

**TOWN OF CAMBRIA TOWN BOARD**

**October 11, 2018**

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 11<sup>th</sup> day of October 2018 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York.

**BOARD MEMBERS PRESENT:**

Wright H. Ellis, Supervisor  
Matthew P. Foe, Councilman  
Jeffrey S. Hurtgam, Councilman  
Randy M. Roberts, Councilman  
Joseph Ohol, Councilman

**ALSO PRESENT:**

Tamara J. Cooper, Town Clerk  
Jon MacSwan, Highway Superintendent  
Robert Roberson, Attorney  
38 interested individuals

Following salute to the flag, Supervisor Ellis called the meeting to order. The Town Board took action on the following matters:

**APPROVAL OF MINUTES**

**Upon a motion duly made by Councilman Ohol and seconded by Councilman Foe, it was resolved to approve the minutes of the Town Board meetings of September 12-Budget; September 13-Regular; September 20-Budget; and October 3, 2018-Budget.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

**APPROVAL OF VOUCHERS**

Having been reviewed by the Town Board, the following claims were presented for payment:

Drainage Fund	Claim	11	\$ 135.00
General Fund	Claim	424-470	\$ 77,255.39
Highway Fund	Claims	154-169	\$ 55,559.20
Recreation Fund	Claims	57	\$ 700.00
Refuse Fund	Claims	14-15	\$ 29,502.07
Sewer Operating Fund	Claims	28-32	\$ 17,508.15
Trust & Agency Fund	Claim	18-25	\$ 3,869.79
Water Construction Fund	Claim	6	\$ 4,254.37
Water Operating Fund	Claims	150-160	\$ 83,821.08

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts, it was resolved that the abstract of audited vouchers dated October 11, 2018, be approved as read by the Town Clerk.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

**SAUNDERS SETTLEMENT ROAD WATERLINE REPLACEMENT**

Supervisor Ellis indicated that with regard to the Saunders Settlement Road waterline replacement, the Town should hear some news on the grant application from the Environmental Facilities Corporation of NYS within the next four weeks.

**TOWN JUSTICE SECURITY**

Supervisor Ellis reported that the Justice Court security improvements are complete. The bill is in the vouchers. There is an issue with the door lock and that is being taken care of.

**TOWN CLERK REPORTS**

The Town Clerk reported receipt of the following:

- Town Clerk Report September: Total Receipts: \$21,878.62
- Building Inspector Report September: Total fees collected: \$ 4,119.332  
Total estimated value of construction: \$786,498.00

**HIGHWAY SUPERINTENDENT REPORTS**

The Highway Superintendent, Jon MacSwan, reported as follows:

- Tire Drop Off and Electronic Recycling will be held October 20<sup>th</sup> from 8:00 am to 12:00 noon-there will be a 2 tire limit for large tractor tires-must have proof of residency.
- Town trucks are being winterized.
- Will continue with road repairs and brush pick up until the snow flies.
- Escarpment drive drainage tile has been repaired and covered for safety.

## ATTORNEY REPORTS

Mr. Roberson, Town Attorney, reported as follows:

- Attended the Solar Project program at the Cambria Fire Hall last Thursday.

Supervisor Ellis reported he is in receipt of a letter from the fire companies requesting funding toward their Halloween Parties. The Cambria Fire Company (Saturday, October 27<sup>th</sup>) and Pekin Fire Company (Wednesday, October 31<sup>st</sup>) each received a check for \$700.00.

## CONCERNS OF CITIZENS

### Supervisor Ellis addressed those present with the following:

The Town Board has had some concern for some time now about the material on social media. Social Media is fine and serves a very good service. When someone says that the Town Board should be thrown out of office: that is fine, and is all part of politics. However, when people get into name calling, that goes a little too far. The Town Board tries to keep civil discourse in the Town. If anyone has a problem with the Town Board, they can pick up the phone or come down to the Town Hall. Supervisor Ellis and other board members have received calls in the evening and that is not a problem at all. People get very emotional on social media and are often using misinformation.

Supervisor Ellis read from his article in the town newsletter:

*The Town Board is trying to do its job. They are elected to provide guidance within the Town to enforce the law. Many times they find themselves enforcing state laws. Enforcement is in terms of the alcohol board, in terms of fire protection, and in terms of building code. Other laws that are enforced are the Zoning Ordinance- parts have been there for a long time and some are very recent. The Board tries to reflect what is in the comprehensive plan in the Zoning Ordinance. Cambria residents have elected the Town Board to do a job.*

*I need to call your attention to matters regarding violations of the Town Zoning Ordinance which are causing increasing concern to the Town Board. In some cases, residents are simply ignoring the statutes. Others expend much energy and resources searching for ways to circumvent those statutes. The Town Board is elected to govern and to provide for the safety and well-being of **all** of its citizens. It does this by passing Zoning laws and ordinances, only as necessary, and then enforcing them through the Building Inspector, Zoning Board of Appeals and the Planning Board.*

*Interpretations of the Zoning Ordinance and what are permitted uses and activities can best be obtained if the Town (usually the Building Inspector, sometimes the Supervisor) is approached **first** with a complete explanation of what one wishes to accomplish with their project. Only by seeing the complete picture, are Town officials able to provide the petitioner with the proper advice and direction as to the best course of action, or whether the request must be denied. Seeking this input from the Town **prior** to the landowner expending time and resources on projects, is in the best interest of the landowner seeking to develop their property, as well as the Town as a whole.*

*The Town updated our Comprehensive Plan in 2014, utilizing information derived from a survey mailed to all residents (excellent rate of response) and public information meetings. The Board felt confident in adopting the Plan and its vision for the future and subsequently revised the Zoning Ordinance to implement that vision. Town officials are not trying to create obstacles for our citizens. We are trying to ensure that the rights of all citizens are protected and the best possible quality of life is available to all. This is a challenge which has become more difficult as our population increases and people are living closer to each other.*

Supervisor Ellis opened the floor to concerns of the citizens:

### **Susan Fischer-5108 Carriage Lane**

Ms. Fischer asked the Town Board if the location of the proposed solar farm has been or will be re-zoned.

Supervisor Ellis indicated that because of the size of the project, it falls under NYS article 10 siting procedure. That effectively takes most input from the Town residents. There will not be anything for the Zoning or Planning Board to do. The Town Board may have some actions to take, but at this point that is out of the Town's control.

### **David Edbauer-4715 Plank Rd.**

Mr. Edbauer understood that the Town Board wanted to clear up misinformation regarding the sunflowers but feels one of the reasons for the misinformation is because the Town Board has work sessions and discussions during the day when most people have jobs. He has asked that the Town Board record those sessions, and post them to the website so the residents can find out how individual Board members feel about any particular topic. He has offered to purchase the audio

equipment for recording and consulting. Good discussions are had but if residents are not at the meeting they won't know. Mr. Edbauer feels if the correct information is provided, there is less a chance of miscommunication.

**Louise Brachmann-5354 Baer Rd.**

Ms. Brachmann thanked the Board for listening to everyone's comments. She doesn't want a battle and wants to resolve the issue best they can. Her family has been a farm for 100 years. Farming is not the most lucrative thing these days. After successfully planting sunflowers the previous year, she and her husband decided to expand on it. They wanted it to be safe for the public so they put in a parking lot. They are frustrated because during the process she was in contact with the Building Inspector and each item she would bring to him, he would say that she was agriculture. She also had the Niagara County Health Inspector on the property and received a NYS Certificate for tax. They are disappointed because she didn't know she was in an R-1 area. (Residential) She wasn't aware that it was re-zoned in the 1960s, and wonders why she wasn't told when she started the process. She would have stopped what she was doing and tried to work it out. She mentioned that this year they raised \$2,600 for Breast Cancer and \$1,000 for Niagara Hospice. She has received the paperwork from the town to re-zone the property and is in the process of filling it out, but it is not an easy process. Ms. Brachmann thanked the Town Board for listening.

**Jeanette Prohaska-4890 Saunders Settlement Rd.**

Ms. Prohaska attended the meeting with Cypress Creek regarding the proposed solar farm. Not many people were in attendance at this meeting but she hears people say there is no benefit to the Town. Whether someone is for or against the solar panels there are some benefits to them. 1-STEM Education-Science, Technology, Engineering and Math. There has been some discussion with NCCC. 2- Conservation- Bee Pollination Program 3-Public Improvement 4- Veterans's services. Ms. Prohaska urged people to go these meetings because one should know why they are for or against solar panels.

**Chad Brachmann-5354 Baer Rd.**

Mr. Brachmann asked the Town Board if there is a timeline in place for the waterline replacement along Saunders Settlement Road. Supervisor Ellis indicated that the Town is looking at 2019 or early 2020 but there is no timeline as of yet.

**Kathy Britton-3300 Saunders Settlement Rd.**

Ms. Britton asked the Town Board what the problem was with the sunflower field. She lives across from them and said she sees no problem. Supervisor Ellis indicated that the problem is that the owners are conducting a business in the R-1 zone. Ms. Britton asked what is considered a business. Supervisor Ellis stated that they fall into a business when they held the weekend of the food trucks and craft fair and those things had no connection with agriculture.

**Michelle McGovern-3923 Faircourt West**

Ms. McGovern wanted to thank the sunflowers of Sanborn for letting Cambria be known to the public and for all the good it has to offer. She asked that the Town Board try to work the issues out.

**David Godfrey-Niagara County Legislator**

Mr. Godfrey wanted to recognize Fire Prevention week. The County put out a press release to advise the risk of fire. House fires have increased over the years and the rate in which they spread has increased as well. **Look** for signs; **Listen** for the signals- test your detectors and **Plan**-two escapes from every room. Mr. Godfrey also honored the Fire Fighters and First Responders.

The County paving will continue as long as the weather holds up. Usually they pave around 18 road miles and this year they are around 40 road miles.

The County also just named the former county manager Jeffrey Glatz as the director of the county Veteran Services Agency.

**Erik Gustafson-4515 Baer Rd.**

Mr. Gustafson is the owner of Gust of Sun winery and his concern ties in with the sunflowers. As a business owner he feels like the Town Board is weaponizing the Zoning Ordinance in order to punish business owners. He has been in business for six years with no problems and last year he was issued a cease and desist for having live music, food and parking on the grass. He said he thinks the Town Board felt they needed to do something about it because of neighbor complaints. He read the Supervisor's newsletter article and respects the Town Board trying to do what it needs to do. Mr. Gustafson mentioned the moratorium on any new wineries, distilleries, micro-breweries, etc. that was enacted this past March. He assumes the intention of this is to re-write the Zoning Ordinance. He has tried to be respectful of the music and he uses a decibel meter app. and goes to the corner of his lot to make sure the volume is not too loud. He does not understand what the Town Board feels about businesses in the Town.

Supervisor Ellis responded. #1 The Town has tried to work with the sunflowers of Sanborn and there was a period where the Town allowed certain things to go on. #2 Mr. Gustafson is the only winery that is in this particular situation. This is mainly because he insists on relying on the Liquor Authority vs. Agriculture and Market's for their designation of a farm winery. That leaves the business very close to a bar and a bar is not allowed. The Town is not restricting the serving of food;

that is a restriction of the State Liquor Authority. The Town Board will be happy to talk with him about this. Mr. Gustafson said he feels that each party is interpreting the law differently. Supervisor Ellis said they need to sit down and work it out.

**David Edbauer-4715 Plank Rd.**

Mr. Edbauer made reference to the winery moratorium. He stated that this was another example of where government transparency would have been beneficial. He attends the work sessions and this topic was never discussed and it wasn't on the agenda. He asked the Town Board how they get to a decision without discussion. Supervisor Ellis indicated that there were one on one discussions and it just evolved from there. Mr. Edbauer feels that discussions should be held in the public and there may have been less misunderstanding with regard to the sunflowers. As far as the moratorium the committee is on the 2<sup>nd</sup> draft. The committee consists of Mr. Ellis, Mr. Foe, Mr. McCann and an attorney.

**Chad Brachmann-5354 Baer Rd.**

Mr. Brachmann indicated that they were issued a cease and desist for the reason that they were conducting a business within an R-1 district. Their farm is a commercial farm. They have 80 acres of land. How can they be conducting a business within a residential area and they have been conducting business there for the past 100 years consecutively. It is a commercial farm and Sunflowers of Sanborn is a branch of their business. They have to be creative in what they do because it is not easy to make money farming. By the Town Board shutting them down, it took away how they provide for their family and how they make income.

Supervisor Ellis indicated that they cannot conduct a business outside the scope of agriculture. He has had the conversation with both Mr. and Mrs. Brachmann regarding this issue. Items under agriculture are somewhat okay to do, however, when you get into agritourism you can only go so far. Last year was fine with the sunflowers. This year was not, it was outside of agriculture with the food trucks and craft fair.

**Concerns of the citizens was closed.**

**UNPAID CHARGES FOR TAX WARRANT**

The Town Board was provided a listing of the unpaid Water/Sewer/Refuse/Town charges to be placed as a lien upon the real property for which services were provided. A copy of the listing is on file in the office of the Town Clerk.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to place a lien on the Real Property for which services were provided in the amounts of: Unpaid Water: \$29,842.46; Unpaid Sewer: \$7,002.54; Unpaid Refuse: \$0; Town Charges: \$0- for a grand total of \$36,845.00.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts                      -Motion Carried-**

**PROCUREMENT POLICIES**

**SEWER-3 proposals received**  
**Sewer Inspection System-camera**  
MyTana-\$11,689.08  
POW-R-Mole Sales-\$11,806.84  
USA Bluebook-\$9,970.00

Recommend accepting the POW-R-MOLE inspection camera V-Cam-6 because it is a large LCD screen, the cameras are both self-leveling. Local company that does in house repairs and the quote includes training.

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Ohol, it was resolved to accept the proposal from POW-R-Mole Sales-1400 commerce Parkway Lancaster, NY- for inspection camera V Cam-6, self-leveling, LCD screen in the amount of \$11,806.84.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts                      -Motion Carried-**

**ADDITIONAL MATTERS**  
**VEHICLE DISPOSAL**

Councilman Ohol made a motion for the Town Board to consider the disposal of a 1995 Chevy Utility pickup truck. The partial VIN #269887. It is not economical to repair and would like to direct the Highway Superintendent to immediately dispose of it. Any possible revenue from its sale or parts for scraps will be deposited in the Water Operating Fund.

**Upon a motion duly made by Councilman Ohol and seconded by Councilman Foe, it was resolved to the dispose of a 1995 Chevy Utility pickup truck, partial VIN #269887. Any revenue from its sale or parts for scraps will be deposited in the Water Operating Fund.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts                      -Motion Carried-**

**2019 BUDGET PROCESS**

Supervisor Ellis reported the budget process is underway with work meetings scheduled with input from departments. A public hearing will be scheduled for November 8, 2018, 7:00 pm.

**ADJOURNMENT**

The meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Roberts.  
Time: 7:50 pm

Respectfully submitted,

Tamara J. Cooper, Town Clerk