

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, FEBRUARY 10, 2016, AT 6:00 P.M.**

Town Supervisor Patrick Tyksinski called the meeting to order at 6:00 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 David M. Reynolds  
Councilman Paul A. Miscione  
Councilman Richard B. Woodland, Jr.  
Supervisor Patrick M. Tyksinski

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Code Enforcement Officer Joseph Booth  
Highway Superintendent Richard C. Sherman  
Parks and Recreation Director Michael W. Jeffrey  
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

***January 13, 2016, Town Board meeting***

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

**(RESOLUTION NO. 31 OF 2016)**

**RESOLVED** that the New Hartford Town Board does hereby accept and approve as submitted the minutes of the Regular Town Board meeting held January 13, 2016, 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 thereafter declared unanimously carried and duly ***ADOPTED***.

**PUBLIC PRESENTATIONS/COMMENTS**

The Town Supervisor inquired if anyone present wished to address the Town Board; people have three (3) minutes to present their matter(s).

***Proposed new Town hall***

Joseph Fariello stated he was one of two residential property owners closest to the Town's proposed new town hall near the New Hartford Public Library, the second closest being Henry and Joan Heinlein. While he understood the need to consolidate town offices in one convenient location for Town residents, and the need for efficient space to serve the community for generations to come, he stated that the value of the Heinlein's and his property have eroded since the Library was built and believes their property values will be further eroded with a new town hall. He appreciated the buffer zone but believes it is not enough. Their two (2) properties next to the Library sit on two (2) acres of land; and if the Town were to purchase these properties, egress/ingress and visibility could be addressed. Further, Mr. Fariello is relocating and will sell his home and must make this known to prospective buyers.

Henry Heinlein – on a cell phone held by Mr. Fariello. Mr. Heinlein stated this is a unique situation of the two (2) properties. Their property values have gone down just being by the Library. He agreed with Mr. Fariello's remarks and their offer that the Town purchase their properties.

Town Supervisor Tyksinski commented this was a concept, which probably is getting ahead of itself. The Town is not proceeding at this point. Other locations have been discussed, not in a serious mode. The Town is a long way away from making a decision of whether to proceed with a building.

The suggestion of selling the Fariello and Heinlein properties, according to Mr. Heinlein, was two (2) people getting together to offer the Town the opportunities to purchase their respective properties.

***3761 Oneida Street – woods clearing***

Richard Catlin – had spoken with Councilman Messa and the Highway Superintendent about the Highway Department allegedly cutting down about 25 trees and some bushes on his property in early February 2016, leaving all the tree stumps and debris. It appeared that the hardwood trees had been randomly cut or topped and occurred over 20 feet onto his property.

Supervisor Tyksinski said he learned of this today after talking with Highway Superintendent Sherman, and stated that he would make an on-site inspection over the

weekend. Meanwhile, the Highway Department crews will remove the stumps and a plan to restore the property to as close as it was before would be presented to Mr. Catlin to see if it's agreeable with him.

**Proposed new Town Hall**

Bonnie Hensel, a neighboring property owner to the Library and proposed new Town Hall project, is not happy with the Town's proposal and was present to "nip it in the bud".

Dan Austin, also a neighboring resident, said he talked with someone last summer who was digging for drainage behind the existing Library. The Town Supervisor stated that property is privately owned and not by the Town. Mr. Austin also wanted to "nip this [project] in the bud".

**REPORTS OF TOWN OFFICIALS BY STANDING COMMITTEE CHAIRMAN**

**Senior Services Committee – Councilman Reynolds**

**2015 Donations and Budget Adjustments**

Councilman Reynolds stated he would hold this matter until the March 2016 Town Board meeting.

**Parks and Recreation Committee – Councilman Reynolds**

**Energy Efficiency Services Program Agreement; Audit Agreement Energy Services Program**

Upon recommendation of Parks and Recreation Director Michael Jeffrey, Councilman Reynolds introduced the following Resolution for adoption; seconded by Councilman Messa:

**(RESOLUTION NO. 32 OF 2016)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct the Town Supervisor to enter into and to execute an **Energy Efficiency Services Program Agreement** between the Power Authority of the State of New York and the Town of New Hartford, and does further authorize and direct the Town Supervisor to enter into and to execute an **Audit Agreement / Energy Services Program** with said Power Authority, both Agreements for the Parks and Recreation Department.

A roll call vote was duly held and resulted as follows:

Councilman Miscione            -            Aye

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

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

Public Works and Sewer Committee – Councilman Miscione

**Highway by use – Augusta Drive and Deerpath Court –**

Upon request of the Highway Superintendent, Councilman Miscione offered the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 33 OF 2016)**

In the Matter of Certifying for Local Highway Inventory File Inclusion a Town Highway in the Town of New Hartford, County of Oneida, and the State of New York, Roads used by the Public for upwards of Ten Years

**WHEREAS**, the public for a period of ten years and more has used the lands hereinafter described as public highways in the Town of New Hartford, Oneida County, New York; and

**WHEREAS**, the Town of New Hartford has kept in repair and taken charge of the lands hereinafter described as public highways for a period of ten years and more; and

**WHEREAS**, such highways have been previously ascertained, described, and entered in the Town record as Town highways for the Town of New Hartford and taken over by such Town and worked and kept in repair by such Town;

**NOW, THEREFORE**, Highway Superintendent Richard Sherman does hereby certify that the following roads are duly recorded Town roads and does hereby request the New York State Department of Transportation to include the same in its Local Highway Inventory Database:

Road Description –

**Deerpath Court**, BEGINNING at a point....Sylvan Way, distance 0.05 to end at the Cul-De-Sac

Road Description –

**Augusta Drive**, BEGINNING at a point....Pebble Creek Lane, a distance 0.27 to end at Pebble Creek Lane;

And be it **FURTHER RESOLVED** that the New Hartford Town Board does hereby accept Deerpath Court and Augusta Drive as “Highways by Use” effective immediately.

The Town Board then voted upon roll call, resulting as follows:

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

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

**Amend Inter-municipal Agreement to Provide Salt Brine for Village of New York Mills**

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

**(RESOLUTION NO. 34 OF 2016)**

**RESOLVED**, that the New Hartford Town Board does hereby authorize and direct the Highway Superintendent to re-write the Inter-municipal Agreement to Provide Salt Brine for the Village of New York Mills, reflecting a Five Cent (\$.05) discount for the current year.

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

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

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

**MATTERS SUBMITTED BY TOWN ATTORNEY**

**Unsafe Building – Lot 5, Glendale Avenue**

The Town Attorney briefed the Town Board on a codes violation the Town brought against the Sallustio’s who own one of the lots in Mr. Kessler’s Trailside Subdivision. Referring to photos, Attorney Cully pointed out that the foundation had been installed last summer but the backfill was removed and the foundation sat there for some time now. Town Justice Copeland found the Sallustio’s guilty of violating the Town’s building

code; one of the walls has collapsed and we want to proceed with the unsafe structure notice to them and see what kind of response the Town receives – whether the owner will take corrective action – or whether to schedule a public hearing. Attorney Cully sought the Board’s authorization to proceed in the matter. Code Enforcement Officer Joseph Booth said the pre-cast foundation system is in jeopardy because one of the components, the backfill, has been removed. The Town Attorney noted that according to court testimony, the owner (Joseph Sallustio) threw the contractor off the job site and let it sit; can’t make them tear it down.

The following Resolution was then offered for adoption by Councilman Messa and duly seconded by Councilman Miscione:

**(RESOLUTION NO. 35 OF 2016)**

**RESOLVED** that the New Hartford Town Board does hereby authorize and direct Town Code Enforcement Officer Joseph Booth to initiate procedures against Mr. and Mrs. Joseph Sallustio in accordance with the Town Code, Chapter 52 thereof entitled Unsafe Buildings, as same relates to Lot 5 Glendale Avenue (Tax Map No. 316.015-3-5) in the Trailside Subdivision.

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 then declared unanimously carried and duly **ADOPTED**.

**Unsafe Building – 3956 Edgebrook Place**

Attorney Cully also briefed the Town Board on a second unsafe building court case in which Town Justice Copeland found the owner, Michele LaClair, to be guilty of eight (8) or nine (9) building code violations with regard to 3956 Edgebrook Place. Code Enforcement Officer Joseph Booth believes this building to be structurally deficient, unstable floor, no electricity, no plumbing, totally deteriorated inside and out.

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

**(RESOLUTION NO. 36 OF 2016)**

**RESOLVED** that the Town Board of the Town of New Hartford does hereby authorize and direct Town Code Enforcement Officer Joseph Booth to initiate procedures against Michele LaClair in accordance with the Town Code, Chapter 52 thereof entitled Unsafe Buildings, as same relates to property located at 3956 Edgebrook Place (Tax Map No. 339.016-1-5).

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 then declared unanimously carried and duly ***ADOPTED***.

**Local Law Introductory “A” of 2016; Park fees**

The Town Attorney concluded that, after some research, various park fees must be initially established by local law and which fees may thereafter be revised by Town Board resolution if such language is provided in the initial legislation; he acknowledged the assistance of the Town Clerk in drafting the proposed legislation, and the Town Supervisor and Parks and Recreation Director for their input regarding fees.

Supervisor Tyksinski stated that proposed non-resident parking fees had been discussed in October 2015 during the budget process with the expectation of generating \$150,000 in revenue. More recently, the Parks and Recreation Director met with the Supervisor and presented quotes for solar-powered ticket machines, one for each of the Town’s three (3) parks. The cost for three (3) machines would be \$38,055, the funds for which are budgeted. The ticket machines would be located inside the park and would have a maintenance agreement; the Town would be responsible for the parking fees and changing the tickets. Any non-resident not having a ticket would be subject to action for violating the law; the question arose as to who could legally issue a ticket – a park employee, the paid part-time security guard, the police department, establishment of a parking authority. Also mentioned was whether the fine should be specified in the legislation. Board concerns also included whether any resident fees for pavilion rentals, etc. had been increased, the reality of actually generating the \$150,000 in new revenue for non-resident parking fees, the return on investment, and identifying other local and/or state parks that have this type of parking fees. Although Board members still had unanswered questions and believed that the concept was fine but that it would be difficult to administer, Councilman Miscione introduced the following legislation for the Town Board’s consideration at a future public hearing; co-sponsored by Councilman Reynolds:

Local Law Introductory “A” of 2016

A Local Law to amend the Code of the Town of New Hartford, Chapter 88 thereof entitled PARKS, by adding Section 88-13. Fees.

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

SECTION 1. Chapter 88 of the Code of the Town of New Hartford, entitled PARKS, is hereby amended to include park rentals, parking fees and user fees, as follows:

Add:

Section 88-13 FEES.

A. Parking fees for Sherrillbrook Park, Donovan Memorial Park and Washington Mills Athletic Park

- 1) Residents free - vehicle window decal obtained at Town Clerk’s Office annually
- 2) Non-resident park use window decal - \$150, obtained at Town Clerk’s Office annually
- 3) Daily non-resident parking fee - \$5 per vehicle
- 4) Daily non-resident school bus parking rate - \$25 per bus

B. Pavilion Rates

- 1) Large pavilions - \$70 for residents/\$200 for non-residents
- 2) Small pavilions - \$35 for residents/\$100 for non-residents
- 3) Gazebo weddings - \$40 for residents/\$100 for non-residents

C. Dog Run Annual Rates

- 1) Residents – Single dog initial - \$35/\$30 for seniors. Renewal - \$25/\$20 for seniors  
Multi dog initial - \$60/\$50 for seniors. Renewal - \$50/\$40 for senior
- 2) Non-residents fee inclusive of Sherrillbrook Dog Run parking lot parking pass  
Single dog initial - \$120/\$110 for seniors. Renewal - \$110/\$100 for seniors  
Multi dog initial - \$170/\$160 for seniors. Renewal - \$160/\$150 for seniors

D. Lost Keyfob replacement fee - \$10 for residents and non-residents

E. Dog Run Rates – reduced 50% July 1<sup>st</sup> to accommodate July – December sign-ups



- F. Splash Pad – Daily admission fee - \$2 per person  
Season pass New Hartford residents only: Individual \$15; Family \$30
  
- G. Field User Fees - \$1.50 per acre per user  
Tournament fee - \$125 per day New Hartford youth groups  
\$200 per day Non-New Hartford youth groups
  
- H. Fee modification. The Town of New Hartford may and is hereby authorized to, by resolution of the Town Board and without formal amendment hereto or further adoption of a local law or the need for a public hearing, establish, modify or disband with a schedule of fees listed in this Section.

SECTION 2. All other provisions of Chapter 88 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 in the Office of the Secretary of State.

**Public Hearing Scheduled – Local Law Introductory “A” of 2016**

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

**(RESOLUTION NO. 37 OF 2016)**

**RESOLVED** that the New Hartford Town Board does hereby schedule a Public Hearing to consider Local Law Introductory “A” of 2016, which, if adopted, would establish various fees related to the Town’s parks, said Hearing to commence at 6:00 P.M. on Wednesday, March 9, 2016, in Butler Memorial Hall, 48 Genesee Street, New Hartford, New York; and be it

**FURTHER RESOLVED** that the Town Clerk is hereby authorized and directed to publish the legal requisite Notice of Public Hearing in The Observer Dispatch.

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.

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

MATTERS SUBMITTED BY TOWN SUPERVISOR

Financial:

**Release Subdivision Bond (Surety)**

Code Enforcement Officer Joseph Booth confirmed that all inspections had been made for the Affordable Housing – New Hartford Senior Apartments complex and that their bond could now be released. Councilman Miscione introduced the following Resolution for adoption; seconded by Councilman Reynolds:

**(RESOLUTION NO. 38 OF 2016)**

**RESOLVED** that, based upon the Code Enforcement Officer’s confirmation that the project is complete and has been inspected, the New Hartford Town Board does hereby authorize and direct the Town Supervisor to release to Clover Construction Management, Inc., 348 Harris Hill Road, Williamsville, NY, 14221, their Subdivision Bond No. 837058941 that had been submitted as surety in the amount of Forty-five Thousand Dollars (\$45,000) for the construction of “Affordable Housing – New Hartford Senior Apartments” on Middlesettlement Road in the Town of New Hartford. Said Bond had satisfied the retainer requirement that was contained in the Pre-Development dated February 20, 2013, between the Town and Clover Construction Management, Inc.

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**.

**Audit of Vouchers**

The Town Supervisor asked for a motion to pay the vouchers on various abstracts that had been presented; no motion came forth from the Town Board members after which Supervisor Tyksinski acknowledged there was no authorization to pay the vouchers.

EXECUTIVE SESSION

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

**(RESOLUTION NO. 39 OF 2016)**

**RESOLVED**, that the New Hartford Town Board does hereby move to enter into an Executive Session to discuss the Town's strategy in existing litigation; namely, Sangertown Square Mall vs the Town of New Hartford and Peters-Adelman vs the Town of New Hartford.

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 6:54 P.M. The Town Attorney and Deputy Supervisor remained for the Executive Session.

[NOTE: The Town Attorney provided the following transcription on Thursday, February 11, 2016.]

**END OF EXECUTIVE SESSION**

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

**(RESOLUTION NO. 40 OF 2016)**

**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 7:26 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the Board meeting.

**Audit of Vouchers**

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

**(RESOLUTION NO. 41 OF 2016)**

**RESOLVED**, that the Town Board of the Town of New Hartford does hereby approve the vouchers subject to additional documentation regarding FEMA funds:

Street Lighting Abstract #1	
Vouchers SL1	\$ 9,806.37
Fire Abstract #1	
Vouchers SF1-SF3	\$ 9,707.63
Highway Fund Part-Town Abstract #2	
Vouchers DB61-DB106	\$386,272.36
General Fund Part-Town Police Abstract #2	
Vouchers BP22-BP25	\$ 46,814.68
General Fund Part-Town Police Abstract #3	
Vouchers BP26-BP39	\$ 48,922.41
Trust & Agency Fund Abstract #1	
Vouchers TT1-TT8	\$ 7,471.40
Trust & Agency Fund Abstract #2	
Vouchers TT9-TT12	\$ 10,461.69
Trust & Agency Fund Abstract #3	
Vouchers TT13-TT20	\$ 8,637.39
Trust & Agency Fund Abstract #4	
Vouchers TT21	\$ 11,935.00
General Fund Part-Town Abstract #2	
Vouchers BB13-BB15	\$ 6,225.94
General Fund Part-Town Abstract #3	
Vouchers BB16-BB18	\$ 176.18
General Fund Part-Town Abstract #4	
Vouchers BB19-BB28	\$ 1,345.25
Sewer Fund Abstract #2	
Vouchers SS11	\$ 1,837.88
Sewer Fund Abstract #3	
Vouchers SS12-20	\$183,248.18
General Fund Whole-Town Abstract #1A	

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Vouchers AA112	\$ 1,500.00
General Fund Whole-Town Abstract #2	
Vouchers AA113-AA119	\$ 34,085.87
General Fund Whole-Town Abstract #3	
Vouchers AA120-AA126	\$ 2,397.00
General Fund Whole-Town Abstract #4	
Vouchers AA127-AA228	<u>\$175,853.10</u>
<b>TOTAL:</b>	<b>\$946,698.33</b>

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 Miscione and seconded by Councilman Messa, the meeting was adjourned at 7:28 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk