

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, JUNE 11, 2014 AT 7:00 P.M.**

The Town Supervisor 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.
Supervisor Patrick M. Tyksinski

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Assessor Darlene Abbatecola
Codes Enforcement Officer Joseph A. Booth
Deputy Supervisor Matthew Bohn III
Director of Senior Services M. Eileen Spellman
Finance Director Daniel Dreimiller
Highway Foreman Chris Moran
Parks & Recreation Director Michael W. Jeffery
Police Chief Michael Inserra
Town Clerk Gail Wolanin Young

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

MINUTES

May 14 and May 28, 2014 Town Board meetings:

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

(RESOLUTION NO. 128 OF 2014)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meetings held May 14 and May 28, 2014 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**.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Zoning (Codes) & Planning Committee – Councilman Messa

Local Laws Introductory “B” and “E” of 2014 & Comprehensive Plan

The Town Supervisor stated that the Town Board had held hearings on Local Laws Introductory “B” (Code Chapter 107B, Telecommunication Facilities) and “E” (Code Chapter 118, Zoning Law/Map update) but had withheld action until the Town Board received the Town Planning Board recommendations in both matters. The Planning Board had met on June 9, 2014 and the Town Supervisor read from the June 10, 2014 Memo from the Planning Board secretary:

“...motion was made by Board Member Heather Mowat to recommend to the Town Board the adoption of the proposed Local Law Introductory “B” of 2014 to amend the Town Code Chapter 107B entitled Telecommunication Facilities; seconded by Board Member Julius Fuks, Jr.” The vote was unanimous.

Supervisor Tyksinski then read from the June 10, 2014 Planning Board Memo with regard to Local Law Introductory “E” (Code Chapter 118, Zoning Law) and the Comprehensive Plan:

“...motion was made by Board Member Heather Mowat to recommend to the Town Board the approval of the new/updated Zoning Law and Comprehensive Plan; however, it was noted by Board Member Lis DeGironimo that there is no mention of the GEIS in the Comprehensive Plan and she feels not to have it mentioned is a gap in the Plan as it is a very significant document. She mentioned that the Plan expired in 2012 and 2013. Town Attorney Cully stated these GEIS’ do not expire. There is a mechanism to still collect fees in lieu of mitigation and also reevaluate them. Chairman DeLia stated that the positive declaration does not disappear – it remains in effect.

With that being said, Board Member Heather Mowat would like to add to her motion that reference to the GEIS document be added to the new/updated Comprehensive Plan; seconded by Board Member Bill Morris.” The vote was unanimous.

The Town Supervisor confirmed that the Comprehensive Plan was changed to include the GEIS referenced as per the motion of the Town Planning Board. The Town Clerk confirmed she had received copies of the new Comprehensive Plan.

SEOR Resolution to determine significance of Environmental Impacts

Councilman Messa read aloud and then introduced the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 129 OF 2014)

**RESOLUTION TO DETERMINE SIGNIFICANCE OF ENVIRONMENTAL
IMPACTS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY
REVIEW ACT FOR THE PREPARATION OF THE TOWN OF NEW
HARTFORD COMPREHENSIVE PLAN, REPEAL AND REPLACEMENT OF
CHAPTER 118 OF THE TOWN CODE, AND AMENDMENT TO CHAPTER
107B OF THE TOWN CODE**

WHEREAS, the Town of New Hartford has developed a Comprehensive Plan, new Zoning and Zoning Map, and an amendment to the Telecommunications Facilities Chapter of the Town Code to implement the Comprehensive Plan; and

WHEREAS, the intent of each the new Comprehensive Plan, Zoning and Zoning Map, and amendment to Chapter 107B of the Town Code regarding Telecommunications Facilities are to better manage land use and development practices in the Town of New Hartford with the goal of protecting community resources including natural, recreation, historic and scenic resources; continuing to mitigate stormwater challenges facing the town, and directing development into areas of the Town where infrastructure is already place and away from undeveloped or more rural areas; and

WHEREAS, the proposed amendments to the Zoning and Telecommunications Facilitie Chapters of the Town Code implement the goals and objectives of the Comprehensive Plan; and

WHEREAS, the proposed amendment to Chapter 107B entitled Telecommunications Facilities will direct new facilities to be co-located on existing structures whenever possible to better protect the aesthetic character of the Town of New Hartford;

NOW, THEREFORE, BE IT RESOLVED that as lead agency pursuant to 6 NYCRR Part 617.7, the Town Board finds that preparation of the Town of New Hartford Comprehensive Plan, repeal and replacement of Chapter 118, and amending Chapter 107B will not have a significant adverse impact on the environment and authorizes the issuance of a Negative Declaration of the Type I Action. The reasons for this

determination are: (1) that the actions involve preparation of a program and regulations and do not involve any physical alterations or activities on land within the Town; and (2) that the Town of New Hartford requires that all activities and projects resulting from the completed Plan are individually required to conform with the State Environmental Quality Review Act pursuant to 6 NYCRR Part 617.

Upon roll call, 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***.

Adoption of 2014 Comprehensive Plan

Councilman Messa then read aloud and introduced the following Resolution on the 2014 Comprehensive Plan; seconded by Councilman Reynolds:

(RESOLUTION NO. 130 OF 2014)

**RESOLUTION TO ADOPT THE TOWN OF NEW HARTFORD
COMPREHENSIVE PLAN**

WHEREAS, the Town Board of the Town of New Hartford had designated a Steering Committee to work with consultant River Street Planning & Development, LLC, to prepare a new Comprehensive Plan for the Town of New Hartford; and

WHEREAS, a public meeting was held on April 3, 2014 to present the draft Comprehensive Plan and gain input from the community; and

WHEREAS, a public hearing was held on May 14, 2014 and the Comprehensive Plan has been reviewed by the Town Planning Board and Oneida County Planning Departments; and

WHEREAS, the Town Board has completed an Full Environmental Assessment Form and determined that the preparation of the Comprehensive Plan will have no significant negative environmental impact in accordance with the State Environmental Quality Review Act, 6 NYCRR Part 617; and

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NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby adopt the Comprehensive Plan, dated June 2014.

Councilman Reynolds inquired how the Oneida County Planning Department's recommended approval, with 13 bulleted comments, would affect the Town's zoning regulations to be adopted. Codes Enforcement Officer Joseph Booth said that River Street Planning has seen these comments and has addressed them categorically. To Councilman Reynolds' further inquiry, the Codes Officer confirmed that the 13 comments have been incorporated in the new/updated Zoning Law.

Oxford Heights Development (Phase 2)

Resident Ed Schmidt, and his business partner Luke Lewis, were present with regard to possible Phase 2 of the Oxford Heights condominium development, off Oxford Road near Oneida Street (*formerly known as New Hartford Hills and then, Woodbrooke Development*). The Town Supervisor asked Mr. Schmidt to hold further comment until action on the adoption of the Comprehensive Plan (Resolution No. 130) is finalized.

Thereafter, the Supervisor then polled the Board members who voted as follows on the Comprehensive Plan:

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

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

Oxford Heights Development (Phase 2) – Grandfather provision

Ed Schmidt apologized for missing the public informational meeting and the public hearing on the new zoning law (Local Law Introductory "E" of 2014). Luke Lewis and he bought the second phase of the Oxford Heights condominium development, have brought the property taxes up-to-date and would like to proceed with developing the thirty-eight (38) units that had been approved by the Town Planning Board a number of years ago. He noted that these thirty-eight (38) units would generate individual additional parcels on the Town's assessment/tax roll. He asked that the Town Board "grandfather" Phase 2 of this development because there is quite a bid of infrastructure already in place and several approvals were granted a number of years ago; further, it is Mr. Schmidt's understanding that the new zoning law would allow for a different type of 2-family structures to be erected on this site versus the pre-approved thirty-eight (38) condominiums. Mr. Schmidt had attended a meeting on March 6, 2014 at the Sanger Public Works Garage with the Town Attorney, Codes Enforcement Officer, Highway

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Superintendent and engineer Chris Lawton (Barton & Loguidice) and posed these questions; Mr. Schmidt stated he just wants to preserve what was pre-approved several years ago. Several attempts to reach the Town Attorney for his opinion have not been successful. Mr. Schmidt had also met with the homeowners who are living in the development and they are receptive to additional similar condominiums such as what they now own.

In response to the Town Supervisor's inquiry, Codes Enforcement Officer Joseph Booth stated that the approval for Phase 2 is over twenty (20) years old and that the Town Board should obtain a legal opinion as to whether that approval is still valid after the changes that have occurred in that area of the Town. The Codes Enforcement Officer believed it was a legal opinion rather than a Planning Board opinion. At the March meeting, the Town Attorney volunteered to look into the matter but the development owners have not received an answer despite numerous attempts to reach him. In response to Councilman Woodland's question about what's changing in the Oneida Street area as far as uses are concerned, the Codes Enforcement Officer stated there is a propensity to flooding in that area, and that the Town is now in an MS4 district; the proposed zoning for this particular development still allows for town homes but only in two (2) unit configurations.

The Town Supervisor summarized that what the Messrs. Schmidt and Lewis are requesting is that the Oxford Heights Phase 2 be "grandfathered" so that Phase 2 would match what exists in the development – nothing different. Currently, there are forty-two (42) units in groups of three (3) and (4). The new zoning law would change that. Codes Enforcement Officer Booth had asked the Town Attorney to look into a section of the Town Code about time limit for commencement of construction and whether significant infrastructure is already installed; if so, that would be in their favor....if not, then it's not considered commenced. Mr. Lewis stated that some infrastructure had been built in Phase 2; however, Town officials want confirmation of whether storm water facilities, sewer mains and laterals and the like have been installed in Phase 2. Occupants of residences in Phase 2 would be homeowners, not renters. Councilman Messa was okay with the grandfather clause as long as Phase 2 has proper stormwater facilities, and so forth, in place. Supervisor Tyksinski asked whether Phase 2 would be reviewed again by the Planning Board before the developers begin construction. Codes Enforcement Officer Booth believed that if the development were to be grandfathered, that the Planning Board would not review it again. Councilman Reynolds believed that "...if in fact it's significantly committed, significantly underway, significantly started, even though it was twenty (20) years ago, it's said that we're committed, they're committed, that much was approved by the Town." The Town Supervisor stated that the Town's engineers would make an on-site inspection based upon current regulations now.

The Town Supervisor declared a recess at 7:18 P.M. while he attempted to reach the Town Attorney by phone for his advice. The Board reconvened at 7:20 P.M.

The Town Supervisor introduced the following Resolution for adoption; seconded by Councilman Messa:

(RESOLUTION NO. 131 OF 2014)

WHEREAS, developers Ed Schmidt and Luke Lewis have requested that their development, Phase 2 of Oxford Heights, *formerly known as New Hartford Hills and Woodbrooke Development*, be grandfathered under the current Zoning Law and with the past approvals from the Town Planning Board;

NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby approve and grant a grandfather clause for Phase 2 of the Oxford Heights development, creating an exemption based on circumstances previously existing; namely, prior approvals from the Town Planning Board and the zoning regulations that were in effect at the time of approval, contingent upon:

- Verification that significant and proper infrastructure has already been installed in Phase 2 of Oxford Heights
- The Town’s engineer and Highway Department making on-site inspections to ensure that the developers’ statements made at the June 11, 2014 Town Board meeting are correct
- The original plan that was approved by the Planning Board
- Review by the Town’s engineers based upon current regulations in effect June 11, 2014.

Councilman Miscione questioned – so it limits to three (3) to four (4) units and makes it homeownership rather than apartment units. The Town Supervisor said yes, that’s what the original plan was. Thereafter, the Town Board members voted upon roll call:

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

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

Adoption of 2014 Zoning Law (maps and schedules)

Councilman Messa then read aloud and offered for adoption the following Resolution on the 2014 Zoning Law, introduced as Local Law Introductory “E” of 2014; seconded by Councilman Miscione:

(RESOLUTION NO. 132 OF 2014)

**RESOLUTION TO ADOPT THE TOWN OF NEW HARTFORD
ZONING LAW**

WHEREAS, the Town Board of the Town of New Hartford had designated a Steering Committee to work with consultant River Street Planning & Development, LLC, to prepare a new Zoning Law for the Town of New Hartford; and

WHEREAS, a public meeting was held on April 3, 2014 to present the draft Zoning Law and gain input from the community; and

WHEREAS, a public hearing was held on May 14, 2014 and the Zoning Law has been reviewed by the Town Planning Board and Oneida County Planning Departments; and

WHEREAS, the Town Board has completed an Full Environmental Assessment Form and determined that the preparation of the Zoning Law will have no significant negative environmental impact in accordance with the State Environmental Quality Review Act, 6 NYCRR Part 617; and

NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby adopt Local Law Introductory “E” of 2014 as Local Law No. Four of 2014, also known as the Town of New Hartford Zoning Law, dated June 2014, and attached hereto and made a part of this Resolution.

The Town Board then voted as follows:

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

The Resolution and Local Law were declared unanimously carried and duly **ADOPTED**.

Adoption of Local Law Introductory “B” of 2014 as Local Law No. Five of 2014

Councilman Messa then read Local Law Introductory “B” of 2014, which he introduced for adoption as Local Law No. Five of 2014; seconded by Councilman Reynolds:

TOWN OF NEW HARTFORD, NEW YORK
LOCAL LAW NO. FIVE 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.

A roll call vote ensued:

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

Local Law Introductory "B" of 2014 was declared unanimously carried and duly **ADOPTED** as Local Law No. Five of 2014.

The Supervisor polled the Town Board members who 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 – Highway Department Seasonal Employee

Upon recommendation of Highway/Sewer Superintendent Richard Sherman, the following Resolution was introduced for adoption by Councilman Messa and duly seconded by Councilman Miscione:

(RESOLUTION NO. 134 OF 2014)

RESOLVED that the New Hartford Town Board does hereby appoint Dennis Halpin as a part-time seasonal Laborer for the Highway Department at the hourly wage of Eight Dollars and Fifty Cents (\$8.50), payable bi-weekly; said appointment is retroactive to May 27, 2014.

Whereupon, the Town Board voted upon roll call:

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

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

Parks and Recreation Committee – Councilman Reynolds

Appointment – Seasonal Parks & Recreation Employees

Upon recommendation of Parks and Recreation Director Michael Jeffery, the following Resolution was introduced for adoption by Councilman Reynolds and duly seconded by Councilman Miscione:

(RESOLUTION NO. 135 OF 2014)

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

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opposite their several names, for the Parks and Recreation Department; all wages to be paid bi-weekly:

Swim – A7230.1

Start Date: June 30, 2014 – August 31, 2014

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Rachel Hernon	Recreation Attendant I	\$8.05/hour
Benjamin Herring	Recreation Attendant I	\$8.05/hour
Katie Klimacek	Recreation Attendant I	\$8.05/hour
Tony Karam	Recreation Attendant I	\$8.05/hour
Justin Lefave	Basketball Attendant	\$8.45/hour
Cooper Deck	Basketball Attendant	\$8.45/hour.

Whereupon, the Town Board voted upon roll call:

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

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

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 Miscione:

(RESOLUTION NO. 136 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 scheduled for Friday, June 28, 2014 at 9:30 P.M., in accordance with the State Penal Law and regulations set forth in said Permit

The Supervisor polled the Board members who voted as follows:

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

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

Zoning (Codes) & Planning Committee – Councilman Messa Cont’d)

Appointment – Zoning Board of Appeals Member

The Town Supervisor reported that the appointment of Karen Stanislaus as a member of the Town’s Zoning Board of Appeals had expired June 9, 2014; in March 2014 notice of the impending vacancy had been posted on the Town’s website. As a result, besides Ms. Stanislaus, two (2) persons had submitted resumes for this position. Thereafter, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 137 OF 2014)

WHEREAS, the term of office of Karen Stanislaus on the Zoning Board of Appeals has expired effective June 9, 2014; and

WHEREAS, Ms. Stanislaus has expressed an interest in being re-appointed and has received high recommendations from the Town Attorney and the Chairman of the Zoning Board of Appeals;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of New Hartford does hereby re-appoint Karen Stanislaus as a Member of the Town Zoning Board of Appeals for a five-year term effective June 10, 2014 and ending June 9, 2019.

The Resolution was duly put to a vote upon roll call, resulting 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

Councilman Miscione:

Mud Creek - Royal Brook Lane fencing

Councilman Miscione reported that the Town Supervisor, Highway Superintendent and he had visited the site. He would like to re-bid the 320 foot fencing project for the Commercial Drive side of Mud Creek area because two (2) of the bidder cannot do the work this summer because of other scheduled projects and the third (3rd) bidder, the highest, was too expensive; the fencing would extend from the State Farm parcel left-hand side continuing to the right-hand corner of the Raspberry's corner. He also recommended obtaining quotes for shrubbery to be planted in back of 22 – 24 Royal Brook Lane to shelter the residences from light pollution. Thereafter, Councilman Miscione introduced the following Resolution for adoption; seconded by Councilman Messa:

(RESOLUTION NO. 138 OF 2014)

RESOLVED that the New Hartford Town Board does hereby authorize Councilman Miscione to obtain bids/quotes for nine (9) six-foot shrubbery to be planted in back of 22 – 24 Royal Brook Lane in the area of Commercial Drive/Mud Creek, to help alleviate light pollution for the residents; and if the cost is under the Town's Procurement Policy of \$1,000 for the bidding process, then proceed with purchasing and planting the shrubbery.

Councilman Miscione inquired if the Town would plant the shrubbery, which would save money. The Parks & Recreation Director agreed to plant the shrubbery with the assistance of a backhoe from the Highway Department. 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**.

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

(RESOLUTION NO. 139 OF 2014)

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RESOLVED that the New Hartford Town Board does hereby authorize Councilman Miscione to re-bid the 320 feet of fencing for the Commercial Drive side of Mud Creek in the vicinity of Royal Brook Lane, using the same specifications that the Town had previously prepared.

The Town Board members voted upon 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**.

Councilman Woodland

Appointment of Court Clerks

Councilman Woodland asked to discuss the permanent appointment of Court Clerks; the Town Supervisor indicated this would be a matter for Executive Session.

Councilman Reynolds:

Agenda – Public Comment

Councilman Reynolds would like the Town Board to consider reinstating the public comment section of the Town Board Agenda, either at the beginning or the end. He thought the Town Board had already or could establish parameters in terms of time limits and issues discussed but he thinks the Board should allow for public comments.

The Town Supervisor stated that public comment was never restricted – what we did was ask people to contact the Town Clerk to be put on the agenda. In his opinion, the Town Supervisor believed it allows people who may have an opinion on what a person is saying at a Board meeting, to know that it's on the agenda and be able to attend the meeting to hear what the person has to say, either a rebuttal or in agreement; further, he believed that by not having a matter on the agenda it closes the government up a little bit. If put on the agenda, that's more open government; everybody can see it and knows what's coming. There may be people out there that may disagree or agree with what the person is saying and want to be here to support them or rebut. He thinks asking someone to be put on the Agenda the Monday before, which the Town Clerk is willing to do, before the meeting is too much; as the Board members know, the Town Clerk asks us to do this by the Thursday before. That's two days before a meeting to call up and do it. He would consider putting it on the Town's website if Board members thought it would be better,

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that anybody willing to speak would have to be put on the agenda and they would have to call the Town Clerk to be placed on the Agenda the Monday before. He thinks it would open up to more people instead of having only one person come in and give their one point of view and with the very possibility – I mean, we don't even have an Observer Dispatch (OD) reporter here tonight which means if someone did speak they wouldn't know about it for another month when the approved minutes are posted on the Town's website.

Councilman Reynolds acknowledged those were good comments from the Town Supervisor; at the same time, that would not preclude that from happening should there be something an individual wants to notify other parties through the agenda publication. But he also believes someone coming in should have the right to be heard and speak on a topic that perhaps they hadn't put on the agenda. I don't think it's unreasonable and again, we have set parameters – the Chair has established parameters in the past in terms of length of time, one person speaking on a topic, etc., etc. and he thinks it should be added back to the Agenda.

Supervisor Tyksinski stated that if a majority of the Town Board wants it, he still would not be in favor but at least it would be a commentary and not a question and answer period. He thinks it also poses a problem for some department heads as well as the Town Attorney when someone comes in, brings up something that has not been relevant and hits him at the last moment and this has happened in the past with legal questions. So if a comment wants to be made, he wouldn't feel as negative against it; however, the question and answer, which a lot of these turn into, ends up turning into a debate and that he definitely is not in favor of.

Councilman Reynolds acknowledged that was correct. It's tough to make a point and perhaps not ask a question associated with that point. But our obligation to answer that on the spot can't be expected in most cases and he believes it's reasonable to say we're going to have to look at it, we'll get back to you, or could you put that in writing or whatever. Councilman Woodland agreed, saying that was reasonable.

Because as you know, public hearings are not.... Said Pat but. Councilman Reynolds agreed, but said again, someone making a point there may be a question in there whether it's verbalized or not, may not be, but for the Town Supervisor's point, it's a good point, he said.

The Town Supervisor said he would ask that the statement be read, if in fact the Board passes it – he's still not in favor of it – be read before that questions will not be answered....because he doesn't want our department heads and doesn't want the Town Attorney – because what happens a lot of times, even though we said years ago this is a comment, they come up with a question and now the Town Attorney or one of our

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department heads feels obligated because no one is saying anything, so now they're under the gun. So at the very least I would say that if you're making --- Councilman Reynolds interjected that the Board could respond "we may or may not be able to answer your question." Supervisor Tyksinski said I don't think we should answer any questions; if it's a public comment period, which is what it's supposed to be, and somebody gets up and says listen, I don't like what's going on up in my neighborhood. "Thank you for your comment," said Councilman Reynolds and Supervisor Tyksinski. So to that effect, we'll look into it if that's what you want to say but when they say what's this, the Town Supervisor thinks that's above and beyond and people like that, he thinks, get put on the Agenda and allow the Board to go with it.

Thereafter, Councilman Reynolds introduced the following Resolution, which was duly seconded by Councilman Woodland:

(RESOLUTION NO. 140 OF 2014)

RESOLVED that the New Hartford Town Board does hereby amend Resolution No. 5, adopted January 8, 2014, Schedule "A", Rules of Procedure for Town Board meetings, Section VII. ORDER OF BUSINESS by reinstating "Consideration of Public Presentations" between the categories of "Public Hearings" and "Reports of Town Officials presented by the Chairperson of the Respective Standing Committee" and on all Town Board meeting agenda henceforth.

Discussion continued. Councilman Messa likes the fact it be on the Agenda because I think it might force the residents to be well prepared coming in knowing they had a topic. Commended people at a past Board meeting where there was public discussion and people read off their statements. It was well organized and to that regard, I like to know ahead of time and preparation for it and, again, not eliminating public speaking by any means but I think it makes more sense to have them articulate what they want to say. I don't think we're stifling any resident from speaking but I think if they know these are the procedures, everybody would abide by these rules. He suggested having a sign-in sheet for persons speaking, including their address from which the Supervisor can call upon each person wishing to speak and then give that document to the Town Clerk.

Councilman Reynolds thought that in the past the Chair has handled it properly; his point is it's been deleted and he thinks it should be brought back. He thinks the Chair has done a good job managing the whole public comment process.

Councilman Miscione – the comment part of, it's fine for people to come in and comment. But again, the question and answer part of it, put to the agenda in case they have a questions for the Town Attorney or a department head.

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Supervisor Tyksinski stated, as the Board members know and the Town Clerk knows, that the State does not require public comments/question and answer as part of municipal board meetings. In fact in any literature the State disseminates when a person is elected specifies that the Board meeting is to conduct town business by this Board; if you're not going to have it as an option, you can have a moment when the public can get up and speak. However, be advised that in none of these writings is it even recommended by the State that you do; however, on the other hand, if you look at what the State did quite a while ago, they do require us now to put more into our agenda – all these documents the Town Clerk attaches to the Agenda is a requirement. And what you're asking is that we put less in the Agenda by not putting people on the Agenda, by just coming here and speaking haphazardly. Councilman Reynolds said it doesn't preclude them from formally going on the Agenda. No, but Supervisor Tyksinski replied that the State requires us to put more on the Agenda and you're saying no you don't have to be on the Agenda. They do that to provide more open government and he thinks by being on the Agenda, it does offer more government. Supervisor Tyksinski referred to the Messrs. Schmidt and Lewis who were present earlier in this meeting – perhaps if some of the residents knew about this matter, they might have appeared to comment whether they wanted further development.

The Town Board then voted by roll call:

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

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

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

(RESOLUTION NO. 141 OF 2014)

RESOLVED that the New Hartford Town Board does further agree to have on future Town Board meeting Agenda a public comment/question and answer time if the person is expecting something forward from the Town Board.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye

Councilman Reynolds	-	Nay
Councilman Messa	-	Aye
Supervisor Tyksinski	-	Nay.

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

Annual Insurance Renewal

The Town Supervisor had disseminated to Board members copies of quotes for renewal of the Town's various insurance policies; Haylor, Freyer & Coon, Inc. provided a quote with a seven percent (7%) increase but below the Town's 2014 budgeted amount. Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 142 OF 2014)

RESOLVED that the New Hartford Town Board does hereby accept the proposal submitted by Haylor, Freyer & Coon, Inc. to renew various insurance policies for the period June 30, 2014 through June 30, 2015, at a cost of One Hundred Eighty-three Thousand Seven Hundred Fifteen Dollars (\$183,715).

A roll call vote was then held:

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

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

Public Hearing Scheduled – Parks & Recreation/Highway Dept Union Contracts

At the May 28, 2014 Town Board meeting a Public Hearing had been scheduled for June 11, 2014 concerning the Fact-Finding Agreement for the above departments; however, the hearing was not held as the Union had to be offered a chance to respond to the Fact-Finding Agreement first. The Town Attorney has since contacted the Union and now everything has been fulfilled so that a public hearing can be scheduled. Councilman Reynolds then offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 143 OF 2014)

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RESOLVED that, pursuant to Civil Service Law Section 209.3, the Town Board of the Town of New Hartford does hereby schedule a Public Hearing to be held on Wednesday, July 9, 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 for the purpose of allowing the Town of New Hartford Town Supervisor and Teamsters Local 294, formerly known as Teamsters Local 182, to explain their respective positions on the Fact Finding Report of PERB appointed Fact Finder Marry Solomon and the recommended actions for resolving the bargaining impasse that exists between the Town and Teamsters Local 294 over the terms and conditions for the bargaining unit of employees employed in the Town Highway Department and represented by Teamsters Local 294 for the period subsequent to the expiration of the collective bargaining agreement covering the period from January 1, 2007 through December 31, 2010; and be it

FURTHER RESOLVED that the said Town Board does hereby authorize and direct the Town Clerk to publish the legal requisite Notice of Public Hearing in The Observer Dispatch.

The Supervisor polled the Town Board members who 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**.

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Finance Director:

2014 Budget Adjustment

Upon recommendation of the Finance Director, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 144 OF 2014)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Accounting Department to make the following budget adjustments for the year 2014 with regard to two (2) trucks purchased by the Parks and Recreation Department, said transfers to prevent the line items from being exceeded:

- *Increase General Fund Whole Town AA7110.02, Parks Equipment* - \$3,620
- *Decrease General Fund Whole Town AA7230.04, Swim Program* - \$2,700

- *Decrease General Fund Whole Town AA7140.02, Playground Equip.* - \$ 920.

The foregoing Resolution was thereafter voted upon roll call:

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

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

Audit of Vouchers

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

(RESOLUTION NO. 145 OF 2014)

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:

Street Lighting Fund Abstract #8	
Vouchers SL8	\$ 7,731.19
Brine Equipment Fund Abstract #5	
Vouchers HS32	\$ 21.10
Trust & Agency Fund Abstract #19	
Vouchers TT104	\$ 807.45
Trust & Agency Fund Abstract #20	
Vouchers TT97-TT103	\$ 13,854.18
Trust & Agency Fund Abstract #21	
Vouchers TT105-TT106	\$ 2,398.31
Trust & Agency Fund Abstract #22	
Vouchers TT107-TT115	\$ 13,020.82
Highway Fund Part-Town Abstract #9	
Vouchers DB395-DB427	\$ 74,220.77
General Fund Part-Town Abstract #12	
Vouchers BB67	\$ 392.62
General Fund Part-Town Abstract #13	
Vouchers BB68-BB69	\$ 2,944.39
General Fund Part-Town Abstract #14	
Vouchers BB70-BB81	\$ 3,524.86

General Fund Part-Town Police Abstract #12 Vouchers BP111	\$ 2,818.22
General Fund Part-Town Police Abstract #13 Vouchers BP112	\$ 448.64
General Fund Part-Town Police Abstract #14 Vouchers BP113-BP125	\$ 14,103.68
General Fund Whole-Town Abstract #14 Vouchers AA636-AA644	\$ 35,613.08
General Fund Whole-Town Abstract #15 Vouchers AA645-AA649	\$ 16,613.24
General Fund Whole-Town Abstract #16 Vouchers AA650-AA755	\$ 142,467.77
Sewer Fund Abstract #11 Voucher SS90	\$ 206.00
Sewer Fund Abstract #12 Voucher SS91	\$ 1,765.67
Sewer Fund Abstract #13 Voucher SS92-SS96	\$ 7,605.61
	\$340,557.60 TOTAL

The Town Board members voted as follows:

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

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

Billing for Engineers on site

Councilman Miscione wanted to discuss in Executive Session a contract for payment of engineering services for on-site visits. The Supervisor read the reasons to go into Executive Session, which did not apply to this topic. He doesn't want engineering services to be paid for by the whole town when developers, or homeowners' projects necessitate an engineering inspection, but rather expenses the responsibility of the developer/property owner. The Town Supervisor said the Town already has this; we tell the developer up front that the Town wants a traffic study, stormwater study, whatever it may be and we want the Town's engineer to do the work and the developer/property owner will be billed for it. The Town Supervisor will meet with the Highway Superintendent and Codes Enforcement Officer and bring some recommendation to the Town Board.

MATTER SUBMITTED BY TOWN SUPERVISOR

EXECUTIVE SESSION

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

(RESOLUTION NO. 146 OF 2014)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss matters leading to the appointment of particular persons.

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 8:01 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: Supervisor Tyksinski provided the following transcription on Friday, June 13, 2014.]

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 147 OF 2014)

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 8:30 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion duly made by Councilman Reynolds and seconded by Councilman Miscione, the meeting was adjourned at 8:32 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk