

**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 25, 2013 AT 6:55 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 6:55 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:

Codes Enforcement Officer Joseph A. Booth
Deputy Supervisor Matthew Bohn III
Deputy Clerk Melody Fancett
Director of Finance Daniel Dreimiller
Highway/Sewer Superintendent Richard C. Sherman
Police Chief Michael Inserra
Town Attorney Herbert J. Cully
Assessor Paul E. Smith
Parks Director Mike Jeffrey

ABSENT:

Town Clerk Gail Wolanin Young

Thereafter, a quorum was declared present for the transaction of business. In the absence of the Town Clerk who was recuperating from surgery, Deputy Clerk Fancett was present to record the minutes. Transcription was taken from audio/video equipment.

Town Board Minutes -August 14, 2013-- Board did not have a chance to review the minutes and Town Supervisor Tyksinski has not reviewed them, they were tabled until the October 2, 2013 Town Board Meeting.

PUBLIC COMMENTS

Dave Munsell – Beechwood Road – Mr. Munsell had a meeting with Councilman Backman and the engineer and all parties have come to an agreement that swales are needed behind 15 Beechwood to ensure any overflow will stay in the back yard instead of against the foundations. It's a small project and not very expensive, they are only talking about moving dirt that's only about a foot deep over maybe 20 or so feet. Neighbors have

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a place to move the dirt to which will improve the neighbor's yard. Mr. Munsell is willing to do some of the work, he is asking the Town to move the dirt and drop some top soil, and He will seed it. Mr. Munsell would like this done as soon as possible so it does not go into winter. This project will help all the folks downstream. If this does not work the Kennedys need some assurance that if they need some swale works done in their yard that the Board will give them some due consideration. After all they have been through; it's only fair that they also get some work done. No permanent easements are needed and all the neighbors are on board, they will sign whatever and help in any way possible.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE
CHAIRPERSON

Town Clerk Committee – Councilman Woodland:

Zone Map Amendment Application: George Koury property on Clinton Road. After attorney Cully spoke with Councilman Woodland he feels there are some technical issues with the way this was presented. The Town statute requires that it be signed and acknowledged. The document does appear to have been signed in the presence of a Notary but the Notary did not indicate that it had been sworn to, they just put to be for me and that is not an acknowledgement. Attorney Cully suggested contacting Mr. Koury and indicate his application has that defect and allow him an opportunity to correct the Notary issue. This is tabled until issue is corrected.

Raffle Consent-Steven Swan Humane Society

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

(RESOLUTION NO. 170 OF 2013)

RESOLVED that the New Hartford Town Board does hereby grant permission to the Steven Swan Humane Society, 5664 Horatio Street, Utica, NY 13502, 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.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye

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

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

*Councilman Woodland reminded the Board of the next Town Board meeting on October 2, 2013 at which time the Board will be presented with the Tentative 2014 Budget.

Senior Citizen Committee – Councilman Reynolds:

2013 Donations/Budget Adjustment

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

(RESOLUTION NO. 171 OF 2013)

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 to be used for senior citizen activities at the New Hartford Adult Dining and Activity Center:

- Health Fair Checks from Bethany Gardens \$ 75.00
- Martain Derooy (National Grid) \$ 75.00
- Colonial Square (Schyler Commons) \$150.00

and

BE IT FURTHER RESOLVED that the said Town Board does hereby authorize and direct the Finance Department to make the following 2013 budget adjustments for the New Hartford Adult Dining and Activity Center:

- Increase General Fund Whole-Town Contractual Account A6772.4 - \$300.00
- Increase General Fund Whole-Town Revenue A2705.1 - \$300.00

A roll call vote ensued:

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

Supervisor Tyksinski - Aye.

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

Parks and Recreation Committee – David Reynolds:

Seasonal Appointments-Winter Recreation/Recreation Center

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

(RESOLUTION NO. 172 OF 2013)

RESOLVED that the New Hartford Town Board does hereby appoint the following individuals which are all New Hartford Residents to the various part-time seasonal positions and for the hourly wages set opposite their several names, for the Parks and Recreation Department, for the timeframe so designated hereunder; all wages to be paid bi-weekly:

Recreation Attendants (A7020.14)

Effective: 9-29-13 - 3-31-14

<u><i>NAME</i></u>	<u><i>POSITION</i></u>	<u><i>RATE OF PAY</i></u>
Madison Babicz	Ice Attendant	\$7.95/hour
Paul Nassif	Ice Attendant	\$7.95/hour
Rachel Nashold	Ice Attendant	\$7.95/hour
Sophia Butler	Ice Attendant	\$7.95/hour
Shannon Mahoney	Ice Attendant	\$7.95/hour
Steven Goddard	Ice Attendant	\$7.95/hour
Hannah Rayhill	Ice Attendant	\$7.95/hour
Arron Canaarelli	Ice Attendant	\$7.95/hour

A roll call vote ensued:

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

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

Agreements-Ice Rental

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

(RESOLUTION NO. 173 OF 2013)

RESOLVED that, contingent upon approval by the Town Attorney, the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute Ice Rental Agreements for the 2013-2014 Ice Season Between the Town of New Hartford and the following organizations at the same rates as previously discussed:

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

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

A roll call vote ensued:

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

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

Zoning (Codes) & Planning Committee– Councilman Miscione

Upon request of several Planning Board Members and the Town Attorney, the following Resolution was introduced for adoption by Councilman Miscione and duly seconded by Councilman Reynolds:

(RESOLUTION NO. 174 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 Planning Board members Heather Mowat & Brymer Humphreys and also to the Town Attorney Herbert Cully to attend the Land Use Training Workshop at the Boehlert Center @ Union Station, 321 Main Street, Utica, NY

13501 on November 7, 2013 with expenses to be borne by said Town as budgeted and not to exceed \$10.00 each.

This training session will satisfy 2.5 hours of continuing educational credits. A roll call vote ensued:

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

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

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

(RESOLUTION NO. 175 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 Zoning Board Members Byron Elias to attend the Land Use Training Workshop at the Boehlert Center @ Union Station, 321 Main Street, Utica, NY 13501 on November 7, 2013 with expensed to be borne by said Town as budgeted and not to exceed \$10.00 each.

This training session will satisfy 2.5 hours of continuing educational credits. A roll call vote ensued:

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

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

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Upon recommendation of Town Attorney Cully who gave everyone a copy of the Draft Lease Agreement with the County and is seeking approval for Supervisor Tyksinski to sign a Lease Agreement, Councilman Miscione made a motion to adopt the following resolution; seconded by Councilman Woodland:

(RESOLUTION NO. 176 OF 2013)

FURTHER RESOLVED that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an Agreement between the Town of New Hartford and Oneida County for a 5 (five) year term option at an unspecified cost with regards to 9374 Elm Street, Chadwicks, NY 13319, contingent upon the Town Attorney adding an indemnifying paragraph.

A roll call vote ensued:

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

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

WOODBERRY PROJECT PLAN UPDATE: Councilman Reynolds would like to stay on this and get this project wrapped up. He said Spinella has looked at this project and is going to provide some ponding and some breaks in the system (not retention) using his expertise as to how many and where there placed. The Highway Department is going to work with Spinella to remove the trees that are down and getting up in there. Councilman Reynolds said the work is going to be completed this winter.

HUBBARDTON GRATE UPDATE: Councilman Reynolds was contacted by Oneida County Legislator Gordon regarding Hubbardton Road and there is a broken grate. Highway Superintendent Sherman said he already looked at it and it's been repaired.

ASSESSOR APPOINTMENT: Councilman Woodland wanted to know if the Board wanted to go into executive session to discuss the appointment and/or re-appointment of the Assessor. Councilman Backman is not sure he has a resolution on this matter at this point and would like to discuss it in executive session. Supervisor Tyksinski said it's up to the Board but said as everyone knows, he made a motion at the last meeting with no second to it which now leaves them 5 days to get an Assessor by State Law. He would have hoped that after discussing this matter for the past (5) five months that a decision would have been made by the Board.

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Councilman Backman:

Stratton & Munsell Properties Update: Ken Knutson is in agreement with Councilman Backman that a swale will improve the situation. Councilman Backman (showed a map marked up by Ken Knutson) This will be phase one which is to be done in 2013 and Appller & Kennedy is Phase 2 which is to be done in 2014; Councilman Backman feels this project does not involve a lot of work; basically the ground is elevated pushing the water to the house, the residents would like to lower the grade so the water stays in the back yard and off the foundation of the homes. This does not entail a lot of money (not over \$10,000.00), Councilman Backman has an agreement with the residents that they will take care of the final seeding but will need the Town to furnish the top soil to finish the project. Supervisor Tyksinski verified with Highway Superintendent Sherman for the availability of Highway workers, Highway Superintendent Sherman said the Highway Department has a full plate with trying to button things up before winter. Attorney Cully wanted to know if the Town was with in the easement areas Councilman Backman said no easements are needed and he does not think we are within the areas however Ken Knutson mentioned to Councilman Backman a Grading Agreement and does not think a full blown easement is going to be necessary. Attorney Cully mentioned getting an Access Agreement which the residents are in full agreement with. Councilman Backman wanted to know what he needed for a motion to start this project for Phase 1 (Stratton & Munsell) to put a swale in and drop the water - after the Grading Agreement is all set and signed. The Highway Superintendent said if everything is marked and it's a small project he will possibly have the Highway Department complete the work however, if he cannot find the time, he will have to hire a contractor.

Councilman Backman was dissatisfied with the finish work of the previous contractor. He said he did not use good topsoil but feels he completed the punch list and Town paid the bill. John Spinella looked at the work but does not want to correct something that someone else did. This is tabled until the October 2, 2013 Town Board Meeting. If the Highway Department does the work, there is no motion needed. Councilman Backman said if a contractor is needed, he would like to have everything done and ready by October 2, 2013 Meeting (agreements signed and contractor lined up if the Highway Department cannot complete the project).

SHERRILL LANE PETITION: Councilman Backman Presented a petition from Sherrill Lane Residents to the Town Clerk with 64 signatures. The residents are crying to get their sewer problems fixed. Highway Superintendent Sherman said the Sherrill Lane sewers were looked at and it was TV and it was scheduled however that there was an emergency thing on Seneca Turnpike so they rescheduled to go up and TV Hoffman Road, Bolton Road, and Root Street area lines. The County did check their interceptor where Woodberry meets Sherrill Lane. Councilman Backman would like to know if the outlet is adequate in size to handle the volume that runs through it or should the outlet size be expanded so more can run through it? Highway Superintendent Sherman said

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99% of the time the Town is good it's just the amount of rain that has hit the entire Town not just Sherrill Lane. Highway Superintendent Sherman said that he and the County have been working to try to stop the iodine from getting into the pipes. Councilman Backman does not expect a fix to this problem before he leaves the Board but he is going to turn everything over to his successor and urge him to not drop this and to do whatever has to be done to fix this problem and let him know what ever needs to be done should be done. Councilman Backman feels an engineering firm is needed to come in and address the problem.

Grange Hill Water Group Update: Councilman Backman received a letter from a group of residents on Grange Hill Road regarding the water problems dated 9/23/2013. Councilman Backman will be meeting with the group to give them some tough news (it's expensive). Supervisor Tyksinski would like a phone call before this meeting takes place.

MATTERS SUBMITTED BY TOWN SUPERVISOR

RAYHILL TRAIL: Supervisor Tyksinski said this grant was supposed to end effective September of 2013 however; he was contacted by DOT who has offered to grant to the Town of New Hartford and this is a no cost extension until September 30, 2016.

(RESOLUTION NO. 177 OF 2013)

RESOLVED Councilman Backman made a motion authorizing the Town Supervisor to sign the New York State Department of Transportation "No-Cost Time Extension of Local/Miscellaneous Contract", #: D033328; PIN 2650.20.322; Project: Philip A. Rayhill Trail, Phase 1 Grant Extension at no cost, contingent upon approval by the Town Attorney; seconded by Councilman Miscione.

A roll call vote ensued:

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

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

BOND RETAINAGE RELEASE: Supervisor Tyksinski stated three projects in the Town have been completed and is requesting a release of the retainer and/or bond being held. Codes Officer Booth has looked at each project and does not feel there are any problems with any of the projects.

(RESOLUTION NO. 178 OF 2013)

RESOLVED that Councilman Reynolds made a motion and it was seconded by Councilman Woodland to release the three retainers and/or Bonds submitted for the construction of the following projects:

- McDonalds, 52 Seneca Turnpike, New Hartford
- Olive Garden, 4636 Commercial Drive, New Hartford
- MOES, 4630 Commercial Drive, New Hartford.

A roll call vote ensued:

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

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. 179 OF 2013)

RESOLVED: the New Hartford Town Board does hereby move to enter into an Executive Session to discuss matters involving the Assessor Appointment.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye
Councilman Reynolds	-	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 7:24 P.M. Town Attorney and Deputy Supervisor remained for the remaining Executive Session.

[NOTE: The Town Attorney provided the following transcription on Wednesday, September 25, 2013.]

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 180 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.

A roll call vote ensued:

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

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:29 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to join the meeting.

ADJOURNMENT

(RESOLUTION NO. 181 OF 2013)

Upon motion duly made by Councilman Miscione and seconded by Councilman Backman, the Town Board voted as follows to adjourn the meeting.

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

The motion was carried and the Town board meeting adjourned at 8:31 P.M.

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Respectfully submitted,

Melody Fancett, Deputy Clerk