

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, NOVEMBER 20, 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:**

Assessor Paul E. Smith  
Codes Enforcement Officer Joseph A. Booth  
Deputy Supervisor Matthew Bohn III  
Director of Finance Daniel Dreimiller  
Highway/Sewer Superintendent Richard C. Sherman  
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

**November 6, 2013 Town Board Meeting**

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

**(RESOLUTION NO. 215 OF 2013)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held November 6, 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

REGULAR TOWN BOARD MEETING

November 20, 2013

Page 2 of 12

Councilman Backman - Aye  
Supervisor Tyksinski - Aye.

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

PUBLIC PRESENTATIONS (Resident Comments)

Supervisor Tyksinski invited anyone present who wished to address the Town Board to come forth and limit their comments to three (3) minutes.

Edmund Wiatr, Jr. – concerned citizens would like to point out problems with some sewer districts that are in the budget – non-profits being charged for operation and maintenance, concerns about street lighting district charges and the Clinton Street Sewer District where the Town is paying the Village of New York Mills for sewer maintenance. Are there any inter-municipal agreements? The Town Supervisor responded that the Town is working on this and what Mrs. Lawrence has brought up, but it’s not a simple task. The Finance Director and he are working on this to get it done. In the same matter, the Town Attorney acknowledged receipt of a letter from the New Hartford School Board Counsel and Ms. Mowat of the New Hartford Public Library and they will be kept apprised.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Parks & Recreation Committee – Councilman Reynolds:

**2013 Budget Transfer**

Upon request of the Parks & Recreation Director, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Backman:

**(RESOLUTION NO. 216 OF 2013)**

**RESOLVED** that the said Town Board does hereby authorize and direct the Finance Department to make the following 2013 budget adjustments for the Parks and Recreation Department:

- Decrease General Fund Whole-Town Swim Contractual A7230.4 - \$4,225
- Increase General Fund Whole-Town Parks equipment A7110.2 - \$4,225

for the purpose of acquiring a 2013 Western Snowplow to be installed on recently purchased 2013 F250 super duty truck.

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***.

**Capital projects for Parks/2014**

Discussion ensued on some major improvements and maintenance issues for the Town Parks for a proposed \$145,000 capital project:

- to slurry roads in Sherrillbrook Park; could save roads for ten (10) years; otherwise, if nothing is done, there will be problems
- working with Police Department to slow down traffic
- expand parking lot and fencing at Donovan Memorial Park
- Rayhill Memorial Trail in desperate need of sealing and repair to fencing
- two (2) permits received from NYS Department of Environmental Conservation to improve embankments; permits to expire October 31, 2014

Also, the Parks and Recreation Director looked into options for security patrol of the parks, especially efforts at the Donovan Memorial Park for the period beginning Memorial Day weekend through Labor Day weekend. The cost under a private contract for one (1) security guard, with a car, was quoted at Eighty-nine Hundred Dollars (\$8900). This has not been included in the proposed 2014 Budget.

**Assessor Committee – Councilman Woodland:**

**Assessor Appointment - Interviews**

Councilman Woodland reported that Councilmen Reynolds and Miscione had been selected to review applications and conduct interviews for the Assessor position. Councilman Miscione then stated that he and the Personnel Technician had interviewed eight (8) candidates, including Paul Smith whose term expired September 30, 2013 and narrowed it down to four (4), including the current candidate of Paul Smith. Second interviews are scheduled for Monday, November 25, 2013, after which a decision will be forthcoming at the December 11, 2013 Town Board meeting. Supervisor Tyksinski stated that he wants to interview the candidates as well.

**Appointment – Temporary Clerk/Assessor's Office**

Upon request of (Assessor) Paul Smith, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilman Miscione:

**(RESOLUTION NO. 217 OF 2013)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Margaret Jones as a Temporary Clerk for the Assessor's Office commencing Monday, December 2, 2013 at an hourly rate of Eleven Dollars (\$11.00), payable bi-weekly.

Whereupon, the Town Board voted upon roll call:

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

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

MATTERS SUBMITTED BY TOWN SUPERVISOR

**2014 Preliminary Budget discussion**

The Town Board has the revised preliminary budget and the Town Supervisor asked the Board to keep in mind the security measures that the Parks and Recreation Director had suggested earlier in the meeting. Other budget item discussions:

- *Highway Superintendent Salary for 2014 - Councilman Backman questioned the transfer of money from Highway Fund contingency into salary and wages for the Highway Superintendent's raise, noting that he didn't think the Board can legally give the raise. The Town Attorney acknowledged that once the notice of public hearing and salary are published, salaries for elected officials cannot be changed after the public hearing except by enacting a local law and he has drafted a local law that will be subject to a public hearing and by local law, the Town Board can change the salary at this point. Thereafter, Councilman Reynolds introduced the following legislation prepared by the Town Attorney for the Board's future consideration; co-sponsored by Councilman Miscione:*

Town of New Hartford, NY  
**Local Law Introductory "D" of 2013**

**A Local Law adjusting the salary of the Highway Superintendent of New Hartford for the year 2014.**

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

Section 1. Authority

Section 17 of the Town Law of the State of New York provides that the Town Board may increase the annual salary of an elected official for not more than one (1) fiscal year in excess of the amount specified in the notice of hearing on the preliminary budget by local law adopted pursuant to the Municipal Home Rule Law.

Section 2. History

The notice of hearing on the preliminary budget of the Town of New Hartford for the Fiscal Year 2014 fixed the salary for the Highway Superintendent without including all compensation as follows:

Town Highway Superintendent	\$42,720.00
-----------------------------	-------------

Section 3. Salary Increase

For fiscal year 2014 the annual salary is hereby increased as follows:

Town Highway Superintendent	\$47,720.00
-----------------------------	-------------

Section 4. Permissive Referendum

This local law is subject to a permissive referendum pursuant to Municipal Home Rule Law Section 24.

Section 5. Effective Date

This local law shall become effective immediately upon filing in the Office of the Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “D” of 2014**

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

**(RESOLUTION NO. 218 OF 2013)**

**RESOLVED** that the New Hartford Town Board does hereby schedule a Public Hearing for Wednesday, December 11, 2013 at 7:00 P.M., or as soon thereafter as reached in the regular course of business, in the Community Meeting Room of Butler Memorial Hall, to consider Law Introductory “D” of 2013 that, if adopted, would approve a raise in the 2014 Budget for the Highway Superintendent’s salary.

A roll call vote was duly held and resulted 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**.

- *Assessor - Councilman Backman questioned the salary for a full-time Assessor. The Town Supervisor said to leave it in and see who gets appointed.*
- *Upon request of Councilman Backman, Finance Director Dreimiller reviewed the tax rates as a result of some budget changes. .*

Upon questioning of the Town Supervisor, Councilmen Reynolds, Woodland and Miscione had no comments on the budget.

- *With regard to the Parks and Recreation Director's recommendation for security in the Town's three (3) parks discussed earlier in the meeting, the Town Supervisor suggested that Board members include the Eighty-nine Hundred Dollars (\$8900) in the 2014 Budget rather than a capital project. He believed it was worth a try for one (1) year and would be cheaper than using Town police officers. Sixty percent of the security patrol would go toward the Donovan Memorial Park in Chadwicks. Patrols would change daily, they would lock up and perhaps do maintenance. Councilman Miscione would like the Town Board to consider a camera-security system and also preferred Town police officers who people respect more than a "mall cop". Using the Town police officers would be about double the cost, said the Town Supervisor. Board consensus was to include Nine Thousand Dollars (\$9,000) for parks security patrols as proposed by Director Michael Jeffery.*

#### **Adoption of 2014 Budget**

Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Woodland:

#### **(RESOLUTION NO. 219 OF 2013)**

**WHEREAS**, the Town Board of the Town of New Hartford held a Public Hearing on November 6, 2013 to consider the special assessment rolls of said Town for fiscal year 2014 and to consider the adoption of the 2014 Preliminary Budget as the 2014 Annual Budget, including special district rates; and

**WHEREAS**, subsequent to the Public Hearing, the Town Board made some adjustments to the 2014 Preliminary Budget;

**NOW, THEREFORE, BE IT RESOLVED** that said Town Board does hereby approve the special assessment rolls of said Town for fiscal year 2014 and does further adopt the 2014 Preliminary Budget, as amended, as the 2014 Annual Budget as set forth in Schedule "A" annexed hereto and made a part of this Resolution and does hereby set the rates for all funds and the special districts/improvement areas as set forth in said budget.

The Board members then voted upon roll call, resulting 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***.

**Intermunicipal Agreement - Salt**

Upon recommendation of the Highway Superintendent, Councilman Backman introduced the following Resolution for adoption, seconded by Councilman Miscione:

**(RESOLUTION NO. 220 OF 2013)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to enter into and to execute an Intermunicipal Agreement between the Town of New Hartford and the Village of New Hartford whereby said Town would provide salt to the Village of New Hartford on an "as-needed" basis during the Winter Season 2013-2014; the Village will reimburse the Town as provided in said Agreement.

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***.

REGULAR TOWN BOARD MEETING

November 20, 2013

Page 8 of 12

**Annual Audit**

The Town Supervisor had received quotes from D'Arcangelo & Associates to perform the audit of the Town's 2013 finances; \$20,500 for the Town audit and \$6,200 for the New Hartford Public Library audit. Councilmen Woodland and Backman thought it should be bid. Supervisor Tyksinski noted that would be no problem but the last time the Town Board stalled, it ended up costing an extra \$1,000. The Town Supervisor asked the Town Board to go one more year with D'Arcangelo noting that professional services are not required to be bid and then re-bid next year. Consensus was to bid out the audit for 2013.

**"New" Chief Justice – Town Court**

Councilman Woodland questioned if the Board would address the "new" chief justice designation in Town Court and the Supervisor said it would. [NOTE: Former Chief Justice James VanSlyke did not run for re-election and will be retiring December 31, 2013; Kevin Copeland is the Town Justice-elect, replacing Justice VanSlyke and William Virkler is also a Town Justice).

**Public Works & Sewer Committee – Councilman Miscione**

**Hire of Highway Department Employee**

Since there has been a vacancy after David DeBlois retired in the Summer of 2013 and Robert Dzedzic will be retiring in January 2014, Highway Superintendent Sherman stated he would like to hire Mark Glenn, effective Monday, December 2, 2013; Mr. Glenn has a Commercial Driver's License. Supervisor Tyksinski stated "...hire him, you have the authority; it's in the budget."

**Quote - Clinton Street bridge accident/damage**

With regard to the motor vehicle accident that damaged the Clinton Street bridge (New York Mills) over Sauquoit Creek on September 30, 2013, Highway Superintendent Sherman had received a quote from Town & County Bridge and Rail, Albany, New York, to remove the existing bridge rail and upgrade the rail to today's standards at a cost of Twenty-five Thousand Six Hundred Forty-four Dollars (\$25,644). The Highway Superintendent had contacted a local company numerous times to obtain a quote but did not receive a response. He had worked off a State bid through Oneida County. In response to Councilman Backman's inquiry if there was enough money in this year's budget to cover this project, the Highway Superintendent stated there was \$10,000 in an account. Councilman Backman wanted more quotes, while the Highway Superintendent emphasized that this is a public safety concern and the Town could be held liable in the event there is some injury to the public. Consensus was for the Highway Superintendent to seek other quotes and report at the December 11, 2013 Town Board meeting.



MATTERS SUBMITTED BY TOWN ATTORNEY

***Claim – Thomas Bell***

The Town Attorney acknowledged that Thomas Bell was present regarding damage to his vehicle allegedly by a Town Highway truck. After some discussion, the following Resolution was introduced for adoption by Councilman Reynolds and seconded by Supervisor Tyksinski:

**(RESOLUTION NO. 221 OF 2013)**

**WHEREAS**, the Town of New Hartford has received a claim from Thomas Bell who alleges that while he was traveling behind a New Hartford dump truck on August 5, 2013 at 7:45 A.M. from his home in Sauquoit through Chadwicks on Oneida Street when a rock of sorts flew out of the truck and struck his windshield, which afterward kept cracking; and

**WHEREAS**, Mr. Bell obtained an estimate from Safelite AutoGlass in the amount of Three Hundred Twenty-two Dollars and Eighty-two Cents (\$322.82); and

**WHEREAS**, upon inquiry of the Town Attorney, Mr. Bell confirmed that he did not submit this claim to his insurance company because he does not have comprehensive coverage on his vehicle policy; and

**WHEREAS**, the Town Attorney stated it doesn't make sense to pursue this claim through the Town's insurance due to the Town's deductible amount;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Finance Department to reimburse Mr. Bell for the damage to his windshield contingent upon the Town Highway Superintendent confirming through his GPS records that a Town Highway dump truck was, in fact, working and/or traveling in the area of Oneida Street on the aforesaid date and time.

Discussion: Councilman Backman believed there is no municipal liability on the matter of a stone being thrown from a vehicle and that Highway Law provides that a truck in performance of its duties, is not liable for damages. In response to Councilman Reynolds' inquiry, Mr. Bell stated he did not file a police report, that he reported his claim to Deputy Clerk Melody Fancett. Councilman Woodland noted that the Town Attorney said the Town is not liable. Thereafter, the Town Supervisor polled the Town Board members who voted as follows:

Councilman Miscione	-	Aye
Councilman Woodland	-	Nay

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

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

**Assessment Certiorari - Markwood**

Markwood vs. Town – the case is moving forward; Town Attorney provided Board members with recent billing; possible settlement; status at December 11, 2013 meeting.

**Rayhill Memorial Trail Extension** - the Massoud easement has been completed; he is working on the O’Grady easement. Attorney Krupa who was hired to finalize the easements has been out of town and if she can’t complete the work, the Town Attorney said he would.

**Assessment of Cellular towers**

Cathy Lawrence expressed concern of whether cellular towers are being assessed properly in the Town of New Hartford.

**Release of Performance Bond – Consumer Square**

Upon the request of James A. Boglioli, Esq., Benderson Development Company LLC, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Woodland:

**(RESOLUTION NO. 222 OF 2013)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to release Performance Bond #SU6000077 in the amount of Eighty-three Thousand Five Hundred Dollars (\$83,500) inasmuch as all work associated with this Bond on Consumer Square has been completed satisfactorily and that Benderson Development is no longer required to carry the Bond.

The Supervisor polled the Town 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**.

**Proposed Inter-municipal Agreement (IMA) – Brine Sharing**

Highway Superintendent Sherman provided a copy of a draft template for the brine sharing services between the Town and whatever municipalities might want to enter into sharing services – the IMA provides no liability on the Town’s part. The template met with the Town Attorney’s approval.

**Health Insurance Proposal – Non-Union employees**

The Town Supervisor summarized a new health insurance proposal for non-union employees and retirees, which had been distributed to Board members. Compared to the existing insurance coverage provided by NYSHIP (The Empire Plan), the new plans are as good if not better. The Town would pay the deductible plan and employees would continue to contribute payment toward the monthly premiums. Based upon figures provided by the Personnel Technician, the Town could save about \$100,000 a year. Thereafter, Supervisor Tyksinski introduced the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 223 OF 2013)**

**RESOLVED** that the Town Board of the Town of New Hartford of the State of New York elects to participate as a participating employer in the Blue Cross Blue Shield HRA Plan to include in such plan its non-union employees as well as to participate in the Medicare Blue PPO for retirees, both effective January 1, 2014, replacing the NYSHIP – Empire Plan that had been in effect since October 1, 2011.

The Resolution was voted upon by 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**.

**2013 Budget Transfer – Clinton Street Bridge repair**

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

**(RESOLUTION NO. 224 OF 2013)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the following budget transfers to cover the costs associated with repairs to the Clinton Street

REGULAR TOWN BOARD MEETING  
November 20, 2013  
Page 12 of 12

bridge over Sauquoit Creek that was damaged by a motor vehicle accident on September 30, 2013:

- *Decrease General Fund Whole Town Account AA1460.02  
Records Management Equipment* - \$25,644
- *Decrease General Fund Whole Town Account AA1120  
Sales Tax Revenue* - \$25,644
  
- *Increase Highway Fund Whole Town Account DA5110.04  
Contractual General Repairs* - \$25,644
- *Increase Highway Fund Whole Town Account DA1120  
Sales Tax Revenue* - \$25,644.

The Town Board then voted upon roll call, resulting 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**.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion duly made and seconded, the meeting adjourned at 8:15 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk