

Town Of Austerlitz
Regular Town Board Meeting
August 19, 2021

Present: Robert Lagonia, Supervisor, Greg Vogler, Chris Schober, Maureen Wilson, Town Board Members, Robert Meehan, Highway Superintendent and Susan Haag, Town Clerk.

Attorney for the Town, Joseph Catalano also in attendance.

Town Board Meeting called to order at 7:02 p.m.

Moment of Silence, followed by the Pledge of Allegiance.

Minutes

A motion to accept the July 15, 2021 Meeting minutes was made by C. Wilson and seconded by G. Vogler.

R. Lagonia: yes

G. Vogler: yes

C. Schober : yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

Auditing of Accounts and Claims

A motion to authorize payment of the August General Fund, #255-290, in the amount of \$32266.14 and Highway Fund, #172-194, in the amount of \$23233.21 was made by C. Schober and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

Reports

Monthly Cash Disbursement and Supervisor Report

Monthly Cash Disbursement Report for the Month of July 2021 submitted. Supervisor Lagonia advised that there is roughly \$2 million in the bank. The Town did receive a stimulus check. Sales and mortgage tax revenue are up so this is positive.

Supervisor Lagonia met with Architect William Wallace and Contractor Bob DaLoia to discuss construction issues with the new Town Hall. B. DaLoia is fixing the issues and if there are some that he does not correct, the Town will hire another contractor. The ceiling is being watched for leaks which does not seem to be happening currently like it was.

Congressman Antonio Delgado announced that the Towns of Ghent, Canaan, Austerlitz and New Lebanon received grant money to be used for broadband. Currently, a list of names is being put together for those that need internet. A survey of the Town is also being done for those in need. Both lists compiled will be compared and consolidated. The project will go out to bid and Consolidated Communications and Mid-Hudson Cablevision will bid. Mid-Hudson is only interested in bidding for the Towns of Ghent and Austerlitz. Spectrum was very expensive and probably will not bid. There will be conversations concerning how to disseminate the money. 91% of the requested grant money was given with the understanding that the four Towns will put in the rest.

As most can see, banners and lawn signs have been put out announcing the availability of broadband. The Town can use this as a communication test. So far, there have been quite a bit of responses.

Town Board Member Maureen Wilson questioned how the decision is to be made on who will get broadband and who will not. Supervisor Lagonia advised that the Towns will not be making this decision. The company that wins the bid will make the decision of what is feasible and what can be done. Residences that can currently get broadband, but don't want to pay for it, or those who already have broadband and want more, will not be on the list to receive. The only residences to be included in this grant are those who do not have.

The County is still holding COVID meetings and is looking for a place to house COVID patients if another outbreak comes. Currently the County has been very stable. 75% of the County has been vaccinated and there is no mask mandate right now. The County is planning for booster shots and sights for those who want them.

Highway Report

Highway Superintendent Meehan reported that the Highway Crew has been patching Rigor Hill Road and Punsit Road for oil and stone to be put down in September. The new culvert for Bryarcliffe will come in sometime in October. Removal of what is there will happen the second week in October. Engineer for the Town, Ray Jurkowski will provide guardrail needs to Chemung.

Supervisor Lagonia noted that he and Highway Superintendent Meehan had a meeting with Tom Moreland, the Town's Engineer and T. Moreland's Engineer concerning the work to be done on the Strawberry Hill Bridge replacement project. The two engineers will get together and work out plans that suit each of the parties involved. The Town of Austerlitz' Engineer has already done up plans, but T. Moreland's Engineer has some issues. An easement to work on this project has to be secured from T. Moreland and T. Moreland would prefer not to see certain pieces of the bridge from his house. There is a drop-dead date of September 15, 2021 for T. Moreland's Engineer to get the Town revised plans and for the easement to be signed. If this deadline is missed, the Town will go with its original project specs. This bridge project needs to be completed this year and the Town is only allowed in the stream per NYSDEC until a certain time frame. Attorney Catalano also noted that if the Town decides to use the revised plans as submitted by T. Moreland's Engineer, an RFP will need to be completed and the project put out to bid.

The Highway Crew is also ditching and R. Meehan advised that the new Schoolhouse Road culvert has been delivered and will be installed the 2nd or 3rd week of September.

Supervisor Lagonia questioned Highway Superintendent Meehan if there was any equipment needs since it is budget time and he will be retiring at the end of the year. Superintendent Meehan advised that equipment needs would include a bucket truck and leaf sucker. These are just considerations as the new Highway Superintendent coming onboard in January might have other plans.

Discussion was heard concerning the material and equipment sitting on the corner of State Routes 203 and 22.

The Town Board discussed the acoustics in the meeting room at the new Town Hall. Supervisor Lagonia advised that Jack Shear has pledged additional money and this would be a good place to use that pledge. R. Lagonia will speak to J. Shear and Architect Wallace.

Town Board Member Schober spoke concerning options for an electronic signboard for outside the Town Hall. In researching the options, Member Schober found one that is small but was priced at \$20,000.00 which is quite expensive. Supervisor Lagonia priced options and found a sign like the one at the Spencertown Fire House which runs for around \$3000.00. The letters in this type of sign are encased so they will not blow away. The Town Board will have to assign someone to be responsible for changing the messages on this sign. The consensus of the Town Board was to have Supervisor Lagonia continue to look into this type of sign and bring back specific options.

Town Clerk Report for the month of July 2021 submitted.

No Planning Board Report for the month of August 2021 submitted.

Comprehensive Plan Oversight Committee Report for the months of July and August 2021 submitted.

Building Inspector/Code Enforcement Report for the month of July 2021 submitted.

Justice Cassuto Justice Court Report for the month of July 2021 submitted.

Justice Grubin Justice Court Report for the month of July 2021 submitted.

Dog Control Report for the month of July 2021 submitted.

Climate Smart Report for the month of August 2021 submitted. Chair Vogler noted the following:

- The contract with DeeAnn Veeder as the Austerlitz Climate Smart Communities Task Force Coordinator has expired. The committee is working on additional grant funding

for a next phase of activity. Once the funding is secured, and unless the board objects, the position will be posted and the hiring conducted again through a competitive hire process. Anyone will be able to apply.

- The Office of Climate Change has raised several questions about the Climate Smart Communities bronze certification submission. This may result in a delay in getting our certification.
- Two bids/proposals have been received for Community Solar. An evaluation team will begin meeting next week to evaluate the proposals with the aim of making a recommendation to the town board for consideration at the September Town Board meeting.
- Feedback from committee members regarding the Climate Committee website have been received and some changes are being made. After that, the website will be made available to the town attorney for his feedback followed by a formal release. The development of the website is funded by a generous contributor.
- The plans for a Repair Cafe continue, as a collaborative effort between Austerlitz, New Lebanon, Canaan, Chatham and Nassau. The event is scheduled for October 23rd, and New Lebanon will be the host. The plan is for subsequent events to follow, to be held in additional towns like Austerlitz.
- NYSEG has finally installed LED lights for the Town streetlights. This has been a process three years in the making. The cost of the LED streetlights is almost entirely being paid for through a grant from NYSERDA.
- NYSEG has informed the Town that it is switching us from Remote New Metering to Remote Crediting. More to follow on this, as a complex document must be completed and submitted to NYSEG.
- Recycling at Town operations including the Spencertown Town Park is continuing. The committee discussed the possibility of setting up an easier process for residents to recycle electronics which must now be taken all the way to Greenport. New Lebanon has a similar process in place.
- The committee discussed the status of an effort to enhance the County's Natural Resources Inventory (NRI) with a greater level of specificity for Austerlitz. This could be useful to the Planning Board when reviewing the environmental impacts of a planned project.
- The County's Environmental Management Council (EMC) continues to meet with many ongoing activities, including a recent hosting the County's Good Earth Keeping Award ceremony. One of our residents - Paige Ruane - was a recipient.
- CPOC reported that the survey is still available on the Town website, so please complete the questionnaire if that is not already done.

A motion to accept the above reports was made by G. Vogler and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

Correspondence

Rae Gilson: Use of the Town Green

Permission is requested to use the Spencertown Town Green on August 28, 2021 from 9:00-2:30 pm for the Spencertown Academy's Annual Hidden Garden Tour Market on the Green. Additional request for the section of County Route 7 to be closed in front of the St. Peter's Presbyterian Church.

A motion to allow use of the Town Green by the Spencertown Academy's Annual Hidden Garden Tour Market on the Green from 9:00-2:30 pm and to close part of County Route 7 was made by M Wilson and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

NYSTCA: Congratulation Town Clerk Susan Haag President

Congratulatory notice that Susan Haag is the President of the New York State Town Clerks Association for the 2021-2022 year.

Unfinished Business

Cannabis Regulations

Attorney for the Town, Joseph Catalano laid out the following for the Town Board Members to consider:

In March 2021 the Marijuana Regulation and Taxation Act (MRTA) was adopted. The bill creates an entirely new area of law, Cannabis Law, in New York State. It creates state offices, establishes a licensing system, and comprehensively regulates different aspects of medicinal and adult use cannabis and hemp (or CBD). It also makes changes to Tax Law, Public Health Law, and creates a new article in the Penal Code.

The following is a summary of key components of the law as it relates to local governance in the Town of Austerlitz.

- Town can opt out of law as it relates only to retail dispensaries and on-site consumption licenses (like a bar for smoking – this might include actual bars and restaurants and other gathering places with the added option to smoke pot on premises)

- the Town, if it does not opt out, still has authority to regulate time, place, and manner of retail dispensaries and on-site consumption places (if Town opts out such uses will not be able to get license from State)

- (such regulation cannot make operation "unreasonably impractical")

- can use current zoning and building code regulations

- under Town's present zoning code, a new dispensary would be classified as retail business requiring a special use permit and site plan approval

- Town has no authority to control any other aspect of industry (growers, distributors etc.) whether it opts out or not
- Town can opt out of both dispensaries and on-site consumption, or one of the two
- Opt out must be by local law subject to permissive referendum and law must be adopted before 12/31/21 - only one chance to opt out
- If Town opts out, it can opt back in by repealing law, also subject to permissive referendum
- Note that County cannot opt out
- Once Town opts out, Town will be precluded from sharing in tax revenue generated -
 - percentage for retail sales at the dispensary is 9%
 - there is an additional 4% excise tax - County gets 25% of that and 75% gets distributed to towns, villages, cities
 - in addition, state collects tax based on THC content from point of sale from distributors to dispensaries
(note that MA adds about 10-12% tax on pot sales in addition to sales tax total tax is approximately 20%)
- if any retail dispensaries and on-site consumption place is seeking a license from State for a location in the Town, applicant must send notice to Town at least 30 days before applying to the State and Town has opportunity to comment on license application (similar to liquor license process) (this is in addition to local zoning)
- regulations have not been issued yet, more details will be available once regulations are out. So more will follow. License process will most likely not be up and running until end of this year or early 2022
- right now consuming pot recreationally is legal. Law became effective on July 13th. Regulated just like smoking or vaping tobacco, not near schools, or any place posted with no smoking signs (with exception you can't smoke in moving vehicles).
 - Local governments may impose own smoking and vaping restrictions on Town-owned or Town-controlled properties
- growing marijuana on one's residential property ("personal cultivation") will also be legal once regulations are promulgated (individual up to 3 adult plants and 3 immature plants; family up to 6 adult plants and 6 immature plants)
- landlords cannot prohibit a pot consumer from renting but can ban pot smoking on premises as part of rental agreement.

Attorney Catalano does not believe the Town should be concerned about having dispensary sights popping up all over Town due to the heavy regulatory parameters that the State will be putting in place. Those wishing to open a dispensary will need a lot of capital to pay for the processing, insurance and ongoing security.

If the Town Board decides to opt out, the Town Board must pass a law before December 31, 2021 which would be subject to a permissive referendum. In order to force the referendum, the Town Clerk must receive a certain number of petitions within 30 days of passing the local law.

Supervisor Lagonia believes it will cost the Town more money to opt out, between legal fees for the local law and possible referendum fees; the Town will also lose cannabis revenue through the County Tax sharing; and the Town will probably not have any dispensaries in Town anyway. If someone would like to put in a dispensary, the Town also has the ability to control its location through its Zoning code.

Supervisor Lagonia continued that this issue, plus other areas of the Zoning Code, need to be implemented or updated. Town Board Member Vogler believes that the Town should not opt out, but rather update the Zoning Code to address possible approved location sites for dispensaries. Town Board Member Schober agrees. Attorney Catalano advised that the State's regulatory system is not up and running yet and probably will not be until mid-2022 so the Town has time to put some regulations in place. Member Vogler does not want to see long lines of people waiting to get in and out of dispensaries.

As a side note, the Town cannot opt of growers.

Attorney Catalano discussed how these types of businesses would gain Planning Board approval, which is a step even before there are any updates or inclusions to the Zoning Code.

Supervisor Lagonia noted that by the beginning of the new year, the Town Board needs to be looking at several areas of the Zoning Code and get those changes made.

Town Board Member Wilson noted that the truth is that alcohol is consumed everywhere and cannabis is similar. M. Wilson does not believe the Town should be against this.

The Town Board consensus is not to opt out of the new cannabis regulations. Attorney Catalano noted that the Town Board can always hold an informational meeting to get the temperature of the Town residents if the Board felt this was necessary. Attorney Catalano is not seeing other Towns do this though. If the Town Board changes its mind, there is still time to start the local law process in October to have a law in place by the December 31, 2021 deadline.

Discussed how the State of Massachusetts is handling this.

Broadband

Discussed

TextMyGov

Town Board Member Maureen Wilson had asked the Town Board Members to review the TextMyGov application for possible purchase by the Town. TextMyGov uses smart texting technology to communicate with citizens 24/7. Local government agencies can answer questions, send links to their website, and provide details on garbage pickup, utility payment, town news, events, office hours, department locations and more. In addition, TextMyGov uses smart texting technology to engage with citizens. Citizens can easily report code violations, public works issues like potholes, signs down, drainage problems, tree trimming, sewer smell, and more. Agencies can engage citizens, start a workflow, and ask specific guided question regarding location, address, street name and more. Also, TextMyGov uses smart texting technology to maximize a town's website (compatible with any website). Citizens can text in key words like festival, parking, ticketing, and more. The smart texting technology can answer the question, or send a link from the Town's website with additional information.

Town Board Member Vogler noted that as a result of COVID, the Town has grant money from FEMA in which there are different opportunities. In looking at the TextMyGov application, this may be an opportunity in which the grant money can be used for. Member Vogler will continue to look into this.

Member Wilson noted that the consensus of those Board Members who reviewed this application thought it was useful and a good project. The question is whether or not residents will use it. Important to Member Wilson is the ability for this application to give the Town a documentation trail and may also ease up some work for employees. If the Town decides to purchase this application, it must sign a 2-year contract which will cost \$4800.00.

Member Vogler noted that one of the appealing parts of this application is that residents provide telephone numbers which will be usable in the future to push information back out to residents via text messaging. In addition, if a resident wants to communicate with us, they can do it any time. It's a very convenient way for residents to communicate.

New Business

Columbia County Mutual Self-Insured Program, Resolution #40-2021, Join Municipal Group Self Insurance Program (PERMA)

The Columbia County Mutual Self-Insured Plan has decided to join PERMA, The Public Employer Risk Management Association, to provide Workers' Compensation coverage effective August 1, 2021. In addition to the County joining PERMA for this coverage, it is necessary for each current plan participant to formally join PERMA as well and the Town of Austerlitz is a current plan participant.

Supervisor Lagonia noted that the County is taking the County/Town self-insured program and joining a larger group who is financially secure, have better reporting, service 324 members and are one of the largest self-funded municipal workers compensation pools in the Country. In addition, they are endorsed by NYSAC, as well as other organizations and come with high recommendations and a very qualified governance board. This will decrease the County liability as PERMA will assume all liability moving forward and put the County is a much stronger

financial position. The decision for the County to collectively join PERMA will provide a group discount rating, and will guarantee the cost of coverage through December 31, 2024.

A motion to adopt Resolution #40-2021, Join Municipal Group Self Insurance Program (PERMA) was made by G. Vogler and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

Resolution #40-2021, Join Municipal Group Self Insurance Program (PERMA)

WHEREAS the Town Board of Austerlitz as the Authorized Representative of the Town of Austerlitz desires to secure the Town of Austerlitz' obligation to provide volunteer firefighters' benefit law, volunteer ambulance workers' benefit law and workers' compensation benefits, as applicable, through participation in a group self-insurance program of which the Town of Austerlitz will be a member,

NOW BE IT RESOLVED that the Authorized Representative of the Town of Austerlitz, duly convened in a regular session, does hereby resolve, pursuant to, and in accordance with the provision of Section 50 3-a of the New York State Workers' Compensation law and other applicable provision of law and regulations thereunder, as follows:

Section 1. The Authorized Representative (hereinafter "Representative") of the Town of Austerlitz does hereby resolve to secure the Town of Austerlitz' obligation to provide volunteer firefighters' benefits law, volunteer ambulance workers' benefit law and workers' compensation benefits, as applicable, through participation in a group self-insurance plan of which the Town of Austerlitz will be a member;

Section 2. The Representative of the Town of Austerlitz does hereby resolve to become a member of Public Employer Risk Management Association, Inc., (PERMA) a workers' compensation group self-insurance program for local governments and other public employers and instrumentalities of the State of New York;

Section 3. In order to effect the Town of Austerlitz' membership in said group self-insurance program, the Town Supervisor as the authorized officer of the Town of Austerlitz is hereby authorized to execute and enter into the Public Employer Risk Management Association Workers' Compensation Program Agreement, annexed hereto as Exhibit A, on behalf of the Town of Austerlitz;

Section 4. This Resolution shall take effect immediately for coverage effective August 1, 2021.

Community Solar Bid

The bids will be reviewed and brought to the September Town Board meeting.

Public Comment

Erlyn Madonia stated that according to Open Meeting and FOIL laws, minutes of Board meetings are to be complete, available and on the Town's website 2 weeks after each meeting. Town Clerk Haag noted that actually the law reads that minutes have to be complete and available to the public 2 weeks after each meeting. There is nothing in the law concerning websites. Town Clerk Haag also noted that her minutes are in fact completed and available within this time frame.

Town Clerk Haag also notes that the minutes are not put on the website until the Town Board has reviewed. The Town Board has the opportunity to change, correct, add or delete before accepting a set of minutes. This is true for the Planning, ZBA and other Boards of the Town. Clerk Haag would prefer not to have draft minutes, that can be changed, on the website so there will be no confusion if in fact anything is changed.

E. Madonia noted that the minutes can be marked 'draft' and that the intent of the Open Meeting Law is to make information available. It depends what kind of Town the Town Board wants to be. Town Clerk advised that it has always been the case that if E. Madonia or anyone else would like a draft copy of the minutes, they can be requested through a phone call or email.

E. Madonia stated that it seems that people have so much angst if someone wants to open a liquor store, but opening a pot store seems to be a moot point.

Erin Stamper advocates adopting the texting program, TextMyGov. Communication between the Town and its residents is good. Communication that is sent out now seems muddled. Much regularly goes into spam. The Town needs to get something better in place.

E. Stamper is also an advocate of not opting out of the cannabis law because of the income that is available to the Town. There is interest in the Town for this instead of another venture that may come to Town. She is thoughtful of how anti-cannabis the Town is.

E. Stamper asked if the Town gets more revenue is the dispensary is located in the Town of Austerlitz. Attorney Catalano is unsure, but it works like sales tax in that the money goes to the County and a town's share is distributed from there. A Town can not charge other fees for this that they would keep for themselves.

Attorney Catalano noted that a resident complained about the broadband lawn signs that are scattered throughout Town. It is not that this resident does not like the project, but rather that he does not think the signs follow our sign law. Attorney Catalano advised that a Town can go against its own law if it suits the public interest and in this case, these broad band notification signs do. These are temporary signs as well. The Town Board should review the current Town sign law when reviewing the Zoning Code. Enforcement for sign violation has not been happening. Member Vogler feels it is time to review this section in the Code and it will be added to the list. The Consensus of the Town Board is to add this section of the Zoning Code to the list of sections to be reviewed and updated.

Adjournment

A motion to adjourn was made by G. Vogler and seconded by M. Wilson.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: yes

J. Wrightsman: absent

Motion carried 4:1.

Meeting adjourned at 8:24 p.m.

Respectfully Submitted,
Susan A. Haag, Town Clerk