

# DRAFT

May 8, 2024

The Town Board of the Town of Harpersfield held a regular meeting on May 8, 2024.

Present were: Lisa M. Driscoll, Supervisor  
Patrick F. Funk, Councilmember  
Erik R. Reeve, Councilmember  
Dwayne C. Hill, Councilmember  
Donna M. VanSickell, Councilmember

Also present: Russell Hatch, Supt. Of Highways  
Linda E. Goss, Town Clerk

Others present: Elizabeth Page, Editor for The Mountain Eagle  
Thomas VanSickell  
Gloria Anderson

The meeting was called to order at 7:03 PM by Supervisor Lisa M. Driscoll.

Supervisor Driscoll led the Board and those in attendance in the Pledge of Allegiance to the Flag.

Supervisor Driscoll asked the Board if they had a chance to review the draft March meeting minutes. Not all of the Board had read the draft minutes. The Board decided that they would wait until the next meeting of the Board to vote on the draft March meeting minutes.

Linda E. Goss reported to the Board that Supervisor Driscoll has received a letter from R. Daniel Mackay, Deputy Commissioner for Historic Preservation and Deputy State Historic Preservation Officer for the New York State Parks, Recreation and Historic Preservation on the North Harpersfield Churches. This letter was to inform Supervisor Driscoll that "After reviewing the nomination, the SHPO has agreed with the recommendation of the State Review Board and has listed the property on the State Register of Historic Places. We shall now forward the nomination to the Keeper of the National Register in Washington, D.C. If the Keeper of the National Register approves the nomination, the property will be listed on the National Register. You will be notified when this decision is made."

Linda E. Goss informed the Board that she had received this afternoon a letter addressed to the Town Board with the resignation of Kevin All, Planning Board member as of May 8, 2024. Supervisor Driscoll informed the Board that the Planning Board has an Alternate Planning Board

member Adam Gallagher. The Board will need to make a motion to appoint Adam Gallagher as a Planning Board member. Dean Darling, Chairman of the Planning Board would like to look into recommendations to fill the Alternate Planning Board Member's position. A motion was made to accept Planning Board member Kevin All's resignation as of May 8, 2024, by Dwayne C. Hill seconded by Donna M. VanSickell. All voting Aye. A motion was made to appoint Adam Gallagher as a Planning Board member with the term to be 05/08/2024 to 12/31/2027 by Patrick F. Funk seconded by Erik R. Reeve. All voting Aye.

Supervisor Driscoll informed the Board that next on the agenda is the new Special Franchise Agreement with Spectrum. The Town Attorney has gone through the agreement and has red lined a couple of things because we have agreements with MTC and DTC and the agreements must be fair across the board. We have not heard back from the representative from Spectrum, but the Town Attorney has instructed that we could move forward and pass a resolution scheduling a public hearing for the next Town Board meeting. Councilmember Funk asked if Spectrum does not come back and accept the changes that the Town Attorney has made then would negotiations have to continue? Supervisor Driscoll agreed and continued then the Town Board would not have the public hearing. With the changes that the Town Attorney has made she did not feel there would be any concern that Spectrum would have.

## RESOLUTION NO. 012 OF THE YEAR 2024

A regular meeting of the Town Board of the Town of Harpersfield, Delaware County, New York, held on May 8, 2024, at 7:00 PM at the Town Hall.

Councilmember Patrick F. Funk offered the following resolution and moved its adoption:

TITLE: A RESOLUTION SCHEDULING A PUBLIC HEARING ON A SPECIAL FRANCHISE AGREEMENT BETWEEN THE TOWN OF HARPERSFIELD AND SPECTRUM NORTHEAST, LLC.

WHEREAS, Spectrum Northeast, LLC, an indirect subsidiary of Charter Communications, Inc. ("Grantee"), has proposed renewing the franchise agreement with the Town of Harpersfield for the purpose of operating a cable system within the Town of Harpersfield; and

WHEREAS, the proposed franchise agreement would provide that the Grantee would continue to provide cable service to residences within the franchise area, and further provide for obligations and requirements for Grantee's maintenance of its current service as well as additional procedures for expanding the franchise area in the event such expansion is necessary; and

NOW, THEREFORE, BE IT RESOLVED, that a copy of the proposed draft franchise agreement shall be placed in the Town Clerk's office and made available for public inspection; and

DRAFT

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing for the consideration of the draft Franchise Agreement on June 12, 2024 at 7:00 PM at the Town Hall; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the notice of said hearing in The Daily Star, and to post copies of such notice in the manner provided by law.

WHEREUPON, the resolution was seconded by Councilmember Dwayne C. Hill and was put to a vote and recorded as follows:

Town Supervisor	Lisa M. Driscoll	Aye.
Councilmember	Patrick F. Funk	Aye.
Councilmember	Erik R. Reeve	Aye.
Councilmember	Dwayne C. Hill	Aye.
Councilmember	Donna M. VanSickell	Aye.

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.

#### NOTICE OF PUBLIC HEARING

For the approval of a Cable Television Agreement between Spectrum Northeast, LLC and the Town of Harpersfield.

PLEASE TAKE NOTICE that the Town of Harpersfield will hold a Public Hearing on Wednesday, June 12, 2024, at 7:00 PM at the Town Hall, 25399 State Hwy 23, Harpersfield, New York regarding the renewal of the cable television franchise agreement by and between the Town of Harpersfield and Spectrum Northeast, LLC in indirect subsidiary of Charter Communications.

A copy of the agreement is available for public inspection during normal business hours at the Town Clerk's office, 25399 State Hwy 23, Harpersfield, New York. At such public hearing, all persons will be given an opportunity to be heard. Written and oral statements will be taken at that time. Time limitations may be imposed for each oral statement if necessary.

Date: May 8, 2024

By Order of the Town Board  
of the Town of Harpersfield

Linda E. Goss, Town Clerk

Supervisor Driscoll informed the Board that the Auditors have spoken to her about the motion that the Board passed in January to pay the necessary bills. The necessary bills are electric,

telephone, fuel and health insurance. The other bills need to be removed from the motion. A motion that the necessary bills be paid when due, Electric, Telephone, Fuel and Health Insurance, and audited by the Board at the next regular meeting was made by Patrick F. Funk seconded by Donna VanSickell. All voting Aye.

Supervisor Driscoll informed the Board that in their packet is the 2023 final budget reconciliation. The Board has approved the budget transfers. The Board review the 2023 final budget reconciliation as presented.

Supervisor Driscoll informed the Board that next on the agenda is the official Town newspaper. Supervisor Driscoll reported to the Board that Patrick F. Funk has spoken to the Association of Towns who have said that the Town does not have to designate an official newspaper. Supervisor Driscoll has spoken to Town Attorney Allyson Phillips. Ms. Phillips agreed that the Town is not legally required to designate an official newspaper. "The Towns Site Plan Law and Subdivision Regulations provide that notices can be published in a newspaper of general circulation if there is no official newspaper designated". Ms. Phillips continued that regardless she recommends keeping with the practice as it allows residents to know where they can expect to find notice publications. Ms. Phillips continued that "while the guidance provided by the Association of Towns states that the Town Board can authorize publication of a notice, resolution or ordinance in any newspaper which would satisfy the requirements of an "official newspaper", this could be interpreted to mean that specific authorization must be made for each act of publication. So, if the Board schedules a public hearing or adopts a resolution that requires publication of notice, the Town Board may have to authorize publication in a specific newspaper each time they need to publish something. The guidance obtained from the Association of Towns only discusses acts of the Town Board, but she presumes the same would apply for the Planning Board". Councilmember Funk added that if the Board does not designate an official newspaper, then that would give the Town Clerk the ability to publish in either newspaper. Which ever would give her the time frame that she needs. Councilmember Funk's feeling is that The Mountain Eagle is significantly less expensive than The Daily Star. Councilmember Funk thinks that the Town Attorney is being overly cautious in what she is saying. That's never come up before. The Association of Towns said that they have Towns that do not have official newspapers. Supervisor Driscoll is concerned that the Town is going to get in to trouble if we do not designate an official newspaper. Switching legal notices from newspaper to newspaper is going to be confusing for the public. There is going to be backlash. The discussion continued. Councilmember Reeve asked what type of cost difference is there? This is what the Town Attorney is suggesting. Councilmember Funk answered it is not substantial, but it is money that can be saved. Pennies add up to dollars. As a steward of the taxpayers, it may be a small amount, but he thinks over the course of the year it is going to be substantial. The discussion continued.

A discussion was had about finding a replacement for the Town Clerk.

A discussion was had about even year local elections that was signed in to law by Governor Hochul.

Supervisor Driscoll informed the Board that next on the agenda is the mowing of the Harpersfield Center Cemetery. Patricia Hornbeck, President of the Harpersfield Center Cemetery Association has called Supervisor Driscoll and informed her that she is going to be retiring. With the sale of plots at a minimum there is not much money coming in. They do not have enough funds to mow the cemetery. Councilmember Hill added that this has been a problem for the last ten years. Supervisor Driscoll continued that in the past Greenthumb participants have mowed the cemetery. This year with a smaller number of Greenthumb participants they could not commit to mowing the cemetery. Ms. Hornbeck informed Supervisor Driscoll if the Harpersfield Center Cemetery Association abandons the Cemetery then the Town becomes responsible to maintain the Cemetery. The Town would then have to mow the Cemetery twice a year. Supervisor Driscoll informed Ms. Hornbeck that she was looking for individuals for the Delaware County Summer Youth Program. The Town can hire two youths that are still in school to work for the Town and the County would reimburse us. Last year the Town hired Louis Otriz and Grace Taylor. Supervisor Driscoll asked Luis Ortiz if he had anyone in mind for this summer over at the Transfer Station? Mr. Ortiz answered yes, he has someone in mind. Supervisor Driscoll asked Russell Hatch if he had someone in mind to work at the Highway Department? Russell was concerned about hiring someone due to their age. There are many jobs to be done at the Highway Department but if the youth is under 18 years of age, they cannot do many of them. For instance, they can not be a flag person on the roadways, they can not climb a ladder, they can not mow grass or weed wack, they can not drive any of the equipment until they are over 18 years of age. He has had youths in the past and it has worked out well. Councilmember Reeve asked are there any grants for Historical Cemeteries? Supervisor Driscoll answered there are grants for everything. Some are easier to get than others. Ms. Hornbeck would be responsible to apply for those grants. This is why Supervisor Driscoll thought that the County Summer Youth Program could help with the Cemetery. There is also the problem of finding a youth that wants to work and they must be 18 years old to do the job. Supervisor Driscoll has brought this to the Board to see if they have any thoughts or ideas on how to get the cemetery mowed. It takes about 10 hours to mow and weed wack every week. A discussion was had. A suggestion was made that the remaining family members of the deceased mow the cemetery. Linda E. Goss stated there is a problem with that. When the plots were purchased, it was with the understanding that there would be perpetual care. Councilmember Funk asked by who? Ms. Goss answered by the Cemetery Associations. Councilmember Reeve asked does the Cemetery Association have to be bonded? Ms. Goss answered that the Cemetery Associations are regulated under the New York State,

Department of State, Division of Cemeteries. The Cemetery Associations must submit an annual financial report to the State Division of Cemeteries. There are very specific things that a Cemetery Association can spend the funds on. The funds collected for the sale of plots would have been put into a principal account. These principal funds cannot be spent, but the interest made on the account can be spent for upkeep of the Cemetery. These accounts must also be secure. This way the principal cannot be lost on risky investments. If a Cemetery Association no longer exists it becomes the Towns responsibility to take care of the Cemetery. This is a Federal law. Under the State Division of Cemeteries law, the Cemetery needs to only be mowed twice a year. Councilmember Hill added that the Cemetery Association for the Cemetery on Peck Street has the Hobart Cemetery Association mow it and they mow it three times a year. Russell Hatch asked if the Town takes over a Cemetery would they also be responsible for the record keeping? Ms. Goss answered that she would have to check with the State Division of Cemeteries. She did not know the answer. Councilmember Funk asked so there are already plots in there that have been bought and paid for? The answer was yes. Supervisor Driscoll added that currently there are not as many sales of plots as many people do not want to be buried. The discussion continued. Ms. Goss continued that there is a very limited amount of grant funding from the State Division of Cemeteries. The funds are very difficult to get and must be spent repairing head stones. Councilmember Hill added that is only if the head stone is leaning. If the head stone is on the ground, then grant funds cannot be used to fix it. Councilmember Funk added that his son had worked in the Cemetery as an Eagle Scout project. To get those grant funds the State Division of Cemeteries has to come to the Cemetery and must mark the leaning stones as they are considered unsafe. The discussion continued. Gloria Anderson made the suggestion that the Delaware County Drug Court sometimes needs to have hours for people to do community service. She has worked with them at the Thrift Store, and it has worked out very well. The discussion continued.

Supervisor Driscoll reported to the Board that she has gotten the information for the Summer Youth Program. A discussion was had. Councilmember Funk asked what is the Summer Youth Program? Supervisor Driscoll answered it is a County program for youths ages 14 to 21 that are still in school. They will get paid \$15.00 per hour. The Town will pay the youths for the time that they work and then get reimbursed from the County. The Town was reimbursed in March of this year for last year. Russell added that there are a certain amount of hours and days that they can work. The discussion continued.

Supervisor Driscoll informed the Board that next on the agenda is the 2024 ballot for the election of the Executive Committee members for the Coalition of Watershed Towns. The Board needed to vote for three regular members and three alternate members. A discussion was had. A motion was made for Glen Faulkner, Supervisor, Town of Middletown, Wayland "Bud" Gladstone, Supervisor, Town of Andes and Edward H. Snow, Sr., Mayor of the Village of Walton

to be regular members and Eric Ball, Deputy Mayor, Village of Walton, Ritchie Gabriel, Deputy Supervisor, Town of Andes and Jeff Gerhart, Mayor, Village of Delhi to be alternate members of the Executive Committee for the Coalition of Watershed Towns by Dwayne C. Hill seconded by Erik R. Reeve. All voting Aye.

Supervisor Driscoll reported to the Board that the Transfer Station will be close on Saturday, May 25, 2024 for the Memorial Day Holiday. A discussion was had.

Supervisor Driscoll informed the Board at their last meeting it was discussed on the Supervisor's report there was a question about the retirement. We saw there was a very large number for retirement. That money needs to be moved. It all went under one budget item. We have to move money under DA for the retirement for all of the highway employees. Supervisor Driscoll is working with the Bookkeeper to figure that out as to how much to move. It is a little more complicated with NYS Retirement because they charge us a certain amount and we are trying to figure out how they get to that certain amount. Then we have to figure out from there how much money goes in each section of the budget. It is just a matter of having to move it. Hopefully for the next meeting we will have that figured out and we can move the money.

Supervisor Driscoll reported to the Board that she is in conversation with NBT Insurance on the pollution liability. We did get two quotes. One was \$17,000.00 and the other was \$12,000.00. She is going to meet with them next week and go over what that entails. She will report back to the Board once she has the information as to what that covers. We then can make a decision on whether or not to move forward with this.

Supervisor Driscoll informed the Board that the Town has received the Mortgage Tax. Because of a couple of high-priced mortgages, the Town has received \$72,000.00 in Mortgage Tax. This is not a usual occurrence. Supervisor Driscoll would like to put \$686.00 toward the two projects that the Town Justice had gotten grant funds for. The grant funds have been used to put new flooring in the Town Justice's office and installation of a new audio system. The grant funds were short \$686.00 for the two projects. Supervisor Driscoll has asked Russell to look into the cost of redoing the front of the Highway garage. Russell added that the paint has come off the cold storage building also. Supervisor Driscoll continued that Linda E. Goss has brought up that the retaining walls in front of the Town Hall need repair. Linda E. Goss added that a piece of siding has also fallen off of the building. It would be a good idea to get that replaced. Laurie Bedford had also brought up that the three doors on the Town Hall need to be repainted. Supervisor Driscoll included that the cobblestones at the back of the building need to be removed and concrete poured so there is a smoother surface to enter and exit the building. Supervisor Driscoll would like to with the Board's approval use the \$72,000.00 toward those repair projects. Councilmember Funk asked will any of these big dollar repairs need to have a couple of bids? Russell answered that with the parging and painting he is hoping to use

Highway manpower. The only project that he has a question about is the retaining wall in front of the Town Hall. The retaining wall has been repaired more than once. Linda E. Goss added that it needs to be repaired in different sections. Russell continued the stones need to be replaced at the bottom of the retaining wall. We will need to take the entire wall apart. Supervisor Driscoll continued that if we have a contractor come in to do the project, we will have to get some bids. Russell added and pay prevailing wage. That would use up the \$72,000.00 in a hurry. Supervisor Driscoll asked the Board for their approval to use the \$72,000.00 from the Mortgage Tax toward some of the repairs that the Board has just discussed. A motion was made to use the \$72,000.00 from the Mortgage Tax toward building repairs at the Highway Garage and Town Hall as discussed by Dwayne C. Hill seconded by Patrick F. Funk. All voting Aye.

Councilmember Funk asked if there is something better that can be done with the retaining wall rather than keep rebuilding it? Russell answered the salt used on the State Road and parking lot is what damages it. He was unsure if there is some kind of spray that can be used to seal the blocks. The blocks are really porous.

Councilmember Funk asked the Board if it would be alright if he put something on Facebook to see if anyone is interested in the Summer Youth Program? The Board agreed that would be a good idea. He will also put on Facebook that the Transfer Station will be closed on May 25<sup>th</sup> for the Memorial Day Holiday weekend. A discussion was had.

Councilmember Hill asked Russell if they had come up with any decision in the State budget for the CHIPs program? Did they change it? Russell answered they have not changed it. The Delaware County Superintendents of Highways had a meeting in April with their CHIPs representative and the first words out of their mouth was there is nothing we can do about the ten-year situation. Councilmember Hill added that Senator Peter Oberacker said that these regulations have been on the books for a very long time. It has never been enforced. Russell continued that it has been on the books for a long time but around 2011 - 2012 the change had been written down, they started to let us go with the five-year program. They never got the change put into the regulations. There were a lot of emails between the Highway Superintendents and those in charge at CHIPs and they knew the positive outcome of the five-year program.

Russell reported to the Board that at the last meeting the Board approved the purchase of the truck. He and Joseph Seeley were going to go to Binghamton the next day to give them the check. Russell called them the next day before going to look the new truck over and give them the check and they did not have the truck. Supervisor Driscoll added that they said that they would have the truck in a couple of weeks. Russell continued that he received a telephone call last week and they have the truck. He and Joseph Seeley will go to Binghamton tomorrow and



look the truck over and see if it meets specs. If everything is alright, they will pay for the cab and chassis tomorrow.

Russell informed the Board that when he attended the April Delaware County Superintendent's of Highways meeting and they were discussing CHIPs funds he brought up purchasing equipment. He received the requirements for using CHIPs funds to purchase equipment. The requirements are vague. What the CHIPs representative said was to contact them with the specifications of the truck. Russell about two weeks ago has sent CHIPs the truck specifications. Supervisor Driscoll added that the purchase of the truck has to be preapproved by CHIPs before those funds can be spent purchasing the truck. He has not heard anything back from them. Supervisor Driscoll would like to wait to pay for the truck's body and plow package until we know if CHIPs funds can be used to pay for the new truck. It could be possible that the Mortgage Tax check of \$72,000.00 may need to be added to the \$75,000.00 grant funds from Robinson-Broadhurst Foundation to help pay for the new truck. The discussion continued. Councilmember Hill added that it could be two or three months before the Town hears back from CHIPs. Russell agreed but feels that the Town should move forward with the new truck purchase.

Linda E. Goss reported to the Board that she did not have the April tax collector report. She has finished collecting taxes on April 30<sup>th</sup> but is still required to collect any payments with a postmark of April 30<sup>th</sup> or before. Ms. Goss will be going to the County Treasurers office to cash up on Tuesday, May 14, 2024. She will have the April tax collector report for the next Town Board meeting. Supervisor Driscoll asked Ms. Goss about the warrant to collect taxes. Ms. Goss answered that each year the Chairperson of the Delaware County Board of Supervisors issues a warrant for all the Town Tax Collectors to collect taxes. It basically is permission for a Town employee to collect the Town and County taxes. Ms. Goss continued that a lien is put against her personally for the full amount of the taxes to be collected. Supervisor Driscoll asked if they look into a tax collector's back round before doing all of that? Ms. Goss answered no. The discussion continued.

The Town Clerk report for the month of April was issued to the Board. The amount of fees given to the Town Supervisor was \$1,072.00.

Supervisor Driscoll informed the Board that next on the agenda was the abstract and vouchers for April. She issued the Board the vouchers to be reviewed. Supervisor Driscoll was informed by the NYS Auditors that the Town Board is required to go through the vouchers and invoices. Councilmember Reeve asked Russell if the loader is doing ok now that it has been fixed. Russell answered that Joseph Seeley had it out and was running it today. It is not over heating and the radiator has not blown up. Supervisor Driscoll informed the Board that the fuel tank on the Transfer Station backhoe is leaking. The fuel tank has been fixed many times. Supervisor

DRAFT

Driscoll has told Russell to order a new one. There are enough funds in the Transfer Station budget to pay for a new fuel tank. Supervisor Driscoll pointed out to the Board that the \$160,777.92 check to purchase the new truck is on the abstract. Councilmember Reeve asked Russell if the Town has ever considered purchasing the oxygen and acetylene tanks? Russell answered no we never have. Councilmember Reeve continued that he has. He has leased the tanks previously and it cost \$300.00 plus dollars a year. Then you have to pay to get them filled. The purchased tank can still be swapped with AirGas USA LLC. You get pressure tested tanks that are fillable. Councilmember Hill asked how much would a tank cost? Councilmember Reeve answered that the tanks are not cheap. He has three big tanks. He paid about a thousand dollars for the tanks. After four years it pays for itself. Russell added that it may be a liability issue for the Town. This issue has been brought up before. Councilmember Funk asked if you are getting the tanks from AirGas USA LLC anyway what is the difference if you buy the tank unless you are taking them there to be filled. Councilmember Reeve answered no. AirGas USA LLC gives you another tank. Councilmember Funk asked what's the difference? Russell continued with the lease the Town has no responsibility for the tanks. If a tank was to explode in our building it is the company's responsibility not the Town's responsibility. Councilmember Reeve continued that if you don't use a lot of gas and the tank sits around for a while then they might not be willing to swap the tank. The tanks are date stamped and they must be repressure tested. The Town must use enough gas so that you are swapping out the tanks about every six months? Russell answered yes. Councilmember Funk added if the Town buys a new tank and it is swapped out we could get an old tank. The discussion continued. Councilmember Funk continued the Town's brand new tank is now in Air Gas USA LLC's rotation and the Town can get a tank that is on its last leg. The discussion continued. This could be why the Town has never purchased the tanks. Russell added that our leases are approximately \$78.00 a tank. The discussion continued. Councilmember Funk stated that D&W Diesel is who Audio Sears uses also. Russell added that they are another specialized company. Councilmember Funk asked is it for your compressors? Russell answered we bought an injector for the broom through them. They also do a lot of fuel pump work for us. Supervisor Driscoll asked Russell if he had purchased diesel fuel in a while? Russell answered that he will have to purchase diesel fuel within the next month. He usually gets four months out of a load of fuel. A discussion was had. A discussion was had on where Highway payroll is being taken out of the budget. A motion was made to pay the bills that have been reviewed as presented by Dwayne C. Hill seconded by Patrick F. Funk. All voting Aye.

The Supervisor's report for the month of April was issued to the Board. A discussion was had.

A discussion was had on the North Harpersfield Lighting district.

DRAFT

A motion was made at 8:36 PM to go into executive session for a personnel matter by Patrick F. Funk seconded by Donna VanSickell. All voting Aye.

A motion was made at 9:17 PM to come out of executive session by Patrick F. Funk seconded by Donna VanSickell. All voting Aye. No action was taken in executive session.

A motion was made at 9:20 PM to adjourn the meeting by Dwayne C. Hill seconded by Patrick F. Funk. All voting Aye.

The next public hearing and regular meeting of the Board will be on Wednesday June 12, 2024 at 7:00 PM.

Linda E. Goss

Town Clerk