

**REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK  
HELD AT BUTLER MEMORIAL HALL IN SAID TOWN  
ON WEDNESDAY, MAY 11, 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:**

Assessor Darlene Abbatecola  
Code Enforcement Officer Joseph Booth  
Deputy Supervisor Matthew Bohn  
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

**April 13, 2016, Town Board meeting**

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

**(RESOLUTION NO. 72 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 April 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).

**Bequest to New Hartford Public Library**

Jay Winn, President of the New Hartford Public Library Board of Trustees, announced that the Library recently received a bequest in the amount of \$239,226.54 from the estate of Jane Gebhardt, a longtime patron of the Library. Accompanying Mr. Winn were Library Treasurer Heather Mowat; Library Board Trustees Kathleen Jarratt, John Klein, Virginia Emmert, John Pitaresi; and Senior Clerk Ann DuRoss. The bequest comes with the obligation to use it as intended by the donor for the exclusive benefit of the Library. In on-going efforts to keep the Library relevant and provide quality services to the public, the Library Board has created a 3-year plan to help stabilize the Library's financial position now and over the next two (2) years. As part of this plan, the Library is prepared to offer the Town taxpayers a small reduction in the amount currently committed to the Library by proposing a reduction in the Town's commitment of \$25,000 (from \$300,000 to \$275,000). "This would have the effect of giving something back to the taxpayers as the Town struggles with financial issues while using this bequest for the benefit of the Library and its patrons," Mr. Winn continued, "Of course, while relieving some of the financial pressure, this bequest will not solve either of our long term financial problems. Our proposed plan will merely give both the Town Board and the Library Board more time to collectively address and determine the long term future of our Library."

Councilman Reynolds thanked the Library Board for their on-going efforts to keep the Library afloat.

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

**Parks and Recreation Committee – Councilman Reynolds**

**Appointments – Seasonal 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. 73 OF 2016)**

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**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 opposite their several names, for the Parks and Recreation Department, commencing on the dates specified hereunder; all wages to be paid bi-weekly:

**Park Laborers A7110.14**

**Start Date 5/16/16 – 8/26/16**

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Christopher Luker	Park Laborer I	\$9.00/hour
Garrett Mahoney	Park Laborer I	\$9.00/hour
Anthony Talarico	Park Laborer I	\$9.00/hour
Justin LeFave	Park Laborer I	\$9.00/hour

**Playgrounds A7140.14**

**Start Date 6/27/16 – 8/12/16**

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Kyle Hutchinson	Director	\$12.85/hour
Chris Faro	Director	\$12.85/hour
Elizabeth Baldwin	Director	\$12.85/hour
Katie Klimacek	Director	\$12.85/hour
Erica Pendrak	Assistant Director	\$10.05/hour
Shaun Hadity	Assistant Director	\$10.05/hour
Tony Karam	Recreation Attendant II	\$ 9.25/hour
Allison Kobielski	Recreation Attendant I	\$ 9.00/hour
Ashley Tremblay	Recreation Attendant I	\$ 9.00/hour
Francesca D' Ambro	Recreation Attendant I	\$ 9.00/hour
Heather Badger	Recreation Attendant I	\$ 9.00/hour
Nicholas Suits	Recreation Attendant I	\$ 9.00/hour
Kristen Kasky	Recreation Attendant I	\$ 9.00/hour
Sydney Herring	Recreation Attendant I	\$ 9.00/hour
Colette Bertrand	Recreation Attendant I	\$ 9.00/hour
Lauren Vedete	Recreation Attendant I	\$ 9.00/hour
Sydney Wells	Recreation Attendant I	\$ 9.00/hour
Emily Acquaviva	Recreation Attendant I	\$ 9.00/hour
Shannon Baker	Recreation Attendant I	\$ 9.00/hour
Tessa Canales	Recreation Attendant I	\$ 9.00/hour
Robin Wheatley	Head Bus Driver	\$14.70/hour
Kirstin Abbe	Bus Driver	\$13.60/hour
Amy Stappenbeck	Bus Driver Substitute	\$13.40/hour
James Luley	Bus Driver Substitute	\$13.40/hour
Harold Kaffka	Adult Basketball Director	\$15.25/hour
Ryan Faro	Basketball Attendant	\$ 9.00/hour

**Swim A7230.01**

**Start Date 7/5/16 – 8/12/16**

<u>Name</u>	<u>Position</u>	<u>Rate of Pay</u>
Anna Wanner	Pool Co-Director	\$13.30/hour
Scott Wanner	Pool Co-Director	\$12.75/hour
Michael Peterson	Certified WSI & Lifeguard	\$11.15/hour
Taylor Dontino	Lifeguard	\$ 9.50/hour
Braylin Sheppard	Lifeguard	\$ 9.50/hour
Erin Spina	Lifeguard	\$ 9.50/hour
Tyler Kutu	Lifeguard	\$ 9.50/hour
Annabelle Abbadessa	Splash Pad Attendant	\$ 9.00/hour
Josiah Abbadessa	Splash Pad Attendant	\$ 9.00/hour
Samuel Northrup	Splash Pad Attendant and Substitute Lifeguard	\$ 9.00/hour
John Lamb	Splash Pad Attendant and Substitute Lifeguard	\$ 9.00/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 thereafter declared unanimously carried and duly ***ADOPTED***.

**Request For Proposals (RFPs) – Pro Shop, Skate Rental, Sharpening/Recreation Center**

Councilman Reynolds reported that two (2) bid specification packages had been picked up but only one (1) bid was received on May 3, 2016. The sole bidder, Mark Kotary of Kotary Hockey, LLC, had submitted the completed Bid Sheet, current DBA & EIN Certification, signed Non-Collusive Bidding Statement, Qualifications Memo, EEO Police Statement and Certificate of Insurance. Thereafter, Councilman Reynolds moved the adoption of the following Resolution; seconded by Councilman Miscione:

**(RESOLUTION NO. 74 OF 2016)**

**RESOLVED** that the New Hartford Town Board does hereby accept the sole bid submitted by Mark Kotary/Kotary Hockey, LLC, 2 Campion Road, New Hartford, New York, 13413, for the Recreation Center Pro Shop, Skate Rental & Skate Sharpening Operations, does hereby award said contract to Mark Kotary/Kotary Hockey, LLC and

does further authorize and direct the Town Supervisor to enter into and to execute said contact for the following bid amount:

Monthly Pro Shop Fee Offer (October 1, 2016 – March 31, 2016: \$300.00).

A roll call vote ensued:

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**.

**Salary – Administrative Assistant Position/Parks & Recreation**

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

**(RESOLUTION NO. 75 OF 2016)**

**WHEREAS**, on April 13, 2016, the Town Board of the Town of New Hartford adopted Resolution No 56 of 2016, requesting that the Oneida County Personnel Department reclassify the Parks Clerk/Typist position to Administrative Assistant and authorizing the Town’s Personnel Technician to file the required New Position Duties Statement, Form MSD-222, with said Oneida County office;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby establish the salary for the Parks Administrative Assistant position at \$23,000 to \$27,000 annually, depending upon qualifications and experience.

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

Town Clerk Committee – Councilman Woodland

**Salary – Deputy Clerk II**

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

**(RESOLUTION NO. 76 OF 2016)**

**WHEREAS**, Shelby L. Bohling has submitted her resignation as Deputy Clerk II, with her last day of employment with the Town being Wednesday, April 13, 2016; and

**WHEREAS**, Town Clerk Gail Wolanin Young has appointed Part-time Clerk Hannah-Grace Empey to fill the vacancy of Deputy Clerk II, effective Monday, April 18, 2016;

**NOW, THEREFORE, BE IT RESOLVED** that the New Hartford Town Board does hereby establish the wages for Hannah-Grace Empey at Ten Dollars and Sixty-six Cents (\$10.66) per hour, payable bi-weekly, and retroactive to Monday, April 18, 2016.

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**.

**NYS Liquor Authority – 30-day notification**

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

**(RESOLUTION NO. 77 OF 2016)**

**WHEREAS**, on April 28, 2016, Town Clerk Gail Wolanin Young received the 30-Day Local Municipality notice from Texas Roadhouse Holdings LLC d/b/a Texas Roadhouse; and

**WHEREAS**, the Town Clerk furnished the Town Board members with copies of said notice relating to an On-Premise Liquor, Wine, Beer & Cider license for **Texas Roadhouse Restaurant** to be located at 4511 Commercial Drive, New Hartford, New York, 13413;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford has no objection to the New York State Liquor Authority issuing said Liquor, Wine, Beer and Cider license for the aforementioned business.

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**.

**NYS Liquor Authority - License (Amendment) Barnes & Noble Cafe**

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

**(RESOLUTION NO. 78 OF 2016)**

**WHEREAS**, on November 20, 2015, Town Clerk Gail Wolanin Young received the 30-Day Local Municipality notice from the law firm of Danow, McMullan & Panoff, P.C. in behalf of **Barnes & Noble Café, LLC**, who applied for an On-Premise Wine & Beer license for two (2) rooms in said **Café**, and for which the New Hartford Town Board issued a no objection at their December 9, 2015, meeting; and

**WHEREAS**, on May 9, 2016, the Town Clerk received from said law firm an amended 30-Day Local Municipality notice increasing the area in said **Café** to nine (9) rooms; and

**WHEREAS**, the Town Clerk furnished the Town Board members with copies of said amended notice relating to a Wine & Beer license for said **Cafe** located at 4811 Commercial Drive, New Hartford, New York, 13413;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford has no objection to the New York State Liquor Authority issuing said Wine & Beer license, amended to include nine (9) rooms, for the aforementioned business, and does not require **Barnes & Noble Café, LLC** to restart the notification process.

The foregoing Resolution was subject to a vote upon roll call, resulting 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 COUNCILMEN

Councilman Messa:

***Municipal Separate, Storm Sewer System (MS4) – Annual Report***

Councilman Messa presented the 2016 MS4 Annual Report that had been prepared by Joanne Humphreys of the Oneida County Soil and Water agency, reviewed and approved by Highway Superintendent Sherman and now available for public review. The purpose of the MS4 program, which has been in place since 2003, starting with the Environmental Protection Agency (EPA) – Clean Water Act adopted in the late 1990’s, is a mandate that municipalities control the quality of stormwater by eliminating all kinds of debris (salt, sand, litter, etc.) from being dumped into the storm sewer facility within their territorial boundary, so that unfiltered stormwater does not flow into streams and wetlands. Regulated MS4s involve many towns and villages; the systems can be closed or open ditches and swales. Minimum control measures include:

- Public outreach and education
- Public outreach and participation
- Illicit discharge detection and elimination of stormwater
- Construction site run-off control
- Post construction stormwater management
- Good housekeeping

The annual report requires the Town Supervisor’s signature, after which the Annual Report will be posted on the Town’s web site. The public can read the report and offer comments. This public (Town Board) meeting and the Town’s web site will suffice for a public hearing. The Annual Report must be filed with the New York State Department of Environmental Conservation by June 1, 2016. Thereafter, Councilman Woodland introduced the following Resolution for adoption; seconded by Councilman Miscione:

**(RESOLUTION NO. 79 OF 2016)**

**WHEREAS**, the Town of New Hartford has been identified as a Municipal Separate Storm Sewer System (MS4) under the EPA’s Phase II Stormwater Regulations under the Clean Water Act of 1999; and



**WHEREAS**, the Phase II Program requires each MS4 to prepare a Draft Annual Report on the Town's efforts to protect and improve the water quality of our streams and water bodies; and

**WHEREAS**, the public is invited to review the Draft Annual Report and provide input; and

**WHEREAS**, a Draft Annual Report has been prepared in conformance with the Phase II Regulations by the Highway Department; and

**WHEREAS**, the Annual Report must be submitted to the New York State Department of Environmental Conservation offices in Albany, NY, by June 1, 2016;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board accepts said Draft Annual Report and does hereby authorize and direct the Town Supervisor to execute same and that said Draft Annual Report is available for public review at the Town of New Hartford Town Clerk's Office, Town Web Site, and at the Highway Department.

Upon roll call, the Board members 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***.

**Word of Life Christian Church**

Councilman Messa has been approached by several residents inquiring about the status of the Word of Life building itself located at 3354 Oneida Street, Chadwicks. The Town Attorney responded that the Church still owns the building at this point; Town Assessor Darlene Abbatecola had asked for additional information on the exempt situation, which was not provided, so that's in dispute now as to whether or not it's entitled to be exempt.

**Grange Hill Road Stormwater Project**

Councilman Messa inquired about the status of this project. Discussion ensued about possibly having the Oneida County Soil & Water agency reviewing and revising the specifications and then rebid the project. As noted in the January 13, 2016 Town Board minutes, Oneida County funding for this project had been reduced and the project did not go forth. Also, bids came in higher than expected. Further, the Town Clerk noted that the Town Board passed Resolution No. 9 of 2016, authorizing the release of the bidders'

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security deposits which had been received at the October 16, 2015 bid opening. Highway Superintendent suggested that the Town might want to bid only one (1) pond on top, thus necessitating the need to revise the specifications. Councilman Messa emphasized, “we just have to move on this.”

### **Tree Removal in road right-of-way**

Councilman Messa explained that the Highway Superintendent has been receiving numerous phone calls requesting removal of dead trees and/or limbs within the Town’s road right-of-way and the Highway Superintendent has questioned whether it was the responsibility of the homeowner or the Town; he said that the Town didn’t plant these trees, some of which may be 25 to 30 years old. The Town Attorney said if the tree posing a public danger is in the Town’s right-of-way, the Town is responsible for its removal. Highway Superintendent Sherman stated that, in the past, Highway Department employees would remove trees/limbs with the Town’s bucket truck or hire a contractor if electrical wires were involved. The Town Attorney noted that there are a number of Attorney General opinions relating to this matter and the municipality is responsible to remove the public danger. “He (Highway Superintendent) has the obligation to maintain the highways and maintain the rights-of-way, as do the utility companies and their lines, and clearly has the authority to remove the public danger,” said the Town Attorney. The only impediment is insufficient budgeted funds. Census of the Board was to “take them down.”

### **Councilman Miscione:**

#### **Web Design for Town’s website**

Councilman Miscione reported that Delaware Net, Inc., is finishing the content of the Town’s new web site. Town department heads will have the opportunity to review and critique same and participate in an approximately 2-hour on-line web based training session. Councilman Miscione will send an email to all department heads. The switch over will occur this year so that Town doesn’t incur additional expenses. [NOTE: See the December 9, 2015 Town Board minutes, Pages 13 & 14.]

### **Councilman Reynolds:**

#### **Oneida County Workers’ Compensation Program**

Councilman Reynolds informed the Board that he and the Finance Director learned that the Oneida County Workers’ Compensation Program is adjusting the way the Town is assessed for claims, effective in 2017. Administrative costs will no longer be based upon assessment, but rather the number of employees the Town has.

## **MATTERS SUBMITTED BY TOWN SUPERVISOR**

### **Financial:**

**Audit of Vouchers**

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

**(RESOLUTION NO. 80 OF 2016)**

**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 Abstract #4	
Vouchers SL4	\$ 8,352.82
Grange Hill District Abstract #1	
Vouchers HQ1	\$ 4,425.00
Fire Abstract #5	
Vouchers SF11	\$ 2,308.22
Highway Fund Part-Town Abstract #6	
Vouchers DB256-DB266; DB277-DB310	\$ 99,166.73
General Fund Part-Town Abstract #10	
Vouchers BB62-BB65	\$ 6,253.22
General Fund Part-Town Abstract #11	
Vouchers BB66-BB72	\$ 2,507.95
General Fund Part-Town Police Abstract #8	
Vouchers BP93-BP97	\$ 47,762.96
General Fund Part-Town Police Abstract #9	
Vouchers BP98-BP112	\$ 12,867.86
Trust & Agency Fund Abstract #12	
Vouchers TT69-TT72	\$ 10,570.14
Trust & Agency Fund Abstract #13	
Vouchers TT73-TT79	\$ 8,688.14
Trust & Agency Fund Abstract #14	
Vouchers TT80-TT87	\$ 7,431.92
General Fund Whole-Town Abstract #9	
Vouchers AA435-AA448	\$ 41,175.15
General Fund Whole -Town Abstract #10	
Vouchers AA449-AA541	\$ 97,842.05
Sewer Fund Abstract #8	
Vouchers SS38	\$ 1,790.00
Sewer Fund Abstract #9	
Vouchers SS39-SS43	<u>\$ 5,711.65</u>
<b>TOTAL:</b>	<b>\$356,853.81</b>

Councilman Woodland questioned a bill relating to the Sangertown Square Mall appraisal, which was to be paid from four (4) different accounts. The Town Supervisor explained that if there's a refund, payment is taken out of sewer, or whatever taxing fund there is; we charge it back because that's where the money came in and where it goes out. Thereafter, a roll call vote ensued:

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

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

MATTERS SUBMITTED BY TOWN ATTORNEY

Town Attorney

**Training – Oneida County Magistrates Meeting**

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

**(RESOLUTION NO. 81 OF 2016)**

**WHEREAS**, Section 77-b of the General Municipal Law allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of New Hartford does hereby grant permission to Town Attorney Herbert J. Cully to attend the joint Oneida County Magistrates/Oneida County Association of Towns meeting on Thursday, May 19, 2016, in the Town of Whitestown, with expenses to be borne by said Town as budgeted.

The Town Attorney would like to discuss with other Town Justices how they handle codes violations, fines, uncollected fines, and repeat offenders, in addition to a new mandate that is required of all Courts in New York State. The Resolution was then voted upon by roll call as follows:

Councilman Miscione	-	Aye
Councilman Woodland	-	Aye
Councilman Messa	-	Aye

Councilman Reynolds - Aye  
Supervisor Tyksinski - Aye.

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

**Certiorari - Settlement**

Town Attorney Herbert Cully announced that the certiorari proceeding initiated by PMB Properties, LLC with regard to their assessment on Tax Map No. 328.011-1-12.2, a small shopping plaza located at 8459 and 8463 Seneca Turnpike, New Hartford, has been discontinued.

**Zoning PDD Overlay Application – Hartford Luxury Apartments**

Although this matter was on the Agenda, the Town Attorney believed this application might not go forward at this time. The Code Enforcement Officer had reviewed the site plan for property at 167 Clinton Road (aka NYS Route 12B), identified deficiencies and notified the applicant, Alan M. Swierczek, P.E./Buck Construction Group, of said deficiencies. [NOTE: Refer to March 9, 2016 Town Board minutes, page 5.]

**ADJOURNMENT**

There being no further business to come before the Town Board, upon motion duly made by Councilman Messa and seconded by Councilman Miscione, the meeting was adjourned at 6:20 P.M.

Respectfully submitted,

Gail Wolanin Young, Town Clerk