

Town of Austerlitz  
Town Board Meeting  
August 21, 2014

Present: Robert Lagonia, Supervisor, Greg Vogler, Jon Mesick, Bryan Geel, Matthew Verenazi, Town Board Members, Robert Meehan, Highway Superintendent, and Susan Haag, Town Clerk.

Meeting called to order at 7:00 p.m.

Moment of Silence, followed by the pledge of Allegiance.

**Minutes**

A motion to accept the July 17, 2014 Regular Town Board Meeting minutes was made by B. Geel and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0

**Budget Amendments/Auditing of Accounts and Claims**

The Town Board discussed a Morris Associates bill, voucher #137. Highway Superintendent Meehan advised that communication between Engineer Paul McCreary, the Town, and himself concerning the Harvey Mountain Road culvert replacement project has been tough. This project should have been started earlier, but R. Meehan has been waiting on things that are outside of his control; specs, permits, funding.

A motion to approve 2014 General Fund #258-289, in the amount of \$21407.40, and Highway Fund #144-162, in the amount of \$22671.00, was made by G. Vogler and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0

**Reports**

**Monthly Cash Disbursements and Supervisor Report**

Monthly Cash Disbursements for the month of July 2014 submitted. Supervisor Lagonia noted that he has been following the numbers daily. The sales tax figures are up, and revenues are in line. The earlier revenue concerns in the Justice Court area have seemed to even out and this area is now on track and may in fact go over what was budgeted. Expenditures are pretty much on track as well.

Town Board Member Geel noted that he is concerned about the cost of the Enhance Patrol program. Supervisor Lagonia noted that for the remainder of the year, starting after Labor Day, he felt that the patrol would only sit in Town for one day a week instead of two. R. Lagonia hopes to save roughly \$10000.00 by decreasing this service. The Town is now fully utilizing the speed sign as well. Supervisor Lagonia also noted that the amount budgeted for the Enhance Patrol program is being looked at for next year. Town Board Member Vogler noted that since the speed sign generates data which includes speeds cars are traveling, the Town can use this information to determine areas in Town where patrols need to be done. If the Town feels additional patrols are warranted, the Town Board can bring back the additional patrol time. The ticket money received when the Columbia County Sheriff's Department sits on the Parkway, pays for the cost of the Enhanced Patrol. Supervisor Lagonia noted different scenarios and schedules that the Town could choose concerning this program.

The Town Board discussed the different reports the Town can generate from the data secured from the speed sign. This sign does seem to be working to help lower speeds.

Supervisor Lagonia advised that the NYS Comptroller's Auditor finished his field work, but the Town has not yet received the final results. They will be distributed when received.

Supervisor Lagonia advised the reason that the Town can now utilize the speed sign on State roads is not because the permit from the NYSDOT has finally come in, but rather because the Columbia County Sheriff's Department has taken responsibility for the sign. The NYSDOT grants permission if the CC Sheriff's Department has control. Currently, Highway Superintendent Meehan moves the speed sign and calls the Sheriff's Department to advise them where it is placed. The Town still insures this sign.

Supervisor Lagonia advised the Town Board that he and Town Board Member Vogler have started to work on the 2015 budget. Budget requests from all departments have been submitted at this point. A starting budget will be compiled, and worked on. Once this is done, the budget will be turned over to the Accountant for the Town, and then submitted to the Town Board. The approach that is being taken, is to plug in real numbers first, then adjust depending on revenues and expenditures requested. Supervisor Lagonia thanked Member Vogler and noted he has been a tremendous help.

Town Board Member Vogler advised that he needs to understand what tax assessed values are used for the tax cap. Supervisor Lagonia advised that the Town needed to adopt a tax cap law this year prior to budget completion, whether or not the Town decides to put forth a budget that goes over the tax cap.

Supervisor Lagonia is happy with the new Accountant for the Town, Nelson Furlano, and the work his company is doing.

Supervisor Lagonia referred to the report submitted by Morris Associates Engineer, Paul McCreary concerning different outstanding projects in the Town. Concerning obtaining grant money for Hurricane Irene/Tropical Storm Lee flood damage, it was determined that the grant

process would be to arduous, and expensive to apply for with the grant monies not covering 100% of the design and construction/work.

Concerning the Harvey Mountain Road culvert project, P. McCreary noted that a NYSDEC permit has been received. Culvert fabrication has begun and all precast items are expected to be delivered by the week of September 15, 2014.

Concerning the culvert replacement on Mallory Road, the culvert size was designed and NYSDEC permit has been received.

Concerning the stream work behind the Austerlitz Firehouse, Supervisor Lagonia noted that it is extremely difficult to get permits from the many State Agencies that would be involved in this work. A preliminary meeting with the NYSDEC needs to be set up to find possible solutions and what permits could be secured for. This project will not get done in the time frame that all had hoped for.

Supervisor Lagonia advised that the Summer Recreation Program has concluded. There were less attendees this year, which may or may not have to do with the price increase. An analysis of costs verses revenues has not yet occurred. Program Director D. Oleynek is pleased with the program this year and it was as successful as always.

Supervisor Lagonia met with the Supervisors from the Towns of Canaan, Chatham, Ghent and New Lebanon to discuss funding for the Chatham Rescue Squad. The Chatham Rescue Squad is in danger of closing if funding does not increase. It appears that in the past, the Town of Austerlitz has been paying way below the amount the other Towns have been paying for this service. The amount paid by the Town of Austerlitz is paid through the County and reflected in the millage rate for the Town of Austerlitz for the County portion of the tax levy.

If Chatham Rescue Squad closes it's doors, the emergency service options open to the Town of Austerlitz are not very appealing. Services would come from some type of County run system, maybe from the Valatie Rescue Squad which would seriously lengthen response time. The Valatie Rescue Squad funding is based on population. For the Chatham Rescue Squad, each Town pays what they deem is appropriate, not based on any formula. Town Board Member Geel feels that each town should pay their fair share, but there should be a formula for this. Town Board Member Mesick gave a history of how the Chatham Rescue Squad was set up and funded, and cautioned that some of the parameters by which the Chatham Rescue Squad operates are different for different Towns. For example, there is a satellite station in the Town of Canaan.

The amounts paid by other Towns range roughly between \$30000.00 and \$185000.00. The Town of Austerlitz is the low figure and the Town of Canaan is asking us to double this amount for the 2015 tax cycle.

There is a meeting with the Chatham Rescue Squad for tomorrow.

Supervisor Lagonia explained an expansion project of the NYSEG Corporation. The NYSEG Corporation has begun the process holding various public meetings in the County for interested

parties. Upon learning about this project, some residents in Ghent formed a coalition to fight the expansion. Through their efforts, the projected path of new power lines has been altered. Part of this path passes through the Town of Austerlitz. Supervisor Lagonia recently went to the last of the public meetings and gleaned that the path through the Town of Austerlitz is part of phase 2 of the project and may not ever come to fruition. These new power lines are being put in for future growth and outage backup. Some of our Town residents are for this growth, and some are not. NYSEG Corporation has forms to be filled out by residents who would like to take a position on this project. These forms are on the Town's website for those interested. Supervisor Lagonia filled out forms on behalf of the Town of Austerlitz. There will be a public hearing in September for this project. Time and place will be announced by NYSEG and the Town will be notified.

Condolences to the family of June Blake who passed away recently.

#### Columbia County

On a County level, Supervisor Lagonia advised that the same issues are prevailing; the future of Pine Haven and the Columbia County Airport expansion. An RFP has been put out for the sale of Pine Haven. Ginsberg's have a new project which has become a hot button issue.

Town Clerk Report for the month of July 2014 submitted.

#### Highway Superintendent Report

Highway Superintendent Meehan reported that the Highway Crew has been working in the creeks, on Town roads and have replaced the pump for the fountain in the Park. The stream work was done from the David Seth Michaels' property on the corner of Beale Road and State Route 203 to the Taconic Parkway Bridge. Work has also been done in Indian Creek and up in Austerlitz in the Green River, although there are still some areas left in the Green River to be cleared. In addition, a couple of spots off of Upper Hollow Road.

Supervisor Lagonia noted that Highway Superintendent Meehan mitigated a lot of the problems that have been in these streams for a long time. While cleaning out the streams, very little damage, if any, was done to private property as heavy equipment was brought in for the clean-up.

Supervisor Lagonia also noted that R. Meehan has been cleaning up around the Highway Garage and sold some scrap metal netting roughly \$5000.00 for the Town. R. Lagonia thanked R. Meehan for all his hard work.

The Town is still waiting for the outbuilding at the Highway Garage to be painted. The new highway truck should arrive next month.

Planning Board Report for the month of July 2014 submitted.

Comprehensive Plan Oversight Committee Report for the month of July 2014 submitted. Survey notification will also be placed on sign board of the Spencertown Fire House. Maybe this survey can be used to help the Town get the NYSDOT to pave State Route 203.

Building Inspector/Code Enforcement Report for the month of July 2014 submitted. Building projects have picked up.

Justice Cassuto Justice Court Report for the month of July 2014 submitted.

Justice Grubin Justice Court Report for the month of July 2014 submitted.

Supervisor Lagonia noted again that there has been a big jump in revenues for the Court because there have been more tickets written. There was a transition in judges in the beginning of the year and now the Town is working through the revenue concerns.

Dog Control Report for the month of July 2014 submitted.

A motion to accept the above reports was made by M. Verenazi and seconded by G. Vogler.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0.

### **Correspondence**

Spencertown Fire Company-The Spencertown Fire Company would like to be given first consideration for acquiring the current town hall should it no longer be used by the Town of Austerlitz for official business in the future.

Supervisor Lagonia noted that if and when the Town gets to a position to consider this, the Town Board will take this request into consideration. Town Board Member Vogler questioned how this requests fits in the big picture with the fire companies as a whole in the Town, specifically the Austerlitz Fire Company. Town Board Members Geel and Verenazi advised that the Austerlitz Fire Company is a separate entity from the Spencertown Fire Company, and the Austerlitz Fire Company never had a home base in Spencertown. The Spencertown Fire Company on the other hand had its beginnings with the Town Hall being the first fire house. Member Geel advised that the Town could reach out to the Austerlitz Fire Company, but he suspects that they will not have any interest in the current Town Hall building.

Supervisor Lagonia will send a letter to the Spencertown Fire Company advising them that their request for purchase of the current Town Hall will be kept in mind when decisions are made.

Spencertown Fire Company-Thanks Highway Superintendent Robert Meehan for his assistance during the recent heavy rain storms.

NYS Department of Taxation and Finance-Town of Austerlitz final equalization rate for the 2014 Assessment roll is 100%.

### **Unfinished Business**

**Charter Communication Entertainment I, LLC.  
Resolution #39-2014, Charter Communication Entertainment I, LLC Franchise Renewal Agreement**

A motion to adopt Resolution #39-2014, Charter Communication Entertainment I, LLC Franchise Renewal Agreement was made by G. Vogler and seconded by M. Verenazi

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0

WHEREAS, the proposed franchise agreement is between the Town of Austerlitz, New York, hereinafter referred to as the “Grantor” and Charter Communications Entertainment I, LLC locally known as Charter Communications, hereinafter referred to as the “Grantee”; and

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this franchise with the Grantee for the construction and operation of a cable system on the terms set forth in the franchise agreement; and

WHEREAS, the Grantor and Grantee have complied with all Federal and State mandated procedural and substantive requirements pertinent to this franchise renewal; and

WHEREAS, the Board, in granting this franchise renewal, embodied in the agreement the results of its review and negotiations with Charter Communications and has determined that said franchise agreement and Charter Communications respectively, complies with the standards and requirements of the New York State Public Service Commission (NYSPSC); and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Austerlitz hereby approves the above-described franchise agreement and authorizes the Town Supervisor to execute said agreement on behalf of the Town of Austerlitz.

**Resolution #40-2014, Consent to Assignment: Charter Communications Entertainment, LLC Franchise Renewal Agreement**

A motion to adopt Resolution #40-2014, Consent to Assignment: Charter Communications Entertainment, LLC Franchise Renewal Agreement was made by B. Geel and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes  
M. Verenazi: yes  
G. Vogler: yes  
Motion carried 5:0

WHEREAS, Charter Communications Entertainment 1, LLC ("Franchisee") is the duly authorized holder of a franchise, as amended to date (the "Franchise"), authorizing Franchisee to serve the Town of Austerlitz, NY (the "Franchise Authority") and to operate and maintain a cable television system therein; and

WHEREAS, Charter Communications, Inc. ("Charter") is the ultimate parent company of Franchisee; and

WHEREAS, on April 25, 2014, Charter and Comcast Corporation ("Comcast") entered into the Comcast/Charter Transactions Agreement (the "Agreement"), pursuant to which the Franchisee, through a restructuring under Charter's ownership, will become CCO Transfers, LLC ("New Franchisee") and immediately thereafter will become a wholly-owned subsidiary of Comcast (the "Transaction"); and

WHEREAS, Franchisee has filed an FCC Form 394 with the Franchise Authority with respect thereto; and

WHEREAS, the Franchise Authority has considered and approves of the Transaction.

NOW, THEREFORE, BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

- The foregoing recitals are approved and incorporated herein by reference.
- The Franchise Authority consents to the Transaction.
- The Franchise Authority confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise. Subject to compliance with the terms of this Resolution, all action necessary to approve the pro forma assignment of the Franchisee and change of control of the New Franchisee to Comcast has been duly and validly taken.
- Comcast or New Franchisee may (a) assign or transfer its assets, including the Franchise, provided that such assignment or transfer is to an entity directly or indirectly controlling, controlled by or under common control with Comcast; (b) restructure debt or change the ownership interests among existing equity participants in Comcast; (c) pledge or grant a security interest to any lender(s) of Comcast's assets, including, but not limited to, the Franchise, or of interest in Comcast, for purposes of securing any indebtedness; and (d) sell equity interests in Comcast or any of Comcast's affiliates.
- Upon closing of the Transaction, New Franchisee shall remain bound by the lawful terms and conditions of the Franchise.
- This Resolution shall be deemed effective upon adoption.

- This Resolution shall have the force of a continuing agreement with New Franchisee, and the Franchise Authority shall not amend or otherwise alter this Resolution without the consent of New Franchisee and Comcast.

### **Town Park Update**

Supervisor Lagonia understands that the Town Board has had numerous discussions on how to proceed with the Town Park renovation project, but because this project has been funded by outside donations, he asked the Town Board to consider a plan submitted by Jack Shear. The Town Board looked over the plan which downsizes the tennis courts to basketball court size and makes this area a multipurpose use area. There is a new increased sized pavilion that would include a locked room so the old shed can be removed. This pavilion could also house a kitchen if the Town Board wanted to go in that direction. The green area is larger, keeping the playground section where it is, but laid out in a more functional manner. Supervisor Lagonia noted that this whole park can be family friendly, maybe power to the pavilion, etc. The Town Board discussed these ideas and additional minor changes.

Town Board Member Geel liked the idea of a bigger pavilion that can be used by more people and that the tennis court area would become multipurpose. Member Vogler added that there will be more green space.

Supervisor Lagonia advised that if the Town Board agreed to these plans, a bid package can be put together and noticed so the work could be done this fall. Town Board Member Mesick would like to get this project moving forward because it has been hanging for way to long.

The general consensus of the Town Board was to use the plans submitted by Jack Shear.

A motion to finalize conceptual plans was made by J. Mesick and seconded by G. Vogler.

Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0

### **Parker Purchase Update**

Supervisor Lagonia advised the Town Board that the Ellsworth Kelly Foundation has agreed to pay the cost for a SEQRA review for the purchase of the Parker property. R. Lagonia reiterated the costs involved with this purchase and who was paying for each piece, noting that the seller would be paying the closing costs. The engineering costs, SEQRA review and down payment would be paid by the Ellsworth Kelly Foundation.

### Authorization for Town Engineer to conduct investigatory services relating to Parker Property

A motion to authorize the Town engineers, Morris Associates, to conduct the services described in its proposal, dated June 19, 2014, relating to the investigation of the use of the Parker property for Town purposes, with the understanding that the cost of said services will be reimbursed by

the Ellsworth Kelly Foundation and that the specific engineering services will be coordinated by the Town Supervisor and/or the Town's attorney and may be adjusted as appropriate for the specific needs of the Town was made by M. Verenazi and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0

### **Bryarcliffe Account Reconciliation**

Town Board Member Vogler advised the Town Board that he, along with Town Clerk Haag, went through the Briarcliff bank statements from their inception and no inappropriate expenses, whether for payment of non-Briarcliff road expenses, or of Briarcliff itself after those roads became the responsibility of the town, were found. Therefore, the current Briarcliff fund balance is the balance that may be rebatable assuming it's not obligated to any other future Briarcliff related expense. The balance in question is roughly \$28000.00.

Supervisor Lagonia stated that when the 2015 budget is completed, he will talk with the accountant as to how best rebate this money back to the residents of Byrarcliffe.

### **New Business**

#### **NYSEG Proposed Power Line**

Discussed under Supervisor's Report.

#### **Local Law #2-2014**

Supervisor Lagonia distributed the proposed Local Law #2-2014, A local law authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c to the Town Board for consideration.

Resolution #42-2014, Introductory Local Law #2-2014

A motion to adopt Resolution #42-2014, Introductory Local Law #2-2014 was made by G. Vogler and seconded by B. Geel.

R. Lagonia: yes

B. Geel: yes

J. Mesick: no

M. Verenazi: yes

G. Vogler: yes

Motion carried 4:1

Whereas, section 3-c of the General Municipal Law establishes a limit on the amount that a local government's or school district's property tax levy can increase each year (hereafter referred to as the "property tax cap") that affects all local governments; and

Whereas, under this law, the growth in the property tax levy, the total amount to be raised through property taxes charged on the municipality's taxable assessed value of property, will be capped at 2 percent or the rate of inflation, whichever is less, with some exceptions and other calculations; and

Whereas, based on the calculations of General Municipal Law section 3-c, the amount of increase over last year's tax levy of the Town of Austerlitz may be as low as 1.6%; and

Whereas, local communities have the ability to override the property tax cap; and

Whereas, the Town Board intends to be fiscally responsible in adopting a budget that balances the revenue needed to provide sufficient and adequate services to Town residents and to keep Town taxes as low as feasible; and

Whereas, since the property tax cap law has such a low threshold and the Town tax levy is already at a low amount, the application of the tax cap law would mean that a budget increase of an amount as low as \$10,000 could potentially be contrary to the tax cap law; and

Whereas, given such low threshold, the Town Board may not have the flexibility during the budget process due to the tax cap law to increase revenues when and where needed and this may prevent the provision of appropriate services to Town residents and/or prevent the Town from having the resources to respond to emergencies such as harsh winter storms, or major road repairs, or to respond to unforeseen circumstances that limit the Town's revenues such as a decrease in sales tax or mortgage tax revenues; and

Whereas, although at this time the Town Board does not necessarily intend to raise taxes on Town property owners that exceeds the property tax cap imposed by the State, the Town Board desires to have the flexibility and ability to do so if a need arises during the budget process for the Town's 2015 fiscal year; and

Whereas, in order for the Town Board to at least have the option to increase revenues beyond the tax cap limit imposed by the State, it has to act now because to wait until the budget process is significantly underway may be too late to enact local legislation to give the Town Board that option;

Whereas, the Town Supervisor has authorized the Town's attorney to prepare a proposed local law that would provide the Town Board with the option to exceed the property tax cap if necessary and the Town Board has reviewed the proposed local law that was prepared and is subject to this resolution;

NOW, THEREFORE, BE IT RESOLVED as follows:

- The Town Board hereby introduces and proposes for adoption introductory Local Law No. 2 of 2014 of the Town of Austerlitz which would allow the Town Board to adopt a budget for the fiscal year commencing January 1, 2015, that requires a real

property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

- The Town Board determines that the adoption of the proposed Local Law is an action that is not subject to the State Environmental Quality Review Act (SEQRA) since it is a Type II action.
- The Town Board hereby schedules a public hearing for the proposed Introductory Local Law No. 2 of 2014, to be held at the Town Hall, located at 812 Route 203, Spencertown, NY, on September 18, 2014, at 6:45 p.m.
- The Town Board hereby orders 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.

### **Public Comments**

Eileen Fusco: Thanked Town Board Member Vogler for following-up with her Byrarcliffe question. E. Fusco alerted the Town Board that there was a lot of miss information out in the community concerning the NYSEG project. Supervisor Lagonia advised that he was aware of this and further explained some of the ins and outs of this situation. At this point, there is no definitive answer as to the outcome of the public hearings held to date.

E. Fusco noted that although the Town Board has stated that the money to purchase the Parker property will be donated, has the Town Board considered budgeting in the 2015 budget for increased costs that will be associated with this purchase, along with any renovations that will need to be done. Supervisor Lagonia advised that all these additional costs have been considered and will be accounted for. This entire project will take at least 2-3 years.

Cono Fusco: Questioned the time line before the new building will be operational as a Town Hall. Supervisor Lagonia stated that the project will be done in phases: purchase, fixing the parking lot so that can be used right away; then renovation will take place. The renovations will be paid for through donations and/or grants.

C. Fusco questioned bringing this building up to code and does the purchase of this building come before the residents of the Town for a vote. C. Fusco is concerned that the Town will be owning an additional building that it does not have the money for renovations for. Town Board Member Mesick noted that this was an historical building and he does not think much will have to be done to it once it is cleaned out. Supervisor Lagonia advised that he is not at liberty to discuss funding because at this point in time it is still confidential. The Town Board is working towards a project that is feasible. Even if the Town did nothing but buy this building and tore it down, the Town is still ahead.

C. Fusco asked if the building was large enough to house all the Town Offices. Supervisor Lagonia does not believe so and envisions both the current Town Hall and the new one to be used, but there is no definitive plan yet.

A minor discussion between parties as to the cost that would have been incurred if the Town used the Spencertown Academy for office space.

Charles Vander Weit: Noted that NYSEG is proposing a 30 foot right-a-way through private property for their power lines and this is the problem for those in opposition.

C. Vander Weit stated that Punsit Road is the only Town Board that has a 40 mph speed limit. Over the last number of years, there are more children and more walkers. C. Vander Weit asked the Town Board to lower the speed limit to that of the other town roads. Highway Superintendent Meehan advised that the State set the limits for each town road, the Town did not. North Cross and South Cross Roads both have higher speeds limits, 40 mph and 45 mph respectively. There is one in Harlemville with a 40 mph speed limit as well. The Town has tried to lower this speed limit before, but the request was denied. The Town Board can go back to the State if it wishes to do so. Supervisor Lagonia advised that he will look into this. Superintendent Meehan gave a history of the speed on the Town roads as he understands it.

C. Fusco: Questioned how many children 15 or under used the Town Park. Basketball courts are used by kids and adults, tennis courts used mostly by adults. Supervisor Lagonia advised that there were 65 kids in the summer recreation program this year and they were mostly Town children. Member Geel noted that this age difference is a great reason to use this area as a multipurpose area. Member Vogler noted that it is important to have something for all ages.

Different options were discussed.

### **Executive Session**

A motion to enter executive session to discuss the Benjamin Strauss Law Suit and the Frank Fizzinoglia Law Suit and a personnel matter concerning a highway employee was made by G. Vogler and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0 Executive session was entered at 8:41 p.m.

A motion to exit executive session was made by R. Lagonia and seconded by G. Vogler

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0 Executive session ended at 9:11 p.m.

A motion to adopt Resolution #41-2014, Settlement of Fizzinoglia Case was made by J. Mesick and seconded by M. Verenazi.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes  
Motion carried 5:0

WHEREAS, the Town of Austerlitz and Town of Austerlitz Highway Department were named as defendants together with other certain private property owners as defendants in a law suit commenced by Frank J. Fizzinoglia alleging property damage due to the negligent management of storm water runoff with respect to his property located on Dugway Road in the Town of Austerlitz; and

WHEREAS, this matter was covered by the Town's insurance and the Town defendants were represented by Michael J. Murphy, Esq., of the Carter Conboy law firm; and

WHEREAS, it is the Town Board's understanding that a settlement agreement has been worked out by the attorneys for all parties in said case and under advice of litigation counsel it has been recommended that the Town Board agree to the settlement proposed; and

WHEREAS, pursuant to said settlement agreement any monetary settlement contribution on behalf of the Town will be paid by the Town's insurer and the Town is obligated only to replace a culvert pipe on Dugway Road, with the cost of said pipe to be paid for by the Plaintiff, and the Town has obtained certain releases so this drainage issue does not become a continuing litigious problem; and

WHEREAS, the Town Board, based on advice of counsel and representation by the Town's insurer, finds that the settlement of this law suit is in the best interests of the Town;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Austerlitz hereby agrees to the settlement as negotiated by the Town's litigation counsel in the above-described case and hereby authorizes the Town Supervisor to execute the confidential release and settlement agreement as presented to the Town by its litigation counsel.

**Adjournment**

A motion to adjourn was made by G. Vogler and seconded by J. Mesick.

R. Lagonia: yes

B. Geel: yes

J. Mesick: yes

M. Verenazi: yes

G. Vogler: yes

Motion carried 5:0. Meeting adjourned at 9:12 p.m.

Respectfully Submitted,  
Susan A. Haag, Town Clerk