

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, SEPTEMBER 9, 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  
Deputy Supervisor Matthew Bohn  
Director of Finance Daniel Dreimiller  
Highway Superintendent Richard C. Sherman  
Parks & Recreation Director Michael W. Jeffery  
Police Chief Michael Inserra  
Senior Services Director M. Eileen Spellman  
Town Attorney Herbert J. Cully  
Town Clerk Gail Wolanin Young

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

MINUTES

**August 12, 2015, Town Board meeting**

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

**(RESOLUTION NO. 143 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 August 12, 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/COMMENTS

**Willowvale Fire Company - fire horn**

Judy Cusworth of Chadwicks presented her complaint about the Willowvale Fire Department; specifically, that the fire horn blows 33 times when a call is received at the Fire department and that the noise actually vibrates the windows in her home; and questions whether the noise would devalue the worth of her home. Both she and her fiancée have, on separate occasions, discussed this matter with Fire Chief Kuhn to no avail. That's when she contacted Councilman Messa who witnessed the blowing horn, as well as Code Enforcement Officer Joseph Booth who visited her property. Councilman Messa spoke with Willowvale Fire officials on several occasions that they should contact the company who installed the fire horn but nothing has been done. Ms. Cusworth stated there are times that the horn blows 66 times and most recently at the fire at the corner of Oxford and Tibbitts Roads, the horn blew 99 times. She submitted to the Board a letter from Kevin Revere of the 9-1-1 Center. Ms. Cusworth believes the horn blowing is overkill since the firefighters have scanners, radios in their vehicles and fire radios that they carry on themselves. The Town Supervisor requested that Councilman Messa contact the Willowvale Fire Company officials one more time to resolve this matter. Ms. Cusworth had received word that the Fire Company can actually turn off the horn themselves inside the firehouse.

**Excessive speed – texting on Oxford Road (Village)**

Nancy Slade was on the Agenda to speak but did not show up.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN

Zoning (Codes) and Planning Committee – Councilman Messa

**Training – Zoning Board of Appeals**

Upon request of Zoning Board members, the following Resolution was introduced for adoption by Councilman Messa and duly seconded by Councilman Miscione:

**(RESOLUTION NO. 144 OF 2015)**

**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 Zoning Board of Appeals members Karen Stanislaus and Byron W. Elias to attend the continuing education program in planning and zoning to be held at the Town of Schuyler offices on Wednesday, October 7, 2015, with expenses to be borne by said Town as budgeted.

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***.

**Training – Code Enforcement**

Upon request of the Code Enforcement Officer, the following Resolution was introduced for adoption by Councilman Messa and duly seconded by Councilman Reynolds:

**(RESOLUTION NO. 145 OF 2015)**

**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 Code Enforcement Officer Joseph Booth, Assistant Code Enforcement Officer Thomas Rowlands and Part-time Code Enforcement Officer Anthony Klimek to attend an in-service Seminar at SUNY POLY on Friday, September 25, 2015, with expenses to be borne by said Town as budgeted. Attendance will give the employees six hours of in-service credit.

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**.

Town Clerk Committee – Councilman Woodland

**Raffle Consent**

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

**(RESOLUTION NO. 146 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby grant permission to Kids Oneida, Inc., 310 Main Street, Utica, New York 13501, 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, 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**.

**Training - Oneida County Association of Towns Meeting**

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

**(RESOLUTION NO. 147 OF 2015)**

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 Highway Superintendent Richard C. Sherman and Town Attorney Herbert J. Cully to attend the Oneida County Association of Towns quarterly business meeting on Tuesday, September 15, 2015, at Orchard Hall, Sauquoit, NY, with expenses to be borne by said Town as budgeted.

The Resolution was voted upon by roll call as follows:

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

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

Senior Services Committee – Councilman Reynolds

**2015 Donations & Budget adjustments**

Upon recommendation of the Director of Senior Services, Councilman Reynolds moved the adoption of the following Resolution, which was seconded by Councilman Miscione:

**(RESOLUTION NO. 148 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 following donations/grants received in 2015:

<u>Donor</u>	<u>Amount</u>	<u>Purpose</u>
Fidelis Care New York	\$ 500	Senior Services Book/30 <sup>th</sup> Anniversary
Adirondack Bank	\$ 125	Senior Services Book/30 <sup>th</sup> Anniversary
	\$ 625	TOTAL

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 - \$ 625
- Increase General Fund Whole-Town Revenue A2705.1 - \$ 625.

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**.

**2015 Donations & Budget adjustments**

Upon recommendation of the Director of Senior Services, Councilman Reynolds moved the adoption of the following Resolution, which was seconded by Councilman Woodland:

**(RESOLUTION NO. 149 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 One Hundred Dollar (\$100) donation from Rye Auld King and her family, in memory of Edward Baker, said donation to be used for senior citizen activities; 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 - \$ 100
- Increase General Fund Whole-Town Revenue A2705.1 - \$ 100.

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 Parks and Recreation Employees**

Upon recommendation of the Parks and Recreation Director, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Messa:

**(RESOLUTION NO. 150 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 September 26, 2015, and ending March 31, 2016; all wages to be paid bi-weekly:

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Jordyn Gardinier	Ice Attendant	\$9.00/hour
Gianna Paniccia	Ice Attendant	\$9.00/hour
Ariel Smith	Ice Attendant	\$9.00/hour
Seth Garrett	Ice Attendant	\$9.00/hour
Matthew Crumrine	Ice Attendant	\$9.00/hour
Andrew Nerber	Ice Attendant	\$9.00/hour.

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

**2015 Budget Transfer – Parks and Recreation Department**

Upon request of the Parks and Recreation Director, Councilman Reynolds moved the adoption of the following Resolution, which was duly seconded by Councilman Miscione:

**(RESOLUTION NO. 151 OF 2015)**

**RESOLVED**, that the Town Board of the Town of New Hartford does hereby authorize and direct the Accounting Department to transfer the sum of Six Thousand One Hundred Seventy-five Dollars (\$6,175) from the Parks Equipment Account AA7110.2 to the Recreation Center Contractual Account AA7020.4 for the purpose of covering expenses for a crank shaft for the Recreation Center compressor.

A vote upon roll call was duly held and resulted 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 Safety & Court Committee – Supervisor Tyksinski

**Declaration of Surplus Vehicles – Authorization to Sell**

Upon request of the Highway Superintendent, the following Resolution was offered for adoption by Councilman Miscione and duly seconded by Councilman Reynolds:

**(RESOLUTION NO. 152 OF 2014)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby declare as surplus one (1) 2004 Chevrolet Tahoe, VIN 1GNEK13Z04J276136, mileage 85,554; and be it

**FURTHER RESOLVED** that the aforesaid vehicle shall be placed for sale with Auctions International and once sold, the Town Clerk's office shall be notified and shall arrange to terminate insurance coverage on said vehicle.

The foregoing Resolution was voted upon by roll call 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.

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Councilman Reynolds:

**Nuisance Abatement Update – 42 Slusser Avenue**



The Town Attorney reported that Code Enforcement Officer Joseph Booth has been in contact with the owner/absentee landlord of 42 Slusser Avenue, who has promised to fix things but doesn't. Therefore, the Town has commenced court action and the Town Attorney will prosecute the case.

Town Attorney Herbert J. Cully:

**Sherrill Lane – proposed land sale**

After the August 2015 Town Board meeting, the Town Attorney sent a Memo to the Town Board members notifying them that some of the abutting property owners – after learning that the filing fees at the County could be in excess of \$300 each – aren't interested in pursuing this. The matter is on hold; it's not going forward now.

**Tax Certiorari proceeding – Kohl's**

The Kohl's tax certiorari proceeding has been discontinued and the Town Attorney has received the Stipulation of discontinuing their action.

**Local Law Introductory "F" of 2015; Lead Agency; Town and County Planning referral; SEOR; Public Hearing scheduled**

The Town Attorney noted that there has been some confusion over the definition of "building area" and, toward that end, he suggested that the Town Board amend the Zoning Law text to include the definition of "building area" as it appears in the New York State Building Code. This has been a debate between the developers and the Town as to what constitutes a "building area". After some discussion, Councilman Miscione introduced the following legislation for adoption at a future Public Hearing; seconded by Councilman Woodland:

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

A Local Law to amend the Code of the Town of New Hartford, Chapter 118 thereof entitled ZONING, Section 118-14. Definition., by adding the definition of "building area".

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

Section 1. Chapter 118 (Zoning) of the Code of the Town of New Hartford, Section 118-14. Definition. is hereby amended to include the following definition:

AREA, BUILDING. All areas contained within exterior walls exclusive of open courts is the building area or total square footage. The definition actually includes any area under the roof even if they are open, so the portico of a hotel or a covered porch is included in

building area. The impacts associated with the size of a development are cumulative and while multi-story buildings do not increase the amount of storm water runoff, the total size of the structure has obvious impacts on highway, domestic water, and police usage.

Section 2. All other provisions of Chapter 118 of the Code of the Town of New Hartford, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

Section 3. This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

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

**(RESOLUTION NO. 153 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby refer Local Law Introductory “F” of 2015 to the Town Planning Board and to the Oneida County Planning Department for their review and written recommendation as provided in General Municipal Law and the Town’s Zoning Law; and be it

**FURTHER RESOLVED** that said Town Board does hereby declare itself as Lead Agency in the matter of the Zoning Law text amendment set forth in the above-referenced legislation and does hereby authorize and direct the Town Clerk to forward copies of said Zoning Law text amendment (aka Local Law Introductory “F” of 2015) to all interested and/or involved agencies for SEQR review; and be it

**YET FURTHER RESOLVED** that the Town Board does hereby schedule a Public Hearing for Monday, October 5, 2015, at 7:00 P.M., or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, New Hartford, New York, to consider the adoption of Local Law Introductory “F” of 2015.

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

**Notice of Claim – Robert Kessler**

The Town Attorney acknowledged service on the Town of a Notice of Claim involving Robert Kessler, developer of the Glendale Ave Extension (aka Trailside Crossing), asserting damages done to one of the houses he was building for Joseph Sallustio. The damages allegedly occurred on April 30, 2015, so this appears to be an untimely service as claims must be filed within ninety (90) days of the incident. The Town Attorney will turn over the Notice of Claim to the Town Clerk. [As of September 29, 2015, the Town Clerk had not received the Notice of Claim].

**Sherrill Lane – proposed land sale**

Councilman Messa stated that the neighbor who had initiated the conversation about purchasing some of Town-owned land behind his residence, has asked if the Town Board would consider selling him that portion behind his residence since he's on the end and then property owner 2, 3, 4 etc. could purchase a portion. The Town Attorney will check to see how to handle this; Councilman Messa will have the property owner contact Attorney Cully.

**FOIL Appeal – Sherrill Lane land sale proposal**

With regard to the FOIL appeal filed by Cathy Lawrence, Ms. Lawrence confirmed she now has received a copy of the Donato appraisal of the Town-owned land behind Sherrill Lane but has not received a copy of the invoice; the Town Attorney believes the invoice for \$200 should be forthcoming. Ms. Lawrence expressed concern that she might not have received all the documents she had requested. Attorney Cully said he had a couple telephone calls. As long as everybody certifies they have no further documents, she is satisfied her FOIL request has been met.

**MATTERS SUBMITTED BY TOWN SUPERVISOR**

**Financial:**

**Audit of Vouchers**

On recommendation of the Town Supervisor, Councilman Messa presented the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 154 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:

Arlington/Higby Sewer Repair Abstract #3	\$ 20,620.70
Voucher H44	

REGULAR TOWN BOARD MEETING  
 September 9, 2015  
 Page 12 of 14

General Part Town Abstract #21 Vouchers BB124—BB126	\$ 3,809.49
General Part Town Abstract #22 Vouchers BB127—BB142	\$ 3,920.95
General Whole Town Abstract #26 Vouchers AA874—AA882	\$ 22,406.98
General Whole Town Abstract #27 Vouchers AA883—AA954	\$ 89,571.26
Highway Abstract #13 Vouchers DB539—DB627	\$238,610.30
Parks Capital Project Abstract #2 Voucher HX2	\$ 7,400.00
Police Abstract #20 Vouchers BP188-191	\$ 44,006.66
Police Abstract #21 Vouchers BP192—BP200	\$ 6,334.91
Rayhill Trail Abstract #6 Vouchers H538—H550	\$164,817.27
Sewer Abstract #23 Voucher SS50	\$ 1,243.17
Sewer Abstract #24 Vouchers SS51—SS54	\$ 5,301.46
Street Light Abstract #9 Voucher SL9	\$ 8,087.45
Trust Agency Abstract #28 Vouchers TT166—TT173	\$ 7,702.25
Trust Agency Abstract #29 Vouchers TT174—TT177	\$ 9,862.63
Trust Agency Abstract #30 Vouchers TT178—TT184	\$ 8,676.68
Trust Agency Abstract #31 Voucher #TT185	\$ 26.22
<b>TOTAL</b>	<b>\$642,398.38</b>

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

**2016 Tentative Budget**

The Town Supervisor and Finance Director are working on the 2016 tentative budget; starting Monday, September 14, 2015, they will be meeting with department heads to review their departmental estimates, and heads of Committees if the latter wish to attend.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. 155 OF 2015)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss possible disciplinary action against a particular employee and discuss the Town's strategy in the Notice of Claim filed by Joseph Sallustio with regard to the Glendale Ave Extension (aka Trailside Crossing).

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 7:21 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, September 10, 2015.

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 156 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 8:05 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the Town Board meeting.

**ADJOURNMENT**

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 8:06 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk