

Town of Austerlitz  
Regular Town Board Meeting  
February 15, 2024

Present: Robert Lagonia, Town Supervisor, Christopher Schober, G. Vogler, Cara Humphrey, Ken Kaplan, Town Board Members, Susan Haag, Town Clerk and Peter Fitzpatrick, Highway Superintendent.

Attorney for the Town, Joseph Catalano present.

Regular meeting called to order at 7:00 p.m.

Moment of Silence followed by the Pledge of Allegiance.

**Minutes**

A motion to accept the January 18, 2024 Meeting minutes was made by K. Kaplan and second by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

**Auditing of Accounts and Claims**

A motion to authorize payment of the February General Fund, #44-77 in the amount of \$39537.96 and Highway Fund, #12-28 in the amount of \$56786.77 was made by G. Vogler and seconded by K. Kaplan.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

**2023 Budget Amendment #2**

A motion to approve the 2023 Budget Amendment #2 was made by K. Kaplan and seconded by G. Vogler.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

		Increase to Appropriations	Decrease to Appropriations
<b>General Fund</b>			
A1990.4	CONTINGENT		4,602.00
A1320.4	ACCOUNTANT	1,350.00	
A3120.4	POLICE	3,252.00	
A8025.4	JOINT PLANNING BOARD		72.00
A8020.4	PLANNING	72.00	
	<b>TOTALS</b>	<b>\$ 4,674.00</b>	<b>\$ 4,674.00</b>

## Reports

### Supervisor's Report

Supervisor Lagonia noted there is around \$3.4 million in the bank. The Accountant for the Town, Bryon Sherman, advised that 2023 AUD should be completed by next week and sent to the Town for review. Once it is received, R. Lagonia will send to the Town Board Members. The AUD is required to be filed by the end of the month.

Supervisor Lagonia went on to note that there has been quite a bit of tree work done on the Town roads. This service seems to be working out well. A couple new antenna will be placed on the West Hill Road towers. These are for 911 purposes. The Columbia County 911 Department was also awarded a grant. The County has purchased a new facility that will house a number of offices, one of the 911 offices will be in the new building.

### Highway Report:

Phil says we're in for an early spring! Time will tell?

Our last storm was a challenging one to plow. The warm weather and rain the day before softened the roads making it a very slow go. These storms on soft roads seems to be happening more often and is very hard on both our roads, and our equipment.

A reminder to everyone, trash cans do not belong on the road, this includes the immediate shoulder! After your refuse collection please remove them from the roadside. Thank you.

Most likely we will be posting roads for spring soon due to unusually warm days and lots of water. There are signs, other than Phil, that say mud season is knocking on the door!

Due to that warm weather, we have needed to spend some time on pothole detail.

We had a bunch of crowded, overhanging and dead ash trees cut on East Hill Road and have been working on cleaning up the remaining brush from that work on both Fog Hill and East Hill.

We have started chewing on brush with the boom mower. There are sections to do all over but have started on Punsit and Pratt.

A tire on the old loader failed due to an old injury, split in the sidewall. I found a pair of used tires in excellent condition for sale at an extremely reasonable price. They should serve us very well.

I have been working on finalizing the Battery Powered Hand Held Power Equipment order that the Climate Smart Committee got us a grant for. I should have a delivery timeline soon.

Our Materials bids are in the process of being prepared and going out.

We will be continuing to tackle more maintenance and organizing projects in the shop between our outside work.

The Days are noticeably longer and it's time for sugar season!

End of Report

Highway Superintendent Fitzpatrick noted that mud season is upon us and requests that the Town Board give permission for the him to post the roads for weight limit. Superintendent Fitzpatrick did not realize the process that needed to happen for this permission. Attorney for the Town, Joseph Catalano, advised that there is no authorization in the Town code for this and there is nothing in past minutes giving permission for the Highway Superintendent to post. Vehicle and Traffic Law section 1660 gives a highway superintendent permission to restrict traffic based on weight limit. The Town Board must approve the posting, then the highway superintendent decides which roads to be posted. A legal notice must be placed in the official Town paper stating the posted roads.

Supervisor Lagonia noted that basically mud season has started already and there are lots of heavy equipment already on our roads with the potential to ruin them. Attorney Catalano advised that the weight limit does not preclude or prohibit certain traffic. It only prohibits thru traffic. There is a possibility of adopting a local law that prohibits certain traffic during certain time frames. Highway Law does state that people can not ruin roads, but this is applicable for situations like dragging logs across a road. It might apply to non-essential vehicles. Vehicles weighing above the posted weight limit can apply for a permit to travel the roads.

The Town Board discussed past practice noting that a formal authorization needs to happen for a common practice that has been done in the past.

A motion was made by K. Kaplan and seconded by C. Humphrey to adopt Resolution #33-2024, Weight Limit Restriction Town Roads

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

BE IT RESOLVED that the Town Board hereby orders the Town Highway Superintendent to temporarily exclude from any portion of any town highway any vehicle with a gross weight of 5 or more tons and such exclusion shall take effect upon posting of signs on the section of the highway where such vehicle is prohibited from traveling, and

BE IT FURTHER RESOLVED that upon written application to the Town Board an operator of a vehicle may request a permit to be exempt from such weight limit pursuant to section 1660 of the Vehicle and Traffic Law paragraph 11.

Attorney for the Town, Joseph Catalano, noted that a public notice should be placed each year. Attorney Catalano will work on a public notice with the Town Clerk and Highway Superintendent.

The Town Board and Highway Superintendent discussed garbage cans in the public right of way. Attorney Catalano will look into this.

Town Clerk Report for the month of January 2024 submitted.

Tax Collector Report for the month of January 2024 submitted.

Planning Board Report for the month of February 2024 submitted.

No Comprehensive Plan Advisory Committee Report.

Town Board Member Vogler noted that the CPAC sent out the draft Comprehensive Plan to other boards and committees for review and have received back comments. The CPAC is now reviewing those comments. Once complete, an updated draft plan will be sent to the Town Board and put out for public viewing.

Building Inspector/Code Enforcement Report for the month of January 2024 was submitted.

Justice Cassuto Justice Court Report for the month of January 2024 submitted.

Justice Grubin Justice Court Report for the month of January 2024 submitted.

Dog Control Report for the month of January 2024 submitted.

Climate Smart Report for the month of February 2024 submitted. An updated Annual Energy Benchmarking Report was also submitted. Town Board Member Humphrey would like a notice to be put out and on also put on the website concerning this report

Climate Smart Committee Member Johathan Miller and Jere Wrightsman has been interviewing community members on film about their relationship with the landscape in Austerlitz and what changes they have seen over the years. J. Miller is an Emmy award winning filmmaker so this project may make Austerlitz famous!

The County Climate Smart Committee is looking into a grant for roughly \$900,000.00. This will need Town Supervisor support.

Member Humphrey reminded the Town Board about the Repair Café to be held April 13<sup>th</sup> which the Town Board agreed to support. This will be a small scall event with maybe an outside tent off the blacktop for lawn mower repairs.

A motion was made to accept the monthly reports by K. Kaplan and seconded by C. Humphrey.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

### **Correspondence**

None

### **Unfinished Business**

#### **BAR Appointment**

A motion to appoint E. Scott Mesick to the Board of Assessment review with a term running from October 1, 2023 to September 30, 2028 was made by R. Lagonia and seconded by K. Kaplan.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0.

### **New Business**

#### **2024 Highway Form 284**

The Town Board discussed the submitted Highway Form 284. Highway Superintendent Fitzpatrick noted that he may want to change a few numbers before next month when this will be formalized. Discussion centered on projects listed and why certain roads are prioritized over other roads. Supervisor Lagonia and Member Vogler believe there should be some criteria for deciding which roads are prioritized and would like to see a road plan.

Supervisor Lagonia advised that pricing for projects is being garnered in two different ways: a cost for the Town's Highway Crew to do the work and a cost for an outside company to do the work. Outside companies seem to be more efficient and faster which would leave the Highway Crew available to take care of normal everyday projects that are important and need to get done. Money for the projected projects will come from C.H.I.P.s and reserves.

### **Resolution #31-2024 Introductory Local law #1-2024**

Attorney for the Town, Joseph Catalano, advised that since the Town Board authorized a complete update of the Town's Comprehensive Plan and it recognized that there exist problematic issues with the current Town Zoning Code, due to be updated in conjunction with the Comprehensive Plan update process, that the Town Board enacted a 9-month moratorium on certain land use development until the process could be complete. That moratorium is set to expire in April of this year. Although much work has been done in the update process, more time is necessary beyond the expiration date of April 17, 2024. Therefore, the Town Board is looking to enact an extension to the moratorium.

A specific project was discussed concerning an application put in by Columbia County concerning updating 911 antennas on an existing tower and this being subject to a special use permit. Attorney Catalano does not believe the moratorium prohibits telecommunication permits, especially those used for 911 purposes. Attorney Catalano explained how the approval process works for telecommunication projects noting that the FCC takes precedence and an application really does not have to go to a town planning board. The projects do come before a planning board so a town does get the chance to review.

There were no changes made to the introductory Local Law #1-2024 as it was presented.

A motion to adopt Resolution #31-2024 Introductory Local Law #1-2024 was made by K. Kaplan and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: 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 ongoing and nearing the public comment stage; and

**WHEREAS**, the Town Board also recognizes that there currently exists problematic issues with the current Town Zoning Code as previously documented and that the Zoning Code will be amended in conjunction with the Comprehensive Plan update process; and

**WHEREAS**, in July 2023, the Town Board enacted a 9-month moratorium on certain land use development due to its concern that, while the Comprehensive Plan and Zoning update 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**, the Town Board confirms its belief 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 and Zoning Code update process is in progress would best serve the interests of the Town and its residents; and

**WHEREAS**, the 9-month moratorium established by the adoption of Local Law No.1 of 2023 is due to expire on April 17, 2024; and

**WHEREAS**, the Town Board finds that, although much work has been done in the update process including a complete draft Comprehensive Plan being readied for public comment, more time is necessary, beyond the two months left before the moratorium is due to expire, in order to complete the process; and

**WHEREAS**, a proposed Town Local Law (introductory Local Law No. 1 of 2024) that would continue the moratorium already in place for nine additional months has been prepared and reviewed by the Town Board;

**NOW, THEREFORE, BE IT RESOLVED** as follows:

- a) The Town Board hereby introduces and proposes for adoption introductory Local Law No. 1 of 2024 of the Town of Austerlitz which continues the 9-month moratorium effective on July 18, 2023 by Local Law No. 1 of 2023 for another nine months from April 18, 2024, the date the 2023 Law will expire.
- b) 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.
- c) The Town Board hereby schedules a public hearing for the proposed Local Law No. 1 of 2024, to be held at the Town Hall, on March 21, 2024, commencing at 6:45 p.m.
- d) 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.
- e) This Resolution shall take effect immediately.

### **Resolution #32-2024 Fund Balance Policy**

Attorney Catalano explained that although the Town of Austerlitz has a policy on how it handles its fund balance, no policy has been memorialized in a document. It is a good idea for a town to have a fund balance policy explaining how and why a town board is handling money the way they are. Attorney Catalano explained town reserve accounts and what the Town of Austerlitz has. A lot of money in the unallocated fund balance which is not tagged for any particular item is not good. The Town needs to be stable and have access to money in case of emergencies though, so some non-allocation is okay.

A motion to adopt Resolution #32-2024, Fund Balance Policy was made by C. Schober and seconded by K. Kaplan.

R. Lagonia: yes

G. Vogler: yes  
C. Schober : yes  
C. Humphrey: yes  
K. Kaplan: yes  
Motion carried 5:0.

**WHEREAS**, the Town Supervisor, Deputy Supervisor and the Town Board monitors and manages the Town finances throughout each fiscal year to ensure that the Town of Austerlitz meets its budgetary needs and has enough funds on hand to adequately maintain Town buildings and infrastructure as well as to provide appropriate services to its residents; and

**WHEREAS**, the Town Board also recognizes that managing the Town's finances also involves planning for future events that may be unexpected such as weather-related emergencies, breakdowns in equipment, or repairs to Town buildings as well as reductions in non-property tax revenue streams due to regional or national economic factors or unforeseen circumstances such as the Covid-19 pandemic; and

**WHEREAS**, although such circumstances are out of the control of the Town Board and Town officials, that is no reason to not plan for such circumstances in order to maintain financial stability and continuity for the Town government; and

**WHEREAS**, accordingly, the Town has over the last few years been trying to have enough funds in reserve for the Town to meet its needs in the event circumstances arise that may not be able to be calculated for in the Town's annual operating budget; and

**WHEREAS**, the Town Board believes that such fiscal approach is in the best interests of the Town's taxpayers in order to maintain stable property tax rates over a long period of time and in the best interests of all Town residents to ensure appropriate Town services are not disrupted or need to be reduced; and

**WHEREAS**, the Town Supervisor and the Deputy Supervisor have developed a policy over the years for this purpose but such policy has not been memorialized in an official written policy of the Town and, to address that, have prepared a written policy on Town Fund Balances;

**WHEREAS**, a proposed Town Fund Balance Policy regarding both unallocated and reserve funds has been provided to the Town Board for its review;

**NOW, THEREFORE, BE IT RESOLVED** as follows:

- a) The Town Board hereby introduces and adopts the Town of Austerlitz Fund Balance Policy, dated February 2024, as attached hereto.
- b) The Town Board believes that this policy should be adhered to as much as is practical and also should be revisited on an annual basis and updated as appropriate.

This Resolution shall take effect immediately.



**Public Comment**

Debbie Oleynek advised that she received an email from the Columbia County Health Department concerning the new AED requirement. D. Oleynek will make sure the Spencertown Fire Company is onboard with this purchase. The question was raised as to who maintains and inspects the AED and was answered that normally the company you buy the AED from. D. Oleynek will have the AED purchased by May and it will be locked up when the Summer Recreation Program is not in session.

D. Oleynek questioned whether anyone heard about a new cell tower going up in Town. Supervisor Lagonia noted that the Town was approached about putting a tower on Town owned property some month ago. The Town said they would like to discuss, but no one reached back out. Attorney Catalano noted there are no new Planning Board cell tower projects currently.

**Adjournment**

A motion to adjourn was made by G. Vogler and seconded by K. Kaplan.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

C. Humphrey: yes

K. Kaplan: yes

Motion carried 5:0. Meeting adjourned at 8:25 p.m.

Respectfully Submitted,  
Susan Haag, Town Clerk