

**PUBLIC HEARING MEETING OF THE TOWN BOARD
OF THE TOWN OF NEW HARTFORD, NEW YORK,
HELD AT TOWN HALL/COURT ROOM,
8635 CLINTON STREET, NEW HARTFORD, NY ON
WEDNESDAY, OCTOBER 27, 2021 @ 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 M. Lenart
Councilman David M. Reynolds
Councilman Richard Woodland
Supervisor Paul A. Miscione

OTHER TOWN OFFICIALS/EMPLOYEES PRESENT:

Deputy Town Supervisor Anthony J. Trevisani
Town Attorney Herbert Cully
Assistant Director of Personnel Barbara Schwenzfeier
Highway Superintendent Richard Sherman
Highway Chris Moran
Police Chief Michael Inserra
Town Clerk Cheryl Jassak-Huther

ABSENT: Town Clerk Cheryl Jassak-Huther

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

I. Presentation and Comments – There were no presentations and comments.

II. PUBLIC HEARING

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

(RESOLUTION NO. 386 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to open up the Public Hearing for the 2022 Preliminary Budget.

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

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

Councilman Woodland - Aye
Supervisor Miscione - Aye

The Resolution was unanimously carried and duly *ADOPTED*.

1. Resident Robin Kennedy - I would like to comment tonight on the unacceptable and astronomical raises being proposed for the Town Supervisor and Councilmen. This is not personal gentlemen. While I agree that you deserve a raise, I also believe that raises of 100 – 300% are not only ridiculous but unheard of. I would think that most residents would agree with me that the approximately \$78,000 in combined raises for the five (5) positions mentioned would be much better spent in hiring one (1) or two (2) part-time police officers to enhance the overnight patrols. I am sure everyone is aware of the extreme, large number of ample break-ins on a nightly basis. I believe this would be much more of a benefit to the New Hartford tax payers than the enormous raises for Supervisor and part-time workers. In closing, I would hope that the Board reconsiders these raises and chooses to make more financial improvement and fair decisions for all of New Hartford residents. Safety should definitely be a priority. Also, according to online information, the Town of Whitestown Supervisor makes approximately \$15,000 per year and Council Members make \$7,500 - \$8,000 vs \$50,000 and \$20,000. I'll let you do the math. Thank you for listening.
2. Resident Katherine Dougherty – My concern on the budget is raising taxes. Obviously, a lot of us are 60+ and on a fixed budget so that's my biggest concern. I think the Supervisor and Town Board have done a wonderful job guiding New Hartford forward and actually you all deserve some sort of raises so I support that. Maybe compare with another Town with the salaries or something like that. As far as what the majority of the budget was going toward – what for?; Supervisor Miscione – Mostly it is due to health care and retirement. Those costs go up every year so there's always a ½ - 1% increase to keep up with times. If we give zero this year, in three (3) years from now it will catch up with health care costs that keep constantly going up. The health care cost that we have went up 18% overall this year, last year 10-12% - we are looking for new programs every year to save costs – looking to change plans to save.
3. Senior Center Representative - Marge Anweiler – little upset – took away our salaries and raising yours – doing all we can to keep the Senior Center open for our Senior in New Hartford. We've had big parties; we've got 40/50 coming; some days no, we only have six (6) or eight (8) but it's a Center for the Seniors to come to. We are volunteering everyone of our staff is there everyday volunteering to keep the place open and you take away paid positions. The County is not going to allow this. We are run by the County Food Program and you need to have paid people in the kitchen, paperwork, etc., every day and the County will draw X's through anything if it's not done right. We need to keep our Seniors safe. We need to have paid employees. I don't see how you can justify. You came in after we were only open for 10 days, after being shut down for 18 months and you took away salaries saying we were not doing enough. We were having meetings, making phone calls to everyone on our lists to get them to come back. It's not right what you have done to the Seniors. We're there everyday and trying our darndest to keep the New Hartford Seniors safe and happy and you walk in and say we don't have enough people and take away a secretary. Carrie is doing the work of three (3) people. I'm doing the work of three (3) people. You take away a secretary who spends his day trying to get our calendar and menu for everybody to have. The Town Crier – look at what we are doing – we have card players, parties, everything for the Seniors. Why don't you people understand it's not right – you cut our budget by \$40,000 and then tell us it goes back in the General Fund. No – no salaries are being paid; you're not taking care of the Seniors. I don't know what you want from us. We're very upset.; Supervisor Miscione – We talked about this at the last meeting – no one is trying to take away the Senior Center – the Board need a plan. When it first opened, we had more employees than people that

attended. What happened at the time, the Board wanted, they asked for a plan and Richard Lenart is going to follow up with the Senior Center to have that plan. The money that we ended is because we had a full-time director of Senior Services before that made X amount of money that was here for 30+ years with full-time benefits. That is where some of the money went that we dedicated. Richard Lenart and the Board members asked for a plan to justify the employment of how many people were coming. When the numbers meet the right numbers....; Marge Anweiler – What is the right number – is it five (5) or 30 seniors? Even five (5) people coming in to have a cup of coffee and to talk to us and voice their concerns – we have staff meetings, sitting around talking to seniors and they're telling us what they want, what they want to see, and we're trying to do that. People look in the door and see us sitting there with the seniors. Yes, we're talking to them, trying to figure out how to go forward; how to keep seniors coming in; we're doing all we can, we're there every day; Supervisor Miscione – the Board – we have two (2) on the Senior Committee, they requested a plan going forward, of the activities, things that are set up – that's all they requested; Marge Anweiler – and we did that, we've got our plan, going forward – you need to pay some people. If I walk, these girls walk, Carrie walks – Dick are going to go come in and run our Center?; Councilman Lenart – with all do respect, when we had the meeting the last time and you were here – we asked for a detailed plan. When I followed through with Carrie, she said what we presented at the meeting was the plan. That's not a detailed plan. We're not just looking for activities or things that you are doing. We're looking for details in terms of how you can incorporate more people in the Town so that they are all part of the Senior Center. Right now, running a nutritional center. What we're looking for is to broaden so we can get more people in here. For a Town this size, a Senior Center should have 80-100 people in here every day. What you presented the last time were thoughts ad people that were coming in for this presentation or that presentation – its not a detailed presentation on how you're going forward. You have to tell us how to get people in the door and just not for food – develop a plan – you have activities – we want to see a plan in terms of how you're going to get to that number (increase). You're asking the Board to spend money yet we have nothing to go by in terms of how you're going to make sure that every senior is going to be coming in; Marge Anweiler – 35 years in existence – doesn't matter if only 10/40/80 people one day a week – you have 80 for bingo – we have everyday of the week and we're trying to build up those numbers – Dick you don't understand; Councilman Lenart – I do understand because I am the Treasurer of the New York Mills Senior Center and member of the Yorkville. I see the participation that comes in. I don't see the participation here; Councilman Reynolds – Marge, before COVID, what was your population; Marge Anweiler – we had 25 everyday for lunches, days we had the attorney, Office of the Aging and any programs that we had; Councilman Reynolds – consistent crowd is your statement?; Marge Anweiler – yes!; Councilman Reynolds – Now VOCID his and everything kinds goes south; Marge Anweiler – 18 months and we've kept in contact with every one of them; Councilman Reynolds – ok the plan that you presented – that is the plan? As I recall, there were dates, specific programs offered on those dates. I think Rich makes a good point; however, I don't think you can build a program until you have a as which would start with the meals coming in, with programs (brand new basically) and institute the list of programs that you've detailed. I think with all do respect to Rich, he wants a Senior Center and you're taking about a Nutrition Center – I think people come for the Nutrition Center and to act as a Senior Center to interact, to get out (socialize) – I think we need to look at what we had before and build it back to that; Marge Anweiler – on Monday we have 35 signed up for our first hot lunch and we're hoping everyday after that. We have the menu now, our activities, a lawyer coming in, the Office of the Aging, Nutrition programs. You need paid employees. If we don't, you'll have nothing and it will be all over the news and paper about the New Hartford Seniors; Councilman Reynolds – we need a program and it sounds to me you're working on that program. The meals are key to that program's success. I think we need to see where it goes from here; Marge Anweiler – we need someone to do the temperature, Count paperwork – it has to be done; Councilman Reynolds – we have to look at that Paul; Marge Anweiler - you need people in the kitchen and you need a secretary on the

desk. You guys are giving you all raised and you're not taking care of us, the Seniors; Resident speaking – other senior centers are having the same problems. I talked to the leader of the North Utica Senior Center and she had a group all set, no one shows. Its just a bad time to be making decisions; Councilman Lenart – again, we had a meeting yesterday in New York Mills, had 85 people, meet once a week; we are looking from you, what other activities (besides food) can you off other seniors – there is four people that sit in a corner and play cards; what we asked for was a detailed plan and as of this day, I have not seen a detailed plan, that is all I am asking for; Resident – we have had a detailed plan since day one (1) and then we hit a pandemic, that we could not control ourselves. We're having a hard time having people come in and when they do come, if I want to sit down and talk to them, I'm going to sit down and talk to them because that's what they are looking for, they want to be with other people, they feel alone.; Councilman Lenart – what I would suggest is that you go to other Senior Centers and see what they are doing; Marge Anweiler – we've been to the Parkway and others and they are trying the same thing as we are doing; Councilman Lenart – Not saying the Nutritional Center is not important, I'm saying we need to broaden our horizon. If the Senior Center is not attractive for people, they're not going to come; Resident – How can you base what you're saying on one center vs a daily center; Councilman Lenart – I will not support anything until I see a detailed plan and I know its going to incorporate more people in the community and at least to see if they're interested in coming. If not, there it's a Nutritional Center and we'll base it on that and what it is and leave it at that; Marge Anweiler – just from the Town Crier article, we have had four (4) calls from people, two (2) new people are coming in because they've seen the article; Resident – some of those people who come, they meal that they have is the only meal they have with another adult; Councilman Lenart – not shutting down the Nutrition Center – I'm saying – you see it as it used to be – I'm saying it could be something bigger and better. If you choose not to do that, then fine, we'll view it as a Nutritional Center and fund it appropriately; Councilman Reynolds – We've said it before, if it wasn't for COVID, we wouldn't be having this meeting. There might have been a need to tweak some things but COVID has really caused the issue and there was a program in place before COVID (daily and well attended). That's what we need to get back to – got to build a base back to get started; Marge Anweiler – that's what we've been doing and for three (3) weeks now we've been not paid and we've been in here everyday doing this. Its not right and now we read about the salary increases for everybody and you took away from us; Supervisor Miscione – I appreciate you volunteering and all you are doing right now, we all do; Marge Anweiler – I don't know you do, you took away \$40,000; Supervisor Miscione – you have two (2) people on your committee (Lenart and Reynolds) they requested a plan and if you guys work together and get people there, then the job is justified. The Board wants you to meet with the committee members; Marge Anweiler – he doesn't even like us, he doesn't want anything to do with us, he wants his 80 people for bingo; Supervisor – if we go down a negative road – we were all in favor of opening the Senior Center – we just want a plan; Marge Anweiler – every day we sit down and talk (spoke about the doors open for Election)

4. Resident Michael Kennedy

- a. Spoke to the Seniors – I realize that none of these guys seats are up this year, have a long memory, come Election Day, about how they forgot the Seniors. You think if any of them were up for election this year, for \$80,000 raise, you'd see them on the ballot? You're asking for half a raise. I personally don't forget the Seniors in this community, you build this community. You don't deserve this; (To the Board) – Shame on you guys – you're going to give yourselves raises but you're going to sell these ladies short; (To Councilman Lenart) – and to you Sir, I don't know you personally – you give me a detailed description of the raises or justification. You keep asking these ladies, I want your justification for your 300% raise that you're giving yourself.

- b. My main topic – I need to know why there has been no agenda posted for these meetings since March 29, 2021. Until just recently, they got the meeting minutes caught up. Shame on you for not keeping them updated. Now it's my turn to turn the light on the administration. I've seen the proposed 2022 salary increase and I'm appalled at the proposal you guys made by the Town Supervisor and this Board. I find it appalling that you would ask for 100% increase from \$25,000 to \$50,000 and a whopping 300% from you guys from \$6,540 to \$20,000. That's a big ask from tax payers for part-time positions. Why not consider incremental raises rather spread on a small scale, spread over a few years. That's right, you want it now because you might not be sitting in them chairs three or four years from now. Most hard-working tax payers, myself included, would be grateful with a measly 3% raise these days. I took a two-year furlough on my state job. I got zero during the pandemic. The problem here is that politics have become a career for some people and they think they should be paid ridiculous amounts of money when in fact, they forget they are here to serve you and me. If anyone thinks they are not fairly compensated, you can resign. Someone will step right in and serve the residents and if these raises are passed, I'm sure there will be a lot more lawn signs littering in our Town and Villages. So, are you so flushed with cash that we can burn money on raises for your guys. If so, pass the savings on to the residents, make it an interictal part of our seniors or maybe sign a deal where you have zero tax increase for five years....will you do that...I don't think so. Vote with your conscious because you're doing the wrong thing to this community and you've been exposed. You're hiding things – you don't put stuff out, the minutes were behind, the agendas are behind. I found out about this two days ago. You have to do a lot of digging on the Town website to find stuff. We need transparency and we need it now. It's appalling that you guys asked for a penny for a raise.
5. Resident Patty Damico – I'm 71 (speaking to Councilman Lenart) – I don't know how old you are (responded 73) – you were disrespectful to that woman. You have a mean...(inaudible).....you were very disrespectful. Number one; Number two – how in this year, with everything that is going up for us, especially you, who represents me, Ward 4, who never calls anybody back; the only one doing any work is Highway Superintendent Richard Sherman – you get him every time when you call; how can you (not you – speaking to Councilman Reynolds) – even think of a raise for yourself now. I'm not a poor senior but a lot of people in my neighborhood are seniors and as far as New York Mills Seniors, half live in New Hartford. They're just going to New York Mills because it's more convenient for them. How could you, with any conscious, take more money from the Town during the Pandemic. (Councilman Lenart apologized when woman said he was disrespectful).
6. Resident Jay Winn – President of the Board of Trustees for the New Hartford Library – simply here to say we appreciate the support
7. Robin Kennedy asked when will the Board vote on the Budget; Supervisor Miscione – if the Board would like, we can vote tonight or if they want to table it, they can table it.

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 387 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to close the Public Hearing for the 2022 Preliminary Budget.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

III. MATTERS SUBMITTED BY HIGHWAY SUPERINTENDENT RICHARD SHERMAN

1. SURPLUS ITEMS

- A. 2001 Freightliner – cab and chassis only, was not a brush truck

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 388 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2001 Freightliner.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

- B. 2003 Freightliner – cab and chassis with brush box and swing tail gate on back

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 389 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2003 Freightliner.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

C. 2003 Pelican Street Sweeper

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 390 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2003 Pelican Street Sweeper.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

D. 2006 Ford F550 Crew Cab

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 391 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2006 Ford F550 Crew Cab.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

E. Caterpillar Roller – was replaced by a new one

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 392 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the Caterpillar Roller.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

F. 2008 Ford F250 with snow plow

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 393 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2008 Ford F250 with snow plow.

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

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

Supervisor Miscione - Aye

The Resolution was unanimously carried and duly *ADOPTED*.

G. Leaf Extreme Vac

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 394 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the Leaf Extreme Vac.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

H. 2014 Ford Taurus Sedan, white, police vehicle, mileage 85,786

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 395 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2014 Ford Taurus Sedan police vehicle (white).

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

- I. 2004 Ford Explorer, white, police vehicle – mileage 83,984

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Reynolds.

(RESOLUTION NO. 396 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to surplus the 2004 Ford Explorer police vehicle (white).

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

IV. MATTERS SUBMITTED BY TOWN SUPERVISOR

- 1. Budget – asked the Board if wanted to act on the budget
 - A. Councilman Messa – in light of the conversation, take another look at it and table it
 - B. Councilman Lenart – Second
 - C. Discussion – Councilman Reynolds – I’ve made my feelings known weeks ago that I do not support this budget and just want that noted. I’ve received emails, face to face conversations, can’t support this
 - D. Councilman Woodland – gotten several phone calls about raises and need to revisit it

Supervisor Miscione – anything in the budget you guys want to change for the next hearing, discussion?; Councilman Reynolds – what is the tax increase?; Supervisor Miscione – leaving it where it is – less than 1%, under tax cap by \$65,000; Councilman Reynolds – to me that is very good, less than 1% tax increase, think that speaks well; the salary increases are way out of whack, that’s why I will not support it the way it is written; Supervisor Miscione – background on the salary increase – as you know, we had a Director of Finance here, part-time, \$45,000 – there is no Director of Finance – I’ve taken on the responsibilities – that’s why our numbers are the same, they didn’t go up; Robin Kennedy – it has nothing to do with the Councilmen, the Director of Finance; Resident – maybe fill that position or put the money in other places; Robin Kennedy – where are you putting that money?; Supervisor Miscione – that is where the difference lies – all in Favor to table it:

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Reynolds.

(RESOLUTION NO. 397 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve table the approval of the 2022 budget to the next meeting on Wednesday, November 3, 2021.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

Town Attorney Herbert Cully – You know you have to do it at your next meeting based on the time constraints – before the Thursday after Election.

Resident Michael Kennedy – will the agenda be posted? Supervisor Miscione – if the Clerk’s Department does it, yes it will; Councilman Messa – We will put it up there. I will speak with her and it will be up.

Town Clerk Cheryl Jassak-Huther (absent night of meeting) – Agendas/Meeting Minutes – The Town Clerk does not have access to the Town’s website or authority to post anything such as minutes or agendas – the morning after the meeting and hearing about the concerns from residents at the meeting, I requested permission, from the Town Supervisor – to be given access to allow myself to post such things to the Town’s website just for the Town Clerk’s Office going forward. All agendas will be posted by 12:30pm, two days prior to the Board Meetings by the Town Clerk.

V. MATTERS SUBMITTED BY TOWN COUNCILMEN

1. Councilman Messa

A. Twynedom and Roman – asked Supervisor Miscione how negotiations are going and if it was moving forward; Supervisor Miscione – it is, we have to meet with one of their clients and should be coming to a decision on where the detention pond is going to go – get two residents to agree where it is going to go.

B. Hand Place – was informed that the water is contaminated – looking to the Board to provide lateral from Oneida Street to Hand Place to provide safe water for the residents – maybe potential grants – potentially for residents to get the lateral from the house to the lines; Supervisor Miscione – the lateral going from the street to the house would have to be used through one of the NYS or Clean Energy Grants. We could put in to the service to the house – would need a motion, you’d like to do the service first. Once the Town puts the service and sponsors it, then we can go out for the grant for people to get help to get the lateral done; Councilman Messa – if we did that, would they get reimbursed if they wanted to connect that way; Supervisor Miscione – the grant would just fund the construction process. You’d go out to bid, it would be over \$30,000 – you’d get how many people would want to go on the line – go out for bid – lowest bidder does the work – put the laterals to the house and be surety bonded for each project. Only way to help the residents get on the line; Councilman Reynolds – meaning extend the water line – if we’re going to do that – there’s other small

areas in the Town – if we put all together in a grant – we’d have a better chance – end of Merritt Place would be another area

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Reynolds.

(RESOLUTION NO. 398 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve Supervisor Miscione to start the paperwork for the grant process for Hand Place.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

VI. MATTERS SUBMITTED BY TOWN SUPERVISOR

1. Highway Superintendent Richard Sherman and Supervisor Miscione working on a grant for downtown revitalization – grant from the County and NYS (has map of area if anyone would like to see) – Elm Street in Chadwicks to Oxford Road/Oneida Street in Chadwicks – designated area for the grant - \$500,000 from Oneida County and up to \$4 million from NYS for the projects – will help infrastructure on the streets, roads, lighting, sidewalks, old piping, new sewer, paving, stormwater; there are programs for people on the street, that fall in to the low income category that can apply for these monies to fix up the façade of their house, or anyone that has code violations – could apply for these grants and money that is out there. Bringing Oneida Street back to life for some of the homes affected by the flood, the land can be park areas – the Oneida County paperwork has been prepared as well as the maps – need approval to submit.

Councilman Messa introduced the following Resolution for adoption and seconded by Councilman Lenart.

(RESOLUTION NO. 399 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve Supervisor Miscione to submit the paperwork for the grant process from Oneida County.

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

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

Supervisor Miscione - Aye

The Resolution was unanimously carried and duly *ADOPTED*.

VII. MATTERS SUBMITTED BY TOWN ATTORNEY

1. Town Attorney Herbert Cully

A. FOIL APPEAL – Mr. Fernicola – has to be brought to the Town Board – made to our police department – one of the items he requested were any complaints there were made against Town Police Officers that were deemed to be unsubstantiated or unfounded. He asked for information as it relates to those complaints. Chief and I sat down for quite a period of time and we reviewed the case law as it relates to unfounded and unsubstantiated claims. As a result of our review and research, it was deemed that we do not have to and are not required under the Freedom of Information Law to provide any information as to any complaints which were determined as being unfounded. As a result of that, Mr. Fernicola has filed an Appeal as it relates to that denial saying he does not agree with the denial and he has cited a case, Schenectady Police Benevolent Association, Inc. vs the City of Schenectady that was decided in January of 2021 (Herb spoke about the specific case). That was the specific incident on which this request arose and the Schenectady Supreme Court judge said he felt that those records should be disclosed under FOIL. In his decision, he references the fact that this case was initiated about six weeks after the George Floyd incident and there are specific references made to the George Floyd’s situation. I want to point out, that is in Schenectady County and that is in a different department than we’re in. That’s in what is called the 3rd department and we’re in what is called the 4th department. Each department has the right to make their own decisions as it relates to a specific interpretation of the facts. Chief found a case in our own department that was decided by Judge Meir in Syracuse as a result of a FOIL request that had been made to the City of Syracuse Police Department and that was what we based our determination on and that decision held that the disclosure of unsubstantiated complaints made against police officers were exempt as an invasion of privacy. The Court held, certainly there is no greater public interest in the fairness of justice which should be weighed along with police officers and other public employee’s rights to privacy, including the exceptions to disclosure under the Public Officers Law. The holding says, the unsubstantiated claims against police officers should not be released and that the public interest in release of unsubstantiated claims does not outweigh privacy concerns of individual police officers. If a complaint is unsubstantiated there is no obligation to release them. That’s what we based our decision on, the Syracuse decision, which is a decision in our department, not the Schenectady case. We had both cases in front of us and we reviewed them in detail. It’s up to the Board and we have to make a determination on this Appeal as to whether to deny the Appeal and if that the case I will do what we did last time – I’ll send a copy of the Resolution to Mr. Fernicola and we provide a copy to the committee on Open Government. You can either determine to deny the Appeal or to reverse what we’ve done in direct; we provide the unsubstantiated complaints – its up to the Boards determination

Councilman Reynolds introduced the following Resolution for adoption and seconded by Councilman Messa.

(RESOLUTION NO. 400 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to deny Mr. Fernicola’s Appeal.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

B. Planning Board Appointment – Town Clerk Cheryl Jassak-Huther, Town Attorney Herbert Cully (Highway Superintendent Richard Sherman sat in for part of the time) – spent a lot of time listening to the tape as it relates to the Board Meeting on October 20, 2021 and more specifically, the Appointment to fill the position on the Planning Board. Town Clerk Cheryl Jassak-Huther has provided the Board with the draft minutes of that meeting and I hope that each of you had an opportunity to review the draft minutes because what it sounds like, listening to it and we listened to it several times, is that Dave (Reynolds) made a motion to appoint a Mr. Timpano to the Planning Board and Rich (Woodland) second it and raised his finger in support of that. Then Jim Messa said ‘did you second it’ – then there was a conversation that took place. It appears from the minutes that that motion was seconded and never voted upon. There was another motion to appoint someone else and that may have been voted on in the past but it seems like there is confusion as to that. Further, in the initial part, it was asked if it was posted on our web page and I think there was an indication that it was posted on our webpage. We have now determined it was not posted on the webpage. If you are going to address the October 20th minutes, we’ve provided you with the specific way that the tape read. We asked any of you if you wanted to come in and hear the tape. I’ve listened to it and several people have. It’s very confusing. The procedure we normally follow is to post the opening on the board – do you want to rescind the prior resolution and post it and then go forward next week in the instance that we get any additional responses...I know we have two qualified candidates who have applied for it – only has to be posted on the Town’s website.

Councilman Woodland introduced the following Resolution for adoption and seconded by Councilman Reynolds.

(RESOLUTION NO. 401 OF 2021)

RESOLVED, the Town of New Hartford Town Board does hereby approve to rescind the prior appointment to the Planning Board and post the opening to the Town’s website with the decision to make the appointment at the November 22, 2021 Board Meeting.

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

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

The Resolution was unanimously carried and duly *ADOPTED*.

ADJOURNMENT:

There being no further business to come before the Town Board, upon motion of Councilman Messa and second by Councilman Lenart the meeting was adjourned at 7:08 p.m.

(RESOLUTION NO. 402 OF 2021)

RESOLVED that the New Hartford Town Board does hereby accept and approve as submitted the approval to adjourn.

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*

Respectfully submitted,

Cheryl A. Jassak-Huther

Town Clerk

10/29/2021