

**SPECIAL MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK
HELD AT 8635 CLINTON STREET, NEW HARTFORD, NY ON
THURSDAY, OCTOBER 1, 2020**

Town Supervisor Miscione 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 Richard M. Lenart
Councilman David M. Reynolds
Councilman Richard B. Woodland, Jr.
Supervisor Paul A. Miscione

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Deputy Town Supervisor Anthony J. Trevisani
Police Chief Michael S. Inserra
Town Attorney Herbert Cully
Director of Personnel Barbara Schwenzfeier
Highway/Sewer Superintendent Richard C. Sherman

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

I. Matters submitted by Town Supervisor

- a. Here to discuss the vacancy of the Town Clerk – would like Town Attorney Herbert Cully to speak on behalf of the Town to discuss the different opportunities to fill the vacancy.

II. Matters submitted by Town Attorney Herbert Cully

- a. Discuss a matter first – the gentleman that was here that lives in Chadwicks about the house to be torn down – follow up – since just got a call from William Borrill, the corporations council as it relates to the city being involved in the demolition. Specifically, I had a further conversation after you got the memo from Lisa Chaney which was expedited through Barb. She indicated during the course of the cover station that she would be happy to sign over the title of the property. I expressed concerns about the sisters and brother, at which point she said ‘they’re not my sisters and brother, they were step children, my fathers step children, don’t believe ever legally adopted by my father but they used his name.’ If that’s the case, she’s the soul surviving heir, she’s happy to sign the deed over to the Town. To be safe, I’ve ordered an abstractive title when Macado bought it. The other interesting thing she told me is ‘that it wasn’t actually Macado who bought it, it was her mother who owned the house. It was her house and when they got married, she transferred half interest to him, it was always my mother’s house. Just running a stub search which will probably cost a couple hundred of dollars

which Jim thought that was ok because I want to make sure are no liens against the property, assuming there aren't, I prepared a deed. She said she'll come in the day you call me and I'll sign it to the Town. William Borrill wanted to make sure because he didn't want to tear the house down if we didn't have legal authority – let him know would update the Board; Highway Superintendent Richard Sherman – we wouldn't do that until we have Board approval

b. Town Attorney Herbert Cully – This is a special meeting of the Town Board which is called Pursuant to Town Law Section 62. Before you, you have internal, confidential attorney/client privilege memorandum which I have prepared to you as my clients. In paragraph 2, indicates that the Town Board of every Town and the supervisor of any town, may upon written request of two Board Members, call a special meeting within ten (10) days. The Supervisor has the authority to call the special meeting in and of his own discretion. However, if he calls the meeting, you are supposed to get two (2) days advanced notice. What I am looking for is a waiver from each of you as to the two (2) days notice so this is a legal meeting. Do you waive the two days notice?

- Councilman Woodland - Yes
- Councilman Reynolds - Yes
- Councilman Messa - Yes
- Councilman Lenart - Yes

This now becomes a legal meeting that has been called. What we had to do as well, with Barb's assistance, she posted the notice on the bulletin board which is required. She further posted it on the website and emailed it to all media outlets that was the requirement. The second thing, is filling the vacancy, just to say this Board has the authority by resolution to fill a vacancy. Whoever you will it with serves the term and till the next election can occur January 1, 2021. If she (Gail) has resigned more than three months prior to the November 3rd election, you could have filled it until the end of this year but since we can't have an election because its less than three (3) months, whoever you appoint to fill the vacancy serves until the end of 2021. I just want to also note that technically Paul should notify the County of the vacancy. Normally Gail notifies the County with regard to vacancies but obviously she may not of her own. Paul would have the authority. We also have to notify the Department of Health as she's the Registrar for birth and death records as to who is going to be handling that and she is the FOIL Access Officer so we have to do that as well. The Law provides and should talk about this in Executive Session but the Law does provide that the 1st Deputy has the authority to act as the Town Clerk during the period of vacancy and I double checked with the Association of Town – do we swear her in – they said No – by case Law, not by statutory Law, she has the authority to act until you get a replacement or you appoint somebody. Those are the things I wanted to talk about. I think there are more issues that probably should be dealt with in Executive Session as they relate to specific employees.

Councilman Lenart presented the following Resolution for adoption; seconded by Councilman Reynolds:

(RESOLUTION NO. 240 OF 2020)

RESOLVED that the New Hartford Town Board does hereby move to enter into Executive Session to discuss matters related to specific employees.

Upon roll call, the Board members voted as follows:

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

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

END OF EXECUTIVE SESSION

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

(RESOLUTION NO. 241 OF 2020)

RESOLVED that the New Hartford Town Board does hereby move to end its Executive Session and to reconvene the regular portion of the special Town Board meeting (6:06PM).

The Resolution was voted upon by roll call as follows:

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

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

Supervisor Miscione – Delivered the tentative budget and put it under the Clerk’s door. Unfortunately, the clerk was not here yesterday or today so I handed out a copy to the Board members of the tentative budget so hopefully we’ll still have it handed to us at Monday nights meeting.; Town Attorney Herbert Cully – Everyone acknowledge they received it?; All Councilmen responded YES; Supervisor Miscione – You got your tentative budget from me. If you have any questions or anything, feel free to call or stop by during the day and we can go over anything;

Town Attorney Herbert Cully – Additional information that comes from Case Law of cases in the State of New York specifically since there is a person who is holding as 1st Deputy Clerk – by Law, that person is authorized to perform the duties of the Town Clerk in the absence or vacancy

of someone holding the position of Town Clerk. There is nothing the Town Board needs to do legally to authorize that person to perform those duties. That person also, if performing the duties of Town Clerk, would be entitled to receive the salary of the Town Clerk during the period that person performs the duties of the Town Clerk. It's my understanding that if that person isn't acting, we have another Board meeting coming up on Monday and serious concerns have been raised due to the fact and I think all the Board members have seen it, that the Town Clerk's Office is closed as we sit here. I understand that no one showed up for work today at the Town Clerk's Office and no specific vacation for today have been authorized by the Town Supervisor who would be the person who would authorize those since Gail has now resigned. This puts the Town in jeopardy that we don't have a Town Clerk's Office open. There is no one there available to receive service of process or summons, complaints, notice of claims. As I understand it, there was a young couple that came here today hoping to get married this weekend and get the necessary license or certificate and they were unable to do so because there is no one in the Town Clerk's Office. That is a great injustice to the citizens of the Town of New Hartford and I believe it's our hope that the Deputy Clerk is there tomorrow. I don't think it's our hope, I think it's her duty to be in the office tomorrow and as indicated, according to the Law, she needs no further authority to perform the duties of the Town Clerk until that vacancy is filled. Additionally, it's my understanding that the Board intends to move forward to advertise for the position of temporary Town Clerk which will be held until December 31, 2021.

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

(RESOLUTION NO. 242 OF 2020)

RESOLVED that the New Hartford Town Board does hereby approve to advertise for the position of Town Clerk.

The Resolution was voted upon by roll call as follows:

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

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

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Lenart and seconded by Councilman Messa, the meeting was adjourned at 6:15 P.M.

Respectfully submitted,

Cheryl Jassak-Huther
Town Clerk
7/2/21