

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, JULY 22, 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
Human Resource Department Barbara Schwenzfeier
Town Attorney Herbert J. Cully
Police Chief Mike Inserra
Highway Foreman Chris Moran
Highway Foreman Gerald Webb
Town Clerk Gail Wolanin Young
Deputy Clerk I Melody K. Fancett

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

Conifer Realty Project – Woods Road Resident Petition:

Town Attorney Cully presented the Town Board and read aloud a signed petition received in the Town Clerk's Office on June 29, 2020 from six (6) Residents of Woods Highway Road (Petition was signed & showed residents addresses) that states they are residents and/or landowners of Woods Highway and are in favor of the Town Board voting to allow the Conifer Realty to move forward with their Woods Trail Apartment Development and Waterline.

Farmington, New York Letter – Woods Trail Apartments – Conifer Realty

Town Attorney Cully read aloud an endorsement letter submitted to the Town Board from Peter Ingalsbe, Supervisor of the Town of Farmington, New York. The letter describes the Town's recent working experience with Conifer Realty and expresses how conifer will be an asset to the Town of New Hartford along with the community benefits. Said letter was circulated to the Town Board members and filed in the Town Clerk's Office for public viewing.

Supervisor Miscione stated a representative from New York State Housing will be at the July 29, 2020 Public Hearing to explain what kind of affordable housing, what the investment to the Town will be that Conifer has along with the process of the project.

Councilman Messa asked if other petitions were also received.

Town Resident Lisa Britt presented Town Attorney Cully and the Town Board a copy of a letter previously received in June 2020 along with a petition (signatures only, no addresses attached). Town Attorney Cully read said letter aloud, and requested said letter and petition be circulated to the Town Board Members and available to the public. Said letter and petition are 4th Ward residents opposed to Supervisor Miscione casting a vote regarding the zoning change on Woods Highway related to the Conifer Project due to his conflict of interest and his ownership of property on the corner of woods Highway & Seneca Turnpike. Said letter states said residents were opposed to the June 17, 2020 Public Hearing of said project due to access limitation due to the COVID 19 Pandemic. The letter continues to state the resident feel the Town Board & the Planning Board have not followed proper procedures for a zoning overlay change and have a disregard for the laws. They feel the project is too big for the area and the water runoff will negatively impact these residents and their property. The residents also feel the property is poorly drained due to the soil and will cause extensive flooding to the adjacent properties. They feel this project will endanger the health and safety of young children, veterans, economically disadvantaged & other vulnerable populations due to harmful utility locations.

Town Attorney Cully asked 4th Ward resident Lisa Britt to submit addresses to accompany the signatures of said petition & letter which has about 30 or 35 signatures to verify they are all 4th ward residents.

Supervisor Miscione wanted to clarify the Conifer Project has changed from 48 acres to 24 acres which is near the power plant. He stated this project is a New York State funded project and a representative from New York State will be at the Public Hearing to discuss the project and he clarified that because it's a New York State funded project that no elected official or a family of any official can be involved in the project nor can gain financially from this project in any way. Supervisor Miscione also clarified his property does not adjoin the property in question but that he could not be involved in any way because he is a public official.

4th Ward Resident Lisa Britt asked if the 48 acres has been subdivided.

Supervisor Miscione replied he was unsure because it is not his project and the application for a zoning change has been submitted to the Town Board for 24 of those acres. He said the Planning

Board will take care of the subdivision of the land. The project in front of the Town Board is for a zoning change for 24 acres across from the power authority only and that's what the Town Board will be voting on.

PUBLIC COMMENT:

Linda Flihan – she has been a resident of New Hartford for over 20 years. She stated to the Town Board that she walks miles every day through her entire subdivision and she observes a number of things. She was very concerned when a four way stop sign on Ironwood Road & Viburnum Lane just popped up. She stated she has heard a lot of rumors and is concerned as to why this is happening. She understands residents are concerned about children but then says the older children will have no regard for a stop sign. She feels the parents need to take responsibility for the oblivious children and a stop sign is not needed to protect the children. She sees adults go right through the stop sign without hesitation.

Town Attorney Cully explained to Linda Flihan that tonight the Town Board will vote to move forward with a Public Hearing for a Local Law with regards to the stop sign. He explained if they do vote to hold a Public Hearing the residents will be notified and at that point, all the residents will have the opportunity to address the Town Board with any concerns and/or comments. He further explains that it was his understanding that over 100 residents in Linda Flihan's neighborhood signed a petition all asking for that sign.

Town Attorney Cully then read aloud a letter from Rianna Rosario & her husband which was sent to the Town Board that indicated in late March & April they became aware of the serious need for the signs. They stated once the children were out of school due to the COVID and home much more frequently due to no school or sports etc. they realized this corner was a big problem for the safety of the children. They witnessed many people coming from Valley View Road and speeding through this corner onto Ironwood Road and not paying attention to the cross section of Viburnum Place. They expressed how difficult it is to see children from Viburnum Place and vice versa. They believe the stop signs were very much needed and it provides them a piece of mind that it will help with the safety of the children. She continued to say how she was informed recently about a child in the past that was stuck by a car years ago at this intersection. She concludes her letter that many neighbors are in full support of this stop sign.

Town Attorney Cully then reiterates the process going forward relating to the stop sign process and explained that the signs were inadvertently put up and the Town Board now needs to go through the process to make the signs legal by scheduling a Public Hearing which will be done tonight and the public can comment then a vote will be taken.

Linda Flihan corrected the information in the letter and said the incident with the kid who was struck by the car in years past was in fact the kid on the bike who ran right into the car and the bicyclist was at fault.

Supervisor Miscione stated many residents would like to attend this public hearing to discuss events they recently witnessed. He said another child was recently almost hit by another vehicle at this intersection which is why the sign was put up in the manner it did.

Councilman Reynolds stated the Public Hearing should be prior to any action of putting up the sign.

Supervisor Miscione agreed with Councilman Reynolds but then said this was a different situation and because of the COVID pandemic the kids are all home and outside and the Town has already been put on notice years ago by a law firm due to this intersection. He said the same law firm put the Town on notice again recently with Town Attorney Cully (who verified they did). He further states that the Local Law is to enforce the stop sign not to put the stop sign up and that the Town has stop signs all over the Town that are not enforceable due to any legal action taken; however, that people due stop and it's for the safety. He stated that the entire neighborhood within 500 feet of the sign are all in favor of it and happy it was put up.

The Town Board discussed the Public Hearing and was interrupted by a resident Jerome Donovan who requested to be heard on this matter before the Town Board.

Town Attorney Cully explained to Mr. Donovan that a citizen raised a concern and that concern is being followed up with the discussion of a Public Hearing who a Board Member already stated he would like to go forward with the Public Hearing for consideration of a Local Law.

Jerome Donavan – Wanted to follow up on a point that Linda Flihan had made regarding the incident of the child getting struck by a vehicle which was in 2014 or 2002 and he sent the Board members that information. He said it was an accident where a young man came down Viburnum Lane and ran right into the side of the vehicle that was legally going through the intersection. He said the Police reported the incident but can't find that particular blotter. He said the driver of the vehicle was not cited and the youngster was found at fault. He said the family sued the driver and lost in Court. He told the Town Board the signs went up a month ago and he contacted the Town Supervisor that very day. He told the Board he's very familiar with Town laws, the neighborhood incidents and the children. He continued to say that the children sit at that intersection for any length of time, and only one car will go through at any time. He told the Town Board that a number of his neighbors and himself felt ambushed by the impulsive actions of the Town Supervisor, that without proper legal, or procedural, no traffic analysis, no proper

notice to residents and/or the Town Board that the Supervisor unilaterally ordered the Town Highway Department to install additional traffic signs in the South Woods Subdivision. He asked the Town Board in correspondence and again tonight where the statutory authority comes from. He told the Town Board that this is an abuse in power and requested the Town Board to overturn the actions of the Supervisor. He requested that the illegal and unauthorized signs be removed immediately. He told the Board if they subsequently choose to place signs at this intersection, then he requests it be done properly, following legal procedures with advanced notification to all sub-division residents, using traffic data and the required Public Hearing where the Merritt's can be debated. He feels the Town Board had a lack of knowledge and oversight in this instance.

Town Attorney Cully asked for the names of the neighbors he has been referring to in his above comments and Mr. Donovan refused and said many won't come to these meeting due to the COVID Pandemic and he further stated that some were there tonight so they can give their own names. He informed the Board that he has not circulated a petition.

Town Attorney Cully reiterated that Mr. Donovan firmly stated that his neighbors were against the signs and asked again for their names.

Mr. Donovan again refused such information to the Board.

Supervisor Miscione stated this is not an abuse of power that it was for the safety of the children in the neighborhood and many residents requested this sign. He said due to the pandemic a lot has changed this summer and decisions needed to be made. He told the Board that at the end of the day it keeps the children safe and the Board can vote on a Public Hearing if they choose. He informed the Board that in the City of Utica, they put up stop signs sixty (60) days before a Public Hearing is held when they feel it is a safety concern. He told the Board the Law that's in question is to make the stop sign enforceable with tickets and that was not the object in this case and that his only objective was to keep the children safe throughout the summer.

Supervisor Miscione then requests the Town Board to make a motion for the Public Hearing for Local Law for the stop signs and also for the residents who want the signs to stay so they can come and speak at the Public Hearing.

Councilman Messa agrees with what some residents spoke on and feels the sign laws should have been followed. He was discouraged he was not contacted on the issue.

Supervisor Miscione stated he contacted all the Board members and spoke with those that contacted him back, especially Councilman Lenart who represents this district. He explained to the Board that he had votes, the petition and the support of the residents and he further stated

these signs are not about him or about power but for the safety of the children in the neighborhood. Supervisor Miscione also expressed concern for another child who was almost hit recently and was seen by many. He then asked the Board why years ago when a law firm and the Town attorney put the Town on notice after the first child's accident why the Board did not act and install a sign then and why anyone would blame a child stating it's a child's fault. He continued to make the statement that once there's an accident at any intersection or if the Board sees any issue, they try to resolve it so that's what he did. He also told the Board that after speaking to the residents, they wanted stop signs on every corner in the South Woods Development. He told the Board that this intersection had the most issues and it almost affected another child. He told the Board that a stop sign is not a power play but he feels better that it may stop another child from getting hit or injured again.

Councilman Reynolds stated that every stop sign is born from an accident or a perceived threat or real issue. He continued talking about a procedure that was circumvented for good/bad reasons but tonight he asks the Board to schedule a Public Hearing to resolve this issue and so residents can come speak in support or in opposition of this signs. He requests to back up the process and do the signs the right way to determine if the signs should stay or not.

Councilman Messa requested the signs to come down until the process was done the right way and comments on the disregards to the law and the process were heard. He feels it sends a bad perception.

Councilman Reynolds feels it sends a confusing message that there is a stop sign there today and not one tomorrow and he has a concern with that.

Attorney Cully stated that the signs are already up but that the public should have the opportunity to speak and he agreed with Mr. Donovan on that issue. He then reiterated the process that if a Board member wishes to hold a Public Hearing, then a date should be set. He explained if someone wants to make a motion to remove the signs at that time then it would come before the Town Board, at that time the motion is made and then seconded and then the signs are removed. He continued to explain to the Board that legally at this point, although the signs are up that they are not enforceable because they were not put up pursuant to the Local Law and the Chief of Police could not write a ticket at this time because they are not proper stop signs but that it's the Board's decision to take the sign down. He also told the Board he has seen the petition and reviewed it and when asking Mr. Donovan for any names he refused not to provide them, he then points his finger and becomes very rude so he explains to the Board it is their decision to have the signs removed or not.

Mr. Donovan loudly objects and requests to speak and address the Board again. He says his Councilman was confused and that after speaking with Mr. Donovan he was aware of interest in the signs but unaware the signs were already up and he also expressed interest in going through the legal procedures. Mr. Donovan then asked the Supervisor why he's leading him to believe his Councilman was onboard with the placement of the signs.

Supervisor Miscione stated he is not here to point fingers at anyone and told Mr. Donovan that any time he calls him personally that he helps him with any problem or issue and that he takes care of any issues. He stated he has an overabundance of residents that wanted these signs due to child safety. He told Mr. Donovan that he will always be the first person to make sure the children are safe. He told the Board this is no abuse of power and he's in contact with the Board on every issue but this situation was different and he acted. He continued conversation with the Board saying if they wanted a special meeting on this issue that he's in favor of it and would come in for it. He told the Board again this was not about pointing fingers at anyone; it's about the safety of the children. He said if it were not for the COVID Pandemic, then the proper procedures would have been followed but this summer has been different for everyone and hard for all. He also told Mr. Donovan if he had any storm issue, he would be the first guy over there dealing with it, that's who he is.

Mr. Donovan asked to see the petition that supervisor Miscione was referring to and what the narrative said and what the residents were told when asked to sign the petition.

Supervisor Miscione reassured everyone that everyone was fully aware of what they were signing and fully in favor the stop signs.

Attorney Cully read aloud the petition that was filed with Town Clerk's Office on July 18, 2020 which stated "Stop Sign Petition" and read that we, the undersigned residents of South Woods do hereby petition the Town of New Hartford to install a four way STOP SIGN at the intersection of Viburnum Road & Iron Wood Road. (Said petition included names and addresses and checked weather the resident agreed or disagreed) and he stated the petition had 73 signatures and included the letter from a resident.

Mr. Donovan stated the residents were not aware of an incident report provided by the Police department that was FOILED on July 18, 2020 of the incident report at that intersection which shows that there were no incidents other than the one reported and they talked about it earlier. He feels the petitioners were asked to sign a petition and evidentially were not aware of the history of the subdivision or the intersection in question and he feels they were shared a great deal of antidotal information by certain individuals.

Supervisor Miscione spoke up and disagreed with Mr. Donovan and said the residents on the petition were the ones who wanted the four-way stop sign and spoke highly about how great the signs were and how happy they were the signs were up and raved at the recent food truck event in the neighborhood. Mr. Donovan stated he went through the intersection at question the day of the food truck event and the food truck was serving food on the street and that the truck was parked on the public right away (in the road) and on a resident's lawn and they were being served food in the road. So, Mr. Donovan questioned the Board on the issues of public safety and children's safety and traffic safety. He told the Board that people couldn't drive through without pedestrians moving out of the road. He continued to tell the Board that no one here would argue with him about any of the above issues because he had a niece killed by a driver who ran through a stop sign, so there's not any need lecture him on children's safety.

Councilman Lenart wished to clarify a fact. He stated that when this issue first started, he had a phone conversation with Supervisor Miscione and he was told the neighbors approached him and he felt there was going to be a need for the stop signs. He continued to say Supervisor Miscione asked Councilman Lenart if he had any issues with this sign and that Supervisor Miscione would then take the lead on it since he lived in the neighborhood and that he would follow through and make sure it was done the way it was supposed to be done. He stated that after the signs were installed that there was no need for contact as he did not know if the signs went up or not. He told the Board there never was any discussion as to whether the signs were going to be installed or not. He reiterated that the discussion that took place was for the need of the signs. Councilman Lenart was fine with the signs if the neighborhood felt there was a need for them and told Supervisor Miscione to do what he had to.

Upon recommendation of Councilman Lenart, who requested a motion be made for a public hearing be set forth and for a Local Law on the installation of a four way stop sign at the intersection of Viburnum Lane and Iron Wood Road, seconded by Councilman Woodland.

(RESOLUTION NO. 170 OF 2020)

Discussion:

Highway Superintendent Sherman stated his Highway crew was the ones who installed the signs and while they were there working that many residents stopped and thanked the Highway Department.

Highway Foreman Chris Moran commented that about 10 or 12 people stopped all with positive comments and none of which were negative.

RESOLVED that the Town Board of the Town of New Hartford does hereby authorize a special Town Board meeting to hold a Public Hearing on August 5, 2020 at 6:00 P.M. to be held at the

Town Hall at 8635 Clinton Street, New Hartford, NY 13413 in the Court Room. The Town Board further authorizes the Town Clerk to publish notice in the Observer Dispatch and notify resident within a 50-mile radius. Town Attorney notified the Town Board they will need to be limited to the 50 persons limited in one room at a time for speaking due to the COVID 19 Pandemic and Governor Cuomo's executive order but a television can be placed in hall for viewing and doors can be left open and they will have access off the Towns Facebook page but that this will be an open meeting and everyone will have access as directed by the Board.

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 CLERK COMMITTEE

Games of Chance – Raffle Tickets:

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

(RESOLUTION NO. 171 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby grant permission to Our Lady of Lourdes Church., an organization duly granted a Games of Chance Identification Number by the New York State Racing and Wagering Board, to sell raffle tickets in the Town of New Hartford, New York, in accordance with all rules and regulations of said Racing and Wagering Board; and be it

FURTHER RESOLVED that the Town Clerk be, and she hereby is, authorized and directed to execute Form GC-RCF, Raffle Consent Form.

Upon roll call, the Board members voted as follows:

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

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

ATM Machine – Town Hall:

Attorney Cully stated he has not heard anything from the vendor to date and that he does not seem anxious to install the machine.

Audit of Vouchers:

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

(RESOLUTION NO. 172 OF 2020)

RECORD OF CLAIMS #1

#'S 1274 – Manual Check
A200/A600 \$ 250.00
TOTAL RECORD OF CLAIMS TOTAL #1 \$ 250.00

RECORD OF CLAIMS #2

#'S 1275 – Manual Check
A200/A600 \$ 81,582.98
TOTAL RECORD OF CLAIMS TOTAL #2 \$ 81,582.98

RECORD OF CLAIMS #3

#'S 1276 – Manual Check
A200/A600 \$ 1,046.00
TOTAL RECORD OF CLAIMS TOTAL #3 \$ 1,046.00

RECORD OF CLAIMS #4

#'S 3434-3443
A600 \$26,433.59
B600 \$ 5,086.24
DP600 \$48,507.49
SS600 \$ 1,541.39
TA600 \$13,015.71
TOTAL RECORD OF CLAIMS TOTAL #4 \$94,584.42

RECORD OF CLAIMS #5

#'S 3444-3457
A600 \$ 6,290.22
BP600 \$24,025.08
DB600 \$ 1,286.92
SL600 \$ 8,058.85
TA600 \$ 154.78
TOTAL RECORD OF CLAIMS TOTAL #5 \$39,815.85

RECORD OF CLAIMS #6

#'S 3458-3481; 3483-3608; 3610-3660 (VOIDED: 3661, 3662, 3663) VOIDED: 3482; 3609

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A600	\$170,415.97
B600	\$ 9,809.54
BP600	\$ 65,801.88
DB600	\$287,792.36
HFM600	\$ 8,730.50
HPQ600	\$ 68,425.71
SS600	\$ 24,331.84
TA600	\$ 17,394.15
TOTAL RECORD OF CLAIMS TOTAL #6	\$652,701.95

RECORD OF CLAIMS #7

#'S 3664-3666 (3666 VOIDED)

A600	\$10,000.00
DB600	\$ 3254.00
TOTAL RECORD OF CLAIMS TOTAL #7	\$13,254.00

RECORD OF CLAIMS #8

#'S 3667

DB600	\$ 888.00
TOTAL RECORD OF CLAIMS TOTAL #8	\$ 880.00

TOTAL RECORD OF CLAIMS 1-6 **\$884,115.20**

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:

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**.

Agreement 2020-21 School Safety Officer

Upon request of the Police Chief Inserra, the following Resolution was offered for adoption by Councilman Lenart; seconded by Councilman Messa:

(RESOLUTION NO. 173 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to enter into and to execute the 2020-21 Agreement for Services New Hartford Central School Safety Officer Agreement with New Hartford Central School, at no cost to the Town of New Hartford.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Agreement 2020-2021 School Resource Officer Program

Upon request of the Police Chief Inserra, the following Resolution was offered for adoption by Councilman Lenart; seconded by Councilman Messa:

(RESOLUTION NO. 174 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to enter into and to execute the 2020-21 Agreement for Services, by and between the Town of New Hartford Police Department, New Hartford Central School District - Safe Schools/Healthy Students Initiative, at no cost to the Town of New Hartford. Said Agreement shall expire on June 25, 2021.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Bid Opening – Upgrades to Fairway Estate Sewer Pump Station

Highway Superintendent Sherman reported that four (4) companies submitted bids on the Upgrades to the Fairway Estates Sewer Pump Station on June 16, 2020.

1. MCJ Construction LLC \$158,500.00
2. US Mail Electric Inc. \$139,890.00

- 3. Spensieri Diversified LLC \$206,000.00
- 4. Kahrs Construction \$184,000.00

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

(RESOLUTION NO. 175 OF 2020)

RESOLVED that the New Hartford Town Board does hereby accept the bid submitted by US Mail Electric, Inc., 800 Cider Ave., Yorkville, NY 13495 and does hereby award the contract to US Mail Electric Inc. For the Upgrades to the Fairway Estates Sewer Pump Station, (total rebuild with generator) pursuant to his bid submitted, subject to the submission of all insurance, bonding and items required in the bid specification packets.

The Board voted as follows:

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

The Resolution was declared unanimously carried and duly adopted.

Whitter Road – Town Road:

Whitter Road: Town Attorney Cully reported that upon request of Councilman Reynolds, he researched Whitter Road which has never been built and it appears that the Town does own Whitter Road.

Bid – Bucket Truck:

Highway Superintendent Sherman explained to the Town Board that the 1997 Chevy Bucket Truck was a National Grid truck that was purchased in 2008 and has sufficed its years and no longer passes inspection. He stated the Boom can no longer be operated unless it's a manual operation which is dangerous to the employees so it was taken out of service. He explained this truck is very valuable to the Town as it is used for trimming trees, changing street lights, traffic signal bulbs etc.

Bid Authorization – 2007 or newer Bucket Lift Truck

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

(RESOLUTION NO. 176 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Highway Superintendent to advertise for Bid for a 2007 or newer Bucket Lift Truck. Said Bids shall be received and opened on August 18, 2020; said truck should not exceed a cost of \$12,000.00.

FURTHER RESOLVED, that the Highway Superintendent Sherman has authorization to sell the 1997 Bucket Lift Truck through Auctions International and said profits (estimated value of around \$5,000.00) will offset the cost of the new truck to be purchased.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Goodrich New Hartford, LLC (former Kmart) Tax Certiorari Settlement:

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

(RESOLUTION NO. 177 OF 2020)

Discussion:

Town Attorney Cully explained that Goodrich LLC (former Kmart Plaza) that they brought a tax certiorari for the fiscal years of 2018, 2019 & 2020. The Courts were pushing the Town to get appraisals which is very expensive. He explained to the Town Board that the Town Assessor Darlene Abbatecola, Town Supervisor Miscione and himself had met with them over a year ago to try for a settlement before a lawsuit was brought against the Town but was unsuccessful at reaching an agreement at that time. The Town will spend \$30,000 to \$40,000 on an appraisal. In one last attempt to reach an agreement a meeting was scheduled with Bob Nole, the New Hartford Central School Superintendent, The New Hartford School Attorney, the Attorney representing Goodrich, The Town Supervisor Paul Miscione and the Town Attorney Cully where they were able to achieve a very successful disposition as it relates to the Town especially because Goodrich was willing to waive one of the years that they would have been entitled to a refund. Town Attorney Cully further explained to the Board they were trying to reach a settlement before the school tax bills came out because the school was concerned with the refund due. This settlement saves the Town legal fees, appraisal costs and this saving is more than what the Town would spend in legal fees alone. Town Attorney Cully also explained when the Sangertown certiorari was done the Town spent over \$100,000.00 just in the appraisal alone and the Town lost. The Town expert appraiser felt the highest figure for full value he could support

was 7 million dollars. The property is currently at over \$10 million dollars for full value. This agreement is also very favorable for the New Hartford Central School District and also for the Town of New Hartford.

RESOLVED that the New Hartford Town Board does hereby accept and approve the settlement agreement for the Goodrich LLC tax certiorari for the fiscal years of 2018, 2019 & 2020 based on the terms below.

Year	Current	Assessment	Full	Refund
2018	\$8,338,000.00	\$5,199,000.00	\$6,700,000	full refund
2019	\$8,698,000.00	DISCONTINUED		
2020	\$8,698,000.00	\$5,400,000.00	\$7,500,000	full refund

Continue for 3 years at 2020 rate.

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**.

HOMELAND TOWER EASEMENT – SHERRILLBROOK PARK:

National Grid requested an easement for their electrical service and maintenance to the tower, etc. to the site in the Sherrill Brook Park. Homeland Tower is paying the Town rent to have the Tower placed on this site.

Upon request of Supervisor Miscione, the following Resolution was offered for adoption by Councilman Reynolds; seconded by Councilman Lenart:

(RESOLUTION NO. 178 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to enter into and to execute an access easement to Homeland Towers, LLC, 9 Harmony Street, 2nd Floor, Danbury, CT 06810 as stated in the map. Town Attorney Cully will double check to see if this easement is subject to permissive referendum.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

FRANCHISE FEE REFUND/AGREEMENT:

Upon request of Supervisor Miscione, the following Resolution was offered for adoption by Councilman Woodland; seconded by Councilman Lenart:

(RESOLUTION NO. 179 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to accept the cable franchise (Charter Communications) fee agreement/refund in the amount of \$53,421.00.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

TROY & BANKS CONSULTANTS - CABLE FRANCHISE FEE REFUND – INVOICE:

Upon request of the Supervisor, the following Resolution was offered for adoption by Councilman Reynolds; seconded by Councilman Messa:

(RESOLUTION NO. 180 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Finance Office to pay Troy & Banks Consultants, 2216 Kensington Avenue, Buffalo, NY 14226 their one-time payments of \$21,368.40 for their professional services rendered fee regarding the cable franchise (Charter Communications) fee agreement/refund in the amount of \$53,421.00.

The foregoing Resolution was duly put to a vote upon roll call:

Councilman Messa	-	Aye
Councilman Lenart	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye

Supervisor Miscione - Aye.

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

Shared Services Agreement 2020-2024 NYSDOT:

Upon request of Highway Superintendent Sherman, the following Resolution was offered for adoption by Councilman Messa; seconded by Councilman Lenart:

(RESOLUTION NO. 181 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to enter into and to execute the Shared Services Agreement for Services between the Town of New Hartford and New York State Department of Transportation, effective July 3, 2020 and ending July 3, 2024 as the terms set forth.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Traffic Diversion Agreement with Oneida County:

Police Chief Inserra is reviewing the terms of said agreement with Town Attorney Cully and both New Hartford Judges and would like this agreement tabled until the next Town Board Meeting.

PETTY CASH REIMBURSEMENT – COURTS:

Upon request of the Police Chief Inserra, the following Resolution was offered for adoption by Councilman Woodland; seconded Lenart:

(RESOLUTION NO. 182 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the replenishment of the Courts petty cash fund in the amount of \$42.50 for miscellaneous office supplies purchased at Wal-Mart Distribution Center.

The foregoing Resolution was duly put to a vote upon roll call:

Councilman Messa	-	Aye
Councilman Lenart	-	Aye

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

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

Real Property Tax Service Aide – Teresa Webb Reinstated:

Upon request of the Supervisor, the following Resolution was offered for adoption by Councilman Lenart; seconded by Councilman Messa:

(RESOLUTION NO. 183 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Real Property Tax Service Aide Teresa Webb to return to normal duties effective Monday, July 26, 2020 at her regular salary. Teresa Webb was out on unemployment due to the COVID-19 Pandemic.

The foregoing Resolution was duly put to a vote upon roll call:

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

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

Extend Town Code Law – Tents:

Upon request of Supervisor Miscione, the following Resolution was offered for adoption by Councilman Reynolds; seconded by Councilman Woodland:

(RESOLUTION NO. 184 OF 2020)

RESOLVED, that the New Hartford Town Board does hereby authorize the Town Supervisor to and the Codes Department to not act on the Town Code & Law that pertains to tents due to the CORINA 19 Pandemic. This resolution extends the number of days businesses can have temporary tents up outside from 20 days until November 1, 2020 where the Town Board will review this resolution and see where the pandemic is or until the COVID 19 Virus is gone.

The foregoing Resolution was duly put to a vote upon roll call:

Councilman Messa	-	Aye
Councilman Lenart	-	Aye
Councilman Reynolds	-	Aye
Councilman Woodland	-	Aye

Supervisor Miscione - Aye.

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

BOND PAYMENTS & AUDIT UPDATE:

Town Supervisor Miscione updated the Town Board by saying all Bond Payments have been made and are up to date. He also updated the Board on the 2019 Town Audit by saying it will be done in a couple weeks. He told the Board the Supervisors Report is available for their review.

COVID 19-FEMA GRANT:

Town Supervisor Miscione told the Town Board that FEMA has a COVID 19 Grant for Municipalities that will help pay for equipment, repairs needed (doors, etc.), it offers reimbursement for labor, etc. He asked the Board for some of their thoughts and ideas of where the grant can be beneficial to the Town.

IT Agreement – Bondar Tech

Supervisor Miscione presented the Town Board with a contract from Bondar Tech for the Town IT Support. This agreement is a monthly fee of \$1,500.00 opposed to Polce who is \$2,328.50 per month. This issue was tabled for a presentation from Bondar Tech.

Highway Superintendent Richard Sherman

1. Trash Program – Back in June – picked up 449 tons – cost us \$27,825 in disposable fees; tires – picked up 16 tons - \$2,981.10 to get rid of the tired; over budget by \$606.08. People were home because of COVID and we picked up more trash that we ever have. We want to take the shortage out of our regular trash in which we are under.
2. We have three John Deer motors – on July 14th – they were picking up brush – our 2015 with 36,000 hours on it, motor caught on fire – some damage – have a price of a new one – takes two months to get it – be here for the winter – we have three, we can sell two on auction and pick out the best of the three so we can have one five-year-old machine and one new one. Average price on auction for the ones we get ride of are running for around \$72,000ish. Probably looking around, between, for the two of them \$120,000/\$140,000, some where around there. The new one is \$167,698 so the two on auction would go towards the new one.; Councilman Lenart – is there any insurance coverage?; Highway Superintendent Richard Sherman – It’s not enough with our deductible. The fire burnt some wire in the engine. It started between a hydraulic line blowing and hydraulic caught on fire. It’s repairable but not sure I will ever trust it again. If we sell it, its sells as is.; Councilman Lenart – Is there any update on the sales tax, where we are at?; Supervisor Miscione – Total this year, we are down 4.5% - again we have more revenues, some other stuff coming in. Building permits are at their highest. Third and fourth – we don’t have our sales tax in, we might offset that. Usually in the 4th quarter, we offset sales tax by at least \$300,000, under normal conditions. I’ve been talking to people and things like jacuzzies, pools – things that are major projects are sold out. You can’t even

get on the list until like October. So, I think we're going to see a lot more sales tax coming in on the larger items than the smaller. Retail sales are even up across the Nation. I'm hoping for some good news. Buildings keep going, building still strong. I think we'll be in good shape overall. Don't forget, our bond payment on this building, I think we're down \$100,000 next year from what it is this year. Every year it goes down to the point of \$600,000 within the next five years.; Councilman Lenart – Asked Rick the approx. cost?; Highway Superintendent Richard Sherman - \$162,000 – I have one, a rental at the garage right now, but its not what we use it for. Haven't used it yet and going to send it back.; Councilman Lenart – Getting rid of the other two, so what would cost be for the new one after?; Highway Superintendent Richard Sherman – Probably around \$40/\$50,000 difference; Supervisor Miscione – From a financial state – would like to get out to a public hearing to release. Then use those payments for a 1st and 2nd year payments, 3, 4, 5 we probably can offset a lease. Come January, we have a bond again cause up for this year. Rick's truck, \$83,000 truck lease payment, will not be next year.; Town Attorney Herbert Cully – wants to wait until next meeting to schedule a public hearing so can get all the information together.

PUBLIC SPEAKER – Mr. Snyder – Just want to address the Board -wants to thank Rick, Jim and everybody for the work they did behind my property on Oneida Street. The guys did a great job. They gave me back more property than I ever had. I never thought was possible. Thank you very much for all your work you did. It looks beautiful I really appreciate that. The only question I have is, someone said they were going to come in and hydroseed. Are they going to do that or is it a problem if I buy grass seed.; Chris Moran – We are not done yet (so will do it).; Mr. Snyder – the only other question I have is about getting that creek dug out like they did in Whitesboro so we could get a little more protection out of that bank.; Highway Superintendent Richard Sherman – they will not let us go in that creek; Mr. Snyder – how did they dig out in Whitesboro? That's what I want to know. They were on TV talking about it. We've dug out the creek before.; Highway Superintendent Richard Sherman – trying to get a permit to go take a gravel bed out in another spot Councilman Messa has and I'm not having any luck with that one either.; Mr. Snyder – they dug out the creek five years ago, plus by Elm Street and I'm sure the DEC, they didn't take a risk with getting fined. Spinella was in there and dug it out the last time.; Highway Superintendent Richard Sherman – We had permission because of the hurricane.; Mr. Snyder – can't you get permission this time, has rock has built back up – its going to flood again. Then all that work that's been done is for nothing.; Highway Superintendent Richard Sherman – You know it, I know it. I can't get them to give me what I need.; Mr. Snyder – I'm just thinking, there has to be a way to fight to get that permit.; Supervisor Miscione – We will follow up with the State and DEC this week.; Mr. Snyder – I don't want to sound ungrateful because you guys did a great job and I appreciate it. I just think a little more needs to be done and I'm just trying to protect my property, protect the work that's been done. It came out great.; Supervisor Miscione – Rick and I will make calls this week to see what we can get done. We are on top of the water study. I'm hoping we can get this done in August. That is my dream to get this done before the Fall comes. They are working on it. Taking care of each are individually. There are areas where people are starting to build. I've been working with the Planning Board and Rick. Hoping August would be the date to get actual information on it. If we had some information from our engineers working on that then maybe we can use that to help leverage.

Councilman Reynolds

1. Can you review again, you said we were \$86,000 short on revenue; Supervisor Miscione – As of yesterday, dollar for dollar, where we were sales tax wise, expenditures and revenue we're \$86,000 short, overall, for what I predicted in the budget. That's throughout the whole COVID. I don't know what the sales tax is coming in. As you know they only sent us a quarter of a quarter of what we were going to get. Cash wise we're in a good position. We don't have issues paying our bills. For actual true numbers we're \$86,000 under from as of today, last year's numbers.; Councilman Reynolds – taking into consideration, other revenue resources.; Supervisor Miscione – We're above water with no issues. If we don't have another shut down, I think this year we'll be sailing through and almost in positive territory. Last year, in looking at the numbers, I think we'll have like a \$400,000 surplus again for the things that we bought, saved on. Our funds balance will go up again and then this year for 2020 we might be even or up a few dollars if Christmas hold good to our area.; Councilman Reynolds – What did we get for sales tax? Where were the figures?; Supervisor Miscione – Overall for the quarter we got \$1.299 million but we got a check for \$433,000(2nd quarter). We were down from last year but not enough to crush us. We're still about what we put in the budget. First quarter we were ahead 3 or 4%, overall, we're only \$86,000 but that's only because we only had a shortfall in park rentals and other activities and revenue we had in the Town that we didn't get from last year. So, like we bring in \$50,000 for our youth program. Our expenses are maybe \$30,000 so we lost those things. We lost building permits in March. June numbers were through the roof and so was May. April was even, maybe a little less. Taking everything into consideration, we're down \$86,000 from where we were last year to this day.; Councilman Lenart – Can you email us a spreadsheet? Supervisor Miscione – There's multiple but I can send to you. All the bond payments are paid. This time last year, we didn't pay, we paid in the Fall.
2. Councilman Reynolds – The other thing is our auditor we were going to get a monthly statement from them.; Supervisor Miscione – we have to finish the audit first before we can go on to review the future stuff. I have some other ideas, using them more as an oversight to the Town but not being an employee but we'll discuss that. In saying that, right now, we're doing what Dan did until they finish this audit. Once they finish the audit and they have true numbers then they can go off of that but right now, we're not that done. At the end of the year (last quarter), they'll come in on a regular basis, because there is not much money left in the budget to pay them either. We have to watch where the time is spent.
3. Councilman Reynolds – Also like to thank Rick and Chris for the Foxcroft project that has been started. That's going to be a significant project. Please to see it underway. There's plenty of work that is yet to be done but we're moving in the right direction. Residents are very appreciative of the Highway workers expertise about project and expressed gratitude.

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

(RESOLUTION NO. 185 OF 2020)

RESOLVED that the New Hartford Town Board does hereby accept and approve to go into Executive Session to discuss matters relating to a specific employee.

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

(RESOLUTION NO. 186 OF 2020)

RESOLVED that the New Hartford Town Board does hereby accept and approve to return from Executive Session.

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 Attorney Herbert Cully – Didn't realize the equipment Rick was proposing to purchase was under state contract and had anticipated it would be subject to bidding. However, since it is

under state contract he wants to lease. I'd ask that you bring a motion to go forward and lease the equipment and be subject to permissible referendum as in prior situations we've had.

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

(RESOLUTION NO. 187 OF 2020)

RESOLVED that the New Hartford Town Board does hereby accept and approve to move forward and lease the equipment for the Highway Department.

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**.

ADJOURNMENT

There being no further business to come before the Town Board, upon motion of Councilman Reynolds and seconded by Councilman Messa, the meeting was adjourned at 8:03 P.M.

Respectfully submitted,

Cheryl A. Jassak-Huther

Interim Town Clerk

6/7/2021