

REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF NEW HARTFORD, NEW YORK,  
HELD AT THE TOWN HALL, 8635 CLINTON STREET  
IN SAID TOWN ON WEDNESDAY, MAY 13, 2020  
AT 6:00 P.M.

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

**OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:**

Deputy Supervisor Anthony J. Trevisani  
Highway/Sewer Superintendent Richard C. Sherman  
Director of Personnel Barbara Schwezfeier  
Town Attorney Herbert J. Cully  
Town Clerk Gail Wolanin Young  
Deputy Clerk I Melody K. Fancett

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

**Audit of Vouchers**

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

**(RESOLUTION NO. 127 OF 2020)**

**RECORD OF CLAIMS #1**

#'S 3042	
TA600	\$ 663.46
<b>TOTAL RECORD OF CLAIMS TOTAL #1</b>	<b>\$ 663.46</b>

**RECORD OF CLAIMS #2**

#'S 30433063	
A600	\$16,673.37
B600	\$ 1,717.30
BP600	\$ 6,273.07
DB600	\$ 119.51
SS600	\$ 1,343.58
TA600	\$ 1,071.32



because they are putting up an addition onto their building. Supervisor Miscione will put the Pre-Development Agreement back together.

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**.

**RECREATION CENTER SOUND SYSTEM:**

Because the existing speaker system at the Recreation Center broke, the Town Board received three Quotes for the new sound system that's to be installed in the center of the rink at the Recreation Center which is a budgeted item.

Big Apple Music	\$6,700.00
Full Compass Systems, Ld.	\$8,863.13
VR Shopping Network	\$8,300.00

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

**(RESOLUTION NO. 129 OF 2020)**

**DISCUSSION:**

Councilman Messa shared hesitation on spending extra monies at this time especially with the recreation center having a leaky roof and he wanted to know what was left to fix. Supervisor Miscione stated the Recreation Center is a Town asset that the Board needs to put monies into and he said the roof has been leaking for years. He said they are cleaning up the outside of the building and fixing the windows and doors, they bought the chiller because they were spending a lot of money fixing the old one. Councilman Messa asked Supervisor Miscione for a project list to show expenses and Supervisor Miscione stated it's all in the budget. He also explained to the Board that they will see invoices for metal, paint, doors, locker rooms; side walls etc. but that the Town trying to bring the Recreation Center up to standards. He told the Board to come down and take a look at it and he will go over everything with them. Councilman Reynolds verified the paving project will be done this summer and other door renovations. Councilman Reynolds said there all good projects because the building does get used and it needs to be done. Supervisor Miscione said the Town is saving a lot of money because the Town is running the projects themselves, where if they had to go out to bid it would cost a lot more money and these projects are really dressing up the Recreation Center and this is an asset to the Town. Supervisor Miscione told the Board the only project above and beyond the budget would be the roof which

he's looking into the last contractor who repaired it and the warranty. Town Attorney Cully stated he had to resend the letter because the address on the contract was the wrong address so he had to research how to contact the company and resend the letter. Supervisor Miscione stated he has a solution for the roof if the warranty doesn't work with metal and Styrofoam.

**RESOLVED** that the New Hartford Town Board does hereby accept and approve the low bid from Big Apple Music, LLC, 8441 Seneca Turnpike, Suite E, New Hartford, NY 13413 in the amount of \$6,700.00 to install an Octagon speaker hung at center ice and octagon half speaker hung at end of rink for high bleachers, and amplifiers for power and installation.

Councilman Lenart introduced the following Resolution for adoption, seconded by Councilman Reynolds.

**(RESOLUTION NO. 130 OF 2020)**

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**.

**SUMMER PROGRAM CANCELLED:**

The Town Supervisor reported that because of the Governor's mandates and the COVID 19 pandemic the summer program is not within the phases of opening and at this point it's not until July so because there's no way to hire any employees by the July 1, 2020 summer program. The Town would love to have the program but there's no time. The Board authorized Director of Personnel Barb Schwenzfeier to post the Notice of Cancellation on the Towns website and on Facebook.

Councilman Woodland introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 131 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to cancel the Parks Summer Programs for the fiscal year of 2020 due to the COVID 19 pandemic and Governor Cuomo's mandates. They also approve Director of Personnel Schwenzfeier to post the cancellation notice.

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**.

**OPENING OF PAVILLION, DOG PARK & PICKLE BALL & TENNIS COURTS:**

Attorney Cully thought Parks & Recreation was in phase 4 of Governor Cuomo's reopening but tennis and walking is encouraged. Supervisor Miscione stated that the dog park, Tennis Courts, pavilions and the pickle ball courts are being used at this time and residents are using social distancing and being responsible so he's asking for the re-opening of both.

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

**(RESOLUTION NO. 132 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to re-open the dog park, pickle ball, tennis courts and pavilions with signs posted about social distancing & being responsible. The passing of this resolution is contingent to Town Attorney Cully's approval and clarification as he's going to look into Governor Cuomo's regulations and State regulations as to be sure the Town is in compliance.

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**

**FARMERS MARKET:**

Supervisor Miscione recommended they continue on with the Farmer's Market as Oneida County is starting there's.

Councilman Lenart introduced the following Resolution for adoption, seconded by Councilman Woodland:

**(RESOLUTION NO. 133 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to continue on with the Farmer's Market in the Sherrill Brook Park for the 2020 season and does further agree to waive all Town permit fees and help with signage. The food trucks will be added once things progress with opening.

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**.

**BLOOD DRIVE-SENIOR CENTER:**

Supervisor Miscione stated Oneida County is still allowing Blood Drives but because schools are shut down, he has a request to use the Senior Center on May 29, 2020 at no charge from 12:30 to 5:00.

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 134 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby authorize Oneida County to conduct a Blood Drive in the Senior Center at no charge on May 29, 2020 from 12:30-5:00 P.M.

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**.

**TOWN HALL REOPENING:**

Councilman Messa asked about the building reopening and Supervisor Miscione stated he’s waiting for the County to give approval and they haven’t done that yet but although it’s not open to the public that staff is still working.

**BUDGET ADJUSTMENT-INSURANCE DEDUCTIBLES:**

Supervisor Miscione presented Town Attorney Cully with the deductible invoices and Attorney Cully requested to see the insurance policy it’s out of before any action is made on budget adjustments.

**APPOINTMENT – ZONING BOARD MEMBER:**

Councilman Messa stated they had two responses to the Zoning Board Appointment to fill Terry Tesak’s term who served over 10 years.

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 135 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby appoint Michele Mandia to fill the unexpired term of Teras Tesak effective June 10, 2020 and expiring June 9, 2025, upon her oath of office.

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**.

**STORMWATER STUDY UPDATE:**

Councilman Messa inquired if the Study being done has been finalized to date and Supervisor Miscione reported it has not been finalized as they are still doing ground work and finding issues and retention ponds but he hopes it will be finalized with a report and present a demonstration by the end of July 2020.

**ONEIDA STREET PROPERTY-Christine Martin:**

Councilman Messa stated that NRCS (National Resources Conservation Service) came through and approved the project at the Oneida Street property owned by Christine Martin and agrees to

cover the cost up to 75% if the Town sponsors the project and covers 25%. This project was previously declared an emergency at the November 20, 2019 meeting. He reported Mrs. Martin got the approval from DEC (Department of Environmental Conservation) declaring an emergency so the project can begin if the Town sponsors it. Councilman Messa agrees with NRCS (National Resources Conservation Service) with regards to the building and the creek and requests a motion to move this project forward with Town sponsorship.

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 136 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to sponsor Mrs. Martin with the Oneida Street creek wall project bearing 25% of the cost and allows the project to begin.

**DISCUSSION:** Councilman Reynolds agreed and acknowledges the emergency repairs needs to happen however, he thinks it was questioned if Mrs. Martin applied for the grant at this time and he stated she has not been back for any discussion since that last point. Councilman Messa stated the entire project will cost \$125,000.00 and the Towns portion would be \$31,250 (25% of that amount). Councilman Messa reported that the current wall is already 30 feet in from the property. Councilman Woodland asked the Board if any other properties had any similar issues. Highway Superintendent Sherman stated there are a lot of issues in that area with the Sauquoit Creek. Councilman Lenart reported his understanding was if she applied for the grant and got it then the Town is responsible for the 25% sponsorship. Supervisor Miscione stated they only committed to the sponsorship of the project but not paying the 25% portion. Councilman Messa stated he's worried the building or a portion of it will ultimately end up in the creek, so he feels the Town can't wait on this issue and time is a factor. He also feels if the Town can get 75% of the project covered then that's a good thing. Highway Superintendent Sherman reminded the Board if they agree to the repairs then the Town is responsible for the maintenance of the wall for the next 15 years and the portion of the wall the Town is currently responsible for is almost up. Councilman Reynolds asked Highway Superintendent Sherman what happens after the 15 year commitment is up, what happens to the maintenance of the wall? Highway Superintendent Sherman stated the Town is free and clear of any obligations after the 15 years is up. Councilman Woodland asked what legal issues they would be opening the Town up to if agreed upon. Town Attorney Cully reported the Board is creating legal issues by performing improvements to that piece of private property and he's aware of other issues further downstream so the question becomes why improve this one property and not another one and he continues on stating if the improvements do not work for whatever reason the Town will bear some liability and responsibility. Councilman Messa feels the Town is already having liability and responsibility because NRCS (National Resources Conservation Service) did not carry the wall down far enough. Town Attorney Cully agreed with Councilman Messa that the first project may have contributed to this situation. Councilman Messa said that night the water raised 7 inches but in a

normal situation this would not happen and they have 20 to 25 feet of the property gone, that they can't use and without this it's a parcel on the tax rolls. Councilman Woodland questioned if any monies were budgeted for this type of repair? Supervisor Miscione stated no, no monies were budget for this repair. Highway Superintendent Sherman reported there are no monies in his budget for this project as the Town already took it. Councilman Messa questioned the \$12,000 that was allocated for fields in the parks and on the Supervisors' report for the part-time Secretary could decrease from \$30,000 down to \$15,000. Supervisor Miscione stated we don't know where the Town is at yet financially and he doesn't want to allocate money as it may be needed elsewhere which is unknown until the Town opens back up and they see the sales tax revenue report. He said he is already using those numbers to offset the Town's expected deficit. Councilman Messa stated he already came up with \$12,000 and said someone has to have extra monies in their budget somewhere. Councilman Reynolds asked Town Attorney Cully that because this is private property would an easement be involved and Town Attorney Cully replied yes. Councilman Messa stated the property owner would have no issues signing an easement. Councilman Reynolds then stated with all the work that's been done upstream that none of it will impact any buildings downstream (maybe lawns but no buildings) so the impact potential is much less. Highway Superintendent Sherman stated the only reason they did the repairs from Elm Street to where it is today on the rock wall was because a National Grid gas line was exposed and the repair was immediately needed. Councilman Reynolds questioned where the wall was terminated if it made things worse? Highway Superintendent Sherman replied that yes maybe in a large stream of it but if you look at it you will see where the water flows to the right in the opposite direction. Supervisor Miscione commented that Mrs. Martin commented on Facebook live feed "that the sponsoring of the grant has already been approved". Councilman Messa pointed out it was done back at the November 20<sup>th</sup> 2019 Town Board meeting. Highway Superintendent Sherman pointed out it's not in the minutes. Councilman Messa replied it's in the video discussion ensued at the end of the meeting where it was brought up that Mohawk Limited was discussed and it was declared an emergency and the wall would be fixed through a grant. After a brief pause Councilman Lenart asked if pending litigation was filed and if this should be discussed in executive session. Town Attorney Cully explained that a Notice of Claim has been filed against the Town and the Town is subject to litigation either way. Councilman Messa stated the Town will spend more in litigation fees than repairing the wall. Supervisor Miscione stated his concern was after speaking to the guy at NRCS (National Resources Conservation Service) who's awarding the grant at 75% which is great, he stated this project only affects one person and wanted to know if the Town's in favor of a sponsorship that only affects one private citizen. Supervisor Miscione questioned why is the property owner, being its their property is not coming up with the 25% and why is it on the Town? Councilman Messa questioned why the people with the properties up above didn't kick in. Supervisor Miscione asked if the other parcels affected only one person or multiple people and Councilman Messa replied that doesn't matter. Highway Superintendent Sherman said those properties effected multiple properties along with an exposed gas line. Supervisor Miscione clarified his call with

the guy from NCRS (National Resources Conservation Service) who was not sure if the Town was interested in this project as it only involves one person and Supervisor Miscione has not spoken to that guy since then. Highway Superintendent Sherman reported he went out yesterday to look at it and the NRCS (National Resources Conservation Service) guy said he would come back with an estimate as the price is not set in stone. Councilman Messa said the estimate is pretty close and he knows in the past the Town has tried to extend the wall and Highway Superintendent Sherman stated the wall was already extended. Supervisor Miscione asked if the Town was violating the law doing one project that only helps one person and what about the guy whose bridge collapsed and the Town told him they couldn't help him. Supervisor Miscione also said it's the State who said they couldn't help on private property. Town Attorney Cully stated "it's using a municipal fund that only helps one person or residence". Supervisor Miscione stated that's his concern and said again if the property owner were to come up with the 25% then he has no issues with the sponsorship, his issues is coming up with tax payer monies in the whole Town to contribute to that one property. Councilman Messa stated the Town has a piece of property the size of multiple properties that would bring in multiple dollars in property taxes and he questions why the Board would not do that and he also pointed out he already made a motion that was already seconded. Councilman Reynolds questioned why the wall stopped where it did as they were already on the property at the time of the initial repair. Highway Superintendent Sherman replied they got permission for so many feet and he fought the point at the time to extend the wall which they did but NRCS (National Resources Conservation Service) said no to go any further. He further stated they (National Resources Conservation Service) hired an engineer to design it, they (National Resources Conservation Service) hired the contractor and they (National Resources Conservation Service) did the work. Town Attorney Cully stated he feels the liability is on NCRS (National Resources Conservation Service) if the project failed. Supervisor Miscione read a Facebook live feed from Christine Martin that read "my tax dollars on this property will likely exceed the seven properties upstream when I have completed construction". Councilman Reynolds questioned what Town Attorney Cully said in regards to NCRS (National Resources Conservation Service) and their liability? Town Attorney Cully replied that NCRS (National Resources Conservation Service) raised the issue by improving the first phase, the Town caused and created the problem and he continued to say if in fact the Town contributed to the fact of what caused the problem and if the Town is benefiting downstream properties the Town can do that work, but the issue Supervisor Miscione is raising is the Town is specifically doing something to help one person and one property. Councilman Reynolds questioned if Town Attorney Cully stated NCRS (National Resources Conservation Service) originally engineered the project and Town Attorney Cully stated not the "Town" but by NCRS (National Resources Conservation Service) who completed the work. The Town replied and NCRS (National Resources Conservation Service) agreed to pay 75% of the cost. Councilman Reynolds stated that based on the fact their work failed or even if this is opening a brand new case (Attorney Cully clarified that based on the fact that now there's a need to extend the wall that they did not extend in the first place). Councilman Reynolds continued to ask if they now

have some liability to extend the wall further and Town Attorney Cully Agreed that they definitely do. Councilman Reynolds continued with his point that because Highway Superintendent Sherman specifically asked for the wall to be extended and NCRS (National Resources Conservation Service) did not do that then. He continued to ask if any blueprints or engineering drawings existed. Highway Superintendent Sherman replied yes but they do not show the wall being extended further than what it is today. Town Attorney Cully asked who the engineer was and verified it was not a Town engineer (which was verified it was not a Town engineer with Highway Superintendent Sherman). Councilman Messa commented that based upon the amount of rain that night no engineer can fathom that would ever happen to that magnitude. Supervisor Miscione read a Facebook live feed from Christine Martin that said “by the time you look to find blame, the Town of New Hartford will have a school in the creek.” Councilman Messa stated their point is the Town does not have the time. Councilman Reynolds said the litigating factor is the wall is already on their property and what failed is contributory to where the wall terminates and that’s where the matters got worse. Highway Superintendent Sherman was asked if the Town participated in the approval to extend the wall. Highway Superintendent Sherman verified the Town paid the 25% to put the wall where it is now. Supervisor Sherman has paperwork to tell the Board how much money the Town paid and what they did but they only did the work because of the National Grid gas line being exposed along Elm Street and the second addition was done at the same time. Town Attorney Cully stated that several properties were affected by the exposed gas lines which is why the Town intervened with the 25% funding where they ran it to the point it hits their property (or extends into their property by 20 feet) and NCRS (National Resources Conservation Service) created the liability on the Town but he’s not comfortable going into a lot of detail because there is a Notice of Claim filed against the Town, he’s happy to respond further in executive sessions. Supervisor Miscione read another comment form Ellen Hanna who wrote on the Facebook live feed “The lack of enforcement in stormwater management above my property has affected only my property because water runs downhill! All those properties above me are contributing to the damage. The water is shooting down behind the restaurant forcing extensive pavement damage and roadway damage which is the Town of New Hartford’s responsibility! I should not be the only one bearing the cost. Please address.” Town Attorney Cully verified the location of her property on Oneida Street. Highway Superintend Sherman said that portion of Oneida Street is also being included in the study. Supervisor Miscione asked if the Board should take a vote before executive Session and Town Attorney Cully said No, he would go into executive Session now with no vote.

Upon recommendation of Town Attorney Cully the Board passed the following resolution:

**EXECUTIVE SESSION:**

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

**(RESOLUTION NO. 137 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into executive session at 7:00 P.M. to discuss pending litigation matters where a Notice of Claim has been filed related to the former Word of Life Church.

The Board members voted upon roll call that resulted as follows:

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 7:57 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

**END EXECUTIVE SESSION:**

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

**(RESOLUTION NO. 138 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby move to end executive session and reconvene the regular Town Board Meeting.

The Board members voted upon roll call that resulted as follows:

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 7:57 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

Discussion:

Town Attorney Cully presented the motion on the floor and to clarify it was multiple motions.

**RESCIND PRIOR MOTION:**

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Woodland:

**(RESOLUTION NO. 139 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby rescind the Motion or motions on the floor prior to executive session to sponsor the Oneida Street Project with a 25% cost to the Town. Town Attorney Cully clarified it's a motion to withdraw the motion currently pending.

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**.

**SPONSORSHIP OF THE ONEIDA STREET PROJECT:**

Council Messa requested a motion for the Town to sponsor the NRCS project on Oneida Street.

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

**(RESOLUTION NO. 140 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to sponsor the NRCS (National Resources Conservation Service) project on Oneida Street owned by Christine Martin.

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**.

**NCRS Project on Oneida Street – 25% Fee:**

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 141 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby agree to pay the 25% fee that is not covered by the grant (approximately \$31,250) with the NCRS (National Resources

Conservation Service) project to build the wall on Oneida Street on the Martin property (Parcel 349.020-1-22).

Discussion: Councilman Reynolds stated NRCS (National Resources Conservation Service) has some liability in this matter and it's his belief and understanding the Town at the time asked NRCS (National Resources Conservation Service) to extend the wall project which would have covered the questioned area. He thinks that the fact the wall ended where it did exacerbate the problem, so he feels they have some liability here.

Upon roll call, the Board members voted as follows:

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

This Resolution was declared FAILED....

Councilman Messa questioned if Christine Martin should go to NRCS (National Resources Conservation Service) for the 25% fee and Town Attorney Cully stated the Town should go out for a print because it's his understanding they had a specific request from Highway Superintendent Sherman to extend the wall and NRCS (National Resources Conservation Service) determined they did not have the funding at that time and they did not comply with the Town's request for the wall to be extended. He feels the Town should help this citizen to the greatest extent provided and with information as he understands it, she has everything through FOIL (Freedom of Information Law) but certainly anything the Town can do to assist her in her efforts then it should be done. Supervisor Miscione agreed with Town Attorney Cully that NCRS (National Resources Conservation Service) has liability as their engineering work was wrong so he suggested Christine Martin go after NCRS (National Resources Conservation Service) for the 25% fee and continued to say if not then she should be responsible for the 25% fee and the Town will just sponsor the project which is a win/win for everyone.

**Salary Adjustment - Deputy I Melody K. Fancett:**

Councilman Messa brought up Deputy Clerk I Melody K. Fancett's e-mail requesting a stipend of \$10.50 per hour retroactive to March 1, 2020 as she has taken on the duties of Deputy Clerk II which is currently vacant. Councilman Woodland asked what extra duties are involved and Deputy Clerk I Melody K. Fancett responded by saying the Town Board Minutes, Mail, Customers, all the various licensing, (dog, marriage etc.) parking permits. She explained normally there are two of us but now everything is on her and she's keeping up and doing the duties and this is a budgeted position. Supervisor Miscione asked about the Deputy Registrar

Kayla Empey and why she can't assist with extra duties. Deputy Clerk I Melody K. Fancett explained she's very busy with death certificates and that she is also assisting the Deputy Registrar Empey with her duties of birth records through the mail and customers. The Town Board urged Kayla Empey to answer more phone calls as they are getting several complaints. Deputy Clerk I Melody K. Fancett told the Town Board that there is a lot of time that she's not taking a lunch hour and working nights and weekends to keep up which is not an issue for her, the issue is she would like to be compensated for the extra duties until the position is filled. Supervisor Miscione stated the lunch hour is mandatory by law and she needs to take the hour and abide by New York State Labor Law. Supervisor Miscione stated he would be more comfortable consolidating the two positions into one which would save the Town money. He also asked if some tasks could go to the Deputy Registrar Kayla Empey and the Town Clerk Gail Wolanin Young responded no because her work is full time work as it is. Supervisor Miscione stated she can certainly take on some extra little duties to help the office out so the Town doesn't have to hire another full time position then give Melody Fancett her stipend to make her a happier employee. Town Clerk Gail Wolanin Young commented the Deputy Registrar is still provisional as she has not taken the Civil Service Test yet. Melody K. Fancett stated she was only asking for the stipend to be temporary until the position is filled but has no complaints with taking on both jobs as long as the Board was aware some overtime will be required as it's a lot of work and can't be done in 8 hours. Supervisor Miscione questioned Town Clerk Gail Wolanin Young to make sure she's ok with this agreement (Melody K. Fancett taking on both the Deputy I and the Deputy II full time job) because she's a department head and the Board can't make that decision for her. This still would leave the part-time position still in the budget. They will discuss the salary in executive session if Gail Wolanin Young, Town Clerk is ok but he's not in favor of anything retroactive. Melody K. Fancett explained her job is at the leisure of the Town Clerk and is not a civil service position. Town Clerk Gail Wolanin Young said she's comfortable with this change. The Board did state they will not fund the position as long as Melody K. Fancett is doing both jobs. Town Attorney asked if the FOIL's were an issue, and Deputy Clerk I stated no, FOIL's were not an issue but clarifying the law may be but that's where the Town Attorney comes in. Supervisor Miscione asked Town Clerk Gail Wolanin Young to ask her Deputy Registrar Kayla Empey to answer phones more and start taking messages more. Deputy Clerk I Melody K. Fancett stated a part-time person at 17 ½ hours which is budgeted would be very beneficial as to just answering phones and taking messages. Supervisor Miscione stated the phones are very important and it would be a better process. Supervisor Miscione did state he's not in favor of going retroactive. Deputy Clerk I Melody K. Fancett did state the salary would be the key because she's already one of the lowest paid employees with the Town who has already taken on several extra duties with no compensation. The Deputy II position will not be eliminated and will remain vacant and unfunded as long as Deputy Clerk I Melody K. Fancett does the job. Town Clerk Gail Wolanin Young did say the Deputy Registrar Kayla Empey can answer more calls and take messages if she's available. The call volume is constant and

extremely high all day. Melody K. Fancett did express that the part-time person would be extremely important to me doing both positions to alleviate the phones, and small duties.

**EXECUTIVE SESSION**

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

**(RESOLUTION NO. 142 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby move to enter into executive session at 8:00 P.M. to discuss a specific employee.

The Board members voted upon roll call that resulted as follows:

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

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

**END EXECUTIVE SESSION**

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

**(RESOLUTION NO. 143 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby move to end executive session and reconvene the regular Town Board Meeting.

The Board members voted upon roll call that resulted as follows:

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

The Supervisor declared the Resolution unanimously carried and duly **ADOPTED**; the Executive Session ended at 8:31 P.M. The regular portion of the Town Board meeting was immediately reconvened and the public re-invited to the meeting.

**SALARY ADJUSTMENT-DEPUTY CLERK I MELODY K FANCETT:**

Councilman Messa introduced the following Resolution for adoption, seconded by Councilman Lenart:

**(RESOLUTION NO. 144 OF 2020)**

**RESOLVED** that the New Hartford Town Board does hereby approve the salary increase for Deputy Clerk I Melody K. Fancett to \$23.00 per hour effective May 14, 2020 due to the extra duties of Deputy Clerk II, which is vacant and due to the fact the Town Clerk’s Office will not fill the Deputy II position.

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**.

Councilman Messa asked for some past minutes (November 20, 2019) to be corrected as the wrong Councilman was listed in the vote roll call. All minutes were tabled for corrections and rechecking.

Highway Superintendent Sherman explained what his guys were doing and how the COVID 19 is working with them. They are all on split shifts as of Monday; they are all working together, keeping their distance and all wearing masks and PPE equipment.

The BMX society has requested to participate in the Sherrill Brook Park having tournaments with the course to be built through a grant (\$25,000.00). The Town would have to clear some wooded areas where they now have dead trees but it would be available for public use. They are interested in the Town because of the hotels and restaurants as many of the participants of the tournaments and travel with kids. Some of the terrain would be paved and some would be dirt. It’s a fun, big sport and it would be in a controlled environment. The question of liability insurance was mentioned and Supervisor Miscione stated they would have their own insurance and would run their own events. Anyone including Town residents could participate in events, competitions and tournaments. Supervisor Miscione said if the Board is interested he will have them come do a public presentation and Councilman Reynolds is interested in hearing more about the location in the Park. Councilman Lenart questioned if the Town was being asked to sponsor events and Supervisor Miscione stated no, it’s just an addition to the Parks. Councilman Messa was a bit concerned with the jumps and the liability. Supervisor Miscione stated it will be

fenced in and controlled. He said if the Board is interested in natural activities then he will spend more time in getting the presentation together for the Board. Attorney Cully was interested in looking at other municipalities with similar events and how they do it. There was talk if the course could be bigger they could be chosen to host a national race but where they are located now it does not have the ability for that. There looking for a better location. A demonstration will be forthcoming.

**ADJOURNMENT:**

There being no further business to come before the Town Board, upon motion of Councilman Messa and seconded by Councilman Woodland, the meeting was adjourned at 8:40 P.M.

Respectfully submitted,

Melody K. Fancett, Deputy Clerk I

**CORRECTED BY CHERYL A. JASSAK HUTHER**  
**Interim TOWN CLERK**  
**May 29, 2021**