

Town Of Austerlitz  
Public Hearing/Regular Town Board Meeting  
February 18, 2021

The February 18, 2021 regular Town Board Meeting was held via Zoom in accordance with the Governor's Executive Order 202.1. Meeting instructions were on the Town website.

Present via Zoom: Robert Lagonia, Supervisor, Greg Vogler, Jere Wrightsman, Chris Schober, Town Board Members, Highway Superintendent Robert Meehan and Susan Haag, Town Clerk.

Attorney for the Town, Joseph Catalano also present via Zoom.

Town Board Member Maureen Wilson absent.

Public Hearing called to order at 6:39 p.m.

Supervisor Lagonia stated that the Public Hearing is being called for Local Law #1-2021, A proposed local law to change the office of Highway Superintendent from an elective office to an appointed office, adding Article 2 to Chapter 45 of the Town of Austerlitz Code.

Attorney for the Town, Joseph Catalano, read the public hearing notice. Public notice was duly published and on the Town of Austerlitz' website. Attorney Catalano advised that Local Law #1-2021 was presented at the January 21, 2021 Town Board Meeting.

Attorney Catalano highlighted the main points of the proposed law noting: the legislative intent is to see savings in the Highway Department by having more flexibility in making the department operate more efficiently and conserve financial resources; There will be a greater pool of applicants to ensure sufficient qualifications of the individual in this position and provide regular oversight and accountability to ensure the duties of this office are completed in as cost-effective, efficient and responsible of a manner as possible; There is no residency requirement for the Town of Austerlitz only that the person holding the office shall reside in Columbia County or in an adjoining county within the State of New York; The Town Board shall be the appointing authority for all employees of the Town of Austerlitz Highway Department; The Highway Superintendent position shall be for a 2 year term; The Town Board shall fix the salary and benefits and has the authority to remove employees at any time for good cause.

This law is subject to a mandatory referendum after adoption of the law by the Town Board. Mandatory referendum is for all registered electors and in order for the law to pass, it must be passed by 50% plus one of the registered electors of the Town of Austerlitz. The Town Board will determine the date of the referendum and the parameters at a later date. The special election will be run by the Town Clerk.

Supervisor Lagonia added that the Town Board has been discussing this change for the last couple of years. Current Highway Superintendent, Robert Meehan, has stated that he is going to retire and the Town Board felt under that understanding it was a good time to initiate this change. The Town Board wants to be completely transparent with the community. The date for the

special election will be before the time deadline of any political caucuses so if the proposed law is voted down, there will still be time for those in Town who wish to run for election to do so.

Attorney Catalano advised that this change would not be effective until January 2022 and will not affect the current Highway Superintendent's term which is completed December 31, 2021. The Town Board started this process early in 2021 to make sure the special election was held in a timely fashion and if the proposed law was voted in, to have time to search for a suitable candidate to hire.

Erin Stamper: Is in support of the change. Remembers that last fall this change was discussed and was supposed to be on the November election ballot. Now the Town is holding a special election and questioned why the change and was this due to COVID. Attorney Catalano advised that the pandemic did cause some issues, but the principal reason the proposal was not on the November ballot was because there was a discrepancy between municipal home rule law and election law for the time frame to get the proposal on the ballot. E. Stamper also noted that she is in favor of hiring within the Town first, then Columbia County and then outside of the County. Concerned about hiring too far outside the Town when you are taking away an elected position from the Town. Supervisor Lagonia advised that the Town Board does want to hire from within the Town if possible.

Barbara Smith: Is curious of what other Towns who have changed this position from elected to appointed experience is with how it works out. Also curious what other Towns in the County or State are looking to change. Supervisor Lagonia advised that there are several Towns in the County that are exploring this option. The Highway Fund is the biggest part of the Town's budget and the Town Board has no control over this. Robert Meehan has done a great job with the budget, but the Town Board wants to handle this differently in the future. B. Smith questions the 2 year term wondering if that is too short. Supervisor Lagonia advised that the Town Board kicked this around and the consensus was that 2 years was a good place to start. B. Smith noted that at this point if the Town Board was the authority over this new position, it would be part time people over a full time position. R. Lagonia noted that his position is full time and advised that how this would work will be worked out when someone is hired. The hope is to find someone who is experienced and will take the Town of Austerlitz' community into consideration and come up with a road plan for both the short term and the long term. The Town Board will work out the supervision parameters.

Nansi Friedman: In favor of this. Believes the Town will struggle to find someone to replace Robert Meehan so the scope needs to be broadened. Questions if the special election vote will be determined on the majority vote and Attorney Catalano advised yes.

Supervisor Lagonia wants to make this process as easy and accessible as possible. Attorney Catalano and Town Clerk Haag will work out the details and present a plan to the Town Board for approval.

Erlyn Madonia: Questions by making this change, do the Town Board Members feel that this makes the Highway Superintendent position less or more political. One way, all the people vote and it is a popularity contest. The other way, it moves to where the Town Board controls the

power structure. Supervisor Lagonia noted that the current board works hard without bias for the Town. Positions are filled by people who would be the best for the Town. R. Lagonia can not speak for future Town Boards, but for the current board, it is important to work for the best interest of the Town. R. Lagonia would not want to see nepotism or a good ole boys set up, but it could happen in the future with a different Town Board. Attorney Catalano noted that structurally all appointments are political in nature because at least 3 of 5 Town Board Members would have to vote affirmatively to appoint. Elected positions are won by the majority vote of people in a Town.

Highway Superintendent Meehan noted that this is a big undertaking for the Town. He has been on the job for the last 24 years. R. Meehan believes this position should be elected. A Town resident who cares about the Town and it's residents should hold this position. Outsiders do not understand the weather conditions in the Town of Austerlitz.

Comments received via email:

Scott Sylvester:

I was very encouraged when I learned that the Board had taken a step in the direction of making the position of Highway Superintendent an appointed rather than an elected position.

I believe that, should the referendum receive majority support from the voters in Austerlitz, it will provide greater accountability, efficiency, cost savings and transparency. This is clearly a step in the right direction.

Joel Dyslin

I can understand why you are considering this change in direction but I believe it may not be the best way to go in the overall scheme of things.

1. There are good candidates out there. Looking at the last election we had Robin Howes running against Bobby Meehan. Probably two of the most knowledgeable individuals around.
2. While the highway budget exceeds the general town budget by quite a bit. It still ranks in there with other towns in this corner of the county. Austerlitz can and frequently does have six weeks more of winter than towns in the county that are closer to the Hudson River.
3. In a way, including the town board in the supervision of the highway supt. Is another layer of oversight. Oversight by a board that lacks experience in managing a highway dept. operation. Town's people complain about the roads but I believe they can get more results dealing with the supt. as opposed to trying to find board members to vent their concerns.
4. Many mandatory schools are offered at the state and county level for new superintendents, plus vendors conduct workshops and training sessions to help superintendents learn about new procedures and techniques.
5. The job requires the superintendent to be available 24-7 and certainly exceeds 40 hours a week for the most part.

6. I would ask that the board consider an additional employee, one who could basically do the books. In other work situations the “boss” with a large work load rarely also does the books as well. You don’t have to look beyond the town board to see that there are payroll personnel, attorneys, people to prepare the monthly and year-end reports.
7. Finally, it is stated in the proposed law, that the superintendent would be appointed and directed by the town board. The town board is elected and they conceivably would do the appointing. (They themselves are elected) and I would state when they decide to run for public office the least of their qualifications would be how to select the proper road grader or loader for example, and draw up specs for bidding.
8. I would suggest putting a notice out there outlining the job description and invite interested people to submit a letter of interest which could lead to their getting on a ballot.

Thank you for reviewing my statement and best of luck.

All those wishing to be heard were heard.

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

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1. Public Hearing closed at 7:06 p.m.

Town Board Meeting called to order at 7:07 p.m.

Moment of Silence, followed by the Pledge of Allegiance.

### **Minutes**

A motion to accept the January 21, 2021 Meeting minutes was made by J. Wrightsman and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1.

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

Supervisor Lagonia noted that the February abstracts were sent to the Town Board Members for review. If any of the Town Board Members would like to see and sign the actual vouchers, please make arrangements with Town Clerk Haag.

A motion to authorize payment of the February General Fund, #47-77, in the amount of \$10857.62 and Highway Fund, #25-35, 37-49, in the amount of \$20885.31 was made by G. Vogler and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1.

Highway Fund voucher #36 was voided.

## **Reports**

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

Monthly Cash Disbursement Report for the Month of January 2021 and 2020 year end submitted. Supervisor Lagonia advised he has not heard back from Accountant for the Town, Nelson Furlano, concerning the 2020 AUD. This needs to be filed by the end of February. The Town currently has \$1.389 million in the bank.

On a County level, Supervisor Lagonia is still very busy with COVID issues, but there seems to be some light at the end of the tunnel. Calling in for a vaccine appointment seems to be going much faster and pharmacies will begin vaccinating those over 65. Counties are getting information in a timelier manner, although it is still a struggle.

### **Highway Report**

Highway Superintendent Meehan reported there was a bad ice storm in the beginning of the week, leaving 2 trucks off the road, though not any real damage. R. Meehan asked to sit with Supervisor Lagonia to go over budget line items. The Highway Department has been going through a lot of sand and salt due to all the storms and if this weather continues like this, the salt shed will be empty before Spring. All the Towns are in the same boat. Supervisor Lagonia advised Superintendent Meehan to order more salt and sand now.

Highway Superintendent Meehan advised the Town Board that the Highway Crew has talked to the Teamster's Union and according to a letter he just received, they have joined the Union. Supervisor Lagonia confirmed receipt of the letter that he as well was sent.

Supervisor Lagonia discussed an email received from Engineer Ray Jurkowski concerning outstanding highway projects. The email reported the following:

**Harvey Mountain Road:** We had originally designed the drainage discharge as an open swale. While trying to obtain an easement from the land owner, the owner indicated that the open swale was not acceptable and they requested that a pipe be installed. We redesigned the outfall with a pipe and consulted NYSDEC during the redesign process. NYSDEC had no objection to the installation of the pipe and the drainage design is complete. This office prepared and forwarded easement descriptions to the Town Attorney for his use in obtaining the easement. I believe that we are awaiting the drainage easement from the owner. Once the easement is obtained our understanding is that the Town Highway Department will be performing the work.

Herrington Drive: We had previously met in the field with the NYSDEC regarding the culvert design and confirmed that the culvert needed to be a three-sided structure due to the water course being considered a trout stream. We had submitted plan for a three-sided concrete box culvert and received minor comment on the design which have been addressed. The DEC has requested that the Town sign the SEQRA form and the NYSDEC application, and they will approve the permit. I've attached a copy of the original forms. You'll need to sign page 3 of the EAF, and page 4 of the application as the applicant. Please sign and return. It is assumed that the construction would be similar to the East Hill Road, whereas the Town would be performing the demolition and final grading work, and a contractor would be installing the Concrete Box Culvert.

Dugway Road: The survey is finished but the design work is in progress. We would like to meet on site with Bob to discuss and assess any changes that may have occurred given the time laps on this one. The work involves the stabilization of the stream bank with the use of gabion baskets and stone. This work can be completed by the Town Highway Department.

Highway Superintendent Meehan advised that the Town really needs to go out to bid on the Herrington Drive project if that is to get down this year. The Dugway Road bridge has to go out to bid as well as getting easements done. Supervisor Lagonia suggests that R. Meehan reach out to Engineer Jurkowski and work out the project details. R. Lagonia is happy to meet with R. Meehan and R. Jurkowski. These projects need to get done.

#### 2021 Highway Form 284

Supervisor Lagonia notes that missing from the 2021 Highway Form 284 is the first portion of Dugway Road. Highway Superintendent Meehan was not sure of available money. Supervisor Lagonia does not think that the State is going to cut C.H.I.P.s funding going forward. Potentially, the Town could be looking at receiving \$120,000.00 this year. Town Board Member Greg Vogler questioned adding the Schoolhouse Road culvert replacement. Superintendent Meehan noted this was another area Engineer Jurkowski did not follow-up on. Herrington Drive really needs to be done this year because the culvert is caving in. The Dugway Road bridge is also a concern because it could end up costing major money if let go for to long.

The Town Board discussed projects deciding that the front part of Dugway should be added to the 2021 Highway Form 284. R. Meehan will get a tighter price for this and add to the 284.

Supervisor Lagonia would like the Town Board to have a workshop on the 2021 Highway Form 284 and then approve at the March Town Board Meeting. The Town Board needs to see finalized numbers as reported on the 2020 AUD.

#### Unionization of Highway Employees

Supervisor Lagonia spoke quickly with Attorney for the Town, Joseph Catalano, concerning the letter he received from the Teamster's Union. Supervisor Lagonia will meet with the Teamster's representative and will also check signatures. Town Board Member Schober questioned if procedures will change for payroll. Attorney Catalano noted that dues will now be taken out. Town Board Member Vogler asked if there will be a contract now and Attorney Catalano noted there will be a collective bargaining agreement instead of a Town Policy Statement. The Town

and the Union will negotiate. The starting place would be what the Town already has in its policy and then negotiate different terms: compensation, benefits, disciplinary procedures, dismissal procedures, etc. Attorney Catalano continued that the Town and the Union would come to an agreement that would then be memorialized in a contract. This would contain a grievance section and one of the Highway employees would have to become the Shop Steward. If someone filed a grievance, both the Shop Steward and a Union Representative would be involved. There will be some structural change. Member Vogler noted that there would be more formal documentation now. Superintendent Meehan believes that a few Towns in the County belong to the Teamsters.

Town Clerk Report for the month of January 2021 submitted.

Tax Report for the month of January 2021 submitted.

Planning Board Report for the month of February 2021 submitted.

No Comprehensive Plan Oversight Committee Report submitted.

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

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

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

Dog Control Report for the month of January 2021 submitted. Attorney Catalano advised that a claim was filed with Justice Cassuto concerning the dangerous dog situation. Justice Cassuto did reach out to Attorney Catalano. Dog Control Officer Kyle Miller does not have any proof that the dog in question is dangerous and did not impound the dog, but a complainant can still file a case. In this situation, the complainant has to prove the dog is dangerous since the Dog Control Officer has no proof.

#### Climate Smart Report

Town Board Member Vogler submitted the following report:

- Jill Henck from the Capital District Regional Planning Commission led a discussion on the differences between Community Choice Aggregation (CCA) and Community Solar. Regional advances towards CCA are on hold due to unforeseen issues and it was agreed the idea of potentially supporting Community Solar in Austerlitz is possible. A subgroup of the committee will meet soon to discuss next steps including what to inform the Town Board about. One of the biggest differences between the two is that choosing Community Solar is completely at the discretion of the resident while CCA is not.
- CPOC is looking to survey the Town residents and Tim Stalker is reviewing potential questions related to the Climate Committee and the environment in general.
- RSF Social Finance has awarded the Town of Austerlitz a grant to fund a selected volunteer to assist the Town to achieve, or develop a plan to achieve, Bronze Climate

Smart Community certification. An Award Letter and the funds are still pending from the grantor.

- According to NYSEG the utility can now access the necessary information from the newly installed solar panels NYSEG needs to determine how much to credit the Town's bills. This had previously been an issue.
- DeeAnn Veeder will continue to follow-up with NYSEG for them to fulfill an agreement to convert the Town's streetlights to LED. The town has acquired a grant to fund this change.
- The Columbia County Environmental Management Council has a new leader, and the Council has established a county Climate Smart Community Task Force.

Supervisor Lagonia noted that some towns in the county are just now dealing with solar fields. He is glad the Town of Austerlitz dealt with this a few years ago, early on.

Town Board Member Jere Wrightsman noted details of buying green, how points will be given and that the Town should think about this for the future.

A motion to accept the monthly reports was made by J. Wrightsman and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1.

### **Correspondence**

None

### **Unfinished Business**

#### **Local Law #1-2021**

#### **Resolution 32-2021, Adoption of Local Law 1-2021**

A motion to adopt Resolution 32-2021, Adoption of Local Law 1-2021 was made by G. Vogler and seconded by C. Schober.

Roll call vote

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1.

**WHEREAS**, the Highway Superintendent of the Town of Austerlitz is currently an elected office with a four-year term and the current Highway Superintendent, which term ends at the end of 2021, has expressed his desire to retire and not run for an additional term of office; and

**WHEREAS**, the Town Board is concerned whether there will be a sufficient pool of qualified individuals residing in the Town that would be eligible for the elective office of Highway Superintendent; and

**WHEREAS**, by making the Highway Superintendent's position an appointive office and expanding the residency requirements for such position, the Town Board will have the ability to select from a greater pool of applicants to ensure sufficient qualifications of the individual in this position and provide regular oversight and accountability to ensure the duties of this office are completed in as cost-effective, efficient and responsible of a manner as possible; and

**WHEREAS**, the Town Board has previously determined that the adoption of the proposed law is not an action subject to SEQRA review; and

**WHEREAS**, the Town Board has held a duly noticed public hearing on the proposed Local Law No. 1 of 2021 and closed said hearing after providing an opportunity for all persons expressing a desire to comment on the proposed law to be heard; and the Town Board having considered all such comments is prepared to act as follows;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The public hearing on proposed Local Law No. 1 of 2021 has been duly held and closed after those who wished to be heard regarding said proposed law had a full and fair opportunity to be heard.
2. The Town Board hereby adopts Local Law No. 1 of 2021 of the Town of Austerlitz which will abolish the elective office of Highway Superintendent on January 1, 2022, the year in which the current term of the Superintendent expires and which will create the appointed position of the Superintendent of Highways in the Town of Austerlitz starting January 1, 2022 and that the Town Code will be amended accordingly.
3. Said Local Law No. 1 of 2021 shall be subject to a mandatory referendum of qualified electors of the Town of Austerlitz at a special election on a date and pursuant to procedures to be decided by the Town Board at a later date.
4. The Town Board hereby directs the Town Clerk and the Attorney for the Town to provide the Town Board with proposed procedures and schedule for the referendum on said Law so that the Town Board may make final determinations regarding the date and procedures of the special election referendum.
5. This Resolution shall take effect immediately but Local Law No. 1 of 2021 shall not take effect until a majority of qualified electors of the Town of Austerlitz approves Local Law No. 1 of 2021 at a special election.

### **Referendum Parameter Planning**

Attorney Catalano advised the Town Board that he and Town Clerk Susan Haag will put together a plan for the referendum and submit to the Town board at the March Town Board meeting. Absentee ballots will have to be discussed as the Governor's mandate for absentee ballot use is set to expire at the end of February. Whether or not the Town will have a registration day needs to be decided. Town Clerk Haag can ask the County Board of Elections for a registration roll to ID qualified votes. Other items of decision will be election date, polling hours, election inspectors, ballots, payment to workers, use of election machines or not and advertising.

### **Pandemic Response Plan**

Supervisor Lagonia noted that Member Vogler did a great job getting this plan started. Supervisor Lagonia looked it over and tweaked a couple of areas and submitted it to Attorney Catalano for review.

A motion to adopt the Pandemic Response Plan for the Town of Austerlitz was made by G. Vogler and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1

### **New Business**

#### **2021 Enhanced Patrol Police Services Agreement**

Town Board Member Chris Schober questioned if there were any changes from the 2020 contract. Supervisor Lagonia had not had a change to look this over yet.

A motion to authorize Supervisor Lagonia to sign the 2021 Enhance Patrol Police Services Agreement once the contract was reviewed was made by J. Wrightsman and seconded by C. Schober.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes

M. Wilson: absent

J. Wrightsman: yes

Motion carried 4:1.

#### **2021 Highway Form 284**

See above for discussion.

#### **SEQRA: Herrington Drive**

A motion to authorize Supervisor Lagonia to sign the DEC application and the SEQRA form for the Herrington Drive Culvert replacement project part one was made by G. Vogler and seconded by J. Wrightsman.

R. Lagonia: yes

G. Vogler: yes

C. Schober: yes  
M. Wilson: absent  
J. Wrightsman: yes  
Motion carried 4:1.

A motion to declare the Herrington Drive culvert replacement project a type 2 action under SEQRA was made by R. Lagonia and seconded by C. Schober.

R. Lagonia: yes  
G. Vogler: yes  
C. Schober: yes  
M. Wilson: absent  
J. Wrightsman: yes  
Motion carried 4:1.

**Public Comments**

None

**Adjournment**

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

R. Lagonia: yes  
G. Vogler: yes  
C. Schober: yes  
M. Wilson: absent  
J. Wrightsman: yes  
Motion carried 4:1.  
Meeting adjourned at 7:50 p.m.

Respectfully Submitted,  
Susan A. Haag, Town Clerk