabicyclohexanol; CP-47, 497 C8 homologue; or
- F. 4-methylmethcathinone (Mephedrone).
- G. 3, 4-methylenedioxypropylvalerone (MDPV)
- H. Any substance prohibited in an Order for Summary Action in the Matter of the Sale and Distribution of Synthetic Cannabinoids issued by the New York State Department of Health dated March 28, 2012 and any similar Order subsequently issued by the State of New York Department of Health.
- I. Any synthetic drug analog which shall mean a substance.
 - a. The chemical structure of which is substantially similar to the chemical structure of a Synthetic Drug as described above.
 - b. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a Synthetic Drug as described above.
 - c. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a synthetic drug as described above.

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Section 57-8 No person shall sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any Synthetic Drug in the Town of New Hartford.

Section 57-9 No person shall be in the possession of any Synthetic Drug within the Town of New Hartford, New York, unless said synthetic Drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York, and at the time of the alleged violation, the person in possession of the Synthetic Drug is able to provide written proof to the law enforcement officer(s) that the Synthetic Drug was so prescribed

Section 57-10

Any person who violates any of the requirements of this Section or any regulation promulgated hereunder shall be subject to a fine of not more than \$250.00 and/or imprisonment for not more than 15 days for each such civil offense. With regard to the sale of Synthetic Drugs, each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

Section 2 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 3 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.

Public Hearing Scheduled – Local Law Introductory “L” of 2012

Councilman Miscione then offered the following Resolution for adoption; Councilman Woodland seconded same:

(RESOLUTION NO. 231 OF 2012)

RESOLVED that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, **October 24, 2012 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 “L” of 2012** which, if adopted, would amend the Town Code, Chapter 57 thereof entitled **DRUGS** by adding Article II to prohibit the sale and possession of synthetic cannabinoids and other similar synthetic substances;

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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:

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

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

New Hartford Library Trustee resignation/appointment

The Town Supervisor acknowledged receipt of a letter from Library Board President Linda Romano, notifying the Town that Virginia Emmert had resigned as a Trustee over the past Summer and that the Library Board had appointed Karen Madden to fill this vacancy until December 31, 2012. Ms. Romano asked that the Town Board consider re-appointing Ms. Madden to a new term beginning January 1, 2013.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Miscione and seconded by Councilman Woodland, the meeting was adjourned at 8:12 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk