

TOWN OF CAMBRIA TOWN BOARD

September 12, 2019

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 12th day of September 2019 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
Joseph Ohol, Councilman
Randy M. Roberts, Councilman

ALSO PRESENT:

Tamara J. Cooper, Town Clerk
Thomas Brandt, Attorney
Jon MacSwan, Highway Superintendent
Approximately 70 interested individuals

Following salute to the flag, Supervisor Ellis called the regular meeting to order. Board members took action upon the following matters:

APPROVAL OF MINUTES

Upon a motion duly made by Councilman Roberts and seconded by Councilman Foe, it was resolved to approve the minutes of the regular Town Board meeting of August 8, 2019.

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

-Motion Carried-

APPROVAL OF VOUCHERS

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

September 12, 2019

General	405-462	\$62,455.80
Highway	150-166	\$33,954.74
Refuse	12	\$30,149.21
Sewer Operating	29-35	\$3,458.57
Water Construction	8	\$19,675.64
Water Operating	128-144	\$17,707.41

Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved that the abstract of audited vouchers dated September 12, 2019, be approved as read by the Town Clerk.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts

-Motion Carried-

SAUNDERS SETTLEMENT ROAD WATERLINE REPLACEMENT

Tim Walck, Wendel, reported as follows:

- The Saunders Settlement Road Waterline Replacement project plan was sent to the DOT and Health Department for review.
- The WIAA Grant application was submitted today.

WATERLINE EXTENSION SHAWNEE ROAD

The Shawnee Road Waterline Extension has Health Department approval and expects to have DOT approval shortly. There is a motion in front of the Town Board for a Negative Declaration and will not have significant adverse impact on the environment.

RESOLUTION NEGATIVE DECLARATION SHAWNEE ROAD WATERLINE EXTENSION TOWN OF CAMBRIA

Whereas, the Town of Cambria will be undertaking the construction of approximately 550 linear feet of 8-inch waterline along Shawnee Road as an extension of an existing 8-inch waterline; and

Whereas, the construction of these improvements are subject of the New York State Environmental Quality Review Act (SEQRA); and

Whereas, the proposed project has been determined to be a Type I action under SEQR, and a Short EAF has been completed for the project; and

Whereas, the Short EAF Part 1 was utilized by the Town of Cambria Town Board to complete the Short EAF Part 2, and evaluate potential impacts in the Short EAF Part 3; and

Whereas, the Town of Cambria Town Board determined that the proposed project will not result in any potentially moderate or large adverse environmental impacts; and

Now, Therefore, Be It Resolved, that the Town of Cambria hereby determines that the proposed project, construction of approximately 550 linear feet of 8-inch waterline along Shawnee Road will not have significant adverse impact on the environment and therefore issues a Negative Declaration, and

Be It Further Resolved the Town of Cambria Town Board authorizes the Supervisor to sign the Short EAF which, along with the attached material, will act as the Negative Declaration.

Upon a motion duly made by Councilman Foe and seconded by Councilman Ohol it was resolved to approve the Negative Declaration Shawnee Road Waterline Extension resolution.

The question of the adoption of the forgoing Resolution was duly put to a vote on roll call, which resulted as follows:

WRIGHT H. ELLIS voting AYE
MATTHEW P. FOE voting AYE
JEFFREY S. HURTGAM voting AYE
JOSEPH OHOL voting AYE
RANDY ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

- The Leak detection study for the water system is scheduled to start on September 23, 2019.

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Town Clerk Report August: Total Receipts: \$49,662.09
- Building Inspector Report August: Total fees collected: \$ 3,139.45
Total estimated value of construction: \$652,400.00

HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent, Jon MacSwan, reported as follows:

- Finishing up paving ó Cambria has been paving for other townø under the shared services agreement.
- Next they will be working on fall striping.
- Ditching will start next Monday. It has been delayed because of problems with the excavator.
- Finishing up roadside mowing.
- The trucks will soon be winterized.

WATER/SEWER

The Highway Superintendent, Jon MacSwan, reported as follows:

- One service on Shawnee Rd.

RECREATION DIRECTOR

Sally Marotta-Reed, Recreation Director, reported as follows:

- Baseball and Summer Recreation Reports are complete.
- Preparing for VeteransøDay Ceremony and Tree Lighting.
- Asked everyone to sign up for SENTEXT to receive announcements from the Town: Text CAMBRIA to 57838.
- Thanked everyone who stepped in while she was out this summer.

ATTORNEY REPORTS

No report.

Supervisor Ellis reported on the following:

- In receipt of a letter from the Firemenø Association of the State of New York. They are asking the Town to publicize the fact that they are starting a statewide outreach campaign titled, øIs there a fire in you?ö in order to recruit volunteer fire fighters. Numbers have been on a decline and over 70% of first responders, etc. are volunteers. Contact your local volunteer fire company if you are interested.

BEAR RIDGE SOLAR PROJECT-UPDATE

- There has been no action on the AD HOC appointments.
- The issue on the local office will be addressed by Kevin, Cypress Creek.
- The Town has a teleconference coming up to initiate the stipulations/negotiation process.
- Another meeting is coming up on Zoning Alternative and the Community Benefits Agreement Proposals.

Supervisor Ellis indicated he would like to address the issue of Zoning and its impact on the community.

The Town of Cambria was founded on March 11th, 1808. The initial settlers owned large tracts of land which they cleared and farmed, after they got rid of all the wolves, with the closest neighbors a quarter-mile or more down the trail. As more people moved in, these large tracts were sub-divided for farming and other trades. The Town Board took action to provide some order to land use issues, adopting the first Zoning Ordinance in 1939. Since that time, there have been amendments to address the changing needs and situations of the community. The first paragraph of the Zoning Ordinance defines its purpose,

"An ordinance limiting and restricting the specified districts and regulating therein, buildings and other structures according to their construction and the nature and extent of their use and the nature and extent of the use of land, so as to promote and preserve the health, safety, character and general welfare of the Town of Cambria and providing penalties for the violation thereof."

This serves as the guidance for a Town Board to keep in mind, impacts on public health and safety, impacts on the character of the town, and it has been followed quite well over the years. It can be said that a Zoning Ordinance contributes to the formation and development of the community. The community is really the people, but it is suggested that the Zoning Ordinance provides the framework; a structure within which that sense of community is allowed to develop.

We currently have The Bear Ridge Solar Project and it adversely impacts that sense of community in that it does not comply with the Zoning Ordinance. The developer has suggested alternative layouts, and none have met the criteria of supporting the character of the Town. In all cases, what we would end up with is the industrialization of a fairly large tract of land, some 700 acres, for 20-40 years. The Town Board is the only body which has the authority to change the Zoning Ordinance (*re-zone*). This Town Board has no intention of rezoning. There are no benefits to the Town and or the citizens that would sufficiently mitigate the impact of the industrialization of all of that land. The Town is open to discussion and negotiation. It is the responsibility of Cypress Creek to present mechanisms that they think might work. It is the Town's responsibility to take action out of those mechanisms. The Town is not at all interested in changing the character of the Town and it appears at the present time, that any of the actions the Board would have to take to allow that to move forward would change the character. The requested re-zoning will not benefit the Town or its people.

Supervisor Ellis asked Kevin Kohlstedt, Cypress Creek, if he would like to comment on their new office.

Mr. Kohlstedt stated they are still working to complete the build out and decoration of the space. They are also working to hire a local representative for the position of Community Engagement Coordinator to staff the office. They want someone from WNY who will act as a member of the Bear Ridge team. They are reviewing the applications and will be interviewing. Mr. Kohlstedt indicated the office was intended to open in September, and apologized for the delay. He doesn't believe they can follow through with that commitment. Opening date will be announced shortly along with office hours.

Supervisor Ellis indicated that he was informed by the owner of the office space that the key had been picked up and thought they were open and ready for business.

CONCERNS OF CITIZENS

Comment/Question: What are the qualifications for the Community Engagement Coordinator and will they be local.

Mr. Kohlstedt indicated that they will do their best to make it as local a person as possible and would love if the person was from Cambria or Pendleton. The qualifications are ideally someone with experience working in an administrative roll, customer service and renewable energy experience. They will get the person up to speed with the project.

Comment/Question: No one in Cambria will want to man an office or has the knowledge to do so. If no one is able to answer questions there will be many frustrated people.

Comment/Question: Process seems disorganized- at the August Town Board meeting, Anne Waling, Cypress Creek, indicated that the office was opening the following week; in August. After this announcement a resident called the Browns who own the building where the office space is located, and at that time knew nothing about Cypress Creek renting the office.

Comment/Question: Suggestions to the Town Board for the stipulation and negotiation with Cypress Creek.

- Due to different elevations in the area with dolomite, extra soil samples are needed to get the proper foundation design.

- Due to frost, the panels must be anchored correctly especially to last several years.
- Special inspectors needed for the foundation and electrical connections.
- The MSDS was requested for information about the solar panels to be used, it has not been provided yet.
- Recommend stainless steel hardware on the panels because it will make the decommissioning process easier and may prevent breaks in the panels.
- Environment issues- take care of the short eared owl and the relocation of the insects.

Comment/Question: Concerned about the proposed solar project going into the Industrial District. It is unacceptable and it doesn't address the numerous health and safety issues. It is a poor use of the Town's Industrial District; it is meant to bring jobs and industry to the Town. This project will only employ a couple people. Would like to see this area used for a better purpose.

Comment/Question: Is Cypress Creek affiliated with or has it ever done business as Helios Energy?

Mr. Kohlstedt said no. He believes they have sold projects to them but they are not affiliated with Cypress Creek.

Jonathan Pressley- Cambria Fire Company extended a thank you to the Highway Department and the Town Board for the help with the tractor pull.

Mr. Pressley asked Supervisor Ellis if the Cambria and Pekin Fire Company meetings will be separate from Sanborn Fire Company. Supervisor Ellis indicated that Sanborn will be held on Wednesday the 18th and Cambria and Pekin will be held on Thursday the 19th.

Mr. Pressley asked what the Town is doing with Unicorn Apartments after the 15th of September, after it is closed down. He is concerned with kids getting into the building and causing trouble. He does not want to send his firemen into the building because of its condition. Supervisor Ellis indicated that the Cambria Housing Authority, who owns the property, with assistance from an organization contracted by the State of NY, will secure the property.

Comment/Question: Regarding Real Property Tax Law 487 Opting Out Option Large Scale Solar, is this an option for the Town?

Supervisor Ellis indicated that if the Town opts out of Large Scale Solar, it would have to opt out for utility grade and residential grade and cannot negotiate a PILOT.

Comment/Question: If there is a fire within the solar panel area, is there a plan yet for the five mile radius evacuation?

Mr. Kohlstedt said he has not heard of the five mile radius evacuation but is happy to look into it if it is a concern. Fires are extremely rare. If they do happen, Cypress Creek will have trained the local fire departments. They do recommend creating a perimeter around the system in order to let the electrical equipment burn. The panels can burn and it will be cleaned up afterward. He would not expect a five mile evacuation radius.

Supervisor Ellis pointed out that the concern is that Starpoint School District is fairly close to where the proposed project parcels are located. There are also homes within a few hundred feet of the projected parcel locations. We are surrounded by hay fields and if they catch fire and there is a breeze that in turn may start a grass fire and it will be a challenge for the local fire departments to set a perimeter around that.

Comment/Question: Why is Cypress Creek not taking the Industrial Land offered by the Town?

Mr. Kohlstedt stated that some of the parcels are within a wetland and they like to avoid those. When some of the parcel owners were approached, they were not willing to participate. Cypress Creek engineers are still evaluating that land.

Comment/Question: Will the Town Board be getting together with other towns to discuss this solar issue?

Supervisor Ellis reached out to the supervisorø in Hartland and Newfane and is giving them some direction.

Comment/Question: Is there any problem with using newer technology to do a petition?

Mr. Brandt, Attorney said that they would have to check the law to be sure the content and form of the petition is how it is supposed to be. Also to be sure the petitionø purpose addresses the grievance to the local town. Any mechanism that fairly and accurately conveys the contents of what is being signed and who is signing it can be presented to the town.

Comment/Question: Governor Cuomo stated that no solar projects would move forward if the AD HOC members were not appointed. Why is Cypress Creek still in the Town?

Supervisor Ellis indicated that Cypress Creek is doing their due diligence within the guidance of the Article 10 process and is not at the point of application submission. The process would be the same with any large business that wants to do business in Cambria. The problem is because of the size, land use and impact that it has, the solar project just affects a whole lot more people.

Mr. Kohlstedt said Cypress Creek stands with the Town Board, Senator Ort and Assemblyman Morinello in wanting the AD HOC members to be appointed to the siting board. Cypress Creek has not yet submitted the project application which will contain environmental studies that are being done to date and the impact on birds and insects. Having a pollinator for every solar facility can actually be a good home for insects and birds, that will come through on the application. He thanked everyone for voicing their concerns.

NEW BUSINESS

SCHEDULING NOVEMBER TOWN BOARD MEETING

Supervisor Ellis indicated that because of the calendar it is necessary to reschedule the November Town Board meeting to November 7, 2019. According to Town Law section 108 the Town is obligated to hold a public hearing on its budget no later than the first Thursday after Election Day.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam, it was resolved to reschedule the November Town Board meeting to November 7, 2019, at 7:00 pm to comply with Town Law section 108. This meeting will start with a public hearing on the 2020 Preliminary Town Budget.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts

-Motion Carried-

PROCUREMENT POLICY PURCHASES

GENERAL-1620.04

SEALING OF TOWN OF CAMBRIA PARKING LOT

3 proposals:

Black Gold Sealer: \$2,932.00

Buffalo Road Marking Inc.: \$3,250.00

Baughman Magic Seal, Inc.: \$2,900.00

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts it was resolved to accept the proposal from Baughman Magic Seal, INC-Amherst, NY for sealing the Town Hall parking lot in the amount of \$2,900.00.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts

-Motion Carried-

Town of Cambria Town Board
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ADJOURNMENT

The meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Hurtgam.
Time: 7:53 pm

Respectfully submitted,

Tamara J. Cooper, Town Clerk