

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON MONDAY, OCTOBER 5, 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

September 9, 2015, Town Board meeting

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

(RESOLUTION NO. 157 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 September 9, 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 HEARING

7:01 P.M. Local Law Introductory “F” of 2015
 Zoning Law text amendment
 Definition of “building area”

At 7:01 P.M. the Town Supervisor opened the Public Hearing on Local Law Introductory “F” of 2015, which if adopted, would amend the Town’s Zoning Law, Section 118-14, to include the definition of “building area”. The legislation was proposed to clarify “building area” as it relates to the Town’s mitigation fees.

[NOTE: The Town Clerk had available the legislation, Affidavit of Posting and Proof of Publication (September 23 2015, edition of The Observer Dispatch). Also available were the SEQR responses from the New Hartford Fire Department, New Hartford Police Department and the Oneida County Department of Public Works and the recommended approvals by the Town Planning Board and Oneida County Planning Department.]

The Town Attorney explained there had been some confusion and issues raised by developers as to the computation of mitigation fees; the mitigation fees are computed – or at least part of them – are computed by “building area” of the structure being constructed. The confusion lies as to whether the “building area” just includes the ground floor or the multi-level floors if, in fact, the structure is two (2) or three (3) floors. To clear this up, with the help of Code Enforcement Officer Joseph Booth, the accepted definition of “building area” was confirmed and it is proposed to include this definition in the Town’s Zoning Law.

The Town Supervisor inquired if anyone present wished to speak in favor of or in opposition to Local Law Introductory “F” of 2015. There being no one who came forth to speak, the Public Hearing was closed at 7:02 P.M.

Adoption of Local Law Introductory “F” of 2015 as Local Law No. Seven of 2015

No one having come forth and the Town Board members having no comments, Councilman Reynolds moved that Local Law Introductory “F” of 2015 be adopted as Local Law No. Seven of 2015, in the following format; seconded by Councilman Miscione:

**Town of New Hartford, New York
Local Law No. Seven 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.

The Town Board members voted by roll call, resulting as follows:

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

Thereafter, Local Law Introductory “F” of 2015 was declared unanimously carried and duly adopted as Local Law No. Seven of 2015.

PUBLIC PRESENTATIONS/COMMENTS

Excessive speed – texting on Oxford Road (Village)

Nancy Slade expressed concerns of her observations while on her daily walk along Oxford Road beginning at 8:00 A.M.; specifically people driving vehicles at excessive

speeds and using their cellphones. Around 10:30 A.M. she's witnessed student drivers leaving the school for lunch with cellphones in their hands and kids in the back seat. Adults have been seen doing the same thing. With regard to the Police Department speed trailer sometimes set up at the Oxford Road School, Chief Inserra noted that the trailers are not designed for the issuance of tickets, but to warn motorists of the speed at which they are driving. Ms. Slade believes the Police Department needs a second speed trailer and offered to assist with fundraisers to purchase another trailer. The Town Supervisor and Chief Inserra will discuss her concerns and get back to her.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN

Senior Services Committee – Councilman Woodland

Donation – 2015 Budget Adjustments

Upon recommendation of the Director of Senior Services, Councilman Woodland offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 158 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 Fifty Dollar (\$50.00) donation from Gen. Martin Lind (Ret) and Joyce T. Lind in memory of Ed Baker to be used for senior citizen activities at the New Hartford Adult Dining and Activity Center and does further accept the advertisements purchased from the following agencies to support the Senior Services Anniversary Book:

- Preswick Glen - \$166.67
- Presbyterian Residential Community - \$166.67
- Presbyterian Home of Central New York - \$166.66
- ASW (Anne Williams) - \$ 62.50 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 - \$612.50
- Increase General Fund Whole-Town Revenue A2705.1 - \$612.50

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**.

Town Clerk Committee – Councilman Woodland

Presentation of 2016 Tentative Budget

The Town Clerk presented copies of the 2016 Tentative Budget to the Town Board members, said document having been filed in her office on September 30, 2015.

The Town Supervisor stated that the Tentative Budget for 2016 was prepared by him, with a lot of help from Dan Dreimiller, Director of Finance. The Tentative Budget proposes a zero percent (0%) tax increase for 2016. It includes raises for union and non-union employees, no equipment. Supervisor Tyksinski asked the Councilmen to review the Tentative Budget and to contact him with any concerns or questions. He stated that the Town Board will hold a Special Board meeting on Monday, October 19, 2015, at 5:30 P.M. in the Supervisor’s Office, Butler Memorial Hall, due to a conflict with the Zoning Board of Appeals meeting at the same time in the Community Meeting Room of Butler Memorial Hall. The Town Supervisor said that the purpose of the Special Meeting will be to adopt a Preliminary Budget for 2016 and schedule a public hearing to be held not later than the Thursday following Election Day.

Parks and Recreation Committee – Councilman Reynolds

Agreements – 2015-2016 Ice rental

Upon recommendation of the Parks & Recreation Director, Councilman Reynolds moved the adoption of the following Resolution that was duly seconded by Councilman Miscione:

(RESOLUTION NO. 159 OF 2015)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Ice Rental Agreements for the 2015-2016 Ice Season between the Town of New Hartford and the following organizations:

- New Hartford Youth Hockey Association, Inc.
- Skating Club of New Hartford
- Mohawk Valley Old Timers League

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

The Town 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**.

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 Miscione:

(RESOLUTION NO. 160 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 October 2, 2015, and ending March 31, 2016; all wages to be paid bi-weekly:

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Madelyne Morris	Ice Attendant	\$9.00/hour
Jarod Bialek	Ice Attendant	\$9.00/hour
James Hinman	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**.

Zoning (Codes) and Planning Committee – Councilman Messa

Training – Planning Board members

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

(RESOLUTION NO. 161 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 Planning Board members Heather Mowat and Margaret Rotton 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**.

Bid Process – Demolition of Unsafe Building at 44 Beechwood Road

Councilman Messa brought up the matter of the proposed demolition of 44 Beechwood Road; a Hearing had been conducted immediately prior to the August 2015 Town Board meeting. The Town Supervisor asked Councilman Messa to work with Highway Superintendent Richard Sherman and Attorney Cully to prepare specifications for the demolition and begin the bid process and that the specifications be brought to the next Town Board meeting. Attorney Cully reported that Judge Siegel had confirmed the Town's Order for demolition of 44 Beechwood Road.

Unsafe Building – Code, Chapter 52, Primary Lien Holder

Councilman Messa inquired whether the Town Code, Chapter 52 (Unsafe Buildings) could be amended so that, in the event of a structure fire and the Town knows the property owner's name, that the Town should be the first in line as the primary lien holder before the insurance company settles the matter; current legislation does not have this provision. Code Enforcement Officer Joseph Booth confirmed that current legislation allows the Town to place demolition costs as a lien against the real property.

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The Town Attorney will work on this and present the proposal at a future Board meeting.

Unsafe Building 9458-9460 Elm Street, Chadwicks – Town Code, Chapter 524.

Councilman Messa has talked with a couple of neighbors adjacent to the residential duplex at 9458-9460 Elm Street, Chadwicks, regarding the condition of this vacant property which is in foreclosure; he has visited the property and reported there definitely is some mold present as well as carpenter bees and carpenter ants. Supervisor Tyksinski believed the Town had looked at this situation previously and Code Enforcement Officer Joseph Booth confirmed that while this property has been on the radar since April 2015, he has never been inside the house. The bank has hired SafeGuard to mow the lawn and remove debris; the Town has secured the structure(s).

William Petrilli, accompanied by his wife and daughter, who own three (3) parcels adjacent to the subject duplex, alleged that the house is not structurally sound and is infested not only with rats, woodchucks, and carpenter ants and bees, but also mold, the latter of which he can smell when the wind blows a certain way. He submitted photos of the property dated September 28 and September 29, 2015. He has witnessed the SafeGuard employees enter the house wearing hazmat suits and was told by them that hazardous materials are in the structure and a 55-gallon drum. Mr. Petrilli feels the Town is prolonging a dangerous situation and that the property is “..an accident waiting to happen”. He went inside the house during the Summer with a SafeGuard employee and said “..the place is a mess”. Currently, the shed is wide open again and the two (2) basement doors are open; “..kids go in there”.

The Code Enforcement Officer said he doesn't see a structural issue. He did provide the Town Attorney with the telephone number of the bank's attorney handling the matter and the Town Attorney said he has a call into that attorney. He will follow up to determine the status of foreclosure. The Town Supervisor wasn't sure that the Town had enough documentation of mold, hazardous materials, etc. The Town Attorney stated that, from a legal standpoint, the Town would have to be on firm ground to order the demolition of someone's house; he would want to see the Code Enforcement Officer's opinion because it would be that person who brings the matter before the Town Board, but the Code Enforcement Officer hasn't had the opportunity to gain access if, in fact, the bank has taken over.

Addressing Mr. Petrilli, Councilman Reynolds stated that the Town Board is in the process of demolishing two (2) houses that are in very bad shape so this Board is sympathetic – it's a process.

Property Maintenance – 42 Slusser Ave

In response to Councilman Reynolds' inquiry, Code Enforcement Officer Joseph Booth

confirmed that he had physically posted a summons to the door at 42 Slusser Avenue (substitute service) and had also sent a summons by registered mail to the owner's residence in New York City, New York. The summons is answerable in Town Court on Thursday, October 8, 2015, regarding violations of the State's property maintenance law.

Public Works and Sewer Committee – Councilman Miscione

Agreement – 2015 Pavement Marking (Striping)

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

(RESOLUTION NO. 162 OF 2015)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Supervisor to execute the 2015 Pavement Marking (Road Striping) Agreement between the Town of New Hartford and the Oneida County Department of Public Works wherein said County will provide road striping within the Town; the cost of which will be determined upon completion of the work.

Upon roll call, the Board members voted 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**.

Authorization to sell – 2014 Ford F250

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

(RESOLUTION NO. 163 OF 2015)

RESOLVED that the New Hartford Town Board does hereby authorize and direct the Highway Superintendent to sell at auction through Auctions International one (1) 2014 Ford F250, VIN 1FTBF2B60EEA45664, and to use the sale proceeds to upgrade to a 2016 truck.

Upon roll call, the Town Board voted 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**.

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Town Attorney:

Flagpole regulations

The Town Attorney had been contacted by a Town resident who was concerned about flagpoles; specifically, this resident has a neighbor whose flagpole is over twenty (20) feet tall and is in a foundation. With the flagpole close of his home, the resident stated that the wind and noise from this structure interferes with his quiet enjoyment of his home. Currently the Town has no regulations on flagpoles. The Town Attorney requested that the Town Board members think about this matter and contact the Town Supervisor or Town Attorney if they wish to institute any regulations.

MATTERS SUBMITTED BY TOWN SUPERVISOR

Financial:

Audit of Vouchers

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

(RESOLUTION NO. 164 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:

Equipment Abstract #5	\$ 6,318.13
Voucher H215—H216	
Fire Abstract #4	\$ 10.81
Voucher SF9	
General Part Town Abstract #23	\$ 4,030.74
Vouchers BB143—BB148	
General Part Town Abstract #24	\$ 3,817.67

Vouchers BB149—BB157	
General Part Town Abstract #28	\$ 23,819.52
Vouchers AA955—AA969	
General Whole Town Abstract #28A	\$ 73.12
Voucher AA970	
General Whole Town Abstract #29	\$ 57,455.03
Vouchers AA971—AA1041	
Highway Abstract #14	\$123,749.61
Vouchers DB628—DB687	
Police Abstract #22	\$ 44,445.45
Vouchers BP201-BP205	
Police Abstract #23	\$ 22,865.42
Vouchers BP206—BP228	
Rayhill Trail Abstract #7	\$ 48,567.12
Vouchers H551—H568	
Sewer Abstract #25	\$ 330.29
Voucher SS55	
Sewer Abstract #26	\$ 3,926.21
Vouchers SS56—SS59	
Street Light Abstract #10	\$ 8,685.89
Voucher SL10	
Trust Agency Abstract #32	\$ 7,616.10
Vouchers TT186—TT192	
Trust Agency Abstract #33	\$ <u>18,510.04</u>
Vouchers TT193—TT202	
TOTAL	\$374,221.15

A roll call vote was duly held 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**.

Philip Rayhill Memorial Trail Extension

Highway Superintendent Richard Sherman announced that with the help of Parks and Recreation Director Michael Jeffery, the Rayhill Memorial Trail Extension has been completed as of this afternoon, October 5, 2015.

EXECUTIVE SESSION

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

(RESOLUTION NO. 165 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 a new Notice of Claim filed by Edmund Wiatr and to discuss the Town's strategy in the tax certiorari proceeding filed by the Yahnundasis Golf Club.

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 7:36 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Tuesday, October 6, 2015.

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 166 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

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Councilman Messa - Aye
Supervisor Tyksinski - Aye.

The Supervisor declared the Resolution unanimously carried and duly ***ADOPTED***; the Executive Session ended at 7:48 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 Reynolds, the meeting was adjourned at 7:50 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk