

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, OCTOBER 23, 2013 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:

Codes Enforcement Officer Joseph A. Booth
Director of Finance Daniel Dreimiller
Highway/Sewer Superintendent Richard C. Sherman
Parks and 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

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

(RESOLUTION NO. 189 OF 2013)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held September 11, 2013; September 25, 2013; and October 2, 2013 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

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

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

PUBLIC PRESENTATIONS (Resident Comments)

FOIL Appeal

Edmund Wiatr, Jr. stated that on October 15, 2013 he had filed a FOIL Appeal with the Town Supervisor and Town Clerk with regard to his October 3, 2013 FOIL request to examine financial records, including an OCIDA Agreement, he claimed should be available during regular business hours. He wanted to see a copy of a check in the amount of \$7,115.08 from the LT Group, LLC and the applicable Town deposit ticket but that the Town Supervisor had denied him access to the records. Either we have the deposit ticket or we don't, said Mr. Wiatr. The Town Supervisor replied that he didn't deny or refuse Mr. Wiatr and that he had responded to the Town Clerk today. Town Attorney Cully stated that the Town is not denying Mr. Wiatr's request but that the Town has reasonable time to review the records before release, to expunge account numbers, etc.; he expects to review the records within the next week and that the Town will comply. The Town has multiple FOIL requests and, directing his remarks to Mr. Wiatr, said that he knows the Town has open government and transparency.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilman Woodland

Training – Conservation License Issuance

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

(RESOLUTION NO. 190 OF 2013)

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 Deputy Clerk I Melody Fancett to attend a New York State Department of Environmental Conservation training session on the new software program for selling conservation licenses on November 6, 2013 in the Town of Poland, NY, with mileage expense to be borne by said Town as budgeted.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye

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

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

Agreement for Conservation License issuance

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

(RESOLUTION NO. 191 OF 2013)

WHEREAS, the NYS Department of Environmental Conservation (DEC) will be discontinuing their DECALS software program for the issuance of various conservation licenses in January 2014 and replacing said program through ACCELA;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct Town Clerk Gail Wolanin Young to enter into and to execute a License Issuance Agreement between said Town and DEC for the new software program offered by ACCELA.

The Town Attorney having reviewed the proposed Agreement, the Board members voted upon roll call, as follows:

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

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

Notice of Proposed Zoning Change – Town of Kirkland

Town Clerk Gail Wolanin Young has received notification from the Town of Kirkland of their proposed zoning change relating to gas and petroleum exploration, noting that the Town Board would declare itself Lead Agency under SEQRA.

Parks & Recreation Committee – Councilman Reynolds

Agreements for Ice Rental (Recreation Center)

The Town Attorney having reviewed the contracts, Councilman Reynolds introduced the following Resolution that was seconded by Councilman Miscione:

(RESOLUTION NO. 192 OF 2013)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Ice Rental Agreements for the 2013-2014 Ice Season between the Town of New Hartford and the following organizations:

- New Hartford Central School District
- Mohawk Valley Community College

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

The Town Board members voted as follows:

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

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

Appointments – 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 Councilman Backman:

(RESOLUTION NO. 193 OF 2013)

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, for the periods set forth; all wages to be paid bi-weekly:

A7020.14

Effective 10/23/2013 – 03/31/2014

Name	Position	Rate of Pay
Kenneth Maynor	Ice Attendant	\$ 7.95/hour

A7140.11

Effective 12/02/2013 – 06/22/2014*

Upon request of the Director of Senior Services, Councilman Reynolds offered the following Resolution for adoption and Councilman Miscione seconded same:

(RESOLUTION NO. 195 OF 2013)

WHEREAS, on November 4, 1998 the New Hartford Town Board had established a “gift”/“donation” policy pursuant to Section 64(8) of the Town Law;

NOW, THEREFORE, BE IT RESOLVED that said Town Board does hereby accept the Four Hundred Dollar (\$400.00) donation from Comprehensive Health Management – Well Care to cover costs of the Thanksgiving Dinner and to be used towards other senior events at the New Hartford Adult Dining and Activity Center; and be it

FURTHER RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Finance Department to make the following 2013 budget adjustments for the New Hartford Adult Dining and Activity Center:

- Increase General Fund Whole-Town Contractual Account A6772.4 - \$400.00
- Increase General Fund Whole-Town Revenue A2705.1 - \$400.00.

A roll call vote ensued:

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

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

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Councilman Miscione:

- **Mud Creek stormwater project**: the Highway Superintendent and he obtained two (2) informal quotes for fencing; a third company declined to quote:
 - Butler Fence Co., Inc.
 - \$11,096 for a six (6’) foot fence
 - \$13,600 for an eight (8’) foot fence
 - Poly Enterprises
 - \$9,900 for a six (6’) foot fence

Finance Director Dreimiller said there was \$8,300 left for this \$80,000 project and that he would discuss it further with Highway Superintendent Sherman. Councilman Miscione noted that some money was left over because the Town didn't need to have a survey. Thereafter, Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 196 OF 2013)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to transfer One Thousand Six Hundred Dollars (\$1,600) from the Seneca Turnpike-Commercial Drive GEIS mitigation fund to the Mud Creek capital project.

Whereupon the Board members voted as follows:

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

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

Councilman Miscione then introduced the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 197)

RESOLVED that the Town Board of the Town of New Hartford does hereby accept the bid submitted by Poly Enterprises, in the amount of Nine Thousand Nine Hundred Dollars (\$9,900) for a six (6') foot fence for the Mud Creek capital project, conditional upon approval from the Town Codes Enforcement Department.

The Town Supervisor polled the Board members who voted as follows:

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

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

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- **Stormwater drains at 4 and 6 Beckwith Circle**: he requested stormwater drain installation at these locations, inquiring if the Town could charge the residents \$500 per house and next year in the budget do something. The stormwater problem is in the Town's right of way, said Councilman Miscione. Supervisor Tyksinski noted that the Town Board did not have cost figures associated with this and recommended that it be placed on a future calendar, like in March 2014; no action was taken. Highway Superintendent Sherman commented that the water was coming from Westwood Lane down into yards on Beckwith and onto the road.
- **Stormwater drain at 5 South Hills Drive** – same concept. Councilman Miscione will bring up in the future and the Town will look at it. The Town Attorney offered to accompany Town officials for an on-site inspection.
- **Ironwood Road drainage** – the Highway Superintendent/Department did the project and it's working; everyone is happy.
- **Pleasant Street** – The Highway Superintendent/Department cleaned up around the reservoir and fence installed; everyone is happy.
- **Hammer head on Lindale Avenue Extension/Cul-de-sac** [****NOTE: Refer to minutes of Town Board dated July 20, 2005; April 25, 2012, June 13, 2012, and November 7, 2012.**] Laura Misiaszek and Richard Rintrona were present to discuss alternatives to the existing situation on Lindale Avenue where the Town owns property for a right-of-way for snowplowing. Highway Superintendent Sherman has indicated his crew would have difficulty plowing with only one truck. The Town Attorney reviewed some prior action** taken with regard to this location. Former owner, Antonio Cristiano had deeded the land to the Town and the Town did not pay for anything related to this transfer.

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

(RESOLUTION NO. 198 OF 2013)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize the conveyance back of property on Lindale Avenue, erroneously conveyed to the Town, based upon information provided indicating that the Town would have difficulty plowing Lindale Avenue and would assume responsibilities that the Town was unaware of at the time the prior Resolution was adopted; subject to a survey being completed.

Upon roll call, the Board members voted as follows:

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

The Resolution was declared unanimously carried and duly **ADOPTED**. In response to Mr. Rintrona's inquiry, the Town Attorney confirmed that a Resolution was adopted and that, in his opinion, a building permit could be obtained.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Appointment - Assessor

The Town Supervisor had received three (3) resumes for the Assessor position and another 6 or 7 applications; Board members were copied on all. Councilman Reynolds had just received his copies and did not have time to review them; the Town Supervisor agreed with Councilman Reynolds that due diligence hasn't been done. There have been no interviews and he would find it difficult to make an educated decision tonight. Councilmen Woodland and Miscione had no response. Supervisor Tyksinski moved that the matter be tabled; Councilmen Reynolds and Miscione will be a committee for interviews and render a report at the November 20, 2013 Town Board meeting.

Public Hearing Scheduled – 2014 Preliminary Budget; Copies for Public

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

(RESOLUTION NO. 199 OF 2013)

RESOLVED that the Town Board of the Town of New Hartford will conduct Public Hearings to commence at 7:00 P.M., or as soon thereafter as reached in the regular course of business, on Wednesday, November 6, 2013 in Butler Memorial Hall, 48 Genesee Street in said Town, to consider the following matters:

- the adoption of the 2014 Preliminary Budget as the 2014 Annual Budget; and
- the establishment of the ad valorem charges for the fiscal year beginning January 1, 2014 for the following special districts/improvement areas

Water Fund
Fire Protection Districts No. 1 through No. 5,

Inclusive
Various Street Lighting Districts; and be it

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

The Resolution was then voted upon as follows:

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

The Resolution was declared unanimously carried and duly **ADOPTED**. In accordance with law, the Town Board directed the Town Clerk to make twenty-five (25) copies of the 2014 Preliminary Budget for the public.

Discussion – Proposed changes on 2014 Tentative Budget

Councilman Woodland – in General Fund Whole-town revenue, remove the proposed \$75,000 for the hotel. Remove \$60,000 in sales tax from General Fund Whole-Town and move \$40,000 to police budget to reduce the tax rate. Mortgage tax revenue seems low - after talking with County, proposed that \$200,000 be added. Councilman Reynolds believed that was too much; may be historically another \$75,000. All 5 Board members agreed to budget a total of \$375,000 in mortgage tax revenue.

Councilman Woodland – Highway Fund Part-Town – take the remaining \$20,000 in sales tax from the \$60,000 out of General Fund Whole-Town and shift it into the curbside trash collection line item (Highway Fund, Part-town). Discussion ensued that seasonal employees cannot drive trucks, that at least three (3) employees would be necessary for the curbside program and they need to have Commercial Driver Licenses. In addition, a front-end loader, etc. would be needed. Councilman Backman was going to vote the way his successor would vote after January 1, 2014, which was pro-curbside trash collection but he also agreed with the Town Supervisor that some people don't want it and others do want it. People aren't aware of the real costs – soft costs for this program. The Town Supervisor thinks the current tag system (through the Town Clerk's Office) for trash is working and wants the Highway employees to be doing highway work not trash collection. Councilman Miscione wants \$20,000 for the curbside trash collection and critique a plan and if it doesn't work, move money to somewhere else, but at the same time operating the tag system. Councilman Backman agreed with the Town Supervisor

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but also yielded to James Messa, candidate for Ward One Councilman (in place of Backman) to reinstate the curbside collection, do the tag system and have the dumpsters simultaneously. Councilman Reynolds was not in favor; we have a program (tag system) that works, is cost effective and safer (no liability exposure) and is not in favor of \$20,000 in the Highway Fund, Part-town for curbside collection unless a specific plan is in place. The Supervisor agreed; \$20,000 wouldn't get you anywhere.

Councilman Reynolds – inquired whether the budgeted amount for personnel in Highway Fund Part-Town DB5110 includes a mechanic for the Highway Department; he wants to see this funded. The Finance Director said \$70,000 would cover the salary and benefits for a mechanic. The Highway Superintendent has documented the need for this position. The union contract specifies a starting salary said Highway Superintendent Sherman.

Councilman Reynolds – road paving was cut and there are a lot of roads needing attention. The Board agreed to leave it as is.

Councilman Miscione thought there was Four Hundred Thousand Dollars (\$400,000) in Records Management equipment this year but nothing for next year. The Town Supervisor said Forty Thousand Dollars (\$40,000) had been budgeted to do some digital work but it didn't happen; the money is still there but nothing budgeted for 2014.

Councilman Miscione didn't believe many Town residents used the bus operations provided by CENTRO; the Town Supervisor said people do use the CENTRO bus service particularly to the commercial corridor of the Town. Councilman Miscione opened the idea of charging a district fee or commercial fee in the future. Councilman Backman stated that many disabled Town residents use the dial-a-bus service to get around in a wheelchair. The Town Supervisor stated that the contribution rate has not changed since he was Comptroller in the late 1990's.

Councilman Miscione noted that the Town is giving the Library an extra \$50,000; will they be open additional days he asked? It was the Town Supervisor's understanding that with the additional \$50,000, the Library would be extending their hours on Friday. It wasn't clear whether the Library would continue to be closed on Wednesdays. Hold out \$50,000 and give it to them if they really need it, suggested Councilman Miscione. He and Councilman Backman suggested getting in writing what additional hours (standard hours) the Library will be open.

General Fund, Part-Town: Licenses and permits - \$60,000 seems low (Building permits); increase to \$75,000; Board consensus to approve.

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Highway Fund, Part-Town: Sidewalks – nothing budgeted. Board consensus to budget \$1,000.

Councilman Backman inquired about the rationale behind removing the \$2500 stipend from the Senior Town Justice line item. The Town Supervisor believed it was a longevity type benefit going back many years; each Town Justice has their own set of books, etc. Budgeted by Town Justice. Board consensus was to reinstate the \$2500 in the Town Justice account.

Councilman Backman suggested hiring a part-time Assessor for \$30,000 with no benefits.

Councilman Backman initiated discussion on the budget surplus (\$1.3 million in General Fund) and whether to take some money out. The Town Supervisor disagreed because Moody's and Standard & Poors has pointed out in the past that because the Town relies so heavily on sales tax revenue, one bad year could adversely affect the Town – and that did happen during a prior administration when the Town realized \$500,000 less than budgeted.

RECESS

A recess was declared from 9:15 PM to 9:18 PM.

The Highway Superintendent and Councilman Miscione have worked on a grease trap penalty program and to charge the property owner (all facilities that prepare food and require a grease trap). Would bring \$12,000 to \$15,000 yearly and perform inspections on a quarterly basis to check out their grease traps. Board consensus to include revenue in General Fund, Part-Town, B2555.7.

Councilman Backman – can pick up \$70,000 by going with a part-time Assessor.

With regard to the fund balance, the Town Supervisor asked what the Board members wanted to do. Councilmen Reynolds, Woodland and Miscione said to leave it alone.

Service Award Program for Willowvale Fire Co. – Trustee/Co-sponsor

Upon motion of Supervisor Patrick M. Tyksinski and seconded by Councilman Miscione, the following Resolution was introduced; a resolution concerning the 2013 Annual Contribution of the Service Award Program: and get a yearly report of additions and deletions;

(RESOLUTION NO. 200 OF 2013)

THE TOWN BOARD RESOLVES, that the Town agrees to act as Co-Sponsor of the Program;

BE IT FURTHER RESOLVED, that the Claimant (Willowvale Fire Company, Inc.) agrees to be designated as Co-Sponsor of the Program, Program Administrator, and accepts the duties and responsibilities for the same, in compliance with Article 11-A, General Municipal Law; and

BE IT FURTHER RESOLVED, that the Claimant (Willowvale Fire Company, Inc.) also agrees to act in the capacity as Trustee of the Fund.

The Supervisor explained that currently the Town is the administrator and that this resolution would allow the Fire Company to perform administrative duties. The Board voted as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye, provided that the Fire
Company submit to the Town Board an annual report of volunteers added and deleted		
Supervisor Tyksinski	-	Aye.

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**.

Executive Session

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

(RESOLUTION NO. 201 OF 2013)

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

A roll call vote ensued:

Councilman Miscione	-	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 9:35 P.M. The Town Attorney remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, October 24, 2013.]

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 202 OF 2013)

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:

Councilman Miscione	-	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 9:46 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Woodland and seconded by Councilman Miscione, the meeting was adjourned at 9:47 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk