

Town of Austerlitz
Town Board Meeting
March 21, 2019

Present: Robert Lagonia, Supervisor, Greg Vogler, Jere Wrightsman, Nansi Friedman and Chris Schober, Town Board Members, Robert Meehan, Highway Superintendent and Susan Haag, Town Clerk. Attorney for the Town, Joseph Catalano present.

Public Hearing called to order at 6:30 p.m.

Public Hearing called to hear comments on the Berkshire (Consolidated Communications) Franchise Agreement. Hearing was duly noticed.

Attorney for the Town, Joseph Catalano provided a sheet with the following points:

Franchise is non-exclusive - other cable providers can receive franchises in Town.

Franchise Agreement allows Town to have oversight of the services provided to Town residents, make sure service outages, complaints, billings are being handled in accordance with agreement and Public Service Commission (PSC regulations).

The Franchisee agrees to provide/extend service to all areas with an average of 20 homes per aerial mile or greater without contribution in aid of construction by subscribers.

Note: PSC regulations require a minimum of 35 homes per mile.

Cable service shall be provided to any subscriber who demands service within seven (7) business days of the request for service and who is located within one hundred seventy five (175) feet of aerial feeder cable or 150 of underground feeder service, and that the charge for the installation for any subscriber so situated will not be in excess of the standard installation charge.

Note: PSC regulations require a minimum of 120 feet of aerial feeder

The Franchisee shall provide service as agreed between the Franchisee and the Municipality, without installation or monthly charge, to a single receiver location in all municipal and public school buildings within the municipality.

Public/educational and government access: The Company will comply with Part 895.4 of the PSC Rules. (public access channels - up to 3 channels for public access, educational or governmental use)

Franchise fee = 5% of gross revenues

Performance Bond = \$10,000

Term = 5 years

Peter Mercer, Consolidated Communications, informed the Town Board of his background. And gave an overview of the agreement. The Governor saw need for broadband in NY. Grants were given to needed areas. Phase one did not include Columbia County. Phase two, which includes Columbia County, was added with a bid by Fairpoint Communications, now Consolidated Communication. Not every home was included. Fiber networking was the plan. The construction phase of phase two is almost finished. There is a requirement to offer a franchise agreement. Offerings for cable is standard for the industry and up to date. Fiber doesn't cover the entire town, but is pretty extensive with provision to extend.

Attorney for the Town, Joseph Catalano is still negotiating the Franchise Agreement via email.

P. Mercer explained how the mechanics work and presented maps showing where fiber is being laid. Discussed contract provisions. Dullaghan Road, Angel Hill Road, Stever Hill Road and Riger Hill Road did not get fiber. This was based on grant funding and regulations stipulated by the government.

Town Board Member Vogler questioned if there were any plans in the future to build out further than what is currently on the books. P. Mercer noted there is not. Attorney Catalano advised that there can be a build out if the density is within the 20-25 houses per mile.

Supervisor Lagonia advised that the Town needs to make the residents aware in case there are other areas that are interested in securing cable. Attorney Catalano advised that if the franchise agreement is approved, that is only the first step. Berkshire will then reach out to the Public Service Commission for approval. The official effective date does not commence with the Town Board vote, but rather after the final step of the process.

It was noted that if a home is not within the required density, the homeowner can contribute towards getting the fiber laid. Details to this option were explained.

Peter Mercer advised that currently over 60% of homes are covered. Member Vogler felt this is still inadequate.

Supervisor Lagonia questioned if Spectrum offers certain options, the Town was told that Consolidated Communications has to meet the same rates. P. Mercer stated that franchise agreements do not have anything to do with the rates charged.

Consolidated Communications offers phone service over fiber. This, along with power outages and copper verses fiber lines was discussed.

P. Mercer noted that although not part of the franchise agreement, Consolidated Communications can build out in areas that need better data over a period of 3 years and are looking to do this.

Attorney Catalano advised that the franchise agreement just deals with cable TV. Fiber is being shared by the cable and the phone. The franchise agreement is offering free cable to the Town Hall and the Town should negotiate for free data.

Erlyn Madonia asked if the maps can be made available to the public. The maps will be forwarded to the Town Clerk for distribution.

Maureen Wilson asked if the franchise agreement will effect the customer in any way. P. Mercer noted the possibility of securing better bundling deals. M. Wilson asked if she can keep her copper lines. P. Mercer noted that it is the intention to migrate to fiber.

Attorney for the Town, Joseph Catalano, explained the procedure for the franchise approval noting that it should be a transparent process. The Town has a franchise agreement with Charter Communications (Spectrum). Attorney Catalano alerted them to the current franchise agreement public hearing for the Town. The Charter Communication agreement expires mid-summer and a renewal agreement will be coming at the same time. All companies should be treated equality. The new agreement with Consolidated Communications is a better agreement and should be used for the next one. The agreement gives the authority to monitor the services and gives some oversight on how the product is being serviced. J. Catalano stated if there is another round of State funding, this is where the money will come from for the next rollout phase. There will be a lot of homes getting services that did not have it before.

E. Madonia stated that this still does not address the 40% not covered.

Member Vogler questioned if the line that Spectrum ran is different from Consolidated Communications. P. Mercer answered, yes, totally separate.

All those wishing to be heard were heard. Supervisor thanked Peter Mercer for coming.

A motion to close the public hearing was made by G. Vogler and seconded by N. Friedman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0. Public Hearing closed at 7:00 p.m..

Town Board meeting called to order at 7:01 p.m.

Moment of silence and pledge of allegiance.

Minutes

A motion to accept the February 21, 2019 Regular Town Board Meeting minutes was made by J. Wrightsman and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Auditing of Accounts and Claims

A motion to pay General Fund, #89-120, in the amount of \$18,688.28, Highway Fund, #50-69, in the amount of \$21,142.42, and the Capital Fund #41-56, in the amount of \$51,169.03 was made by N. Friedman and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Reports

Monthly Cash Disbursement and Supervisor Report

Monthly Cash Disbursement for the Month of February 2019 submitted. Supervisor Lagonia noted between all accounts, there is \$2.5 million in the bank. The Town has been saving money on the cost of materials for the new town hall because the Herrington bill has been paid early giving a discount.

Highway Report

Highway Superintendent Meehan reported that it is March/Spring. Frost in the ground is going in and out. Town of Austerlitz' roads are not as bad as the Town of Canaan's, who lost a truck and had to close a few roads. This weekend will be bad though because it is going to rain. Until frost comes out of the roads and they dry there is nothing Highway Superintendent Meehan can do. They have been worse in the past. At this point, all the roads are passable except sections near the Millay Colony and the last house on East Hill Road. No one lives on this section. The Highway Crew has been grading and laying material. If the Town gets snow this weekend, the grader will have to be used and plowing will be slow. Plowing this Winter on soft roads took the crown off and put material in the ditches. The Town may need to juggle money around so we can buy material to put back on the roads.

Town Board Member Chris Schober asked if there is construction on the roads with problem areas. R. Meehan answered yes, especially on Rhoen Road. Superintendent Meehan has tried to talk with contractors and those driving heavy trucks such as garbage trucks, oil trucks, etc. Until the roads are blacktopped, there will always be mud. Where the sun hits, the roads are drying out, but in the shade, there is mud. Rolling the roads can't happen until the frost is completely out because it makes more mud.

The electrician is working on the new salt shed and will be for a couple more days. Blacktopping will then be done. Overall, the new building is working out great!

All material is out of the old salt shed on the Braley property. J. Braley will send in a voucher next month.

Highway Superintendent Meehan advised that the two new trucks are in and at Zwacks. R. Meehan will check when the payment is due.

Town Clerk Report for the month of February 2019 submitted.

Tax Collector Report for the month of February 2019 submitted. Second notices will go out the beginning of April.

Planning Board Report for the month of February 2019 submitted. Attorney Catalano noted that the escrow check for the AT&T Project has been submitted. The Planning Board is working on the application and putting the pieces together. The new Planning Board member was at the meeting and was impressive. Supervisor Lagonia noted that a chair will be appointed by the Town Board at some point.

Comprehensive Plan Oversight Committee Report for the month of March 2019 submitted.

Building Inspector/Code Enforcement Report for the month of February 2019 submitted.

Justice Grubin Justice Court Report for the month of February 2019 submitted.

Justice Cassuto Justice Court Report for the month of February 2019 submitted.

No Dog Control Officer Report for the month of February 2019 submitted.

Climate Smart Committee

Town Board Member Vogler reported that the Climate Committee met last night, March 20th.

At the meeting Jill Falchi from the Capital District Regional Planning Commission confirmed that the Town of Austerlitz, having completed several "high impact" actions, has now been designated by NESERDA as a "Clean Energy Community". Besides being a recognition for the accomplishments to date of the Climate Committee, this designation opens up a grant opportunity up to \$35,000. The committee is now in the process of evaluating project options. Qualifying projects must reduce green house gases (GHGs) and must have a financial payback period of less than 20 years.

Also discussed at the meeting was updated draft wording to the town's Comprehensive Plan to reflect climate change activities, the status of LED street light efforts, and how the new electric vehicle charging station has had visitors from several locations including Chatham, Hudson, Kinderhook and Salisbury, CT.

The next meeting is Wednesday April 17.

A motion to accept the monthly reports was made by J. Wrightsman and seconded by G. Vogler.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Unfinished Business

New Town Hall Update

Cost analysis sheet was updated by Therese Boehme, Wallace Architecture.

Supervisor Lagonia updated the Town Board as to the status of the new Town Hall project, noting the contractor should be done by end of April, early May. Delay because of changing out the ceiling lights in the meeting area. The April Town Board meeting should be in the old town hall. Supervisor Lagonia went over the items finished since the February meeting and what is left to be done. The building is beautiful and the public should be very happy when it is unveiled.

Franchise Agreement

Resolution #34, 2019, Berkshire (Consolidated Communications) Franchise Agreement

Attorney Catalano is still working out a couple minor details.

A motion to adopt Resolution #34, 2019, Berkshire (Consolidated Communications) Franchise Agreement, Supervisor Lagonia not signing until Attorney Catalano has finalized negotiations, was made by G. Vogler and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

WHEREAS, the Town Board has before it a proposed franchise agreement with Berkshire Cable Corp. 1/k/a Consolidated Communications (hereinafter "Consolidated") for a term of five years, and

WHEREAS, the Town Board has had discussions and negotiations with Consolidated in connection with such agreement, and

WHEREAS, the Town Board has determined that the services to be provided by Consolidated will improve cable television service for the residents of the Town of Austerlitz and that the franchise agreement complies with the standards and requirements of the New York State Public Service Commission, and

WHEREAS, Consolidated has committed to working with the Town of Austerlitz to address any issues or concerns raised by the residents of the Town so as to provide the best possible cable television services, and

WHEREAS, a public hearing was held in connection with the proposed franchise agreement at the Austerlitz Town Hall, Route 203, Spencertown, New York on March 21, 2019 at 6:30 p.m. at

which members of the public appeared and made comment in connection with the proposed agreement, and

WHEREAS, the Town Board has determined that the execution of the franchise agreement, as negotiated between the Town and Consolidated, is in the best interest of the residents of the Town of Austerlitz,

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Austerlitz that the franchise agreement between the Town of Austerlitz, Columbia County, New York and Berkshire Cable Corp.1/k/a Consolidated Communications be and the same is hereby in all respects approved in such form as filed with the Town Clerk as the final draft of the franchise agreement, and

BE IT FURTHER RESOLVED that the Town Supervisor be and hereby is authorized to execute the franchise agreement on behalf of the Town of Austerlitz and to take any further action which may be necessary in order to finalize this matter.

New Business

2019 Lawn Care Bid

One bid was received:

Howes Horticultural

153 Stonewall Road

Chatham, New York 12037

Lawn Care and Trimming from Spring through fall in include: The Town park and ballfield, the Town Green across from St. Peters Church, the area around the Town hall, the area around the new Town Hall to include leach field area, Price per mowing: \$210.00.

Ground maintenance to include Spring, Fall and periodic clean up throughout the term of contract to include removal of ground debris, damage caused by storms and bee or wasp extermination as need, Price per hour: \$45.00. Maintenance of perennial bed on green including mulching, edging, fertilizing, tree trimming, trimming of hedges, weeding as needed, Price per hour: \$45.00. Estimated cost of materials by volume: \$55.00.

Trash and broken glass removal and disposal thereof, twice a week, from the Town park, recreation area and ball field, Price per week: \$30.00.

A motion to accept the 2019 Lawn Care bid from Howes Horticulture making sure insurance is in place and for at least \$2,000,000.00 was made by G. Vogler and seconded by N. Friedman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Columbia County Environmental Management Council Appointment

It was noted that current member James Murray did not wish to continue for another term. Supervisor Lagonia and Town Board Member Vogler interviewed Cara Humphrey and checked her references. C. Humphrey has recently moved into Town and she is very excited to serve in this capacity.

A motion to appoint Cara Humphrey as the Town of Austerlitz' choice for appointment to the Columbia County Environmental Management Council was made by C. Schober and seconded by N. Friedman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Correspondence

Rae Gilson: Request to use the Spencertown Green for the Annual Garden Market as part of the Spencertown Academy's Annual Hidden Garden Tour on Saturday, June 15, 2019.

A motion to allow the Spencertown Academy use the Spencertown Green for its annual Garden Market as part of the annual Hidden Garden Tour on Saturday, June 15, 2019 from 9:00-2:30 p.m. was made by N. Friedman and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes

Motion carried 5:0.

Deborah Lans: Condition of Beale Road

Richard Light: Condition of Harvey Mountain Road-2 emails. Richard Light was in the audience and spoke stating he supports Highway Superintendent Meehan's efforts. What R. Light is speaking to is what R. Meehan has to work with as given to him by the Town Board. This year, Harvey Mountain Road is worse. R. Light is looking for a long-term fix so that every Spring he doesn't have to deal with the mud. R. Light presented the Town Board with pictures showing what the road currently looks like.

Jamye Wade: Condition of Roehn Road

Pat Skold and Brian Johnston: Condition of Beale Road

Harry Newton: Condition of Reed Road

Public Comments

Dave Suchomel rents on Harvey Mountain Road and commends Highway Superintendent Meehan for his efforts in trying to keep this road passable and understands what R. Meehan has to deal with. D. Suchomel notes that at no time has any material been put on Harvey Mountain, only what was pulled from the ditches. D. Suchomel would like to see new material put down instead of the course gravel. There are two really bad areas on the road where water is collecting. Harvey Mountain needs drainage in some areas. Superintendent Meehan explained the 'bowl' concept where water collects due to the frost and the shade until the frost comes out completely and the road dries up. R Meehan spoke concerning drainage noting that he brought this before the Town Board about 10 years ago. At the time, the Town tried to secure easements to put in drains, but was unsuccessful. Maybe the current Town Board would try this again. For the shade, some of the trees need to be cleared, but again, the Highway Department can not just cut down trees on a resident's property. Unless the road is blacktopped, there is no permanent fix.

D. Suchomel would like to see more than just patching; a more permanent fix with finer gravel in the dry season. R. Meehan noted that course gravel is used this time of year so heavier traffic can use the roads during mud season.

Highway Superintendent Meehan noted that plowing also hurts the roads this time of year.

Beverly Igleburger looks to understand when and how the decision is made to plow the roads or not since plowing is causing damage. Superintendent Meehan noted that the Highway Crew does not always go out and plow. In fact, the Town of Austerlitz goes out less than the County. A lot has to do with the amount and duration of each storm. One thing that has to be kept in mind is whether or not emergency vehicles and school buses can pass through safely.

Attorney Catalano notes that he works with other municipalities and over the last few weeks he has seen similar forums. Spring road conditions is not a unique situation to the Town of Austerlitz. Highway Superintendents in Albany County have also noted that it was a bad winter with the change in temperatures and frequency of the storms. This is really what has caused the extra muddy conditions this year.

Lisa Light Rugen advised that the residents of Harvey Mountain Road want to put on the record what it is like to live on this road. During this time of year, UPS stops delivering, garbage pick up stops. A resident has to buy more expensive cars that do not last as long. L. Rugen asks the Town Board to make it a priority to have some sort of a plan in place to make improvements. Maybe clean out the ditches more often and put the material back on the roads. Maybe the residents can help with cutting trees. There is a Town-wide reassessment this year. Put the additional money made from this back into the roads.

Highway Superintendent Meehan reiterated again the road conditions over the last few weeks and the cause of the mud noting that he has had to deal with difficult weather conditions. All the roads are currently open except one small section on East Hill Road where there are no homes.

Supervisor Lagonia advised the residents of Harvey Mountain Road that the Town Board does not decide which roads are slated for inclusion on the Highway Form 284. The Town Board

certainly cares about the concerns of the Town's residents, and is here to help, but Superintendent Meehan comes to the Town Board with his yearly requests. These would include requests for equipment, as well as, funding for road work. Harvey Mountain Road was not listed on the 2019 Highway Form 284 as a breakout item. The 2019 Highway Form 284 gives Highway Superintendent roughly \$500000.00 for general road work and special projects. C.H.I.P.s funding is limited and can only be used for certain projects.

Supervisor Lagonia continued, stating that Engineer Ray Jurkowski has looked at our roads and advised that the conditions are not the result of anything Highway Superintendent Meehan is doing or not doing, but rather a product of the Winter. Supervisor Lagonia stated that R. Meehan is doing an excellent job. Superintendent Meehan noted that there is money in the budget and on the 2019 Highway Form 284 for general repairs, just not hundreds of thousands of dollars to do a major fix. R. Lagonia believes fixing Harvey Mountain Road is in Highway Superintendent Meehan's plans.

Dave Suchomel called the Town concerned about what would happen if people couldn't get out of their homes in an emergency. He is looking for the Town to do something wondering if the roads be rolled when they dry. Supervisor Lagonia noted the Town just bought a brand new roller to take care of these issues.

Town Board Member Nansi Friedman noted that the past weekend was bad and bad all over, including other Towns as well. Unfortunately, R. Meehan can not get material over the weekend.

Theresa Abe noted seeing large equipment go up to a residence on Harvey Mountain Road, this past weekend especially. This can be very dangerous with the ruts these heavy trucks cause and she cares about people and would feel bad if something unnecessary happens. R. Meehan advised he tries to be a traffic cop, but some just do not listen.

Erin Stamper speaks concerning Tenbroeck Road, noting that she appreciates what is being done with the funds available. E. Stamper discusses that the summer season brings a horrible dust problem and asks what the plan going forward for that is. E. Stamper asks how much funding is allocated and wants to understand what to expect. If the residents understand the plan, it is easier to cope and they can maybe find ways to help. Supervisor Lagonia noted that the Town Board doubled the amount for the dust control in this year's budget. There is not a permanent fix for dust control and not a whole lot the Town can do about it. Highway Superintendent Meehan noted that mother nature determines when liquid calcium can be put down on the roads to control the dust. Discussed the timing of applying the liquid calcium as compared to when and if it rains. When questioned about using 'sap,' Superintendent Meehan advised that he has tried this method a couple of times. It is not cheaper than liquid calcium. The first time he tried it, it held up well for about a month. The second time it didn't last two days. If there was something better to use than liquid calcium, R. Meehan would use it. The Town used to have a tank truck to use for dust control, but a new one is needed. The Highway Crew is in the process of building one that should be up and ready this summer.

Maureen Wilson questioned putting oil on the roads. R. Meehan advised that a Town can not use oil anymore. It is against the law.

Maureen Wilson asked if the Enhanced Patrol can sit on the long hill on Route 203 on weekdays. Supervisor Lagonia will ask noting that any requests made the Town tries to accommodate. The Enhanced Patrol is only in Town on Fridays and Sundays.

L. Rugen questioned what the Town is doing concerning solar. Member Vogler explained the initiatives. L. Rugen stated that there are some giant solar panels on her mother's old property that could potentially be donated to the Town. L. Rugen will help to facilitate this if the Town is interested. Member Vogler will consider the possibilities.

Supervisor Lagonia thanks the public and apologizes for the inconvenience. The Town Board will consider the requests.

Adjournment

A motion to adjourn was made by N. Friedman and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

N. Friedman: yes

J. Wrightsman: yes:

Motion carried 5:0. Meeting adjourned at 8:12 p.m.

Respectfully Submitted,
Susan A. Haag, Town Clerk