

**REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN
ON WEDNESDAY, DECEMBER 10, 2014 AT 7:00 P.M.**

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

TOWN BOARD MEMBERS PRESENT:

Councilman James J. Messa
Councilman 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
Director of Finance Daniel Dreimiller
Highway/Sewer Superintendent Richard C. Sherman
Parks & 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

November 19, 2014, Town Board meeting:

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

(RESOLUTION NO. 260 OF 2014)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held November 19, 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

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minutes. Local Law Introductory “F” proposes to reduce the current 7-member Zoning Board of Appeals to a 5-member Zoning Board of Appeals.

Those appearing to speak in the matter included:

- *Byron W. Elias* – thanked the Town Board for allowing him to speak. Believes 7-member Board is beneficial because it brings a diverse group to the table to be able to review the applications that come before the Zoning Board. He asked that the Town Board reject this legislation because the Zoning Board needs larger representation from the different parts of the Town.
- *Ralph B. Humphreys* – opposed because he believes the government of the people, and the more people you remove from the government, the closer you get to a monarch. The Town Board needs to keep people involved and there are people in the Town willing to participate in these boards and doesn’t think its proper to discourage them by shortening the membership. If money is a problem, the Town Board could always resort to pay members so much for the meetings they show up. “Same speech for both of them,” he said (referring also to Local Law Introductory “G” to reduce the Planning Board membership.
- *Lenora Murad* – respectfully asked that the Town Board vote no to reduce the Zoning Board of Appeals membership from 7 to 5. Believes the Zoning Board, and independent Board, is of high integrity and takes each case as it comes, case by case. Was disappointed in hearing some comments about Zoning Board members’ lack of attendance at meetings. The Zoning Board consults with Town Attorney Cully when they have questions; the Board doesn’t ask that each case prove a hardship and they don’t have to because each case has its own criteria.

There being no one further to speak at this time, the Public Hearing was left open for persons who might appear later in the meeting.

7:14 P.M.

Public Hearing

Local Law Introductory “G” of 2014

At 7:14 P.M. the Town Supervisor opened the Public Hearing on Local Law Introductory “G” of 2014. [NOTE: The Town Clerk had available the proposed legislation, Notice of Public Hearing, Affidavit of Posting and Proof of Publication in the November 28, 2014 edition of The Observer Dispatch.] The Town Supervisor stated that everything the Town Attorney had said about Local Law Introductory “F” applies to the Planning Board (Local Law Introductory “G”). Local Law Introductory “G” proposes to reduce the current 7-member Planning Board to a 5-member Planning Board.

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Those appearing to speak in the matter included:

- *Margaret S. Rotton* – ask the Town Board to reconsider the proposed legislation. She appeared in the matter first and foremost as a citizen because she was a victim of the Planning Board not meeting when she and her husband built their house on Danberry Road. So she was very aware at that point that either there was no quorum and/or did not meet until February. She has served under four different Chairmen in her tenure; all of them brought different skills to the Board. With a larger number of Board members there is better opportunity for continuity and understanding. Planning Board members represent geographical areas of the town and can better explain the concerns and problems in their respective areas. They have an expertise that applies to planning, environment, engineering, water, agriculture and business; so each member brings something to the table. She feels so strongly that the diversity of knowledge is so important that she would volunteer to serve as a Planning Board member. She asked that the Town Board look at the costs of paying the Planning Board members and the fees that the Planning Board brings to the Town. She would also second what Ralph (Humphreys) said about not paying Board members who do not attend meetings.
- *Julius Fuks, Jr.* – resident of the Town and a Planning Board member. Look at our community – New Hartford has done a lot of wonderful things in the past and continues to do a lot of wonderful things, including the Town Board, Zoning Board of Appeals and Planning Board. The Planning Board has a wonderful dynamics with the number of Board members; we all put a great amount of time into review of the projects; have quite a dialogue during most of the meetings. Look at the past successes of the Town, keep a diverse group so that the Town is well represented.
- *Brymer Humphreys* – serves on the Planning Board. His understanding is that the 7- member Planning Board, including one representative each from the Villages of New Hartford and New York Mills, has existed at least 30 years. He believes the importance of the representation of different areas of the town, especially because of the diversity between the business and rural and homeowners – that we need more people to represent those areas. Even Town Law, Section 271 notices the importance of agriculture in the town. If Local Law Introductory “F” were to be adopted, his term would end and so be it for agricultural representation. He suggested that the Planning Board members might be paid per diem. Mr. Humphreys recommended that the Town Board vote no on decreasing membership of the Planning Board.
- *Mike Baldwin* – pointed out that technology is getting more complex...zoning issues are becoming more difficult, not easier. He believes the breadth of

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knowledge of seven (7) people is an improvement and encouraged the Town Board to keep the Planning Board membership at seven (7). Also, he would like to see more people involved in the Town and have more positions available for the public.

There being no one further who appeared in the matter of Local Law Introductory “G” of 2014, after motion duly made and seconded, the Town Supervisor closed the Public Hearing at 7:21 P.M.

There having been no one further who came forth to speak in the matter of Local Law Introductory “F” of 2014, upon motion duly made and seconded, the Town Supervisor closed the Public Hearing at 7:22 P.M.

Councilman Messa explained that, after reviewing the 2015 Preliminary Budget, he came up with the thought process of reducing Planning/Zoning Board membership as he thought it would save money. Term expirations would need to be addressed and savings wouldn't be there immediately. He understood Ms. Murad's concern about statements that Board members did not always attend their respective meetings. Councilman Messa commended the people from both boards who reached out to him...very professional and appreciate presentation of valid comments tonight. He recommended not adopting either Local Law Introductory and to pay Planning and Zoning Board members a per diem wage.

Action on Local Law Introductory “F” of 2014

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

(RESOLUTION NO. 261 OF 2014

RESOLVED that the New Hartford Town Board does hereby reject the proposal, introduced as Local Law Introductory “F” of 2014, to reduce the membership of the Zoning Board of Appeals from seven (7) to five (5) members.

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 Local Law Introductory “F” of 2014 **DEFEATED**.

Action on Local Law Introductory “G” of 2014

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

(RESOLUTION NO. 262 OF 2014)

RESOLVED that the New Hartford Town Board does hereby reject the proposal, introduced as Local Law Introductory “G” of 2014, to reduce the membership of the Planning Board from seven (7) to five (5) members.

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 Local Law Introductory “G” of 2014 **DEFEATED**.

REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRPERSON

Town Clerk Committee – Councilman Woodland (Messa)

Raffle Consent

The Town Clerk had received an application from the Rome Youth Hockey organization, domiciled in Rome, NY, who wished to sell raffle tickets at Sangertown Square Mall in December 2014. The following Resolution was introduced for adoption by Councilman Woodland and duly seconded by Councilman Messa:

(RESOLUTION NO. 263 OF 2014)

RESOLVED that the New Hartford Town Board does hereby grant permission to the Rome Youth Hockey Association (RYHA), domiciled at 500 West Embargo St., Rome, NY 13440, a group that has made a self-determination that it qualifies as an authorized organization pursuant to Article 9-A of the General Municipal Law (Games of Chance licensing law), to sell raffle tickets as a Category 3 raffle, 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.

Upon roll call, the Town Board 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**.

Further, the Town Clerk had received an application from the Mohawk Valley for St. Jude, asking to sell raffle tickets at the Sangertown Square Mall in December 2014. Thereafter, Councilman Woodland offered the following resolution for adoption; seconded by Councilman Messa:

(RESOLUTION NO. 264 OF 2014)

RESOLVED that the New Hartford Town Board does hereby grant permission to the Mohawk Valley for St. Jude, domiciled at 14 First Street, Whitesboro, NY, a group that has made a self-determination that it qualifies as an authorized organization pursuant to Article 9-A of the General Municipal Law (Games of Chance licensing law), to sell raffle tickets as a Category 3 raffle, 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.

Upon roll call, the Town Board 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**.

Hourly Wage – End of Probationary Period

Upon recommendation of the Town Clerk-Registrar, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Messa:

(RESOLUTION NO. 265 OF 2014)

WHEREAS, Shelby L. Bohling has satisfactorily completed the probationary period of her appointment as Deputy Registrar for District 3264, Town of New Hartford, as of December 1, 2014;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby establish Ms. Bohling's hourly wage as Deputy Registrar at Twelve Dollars and Twenty-nine Cents (\$12.29), effective December 1, 2014.

The Town 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**.

Hourly Wage – End of Probationary Period

Upon recommendation of Town Clerk Gail Wolanin Young, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Messa:

(RESOLUTION NO. 266 OF 2014)

WHEREAS, Rebecca A. Empey has satisfactorily completed the probationary period of her appointment as Deputy Town Clerk II for the Town of New Hartford, effective December 2, 2014;

NOW, THEREFORE, BE IT RESOLVED that the New Hartford Town Board does hereby establish Ms. Empey's hourly wage as Deputy Town Clerk II at Eleven Dollars and Sixty-two Cents (\$11.62), effective December 2, 2014.

A roll call vote ensued:

Councilman Miscione	-	Aye
Councilman Messa	-	Aye

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

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

Senior Citizens Committee – Councilman Reynolds (Messa)

Budget Adjustment – Donations

Upon request of Director of Senior Services Eileen Spellman, Councilman Reynolds offered the following Resolution for adoption; seconded by Councilman Miscione:

(RESOLUTION NO. 267 OF 2014)

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 for the benefit of the New Hartford Adult Dining & Activity Center:

- \$ 75.00 – from Fidelis; table rental at October 2014 Health Fair
- \$ 80.00 – from Dr. & Mrs. Raj; offset Thanksgiving Dinner costs
- \$100.00 – from Earle Reed; offset Thanksgiving Dinner costs
- \$ 29.95 – from AARP; offset Thanksgiving Dinner cost

and be it

FURTHER RESOLVED that the Town Board of the Town of New Hartford does hereby authorize and direct the Finance Department to make the following 2014 budget adjustments for the New Hartford Adult Dining and Activity Center:

- Increase General Fund Whole-Town Contractual Account A6772.4 - \$75.00
 - Fidelis table rental/Health Fair
- Increase General Fund Whole-Town Revenue A2705.1 - \$75.00.
 - Fidelis table rental/Health Fair
- Increase General Fund Whole-Town Contractual Account A6772.4 - \$29.95
- Increase General Fund Whole-Town Revenue A2705.1 - \$29.95.

The Town Supervisor polled the 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***.

MATTERS SUBMITTED BY COUNCILMEN / TOWN ATTORNEY

Councilman Miscione:

Town Court Filing Cabinets

Councilman Miscione questioned whether funds were available to repair a broken safe and to replace some dilapidated file cabinets in the Town Court offices. The Finance Director will check the fund balances.

Town Attorney Cully:

Litigation

The Town Attorney had distributed copies of some recent decisions in Justice Court; the Town was successful in the prosecution of Seemann and other cases. The Judge awarded monetary fines and the Town is proceeding in Supreme Court as well.

Local Law Introductory "H" of 2014

The Town Attorney prepared legislation that, if adopted, would allow demolition and associated costs to be levied on the town and county tax bills. Based upon the Town Attorney's advice, 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, NY
LOCAL LAW INTRODUCTORY "H" OF 2014

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF NEW HARTFORD, CHAPTER 65 ENTITLED FIRE PREVENTION AND BUILDING CODE ADMINISTRATION AND ENFORCEMENT, SECTION 65-17 THEREOF (ENFORCEMENT; PENALTIES FOR OFFENSES).

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

SECTION 1. CHAPTER 65, SECTION 65-17. ENFORCEMENT; PENALTIES FOR OFFENSES, SHALL BE SUPPLEMENTED TO ADD THE FOLLOWING PARAGRAPH AT THE END OF SUBPARAGRAPH D:

All costs incurred by the Town in enforcing this chapter shall be recoverable from the owner of the premises. Such costs hereunder shall include, but not be limited to the following:

- (1) Actual attorney fees and disbursements for services rendered with or without the commencement of litigation;
- (2) Actual engineering fees and disbursements, including the costs of the Town's Code Enforcement Officer;
- (3) Actual costs of securing, demolishing, removing or repairing the building or structure;
- (4) Costs of serving and/or publishing notices; and
- (5) Costs of Title and tax searches.

The costs incurred in enforcing this chapter shall be added to the next assessment roll for Town taxes against the tax parcel(s) and shall be collected and enforced in the same manner as other taxes for that parcel(s).

In addition to any other remedies herein, the Town may commence a special proceeding under Article 4 of the Civil Practice Law and Rules in a court of competent jurisdiction to collect the costs incurred by the Town in enforcing this chapter. Should the Town recover and be paid said costs through such a proceeding (and after costs have been added to the assessment rolls), the assessment roll and tax records shall be adjusted accordingly to properly credit amounts so paid and recovered.

SECTION 2. All other provisions of Chapter 65 of the Code of the Town of New Hartford, are hereby affirmed to the extent that this Local Law shall modify or amend.

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

Public Hearing Scheduled – Local Law Introductory “H” of 2014

Thereafter, Councilman Reynolds offered the following Resolution for adoption and Councilman Woodland seconded same:

(RESOLUTION NO. 268 OF 2014)

RESOLVED that 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, January 14, 2015 in the Community Meeting Room of Butler Memorial Hall, New Hartford, NY, to consider Local Law Introductory "H" of 2014 which, if adopted, would allow the Town of New Hartford to levy building demolition charges and associated costs on the annual town and county tax bills; and be it

FURTHER RESOLVED that the Town Clerk be, and she hereby is, authorized and directed to publish the legal requisite Notice of Public Hearing in The Observer Dispatch. The Town Board members voted by roll call, 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**.

MATTERS SUBMITTED BY THE TOWN SUPERVISOR

Financial:

Audit of Vouchers

Councilman Messa presented the following Resolution for adoption; seconded by Councilman Woodland:

(RESOLUTION NO. 269 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 #14	
Vouchers SL14	\$ 8,837.25
Heating System/HWY/Police Fund Abstract #2	
Vouchers HW2-HW3	\$ 32,550.00
Parks Capital Project Fund Abstract #4	
Vouchers HX6-HX7	\$ 8,013.25
Arlington/Higby Sewer Repairs Abstract #2	
Vouchers HU2	\$ 28,717.55
Trust & Agency Fund Abstract #39	

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Vouchers TT220-TT227	\$ 7,939.46
Trust & Agency Fund Abstract #40	
Vouchers TT228; TT231-TT233	\$ 8,777.40
Trust & Agency Fund Abstract #41	
Vouchers TT234-TT239	\$ 7,088.60
Trust & Agency Fund Abstract #42	
Vouchers TT240-TT248	\$ 9,987.13
Highway Fund Part-Town Abstract #17	
Vouchers DB872-DB924; DB926-DB929	\$ 121,385.50
General Fund Part-Town Abstract #27	
Vouchers BB168-BB171	\$ 3,304.01
General Fund Part-Town Abstract #28	
Vouchers BB172-BB181	\$ 3,013.72
General Fund Whole-Town Abstract #32	
Vouchers AA1359-AA1377	\$ 19,231.59
General Fund Whole-Town Abstract #33	
Vouchers AA1378-AA1439;	
AA1444-AA1455; AA1457-AA1491	\$ 284,156.65
General Fund Whole-Town Abstract #34	
Vouchers AA1440-AA1443; AA1456	\$ 10,400.55
General Fund Part-Town Police Abstract #27	
Vouchers BP243-BP246	\$ 41,018.73
General Fund Part-Town Police Abstract #28	
Vouchers BP247-BP289	\$ 22,569.72
Sewer Fund Abstract #27	
Voucher SS163	\$ 80.32
Sewer Fund Abstract #28	
Voucher SS164	\$ 985.23
Sewer Fund Abstract #29	
Voucher SS165-SS174	<u>\$ 38,098.49</u>
	\$ 656,155.15 Total

The Town Supervisor polled the 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**.

Vacancies – New Hartford Public Library

The Town Supervisor noted that two (2) vacancies exist on the Library Board. The Councilmen have been provided copies of resumes and will be provided any other resumes that might be received. This will be an Agenda item for the January 14, 2015 Town Board meeting.

EXECUTIVE SESSION

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

(RESOLUTION NO. 270 OF 2014)

RESOLVED that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the Town's strategy with the Highway Department union contract and to discuss the Sangertown certiorari.

A roll call vote ensued:

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

Thereafter, the Resolution was declared unanimously carried and duly **ADOPTED**. All persons present, including the news media and Department Heads, were then excused from the meeting at 7:38 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, December 11, 2014]

END OF EXECUTIVE SESSION

Councilman Reynolds then offered the following Resolution for adoption and Supervisor Tyksinski seconded same:

(RESOLUTION NO. 271 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
Councilman Messa	-	Aye
Supervisor Tyksinski	-	Aye.

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:24 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

Authorization to sell Loaders

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

(RESOLUTION NO. 272 OF 2014)

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize the sale of two 2013 used loaders, described hereunder:

- 624 4 WD Loader
 - VIN 1DW624KZTDE65
- 624K 4 WD Loader
 - VIN 1DW624KZLDE652972.

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

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

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

ADJOURNMENT

There being no further business to come before the Town Board, upon motion duly made by Councilman Reynolds and seconded by Councilman Messa, the meeting was adjourned at 8:25 P.M.

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Respectfully submitted,

Gail Wolanin Young, Town Clerk