

Town of Austerlitz  
Workshop/Regular Town Board Meeting  
June 15, 2023

Present: Robert Lagonia, Town Supervisor, Greg Vogler, Christopher Schober, Jere Wrightsman and Maureen Wilson, Town Board Members, Susan Haag, Town Clerk and Peter Fitzpatrick, Highway Superintendent.

Attorney for the Town, Joseph Catalano, in attendance.

A motion to open the workshop was made by G Vogler and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes-

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0. Workshop opened at 6:01 p.m.

Workshop called to discuss a moratorium on certain commercial uses and was duly noticed.

Supervisor Lagonia noted that the Town Board has discussed doing a moratorium over the last few months, especially after COVID when there were issues popping up throughout the Town. In addition, the Town has not updated its Comprehensive Plan since 2004, but is currently in the process of performing an update. What comes out of the update may pave the way for changes in the Town's Zoning Code. The 2004 Comprehensive Plan was loosely written because of the amount of controversy at the time, but it now needs to be tightened up. The Town needs to slow things down so the Comprehensive Plan Advisory Committee can complete the Plan Update and see where changes need to be made. Attorney for the Town, Joseph Catalano, distributed a draft moratorium law to the Town Board for consideration.

Attorney for the Town, Joseph Catalano, noted that the Town Board has discussed the Town's current Zoning Code over the past few years understanding there were some gaps and areas that needed updating. The current law was crafted to have anything possible allowed anywhere in Town with many uses requiring a special use permit from the Planning Board. Attorney Catalano explained the current law and the difficulty the Planning Board has in using the code on a planning board level. Many projects that come up from time-to-time are unforeseen at the time a Comprehensive Plan is completed and the Zoning Code updated. Updating the Comprehensive Plan and the Zoning Code needs to happen periodically to keep up with the times. The Planning Board does not decide if a use is permitted or not, that is decided by the policy the Town Board sets in the Zoning Code. A Planning Board only decides if a use is allowed under the current code and with or without proper conditions. The Town is a year into updating its Comprehensive Plan update process and new data is being accumulated all the time. The Advisory Committee decides a direction based on the data collected and eventually comes out with a draft that is turned over to the Town Board for review. Attorney Catalano has spoken with Planner Nan Stolzenburg and they both agree that a moratorium is prudent to put in place to put a pause on new uses if they will eventually be contrary to an updated Comprehensive Plan or

Zoning Code. The job of the Town Board is to process the growth of a Town in a regulated manor and allowing a use in Town that could change the character of the Town in a particular area is not in its best interest.

Attorney Catalano continued, the Town is divided into 3 districts: the Spencertown Hamlet, the Austerlitz Hamlet and everything else which is called rural residential. This is not unusual in rural communities. There could be a dozen or more zones in a more urban community. With each district in the Town, there are a number of uses allowed. Some are allowed by right. Attorney Catalano discussed each use group. The Zoning Code does not have specific rules and regs for each use and because it is so general, a lot of discretion is given to the Planning Board for decision and the Planning Board does not have much of an option for disapproval. If the applicant meets all the criteria, the Planning Board does not have much say in an approval or denial and the project is approved with or without conditions. What is in place has worked well up to now, but the pandemic changed how businesses conduct their business: when, where and how. The migration of people out of urban areas and into rural areas such as the Town of Austerlitz has shifted, bringing an entrepreneurial spirit with it. Unfortunately, some of the projects can be in conflict with the Town's desire to keep the rural character of the Town. The idea is while the Comprehensive Plan is going through the update process, the moratorium pauses the ability for applicants to submit applications for new uses so the Town has time to think about what is an appropriate use and put in place new land use policies. Moratoriums can not be long term and the Town has to show progress towards an outcome for which the moratorium was put in place for, such as the update of the Comprehensive Plan and eventually changes to the Zoning Code.

Attorney Catalano has prepared a draft moratorium that is for 9 months to be used for discussion purposes. This moratorium law would pause special use permit applications in all districts in the business use group. Discussing on use groups and occupation uses.

Supervisor Lagonia would like all special use permits paused, not just in the business use group. This would protect the Town in all ways possible until the Comprehensive Plan update is complete and any zoning code changes done. Board Member Vogler agrees with this.

Discussion on what a special use permit is. These are in theory appropriate for the Town depending on certain factors. Supervisor Lagonia noted that although the Town has good people serving on the Planning Board, they do not have the tools needed to effectuate a change or deny an application. The Town Board discussed how much discretion the Planning Board has in making decisions. It was noted that the enforcement of the Zoning Code needs to be addressed as well giving more penalties. Member Vogler noted that one of the areas that the Comprehensive Plan update is addressing is to make the Zoning Code a bit more descript; tighten it up and give the Planning Board the tools they need. Attorney Catalano noted that just defining more areas within the Town that certain uses are allowed helps. The more criteria given helps to regulate uses. More definitions in the code are needed as well.

Discussed uses in the hamlets.

This moratorium would only stop future applications and any application that has not yet been approved by the Planning Board and is for a term of 9 months. There was discussion on exclusion and legitimacy of challenging the moratorium. If the moratorium is challenged, the court will look at the motivation behind the decision and the duration. As long as the Town continues to move forward with the planning update process this is a legal use of a moratorium.

The general consensus of the Town Board was that all special use permits will be included in the moratorium. The Town Board also discussed exceptions listed in section 3 which will stand.

A motion was made by J. Wrightsman and seconded by G. Vogler to close the workshop.

R. Lagonia: yes

G. Vogler: yes-

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0. Workshop closed at 6:53 p.m.

Regular meeting called to order at 7:02 p.m.

Moment of Silence followed by the Pledge of Allegiance.

### **Minutes**

A motion to accept the May 18, 2023 Regular Meeting minutes was made by C. Schober and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

### **Auditing of Accounts and Claims**

A motion to authorize payment of the June General Fund, #229-269 in the amount of \$55021.00 and Highway Fund, #103-117 in the amount of \$19148.68 was made by G. Vogler and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

### **Reports**

#### **Monthly Cash Disbursement and Supervisor Report**

Monthly Cash Disbursement Report for the Month of May 2023 submitted.

Supervisor Lagonia noted that there is roughly \$3,117,000.00 in the bank. No anomalies in the line items.

The Accountant for the Town, Nelson Furlano, has retired and closed his accounting firm. N. Furlano has handed off our account to a new company, SmithWatson and Company, LLP, also in Pittsfield, Ma. Our Account Representative, Accountant Chris Galib, has moved to SmithWatson and Company, LLP. Supervisor Lagonia and Town Board Member Vogler have met with the manager of the new company, noting this is a much larger firm. A retainer agreement is being put together and will be given to the Town Board for discussion at the July Town Board meeting.

Supervisor Lagonia noted that the Town has experienced some bumps and bruises along the way with the Chatham Rescue Squad. One individual working for them was under investigation and has since been arrested and charged. Currently the Squad is under new leadership with a new President and things seem to be running smoothly. Using the Chatham Rescue Squad for ambulance services is still the best option for the Town. In addition, the County, through the Public Safety Committee, is putting together a report for the best County options for emergency services. Supervisor Lagonia would like to wait and see what the report details and then make a decision which direction to go in.

When the Town took the broadband issue on and did what it needed to do to get broadband to houses without, 4 roads were taken out of the mix because the price was prohibited. These 4 roads though, were included in the original grant that was given to the Towns of Chatham, Ghent, New Lebanon and Austerlitz, which the Town of Austerlitz continued to move forward with. This grant may be moving forward and when it does, these 4 roads will have the funding to proceed with Broadband.

The Dugway Road bridge project will be starting soon. Supervisor Lagonia and Highway Superintendent Fitzpatrick will be meeting Tuesday with the contractor.

Supervisor Lagonia has also spoken with a company that deals with dying ash trees. This company will come out for one day to see how it goes. If all goes well, Supervisor Lagonia will bring this back to the Town Board in July.

Supervisor Lagonia noted that the Town hired a new clerk for the Highway and Planning Board who has been doing great. This position was hired on a probationary period. Looking to review this and possibly make an appointment at the July Town Board meeting.

On a County level, there is lots going on with the 2024 budgeting process. The Sheriff is down staff. Immigrants are supposed to be shipped in to the County in coming days.

The Town budget process for the 2024 budget will be starting soon.

#### Highway Report

Highway Superintendent Fitzpatrick submitted the following report:  
May slid quickly by into an exceptionally dry start to June.

Spring grading was challenging with the unusually dry weather at the end of May beginning of June.

Mallory Road came out nice. We've had some thank yous and compliments on our work and its condition!

Thank you and you're welcome.

We have picked up and continued on East Hill Road with adding material in the worst areas.

Summer ditching has begun on Schoolhouse, Slate Hill, and Angel Hill Roads.

Regular Summer tasks like mowing, dust control, and spot grading holes has begun, earlier than usual.

We could use some rain, it's unusually dry causing more dust earlier than normal.

Had a couple good conversations about removal of some of our dead trees and will be moving forward soon.

Our crew had their annual safety training day this week at the fairgrounds with the other municipalities of the county. It went well and many important topics were covered.

I attended the annual Superintendents Highway School in Ithaca, there's a wealth of knowledge available both from the speakers and the other attendees. Great information both from a management and in practice standpoint.

We don't have a start date for the Dugway project yet but expect to have one soon, have a meeting with them next week.

Also, next week, we'll be meeting to finalize our summers paving projects.

End of Report

Town Board Member Wilson questioned a car fire on State Route 203.

Town Clerk Report for the month of May 2023 submitted.

Tax Collector Report for the month of May 2023 submitted. Town Clerk Haag noted that the books have been turned over to the County and all is in order.

Planning Board Report for the month of June 2023 submitted.

No Comprehensive Plan Oversight Committee Report for the month of May 2023 submitted.

Building Inspector/Code Enforcement Report for the month of May 2023 submitted.

Justice Cassuto Justice Court Report for the month of May 2023 submitted.

Justice Grubin Justice Court Report for the month of May 2023 submitted.

Dog Control Report for the month of May 2023 submitted.

Climate Smart Report for the month of June 2023 submitted. Town Board Member Wrightsman advised that at the last meeting the Committee brained stormed how to spend money we have. Ideas include getting one mini split cooling/heating unit instead of 2; replacing windows at the old town hall, but the quote was extremely high (the Committee will look at other options for windows); storm windows for the new Town hall; getting some electric highway equipment. Consensus of the Town Board is to see about bids for the window replacement at the old town hall.

The Town Board discussed the updated Climate Action Plan and wanted to see some changes in a couple areas.

A motion to make the following changes was made by J. Wrightsman and seconded by G. Vogler: Page 15 change wording concerning HVAC system, heat pump/mini split system to reflect that might not happen; green highway equipment must only be a recommendation since there are not yet any viable alternatives and under acknowledgements, please include Town Board Member Maureen Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0

A motion to accept the monthly reports was made by M. Wilson and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

### **Correspondence**

Columbia County Childrens' Camp Inspection Summary Report

The Town of Austerlitz had no public health hazards and no non-public health hazards.

### **Unfinished Business**

**Spencertown/Austerlitz Parks**

Tabled.

**History Center Heating and Cooling Bid**  
Tabled.

**Smoking on Town Property**

The Town Board discussed whether or not to include signage at the Town Park which addressed no vaping or cannabis. The current policy only states smoking. It was noted that smoking includes smoking cannabis.

A motion to change the Town smoking policy to include vaping was made by M. Wilson and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

**Updated 2023 Highway Form 284**

On hold until after the meeting Tuesday.

**Local Law #1-2023, Establishing a Nine-Month Moratorium on Certain Commercial Uses and Development in the Town of Austerlitz**  
**Resolution # 32-2023, Introductory Local Law #1-2023**

Attorney Catalano will update the section of the draft law that the Town Board discussed.

A motion to adopt Resolution #32-2023, Introductory Local law #1-2023, was made by C. Schober and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

**WHEREAS**, the Town Board authorized and commenced, in 2022, a planning process for a complete update of the Town's Comprehensive Plan that has not been updated or revised since its adoption in 2004 and that process is well underway; and

**WHEREAS**, the Town Board has also been discussing problematic issues with the current Town Zoning Code including but not limited to the lack of specificity in the Code regarding location of commercial or business uses, definition of terms and category of uses, and the criteria for the issuance of special use permits; and

**WHEREAS**, the Town Board is uncertain as to whether the current Comprehensive Plan and Zoning Code adequately serves the present and future interests of the Town and its residents

which is a major reason why the Town Board authorized the funds and the process for the update of the Comprehensive Plan; and

**WHEREAS**, the Town Board believes that the Comprehensive Plan update project will provide the necessary guidance for planning for future growth of the Town and possible amendments to the Town Code in order to appropriately regulate such growth; and

**WHEREAS**, the Town Board is concerned that, while this process is ongoing, land uses and developments may be proposed and processed that would be incompatible with the updated Comprehensive Plan and would circumvent the planning efforts underway; and

**WHEREAS**, accordingly, the Town Board believes that enacting a temporary pause in the processing of proposals for new land uses and developments that require a special use permit while the Comprehensive Plan update process is in progress would best serve the interests of the Town and its residents; and

**WHEREAS**, Town's counsel has prepared a proposed Town Local Law (introductory Local Law No. 1 of 2023) pursuant to direction from the Town Board that would pause the acceptance or processing of special use permit applications with a few limited exceptions in the Town's hamlet zoning districts; and

**WHEREAS**, that proposed law has been reviewed, discussed and revised by the Town Board at a workshop meeting of the Town Board;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Town Board hereby introduces and proposes for adoption introductory Local Law No. 1 of 2023 of the Town of Austerlitz which establishes a 9-month moratorium on the acceptance, processing, or approval of any application for a special use permit for any and all of the uses listed in the Allowable Use Groups Chart set forth in Section 195-13 of the current Town Zoning Code for the Rural Residential (RR), the Austerlitz Hamlet (A-HM) and the Spencertown Hamlet (S-HM) zoning districts with the exception of the few uses in the hamlet districts with limitations as identified in the local law.
2. The Town Board determines that the adoption of the proposed Local Law is an action that is identified as a Type II action in section 617.5 (c)(36) of the State Environmental Quality Review Act (SEQRA) as local legislation involving adoption of a moratorium on land development or construction.
3. The Town Board hereby schedules a public hearing for the proposed Local Law No. 1 of 2023, to be held at the Town Hall, on July 10, 2023, commencing at 6:00 p.m.
4. The Town Board hereby directs that notice of the public hearing be posted at the Town Hall, on the Town website, and published at least once in the Town's official newspaper a minimum of 5 days before the scheduled hearing date.

This Resolution shall take effect immediately.

A motion to hold a special meeting on July 10, 2023 beginning at 7:00 p.m. for the purpose of discussing Local Law #1-2023 was made by M. Wilson and seconded by G. Vogler.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

### **New Business**

#### **Planning Board Fees**

The Planning Board has submitted new fees for various projects and requests that the Town Board approve. The consensus of the Town Board is to approve the rate increases.

Attorney Catalano will prepare a resolution for the July Town Board Meeting.

#### **Firefighter Exemption/Senior Citizen Exemption/Disability and Low-Income Exemption**

Each of these exemptions must be put in place by a local law. Attorney Catalano will present a draft law for each exemption at the July Town Board meeting.

#### **New Town Website**

Supervisor Lagonia and Member Vogler noted that the new Town website will be launched in a few weeks. They each encourage the public to sign up to receive informational emails from the Town through the new website.

### **Public Comment**

Deb Ingleman questioned how the moratorium will affect the Planning Board monthly meeting on July 6, 2023. It will not impact the meeting. Application that can move forward will.

Kyle Reed thanks the Town Board for having this workshop and questions what happens to current or new applications present to the Planning Board at their July 6, 2023 meeting. Supervisor Lagonia noted that any project that currently does not have a decision made will stop. Attorney Catalano noted that there is not currently any application for a special use permit at the point of being approved yet.

Deb Oleynek noted the sign posted at the end of Dugway Road noting the road closure for the bridge project and questions how long the project will take. Supervisor Lagonia is not sure yet how long the project will take to complete and advises that Cross Road will not be used as a detour.

Brett Vanlandingham cannot help but notice that Planning Board applications have heave AirB&B uses. Supervisor Lagonia advised that Town Board has discussed this and will continue to do so. There is also State legislation coming that will be addressing this rental use. When discussing Zoning Code changes, this will be in the mix.

Kyle Reed questioned if something will come out of the Comprehensive Plan Update for more stringent rules for AirB&B use. Member Vogler noted that the Comprehensive Plan Update is roughly 50% complete and looking at the survey results, there was clear results showing a desire for regulations concerning AirB&Bs. This use will definitely be in the discussions.

Supervisor Lagonia noted that the Town has stopped some events in the past. Kyle Reed questioned what enforcement powers the Town has. Attorney Catalano advised that the Town does have enforcement criteria in place for any issue that arises that violates Town or State building codes. If someone constructs a building on a property for an event that has not been approved by the Planning Board, there is a process that takes place to stop that event. It was noted that staffing in the Code Enforcement Office is limited so it is helpful when residents can alert the Code Enforcement Officer to issues happening in Town.

Kyle Reed asked if Highway Superintendent Fitzpatrick could look at the broken pavement on West Hill and Dugway Road. Superintendent Fitzpatrick advised that he is aware of several poor spots in the pavement in areas.

### **Adjournment**

A motion to adjourn was made J. Wrightsman and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: yes

Motion carried 5:0.

Meeting adjourned at 7:52 p.m.

Respectfully Submitted,  
Susan Haag, Town Clerk