

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, MAY 28, 2014 AT 7:00 P.M.**

The Town Supervisor 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 James J. Messa  
Councilman Paul A. Miscione  
Councilman David M. Reynolds  
Councilman Richard B. Woodland, Jr.  
Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Assessor Darlene Abbatecola  
Codes Enforcement Officer Joseph A. Booth  
Deputy Supervisor Matthew Bohn III  
Finance Director Daniel Dreimiller  
Highway/Sewer Superintendent Richard E. 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

As the minutes of the May 14, 2014 Town Board meeting were incomplete, no action was taken.

PUBLIC HEARING

**7:01 PM      Local Law Introductory “B” of 2014  
Code, Chapter 107B – Telecommunications Facilities**

The Town Supervisor opened the Public Hearing at 7:01 P.M. with regard to Local Law Introductory “B” of 2014. [The Town Clerk had available the Notice of Public Hearing and Local Law Introductory, the Proof of Publication (May 12, 2014 edition of The Observer Dispatch), and the Affidavit of Posting.]

Town Attorney Cully explained that when the Town Board enacted the new telecommunications facilities local law, it provided that all collocated towers even in

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commercial areas needed site approval; however, the Town Board's intent was to regulate such towers in residential areas or within 750 feet of another structure. This new legislation would amend the Town Code, Chapter 107B (Telecommunications Facilities) so that if a tower is collocated on an existing structure and isn't in a residential area or is more than 750 feet from a structure, the applicant would be able to obtain a permit from the Codes Department instead of having to obtain full site plan approval.

Supervisor Tyksinski invited anyone present who wished to speak in favor of, in opposition to, or to comment upon Local Law Introductory "B" to come forward and limit their comments to three (3) minutes. No one came forth.

The matter had been submitted to various agencies for SEQR review and comment and those that responded were:

- *New Hartford Police Department* – this amendment would have no impact on the Police Department's ability to deliver police services
- *New Hartford Fire Department* – acknowledged receipt of the proposed legislation and had no comments at this time
- *Oneida County Department of Planning* – no recommendation as to final action; no significant county-wide or inter-community impacts have been identified
- *Oneida County Department of Public Works* – has no objection to the Town Board assuming Lead Agency status. Since Chapter 107B of the Town's Code would require the issuance of a building permit, this action may be within the jurisdiction of Section 239-f of NYS General Municipal Law.

Donald Backman inquired about the cost of site plan review; the Codes Enforcement Officer responded \$500 for preliminary review, plus parking space if applicable and \$250 for final review (plus parking if applicable). Thereafter, the Hearing was closed at 7:03 P.M. No action was taken at this time as the Town Board is awaiting the Town Planning Board's recommendation.

### REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilman Woodland

#### **Salary - Deputy Town Clerk II**

Upon recommendation of the Town Clerk, Councilman Woodland offered the following Resolution for adoption, seconded by Councilman Messa:

**(RESOLUTION NO. ... OF 2014)**

**WHEREAS**, the Town Clerk has appointed Rebecca A. Empey as Deputy Town Clerk II effective June 2, 2014, to fill the vacancy in said position as a result of the promotion of Shelby Bohling to Deputy Registrar of Vital Statistics;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby establish the hourly wage for Ms. Empey as Deputy Town Clerk II at Eleven Dollars and Seven Cents (\$11.07), payable bi-weekly.

A roll call vote ensued:

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

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

Public Works & Sewer Committee – Chairman Messa

**Stormwater/Sewer Issues – Sherrill Lane**

Councilman Messa reported that in November 2013 the Highway/Sewer Department had begun monitoring stormwater because of some alleged sewage problems on Sherrill Lane (*reported at the July 2013 Town Board meeting by Nellie Moore*); a device that monitors flow had been installed for the past six (6) months. Highway/Sewer Superintendent Sherman stated there appear to be no issues whatsoever at that location; the Town has not received any phone calls from Sherrill Lane residents during the recent heavy rainstorm.

Additionally, no stormwater problems were found in the Hoffman-Root-Bolton Road areas that might have affected Sherrill Lane. While the Highway/Sewer Superintendent said the Town has had no water-issues, he believed it would be prudent to continue monitoring for a few months. After further discussion, the Town Board concurred that the contract entered into with Total Control System Services, Inc., authorized at the November 6, 2013 Town Board meeting, for seven (7) months monitoring, be extended through September 2014 at the rate set forth in the original contract.

The Highway Superintendent would like to send out a voluntary stormwater survey rather than wait until the County sends out a survey toward the end of this year. The Town Board concurred to send out its own survey and Councilman Messa will work with the Highway Superintendent on this matter.

MATTERS SUBMITTED BY COUNCILMEN

Councilman Miscione

**Mud Creek issues**

Councilman Miscione noted that the Town had fixed a lot of issues and cut trees along Mud Creek near Commercial Drive and that the Town had planned to get fencing between residences and the commercial area. Resident complaints include people using the property as short-cuts and there is litter and light nuisance. The Town Supervisor asked Councilman Miscione to obtain three (3) quotes for taller fencing (*municipalities are exempt for height*) and submit the quote at the June 11, 2014 Town Board meeting. Also, the Town Supervisor, Highway Superintendent and Councilman Miscione will make an on-site visit to determine where the property owner boundary lines are...or stake is located.

MATTER SUBMITTED BY TOWN SUPERVISOR

**Teamsters Local 182 (Highway Department Union)**

The Town Supervisor reviewed the various steps the Town had taken with regard to the Highway Department union contract, to the point of a non-binding fact-finding recommendation. The union doesn't agree with employee contribution to their health insurance premium. The fact finder made a proposal which is basically the same proposal the Town made to the union 2 or 3 years ago, and was rejected by the union back then. The Town Supervisor proposed that the Town take the terms of the current contract and use for 2012. Upon recommendation of the Town Supervisor, the following Resolution was introduced by Councilman Reynolds and duly seconded by Councilman Miscione:

**(RESOLUTION NO. ... OF 2014)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby schedule a Public Hearing to be held on Wednesday, June 11, 2014 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, NY to discuss the Fact Finder's Report and Recommendations in the matter of the Town of New Hartford and the International Brotherhood of Teamsters Local 182 (Highway Department Unit).

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

Councilman Miscione	-	Aye
Councilman Messa	-	Aye
Councilman Reynolds	-	Aye

Councilman Woodland - Aye  
Supervisor Tyksinski - Aye.

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

**Sewer District Charges – Non-Profit Organizations**

The Town Supervisor stated that a question arose a number of months ago about sewer district charges being applied to non-profit organizations. The Town changed that procedure for the current year and with approval of the Town Board, retained a law firm to rule on the matter. The law firm agreed that the Town could not tax the non-profits and under circumstances, the Town is not obligated to reimburse those charges. Also, the Town will notify Oneida County Finance Department that they should not provide any refunds in behalf of the affected taxpayers.

**Rayhill Memorial Trail extension**

The Town Supervisor initiated discussion with David Facchini of Lochner Engineering, about an issue involving the Rayhill Trail extension that was brought to light a couple of weeks ago. Supervisor Tyksinski had met with Lochner, the Town Attorney, Parks and Recreation Director and Highway Superintendent about this matter. Mr. Facchini explained Lochner's request for an additional \$5,000 on one contract, to cover an insurance policy they were either unaware of or overlooked with regard to the railroad crossing; a right-of-entry permit is required. Also, Lochner is requesting an increase of \$10,750 on the previous \$18,000 contract involving right-of-way acquisitions, meetings and specifications to construct a pedestrian bridge; Mr. Facchini needs to revisit work to be done, update processes, address changes in federal requirements and obtain approval from the NYS Department of Transportation. After considerable discussion, Mr. Facchini said Lochner Engineering "...will recede and eat the costs."

**Finance Director Dan Dreimiller**

- 2013 Audit has been completed with copies sent to the Town Board members. He summarized the 54-page audit into 2 pages, reviewing same with the Board. The auditors found no new findings – "everything's up to snuff". All prior issues have been resolved except for the fixed assets.
- Town's financial position at end of year – reviewed fund balances at end of 2013, revenues expended and revenues seem to exceed the budget.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. ... OF 2014)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss union negotiations and the Kessler litigation.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Messa	-	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 8:18 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. ... OF 2014)**

**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 Messa	-	Aye
Supervisor Tyksinski	-	Aye.

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:30 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

**ADJOURNMENT**

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There being no further business to come before the Town Board, upon motion duly made by Councilman Miscione and seconded by Councilman Messa, the meeting was adjourned at 8:32 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk