

**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 23, 2014 AT 7:00 P.M.**

In the absence of the Town Supervisor who was recuperating from surgery, Deputy Supervisor Matthew Bohn 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 Paul A. Miscione  
Councilman David M. Reynolds  
Councilman Richard B. Woodland, Jr.

**ABSENT:**

Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Assessor Darlene Abbatecola  
Codes Enforcement Officer Joseph A. Booth  
Deputy Supervisor Matthew Bohn III  
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. Deputy Supervisor Bohn stated that while he is chairing the Town Board meeting, he is not eligible to vote.

RESIDENT COMMENTS

The Deputy Supervisor inquired if anyone present wished to address the Town Board. No one came forth.

MINUTES

**April 9, 2014 Town Board meeting**

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

**(RESOLUTION NO. 101 OF 2014)**

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**RESOLVED** that the New Hartford Town Board does hereby accept and approve the minutes of the Regular Town Board meeting held on April 9, 2014 with the following correction on Page 14:

- **Woodberry Road drainage** – the Town had made a statement to do some work during the winter when the ground was frozen, but nothing was done.

and the Town Board does further waive the reading of said minutes.

Upon roll call, the Board members voted as follows:

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

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

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilman Woodland

**Fireworks Display Permit**

Upon presentation by the Town Clerk, the following Resolution was introduced for adoption by Councilman Woodland and seconded by Councilman Messa:

**(RESOLUTION NO. 102 OF 2014)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct the Town Clerk, who has received an Application for a Fireworks Permit and the appropriate Certificate of Insurance naming the Town of New Hartford as an additional insured, to issue to the Yahnundasis Golf Club a Fireworks Display Permit for the display of fireworks upon their premises at 8639 Seneca Turnpike, New Hartford, NY by American Fireworks Display, LLC on July 4, 2014 at 9:30 P.M., in accordance with the State Penal Law and regulations set forth in said Permit

The Deputy Supervisor polled the Board members who voted as follows:

A roll call vote ensued:

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

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

**Zone Map Amendment Application – George Koury; Local Law Introductory “D” of 2014**

The Town Clerk acknowledged receipt of SEQR comments from various agencies with regard to George Koury’s application to rezone approximately 6.5 acres located at 31 Clinton Road, New Hartford from Medium Density Residential (MDR) to High Density Residential (HDR) for the purpose of constructing a (four) 4 building apartment complex with six (6) units per building. On April 18, 2014 the Town Planning Board submitted their recommendation that the Town Board not accept Mr. Koury’s application due to concerns in relation to the slopes, drainage and spot zoning as well as many discrepancies and that the application is inadequate. The Town Attorney stated that Mr. Koury has the right to a public hearing; Councilman Woodland then introduced the following legislation for the Town Board’s consideration at a future Public Hearing, co-sponsored by Councilman Miscione:

**TOWN OF NEW HARTFORD, NEW YORK  
LOCAL LAW INTRODUCTORY “D” OF 2014**

A Local Law to amend the Code of the Town of New Hartford, **Chapter 118** thereof entitled **ZONING**, and map coincidental thereto, as it pertains to property located at 31 Clinton Road (aka NYS Route 12B), a description of which is set forth in Section 2, and changing the designation of property from MDR (Medium Density Residential) to HDR (High Density Residential).

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

**Section 1.** Chapter 118 of the Code of the Town of New Hartford, Section 118-8, and particularly the map coincidental thereto and made a part thereof, is hereby amended as follows:

Section 118-8. Zoning Map.

(Change the designation of six point five [6.5] acres, more or less, situate at 31 Clinton Road and identified as Tax Map Parcel No. 328.016-4-62, owned by George T. Koury II, from MDR [Medium Density Residential] to HDR [High Density Residential].)

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**Section 2.** The boundaries and description of said district are as follows:

All that piece or parcel of property situate in the Town of New Hartford, County of Oneida, State of New York and more particularly described as follows:

Beginning at a point on the northerly highway boundary of Merritt Place, said point also being on the division line between George T. Koury II and George T. Koury III (Reputed Owners) on the west and Michael Beha (Reputed Owner) on the east, thence North 30°50'46" East 300.95 feet, thence South 85°00'05" East 150.00 feet, thence North 30°46'45" East 690.39 feet, thence North 59°13'15" West 157.00 feet, thence South 38°14'08" West 48.00 feet, thence North 62°41'32" West 186.47 feet, thence South 30°00'00" West 795.10 feet, thence South 85°00'05" East 150.00 feet, thence South 30°03'26" West 299.36 feet, thence South 85°16'14" East 72.09 feet to the point of beginning, being 6.35 Acres.

Being the property conveyed from Thaddeus H. Zimowski Jr., Melvin R. Zimowski, and Michele F. Zimowski to George T. Koury II and George T. Koury II, and recorded in the Oneida County Clerk's Office on December 23, 2008 in instrument 2008 – 21884.

**Section 3.** 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 4.** This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “D” of 2014**

Whereas the Oneida County Planning Department and the Town Planning Board have submitted their recommendations with regard to Local Law Introductory “D” of 2014, Councilman Woodland offered the following Resolution for adoption, seconded by Councilman Miscione:

**(RESOLUTION NO. 103 OF 2014)**

**RESOLVED** that the Town Board of the Town of New Hartford shall conduct a Public Hearing on Wednesday, May 14, 2014 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, NY to consider **Local Law Introductory “D” of 2014** which, if adopted, would amend the Code, Chapter 118 thereof entitled **ZONING**, and particularly the map pertaining thereto, by changing the designation of six point five [6.5] acres, more or less, situate at 31 Clinton Road and identified as Tax Map Parcel No. 328.016-4-62, owned by

George T. Koury II, from MDR [Medium Density Residential] to HDR [High Density Residential]; 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.

A roll call vote ensued:

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

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

**NYS Liquor Authority – Waiver for Change of Licensed Entity**

The Town Clerk has received a request from the law firm of Gray-Robinson of Tampa, Florida in behalf of Darden Corporation/Red Lobster for a waiver of the thirty (30) day period for applying to the State Liquor Authority for renewal of their liquor license. Councilman Woodland then offered the following Resolution for adoption and Councilman Miscione duly seconded same:

**(RESOLUTION NO. 104 OF 2014)**

**WHEREAS**, attorneys Gray-Robinson are representing Darden Corporation and all of its subsidiary corporations with regard to the transfer of their Red Lobster liquor licenses from their current corporate entity licensee to a new subsidiary entity, Red Lobster Hospitality, LLC; and

**WHEREAS**, State Liquor Authority law requires an applicant to wait at least thirty (30) days after notifying the Town of New Hartford before the applicant can submit an application to the Liquor Authority; and

**WHEREAS**, Gray-Robinson has requested a waiver of the 30-Day Notice in order to provide ample time for their client's transfer application to process, which is scheduled for on or about June 30, 2014;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby waive the thirty (30) day timeframe, having been notified on April

15, 2014 of a change of licensed entity for a liquor license involving the aforementioned entity.

The Resolution was voted upon by roll call as follows:

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

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

ZONING (CODES) & PLANNING COMMITTEE – Councilman Messa

**Local Law Introductory “C” of 2014 - Town Code, Chapter 59, ELECTRICAL STANDARDS**

With regard to the letter that the Town Clerk received from David P. Smith, owner of The Inspector, LLC, asking for an amendment to the Town’s Electrical Standards code that would allow his company to be an approved electrical inspection agency within the Town of New Hartford, the Town Attorney presented proposed legislation to effect this change. 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, NY  
LOCAL LAW INTRODUCTORY “C” OF 2014

A Local Law to amend the Code of the Town of New Hartford, Chapter 59 thereof entitled ELECTRICAL STANDARDS in the Town of New Hartford.

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

Section 1. Chapter 59 of the Code of the Town of New Hartford is hereby amended by adding the following to Section 59-4, Electrical Inspectors and Section 59-6 Violations:

ADD: The Inspector, LLC

Section 2. Chapter 59 of the Code of the Town of New Hartford, Sections 59-4 and 59-6, are further amended by deleting the following companies that are no longer in business:

DELETE: New York Board of Fire Underwriters and the Allied Electrical Inspection Agency, Inc.

Section 3. All other provisions of Chapter 59 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 4. This Local Law shall become effective immediately upon its filing with the Office of Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “C” of 2014**

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

**(RESOLUTION NO. 105 OF 2014)**

**RESOLVED** that the New Hartford Town Board 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 14, 2014 in Butler Memorial Hall, 48 Genesee Street, New Hartford, New York to consider the adoption of Local Law Introductory “C” of 2014 which, if adopted, would amend Chapter 59 of the Town Code by adding The Inspector, LLC as an electrical inspector and by deleting the New York Board of Fire Underwriters and the Allied Electrical Inspection Agency, Inc. as electrical inspectors because both are no longer in business; and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Clerk to publish the requisite legal notice in The Observer Dispatch.

A roll call vote ensued:

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

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

**Local Law Introductory “B” of 2014 - Amendment to Town Code, Chapter 107B/Telecommunications Facilities**

With regard to Town Board discussion at their April 9, 2014 meeting with relation to the collocation of commercial towers in commercial districts, the Town Attorney presented draft legislation to amend Chapter 107B of the Town Code. After some discussion, Councilman Reynolds introduced the following legislation for the Town Board’s consideration at a future public hearing; co-sponsored by Councilman Woodland:

TOWN OF NEW HARTFORD, NEW YORK  
LOCAL LAW INTRODUCTORY "B" OF 2014

A Local Law to amend the Code of the Town of New Hartford, Chapter 107B thereof entitled TELECOMMUNICATIONS FACILITIES in the Town of New Hartford.

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

Section 1. Chapter 107B of the Code of the Town of New Hartford, Section 107B-5 is hereby amended by adding the following:

E. Collocated/existing structure antennas.

An antenna that is to be attached to an existing communications tower or any other structure is a permitted use in all zoning districts, except in or within 750 feet of a residential zone. An antenna that is to be attached to any other structure in any zone, other than a residential zone or within 750 feet of a residential zone, is a permitted use. These antennas are permitted upon the issuance of a building permit. The building permit application will include a structural analysis/report verifying the ability of the structure to support the antenna while also deeming the structure to be capable of supporting the additional loads. The height of the antenna shall not extend above the height of the existing structure by more than 50 feet.

Section 2. All other provisions of Chapter 107B 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 with the Office of Secretary of State.

**SEOR – Lead Agency Status; Local Law Introductory "B" of 2014**

Thereafter, Councilman Reynolds moved the adoption of the following Resolution, which was seconded by Councilman Miscione:

**(RESOLUTION NO. 106 OF 2014)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby declare itself as Lead Agency in the matter of amending the Town Code, Chapter 107B entitled Telecommunications Facilities and specifically relating to collocated/existing structure antennas; and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Clerk to forward copies of said proposed legislation (Local Law Introductory “B” of 2014) to all interested and/or involved agencies for SEQR review.

Upon roll call, the Town Board voted as follows:

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

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

**Public Hearing Scheduled – Local Law Introductory “B” of 2014**

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

**(RESOLUTION NO. 107 OF 2014)**

**RESOLVED** that the New Hartford Town Board 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 28, 2014 (or June 11, 2014) in Butler Memorial Hall, 48 Genesee Street, New Hartford, New York to consider the adoption of Local Law Introductory “B” of 2014 which, if adopted, would amend Chapter 107B of the Town Code by adding regulations for collocated/existing structure antennas; and be it

**FURTHER RESOLVED** that the Town Board does hereby authorize and direct the Town Clerk to publish the requisite legal notice in The Observer Dispatch.

A roll call vote ensued:

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

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

**Public Hearing Scheduled – Comprehensive Plan**

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

**(RESOLUTION NO. 108 OF 2014)**

**WHEREAS**, on April 9, 2014 the New Hartford Town Board, by Resolution No. 95, declared itself as Lead Agency in the matter of the Town Comprehensive Plan update; and

**WHEREAS**, in accordance with Resolution No. 95 of 2014, the Town Clerk has forwarded copies of said Comprehensive Plan update, Final Draft December 2013, to all interested and/or involved agencies for SEQR review;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby schedule a Public Hearing on Wednesday, **May 14, 2014 at 7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street in said Town, to consider the adoption of the Town's Comprehensive Plan, dated April 2014; 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.

A roll call vote ensued:

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

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

**Local Law Introductory "E" of 2014 – Zoning Law, Schedules, Map update**

Councilman Messa introduced the following Legislation to be considered by the Town Board at a future Public Hearing; co-sponsored by Councilman Miscione:

TOWN OF NEW HARTFORD, NEW YORK  
LOCAL LAW INTRODUCTORY "E" OF 2014

A Local Law to amend the Code of the Town of New Hartford, Chapter 118 thereof entitled ZONING, by repealing the 1999 Zoning Law and replacing the 1999 Zoning Law with the text adopted herein.

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

Section 1. Chapter 118 of the Code of the Town of New Hartford is hereby repealed and replaced by the following text:

See Schedule “A” annexed to these minutes and made a part thereof

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

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

**Public Hearing Scheduled – Local Law Introductory “E” of 2014 – Zoning Law Update**

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

**(RESOLUTION NO. 109 OF 2014)**

**WHEREAS**, on April 9, 2014 the New Hartford Town Board, by Resolution No. 95, declared itself as Lead Agency in the matter of the update to the Town’s 1999 Zoning Law and amendments thereto; and

**WHEREAS**, in accordance with Resolution No. 95 of 2014, the Town Clerk has forwarded copies of said proposed Zoning Law, Schedules and Map update, dated April 2014, to all interested and/or involved agencies for SEQR review;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby schedule a Public Hearing on Wednesday, **May 14, 2014 at 7:00 P.M.**, or as soon thereafter as reached in the regular course of business, in Butler Memorial Hall, 48 Genesee Street in said Town, to consider the adoption of Local Law Introductory “E” of 2014 which, if adopted, would repeal and replace the 1999 Zoning Law and amendments with new text; 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.

The Town Attorney stated that the proposed Comprehensive Plan and Zoning Law are posted on the Town's website. Thereafter, a roll call vote ensued:

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

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

Public Works & Sewer Committee – Councilman Messa

**Lighting Upgrade Proposal**

Councilman Messa reviewed a lighting retrofit proposal to upgrade the interior lighting in the Police and Court offices on Kellogg Road, said proposal having been prepared by Eastern Energy Solutions. Thereafter, Councilman Messa introduced the following Resolution; seconded by Councilman Reynolds:

**(RESOLUTION NO. 110 OF 2014)**

**RESOLVED** that New Hartford Town Board does hereby accept the Lighting Retrofit Proposal submitted by Eastern Energy Solutions to upgrade the interior lighting in the Jerome Madden Justice Building (Police and Court offices). The Net Turn Key Project Cost to the Town of New Hartford will be \$2,749.54 after application of a National Grid Grant in the amount of \$6,415.59. The Town's cost shall be expended from the Buildings and Grounds account; and be it

**FURTHER RESOLVED** that the Town Supervisor and/or Highway Superintendent be authorized to enter into and to execute any necessary documents for this project.

The Town Board voted upon roll call:

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

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

Assessor Committee – Councilman Woodland

**Training – Assessor Certification**

Upon request of the Assessor, the following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilman Messa:

**(RESOLUTION NO. 111 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 Assessor Darlene Abbatecola to attend a training session sponsored by the New York State Assessors Association in New Windsor, New York 12553 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	-	ABSENT.

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

**Training – Board of Assessment Review Members**

Assessor Abbatecola confirmed that all Board of Assessment Review members are up-to-date on their training.

**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 7:17 P.M.

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Respectfully submitted,

Gail Wolanin Young, Town Clerk