

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, APRIL 10, 2013 AT 7:00 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 7:00 P.M. and led those in attendance in the Pledge of Allegiance to the American Flag. The roll was then taken with the following Town Officials and Department Heads being present during the progress of the meeting.

TOWN BOARD MEMBERS PRESENT:

Councilman Donald C. Backman
Councilman Paul A. Miscione
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

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

Town Board Meetings – March 13, 2013 and March 27, 2013

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

(RESOLUTION NO. 74 OF 2013)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held March 13, 2013 and March 27, 2013 and does further waive the reading of the same.

Upon roll call, the Board members voted as follows:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye

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

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

PUBLIC HEARING

Eminent Domain – Beechwood Road Drainage Improvement, Phase 2

The Town Supervisor announced that a Public Hearing was to have been held this evening on the acquisition of property pursuant to Article 2 of the Eminent Domain procedure Law; however, the Town Attorney explained that the Eminent Domain Procedure requires that the public notice be published five (5) successive days in the Observer Dispatch and at least ten (10) days but not more than 30 days prior to the Public Hearing date. In reviewing procedures, it was discovered that the Town didn't have sufficient time to meet the publication requirements. In the interim, the Town had a meeting with Ken Knutsen of Barton & Loguidice and property owners of potential easements were invited to a meeting on April 2, 2013 and a number of property owners did attend the meeting, which the Town Attorney thought was good and that Mr. Knutsen did a wonderful job explaining what the Town hoped to do....good discussion....another meeting is to be scheduled for the middle of next week. Mr. Knutsen will walk the property with one owner who has some concerns....looks optimistic that the Town might not have to pursue the eminent domain process. In response to the Town Supervisor's inquiry about scheduling the Public Hearing for the April 24, 2013 Town Board meeting, the Town Clerk stated the Town does not have enough time to meet the more stringent publication requirements and that the Observer Dispatch needs the article for publication three (3) days in advance of the requested publication date. The May 8, 2013 Town Board meeting would be the first that the Hearing could be held. Thereafter, Councilman Reynolds introduced the following Resolution, moving its adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 75 OF 2013)

RESOLVED that, pursuant to Article 2 of the Eminent Domain Procedure Law, the Town Board of the Town of New Hartford does hereby schedule a Public Hearing to commence at 7:00 P.M., or as soon thereafter as reached in the regular course of business, on Wednesday, May 8, 2013 in Butler Memorial Hall, New Hartford, NY, for the purpose of describing the proposed construction of stormwater improvements and the acquisition of a permanent easement approximately across the property located at and known as 28 Wills Drive, New Hartford, NY (portion of Tax Map No. 339.011-1-92) and an additional temporary easement for the purpose of construction of stormwater improvements; and be it

FURTHER RESOLVED that the Town Board does hereby authorize and direct the Town Clerk to publish the legal requisite Notice of Public Hearing in The Observer Dispatch as per requirements in the Eminent Domain Procedure Law.

Thereafter, the Town Board voted upon roll call, resulting as follows:

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

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

PUBLIC PRESENTATIONS (Resident Comments)

Windmills/Turbines

Mark Krasinski was interested in wind turbines but noticed that matter was not on tonight's agenda and he understands from past meetings that the Town is working on legislation. He stated that Jonathan Knauth would be making a presentation on wind turbines and he had given copies of the meeting notice to Councilman Reynolds. Mr. Krasinski asked that the Town Board review Mr. Knauth's report, "Decommissioning estimate – Vestas V3.0-112 Turbines on the proposed Monticello Hills Project"; the Town Clerk will email copies to the Town Board and Town Attorney.

Consumer Square/Benderson – Traffic Light

Edmund Wiatr, Jr. stated that he and Catherine Lawrence had attended the April 8, 2013 Town Planning Board meeting and at which time a Planning Board member had concern over the timely receipt of information with relation to the Benderson application for something they were doing at Consumer Square; further, that the application indicated Benderson was paying for a new traffic light. It had come to Mr. Wiatr's attention that the Town Attorney had been served with a Notice of Claim and legal papers by Benderson (aka Trahwen) and it appeared that no one on the Planning Board knew about this litigation against the Town. Mr. Wiatr stated that Planning Board member Mowat spoke up during that meeting, stating that the Town is paying for the traffic signal through mitigation fees. Mr. Wiatr thinks the Planning Board not knowing anything about the litigation could have affected their vote and that Ms. Mowat was the sole "no" vote.

Town Supervisor Tyksinski clarified that there are two (2) new lights being installed at the Consumer Square site; one (1) within the shopping plaza, for which Benderson is

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paying, and which the NYS Department of Transportation had wanted for years. The second light is being installed on Commercial Drive near Panera's and that light is being paid by the Town through mitigation fees; "...it's the Town's obligation", he said. Addressing Mr. Wiatr's question about the status of the lawsuit, the Town Attorney noted that because there is pending litigation, the matter could not be discussed in open session; he did state, however, that there have been a number of motor vehicle accidents at the Commercial Drive-Panera exit of Consumer Square and that the NYS Department of Transportation wants a traffic signal there.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Public Works & Sewer Committee – Councilman Reynolds

Saturday Dumpster Days – Shredding service to the public

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

(RESOLUTION NO. 76 OF 2013)

WHEREAS, on March 27, 2013 the Town Board adopted Resolution No. 67 approving a shredding service to be offered to Town residents by Confidata on Saturday dumpster days during 2013 and authorizing the Town Supervisor to enter into and to execute any required agreement, subject to the Town Attorney's approval; and

WHEREAS, the Town Attorney has reviewed the potential liability issue and the \$1,000,000 Certificate of Insurance Liability provided to the Town by Confidata;

NOW, THEREFORE, BE IT RESOLVED that the said Town Board does hereby authorize and direct that a contract between the Town of New Hartford and Confidata be prepared for the aforesaid service at the Sanger Public Works Garage and that the Town Supervisor be, and he hereby is, authorized to enter into and to execute said contract.

A roll call vote ensued:

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

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

Zoning (Codes) & Planning Committee - Councilman Miscione

Training

Upon request of Codes Enforcement Officer Joseph Booth, the following Resolution was introduced for adoption by Councilman Miscione and duly seconded by Councilman Woodland:

(RESOLUTION NO. 77 OF 2013)

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 Fire Safety Inspector Anthony Klimek to attend the NYS Building Officials, Mohawk Valley Chapter, seminar on May3, 2013 at SUNYIT, Town of Marcy, New York; the seminar is free and will complete their mandatory training for 2013.

The Resolution was voted upon by roll call as follows:

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

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

Town Clerk Committee – Councilman Woodland

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. 78 OF 2013)

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;

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NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby grant permission to Highway Superintendent Richard Sherman to attend the Oneida County Association of Towns quarterly meeting on Tuesday, April 16, 2013, in Oneida, New York 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 Backman	-	Aye
Councilman Reynolds	-	Aye
Supervisor Tyksinski	-	Aye.

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

Parks and Recreation Committee – Councilman Reynolds

Upon recommendation of Parks and Recreation Director Michael Jeffery, Councilman Reynolds offered the following Resolution, moving its adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 79 OF 2013)

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 May 20, 2013 and ending August 31, 2013; all wages to be paid bi-weekly:

Parks – A7110.4

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Michael Kelley	Park Laborer II	\$9.45/hour
Dustin Benton	Park Laborer II	\$9.45/hour
Christopher Faro	Park Laborer I	\$8.75/hour
Bryan Hoffman	Park Laborer I	\$8.75/hour
Vincent Servadio	Park Laborer I	\$8.75/hour.

Whereupon, the Town Board voted upon roll call:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	Aye

Supervisor Tyksinski - Aye.

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

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Councilman Reynolds:

Animal Control Office - Vacancy

Resignation of James Zywicz resigning as Part time ACO taking full time Police with Kirkland effective April 17, 2013.

Inserra said will keep coverage for weekend

MATTERS SUBMITTED BY TOWN SUPERVISOR

Finance

2012 Audit

The Town Supervisor reported that D'Arcangelo & Company has completed the audit of the Town's finances, as well as the finances for the New Hartford Public Library and had conducted an exit conference with him and Finance Director Dreimiller. Two (2) separate reports are expected for the April 24, 2013 Town Board meeting.

Training

Upon request of the Town Supervisor, the following Resolution was introduced for adoption by Councilman Backman and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 80 OF 2013)

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 Director of Finance Daniel Dreimiller to attend the 13th Annual Town Finance School co-sponsored by the Association of Towns and the NYS Comptrollers Office, from May 2 thru May 3, 2013 in Saratoga Springs, New York, with expenses to be borne by said Town as budgeted.

Councilman Backman questioned whether funds had been budgeted for this training, which they had. The Resolution was then voted upon by roll call as follows:

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

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

Update of 2007 Comprehensive Plan & new Zoning Law – River Street Planning & Development

The Town Supervisor had met with representative(s) of River Street Planning & Development with regard to progress on the Town’s 2007 Comprehensive Plan. River Street did make some concessions and the Town has an amended fee schedule and timeline for expected completion dates, copies of the latter of which will be given to Town Board members. The Town Attorney acknowledged that Codes Enforcement Officer Joseph Booth “..has done an awful lot of work on this...and a lot of questions answered on the Southern GEIS..” with the help of clerical staff.; as a result, River Street will complete their work in a faster time and reduce the cost by a considerable amount of money. Thereafter, Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 81 OF 2013)

WHEREAS, the Town of New Hartford and River Street Planning & Development had entered into an Agreement dated January 21, 2013 for River Street Planning to update the Town of New Hartford Comprehensive Plan and prepare a new Zoning Law; and

WHEREAS, said Town has since requested that River Street Planning expedite the schedule for completion of the Comprehensive Plan and Zoning Law, to which River Street Planning has agreed;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby accept and approve the revised Agreement (Amendment No. 1) between the Town and River Street Planning regarding the modification of scope of work to update the Comprehensive Plan and prepare a new Zoning law; said revised Agreement reduces the total contracted price between the Town and River Street Planning from the initial not-to-exceed \$71,435.00 to a new total contracted amount not-to-exceed \$57,875.00. The Town Supervisor is hereby authorized and directed to enter into and to execute said revised Agreement (Amendment No. 1).

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly ***ADOPTED***

PILOT allocation agreement for Hampton Inn

The Town Attorney made some changes to the document and talked with the New Hartford School Attorney today who, after reviewing Attorney Cully's changes, agreed. Attorney Cully noted this is not a final agreement; he wanted to see if any additional suggestions would come forth from Town Board members. The final agreement will be forthcoming. Councilman Backman had some concern since the Town would have a payment coming up this year and questioned whether the BAN would be converted. To Councilman Backman's inquiry, the Town Attorney stated the school tax collected in September 2013 goes toward the payment due in March 2013.

Audit of Vouchers

On recommendation of the Town Supervisor, Councilman Miscione presented the following Resolution, moving its adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 82 OF 2013)

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:

Applewood Traffic Signal Abstract #2	
Vouchers HI2	\$ 231.00
Communications Abstract #3	
Vouchers HL5	\$ 3,395.50
Street Lighting Fund Abstract #4	
Vouchers SL5	\$ 2.06
Street Lighting Fund Abstract #5	
Vouchers SL6	\$ 8,125.08
Fire District Abstract #3	
Vouchers SF6	\$ 1,068.12
Fire District Abstract #4	
Vouchers SF7-SF8	\$ 29,353.26
Stormwater Series II Abstract #3	
Vouchers HK3	\$ 358.00

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Trust & Agency Fund Abstract #11 Vouchers TT44-TT51	\$ 13,870.75
Trust & Agency Fund Abstract #12 Vouchers TT52-TT53	\$ 7,494.93
Trust & Agency Fund Abstract #13 Vouchers TT54	\$ 36.00
Trust & Agency Fund Abstract #14 Vouchers TT55-TT61	\$ 14,584.22
Highway Fund Part-Town Abstract #7 Vouchers DB220-DB259	\$ 103,965.23
General Fund Part-Town Abstract #8 Vouchers BB41-BB45	\$ 6,016.37
General Fund Part-Town Abstract #9 Vouchers BB46-BB53	\$ 1,400.24
General Fund Whole-Town Abstract #11 Vouchers AA380-AA389	\$ 43,646.81
General Fund Whole-Town Abstract #12 Vouchers AA390-AA470	\$165,014.58
General Fund Part-Town Police Abstract #9 Vouchers BP68-BP72	\$ 41,088.35
General Fund Part-Town Police Abstract #10 Vouchers BP73-BP95	\$ 22,851.88
Sewer Fund Abstract #9 Voucher SS24-SS27	\$ 2,996.84
Sewer Fund Abstract #10 Voucher SS28-SS30	\$ 4,563.45
TOTAL:	\$ 470,062.67

The foregoing Resolution was duly voted upon by roll call, resulting as follows:

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

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

EXECUTIVE SESSION

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

(RESOLUTION NO. 83 OF 2013)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss pending litigation : Selchick vs the Town of New Hartford and Trahwen vs the Town of New Hartford.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye
Councilman Backman	-	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 7:30 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Monday, April 15, 2013.]

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 84 OF 2013)

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 Backman	-	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.

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ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilman Miscione, the meeting was adjourned at 7:49 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk