

**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 13, 2015 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 James J. Messa  
Councilman David M. Reynolds  
Councilman Paul A. Miscione  
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  
Director of Finance Daniel Dreimiller  
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

**April 8, 2015 and May 4, 2015, Town Board meetings**

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

**(RESOLUTION NO. 76 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held April 8, 2015, and the Special Town Board meeting held May 4 2015, 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 Messa	-	Aye
Supervisor Tyksinski	-	Aye.

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

PUBLIC PRESENTATIONS

There was no one present who wished to address the Town Board.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN

Town Clerk Committee – Councilman Woodland

**Raffle Consent – Various organizations**

- The Neighborhood Center, Inc.

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

**(RESOLUTION NO. 77 OF 2014)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to The Neighborhood Center, Inc., 293 Genesee Street, Utica, NY, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets within the Town of New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

**FURTHER RESOLVED** that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Town Board 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**.

- Kids Oneida, Inc.

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

**(RESOLUTION NO. 78 OF 2014)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to Kids Oneida, Inc., 310 Main Street, Utica, NY, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

**FURTHER RESOLVED** that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Town Board 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**.

- St. Elizabeth Medical Center Foundation

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

**(RESOLUTION NO. 79 OF 2014)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to St. Elizabeth Medical Center Foundation, 2209 Genesee Street, Utica, NY, an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

**FURTHER RESOLVED** that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Town Board 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***.

Public Works and Sewer Committee – Councilman Miscione

**2015 Ditching Agreement**

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

**(RESOLUTION NO. 80 OF 2015)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor and Highway Superintendent to execute the 2015 Roadside Ditching Agreement between the Town of New Hartford and the County of Oneida, acting through the Oneida County Department of Public Works, wherein said Town agrees to furnish some machinery and labor to the County for the purpose of providing the County with roadside ditching services to keep Right of Way portions of the highway ditched in accordance with the rules and regulations as set forth by the County, which rules and regulations are made a part of said Agreement for the construction season dating from May 1, 2015, to December 1, 2015.

Upon roll call, the Board members 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***.

**Lease Purchase Agreement – two (2) Highway Department trucks**

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

**(RESOLUTION NO. 81 OF 2015)**

**WHEREAS**, at the April 8, 2015, Town Board meeting, Resolution No. 66 was duly adopted authorizing the Highway Superintendent to acquire two (2) new dump trucks to be financed through a five (5) year lease with Municipal Leasing Consultants, 7 Old Town Lane, Grande Isle, Vermont 05458;

**NOW, THEREFORE, BE IT RESOLVED** that the said Town Board does hereby authorize and direct Town Supervisor Patrick M. Tyksinski to enter into and to execute the Master Tax-Exempt Lease Purchase Agreement for the lease purchase of two (2) new dump trucks, together with the execution of all documents related thereto.

A roll call vote was duly held 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**.

**Appointment – Seasonal Highway employees**

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

**(RESOLUTION NO. 82 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby appoint the following individuals as seasonal Laborers in the Highway Department at the hourly wage set opposite their several names, and as of the dates set forth; wages shall be paid bi-weekly:

<u>Name</u>	<u>Hourly Wage</u>	<u>Effective Date</u>
Dylan Alexander	\$ 8.50	May 14, 2015
Jeffrey Mundrick	\$ 8.00	May 14, 2015
Brad Pietryka	\$ 8.00	June 29, 2015

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**.

**Municipal Separate Storm Sewer System (MS4) – Annual Report**

Superintendent of Highways Richard Sherman had distributed copies of the 2015 MS4 Annual Report that had been completed. The purpose of the MS4 program, which has been in place since 2003, starting with the Environmental Protection Agency (EPA) – Clean Water Act adopted in the late 1990’s, is a mandate that municipalities control the quality of stormwater by eliminating all kinds of debris (salt, sand, litter, etc.) from being dumped into the storm sewer facility within their territorial boundary, so that unfiltered stormwater does not flow into streams and wetlands. Regulated MS4s involve many towns and villages; the systems can be closed or open ditches and swales. Minimum control measures include:

- Public outreach and education
- Public outreach and participation
- Illicit discharge detection and elimination of stormwater
- Construction site run-off control
- Post construction stormwater management
- Good housekeeping

The annual report requires the Town Supervisor’s signature, after which the Annual Report will be posted on the Town’s web site. The public can read the report and offer comments. This public (Town Board) meeting and the Town’s web site will suffice for a public hearing. The Annual Report must be filed with the New York State Department of Environmental Conservation by June 1, 2015. Thereafter, Councilman Miscione introduced the following Resolution for adoption; seconded by Councilman Messa:

**(RESOLUTION NO. 83 OF 2015)**

**WHEREAS**, the Town of New Hartford has been identified as a Municipal Separate Storm Sewer System (MS4) under the EPA’s Phase II Stormwater Regulations under the Clean Water Act of 1999; and

**WHEREAS**, the Phase II Program requires each MS4 to prepare a Draft Annual Report on the Town’s efforts to protect and improve the water quality of our streams and water bodies; and

**WHEREAS**, the public is invited to review the Draft Annual Report and provide input; and

**WHEREAS**, a Draft Annual Report has been prepared in conformance with the Phase II Regulations by the Highway Department; and

**WHEREAS**, the Annual Report must be submitted to the New York State Department of Environmental Conservation offices in Albany, NY, by June 1, 2015;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board accepts said Draft Annual Report and does hereby authorize and direct the Town Supervisor to execute same and that said Draft Annual Report is available for public review at the Town of New Hartford Town Clerk's Office, Town Web Site, and at the Highway Department.

Upon roll call, the Board members 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**.

**Agreement for Expenditure of Highway Funds; Highway Law, Section 284**

Upon request of the Highway Superintendent, Councilman Miscione introduced the following Resolution for adoption; seconded by Councilman Messa:

**(RESOLUTION NO. 84 OF 2015)**

**RESOLVED** that, pursuant to the provisions of Section 284 of the Highway Law, the Town Board and Highway Superintendent do hereby agree that moneys levied and collected for the repair and improvements of highways, and received from the State or other sources for the repair and improvement of highways, shall be expended as follows:

IMPROVEMENTS (5112): The sum of \$293,172 shall be set aside to be expended for the improvement of Town highways.

Roads or portions of roads to be paved:

- Gilbert Road
- Lower Woods Road (to Wheatley Circle)
- Wheatley Circle
- Upper Woods Circle
- Hamilton Street (to Brooks Lane)

- Brooks Lane (to Hamilton Street)
- Oneida Street, north bound to Kellogg Road
- Oneida Street, McDonald's intersection

Roads paved last year; to be slurried in 2015:

- Gilbert Road .30 miles
- Rollingwood Drive .49 miles
- Harrogate Road (to Kellogg Road) .12 miles
- Lindale Avenue .21 miles
- Weston Road .16 miles
- Emerson Road .07 miles
- South Hills Drive (to Sherman Drive) .08 miles
- Woodberry Road (to Foxcroft Road) .24 miles
- Sanger Avenue .23 miles
- Terrace Hill Drive .24 miles
- Hillside Avenue, South .15 miles
- Hartford Terrace (to Hoffman Rd) .10 miles
- Regal Court (to Imperial Dr) .12 miles
- Bayberry Lane .19 miles
- Chestnut Road #1 .26 miles
- Chestnut Road #2 .14miles
- Sherman Lane .48 miles
- Sherman Circle .09 miles
- Alvin Place .12 miles

The Resolution was then voted upon by roll call, resulting 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***.

Senior Citizen Committee – Councilman Reynolds

**2015 Donations/Budget adjustment**

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



**(RESOLUTION NO. 85 OF 2015)**

**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 Eighty-six Dollar (\$486) donation from friends and family in memory of Lewis Manuele, a charter member of the Senior Center, the One Hundred Dollar (\$100) donation from St. Thomas Men’s Club, the Twenty-five Dollar (\$25) donation from Joan Bernard and the Twenty-five Dollar (\$25) donation from Josephine Cingranell, all in memory of Lewis Manuele, to be used for senior citizen activities 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 2015 budget adjustments for the New Hartford Adult Dining and Activity Center:

- Increase General Fund Whole-Town Contractual Account A6772.4 - \$636.00
- Increase General Fund Whole-Town Revenue A2705.1 - \$636.00.

A roll call vote ensued:

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

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

Parks and Recreation Committee – Councilman Reynolds

**Appointment – Seasonal Park & Recreation 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 Miscione:

**(RESOLUTION NO. 86 OF 2015)**

**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, commencing on the dates specified; all wages to be paid bi-weekly:

REGULAR TOWN BOARD MEETING  
 May 13, 2015  
 Page 10 of 21

Park – May 14, 2015

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Dustin Benton	Park Laborer II	\$ 9.75 per hour
Vincent Servadio	Park Laborer II	\$ 9.75 per hour
Michael LaPorte	Park Laborer II	\$ 9.75 per hour
Christopher Luker	Park Laborer I	\$ 8.75 per hour
Patrick Coughlin	Park Laborer I	\$ 8.75 per hour
Andrew Crumrine	Park Laborer I	\$ 8.75 per hour

Swim – June 30-September 7, 2015

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Anna Wanner	Pool Co-Director	\$13.20 per hour
Scott Wanner	Pool Co-Director	\$12.50 per hour
Michael Peterson	Certified WSI & Lifeguard	\$11.00 per hour
Brianna Fuccillo	Lifeguard	\$ 9.35 per hour
Taylor Dontino	Lifeguard	\$ 9.35 per hour
Annabelle Abbadessa	Splash Pad Attendant	\$ 8.75 per hour
Garrett Mahoney	Splash Pad Attendant	\$ 8.75 per hour
Josiah Abbadessa	Splash Pad Attendant	\$ 8.75 per hour

Summer Theater – June 30-August 13, 2015

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Jesse Orton	Summer Theater Director	\$17.95 per hour
Katie Klimacek	Assistant Theater Director	\$ 9.95 per hour

Playgrounds – June 29-August 14, 2015

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Samantha North	Director	\$12.75 per hour
Ronald German	Director	\$12.75 per hour
Kyle Hutchinson	Director	\$12.75 per hour
Kristi Denison	Director	\$12.75 per hour
Kathyn Kasky	Assistant Director	\$ 9.95 per hour
Samantha Long	Assistant Director	\$ 9.95 per hour
Elizabeth Baldwin	Assistant Director	\$ 9.95 per hour
Samantha Hollister	Assistant Director	\$ 9.95 per hour
Chris Faro	Recreation Attendant II	\$ 8.85 per hour
Amanda Tucciarone	Recreation Attendant II	\$ 8.85 per hour
Katie Klimacek	Recreation Attendant I	\$ 8.75 per hour
Tony Karam	Recreation Attendant I	\$ 8.75 per hour
Benjamin Herring	Recreation Attendant I	\$ 8.75 per hour
Erica Pendrak	Recreation Attendant I	\$ 8.75 per hour
Rachel Hernon	Recreation Attendant I	\$ 8.75 per hour
Benjamin Phelps	Recreation Attendant I	\$ 8.75 per hour
Derek German	Recreation Attendant I	\$ 8.75 per hour
Steven Pardi	Recreation Attendant I	\$ 8.75 per hour
Eileen Hernon	Recreation Attendant I	\$ 8.75 per hour
Allison Kobielski	Recreation Attendant I	\$ 8.75 per hour
Ashley Tremblay	Recreation Attendant I	\$ 8.75 per hour
Robin Wheatley	Head Bus Driver	\$14.60 per hour

REGULAR TOWN BOARD MEETING  
May 13, 2015  
Page 11 of 21

Kirstin Abbe	Bus Driver	\$13.50 per hour
Amy Stappenbeck	Bus Driver Substitute	\$13.30 per hour
Harold Kaffka	Adult Basketball Director	\$15.00 per hour
Andrew Goodelle	Youth Basketball Director	\$15.75 per hour

Whereupon, the Town Board voted upon roll call:

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

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

Zoning (Codes) and Planning Committee – Councilman Messa

***Training***

Upon request of the Codes Enforcement Officer, Councilman Messa offered the following Resolution for adoption and Councilman Miscione seconded same:

**(RESOLUTION NO. 87 OF 2014)**

**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 Codes Enforcement Officer Joseph Booth, Assistant Codes Enforcement Officer Thomas Rowlands and Assistant Codes Enforcement Officer Anthony Klimek to attend the May 22, 2015 in-service day at SUNY POLY, Kunsela Hall, Marcy, New York, with expenses to be borne by said Town as budgeted. The hours earned by attending this session will add to their required 24 hours of classes for 2015.

The Resolution was voted upon by roll call as follows:

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

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

Finance Director

**2014 Audit**

Finance Director Dreimiller reported that the 2014 audit of Town finances has been finished and that he had distributed copies to Board members. He did receive a few questions, which were addressed, and he inquired if Board members had any other questions. Thereafter, Councilman Reynolds offered the following Resolution for adoption and Councilman Miscione seconded same:

**(RESOLUTION NO. 88 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby accept the Audit performed by D'Arcangelo & Co., LLP, of the Town's financial records and accounts for the calendar year 2014.

A roll call vote was duly held and resulted as follows:

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

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

**New York State AUD**

The Finance Director stated that the AUD has been completed and sent electronically to the State Comptroller.

**Interviews – Pending Vacancy in Accounting Office**

Finance Director Dreimiller informed the Board that he and Personnel Technician Schwenzfeier will begin interviews, starting with six (6) or seven (7) applicants, on Friday, May 15, 2015 for the pending vacancy in the Accounting Department.

**Budget Adjustment - 2015**

Upon request of Highway Superintendent Sherman, Councilman Miscione introduced the following resolution for adoption; seconded by Councilman Messa:

**(RESOLUTION NO. 89 OF 2014)**

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Accounting/Finance Department to make the following 2015 budget adjustments:

<u>Account No./Description</u>	<u>Increase</u>	<u>Explanation</u>
DB-3501.0 Consolidated Highway revenue	\$23,172	Additional CHIPS money secured by Highway Superintendent to be paid in June
DB-5112.04 Paving Roads	\$23,172	Additional CHIPS money secured by Highway Superintendent to be paid in June

The Resolution was subject to a vote upon roll call:

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

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

**Trash and Brush Collection – Highway Department**

The Town Supervisor asked that next year's trash and brush collection brochure be broken down so that residents aren't confused and thinking that the curbside trash collection has been reinstated by the Highway Department; some people were putting mattresses at the roadside. The trash tag permit system for large items is available at the Town Clerk's Office.

**Agreement – Animal Control/Town of Kirkland**

The Town Police Chief had reviewed the proposed 2015 Animal Control Agreement between the Town of New Hartford and Town of Kirkland; one change was made so that only domestic animals will be picked up. Thereafter, Councilman Reynolds introduced the following Resolution which was duly seconded by Councilman Miscione:

**(RESOLUTION NO. 90 OF 2015)**

**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 Agreement between said Town and the Town of Kirkland, wherein the Town of New Hartford will provide animal control services to the Town of Kirkland during calendar year 2015, as per the terms and conditions set forth in said Agreement.

The Board members were polled and 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**.

**Unsafe Buildings – Town Code, Chapter 52**

After conversations with Village officials and condition of homes in the area, the Town Supervisor asked the Town Attorney to prepare legislation regulating unsafe buildings. Town Attorney Cully was able to use an existing local law from another municipality which, if adopted, would replace the existing Town Code, Chapter 52 and would define what constitutes an unsafe building. Further, the law would allow the Codes Enforcement Office to perform an on-site inspection and submit a written report to the Town Board who would hold a public hearing for the property owner to have an opportunity to be heard. If the owner refuses to remediate the condition within a specific timeframe, the Town Board shall order repair or demolition and assess all costs related thereto to the property owner's tax bill. In response to Councilman Messa's inquiry, if this legislation is adopted, it would not apply to pre-existing cases...only those cases that continue to have problems after adoption of this legislation. Thereafter, Councilman Miscione introduced the following legislation for the Town Board's consideration at a future Public Hearing, co-sponsored by Councilman Reynolds:

**Town of New Hartford, New York  
Local Law Introductory "D" of 2015**

**A Local Law to AMEND the Code of the Town of New Hartford, CHAPTER 52 thereof entitled BUILDINGS, UNSAFE by REPLACING the existing chapter as hereinafter set forth.**

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

**SECTION 1. Chapter 52 (Buildings, Unsafe) of the Code of the Town of New Hartford is AMENDED in its entirety to read as follows:**

**CHAPTER 52 BUILDINGS, UNSAFE**

**History**

**52-1 Purpose.**

Unsafe buildings pose a threat to life and property in the Town of New Hartford. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. It is the purpose of this chapter to provide for

the safety, health protection and general welfare of persons and property in the Town of New Hartford by requiring such unsafe buildings be repaired or demolished and removed.

**52-2 Title.**

This chapter shall be known as the "Unsafe Buildings Law in the Town of New Hartford."

**52-3 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BUILDING**

Any building, structure or portion thereof used for residential, business or industrial purpose.

**CODE ENFORCEMENT OFFICER**

The Code Enforcement Officer of the Town of New Hartford or other such person appointed by the Town Board to enforce the provisions of this chapter.

**52-4 Defects deemed unsafe or dangerous.**

A building is, or may become dangerous or unsafe to the general public if:

- A.** It is open at the doorways making it accessible or an object of attraction to minors, vagrants and/or other trespassers.
- B.** Its interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- C.** Exclusive of its foundation, it shows 33% or more of damage to or deterioration of the supporting member or members, or 50% of damage to or deterioration of the non-supporting, enclosing or outside walls or covering.
- D.** It has improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- E.** It has been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this Town.
- F.** It has become or is so dilapidated, decayed, unsafe or unsanitary, or utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living therein or adjacent thereto.
- G.** It has light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein, with particular reference to the requirements of the New York State Uniform Fire Prevention and Building Code as a determinant.
- H.** It has inadequate facilities for egress in cases of fire or panic, or has insufficient stairways, elevators, fire escapes or other means of access or egress, again referencing the New York State Uniform Fire Prevention and Building Code as a determinant.
- I.** It has parts which have become so detached they may fail and injure members of the public or others' property.

J. Is or may become a place of rodent infestation.

K. Presents any other danger to the health, safety, morals or general welfare of the public.

L. Is unfit for the purposes for which it may be lawfully used.

**52-5 Inspections; report to Town Board.**

Upon complaint about a building or on his own volition the Code Enforcement Officer will cause to be made or make himself an inspection thereof and report, in writing, to the Town Board his findings and recommend actions as to repair or demolition or removal.

**52-6 Consideration of report; order to repair or remove.**

A. The Town Board shall thereafter consider such report and by resolution call for a hearing on the report. That resolution, if it seems proper, will direct notice to the owner of the property as listed in the current tax rolls and any other persons that the Board may deem appropriate. The Board shall conduct the hearing, or may by order appoint a disinterested person to do so. After hearing all testimony, the Board or its appointed hearing office shall determine, in writing, if the building is unsafe and if so, whether it is to be repaired or demolished and removed.

B. In the event that the building or other structure shall be unsafe or dangerous under such report, the Town Board may also request the Town Attorney to make an application to the Supreme Court for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed. The decision of the Town Board to bring such application does not waive its right to call for a hearing on the report.

**52-7 Contents of notice and hearing.**

The notice shall contain the following:

A. A description of the premises.

B. A statement of the particulars in which the building is unsafe or dangerous.

C. An order outlining the manner in which the building is to be made safe and secure or demolished and removed.

D. A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended.

E. A date, time, and place for the hearing, which shall be scheduled not less than five business days from the date of service of the notice.

F. A statement that, in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

**52-8 Service of notice.**



## REGULAR TOWN BOARD MEETING

May 13, 2015

Page 17 of 21

Said notice shall be served;

**A.** By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building as shown by the records of the Receiver of Taxes or of the County Clerk; or, if no such person can be reasonably found, by mailing such owner, by certified mail, return receipt requested, a copy of such notice directed to his last known address as shown by the above records; and

**B.** By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and

**C.** By securely affixing a copy of such notice upon the unsafe building.

### **52-9 Filing with County Clerk.**

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Oneida.

### **52-10 Refusal to comply; removal by Town.**

If the owner fails or neglects to comply with the order of the Town Board within 20 working days (Monday through Friday, excluding holiday), after service as provided in 52-8, the Town Board shall order the repair or the demolition and removal of the building.

### **52-11 Assessment of expenses.**

All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Town Law for the levy and collection of a special ad valorem levy.

### **52-12 Emergencies.**

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Code Enforcement Officer to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in 52-11 hereof.

### **52-13 Compensation of surveyor.**

The surveyor appointed as provided herein shall be paid reasonable compensation as shall be fixed by the Town Board.

### **52-14 Transfer of title.**

The transfer of title by the owner of premises upon which an unsafe building or structure is located shall be no defense to any proceedings under this chapter.

### **52-15 Penalties for offenses.**

Any person upon whom an order as provided in this chapter has been served who fails, neglects or refuses to place such unsafe building or structure in a safe condition as designated in such order or who shall resist or obstruct the Code Enforcement Officer or any other Town employee is carrying out the provisions of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine of not more than \$250 or by imprisonment for not

more than 15 days, or by both such fine and imprisonment. Each day in which such offense continues shall constitute a separate violation.

**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 take effect upon filing with the Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “D “ of 2015**

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

**(RESOLUTION NO. 91 OF 2015)**

**RESOLVED** that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, June 10, 2015 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 “D” of 2015** which, if adopted, would amend the Code, Chapter 52 thereof entitled **BUILDINGS, UNSAFE** in its entirety; 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 Messa	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Supervisor Tyksinski	-	Aye.

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

**MATTERS SUBMITTED BY TOWN ATTORNEY**

**Stormwater Damage Claims**

The Town Attorney reported that Supreme Court Judge Hester had rendered his decision on the stormwater damage claims that had been submitted by Lynette E. & George Carman, Andrew J. Anguish, and Margaret R. LeFever versus the Town. The three (3) cases were dismissed summarily based upon Judge Hester’s determination that the Town was not negligent in any fashion... that it was an act of God that caused the problem and the Town is not liable for an act of God.

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

Financial:

**Audit of Vouchers**

Councilman Messa presented the following Resolution for adoption; seconded by Councilman Miscione:

**(RESOLUTION NO. 92 OF 2015)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the payment of the bills itemized on the following Abstracts, which had been duly audited by the Town Board:

2015 Equip/Capital Project Abstract #1	
Voucher H21	\$ 12,500.00
Communications Abstract #3	
Voucher HL3	\$ 105.00
General Fund Part-Town Abstract #9	
Vouchers BB62 – BB64	\$ 3,809.49
General Fund Part-Town Abstract #10	
Voucher BB65	\$ 25.88
General Fund Part-Town Abstract #11	
Vouchers BB66 – BB79	\$ 4,099.65
General Fund Part-Town Police Abstract #10	
Vouchers BP95 – BP99	\$ 44,842.14
General Fund Part-Town Police Abstract #11	
Vouchers BP100 – BP114	\$ 9,720.05
General Fund Whole-Town Abstract #12	
Vouchers AA416 – AA433	\$ 25,648.28
General Fund Whole-Town Abstract #13	
Vouchers AA434 – AA440	\$ 15,138.04
General Fund Whole-Town Abstract #14	
Vouchers AA441 – AA543	\$ 182,501.72
Highway Fund Part-Town Abstract #7	
Voucher DB295 – DB368	\$ 98,168.92
Rayhill Trail Fund Abstract #2	
Vouchers H52 – H59	\$ 183,946.48
Sewer Fund Abstract #12	
Voucher SS28	\$ 149.38
Sewer Fund Abstract #13	
Voucher SS29	\$ 1,943.46
Sewer Fund Abstract #14	
Vouchers SS30 – SS32	\$ 2,647.20

Street Lighting Fund Abstract #5 Voucher SL5	\$	9,168.89
Trust & Agency Fund Abstract #13 Vouchers TT85 – TT92	\$	8,293.74
Trust & Agency Fund Abstract #14 Vouchers TT93 – TT96	\$	9,848.29
Trust & Agency Fund Abstract #15 Vouchers TT97 – TT103	\$	9,580.05
Trust & Agency Fund Abstract #16 Vouchers TT104 – TT111	\$	<u>8,469.05</u>
	\$	<b>630,605.71</b>

Upon roll call, the Board members voted as follows:

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

This 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. 93 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the Town's strategy in the Morris tax certiorari versus the Town of New Hartford.

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 7:20 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provide the following transcription on Thursday, May 14, 2015.]

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 94 OF 2015)**

**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 7:31 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 duly made and seconded, the meeting was adjourned at 7:32 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk